

The Highland Council

Minutes of Meeting of the **Planning Review Body** held in the **Council Headquarters, Glenurquhart Road, Inverness** on Wednesday, 16 August 2023 at 2.00pm.

Present:

Mrs I Campbell (remote)
Mr D Fraser (remote)
Mr R Gale
Mr B Lobban
Mr T Maclennan (Chair)
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

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

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 14 June 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 Timber Clad and Slate Roof Porch over existing main entrance, (Planning Application ref: 22/04248/FUL) at 49 Church Street, Cromarty for Mr James Story 23/00013/RBREF

There had been circulated Notice of Review 23/00013/RBREF for the erection of house (Planning Application ref: 22/04248/FUL) at 49 Church Street, Cromarty for Mr James Story 23/00013/RBREF

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 and hearing 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:-

- is the principle of adding a porch to this B listed building acceptable?
- is the design as proposed appropriate for the building and Conservation Area;
- are there any material considerations that would justify support for this/a porch?
- no Listed Building Consent appeal to Scottish Ministers.

In response to questions, the Independent Planning Adviser provided further clarity on the following:-

- the rationale for Historic Environmental Scotland's response that it did not formally object to the proposal but recommended against its introduction;
- if planning permission was granted for the proposal, the applicant would be entitled to re-submit his Listed Building Consent application and appeal to Scottish Ministers in the event it was refused;
- while the applicant had indicated he was prepared to compromise on design it may be clearer for the applicant as a separate process to submit a fresh planning application as the current application required significant overhaul to gain support from the consultees; and
- the potential for the applicant to receive pre-application advice.

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 and hearing was not required.

Debate

During the debate, Members indicated that while there was sympathy for the applicant, the proposed design of the porch was wholly inappropriate for this Category 'B' listed building located in a conservation area and did not comply with any of the relevant planning policies. It was not the role of the Review Body to advise the applicant on a more appropriate design solution. Concern was also expressed at the lack of clarity in Historic Environment Scotland's response to the application.

Decision

The Review Body **AGREED** to **DISMISS** the Notice of Review and refuse planning permission for amended reasons as follows:

The proposed addition, which comprises a construction of a new timber clad and slate roof porch over existing main entrance to the front elevation of a Category 'B' listed building, will have a significantly adverse impact on the application building's historic fabric, character and appearance and will detract from the historic integrity of this Listed Building. As such, the proposal will not preserve the special architectural or historic character of the Listed Building and is therefore considered contrary to Policies 28, 29 and 57 of the Highland-wide Local Development Plan 2012; and Policy 7c of the National Planning Framework 4.

5.2 Extensions to Cartbarn and Smiddy, Roshven, (Planning Application ref: 22/03145/FUL) at The Cart Barn, Glenuig, Lochailort for Mr Tim Palmer 23/00014/RBREF

There had been circulated Notice of Review 23/00014/RBREF Extensions to cartbarn and smiddy, Roshven, (Planning Application ref: 22/03145/FUL) at The Cart Barn, Glenuig, Lochailort for Mr Tim Palmer

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:-

- the principle of extending these buildings is acceptable;
- to what extent will the position and design of the proposed extensions impact on the C Listed Buildings; and
- tandem Listed Building Consent appeal to Scottish Ministers dismissed – 26/7/23.

In response to questions, the Independent Planning Adviser provided further clarity on:-

- the design of and materials to be used in the proposed extension;
- the changes made to the original design of the building as part of its redevelopment; and
- if planning permission was granted for the proposal, then the applicant would be entitled to reapply for Listed Building Consent and appeal to Scottish Ministers in the event it was refused.

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, the Review Body **AGREED**, subject to the prior submission of a bat survey indicating either that the development will have no significant impacts on European Protected Species, or that all impacts can be appropriately mitigated, to **UPHOLD** the Notice of Review and grant planning permission subject to conditions to be drafted by the Independent Planning Adviser and agreed by the Chair.

Reasons given in support of upholding the Notice of Review:

- the extensions would neither individually nor cumulatively detract from the the C listed buildings which form part of The Square;
- the living room extension would not diminish the impact of the tower as a corner feature of the cartshed/granary, and the proportions of the bedroom extension would not be out of keeping with the bothy;
- the extensions would be sympathetic to the character of these listed buildings, and they would not erode their quality.

The development is therefore considered to accord with Policy 7 of NPF4, policy 57 of the Highland wide Local Development Plan and the Historic Environment Strategy Supplementary Guidance.

5.3 Erection of Bothy and Byre building, (Planning Application ref: 23/00893/FUL) on Land 50M North Of Balachroick House, Feshiebridge for Mrs G Ross 23/00018/RBNON

There had been circulated Notice of Review 23/00018/RBNON for the erection of bothy and byre building, (Planning Application ref: 23/00893/FUL) on land 50M North of Balachroick House, Feshiebridge for Mrs G 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 key planning issues applied in relation to the application:-

- is there justification for an agricultural need and residential accommodation;
- does the proposal respect the pattern of development; and
- the impact on trees would need to be established if progressing.

