

The Highland Council

Minutes of Meeting of the **Planning Review Body** held **remotely** on Tuesday, 1 February 2022 at 10.30 am.

Present:

Mr R Balfour
Mr R Bremner
Mrs I Campbell (except item 5.2)
Mr A Henderson
Mr W Mackay (except item 5.6)
Mrs M Paterson
Mrs T Robertson

In Attendance:

Mr I Meredith, Principal Solicitor/Clerk
Mr M McLoughlin, Independent Planning Adviser to the Planning Review Body
Ms A Macrae, Committee Administrator
Mrs A MacArthur, Administrative Assistant

Mr A Henderson in the Chair.

Preliminaries

The Chair confirmed that the meeting would be webcast and gave a short briefing on the Council's webcasting procedure and protocol.

Business

1. Apologies for Absence

An apology for absence was intimated on behalf of Mr L Fraser.

2. Declarations of Interest

Item 5.2 – Mrs I Campbell

3. Minutes of Previous Meeting of 23 November 2021

The Minutes of the previous Meeting held on 23 November 2021, copies of which had been circulated, were **APPROVED**.

4. Criteria for Determination of Notices of Review

The Clerk confirmed that, for all subsequent items on the agenda, Members had contained in their SharePoint all of the information supplied by all parties to the Notice of Review – namely everything submitted at the planning application stage and the Notice of Review stage from the applicant and interested parties together with the case officer's report on handling and the decision notice that had been issued. When new information had been identified and responded to by the case officer, that information had also been included in SharePoint.

Members were reminded that when determining each planning application subject to a Notice of Review, they were to give full consideration of the planning application afresh (also known as the "de novo" approach) in accordance with the advice contained in the

letter from the Chief Planner dated 29 July 2011. The Clerk confirmed that this meant that, in each Notice of Review case, the Review Body needed to assess the planning application against the development plan and decide whether it accorded with or was contrary to the development plan. Following this assessment, the Review Body then required to consider all material considerations relevant to the application and decide whether these added to or outweighed their assessment of the application against the development plan. In carrying out this assessment, all documents lodged by the applicant and interested parties needed to be considered by the Review Body – all material planning considerations required to be taken into account; considerations that were not material planning considerations must not be taken into account.

The Clerk also confirmed that Google Earth and Street view could be used during the meeting in order to inform Members of the site location; Members were reminded of the potential limitations of using these systems in that images may have been captured a number of years ago and may not reflect the current position on the ground. All the Notices of Review were competent.

5. New Notices of Review to be Determined

5.1 Erection of house (Planning Reference: 21/02218/FUL) on Land 20M East Of, 13 Invercarron, Alness for P&C Properties (Highland) Ltd 21/00043/RBREF (RB-01-22)

There had been circulated Notice of Review 21/00043/RBREF for the erection of house (Planning Reference: 21/02218/FUL) on land 20M East of, 13 Invercarron, Alness for P&C Properties (Highland) Ltd.

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body discussed whether its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint, a site inspection having been requested by the applicant.

Members requested sight of Google Earth and Streetview to inform their understanding of the application site. The Independent Planning Adviser provided this, during which he advised that the following determining issues should apply in relation to the application:-

- whether the development of the site would adversely affect the character, appearance and amenity of the housing estate and represent an unacceptable change to the original, planned layout;
- whether the proposed house represented an overdevelopment of the site with likely associated detrimental effects on the amenity of neighbours (overlooking / noise) & its future occupants (lack of garden space / privacy); and
- whether the surface water drainage solution proposed was acceptable

In response to questions, the Independent Planning Adviser provided further clarity on the fence and wall around the site, ownership of the boundary treatments, the wider amenity around the site, the access road and rights of access of neighbours, and in relation to the information provided on the now established settlement pattern. He confirmed there was no dedicated footpath on the access and he had no information as to whether there was a detailed landscape plan.

Thereafter, the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint and the Google Earth/Streetview presentation, and were of the view that a site inspection was not required.

Debate

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body discussed the Notice of Review.

Mrs M Paterson seconded by Mrs I Campbell **moved** to uphold the Notice of Review and grant planning permission on the basis that they did not agree with the planning officer that the proposal could not be satisfactorily accommodated on the application site or that it would be detrimental to the settlement pattern. They were satisfied that concerns regarding neighbours' privacy could be accommodated by way of condition removing the decking area and were in agreement that they could support the design of the proposed development and that, in their opinion, it was not contrary to Polices 28, 29, and 34 of the Highland-wide Local Development Plan.

