

The Highland Council

Minutes of Meeting of the **Planning Review Body** held in **Council Headquarters, Glenurquhart Road, Inverness** on Tuesday 22 November 2022 at 10.30am.

Present:

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

In Attendance:

Mr B Strachan, Independent Planning Adviser to the Planning Review Body
Mrs K Lyons, Principal Solicitor/Clerk
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

There were no apologies for absence.

2. Declarations of Interest

Item 5.3: Mr T Maclennan

3. Minutes of Previous Meetings

The Minutes of the previous Meeting held on 5 October 2022, 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: 21/03987/PIP) on Land 400M NE of Allt-Nan-Sheallach, Kilmonivaig, Spean Bridge for Mrs Catherine McIntyre 22/00030/RBREF

There had been circulated Notice of Review 22/00030/RBREF for the erection of House (Planning Application ref: 21/03987/PIP) on land 400M NE Of Allt-Nan-Sheallach, Kilmonivaig, Spean Bridge for Mrs Catherine McIntyre.

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

- had sufficient justification been provided for a new dwellinghouse in the Fort William Hinterland? Key considerations must be compliance with Policies 35 and 47 of the HWLDP and Rural Housing SPG; and
- was any impact on new or existing woodland acceptable and was there any significant public benefit? Key considerations must be compliance with Policies 51 and 52 of the HWLDP and the Scottish Government's Control of Woodland Removal Policy

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

- the Council's Forestry Team had objected to the application due to the loss of woodland on the site;
- the site was currently under the ownership of the applicant and was being promoted as a woodland croft;
- the Crofting Commission had agreed to the formation of the croft on this and the adjacent site in December 2020 but had not responded to the planning application for the proposed development;
- while the applicant was entitled to apply for planning permission to erect a house on the site, the complicating factor was that the planning application had been submitted by the landlord prior to the croft having been let. The detailed information provided in the woodland management plan on the proposed

activities to be undertaken on the croft and associated labour requirement was hypothetical and therefore it was not known whether there was an agricultural justification for a house in this case. On this basis, the case officer had considered the application to be premature;

- there was no legal mechanism available to the Council to ensure the site would be operated as a croft in the event planning permission for a house was granted; and
- if the present circumstances changed the applicant or a sitting tenant could submit a further planning application with a bespoke justification particular to the croft and the activities to be undertaken. This would be assessed under the same policies relevant to this application based on land management and essential need.

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 they were sympathetic to the applicant and the need for housing in this crofting area. However, the majority of Members considered that due to the hypothetical nature of the proposed activities on the croft, it had not been demonstrated there was sufficient justification for a house on this site in terms of the relevant policies. The application was therefore premature and Members expressed support for the appointed officer's reasons for refusal of the application. It was suggested the application may be considered more sympathetically if the site was being actively crofted.

Thereafter, it was suggested that it would be helpful for Members involved in the determination of planning applications to hear from the Crofting Commission on its approach to the establishment and sale of new crofts and responses to individual planning applications. The Clerk undertook to explore whether the Crofting Commission would be willing to discuss these issues with Members of the Planning Applications Committees/Planning Review Body.

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 (Planning Application ref: 21/03988/PIP) on Land 455M SE Of Willow Cottage, 2 Kilmonivaig, Spean Bridge for Mrs Catherine McIntyre 22/00031/RBREF

There had been circulated Notice of Review 22/00031/RBREF for the erection of house (Planning Application ref: 21/03987/PIP) on land 455M SE of Willow Cottage, 2 Kilmonivaig, Spean Bridge for Mrs Catherine McIntyre.

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

- had sufficient justification been provided for a new dwellinghouse in the Fort William Hinterland? Key considerations must be compliance with Policies 35 and 47 of the HWLDP and Rural Housing SPG; and
- was any impact on new or existing woodland acceptable and was there any significant public benefit? Key considerations must be compliance with Policies 51 and 52 of the HWLDP and the Scottish Government's Control of Woodland Removal Policy

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 Members commented that they were sympathetic to the applicant and the need for housing in this crofting area. However, the majority of Members considered the same issues applied to this application as to the Notice of Review at item 5.1 above, namely that due to the hypothetical nature of the proposed activities on the croft, it had not been demonstrated there was sufficient justification for a house on this site in terms of the relevant policies. The application was therefore premature and Members expressed support for the appointed officer's reasons for refusal of the application. It was suggested the application may be considered more sympathetically if the site was being actively crofted.

