

The Highland Council

Minutes of Meeting of the **Planning Review Body** held in **Council Headquarters, Glenurquhart Road, Inverness** on Wednesday, 15 March 2023 at 10.30am.

Present:

Mrs I Campbell (remote)
Mr D Fraser
Mr R Gale
Mr B Lobban
Mr T Maclennan
Mr D Millar (except items 1 to 5.1)
Mr P Oldham
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, Senior Committee Officer

Preliminaries

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

1. Apologies for Absence

There were no apologies for absence.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of Previous Meeting

There had been circulated and was **APPROVED** Minutes of the Meeting held on 1 February 2023.

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 – including the recently adopted National Planning Framework 4 – 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: 22/03233/FUL) on Land 170M NE of The Plaids, Tain for Mr Darren Kentish 22/00053/RBREF

There had been circulated Notice of Review 22/00053/RBREF for the erection of house (Planning Application Ref: 22/03233/FUL) on land 170M NE of the Plaids, Tain for Mr Darren Kentish

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:-

1. Is there justification for a dwellinghouse in the remote rural area;
2. are Members satisfied that other options have been suitably explored;
3. is there a reason to depart from NPF4 in this instance; or
4. does Policy 35 of HWLDP provide any additional justification in support of the proposed development.

In response to questions, the Independent Planning Adviser confirmed the extent of the land within the applicant's ownership and that the applicant had not explored other options for the siting of the house. He clarified the location of the proposed development relative to trees in the vicinity.

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

Members commented that the proposed development failed to satisfy any of the criteria that would allow approval of the application. It clearly would not form part of an existing housing group and would be an inappropriate isolated development on previously undeveloped agricultural land. In addition, reference was made to the lack of a business case to demonstrate the proposed house was necessary to support a rural business.

Decision

The Review Body agreed to **DISMISS** the Notice of Review and refuse planning permission for the reasons contained in the report of handling updated to take on board the adoption of NPF4:

The site lies within the remote rural area as identified in National Planning Framework 4. Within the remote rural area, the Council promotes a restrictive policy where there is a presumption against new housing in the open countryside and exceptions within Policy 35 of the Highland-wide Local Development Plan and Rural Housing Supplementary Guidance do not generally apply. The development of the site represents an inappropriate intrusion into a previously undeveloped field on the undeveloped coast, where the proposed house would be viewed in isolation. The principle of constructing a house on the site is therefore considered contrary to National Planning Framework 4 (Policy 10: Coastal development, Policy 14: Design, quality and place and Policy 17: Rural homes) and no account has been provided of the benefits of the proposal as a tourism related development, contrary to the requirements of Policy 30: Tourism.

5.2 Erection of house (Planning Application Ref: 22/01536/PIP) on Land 190M West of Mountain Bear Lodge, Nethy Bridge for Mr Peter Oosterhof 23/00001/RBREF

There had been circulated Notice of Review 23/00001/RBREF for the erection of house (Planning Application Ref: 22/01536/PIP) on land 190M West of Mountain Bear Lodge, Nethy Bridge for Mr Peter Oosterhof

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, 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:-

1. does the historic land use provide justification to support the principle of a new dwellinghouse;
2. would a dwellinghouse in this location be appropriate in terms of the pattern of development and character of the area;
3. are Members satisfied regarding flood risk, or that it can be suitably mitigated; and
4. does NPF4 provide any additional justification in support of the proposed development.

In response to questions, the Independent Planning Adviser confirmed the location of the allocated site for housing (H1) relative to the development site and outlined the definition of brown field land as set out in the Cairngorms National Park Local Development Plan and

NPF4. He explained that historic mapping showed there had been a cluster of buildings on the site. However, he explained there was no definitive evidence from the excavations undertaken by the applicant that a house had been located on the site previously and as such the case officer had considered this could not be deemed to be brown field land.

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, hearing sessions and a site inspection was not required.

Debate

Members commented that there was no evidence of a croft house having been previously located on the site and this was clearly not a brown field site. It would be incongruous to grant permission for the proposal located outwith the site allocated for housing. Members further expressed their concern at the flood risk on the site.

Decision:

The Review Body agreed to **DISMISS** the Notice of Review and refuse planning permission for the reasons contained in the report of handling updated to take on board the adoption of NPF4:

The proposal, if granted, would be contrary to the provision of the adopted Cairngorms National Park Local Development Plan (CNPLDP) in general and in particular:

- Policy 1 - New Housing Development, as the proposal fails to conserve the existing pattern of development and would create a new form of development in the landscape which is at odds with existing building and landscape character; and because it fails to meet any of the criteria for housing development as set out in Policy 1 of the CNPLDP;
- Policy 3 - Sustainable Design, as it is not sympathetic to the traditional pattern and character of the surrounding area and does not demonstrate that the proposed house would reflect existing housing development in terms of settlement pattern;
- Policy 10 - Resources, as it has not been satisfactorily demonstrated that the proposal can be carried out without risk from flooding on the site or elsewhere as a result of the development.

