

THE MORAY COUNCIL
MINUTES OF THE THREE MEETINGS OF THE LOCAL REVIEW BODY

THURSDAY 22 APRIL 2010

COUNCIL OFFICE, ELGIN

(a) REQUESTS FOR REVIEW : WARD 2 : KEITH & CULLEN

PRESENT

Councillors D Ross (Chair), J Hogg and P Paul.

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 004
PLANNING APPLICATION 09/01611/PPP : PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF A NEW DWELLINGHOUSE ON A SITE ADJACENT TO ROADSIDE CROFT GRANGE KEITH

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.

The meeting noted that the LRB had undertaken an unaccompanied site inspection on Friday 19 March 2010. The meeting also noted that in respect of this case the only legal advice given was to reiterate previous advice that members of the LRB should not discuss any aspect of the case either in transit to or during the site inspection and to advise as to the purpose of the site inspection, as previously agreed by the LRB. The Planning Adviser also advised that he assisted in pointing out the site on approach and also advised the meeting as to what the LRB viewed on the site inspection, but was not required to give any substantive planning advice.

The Chairman sought the views of the Legal Adviser in regard to the applicant meeting the test for the submission of new evidence raised at the meeting on 25 February 2010 now that written submissions had been received. The Legal Adviser advised the meeting that having reflected on the advice given at the meeting on 25 February 2010 her advice to this and future meetings of the LRB would be that new information, such as new planning policies/guidance/interpretation, which comes under the heading of 'any other material consideration' in terms of Section 43 (B)(2) of the Planning etc.

(Scotland) Act 2006, should be accepted into the consideration of a review by the LRB without the necessity of the statutory test for new evidence set out in Section 43(B) (1) first having to be met. However, as this new information would not have been before the Appointed Officer, prior to the delegated determination of the application, the Legal Adviser confirmed that her advice would still be to seek the views of the Appointed Officer, the applicant and interested parties on the impact the new information might have on the application under review before beginning a substantive consideration of that new information. The Legal Adviser recommended that these views be sought, as had been the case in this review, under the 'Written Submissions' procedure in terms of Regulation 15, albeit there would be no requirement for the applicant to meet the test for the submission of new evidence, in terms of Section 43(B)(1) of the 2006 Act in this case. This advice was accepted by the LRB

Thereafter the LRB agreed that it now had sufficient information in order to proceed to determine the request for review and proceeded to consider the submissions in respect of the new information raised in regard to the new Scottish Planning Policy (SPP) issued in February 2010 with particular reference to the section on Rural Development, copies of which were appended to the review papers as Appendix 2. The LRB noted the terms and conclusions of the submissions.

The LRB then proceeded to consider the terms of refusal and grounds for review and it was agreed that the key criteria related to compliance or otherwise with Moray Local Plan Policy H8 in regard to prominence, rural character of the surrounding area, precedent and the extent of the backdrop.

Following consideration of the review Councillor Ross expressed the view that, in his opinion, the roadside location of the site was overtly prominent and for that reason moved that the request for review be refused and the Appointed Officer's decision upheld for the reasons detailed in the decision notice.

Councillor Paul was of the opinion, that the site was not overtly prominent, it has sufficient backdrop, the proposed development would not change the character of the surrounding rural area and overall she considered it a suitable site for development. For these reasons Councillor Paul moved, as an amendment, that the request for review be granted and that the application for planning permission in principle be approved as complying with policy, subject to standard conditions and conditions and informatives recommended by consultees. The amendment was seconded by Councillor Hogg.

Accordingly LRB agreed, on a two to one majority, that the request for review be granted and that the application for planning permission in principle be approved as complying with policy, subject to standard conditions and conditions and informatives recommended by consultees.