

THE MORAY COUNCIL
MINUTES OF THE THREE MEETINGS OF THE LOCAL REVIEW BODY
WEDNESDAY 24 MARCH 2010
COUNCIL OFFICE, ELGIN

(a) REQUEST FOR REVIEW : WARD 5 : HELDON & LAICH

PRESENT

Councillors P Paul (Chair) D Ross & 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.

1. DECLARATIONS OF INTEREST

In terms of Standing Order 20 the meeting noted that there were no declarations of interest in regard to Case 003.

2. CASE 003

PLANNING APPLICATION 09/01714/PPP : PLANNING PERMISSION IN PRINCIPLE FOR 5 PLOTS IN PADDOCK AT NEWTON HOUSE, ELGIN

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.

Prior to resuming consideration of the review the Chair advised the meeting of the response from the Appointed Officer, which had been circulated to members of the LRB for information, as to the reasons for a one month delay between the date of the decision notice and the intimation of the decision to the applicant and, on behalf of the Council, the Chair apologised to the applicant for any inconvenience caused and hoped that the applicant and fellow members of the LRB could accept the explanation given.

The meeting noted that the LRB had carried out an accompanied site inspection on Friday 19 March 2010.

On the resumption of consideration of the review the LRB agreed that it considered that it now had sufficient information in order to proceed to determine the request for review.

The LRB agreed with the view expressed by Appointed Officer that the application was contrary to Policy H8 of the Moray Local Plan. Indeed, this appeared to be accepted by the applicant. The LRB then considered whether or not Section 114 of Scottish Planning Policy (SPP) in regard to 'Enabling Development' was a material consideration of sufficient weight to justify departing from policy and approving the application as an acceptable departure.

The meeting noted that the Appointed Officer was of the opinion that the separation distance between the listed building and the proposed development is such that it was a stand alone development and should be assessed as such. The LRB however was of the view, having carried out a site inspection, that the proposed development was within the grounds of Newton House and of sufficient close physical proximity to justify considering Section 114 of the SPP in regard to Enabling Development as a material consideration.

Following consideration the LRB agreed that in principle, it was of the opinion that the terms of Section 114 of the SPP relating to 'Enabling Development' was a material consideration of sufficient weight to justify departing from Policy H8 of the Moray Local Plan and agreed that it was therefore minded to grant the request for review and approve planning permission in principle, as an acceptable departure, subject to the following information being provided to the satisfaction of the LRB at a future meeting:-

- (i) confirmation of the accuracy of the financial appraisal;
- (ii) the investigation of appropriate terms with a view to reaching a Section 75 Agreement to secure the restoration of Newton House in terms of the existing planning permission; and
- (iii) appropriate conditions to attach to any subsequent consent granted to include:-
 - (a) those recommended by consultees;
 - (b) standard conditions; and
 - (c) specific conditions relating to the paddock development being carried out in accordance with the approved plans, woodland planting, in particular on the eastern boundary of the site, street lighting suitable for a rural setting and the reinstatement of the footpath to the A96.

(b) **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.

1. DECLARATIONS OF INTEREST

In terms of Standing Order 20 the meeting noted that there were no declarations of interest in regard to Case 001.

2. CASE 001

PLANNING APPLICATION 09/00961/OUT : OUTLINE TO ERECT NEW DWELLINGHOUSE AT CLAYLAND AUCHAIRN 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. In this regard the Legal Adviser advised the meeting that, in the interests of transparency, it was proposed that for unaccompanied site inspections the Planning and Legal Advisers would, prior to the LRB resuming consideration of an application following the site inspection, advise the meeting what if any advice they were required to give during the course of the site inspection. This was agreed.

The meeting 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 required to give no substantive planning advice.

Thereafter the LRB agreed that it considered that it now had sufficient information in order to proceed to determine the request for review and proceeded to consider the terms of refusal and grounds for review with specific reference to the prominence of the site when viewed from the adjoining public road network and the reasons for refusal. The LRB also agreed that Policy H8 was the lead policy.

Following consideration Councillor Ross was of the view that the request for review should be upheld and planning consent granted on the grounds that, in his opinion, he did not consider there was a lack of sufficient backdrop, it would not be an overtly prominent site in the countryside and would not detract from the rural character of the area. Councillor Paul was of the view that, in her opinion, having had the opportunity to visit the site, the request for review should be refused and the Appointed Officer's decision upheld for the reasons detailed in the decision notice. Councillor Hogg was of the opinion that whilst he did not agree that the site was 'overtly prominent' when viewed from all the adjoining public roads he was marginally of the view that the visual impact, when viewed from the adjacent 'C' class road was unacceptable in that it would, with the lack of sufficient backdrop to offset its prominence, detract from the character of the surrounding area. Councillor Hogg was of the view that the request for review should be refused on these grounds and the Appointed Officer's decision to refuse the application upheld.

Thereafter LRB agreed, on a two to one majority, that the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the proposal is contrary to Policy H8 of the Moray Local Plan 2008 for the following reasons:-

- (i) that the proposal would be located within an open rural setting of largely uniform landform character, which would lack sufficient backdrop to offset its prominence when viewed from the adjoining Class 'C' road; and
- (ii) the resultant development would represent an unacceptable visual impact from the adjoining class 'C' road, which would detract from the rural character of this part of the countryside.

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

PRESENT

Councillors J MacKay, P Paul & D Ross

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.

1. CHAIR

It was agreed that Councillor Ross take the Chair.

2. DECLARATIONS OF INTEREST

In terms of Standing Order 20 the meeting noted that there were no declarations of interest in regard to Case 005.

3. CASE 005
PLANNING APPLICATION 09/01962/PPP : PLANNING PERMISSION IN
PRINCIPLE FOR THE ERECTION OF A HOUSE ON LAND ADJACENT TO
HEAVEN'S DOORSTEP GLEN OF NEWMILL

The Local Review Body (LRB) considered a request, on behalf of the applicant, Mr D Jenkinson, seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse planning permission in principle for the erection of a house on a site at Heaven's Doorstep, Glen of Newmill.

The Clerk advised the meeting that due to an error by the applicant, in the submission of the Notice of Review, the Summary of Information and Report of Handling submitted to the LRB related to application 09/01962/PPP whereas the review documentation submitted by the applicant related to application 09/01961/PPP in regard to planning permission in principle for the erection of a new dwellinghouse on a site at Groalpens, Glen of Newmill. The meeting also noted that the status of the application required to be clarified.

Following discussion the LRB agreed to accept the applicant's apology for the administrative error and defer consideration of the request for review to the next meeting of the LRB on 22 April 2010 to allow an opportunity for the information to be clarified and the correct documentation to be submitted to the LRB. The request for review was to remain numbered Case 005, but replacement papers would be submitted.