

The Highland Council

Minutes of Meeting of the **Planning Review Body** held in **Council Headquarters, Glenurquhart Road, Inverness** on Thursday 11 August 2022 at 10.30 am.

Present:

Mrs I Campbell (remote)
Mr B Lobban
Mr T Maclennan
Mr D Millar (remote)
Mrs M Paterson

In Attendance:

Mrs K Lyons, Principal Solicitor/Clerk
Mr D Jones, 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 Chair confirmed that the meeting would be webcast and gave a short briefing on the Council's webcasting procedure and protocol.

Business

1. Apology for Absence

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

2. Declarations of Interest

Item 4.3: Mr B Lobban

3. 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.

4. New Notices of Review to be Determined

Note:- Mr D Millar was not present for the entirety of items 4.1, 4.2 and 4.3 due to IT issues and therefore not entitled to participate in the determination of those Notice of Reviews.

Mr D Millar took no part in the discussion and determination of the Notices of Review at items 4.1, 4.2 and 4.3.

4.1 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.

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, 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 development required a full time presence on the site to qualify as an exemption to Policy 35 on the basis of land management purposes.

In response to questions, the Independent Planning Adviser clarified that the applicant had indicated that livestock were present on the site. However, the case officer had carried out two separate site visits and had commented that no livestock had been observed on the site and that the fences around the site were in poor condition. The Planning Adviser confirmed that his understanding was that the use of the land for timber milling would require 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

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

Members commented that having regard to the Forestry Officer's advice that it appeared timber was brought in and milled on the site. Based on the operational needs assessment and the advice of the Council's Agricultural Assessor, it was considered that the development did not qualify as an exemption to Policy 35 on the basis of land management purposes.

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.

4.2 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.

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, 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:-

Non-compliance with Planning Policy, Supplementary Guidance and Landscape Character Assessment:

1. Policy 36 of the HwLDP in terms of siting and design; sympathetic to existing patterns of development in the area; compatible with landscape character and capacity; avoids incremental expansion of one type of development; avoids the loss of important croft land.
2. Policy 3 of the IMFLDP in terms of spacing, scale and density of development.
3. Recently adopted Rural Housing Supplementary Guidance.
4. NatureScot landscape character assessment – key issue was to avoid suburbanisation and seek to maintain a rural feel to the area. The assessment concluded that there should be a presumption against development along the floor of the strath and any development to the west of the B862 should be consistent with the predominant settlement pattern in the area.

In response to questions, the Independent Planning Adviser clarified that the application had not been presented on the basis of there being an operational justification for the proposed house on the site. The applicant's case related to the siting and design of the proposed house and its relationship with other 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.

Debate

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

Members comments included:-

- the development was not in keeping with the landscape character of the strath which it was important to preserve and was contrary to policy;
- in terms of the Rural Housing Supplementary Guidance the development did not form part of a housing group or have a positive relationship with an existing group; and
- sympathy for the applicant and reference to the importance of supporting young families to remain in the area, however it was difficult to overcome the policy considerations in this case.

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.

4.3 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)

Mr B Lobban declared a non-financial interest in this item on the grounds that he was a local Member for Ward 20: Badenoch and Strathspey, and therefore not permitted to participate in the determination of the Notice of Review and he left the meeting for the determination of this item.

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.

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:-

- whether the proposed change of use to residential is compatible in the context of an established industrial area; and
- whether the proposed change of use would result in a house with adequate private amenity space and parking,

In response to questions, the Independent Planning Adviser provided further clarity on the proximity of other residential properties and industrial units to the development site, the case officer's reasons for refusal, the proposed access and parking arrangements and the limited amenity land associated with the development. He also confirmed the extent of the land which was under the applicant's ownership noting that the development was contained to the site indicated in the 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.

Debate and Decision

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

The Chair moved 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 motion fell.

Following further discussion, the Planning Review **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 Mrs I Campbell. The following reasons were given in support:

The need for housing and lack of market interest in retaining the existing use outweighed the concerns raised by the planning officer regarding the incompatibility of uses and lack of amenity ground associated with the proposed house. Members were satisfied with the parking provision available (despite the inability to turn vehicles within the application site) given that the level of parking and number of vehicular movements were likely to be less in the proposed use than in the existing use.

The meeting ended at 12.15pm.