The requirements of National Planning Framework 4 Policy 14: Design, quality and place, Policy 17: Rural homes and Policy 22: Flood risk and water management are consistent with the above policies in this case and do not support the proposed development.

5.3 Erection of 3 houses, (Planning Application Ref: 22/04214/FUL) on Land 120M South Of Kensaleyre House, Kensaleyre for Mr Stuart Hutcheson 22/00004/RBREF

There had been circulated Notice of Review 22/00004/RBREF for the erection of 3 houses, (Planning Application Ref: 22/04214/FUL) on land 120M South Of Kensaleyre House, Kensaleyre for Mr Stuart Hutcheson.

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:-

1. Is the principle of three dwellinghouses on this site detrimental to the established pattern of development in the vicinity;
2. Does the proposed development have a unacceptable impact on the setting of C Listed Kensaleyre House or the visual amenity of neighbouring properties and trunk road users;
3. If any of the above apply, is there any justification to depart from relevant policies in this instance.

In response to questions, the Independent Planning Adviser confirmed there was no information within the Notice of Review documentation as to why the case officer had refused the application for three houses but considered two houses may be more acceptable. In terms of planning conditions, there was no requirement for the applicant to upgrade the private access track off the main road to the site which served other houses in the area, this being a civil matter between the owner of the track and the developer. The sectional drawings indicated that the houses would be elevated on the sloping site and he confirmed the proximity of the development to the trunk road.

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

Members commented that the proposal represented overdevelopment on a relatively small site and that the identical design of the houses would result in a lack of individuality. The development was located at the gateway to the village, near to a listed building and in close proximity to the trunk road. The proposal was therefore not in keeping with the local vernacular and established settlement pattern of the surrounding area.

Decision

The Review Body agreed to **DISMISS** the Notice of Review for the reasons contained in the report of handling updated to take on board the adoption of NPF4 and the Committees concerns about the proposed design of the 3 houses:

- The three houses proposed, by virtue of their compact linear arrangement in close proximity to the road frontage cannot be successfully accommodated on the site without detriment to the established settlement pattern of the vicinity. In addition, three identically designed dwellinghouses would be inappropriate in this context. The proposal, therefore, fails to comply with HwLDP Plan Policies 28, 29 and 36 and National Planning Framework 4 Policy 14; and
- The three houses proposed, by virtue of their positioning in close proximity to each other and on rising land cannot be successfully accommodated on the site without detriment to the setting of Kensaleyre House, a listed building, or to the general visual amenity for neighbouring properties and users of the trunk road. The proposal,

therefore, fails to comply with HwLDP Plan Policies 28,29, 36 and 57 and National Planning Framework 4 Policy 7.

5.4 Erection of a polytunnel (retrospective), (Planning Ref: 22/02172/FUL) at Croft House, Brae Of Kinkell, Conon Bridge, Dingwall for Mr Ewen Ross 23/00005/RBREF

There had been circulated Notice of Review 23/00005/RBREF for the erection of a polytunnel (retrospective), (Planning Ref: 22/02172/FUL) at Croft House, Brae Of Kinkell, Conon Bridge, Dingwall for Mr Ewen 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, 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:-

1. Is the polytunnel inappropriate in terms of siting and impact on the character and amenity of the area;
2. Is the polytunnel detrimental to residential amenity as a result of noise, odour and disturbance and its imposing nature;
3. If any of the above apply, are there material considerations that justify the development as a departure to Policy 28 or 29.
4. Does applying NPF4 Policy 29 lead to a different conclusion.

In response to questions, the Independent Planning Adviser confirmed:

- the location of the development relative to the nearest house 'Achingale' and the applicant's residence and the extent of the land under the applicant's ownership;
- the structure for which retrospective planning permission was being sought was in effect a lambing shed and the main issue of contention related to its location being part of the farm but surrounded by residential properties;
- the applicant had pointed out there was no policy requirement for him to undertake a sequential approach to find the best site for the development, albeit this may be considered good practice;
- there was no guidance as to what was considered to be detrimental to the amenity of the surrounding area weighed against the needs and viability of the farming operation. It was for the decision maker to consider the weight to be attached to these competing interests; and
- the applicant had offered to provide screen hedging to mitigate the visual impact of the structure.

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

Members expressed concern that the siting and operation of the lambing shed would have a significant detrimental impact on the amenity of the nearest property 'Achingale' and other neighbouring properties and was out of character with the surrounding area. There were other more appropriate locations for the siting of the development that would not be to the detriment of the farm operation or the amenity of residential neighbours.