As an **amendment**, Mrs T Robertson seconded by Mr R Bremner moved to dismiss the Notice of Review for the reasons stated in the case officer's report of handling.

There being no further amendments, the matter was put to the vote with votes being cast as follows:

Motion (5): Mr R Balfour, Mrs I Campbell, Mr A Henderson, Mr W Mackay, Mrs M Paterson.

Amendment (2): Mr R Bremner, Mrs T Robertson.

Decision

The Planning Review Body **UPHELD** the Notice of Review and granted planning permission subject to conditions to be drafted by the Independent Planning Adviser to the PRB for the following reasons:

Members did not agree with the planning officer that the proposal could not be satisfactorily accommodated on the application site and did not agree that it would be detrimental to the settlement pattern. Members were satisfied that concerns regarding neighbours' privacy could be accommodated by way of condition removing the decking area. By majority, Members were in agreement that they could support the design of the proposed development and that, in their opinion, it was not contrary to Polices 28, 29, and 34 of the Highland-wide Local Development Plan.

5.2 Erection of house (Planning Reference: 20/04181/FUL) on land 55M West Of Allanfearn, Heights Of Achterneed, Achterneed, Strathpeffer for Mr & Mrs Macarthur 21/00047/RBREF (RB-02-22)

Mrs I Campbell declared an interest in this item on the grounds she was a local Member for Ward 05: Wester Ross, Strathpeffer and Lochalsh and therefore not permitted to participate in the determination of the Notice of Review and she left the meeting for the determination of this item.

There had been circulated Notice of Review 21/00047/RBREF for the erection of house (Planning Reference: 20/04181/FUL) on land 55M West Of Allanfearn, Heights Of Achterneed, Achterneed, Strathpeffer for Mr & Mrs Macarthur.

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body discussed whether its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint, no further procedures having been requested by the applicant.

Members requested sight of Google Earth and Streetview to inform their understanding of the application site, following which they would make a decision as to whether they had sufficient information to proceed to determine the Notice of Review.

The Independent Planning Adviser provided this, during which he advised that the following determining issues should apply in relation to the application:-

- does the proposal meet any of the exceptions in hinterland housing policy?; and
- if not, are there any other special circumstances that would justify the granting of planning permission ?

In response to questions, the Independent Planning Adviser provided further clarity on the access into the site and confirmed the applicant had not provided the Contaminated Land Officer with the information requested.

Thereafter, the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint and the Google Earth/Streetview presentation.

Debate

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body discussed the Notice of Review.

It was suggested the existing shed on the site was not an eyesore and still capable of use and concern was expressed that the applicant had not provided the Contaminated Land Officer with the information requested on the state of the land. This was hinterland and the proposal did not meet any of the exceptions in hinterland housing policy and there were concerns at the proposed use of croft land.

A contrary view was expressed that the shed was redundant and would shortly become an eyesore and the provision of a house on this site should be supported. This was a brownfield site which was no longer required for agricultural use and the development would benefit both the environment and the amenity of the area. The development would be in keeping with the settlement pattern in the area in terms of the spread out nature of the adjoining houses and it formed part of that housing group.

Mrs T Robertson seconded by Mr A Henderson **moved** to dismiss the Notice of Review for the reasons stated in the case officer's report of handling.

As an **amendment**, Mrs M Paterson seconded by Mr W Mackay moved that the Notice of Review be upheld and planning permission granted on the basis that as the shed was no longer being used the site could be considered brownfield. The proposal would result in the environmental improvement of the area and given the spread out nature of the adjoining houses that it formed part of that housing group.

There being no further amendments, the matter was put to the vote with votes being cast as follows:

Motion (3): Mr R Bremner, Mr A Henderson, Mrs T Robertson.

Amendment (3): Mr R Balfour, Mr W Mackay, Mrs M Paterson.

On an equality of votes being cast for the motion and amendment, the Chair cast his second and determining vote in favour of the **motion** which became the finding of the meeting.

Decision

The Planning Review Body **DISMISSED** the Notice of Review and refused planning permission for the reasons given by the case officer.

