

## **The Highland Council**

Minutes of Meeting of the **Planning Review Body** held **remotely** on Wednesday, 23 March 2022 at 10.30 am.

### **Present:**

Mr R Balfour  
Mrs I Campbell  
Mr L Fraser  
Mr A Henderson  
Mr W Mackay  
Mrs M Paterson  
Mrs T Robertson

### **In Attendance:**

Mrs K Lyons, Principal Solicitor/Clerk  
Mr D Jones, Independent Planning Adviser to the Planning Review Body  
Mr D Mudie, 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 R Bremner.

#### **2. Declarations of Interest**

There were no declarations of interest.

#### **3. Minutes of Previous Meeting of 1 February 2022**

The Minutes of the previous Meeting held on 1 February 2022, 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: 21/01454/PIP) on land 80M NE of Gleniffer, Arivegaig, Acharacle for Mr Allan Cameron 21/00055/RBREF (RB-07-22)**

There had been circulated Notice of Review 21/00055/RBREF for the erection of house (Planning Reference: 21/01454/PIP) on land 80M NE of Gleniffer, Arivegaig, Acharacle for Mr Allan Cameron

#### **Preliminaries**

Having **NOTED** the Clerk’s confirmation that this was a valid and competent Notice of Review, and her 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 by virtue of its siting, the proposed house plot would have unacceptable detrimental effects on the:

- character of the local settlement pattern and landscape setting; and
- amount of croft land and its ongoing efficient use/operation

In response to questions, the Independent Planning Adviser clarified:-

- the indicative house position and potential options to gain alternative access to the remainder of the croft;
- the approximate distance of the access between the lean-to extension on the applicant’s property and the boundary of the adjacent property;
- the applicant was proposing to let his existing property ‘Gleniffer’ for holiday accommodation if planning permission was granted for this proposal;
- it was for Members to consider the weight to be given to the policies in favour of promoting and encouraging crofting diversification where appropriate against

whether the proposed house site was deemed to be acceptable from a policy perspective for this site. The case officer contended there was the opportunity for the applicant to site the house elsewhere on the croft through the redevelopment of the outbuilding; and

- the established local settlement pattern was that of staggered single tier development.

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.

Mr W Mackay seconded by Mrs M Paterson **moved** to uphold the Notice of Review and grant planning permission subject to conditions to be drafted by the Independent Planning Adviser to the PRB and approved by the Chair of the PRB for the following reasons:

1. The proposed development is considered to be in keeping with the established settlement pattern, is not considered to be detrimental to the character of the crofting township and demonstrates sensitive siting. Therefore, it is considered to accord with policies 28, 29 and 36 of the Highland wide Local Development Plan and the Housing in the Countryside and Rural Housing Supplementary Guidance.

2. The proposed development is not considered to be contrary to policy 47 of the Highland wide Local development Plan and would instead result in appropriate diversification namely agricultural tourism.

As an **amendment** by Mrs T Robertson seconded by Mr A Henderson moved to dismiss the Notice of Review and refuse planning permission in accordance with the reasons contained in the report of handling.

On a vote being taken, the **motion** received 4 votes and the **amendment** received 3 votes, with no abstentions, and the **motion** was therefore **carried**, the votes having been cast as follows:-

**Motion (4):** Mr R Balfour, Mrs I Campbell, Mr W Mackay, Mrs M Paterson.

**Amendment (3):** Mr L Fraser, Mr A Henderson, 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 and approved by the Chair of the PRB for the following reasons:

1. The proposed development is considered to be in keeping with the established settlement pattern, is not considered to be detrimental to the character of the crofting township and demonstrates sensitive siting. Therefore, it is considered to accord with policies 28, 29 and 36 of the Highland wide Local Development Plan and the Housing in the Countryside and Rural Housing Supplementary Guidance; and
2. The proposed development is not considered to be contrary to policy 47 of the Highland wide Local development Plan and would instead result in appropriate

diversification namely agricultural tourism.

## **5.2 Siting of 600kW wind turbine with 40m hub and maximum blade tip height of up to 67 metres, crane hardstanding, external transformer; grid connection and access track (Planning Reference: 21/01214/FUL) on land 2300M NW of Fannyfield House, Sworddale, Evanton for Denscot Evergreen Ltd 21/00057/RBREF (RB-08-22)**

There had been circulated Notice of Review 21/00057/RBREF for the siting of 600kW wind turbine with 40m hub and maximum blade tip height of up to 67 metres, crane hardstanding, external transformer; grid connection and access track (Planning Reference: 21/01214/FUL) on land 2300M NW of Fannyfield House, Sworddale, Evanton for Denscot Evergreen Ltd.

### **Preliminaries**

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and her 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 issue should apply in relation to the application:-

- the visual impact of the development in views from the surrounding landscape including the south, south-east, Ben Wyvis and Cnoc Fyrish due to its scale, design and location

In response to questions, the Independent Planning Adviser clarified that:-

- the impact of the development on the Sworddale road could be mitigated through conditions and the requirement for Construction Traffic Management Plan. A wear and tear agreement could also be put in place in terms of any impacts on the roads going forward;
- there was a distance of 1.9km between the proposed wind turbine and the Ben Wyvis Special Landscape Area;
- the number of objections and indications of support received in relation to the proposal and confirmation that there had been no technical objections received from statutory consultees, including Nature Scotland and the local community council. A neighbouring community council had objected to the application; and
- the visualisations provided by the applicant in terms of distances from the development and representative viewpoints were relatively standard for a single wind turbine of the scale proposed.

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.

