

THE MORAY COUNCIL
MINUTE OF MEETING OF THE MORAY COUNCIL
LOCAL REVIEW BODY
THURSDAY 25 FEBRUARY 2010
COUNCIL OFFICE, ELGIN

PRESENT

Councillors J Hogg (substituting for Councillor J Mackay), P Paul R Shepherd.

IN ATTENDANCE

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

1. CHAIR

It was agreed that Councillor Paul Chair the meeting.

2. DECLARATION OF INTEREST

In terms of Standing Order 20 the meeting noted that as one of the Ward members Councillor Hogg could not participate in Case 005 and would be substituted by Councillor D Ross. There were no other declarations of interest in regard to any of the cases set out on the Agenda.

3. REQUSETS FOR REVIEW

(i) Case 002
Planning Application 09/00963/OUT : Form 2 private house plots at Walkers Crescent (Kirkhillhead) Lhanbryde

The Local Review Body (LRB) considered a request, on behalf of the applicant, Robertson Homes Limited, seeking a review of the decision to refuse planning consent for the formation of 2 private house plots at Walkers Crescent, Lhanbryde.

Prior to considering the request for review the meeting agreed to homologate the actions of the Clerk taken in consultation with the LRB's Legal Adviser and the Applicant's Agent, to approve an informal extension of time for interested parties to respond to the grounds for review given the special circumstances pertaining over the Christmas period.

During discussion advice was sought on the LRB obtaining details of a previous application on the site, referred to in the application history in the Report of Handling, which was granted consent on 20 February 2007. The Legal & Planning Advisers advised that as this was considered planning advice on a matter of fact, part of the planning application history, it could be provided to the LRB and not considered to be further information in terms of Regulation 15 nor new evidence in terms of Regulation 17.

It was also agreed, on the advice of the Legal & Planning Advisers, that the Transportation Assessment submitted by the Applicant's Agent, in support of the grounds for review (Document 5 of the supporting papers) be treated as 'New Evidence' in terms of Regulation 17 and to treat the new evidence under 'Written Submission' procedure.

During further discussion the possibility of seeking independent advice/survey from a Specialist Adviser on number of children walking in the area was also raised.

Following consideration the LRB agreed that there was insufficient information in order to proceed to determine the request for review and agreed:-

- (i) that an accompanied site inspection be undertaken, the purpose of which being to view access roads, relative road junctions, access to the private driveway, road widths, sign posted route, position of Primary School relative to the development site, visibility and site layout. It was also agreed that the Legal & Planning Advisers be in attendance;
- (ii) that details relating to planning application 06/02562/OUT, granted planning consent on 20 February 2007 for one house plot on the current application site be provided to the LRB;
- (iii) to seek the views on the new evidence (applicant's transport Assessment submission) from the Appointed Officer and interested parties, in terms of Regulation 15, on:-
 - (a) the substance of the document; and
 - (b) whether they are aware of any facts or circumstances which would preclude the applicant from meeting the statutory test for the consideration of new evidence ie 'new material will only be permitted where the party can demonstrate that it could not have been introduced earlier in the process, or that it arises as a consequence of exceptional circumstances'

- (iv) that consideration of the possibility of seeking independent advice/survey from a Specialist Adviser on number of children walking in the area be continued to the next meeting as the LRB may find itself satisfied on this issue following the accompanied site inspection.

On the conclusion of consideration of this request for review and having declared an interest in Case 005 Councillor Hogg vacated his position on the LRB and was replaced by Councillor Ross, substituting for Councillor J Mackay.

4. CHAIR

As a new meeting of the LRB was convened nominations for the appointment of Chair was sought and it was agreed that Councillor Paul take the Chair.

(i) **Case 005 Ward 5 : Heldon & Laich**

09/01714/PPP : Planning permission in principle for 5 plots in paddock at Newton House, Elgin

The Local Review Body (LRB) considered a request, on behalf of the applicant, Newton House Moray, seeking a review of the decision to refuse planning permission in principle for 5 plots in the paddock at Newton House, Elgin.

During discussion reference was made to an apparent one month delay between the date of the decision notice and the intimation of the decision to the applicant and whilst it was accepted that this issue was not material or relevant to the request for review it was remitted to the Clerk to ascertain circumstances and advise LRB for its information.

In response to a question the Planning Adviser advised the meeting in regard to the terms of the Scottish Planning Policy (SPP) on 'enabling development' referred to in the request for review.

Following consideration the LRB agreed that there was insufficient information in order to proceed to determine the request for review and agreed:-

- (iv) that an accompanied site inspection be undertaken, the purpose of which being to view access roads, relative road junctions, access to the private driveway, road widths, sign posted route, position of Primary School relative to the development site, visibility and site layout. It was also agreed that the Legal & Planning Advisers be in attendance; and

- (ii) that it be remitted to the Planning Adviser to provide the LRB with a written summary on the advice given on enabling development.