

## The Highland Council

Minutes of Meeting of the **Planning Review Body** held in **Council Headquarters, Glenurquhart Road, Inverness** on Monday 27 June 2022 at 10.30 am.

### **Present:**

Mr D Fraser  
Mr B Lobban  
Mr T Maclennan  
Mr D Millar  
Mrs M Paterson

### **In Attendance:**

Mrs K Lyons, Principal Solicitor/Clerk  
Mr D Mudie, Independent Planning Adviser to the Planning Review Body  
Mr B Robertson, Independent Planning Adviser to the Planning Review Body  
Ms A Macrae, Committee Administrator

### **Preliminaries**

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

### **Business**

#### **1. Appointment of Chair Suidheachadh de Chathraiche**

The Clerk advised that the Council at its meeting on 9 June 2022 had agreed that the Chairs of the North Planning Applications Committee (NPAC) and South Planning Applications Committee (SPAC) act as Chair and Vice Chair of the Planning Review Body. Mr D Millar had been appointed as Chair of the NPAC and Mr T Maclennan had been appointed as Chair of the SPAC.

The Clerk then invited nominations for the post of Chair of the Planning Review Body.

Mr T Maclennan was nominated by Mr D Millar seconded by Mr B Lobban.

On there being no other nominations, it was **AGREED** that Mr T Maclennan be appointed as Chair of the Planning Review Body.

Mr T Maclennan proceeded to take the Chair.

#### **2. Appointment of Vice Chair Cur Iar-Chathraiche an Drechud**

The Planning Review Body **AGREED** that Mr D Millar be appointed as Vice Chair of the Planning Review Body.

Thereafter, and on hearing from the Clerk, the Planning Review Body **AGREED** that items 7.6, 7.7 and 7.7 be deferred to a future meeting of the PRB given insufficient time between the appointment of members and the meeting date.

### **3. Apology for Absence**

An apology for absence was intimated on behalf of Mrs I Campbell.

### **4. Declarations of Interest**

There were no declarations of interest.

### **5. Minutes of Previous Meeting of 23 March 2022**

The Planning Review Body **AGREED** to continue this item until such time as Mrs I Campbell and Mrs M Paterson were both in attendance, as the only Members who had been present at the previous meeting, and to enable the Minutes to be proposed and seconded.

### **6. 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.

### **7. New Notices of Review to be Determined**

#### **7.1 Erection of house (Planning Reference: 21/02872/FUL) on land 120M SW of Upper Muiryden, Fortrose Mr & Mrs N Macleod 22/00002/RBREF (RB-11-22)**

There had been circulated Notice of Review 22/00002/RBREF for erection of house (Planning Reference: 21/02872/FUL) Land 120M SW Of Upper Muiryden, Fortrose Mr & Mrs N Macleod.

## 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:-

- justification of the proposed house in relation to the operational needs of the stock raising activities on the surrounding landholding.

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

- the case officer's delegated report confirmed that the applicant had previously occupied a house on the croft to the north-east and that this had been subsequently sold by the applicant. No information had been submitted as to when this property had been sold; and
- the Council's Agricultural Consultant had advised that the Operational Needs Assessment highlighted that the labour requirements were not such as to justify a full-time residential presence on the site in terms of the Council's policy which required a minimum of 1.0 labour unit to be considered acceptable.

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 the majority of Members indicated that having regard to the operational needs assessment and the advice of the Council's Agricultural Consultant the applicant had failed to demonstrate that the proposal for a new house was essential for land management purposes. It was also considered that the proposal did not form infill development and therefore Members were content with the case officer's decision on this application.

A contrary view was expressed that the proposed house was justified in relation to the operational needs of the stock raising activities on the surrounding landholding and the Notice of Review should be upheld.