Mrs M Paterson seconded by Mrs I Campbell **moved** to uphold the Notice of Review and grant planning permission subject to conditions (including securing an agreement under s96 of the Roads (Scotland) Act 1984) to be drafted by the Independent Planning Adviser to the PRB and approved by the Chair of the PRB for the following reasons:

The application is not considered to be contrary to Policy 67 (Renewable Energy) of the Highland wide Local Development Plan or the associated Onshore Wind Energy Supplementary Guidance or Scottish Planning Policy as the development would not have a significantly detrimental visual impact as experienced by recreational users of the outdoors in the wider vicinity including from Cnoc Fyrish and Ben Wyvis or in views towards the Ben Wyvis mountain massif, or as viewed from properties, communities, by road users, including tourists, to the south and southeast, including users of the A9 trunk road or using the local road network on the north side of the Black Isle including but not limited to the B9163.

As an **amendment** by Mr A Henderson seconded by Mrs T Robertson moved to dismiss the Notice of Review and refuse planning permission in accordance with the reasons contained in the report of handling.

On a vote being taken, the **motion** received 4 votes and the **amendment** received 3 votes, with no abstentions, and the **motion** was therefore **carried**, the votes having been cast as follows:-

**Motion (4):** Mr R Balfour, Mrs I Campbell, Mr W Mackay, Mrs M Paterson.

**Amendment (3):** Mr L Fraser, Mr A Henderson, Mrs T Robertson.

## Decision

The Planning Review Body **UPHELD** the Notice of Review subject to conditions (including securing an agreement under s96 of the Roads (Scotland) Act 1984) to be drafted by the Independent Planning Adviser to the PRB and approved by the Chair of the PRB for the following reasons:

The application is not considered to be contrary to Policy 67 (Renewable Energy) of the Highland wide Local Development Plan or the associated Onshore Wind Energy Supplementary Guidance or Scottish Planning Policy as the development would not have a significantly detrimental visual impact as experienced by recreational users of the outdoors in the wider vicinity including from Cnoc Fyrish and Ben Wyvis or in views towards the Ben Wyvis mountain massif, or as viewed from properties, communities, by road users, including tourists, to the south and southeast, including users of the A9 trunk road or using the local road network on the north side of the Black Isle including but not limited to the B9163.

### **5.3 Provision of development site (Planning Reference: 21/03343/PIP) on land 35M NE of Balmain, Raddery, Fortrose for Mr D Cumming 21/00058/RBREF (RB-09-22)**

There had been circulated Notice of Review 21/00058/RBREF for the provision of development site (Planning Reference: 21/03343/PIP) on land 35M NE of Balmain, Raddery, Fortrose for Mr D Cumming.

## Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and her 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 in principle, the site's development for housing met any of the exceptions in hinterland policy;
- if so, whether the likely impacts of development on site assets and local character would be acceptable; and
- whether if planning was granted an affordable housing contribution was necessary/ reasonable.

In response to questions, the Independent Planning Adviser clarified:-

- the location, size, shape and depth of the application site relative to the adjacent sites and neighbouring property;
- that the case officer had accepted that the proposal could be regarded as infill development but due to the constraints of the site considered that the proposal did not fit with the local character of the area and would provide limited amenity space;
- the terms of the pre-application advice given by officers to the applicant, which the applicant had sought to address in bringing forward the application;
- the indicative position of the proposed house relative to the mature tree on the site. It would be open for the applicant to apply for a felling licence to remove the tree going forward;
- the forestry officer was consulted on the application but no response had been received; and
- refusal by an applicant to pay an upfront developer contribution for affordable housing was a valid reason for refusing an application.

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.

Mr L Fraser seconded by Mrs T Robertson **moved** to dismiss the Notice of Review and refuse planning permission in accordance with the reasons contained in the report of handling.

As an **amendment** by Mrs M Paterson seconded by Mrs I Campbell to uphold the Notice of Review and grant planning permission subject to (i) conditions to be drafted by the Independent Planning Adviser to the PRB and approved by the Chair of the PRB and (ii) either, the upfront payment of the developer contribution referred to in the report of handling or the prior conclusion of an agreement under s75 of the Town and Country Planning (Scotland) Act 1997 to secure the said contribution.

On a vote being taken, the **motion** received 4 votes and the **amendment** received 3 votes, with no abstentions, and the **motion** was therefore **carried**, the votes having been cast as follows:-

**Motion (4):** Mr R Balfour, Mr L Fraser, Mr A Henderson, Mrs T Robertson.

**Amendment (3):** Mrs I Campbell, Mr W Mackay, Mrs M Paterson.

## **Decision**

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

### **5.4 Erection of 2no houses (Planning Reference: 21/03350/PIP) on land east of West Drummond Cottage, Whitebridge for Mr Balvinder Dhinsa 22/00001/RBREF (RB-10-22)**

There had been circulated Notice of Review 22/00001/RBREF for the erection of 2no houses (Planning Reference: 21/03350/PIP) on land East of West Drummond Cottage, Whitebridge for Mr Balvinder Dhinsa

## **Preliminaries**

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and her 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:-

- fit of the development with the prevailing landscape/settlement pattern, especially the relationship between lower and upper parts of the Strath.

In response to questions, the Independent Planning Adviser clarified that:-

- the application fell below the threshold for consultation with Transport Planning, however the case officer would have consulted with them if it was considered the visibility splays could not be achieved;
- the access was located on a straight stretch of road and the land required to achieve adequate sight lines was under the applicant's control;
- this was an application in principle and the drawings were indicative and for illustrative purposes and the size, scale and massing of the houses would be addressed as part of any subsequent application; and
- the house adjacent to the application site had been approved on the basis of a land management connection.

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 concern was expressed that the siting of the development on open strath land would have a significant detrimental impact on the landscape and local settlement pattern. Members therefore considered there was no reason to overturn the case officer's decision to refuse planning permission.

### **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 1.15pm.

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