Decision

The Review body agreed to **DISMISS** the Notice of Review and refuse planning permission for the reasons contained in the report of handling updated to take on board the adoption of NPF4:

1. The proposal is contrary to Policy 28 and Policy 29 (Highland-wide Local Development Plan), since the polytunnel:

- fails to make a positive contribution to the visual quality of the place in which it is located,
- fails to use high quality design and appropriate materials, and
- fails to integrate into the character of the area and demonstrate sensitivity and respect towards the distinctiveness of the landscape setting.

Instead, the combined size and material of the polytunnel results in a structure which is unduly prominent and dominates the parcel of land within which it is located, to the detriment of visual amenity. Furthermore, it is seen in the context of a cluster of houses, and not in the context of an agricultural setting, and is located directly in front of one of these houses, Achingale, and thus fails to demonstrate sensitivity and respect towards its setting, to the detriment to the visual amenity of the area.

National Planning Framework 4 Policy 14: Design, quality and place does not support development that is detrimental to the amenity of the surrounding area and other material considerations do not outweigh this.

2. The proposal is contrary to Policy 28 (Highland-wide Local Development Plan), in that it results in noise, disturbance and odour arising, to the detriment of the amenity of neighbouring houses. Furthermore, its location directly in front of Achingale is unduly imposing in nature, detracting from the enjoyment of the house, again to the detriment of residential amenity.

National Planning Framework 4 Policy 14: Design, quality and place does not support development that is detrimental to the amenity of the surrounding area and other material considerations do not outweigh this.

5.5 Demolition of house, erection of house, (Planning Ref: 21/02058/FUL) at Strontian, Kingussie Road, Newtonmore for Mr Raymond Sutherland 23/00006/RBREF

There had been circulated Notice of Review 23/00006/RBREF for the demolition of house, erection of house, (Planning Ref: 21/02058/FUL) at Strontian, Kingussie Road, Newtonmore for Mr Raymond Sutherland

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:-

1. Is the proposed replacement dwellinghouse appropriate in terms of design, density and scale and does it respect the streetscape of the surrounding area.
2. Or, is it contrary to Policy 3 Design and Placemaking of the Cairngorms National Park Local Development Plan 2021.
3. Does applying NPF4 policies 2, 14 & 16 lead to a different conclusion.

In response to questions, the Independent Planning Adviser provided an overview of the streetscape of the surrounding area in Newtonmore.

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

Following discussion, Mr B Lobban seconded by Mrs M Paterson **moved** to uphold the Notice of Review and grant planning permission subject to conditions to be drafted by the Independent Planning Adviser to the Planning Review Body for the following reasons:-

The proposal is not in conflict with the Cairngorms National Park Local Development Plan 2021 Policy 3 Design and Placemaking and the associated non-statutory guidance as the streetscape of Newtonmore's Main Street contains a mix of housing designs, densities and scales. This modern house has been designed to be more sustainable and energy efficient than the house that it replaces and, in this respect, it conforms with Policy 16: Quality Homes of National Planning Framework 4.

Mr P Oldham seconded by Mr T Maclennan moved as an **amendment** to dismiss the Notice of Review and refuse planning permission for the reasons contained in the report of handling updated to take on board the adoption of NPF4:

1. The proposal does not comply with the Cairngorms National Park Local Development Plan 2021 Policy 3 Design and Placemaking and the associated non-statutory guidance as it does not reflect existing housing development in terms of design, density and scale and does not respect the streetscape of the surrounding area. National Planning Framework 4 Policy 14: Design, quality and place does not support development that, by virtue of its scale (including density, building height, massing and legibility), is inconsistent with the six qualities of successful places and other material considerations do not outweigh this.

On a vote being taken, there were 5 votes for the motion, 3 for the amendment and no abstentions, and the **MOTION** was carried, the votes having been cast as follows:

For the motion: Mrs I Campbell, Mr D Fraser, Mr R Gale, Mr B Lobban, Mrs M Paterson

For the amendment: Mr T Maclennan, Mr P Oldham, Mr D Millar

Decision:

The Review Body agreed to **UPHOLD** the Notice of Review and grant planning permission subject to conditions to be drafted by the Independent Planning Adviser to the Planning Review Body for the following reasons:-

The proposal is not in conflict with the Cairngorms National Park Local Development Plan 2021 Policy 3 Design and Placemaking and the associated non-statutory guidance as the streetscape of Newtonmore's Main Street contains a mix of housing designs, densities and scales. This modern house has been designed to be more sustainable and energy efficient than the house that it replaces and, in this respect, it conforms with Policy 16: Quality Homes of National Planning Framework 4.

The meeting ended at 12.50pm.