5.3 Erection of house (Planning Reference: 20/03969/FUL) on land 25M SE Of Manderlea, 60 Crown Drive, Inverness for Mr Ewan Harris 21/00049/RBREF (RB-03-22)

There had been circulated Notice of Review 21/00049/RBREF for the erection of house (Planning Reference: 20/03969/FUL) on land 25M SE of Manderlea, 60 Crown Drive, Inverness for Mr Ewan Harris

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body discussed whether its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint, a site inspection having been requested by the applicant.

Members requested sight of Google Earth and Streetview to inform their understanding of the application site. The Independent Planning Adviser provided this, during which he advised that the following determining issues should apply in relation to the application:-

- whether the proposal would preserve or enhance the character & appearance of the Crown Conservation Area in terms of siting/design; and
- whether the proposal would have an unacceptable adverse impact on the residential amenities of Midmills Cottage by possible overlooking /overbearing / overshadowing effects.

In response to questions, the Independent Planning Adviser provided further clarity on the:-

- siting of the development relative to Midmills Cottage;
- number and type of trees that would have to be felled to accommodate the development;
- replanting scheme and timeline for trees to become established; and
- the assessments which would require to be carried out in the design and construction of the building to ensure the structural stability of the slope and safety of the steel supports of the building, noting that a technical/engineering report had not been submitted with the Notice of Review.

He advised that the applicant had not provided examples of a similar contemporary buildings in the conservation area and had sought to justify the development on its own merits on the basis this was an appropriate design solution for the site. The Historic Environment team had not raised any issues in respect of the

modification/removal of sections of the wall within the site in terms of having an adverse impact on the conservation area or the tree loss.

Thereafter, the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint and the Google Earth/Streetview presentation, and were of the view a site inspection was not required.

Debate

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body discussed the Notice of Review during which the following main points were raised:-

- the design was exciting, striking and contemporary in its own right, however this was not the appropriate site for the development and it did not achieve a complementary contemporary contrast;
- the development was out of character with the local area and would not enhance the conservation area. It would have an adverse impact on the amenity of Crown Drive;
- a façade should be retained on the building that tied in with the other houses in the conservation area;
- the proposed house would be overbearing and dominant and would have an adverse impact on the residential amenity of Midmills Cottage;
- concern at the loss of trees resulting from the proposed development. The replanting proposal would not provide adequate screening within an acceptable period of time particularly over the winter months due to the proposed tree species;
- reservations as to the siting of the house on what was a steep slope and that the steel pillars and roof lines contributed to the house being overbearing; and
- this was an impressive modern design and the trees would screen off and have no adverse impact on the residential amenity of Midmills Cottage and it would complement the conservation area. There was every confidence in the steel pillars and the structural stability of the site and the Notice of Review should be upheld.

Mr W Mackay moved that the Notice of Review be upheld and planning permission granted but on failing to find a second the amendment fell.

Decision

The Planning Review Body **DISMISSED** the Notice of Review and refused planning permission for the reasons given by the case officer.

5.4 Upgrade of access and formation of turning point (Planning Reference: 21/00719/FUL) on land 260M NW Of Culloden Inn, Culloden Moor, Inverness for Forestry and Land Scotland 21/00051/RBCON (RB-04-22)

There had been circulated Notice of Review 21/00051/RBCON for the upgrade of access and formation of turning point (Planning Reference: 21/00719/FUL) on land 260M NW Of Culloden Inn, Culloden Moor, Inverness for Forestry and Land Scotland

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item

4 above refers), the Review Body discussed whether its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint, no further procedures having been requested by the applicant.

Members requested sight of Google Earth and Streetview to inform their understanding of the application site. The Independent Planning Adviser provided this, during which he advised that the following determining issue should apply in relation to the application:-

- Are the conditions necessary or reasonable in the circumstances?

In response to questions, the Independent Planning Adviser provided further clarity on the informal liaison process between the applicant and Council as roads authority through the Timber Transport Forum for forward felling and extraction plans on consultation routes.

Thereafter, the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint and the Google Earth/Streetview presentation.

Debate

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body discussed the Notice of Review during which it was suggested that Transport Planning had made a valid case as to why the conditions to be attached to the planning permission were necessary and should be formalised and the reasons for this. Members indicated there was no good reason to uphold this Notice of Review on the basis the conditions were considered to be reasonable in what was a sensitive location close to Culloden Battlefield and given the collision history at the junction.

Decision

The Planning Review Body **DISMISSED** the Notice of Review and **AGREED** that planning permission be granted with the recommended conditions attached for the reasons given by the case officer.

