

PERTH AND KINROSS LOCAL REVIEW BODY

Minute of Meeting of the Perth and Kinross Local Review Body held in the Council Chambers, Fourth Floor, Council Building, 2 High Street, Perth on Tuesday 28 January 2014 at 10.00am.

Present: Councillors M Lyle, H Anderson and A Gaunt.

In Attendance: D Harrison (Planning Adviser), G Fogg (Legal Adviser) and Y Oliver (Committee Officer) (all Chief Executive's Service).

Also Attending: C Brien (The Environment Service); members of the public, including agents and applicants.

Councillor M Lyle, Convener, Presiding

25. DECLARATIONS OF INTEREST

There were no Declarations of Interest in terms of the Councillors' Code of Conduct.

26. MINUTE OF LAST MEETING

The Minute of meeting of the Local Review Body of 3 December 2013 was submitted, approved as a correct record and authorised for signature, subject to the following amendment:

**“(ii) TCP/11/16(280)
Planning Application 13/01073/FLL – Install replacement windows and doors, 69-71 High Street, Kinross, KY13 8AA – Ms Crighton-Stuart**

Decision:

- a) The proposed UPVC windows be of a sash and case design (with astragals) that has been approved by the Planning Authority (in place of “...that has been accepted by Historic Scotland”).

27. APPLICATIONS FOR REVIEW

**(i) TCP/11/16(285)
Planning Application 13/01452/IPL – Erection of a dwellinghouse (in principle), Sand and Gravel Pit, Bishophall, Kinclaven – Ballathie Estate Ltd**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of a dwellinghouse (in principle), Sand and Gravel Pit, Bishophall, Kinclaven.

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The Planning Adviser displayed photographs of the site in question and described the proposal, the reasons for the Appointed Officer's refusal of the application and the grounds for the Notice of Review.

Decision:

Resolved by unanimous decision that:

- (i) having regard to the material before the Local Review Body and the comments from the Planning Adviser, insufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) the applicant be requested to provide a plan indicating the curtilage of the proposed dwellinghouse within the application site;
- (iii) following receipt of the requested information, an unaccompanied site visit be carried out; and
- (iv) following the unaccompanied site visit, the application be brought back to a future meeting of the Local Review Body.

- (ii) **TCP/11/16(286)
Planning Application 13/01143/FLL – Permanent Change of Use from dwellinghouse to chiropractic consulting rooms and residential accommodation for employee (Variation to Condition 2 – To Extend Hours of Operation from 9.00am to 8.00am on 2 days only) – Dr Craig and Mrs Heidi Mueller-Ahsmann**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the permanent change of use from dwellinghouse to chiropractic consulting rooms and residential accommodation for employee (Variation to Condition 2 – To Extend Hours of Operation from 9.00am to 8.00am on 2 days only).

The Planning Adviser displayed photographs of the site and described the proposal.

Decision:

Resolved by unanimous decision that:

- (i) having regard to the material before the Local Review Body and the comments from the Planning Adviser, sufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) the Appointed Officer's decision be overturned, and the application for the permanent change of use from dwellinghouse to chiropractic consulting rooms and residential accommodation for employee (Variation to Condition 2 – To Extend Hours of Operation) be approved, the opening hours being extended to 08.00hours to 19.00hours Monday to Friday and 08.00hours to 13.00hours on Saturdays and at no other time.

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Justification

The proposal will not be detrimental to the residential amenity of the area.

- (iii) **TCP/11/16(287)**
Planning Application 13/01482/FLL – Removal of Conditions 2 and 3 (use of building and external storage) of planning permission 11/01123/FLL at 3 Middleburn Cottages, Kirkness, Cardenden - Vermicon

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the removal of Conditions 2 and 3 (use of building and external storage) of planning permission 11/01123/FLL at 3 Middleburn Cottages, Kirkness, Cardenden.

The Planning Adviser displayed photographs of the site in question and described the proposal, the reasons for the Appointed Officer's refusal of the application and the grounds for the Notice of Review.

Decision:

Resolved by unanimous decision that:

- (i) having regard to the material before the Local Review Body and comments from the Planning Adviser sufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) the Appointed Officer's decision be upheld, and the application for removal of Conditions 2 and 3 (use of building and external storage) of planning permission 11/01123/FLL at 3 Middleburn Cottages, Kirkness, Cardenden be refused, for the following reason, namely:
 1. The removal of Conditions 2 and 3 would be detrimental to the visual amenity and residential amenity of the area which would be contrary to Policy 2 of the Kinross Area Local Plan (2004) and Policy PM1A of the Proposed Local Development Plan 2012.

Justification

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

Note: Councillor Lyle commented that it was unreasonable for the Local Review Body to consider removal of a condition pertaining to a building which was not in the application site being considered under the Notice of Review. He indicated that a fresh application would be required if the applicant wished to have the removal of Condition 2 considered again.

