

PERTH AND KINROSS COUNCIL
LOCAL REVIEW BODY
1 MARCH 2016

PERTH AND KINROSS LOCAL REVIEW BODY

Minute of Meeting of the Perth and Kinross Local Review Body held in the Hay Room, Dewar's Centre, Glover Street, Perth on Tuesday 1 March 2016 at 10.30am.

Present: Councillors M Lyle (excluding Art. 210(ii)), H Anderson, I Campbell (209(ii)) and A Gaunt (Arts. 209(ii) and 210(ii) only).

In Attendance: D Harrison (Planning Adviser), G Fogg (Legal Adviser) and Y Oliver (Committee Officer) (all Corporate and Democratic Services).

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

207. DECLARATIONS OF INTEREST

Councillor M Lyle declared a non-financial interest in Art. 210(ii) and Councillor I Campbell declared a non-financial interest in Art. 209(ii) in terms of the Councillors' Code of Conduct.

208. MINUTE OF PREVIOUS MEETING

The Minute of meeting of the Local Review Body of 26 January 2016 (Arts. 39-42) was submitted and noted.

Councillor M Lyle, Convener, Presiding.

209. APPLICATIONS FOR REVIEW

- (i) **TCP/11/16(390) – Planning Application 15/01281/IPL – Residential development (in principle), land 70 metres north east of Monega House, Hatchbank – Mr R Smith**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for residential development (in principle), land 70 metres north east of Monega House, Hatchbank.

The Planning Adviser displayed photographs of the site and described the proposal, and thereafter summarised the Appointed Officer's Report of Handling and the grounds set out in 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, sufficient information was before the Local Review Body to determine the matter without further procedure; and
- (ii) the Review Application for residential development (in principle), land 70 metres north east of Monega House, Hatchbank be

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refused for Reasons 1 and 2 stated in the Reasons for Refusal, dated 24 September 2015 and as undernoted but omitting Reason 3, as in the opinion of the Review Body the proposal is not contrary to Policy EP7 of the Perth and Kinross Local Development Plan 2014 as it is an “in principle” application:

1. The proposal is contrary to Policy RD3 of the Perth and Kinross Local Development Plan 2014 and the Council’s Housing in the Countryside Guide 2012 as it does not comply with any of the categories of the policy guidance where a dwellinghouse or dwellinghouses would be acceptable in principle at this location.
2. The proposal would result in a visually intrusive, conspicuous development without a satisfactory landscape framework which would further establish a precedent for developments of a similar nature to the detriment of the overall character of the area and would therefore undermine and weaken the policies of the Perth and Kinross Local Development Plan 2014 and the Council’s supplementary planning policy in relation to housing in the countryside, visual amenity and landscape character.

The Local Review Body disagreed with the following Reason 3 for refusal:

3. No drainage details have been provided relating to phosphorus mitigation for the proposed development in order to protect the integrity of the Loch Leven catchment area, which is contrary to Policy EP7 of the Perth and Kinross Local Development Plan 2014.

Justification

Reasons 1 and 2 of the proposal are not in accordance with the Perth and Kinross Local Development Plan 2014 and there are no material reasons which justify departing from the Development Plan.

COUNCILLOR CAMPBELL LEFT THE MEETING ROOM AT THIS POINT
COUNCILLOR GAUNT REPLACED HIM ON THE LOCAL REVIEW BODY FOR
THE PURPOSES OF HEARING THE FOLLOWING APPLICATION.

- (ii) **TCP/11/16(391) - Planning Application 15/01396/FLL – Erection of dwellinghouse and garage, Del Ant Sagairt, Struan, Pitlochry, PH18 5UB – Mr S McGlashan**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of dwellinghouse and garage, Del Ant Sagairt, Struan, Pitlochry, PH18 5UB.

