

## The Highland Council

Minutes of Meeting of the **Planning Review Body** held in **Council Headquarters, Glenurquhart Road, Inverness** on Tuesday 23 August 2022 at 10.30am.

### **Present:**

Mrs I Campbell (remote) (except item 5.1)  
Mr T Maclennan  
Mr D Millar (remote) (except item 5.7)  
Mrs M Paterson

### **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

### **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**

Apologies for absence were intimated on behalf of Mr D Fraser and Mr B Lobban.

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

Item 5.1: Mrs I Campbell  
Item 5.7: Mr D Millar

#### **3. Minutes of Previous Meetings**

The Minutes of the previous Meeting held on 23 March 2022, 27 June 2022 and 11 August 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 a dwelling house, (Planning Reference: 19/00394/FUL) on Land 30M South Of Ravenscraig Lodge, Craig, Plockton on land 30M South Of Ravenscraig Lodge, Craig, Plockton for Mr Richard Potter 22/00013/RBREF (RB-19-22)**

**Mrs I Campbell declared a non-financial interest in this item on the grounds that 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. Mrs I Campbell left the meeting for the determination of this item.**

There had been circulated Notice of Review 22/00013/RBREF for the erection of a dwelling house, (Planning Reference: 19/00394/FUL) on land 30m south of Ravenscraig Lodge, Craig, Plockton for Mr Richard Potter.

#### **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 3 above refers), the Review Body discussed whether its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint, further written submissions and hearing sessions and 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 principal planning issues should apply in relation to the application:-

- the siting and design of the proposal has an overbearing impact on Ravenscraig Lodge;
- the increased usage of what is a substandard junction will have an unacceptably negative impact on road safety; and
- the proposed development would result the permanent loss of native woodland, some of which may be of semi natural origin.

In response to questions, the Independent Planning Adviser provided further clarity on the position of the proposed house plot relative to Ravenscraig Lodge.

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 further written submissions and hearing sessions and 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.

Members commented that there had been a comprehensive assessment of development on the site in respect of a previous planning application. There was no change from that application in terms of the current proposal apart from the development being for one house and therefore the appointed officer's original reasons for recommending refusal of planning permission continued to apply. Members also highlighted their concerns at the loss of ancient woodland as a result of the development, reference being made to the Forestry Officer's objection to the application. The Notice of Review should therefore be dismissed for the reasons given by the appointed officer.

## **Decision**

The Planning Review Body **DISMISSED** the Notice of Review and refused planning permission for the reasons given by the appointed officer in the report of handling.

### **5.2 Erection of house and garage, (Planning Reference: 20/01756/PIP) on land 100M NW Of Linmhor, Croftallan, Nethy Bridge for Mr & Mrs Malcolm Reynolds 22/00014/RBREF (RB-20-22)**

There had been circulated Notice of Review 22/00014/RBREF for the erection of house and garage, (Planning Reference: 20/01756/PIP) on land 100M NW of Linmhor, Croftallan, Nethy Bridge for Mr & Mrs Malcolm Reynolds

## **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 3 above refers), the Review Body discussed whether its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint, further written submissions and 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 principal planning issues should apply in relation to the application:-

- the fit of the development with the surrounding scattered settlement pattern; and
- the loss of trees as a consequence of development.

In response to questions, the Independent Planning Adviser clarified the relationship of the application site relative to the ancient woodland in terms of the Forestry Officer's response and the appointed officer's policy appraisal. The site plan and illustration of a potential house design provided by the applicants was for indicative purposes only, this being an application for planning in principle. He also clarified the proximity of the proposed house to other properties in the locality.

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 further written submissions and 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.

Members commented that the pre-application advice to the applicant had been clear in that it was considered the proposal would not comply with policies 1, 3 and 4 of the Cairngorm National Park Development Plan and the same concerns had been raised in respect of the previous refusal of planning permission. Members expressed concern at the loss of ancient woodland as a result of the development and the importance of the landscape in this area being preserved. While there was sympathy of the applicant, it was difficult to overcome the policy and Development Plan considerations in this case and therefore the Notice of Review should be dismissed for the reasons given by the appointed officer.

## **Decision**

The Planning Review Body **DISMISSED** the Notice of Review and refused planning permission for the reasons given by the appointed officer in the report of handling.

### **5.3 Change of use to restaurant with bar, erection of extension (Planning Reference: 20/04135/FUL) at Braeriach, 127 Grampian Road, Aviemore for Mr Komru Miah 22/00015/RBREF (RB-21-22)**

There had been circulated Notice of Review 22/00015/RBREF for the change of use to restaurant with bar, erection of extension (Planning Reference: 20/04135/FUL) at Braeriach, 127 Grampian Road, Aviemore for Mr Komru Miah.

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

- the design, materials and layout of the proposal are inappropriate;
- the proposal does not preserve or enhance the character and appearance of the existing building or the adjacent listed building; and
- the proposed parking and turning provision within the site is inappropriate.