28. DEFERRED APPLICATIONS FOR REVIEW

Provision of Further Information

- (i) **TCP/11/116(269)
Planning Application 13/00435/FLL – Erection of dwellinghouse,
land 20 metres south-west of Fungarth Farm Cottage, Dunkeld –
Atholl Estates**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of a dwellinghouse on land 20 metres south-west of Fungarth Farm Cottage, Dunkeld.

The Planning Adviser described the proposal, the reasons for the Appointed Officer's refusal of the application and the grounds for the Notice of Review. Photographs of the site in question were also displayed.

It was noted that, at its meeting on 24 September 2013, the Local Review Body resolved that:

- (i) there was insufficient information before the Local Review Body to determine the matter without further procedure;
- (ii) the Development Quality Manager be requested to provide further information to the Local Review Body on whether the Scottish Environment Protection Agency and Scottish Natural Heritage had been consulted and, if so, what their comments were, and if not, to obtain a consultation response from each organisation regarding this proposal;
- (iii) the Roads Authority be asked to confirm whether or not the access improvements it is seeking relate to west or east or both of the access points onto the A923;
- (iv) the agent/applicants be invited to provide revised comments on the now determined planning application for the proposed house immediately to the south of the application site (13/01349/FLL) which was pending at the time of the Notice of Review submission;
- (v) following receipt of all further information and responses, the application be brought back to a future meeting of the Local Review Body.

Decision:

Agreed by unanimous decision that:

- (i) having regard to the material before the Local Review Body and the further information requested and received, sufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) the Appointed Officer's decision be overturned, and the application for the erection of dwellinghouse on land 20 metres south-west of Fungarth Farm Cottage, Dunkeld be upheld, subject to suitable conditions including:

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- (a) the proposed waste water treatment plant to serve the proposal and Fungarth Farm Cottage jointly be installed prior to the commencement of development for the construction of the dwellinghouse;
 - (b) the removal of permitted development rights regarding the installation of windows in the north-east gable wall; and
 - (c) the core path and right of way, as shown in the plan attached to the Policy Officer's (Access & Infrastructure) memo, dated 29 April 2013, must not be obstructed during building works or on completion;
- (iii) the decision notice shall also include an informative regarding water supply.

Unaccompanied Site Visit

- (ii) **TCP/11/16(276)
Planning Application 11/01485/FLL – Erection of three wind turbines, Ardlebank Farm, Ballintuim, Blairgowrie, PH10 7NQ – Mr G Richardson**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of three wind turbines, Ardlebank Farm, Ballintuim, Blairgowrie, PH10 7NQ.

The Planning Adviser described the proposal, the reasons for the Appointed Officer's refusal of the application and the grounds for the Notice of Review. Photographs of the site in question, and views towards the site, were also displayed.

It was noted that, at its meeting on 29 October 2013, the Local Review Body resolved that:

- (i) having regard to the material before the Local Review Body and the comments from the Planning Adviser, insufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) an unaccompanied site visit be carried out; and
- (iii) following the unaccompanied site visit, the application be brought back to a future meeting of the Local Review Body.

Decision:

Resolved by unanimous decision that:

- (i) having regard to the material before the Local Review Body, the issue of a further sixteen photographs which were taken by the Local Review Body's Planning Adviser showing views of the site, and views to the site from part of the CATERAN TRAIL, and their own assessment from their unaccompanied site visit on 21 January 2014, insufficient information was before the Local Review Body to determine the matter without further procedure;

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- (ii) all interested parties, having been issued with a set of the sixteen photographs taken by the Planning Adviser will be offered the opportunity to submit further representations on this material to the Local Review Body;
- (iii) the applicant be invited to comment on any further representations received from interested parties;
- (iv) following receipt of the applicant's response the application be brought back to a future meeting of the Local Review Body.

**(iii) TCP/11/16(283)
Planning Application 13/01349/FLL – Erection of a dwellinghouse and outbuilding, land 30 metres south of Fungarth Farm Cottage, Dunkeld – Mr K Geddes**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of a dwellinghouse and outbuilding, land 30 metres south of Fungarth Farm Cottage, Dunkeld.

The Planning Adviser described the proposal, the reasons for the Appointed Officer's refusal of the application and the grounds for the Notice of Review. Photographs of the site in question were also displayed.

It was noted that, at its meeting on 3 December 2013, the Local Review Body resolved that:

- (i) having regard to the material before the Local Review Body and the comments from the Planning Adviser, insufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) an unaccompanied site visit be carried out; and
- (iii) following the unaccompanied site visit, the application be brought back to a future meeting of the Local Review Body.

Decision:

Resolved by unanimous decision that:

- (i) having regard to material before the Local Review Body; and their own assessment from their unaccompanied site visit on 21 January 2014, insufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) further information be requested from the applicant on:
 - (a) the proposed waste water treatment provision, with specific reference to phosphorous discharge mitigation and comments on this proposed scheme from the Scottish Environment Protection Agency;
 - (b) the planning history and status of the group of buildings adjacent to the south eastern boundary of the application site.

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