In response to questions, the Independent Planning Adviser and Clerk provided further clarity on the following:-

- the Cairngorm National Park Authority had not called in the application;
- the issue of flooding had not been highlighted in the case officer's report. There was reference in the representation to the SEPA flood map which showed there was some potential for flooding to the access track but this had not been investigated as part of this application or cited as a reason for refusal;
- Environmental Health had confirmed the issues around the private water supply could be dealt with by condition if the application was approved;
- it would have been useful to have had the view of the Council's Flood Team on the application. No formal response had been received from the Council's Forestry or Roads Teams;
- no specific concerns had been raised in relation to visibility splays at the junction;
- the trees that would potentially be impacted by the development. No tree survey or tree protection plan had been carried out. The development would be within the root protection area and under the canopy of the nearest tree;
- the focus should be on whether there was policy support for the principle of a house in this location and if it complied with Cairngorm National Park Authority guidance. No operational needs assessment had been provided to justify the development and accepting applications without this information deviated significantly from the policy position for houses in rural areas; and
- it was not clear whether the applicant had been asked to submit an operational needs assessment. A supporting statement had been provided which referred generally to the need but nothing quantifiable in terms of the level of detail required.

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 indicated that there was no justification for the development under the Cairngorms National Park Local Development Plan. The proposal did not form part of a housing group and no justification had been provided through an operational needs assessment that the development was required as part of the farming operation and therefore it did not comply with the relevant policies. Members also expressed concern that the application had not been progressed in a more timeous manner.

Decision

The Review Body **AGREED** to **DISMISS** the Notice of Review and refuse planning permission for the reasons stated by the case officer as follows:

1. The proposal does not reinforce the existing pattern of development and it is therefore considered that the proposal does not accord with Policy 1 New Housing Development and the associated supplementary guidance of the Cairngorms National Park Local Development Plan (2021).

2. The proposal does not respect the traditional pattern and character of the surrounding area, local vernacular and local distinctiveness and therefore it is considered that the proposal does not accord with the Cairngorms National Park Local Development Plan Policy 3: Design and Placemaking and the associated non-statutory guidance of the Cairngorms National Park Local Development Plan (2021).

3. There is scientific uncertainty about the potential impact of the proposal on, and risk to, the oak trees adjacent to the site. The precautionary principle allows decision-makers to adopt protective measures without having to wait until the reality of those risks become fully apparent. Therefore, as the risk to the oak trees has not been quantified due to a lack of a technical consultation response from the Forestry Officer, the proposal has not demonstrated that it accords with NPF4 Policy 6 – Forestry, woodland and trees, or CNPLDP Policy 4: Natural Heritage.

5.4 Installation of 4no. Glamping Pods for Holiday Letting, (Planning Application ref:22/03596/FUL) at Storage Units, The Shore, Wick for The Kitchen Place Limited 23/00022/RBREF

There had been circulated Notice of Review 23/00022/RBREF or the installation of 4no. glamping pods for holiday letting, (Planning Application ref:22/03596/FUL) at Storage Units, The Shore, Wick for The Kitchen Place Limited 23/00022/RBREF

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:-

- is the use of the unallocated site for tourism appropriate;
- the layout and design is broadly acceptable (footpath and 6m buffer to water required);
- the flood risk at the site must be considered; and
- should the review be upheld, the proposed decision must first be notified to Scottish Ministers.

In response to questions, the Independent Planning Adviser provided further clarity on the following:-

- if the Notice of Review was upheld the application would require to be referred to Scottish Ministers as there was an unresolved objection from SEPA and therefore the potential for the Review Body's decision to be overturned;
- there would be scope for the pods to be moved back on the site, closer to the road to allow for the required 6m buffer; and
- both the Council's Flood Team and SEPA had objected to the application on the basis of the flood risk. The applicant had indicated that the site was higher than much of the shore and had never flooded or been affected by debris. No definitive flood risk assessment was available.

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 indicated that the development did not comply with the relevant policies on the basis of the flood risk highlighted in the consultee objections and the fact the proposed tourism related development was located adjacent to land allocated for industrial use. There were also concerns about debris impacting on the site during storm conditions.

Decision

The Review Body **AGREED** to **DISMISS** the Notice of Review and refuse planning permission for the reasons stated by the case officer as follows:

1. The proposed development is contrary to National Planning Framework 4: Policy 10 (Coastal Development) and Policy 14 (Design Quality and Place); and the Highland-wide Local Development Plan Policies 28, 29 and 34 in that it has not been sufficiently demonstrated that the development can be accommodated without detriment to or would be compatible with the existing and surrounding land uses.
2. The proposed development is contrary to National Planning Framework 4, in that it does not support or promote a liveable, productive, or distinctive place. It is considered that the proposed development is contrary to National Planning Framework 4: Policy 22 (Flood Risk and Water Management) as it is located within an area that is at medium to high risk of flooding and is therefore considered to be unsuitable for this type of development.
3. The proposed development is contrary to National Planning Framework 4: Policy 3 (Biodiversity) and Policy 43 (Natural Places) in that the development does not secure positive effects for biodiversity or promote nature-based solutions, benefiting people and nature in particular otters and public safety.

The meeting ended at 4.05pm.