

The Highland Council

Minutes of Meeting of the **Planning Review Body** held in **Council Headquarters, Glenurquhart Road, Inverness** on Wednesday 5 October 2022 at 2.00pm.

Present:

Mrs I Campbell (remote)
Mr B Lobban
Mr D Millar
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 Macinnes, Administrative Assistant

Preliminaries

Mr D Millar, Vice 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 T MacLennan.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of Previous Meetings

The Minutes of the previous Meeting held on 23 August, 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 Application ref: 21/04023/PIP) on land 470M SE of Gobshellach, Ardtoe, Acharacle for Catherine Ann MacDonald 22/00026/RBREF

There had been circulated Notice of Review 22/00026/RBREF for the erection of house (Planning Application ref: 21/04023/PIP) on land 470M SE of Gobshellach, Ardtoe, Acharacle for Catherine Ann MacDonald

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:-

- adverse impact on qualifying habitat Clais Moss Special Area of Conservation (SAC) and Kenra Bay and Moss Site of Special Scientific Interest (SSI); and
- fit of development with prevailing landscape /settlement pattern

In response to questions, the Independent Planning Adviser provided explained that the case officer had advised there were alternative sites in the area which appeared to be within the applicant's control that could be supported. NatureScot had not objected to a previous application for a holiday cottage to the south located within the SSI and SAC on the basis the development was not in or near any qualifying interests. There was no obvious evidence of a house having previously been on the application site from the information and photographs provided. NatureScot had objected to the application and if the Review Body upheld the Notice of Review and granted planning permission the application would require to be referred to Scottish Ministers.

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 during which Members expressed sympathy for the applicants and support for the need for housing in a remote and fragile areas. However, Members were concerned at the impact of the development on an internationally important Special Area of Conservation. The fact that NatureScot had objected to the application added substantial weight in terms of the reasons for refusal. There was no definitive evidence of a house having previously been on the site and there were alternative sites within area of land under applicant's ownership that would be more acceptable. The proposal was therefore contrary to policy and should be refused for the reasons given by the appointed officer in the report of handling.

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 Application under Section 42 to remove condition 2 (to remain in same ownership as main house) of planning permission 04/00014/FULRC, (Planning Application ref: 22/01708/S42) at Cherry Cottage, Drumsmittal, North Kessock, Inverness for Mrs Elizabeth Ross 22/00027/RBCON

There had been circulated Notice of Review 22/00027/RBCON for application under Section 42 to remove condition 2 (to remain in same ownership as main house) of planning permission 04/00014/FULRC,(Planning Application ref: 22/01708/S42) at Cherry Cottage, Drumsmittal, North Kessock, Inverness for Mrs Elizabeth Ross

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, 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:-

- continuation of conditions restricting the three units to use as holiday letting accommodation only.
- permissions 22/01706/S42, 22/01708/S42 and 22/01709/S42 had attached a revised occupancy restriction condition, as below:

The development shall be used for holiday letting purposes only and shall not be used as a principal private residence or be occupied by any family, group or individual for more than three months (cumulative) in any one calendar year

In response to questions, the Independent Planning Adviser confirmed that the properties detailed in this Notice of Review and those at items 5.3 and 5.4 below had been granted planning permission as holiday letting accommodation. The applicants were seeking the removal of the revised occupancy condition restricting use as holiday letting purposes as detailed above on the basis the properties were currently let out for residential use. He explained that in terms of the assessment of the planning

applications a lesser standard would have been expected for holiday lets as opposed to permanent residential accommodation particularly in terms of the policies around visual amenity in the hinterland and private amenity space.

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.

Members expressed support for the reasons given by the appointed officer for imposing the amended condition (Condition 1 of permission ref 22/01708/S42) in substitution for Condition 2 of the original permission (ref 04/00014/FULRC) in the interests of the area's visual amenity and in recognition of the lack of private amenity space. Members were therefore content that the amended condition should remain attached to the planning permission.

Decision

The Planning Review Body **DISMISSED** the Notice of Review, the amended condition (Condition 1 of permission ref 22/01708/S42) to remain attached to the planning permission. The Planning Review Body agreed with the reasons given by the appointed officer for imposing this condition in substitution for Condition 2 of the original permission ref 04/00014/FULRC.

5.3 Application under Section 42 to remove condition 3 (to remain in same ownership as main house) of planning permission 99/00529/FULRC, (Planning Application ref: 22/01706/S42) at Bramble Cottage, Drumsmittal, North Kessock, Inverness for Mrs Elizabeth Ross 22/00028/RBCON

There had been circulated Notice of Review 22/00028/RBCON for application under Section 42 to remove condition 3 (to remain in same ownership as main house) of planning permission 99/00529/FULRC, (Planning Application ref: 22/01706/S42) at Bramble Cottage, Drumsmittal, North Kessock, Inverness for Mrs Elizabeth Ross.