In response to questions, the Independent Planning Adviser provided further clarity on the parking and access arrangements, including for deliveries. He explained that one of the appointed officer's reasons for refusal related to the inadequacy of the parking and turning arrangements. The applicants had stated there was land available for overflow parking but that they did not have control over that land to safeguard its provision. While

there was the potential for alternative design options for the extension, the Review Body had to consider the design as submitted. He also outlined the level of protection afforded to category 'C' listed buildings.

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.

Members expressed concern that the design of the proposed extension was of insufficient quality and not sympathetic to the existing Victorian building or its location next to a listed building and setting on the main road through Aviemore. It was suggested that an alternative more acceptable design solution could be achieved. The proposal did not have adequate car parking and turning provision for customers and deliveries. Members were therefore content with the appointed officer's reasons for refusing planning permission for the development.

## **Decision**

The Planning Review Body **DISMISSED** the Notice of Review and refused planning permission for the reasons given by the appointed officer in the report of handling.

### **5.4 Change of use of amenity land to garden ground and erection of wood store/shed (in retrospect), (Planning Reference: 21/05555/FUL) at Lisemhor, Resaurie, Inverness for Mrs Shirley Corcoran 22/00017/RBREF(RB-22-22)**

There had been circulated Notice of Review 22/00017/RBREF for the change of use of amenity land to garden ground and erection of wood store/shed (in retrospect), (Planning Reference: 21/05555/FUL) at Lisemhor, Resaurie, Inverness for Mrs Shirley Corcoran

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

- whether the existing structure and change of use of the land precludes public service provision for street lighting, sewer maintenance and delivery of services within the road verge; and
- whether the existing structure gives rise to road safety issues due to a loss of refuge area of pedestrians and cyclists.

In response to questions, the Independent Planning Adviser clarified that irrespective of whether the applicants owned the land, the main issue was that the wood store/shed

had been erected on an area of land which formed part of the public road verge and therefore remained the responsibility of the Roads Authority. The Roads Authority had objected to the proposal on the basis the development would impede their ability and that of the utility companies to access public infrastructure located underground. The applicant had offered to relocate the wood store/shed in line with the hedge. While he understood this would have satisfied the Planning Authority, it had not been accepted by the Roads Authority.

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 Members commented that the visual appearance of the wood shed/store was considered to be acceptable. However, the key issue was the importance of protecting access to the public services located underground and concern was expressed that approval would establish a precedent for other developments. Members therefore indicated their support for the appointed officer's reasons for refusing planning permission for the development.

### **Decision**

The Planning Review Body **DISMISSED** the Notice of Review and refused planning permission for the reasons given by the appointed officer in the report of handling.

### **5.5 Erection of house (Planning Reference: 21/05765/FUL) on land 150m SE of Lodge Wood House, Lodgewood, Munloch for Mr & Mrs Campbell 22/00018/RBREF (RB-23-22)**

There had been circulated Notice of Review 22/00018/RBREF for the erection of house (Planning Reference: 21/05765/FUL) on land 150M SE of Lodge Wood House, Lodgewood, Munloch for Mr & Mrs Campbell.

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

- the relationships between the existing neighbouring properties, whether they can be considered a housing group, that might be considered justification for allowing this proposal for housing within the Hinterland;
- whether or not the proposal would intrude on an undeveloped field and/or create uncharacteristic ribbon or linear development contrary to the Rural Housing Guidance; and
- the proposal would extend housing development into a previously undeveloped area of designated Inventory Ancient Woodland. No further information has been

submitted that justifies that the proposed house offers a clear and significant public benefit to justify this in terms of both the local development plan policy and the Scottish Government Policy on Control of Woodland Removal.

In response to questions, the Independent Planning Adviser provided further clarity on the definition of a housing group and on the proximity of the site to the other properties in the surrounding area. He explained that compensatory tree planting as offered by the applicants could be justified as being appropriate if it was demonstrated the proposed house offered a clear and significant public benefit. In this case, the Forestry Officer and Forest and Land Scotland had objected to the proposal on the grounds of the loss of an existing woodland, the former stating that the proposed change in land use did not demonstrate a clear and significant public benefit. He provided further information on the restocking area and the impact of the development on replanting within the ancient woodland.

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 and Decision**

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

Following debate, the Planning Review Body **AGREED** to **UPHOLD** the Notice of Review and grant planning permission subject to conditions to be drafted by the Independent Planning Adviser and approved by Mrs M Paterson and the prior conclusion of an agreement under s75 of the Town and Country Planning (Scotland) Act 1997 to secure the provision and maintenance in perpetuity of the compensatory planting mentioned in the supporting information. The following reasons were given in support:

The proposed development is considered to round-off/infill the housing group and is not considered to comprise ribbon or linear development. Therefore, it complies with the Policy 35 of the HwLDP and the Council's Rural Housing supplementary guidance. It is considered that, although the development will result in a minor loss of woodland, this is considered to be justified given the compensatory planting proposed.