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 Erection of house, (Planning Application ref: 21/02484/FUL) on Land 50M NW of Seaview, Lochyside, Fort William for Mr & Mrs E Donnelly 22/00041/RBREF

Declaration of Interest: Mr T Maclennan declared an interest in this item on the grounds that he was related to the applicants and left for the remainder of the meeting. Mr D Millar, Vice Chair, took the Chair for this item.

There had been circulated Notice of Review 22/00041/RBREF for the erection of house (Planning Application ref: 21/04023/PIP) erection of house, (Planning Application ref: 21/02484/FUL) on land 50M NW of Seaview, Lochyside, Fort William for Mr & Mrs E Donnelly

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 proposal lies within an area safeguarded as an option for a future Caol Link Road; was there any justification to depart from WestPlan?; and
- with reference to consultee comments, was the stated flood risk acceptable, or could it be made acceptable?

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

- there had been plans for a Caol Link Road for a number of decades and most recently the route had been safeguarded in the WestPlan, adopted in 2019. It was understood the Council's position was that this potential transport corridor should continue to be safeguarded until such time as the relevant studies had been carried out in partnership with Transport Scotland and a decision taken as to whether the land was required. The view was that the proposed development could sterilise the route;
- the detailed design work in respect of the exact alignment of the route had not yet been undertaken and the applicant's plan showing the safeguarded corridor was not an officially recognised drawing published by the Council;
- there was an alternative option to undertake improvements to the A82/A830 junction which potentially could be the preferred solution. However, the concern was not to prejudice the delivery of the corridor in the meantime;
- due to the flood risk the road may have to be formed on an embankment and from the applicant's drawings this would be less than 2m away from the back of the proposed house raising concerns about amenity;
- the different views taken on flood levels by the Council's Flood Risk Management Team and SEPA in their responses to the application were due to the different calculations considered by the former, including the impact of waves and funnelling and climate change. Hence, the Council's Flood Risk Management Team was seeking higher requirements for ground and finished floor levels;
- there was reference to the Caol Flood Prevention Scheme in the responses received from the Council's Flood Risk Management Team and SEPA. It may be that SEPA had attached more weight to the benefits of the Scheme in its response;
- the existing holiday units on the site had been deemed to be permitted development and had not required planning permission. The proposed house and the holiday units would sit largely on the same footprint and it was the view of the applicant that neither would prejudice the delivery of the Link Road; and
- the location and approximate extent of the Caol Flood Prevention Scheme currently under construction;

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 were not required.

Debate and Decision

Following debate, the Planning Review Body **AGREED** to **DEFER** the Notice of Review and issue a procedure notice in order to obtain the following information from the parties identified:

1. (i) Clarification on the route and land take required for the proposed Caol Link Road/respond to the plan on page 13 of the applicant's review statement showing the indicative land take in the vicinity of the application site (the Council's IEE Service - Infrastructure, Roads, Transport Planning, Planning) and (ii) the status and implications of building on the route of the proposed Caol Link Road (the Council's Development Plans Team, Transport Planning) ;
2. Consult with the Ward 21 Members to obtain their views on the proposed Caol Link Road (Ward 21 Members) ;
3. Update on flood risk at the application site in light of the Flood Prevention Scheme currently being constructed (the Council's Flood Risk Management Team and SEPA); and
4. Following conclusion of point 3, submission of sectional drawings (NW to SE and NE to SW) extending to land outside the application site and including existing and proposed ground levels and finished floor levels to a fixed datum point. An updated site plan showing areas of slope within the application site would also be useful. Care should be taken to avoid any development above existing ground level within the visibility splay at the Glenmallie Road junction looking southeast (Applicant).

Once this information was received, the Applicant will have opportunity to comment on the responses to points 1, 2, 3 and the Planning Service will have the opportunity to comment on the response to point 4. The Notice of Review will then be reported back to the next meeting of the PRB.

The meeting ended at 11.40pm.