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The Planning Adviser displayed photographs of the site and described the proposal, and thereafter summarised the Appointed Officer's Report of Handling and the grounds set out in 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, sufficient information was before the Local Review Body to determine the matter without further procedure; and
- (ii) the Review Application for the erection of dwellinghouse and garage, Del Ant Sagairt, Struan, Pitlochry, PH18 5UB be refused for the following reason:
 1. The proposal is contrary to Policy RD3 of Perth and Kinross Local Development Plan 2014 and the Council's Housing in the Countryside Guide 2012. The proposal fails to satisfactorily comply with any of the categories (1) Building Groups, (2) Infill Sites, (3) New Houses in the Open Countryside, (4) Renovation or Replacement of Houses, (5) Conversion or Replacement of Redundant Non Domestic Buildings, and (6) Rural Brownfield Land.

Justification

The proposal is not in accordance with the Perth and Kinross Local Development Plan 2014 and there are no material reasons which justify departing from the Development Plan.

COUNCILLOR CAMPBELL RESUMED HIS PLACE ON THE LOCAL REVIEW BODY AND COUNCILLOR GAUNT RETIRED TO THE PUBLIC BENCHES.

(iii) TCP/11/16(392) - Planning Application 15/01397/FLL – Alterations and extension to dwellinghouse, 6 Westfield, Luncarty, Perth, PH1 3HH – Mr R Stewart

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for alterations and extension to dwellinghouse, 6 Westfield, Luncarty, Perth, PH1 3HH.

The Planning Adviser displayed photographs of the site and described the proposal, and thereafter summarised the Appointed Officer's Report of Handling and the grounds set out in the Notice of Review.

There was tabled at the meeting a set of photographs which the agent had omitted to submit with the Notice of Review. The Development Quality Manager had been provided with a copy of these photographs and confirmed he had no further comment to make. There were no other interested parties.

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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; and
- (ii) the Review Application for alterations and extension to dwellinghouse, 6 Westfield, Luncarty, Perth, PH1 3HH be refused for the following reasons:
 - 1. The scale and unbalanced design of the proposed extension are not subordinate or subservient to the host building and as such the extension is considered to dominate the original building to the detriment of its original character. The proposal by way of its excessive scale and projection would result in a dominant and unbalanced extension and over-developed property, to the detriment of the visual amenity of the house and the surrounding area. Approval would therefore be contrary to Policies RD1, PM1A and PM1B(c) and (d) of the Perth and Kinross Local Development Plan 2014, which seeks to retain and where possible improve the character and environment of the area notably as the proposal fails to respect an existing building line of the terrace.
 - 2. The proposal is contrary to the Scottish Government's "Designing Places" which seeks to ensure good design at all scales of development. The proposed extension will create an unacceptable visual impact to the detriment of the host building and existing terrace row.

Justification

The proposal is not in accordance with the Perth and Kinross Local Development Plan 2014 and there are no material reasons which justify departing from the Development Plan.

Informative

In the event the Local Review Body subsequently overturns the refusal of the application, contributions may be required towards Education.

- (iv) **TCP/11/16(393) – Planning Application 15/01589/FLL -
Erection of a dwellinghouse, land 120 metres east of 10
Holding, Kingswell Road, Longforgan – Mr and Mrs
D Maxwell**

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, land 120 metres east of 10 Holding, Kingswell Road, Longforgan.

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The Planning Adviser displayed photographs of the site and described the proposal, and thereafter summarised the Appointed Officer's Report of Handling and the grounds set out in 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; and
- (ii) the Review Application for the erection of a dwellinghouse, land 120 metres east of 10 Holding, Kingswell Road, Longforgan be refused for the following reasons:
 1. The proposal is contrary to Policy PM4 of the Local Development Plan 2014 as the proposed development site is located immediately outwith the defined settlement boundary of Longforgan as identified in the Local Development Plan.
 2. The proposal is contrary to Policy PM1A and PM1B (d) of the Local Development Plan 2014 as the proposed development would not provide a satisfactory level of private amenity space, will impact on the amenity of the neighbouring plot, and does not respect the existing building line established by the neighbouring dwellings fronting onto Kingswell Road.

Justification

The proposal is not in accordance with the Perth and Kinross Local Development Plan 2014 and there no material reasons which justify departing from the Development Plan.

- (v) **TCP/11/16(394) – Planning Application 15/01485/FLL - Change of use from bunk house (class 7) to dwellinghouse (class 9) alterations and extension Dunolly Cottage, Taybridge Drive, Aberfeldy, PH15 2BP – Ms A Walls**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for change of use from bunk house (class 7) to dwellinghouse (class 9) alterations and extension Dunolly Cottage, Taybridge Drive, Aberfeldy, PH15 2BP.