### **5.6 Erection of house, (Planning Reference: 21/04442/FUL) on Land 280M NE Of Lochaber High School, Camaghael, Fort William for Mr Richard Gall 22/00019/RBREF (RB-24-22)**

There had been circulated Notice of Review 22/00019/RBREF for the erection of house, (Planning Reference: 21/04442/FUL) on land 280M NE Of Lochaber High School, Camaghael, Fort William for Mr Richard Gall.

### **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 streetscape / settlement pattern and amenity

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

- that it appeared there was a pedestrian access gate onto the School's playing field but it was uncertain whether this allowed access into the curtilage of the proposed house or if provision had been made for the gate in the disposal of the land;
- that access or egress from the pedestrian gate was not the basis on which the application had been refused;
- the separation distance of the proposed development to the School's playing field boundary and that of the neighbouring property.
- the appointed officer was concerned about the proximity of the house to the playing field in terms of the amenity of those living in the house and impact on School activities.
- Transport Planning's withdrawal of their objection on the basis their soakaway concerns had been addressed removed one of the appointed officer's reasons for refusing the application;
- the agent of change principle had the potential to apply in this case. It had been highlighted in the report of handing that the proximity of the house to the School's playing field could become an issue if the property was purchased by another party; and
- the Planning Authority could not control the future occupancy of the house as part of any planning permission.

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 and Decision**

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

Mr D Millar seconded by Mrs I Campbell moved that the Notice of Review be upheld on the grounds that the proposal is acceptable infill development within the settlement development area, fits the settlement pattern and prevailing residential character, and does not obstruct any development or land use objectives of the West Highland and Islands Local Development Plan. It therefore satisfies policies 28, 29, 34 and 56 of the Highland-wide Local Development Plan which promote consolidation of the built up area and appropriate design and amenity standards, and local infrastructure objectives.

Mr T Maclennan moved as an amendment that the Notice of Review be dismissed and planning permission refused for the reasons given by the appointed officer in the report of handling but on failing to find a seconder the amendment fell.

The Planning Review Body therefore **AGREED to UPHOLD** the Notice of Review and grant planning permission subject to conditions to be drafted by the Independent Planning Adviser and approved by Mr D Millar. The following reasons were given in support:



The proposal is acceptable infill development within the settlement development area, fits the settlement pattern and prevailing residential character, and does not obstruct any development or land use objectives of the West Highland and Islands Local Development Plan. It therefore satisfies policies 28, 29, 34 and 56 of the Highland-wide Local Development Plan which promote consolidation of the built up area, and appropriate design and amenity standards, and local infrastructure objectives.

### **5.7 Retrospective erection of a garage (Planning Reference: 21/04921/FUL) at Taigh Na Pairce, 8 Marsco Place, Portree for Mr Malcolm Lamond 22/00025/RBREF (RB-25-22)**

**Mr D Millar declared a non-financial interest in this item on the grounds that he was a local Member for Ward 10: Eilean a' Cheò, and therefore not permitted to participate in the determination of the Notice of Review. Mr D Millar left the meeting for the determination of this item.**

There had been circulated Notice of Review 22/00025/RBREF for the retrospective erection of a garage (Planning Reference: 21/04921/FUL) at Taigh Na Pairce, 8 Marsco Place, Portree for Mr Malcolm Lamond.

#### **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, further written submissions and hearing sessions and 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 principal planning issues should apply in relation to the application:-

- the garage is considered to have an unacceptable visual impact on the surrounding street scene because it's position adjacent to the road frontage, it's scale, massing and profile metal cladding combine to create a building with a visual impact and character which are incongruous within a residential street scene devoid of any other building of similar proportions and appearance; and
- its height and position on the boundary with the neighbouring property (6 Marsco Place) create an overbearing impact on the front garden and driveway area of the property which is unacceptably harmful to the reasonable amenity expectations of the occupants of that property.

In response to questions, the Independent Planning Adviser provided further clarity on the elevations of the property and what could be considered to be the front and rear of the house. The Reporter and appointed officer considered that Marsco Place was the principal elevation of the property and therefore planning permission for the garage was required. He also clarified the position of an existing garage adjacent to the property.

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 further written submissions and hearing sessions and a site inspection was not required.

#### **Debate and Decision**

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

Following debate, the Planning Review Body **AGREED** to **UPHOLD** the Notice of Review and grant planning permission subject to conditions to be drafted by the Independent Planning Adviser and approved by Mr T Maclennan. The following reasons were given in support:

The garage, although larger than and constructed of materials that differ from, a standard domestic garage, is not considered to exhibit a visual impact and character which are incongruous within its location, and it is not considered to have an unacceptably overbearing impact on the reasonable amenity expectations of the occupants of No 6 Marsco Place. The development accords with Policies 28, 29 and 34 of the Highland Wide Local Development Plan 2012.

The meeting ended at 2.45pm.

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