

**THE MORAY COUNCIL**  
**MINUTES OF THE THREE MEETINGS OF THE LOCAL REVIEW BODY**  
**THURSDAY 22 APRIL 2010**  
**COUNCIL OFFICE, ELGIN**  
**(c) REQUEST FOR REVIEW : WARD 4 : FOCHABERS LHANBRYDE**

**PRESENT**

Councillors P Paul (Chair) J Hogg & R Shepherd.

**IN ATTENDANCE**

R Gunn, Acting Principal Solicitor (Litigation & Licensing) Legal Adviser, M Cross, Principal Planning Officer (Planning & Development) Planning Adviser, V Valiente, Solicitor and the Senior Committee Services Officer, Clerk to the meeting.

**CASE 002**  
**PLANNING APPLICATION 09/00963/OUT : PLANNING**  
**PERMISSION IN PRINCIPLE TO FORM 2 PRIVATE HOUSE PLOTS AT**  
**WALKERS CRESCENT (KIRKHILLHEAD) LHANBRYDE**

Under reference to the Minute of the meeting of the Local Review Body (LRB) dated 25 February 2010 the LRB resumed consideration of the review of this Planning Application.

There was appended to the summary of information on the case as appendices 1 and 2 respectively a Report of Handling in regard to planning application 06/02562/OUT, requested at the meeting on 25 February 2010, and copies of responses received to the new evidence submission (applicant's Transport Assessment) sought in terms of Regulation 17.

In regard to the new evidence the LRB agreed that, in terms of Section 43 (B) (1)(b) of the Planning etc (Scotland) Act 2006, the applicant met the test of exceptional circumstances on the grounds set out on pages 23 and 24 of the papers for the meeting on 25 February 2010. The LRB agreed that the applicant's Transport Assessment and responses to the written submissions procedure be taken into account as part of the LRB's consideration of the request for review. The LRB also agreed that, having undertaken an accompanied site inspection on Friday 19 March 2010, it considered that it no longer required independent advice from a Specialist Adviser on number of children walking in the area.

Thereafter the LRB agreed that it now had sufficient information in order to proceed to determine the request for review.

The meeting noted that the key issue was whether or not a safe and suitable access could be provided from Walkers Crescent onto the public highway in terms of Policy T2 of the Moray Local Plan 2008 and also, given the lack of footways and parked cars on Walkers Crescent, whether the substandard access width and visibility would be hazardous to pedestrians and other road users.

Councillor Hogg expressed the view that, in his opinion, the key issue was the claim that one house approved in 2006 (application 06/02562/OUT) complied with policy T2 (then T3) but one additional house did not. In this regard he referred Members to the location plan on page 60 of the applicant's submission and advised the meeting that some 22 existing houses use the two junctions onto St Andrews Road and Garmouth Road and whilst visibility at the latter is restricted it did not, in his opinion, impair the site line sufficiently to make it unsafe. Having undertaken some research he was not aware of any evidence or record of any accidents at the junction. Councillor Hogg also expressed the view that were the Roads Authority to consider the junction(s) to be unsafe they could take enforcement action to improve the access(s,) visibility, however again he could find no evidence of any proposed or pending action to improve road safety in the immediate vicinity, from which he can only assume that the Roads Authority considered the two accesses safe for the existing 22 houses and the one additional house approved in 2006. For these reasons Councillor Hogg moved approval of the application on the grounds that the requirements of Policy T2 of the Moray Local Plan are met in that one house in addition to the existing 22 houses and the one approved in 2006 has no significant impact on road safety including any potential hazard to pedestrians and other road users, and bearing in mind the access width. The motion was seconded by Councillor Shepherd.

Councillor Paul advised the meeting that she had a different view and would have recommended that the request for review be refused and the Appointed Officer's decision to refuse the application upheld. However the LRB agreed, by a two to one majority to approve the request for review and that the application for planning permission in principle be approved as complying with policy. Thereafter the LRB considered appropriate conditions to be applied to the consent.

Following consideration the LRB agreed that the conditions applied to the planning application 06/02562/OUT also be applied to this application, subject to conforming with current legislation and delegated authority to the Planning Adviser to frame and attach specific conditions relating to compliance with Contaminated Land requirements, the re-routing of the pedestrian route across the site along the northern boundary and an appropriate condition requiring a pre-development road condition survey, and that any subsequent damage during the construction period, be made good thereafter.