## Decision

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

## **7.2 Erection of house (Planning Reference: 19/02607/FUL) on land 245M NE Of Burnside, Altass, Rosehall for for Mr John KirkPartick 22/00003/RBREF (RB-12-22)**

There had been circulated Notice of Review 22/00003/RBREF for the erection of house (Planning Reference: 19/02607/FUL) on Land 245M NE Of Burnside, Altass, Rosehall

### **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 issues should apply in relation to the application:-

- impact of a new house on adjacent land to an established shooting business where outdoor commercial shooting is established as lawful.
- agent of Change Principle: Planning (Scotland) Act 2019: *Introduced by the Planning (Scotland) Act 2019, the 'Agent of Change' principle is designed to put the onus on developers of new, noise-sensitive properties to effectively deal with potentially problematic noise rather than curtail the existing sources of noise.*
- appropriately managing change through Planning Legislation and mechanisms as opposed to separate legislation (in this instance, Environmental Health legislation).

In response to questions, the Independent Planning Adviser clarified that if the applicant had provided a noise impact assessment then it may have been possible to put mitigation in place or demonstrate one way or the other whether there would be a realistic impact from the adjacent outdoor shooting business. He provided further clarity on the impact of the Agent of Change principle in respect of the proposed development and advised that the cost of undertaking a noise impact assessment was likely to be substantial.

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.

In discussion, Members expressed concern that different future occupants of the proposed house could potentially initiate complaints in regard to the noise generated by the adjacent established Highland Shooting Centre. The agent of change principle applied in this case and in the absence of a noise impact assessment it had not been demonstrated that the development would not be negatively impacted by the outdoor

shooting business. Members therefore expressed support for the case officer's decision on this application.

## Decision

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

### **7.3 Erection of semi detached dwellings and install sewage treatment tanks (amended proposal 18/05387/FUL) (Planning Reference: 21/01745/FUL) on land 50M NW Of Balnafettack, Bower for Lee MacKay 22/00004/RBREF (RB-13-22)**

There had been circulated Notice of Review 22/00004/RBREF for the erection of semi detached dwellings and install sewage treatment tanks (amended proposal 18/05387/FUL) (Planning Reference: 21/01745/FUL) on land 50M NW Of Balnafettack, Bower for Lee MacKay.

## 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 issues should apply in relation to the application:-

- seeking a review on a site that was not subject of the planning application refusal; and
- flood risk on subject site.

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

- the flood risk related to the eastern side of the site due to the presence of an adjacent watercourse and its culverts;
- it would have been possible for the applicant to withdraw the application and submit a new application with the development located on the western side of the site. The case officer had provided the applicant with the opportunity to do so, however the applicant had decided to continue with the current application; and
- the officer had indicated improvements could be made to make the design of the house acceptable if the development was located on the western part 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.

## Debate

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

In discussion, Members suggested that given the weight of evidence in relation to there being an unacceptable flood risk associated with the development and an outstanding objection from SEPA, it would have been logical for the applicant to consider locating the development on that part of the site which was not located on the flood plain. The applicant should therefore be encouraged to consider the alternative site as suggested by the case officer. The proposal was therefore contrary to policy and the Notice of Review should be dismissed.

## **Decision**

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

### **7.4 Erection of a house and garage (Planning Reference: 21/03621/FUL) on land 50M SW of Kempfield Crofts, Balblair, Dingwall for Mrs Anne Hossack 22/00006/RBREF(RB-14-22)**

There had been circulated Notice of Review 22/00006/RBREF for the erection of 2no houses (Planning Reference: 21/03350/PIP) for erection of a house and garage (Planning Reference: 21/03621/FUL) on land 50M SW of Kempfield Crofts, Balblair, Dingwall for Mrs Anne Hossack.

## **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:-

- whether the proposal accords with Hinterland policy and qualifies as an exception to the presumption against housing development in pressurised areas of countryside

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.

In discussion, the majority of Members commented that the proposal would not form part of a housing group. Having regard to the operational needs assessment and the advice of the Council's Agricultural Consultant, the applicant had failed to demonstrate that the proposal for a new house was essential for land management purposes and therefore the case officer's decision on this application should be supported.