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

- Continuation of conditions restricting the three units to use as holiday letting accommodation only.
- Permissions 22/01706/S42, 22/01708/S42 and 22/01709/S42 had attached a revised occupancy restriction condition, as below:

The development shall be used for holiday letting purposes only and shall not be used as a principal private residence or be occupied by any family, group or individual for more than three months (cumulative) in any one calendar year

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.

Members expressed support for the reasons given by the appointed officer for imposing the amended condition (Condition 1 of permission ref 22/01708/S42) in substitution for Condition 3 of the original permission (ref 99/00529/FULRC) in the interests of the area's visual amenity and in recognition of the lack of private amenity space. Members were therefore content that the amended condition should remain attached to the planning permission.

Decision

The Planning Review Body **DISMISSED** the Notice of Review, the amended condition (Condition 1 of permission ref 22/01706/S42) to remain attached to the planning permission. The Planning Review Body agreed with the reasons given by the appointed officer for imposing this condition in substitution for Condition 3 of the original permission ref 99/00529/FULRC.

5.4 Application under Section 42 to remove condition 4 (to remain in same ownership as main house) of planning permission 00/00122/FULRC, (Planning Application ref: 22/01709/S42) at Willow Cottage, Drumsmittal, North Kessock, Inverness for Mrs Elizabeth Ross 22/00029/RBCON

There had been circulated Notice of Review 22/00029/RBCON for application under Section 42 to remove condition 4 (to remain in same ownership as main house) of planning permission 00/00122/FULRC, (Planning Application ref: 22/01709/S42) at Willow Cottage, Drumsmittal, North Kessock, Inverness for Mrs Elizabeth Ross 22/00029/RBCON

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

- Continuation of conditions restricting the three units to use as holiday letting accommodation only.

- Permissions 22/01706/S42, 22/01708/S42 and 22/01709/S42 had attached a revised occupancy restriction condition, as below:

The development shall be used for holiday letting purposes only and shall not be used as a principal private residence or be occupied by any family, group or individual for more than three months (cumulative) in any one calendar year

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.

Members expressed support for the reasons given by the appointed officer for imposing the amended condition (Condition 1 of permission ref 22/01708/S42) in substitution for Condition 4 of the original permission (ref 00/00122/FULRC) in the interests of the area's visual amenity and in recognition of the lack of private amenity space. Members were therefore content that the amended condition should remain attached to the planning permission.

Decision

The Planning Review Body **DISMISSED** the Notice of Review the amended condition (Condition 1 of planning permission 22/01709/S42) to remain attached to the planning permission. The Planning Review Body agreed with the reasons given by the appointed officer for imposing this condition in substitution for Condition 4 of the original permission ref 00/00122/FULRC.

5.5 Erection of house with self-contained annexe and studio flat, (Planning Application ref: 21/02095/FUL) on land to north of, Lochside, Duncanston for David MacDonald 22/00033/RBREF

There had been circulated Notice of Review 22/00033/RBREF for the erection of house with self-contained annexe and studio flat, (Planning Application ref: 21/02095/FUL) on land to north of, Lochside, Duncanston for David MacDonald

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

- should the proposal be considered as a renewal of an existing permission, or as a new application to be determined from first principles on its own merits?

- If it should, given that the application site is within the Hinterland, where there is a general presumption against new housing except where it can be demonstrated that certain exceptions apply, has an exception been adequately demonstrated?
- In addition, is the design appropriate to its location?

In response to questions, the Independent Planning Adviser clarified the planning history of the site and confirmed that development of a house had commenced on the application site under a previous planning permission granted in 2010 and renewed in 2013 (ref 13/00510/FUL) prior to the expiry of that permission. Planning permission had not been granted for the proposed design of the house shown in the Notice of Review documentation.

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 and Decision

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body **AGREED** to **UPHOLD** the Notice of Review subject to conditions to be drafted by the Independent Planning Adviser and approved by Mr D Millar. The following reasons were given in support:

- Members were satisfied that development had lawfully commenced on the application site under planning permission ref 13/00510/FUL prior to the expiry of that permission and that this application should therefore be treated as an amended design to an already approved house rather than a new house that required to be reassessed against Policy 35 of the Highland-wide Local Development Plan;
- Although a large house, Members were not satisfied that it would amount to overdevelopment of the application site and the design was considered to be acceptable. On this basis, the proposal was considered to comply with Policy 28 of the Highland-wide Local Development Plan.

The meeting ended at 3.30pm.