5.5 Erection of extension (Planning Reference: 21/03860/FUL) at 37 Balnafettack Road, Inverness for Mr Jay Kenny 21/00052/RBREF (RB-05-22)

There had been circulated Notice of Review 21/00052/RBREF for the erection of extension of extension (Planning Reference: 21/03860/FUL) at 37 Balnafettack Road, Inverness for Mr Jay Kenny.

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body discussed whether its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint, a site inspection having been requested by the applicant.

Members requested sight of Google Earth and Streetview to inform their understanding of the application site. The Independent Planning Adviser provided this, during which he advised that the following determining issues should apply in relation to the application:-

- whether the design / siting of the proposal fits well with the character and appearance the host property and the streetscape; and
- whether the design of the proposal would cause unacceptable harm to the amenities of adjacent residents & the locality

In response to questions, the Independent Planning Adviser provided further clarity on other properties with front extensions in the locality and how these related to the proposal and on the distances to neighbouring properties.

Thereafter, the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint and the Google Earth/Streetview presentation, and were of the view a site inspection was not required.

Debate and Decision

The Planning Review Body **UPHELD** the Notice of Review and granted planning permission subject to conditions drafted by the Independent Planning Adviser to the PRB for the following reasons:

Members did not agree with the case officer that the extension forward of the principal elevation was out of keeping with the local character of Balnafettack Road. Given other examples of external protrusions in the area of a similar size, and the fact that no objections had been received from neighbours, Members were in agreement that the proposed development could be supported and was not contrary to policies 28 and 29 of the Highland wide Local Development Plan.

5.6 Erection of house (Planning Reference: 21/03073/PIP) on land 100M East Of Bay Cottage, North Ballachulish, Onich for Mr & Mrs Tony Sykes 21/00053/RBREF (RB-06-22)

There had been circulated Notice of Review 21/00053/RBREF for the erection of house (Planning Reference: 21/03073/PIP) on land 100M East Of Bay Cottage, North Ballachulish, Onich for Mr & Mrs Tony Sykes.

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body discussed whether its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint, a site visit having been requested by the applicant.

Members requested sight of Google Earth and Streetview to inform their understanding of the application site. The Independent Planning Adviser provided this, during which he advised that the following determining issues should apply in relation to the application:-

- Would the development adversely affect the local settlement pattern and landscape, to the detriment of the character & appearance of North Ballachulish, croftland and the wider National Scenic Area setting; and
- Would the proposal be acceptable in terms of its effects on the amenity of neighbouring properties

In response to questions, the Independent Planning Adviser provided further clarity on the relationship between the applicant's site and the planning application which had

recently expired, the existing settlement pattern in the locality, and the main issues raised in the objections. He explained that an operational needs assessment had not been submitted in respect of the site.

Thereafter, the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint and the Google Earth/Streetview presentation, and were of the view a site inspection was not required.

Debate

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body discussed the Notice of Review.

During discussion, comments included that the development was outwith the settlement boundary located on croft land and was not attached to the properties to the front or the rear of the site, and there was no agricultural need for the development. The proposal was not in keeping with the local settlement pattern and landscape, and therefore contrary to policy.

A contrary view was expressed that it was considered the application did not detract from the amenity of the area and was not at odds with the existing settlement pattern and character of the area and accordingly complied with the Highland wide Local Development Plan.

Mr A Henderson seconded by Mrs T Robertson **moved** to dismiss the Notice of Review for the reasons stated in the case officer's report of handling.

As an **amendment**, Mr R Bremner seconded by Mrs M Paterson moved that the Notice of Review be upheld and planning permission granted on the basis that the application did not detract from the amenity of the area and was not at odds with the existing settlement pattern and character of the area and accordingly complied with the Highland wide Local Development Plan.

There being no further amendments, the matter was put to the vote with votes being cast as follows:

Motion (3): Mr R Balfour, Mr A Henderson, Mrs T Robertson.

Amendment (3): Mr R Bremner, Mrs I Campbell, Mrs M Paterson.

On an equality of votes being cast for the motion and amendment, the Chair cast his second and determining vote in favour of the **motion** which became the finding of the meeting.

Decision

The Planning Review Body **DISMISSED** the Notice of Review and refused planning permission for the reasons given by the case officer.

The meeting ended at 3.20pm.