A contrary view was expressed that the proposed house was justified in relation to the operational needs of the stock raising activities on the surrounding landholding and the Notice of Review should be upheld.

## **Decision**

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

### **7.5 Partial retrospective erection of a house (Planning Reference: 21/04721/FUL) on land 35M SE Of Mission Hall, Skinnerton, Inver, Tain for Maclean & Sons Ltd 22/00007/RBREF (RB-15-22)**

There had been circulated Notice of Review 22/00007/RBREF partial retrospective erection of a house (Planning Reference: 21/04721/FUL) on land 35M SE Of Mission Hall, Skinnerton, Inver, Tain for Maclean & Sons 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. The Independent Planning Adviser provided this, during which he advised that the following determining issue should apply in relation to the application:-

- inappropriate form, materials, and architectural detailing for proposed house out of character and detrimental to visual amenity of the area;
- inadequate access, parking and turning arrangement;
- crossing of green space outside Inver Meeting House would displace amenity space and informal parking areas; and
- detrimental to general amenity derived from historical patterns of land use.

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

- the dispute around the ownership of the land outside the new house was not a planning matter;
- it would have been for the applicant and case officer to provide examples of similar constructions in the locality;
- in the absence of specific drawings of the visual appearance of the proposal, the application had to be assessed in terms of the case officer's report and the applicant's statement;
- the proposed access and parking arrangements in relation to the development and the boundary of the site;
- while the Notice of Review related to planning in principle for an incomplete house and therefore retrospective in nature, it would be possible for the Review Body to grant planning permission subject to detailed conditions; and
- if the Review Body dismissed the Notice of Review and planning permission refused then appropriate enforcement action in relation to the development would be pursued.

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.

In discussion, Members expressed concern that the applicant had not demonstrated that the access arrangements were acceptable. The design of the house was inappropriate and its appearance, the pitch of the roof, and windows were of particular concern and out of character with the vernacular of the area. Members would have expected drawings to be available of the visual appearance of the partially constructed house once completed. Members were therefore content with the case officer's decision on this application.

## **Decision**

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

### **7.6 Erection of house for croft management purposes (Planning Reference: 21/03721/PIP) on land 245M SE Of Ferliehald, Greenbrae, Duncanston for Mr J Fraser 22/00009/RBREF (RB-16-22)**

There had been circulated Notice of Review 22/00009/RBREF for the erection of house for croft management purposes (Planning Reference: 21/03721/PIP) on land 245M SE Of Ferliehald, Greenbrae, Duncanston for Mr J Fraser

The Planning Review Body **AGREED** to **DEFER** the Notice of Review to a future meeting of the PRB given insufficient time between appointment of members and the meeting date.

### **7.7 Erection of House (Planning Reference: 21/03772/PIP) on land 80M NW Of Glen Mhor Lodge, Whitebridge for Michael White 22/00011/RBREF (RB-17-22)**

There had been circulated Notice of Review 22/00011/RBREF for the erection of House (Planning Reference: 21/03772/PIP) on land 80M NW Of Glen Mhor Lodge, Whitebridge for Michael White

The Planning Review Body **AGREED** to **DEFER** the Notice of Review to a future meeting of the PRB given insufficient time between appointment of members and the meeting date.

### **7.8 Change of use from vets surgery to house (Planning Reference: 22/00017/FUL) at Vets Surgery, Market Lane, Kingussie, for Mr Kevin Thain 22/00016/RBREF (RB-18-22)**

There had been circulated Notice of Review 22/00017/RBREF for the change of use from vets surgery to house (Planning Reference: 22/00017/FUL) at Vets Surgery, Market Lane, Kingussie, for Mr Kevin Thain

The Planning Review Body **AGREED** to **DEFER** the Notice of Review to a future meeting of the PRB given insufficient time between appointment of members and the meeting date.



The meeting ended at 12.40pm.

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