

The Highland Council

Minutes of Meeting of the **Planning Review Body** held **remotely via Microsoft Teams** on Wednesday, 14 June 2023 at 10.30am.

Present:

Mrs I Campbell
Mr D Fraser
Mr R Gale
Mr B Lobban
Mr T Maclennan
Mr D Millar
Mr P Oldham

In Attendance:

Mr B Strachan, Independent Planning Adviser to the Planning Review Body
Mrs K Lyons, Principal Solicitor/Clerk
Ms J Maclennan, Joint Democratic Services Manager
Mrs O Marsh, 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

An apology for absence was intimated on behalf of Mrs M Paterson.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of Previous Meeting

There had been circulated and **APPROVED** the Minutes of the Meeting held on 15 March 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: 22/01618/FUL) on Land 120M NW of Teanluick Croft, Teanluick, Beauly for Mrs Ross 23/00011/RBREF

There had been circulated Notice of Review 23/00011/RBREF for the erection of house (Planning Application Ref: 22/01618/FUL) on land 120m NW of Teanluick Croft, Teanluick, Beauly for Mrs Ross.

At this point, the Chair advised that the applicant's agent's response to third parties had been received after the deadline for responses. The Review procedures followed by the Council were in place to ensure there was a level playing field for all participants in the process. Late responses, particularly those received after the papers had been issued to the Planning Review Body, inconvenienced Members and officers alike. He sought Members views on whether the late response should be accepted in this case.

In response to questions from Members, the Clerk indicated that the agent's reason for the late submission was due to competing business and absence from the office in the lead up to the deadline due to other commitments and that it had been received after the papers had been issued to the Review Body. She confirmed that officers had previously rejected late submissions from interested parties prior to the papers being issued where no good reason had been put forward. She could not recall there being any other late responses received from agents during the life of the current Review Body.

In discussion, Members commented that the reason put forward for the late submission was not acceptable from a professional agent who should be preparing on the basis of the stated deadlines and that the late response should not be accepted.

Thereafter, the Planning Review Body **AGREED** not to consider the late response to third parties submitted by the agent and that any future late additions to Review Body papers would likely be treated in a similar manner going forward.

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 key planning issues applied in relation to the application:-

1. Teanluick is not croft land under the Crofters (Scotland) Act 1993;
2. The mobile home does not appear to have permanent planning permission but may now be exempt from enforcement action;
3. Is there an agricultural justification for the dwellinghouse?;
4. Can the principle of a house be established under any suitable exception in NPF4 Policy 17?; and
5. If not, are there any other material considerations to depart from the development plan?.

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

- that planning application 05/01017/FULRC for the siting of a residential caravan, had been granted in 2006 for a three year period. On expiry of the planning permission there had been no action taken to renew the permission or seek the removal of the caravan as should have happened;
- there were currently two residential caravans on the site and only one had received planning permission;
- the partially built sawmill had no planning permission and a planning application for the building had not been submitted. There did not appear to be any need for a sawmill in its current location given there was no woodland on the landholding that would provide justification in terms of the requirement to fell and process timber. Therefore, his advice to Members was to discount the sawmill from any labour requirement calculations provided to demonstrate essential need on land management grounds;
- the reasons for the difference in the applicant's and the Planning Service's assessment of the labour requirements, the latter being based on standard Scottish Agricultural College hours;
- if the Review Body was minded to uphold the Notice of Review, it would be possible to add a condition that sought the removal of at least one of the caravans on the site;
- there were no other buildings on the site that could be used as a dwellinghouse and the latest information provided was that the applicant lived in one of the caravans in the better weather and elsewhere over the winter months. It was not clear who lived in the second caravan.

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

During the debate, Members raised the following main points:-

- concern at the scale of the incremental expansion on the site since 2000, and the observation that the proposal was still not close to achieving the labour requirement to provide justification for building a house on land management grounds;
- the two mobile homes located on the site were not in good condition and were immune from enforcement action and there had been no objections from neighbours to the application. The proposal would provide for a better quality home for the applicant and the Notice of Review should be upheld with a condition that both the mobile homes on the site be removed;

- while there were no concerns about the siting, design and servicing of the proposed house, cognisance had to be taken of the policies and the need for the Review Body to be consistent in its approach. Members had been advised that account should not be taken of the sawmill activity and it had not been demonstrated there was essential need for the proposal; and
- it was important to be clear the site was not a croft, and it was not a valid planning reason to approve permission for a house to lift applicants out of poverty. The applicant was not resident in the mobile home all year round and therefore must have a dwelling house elsewhere. It was suggested that while not directly relevant to the decision on the Notice of Review, in terms of next steps planning officers should undertake a site visit to assess the requirements for planning permission on the site.

Thereafter, and on hearing from the Clerk, Mr T MacLennan seconded by Mr D Millar **moved to dismiss** the Notice of Review and refuse planning permission for the updated reasons for refusal contained in the response from the appointed officer dated 2 May 2023, with an additional amendment to better reflect the status of the application site, namely:

The proposed activities undertaken on the landholding relate to the breeding and rearing of lambs and sheep, grassland cultivation and the growing of fruit and vegetables, constituting 0.52 standard annual labour units (0.52 SALU), and therefore do not equate to sufficient hours to constitute one full time labour unit (1.0 SALU), and accordingly, the proposal does not therefore qualify as an exception against of NPF4 policy 17 (a)(v), on the basis of it being essential for land management purposes related to the management of the landholding.

Thereafter, Mr P Oldham moved as an **amendment to uphold** the Notice of Review on the basis this would provide for a better quality home for the applicant, subject to a condition that both the mobile homes on the site be removed, but on failing to find a seconder the amendment fell.

Decision

The Review Body **AGREED to DISMISS** the Notice of Review and refuse planning permission for the updated reasons for refusal contained in the response from the appointed officer dated 2 May 2023, with an additional amendment to better reflect the status of the application site, namely:

The proposed activities undertaken on the landholding relate to the breeding and rearing of lambs and sheep, grassland cultivation and the growing of fruit and vegetables, constituting 0.52 standard annual labour units (0.52 SALU), and therefore do not equate to sufficient hours to constitute one full time labour unit (1.0 SALU), and accordingly, the proposal does not therefore qualify as an exception against of NPF4 policy 17 (a)(v), on the basis of it being essential for land management purposes related to the management of the landholding.

The meeting ended at 11.25am.