The Planning Adviser displayed photographs of the site and described the proposal, and thereafter summarised the Appointed Officer's Report of Handling and the grounds set out in the Notice of Review.

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Mr G Fogg, Legal Manager, advised the members of the Local Review Body that Listed Building Consent 15/01486/LBC had been granted consent by the Scottish Government's Planning and Environmental Appeals Division and that this was a material planning consideration when assessing the Notice of Review TCP/11/16(394). The Development Quality Manager advised that he had no further comment to make following the Appeal decision. There are no third parties to this proposal.

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; and
- (ii) the Review Application for the change of use from bunk house (class 7) to dwellinghouse (class 9) alterations and extension Dunolly Cottage, Taybridge Drive, Aberfeldy, PH15 2BP be upheld, subject to terms and conditions to be imposed by the Development Quality Manager.

Justification

The proposal is not contrary to the Perth and Kinross Local Development Plan 2014 as it accords with Policy HE2 of the Perth and Kinross Local Development Plan 2014 and Policy 3 of the TAYplan 2012. Members concurred with the assessment of the proposal as assessed by the Reporter in determining the associated Listed Building Consent appeal.

210. HEARING SESSION

(i) Procedure to be used for Hearing

There was a note of the Perth and Kinross Local Review Body Hearing Rules, which had been issued to the Applicant and all interested parties in connection with the following application. It was agreed that these were the rules which would be used for the Hearing.

(ii) TCP/11/16(367) – Planning Application 13/01174/FLL – Change of use of agricultural shed for the processing and storage of biomass materials (in retrospect), land at Lambhill, Blairingone – Barnhill Estates

It was noted that, at its meeting on 25 August 2015, the Local Review Body resolved by unanimous decision that:

- (i) having regard to the material before the Local Review Body and comments from the Planning Adviser, insufficient information was before the Local Review Body to determine the matter without further procedure;

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- (ii) the applicant be invited to submit further information confirming the nature and volume of traffic associated with the proposed development; clarifying the boundaries of the application site relative to the proposal and commenting on the enforcement notice appeal decision of the Reporter dated 17 July 2015 – ENA-340-2025;
- (iii) the Council's Legal representative be requested to provide comments on the enforcement notice appeal decision of the Reporter dated 17 July 2015 ENA-340-2025;
- (iv) The Development Quality Manager be requested to provide copies of the planning decision notices concerning the Erection of 2 Agricultural Buildings (PK/97/1665 "A") and Storage of Waste Wood Material on the Lower Hardstanding Area (12/01354/FLL at Lambhill, Blairingone.
- (v) following receipt of the requested information from the applicant, Legal representative and the Development Quality Manager, copies be submitted to the Development Quality Manager and all interested parties for further representation.
- (vi) following receipt of all further information and responses, an unaccompanied site visit be arranged;
- (vii) following the site visit, the application be brought back to the Local Review Body for determination of the Review or for such further procedure as the Local Review Body may determine.

It was further noted that, at its meeting on 8 December 2015, the Local Review Body resolved by unanimous decision that:

- (i) having regard to the material before the Local Review Body, and their own assessment from the unaccompanied site visits on 22 September 2015 and 30 November 2015, insufficient information was before the Local Review Body to determine the matter without further procedure, namely a Hearing;
- (ii) the applicant be requested to arrange a demonstration of both models of wood-chipping equipment proposed in order to assist members in appreciating the extent and nature of noise generated by the main plant involved;
- (iii) a Hearing Session be convened to address the following specified matters:
 - to gain greater clarity regarding the planning history of the site and how the applicant understands that the nature of the proposal would operate within the terms of the existing consents and the current application should the appeal against refusal be upheld.

The Planning Adviser displayed photographs of the site, and described the proposed development, and thereafter summarised the Appointed Officer's Report of Handling and the grounds set out in the Notice of Review.

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The Local Review Body heard submissions respectively from Mr J C Campbell Q.C., and Mr D Palmer, Acoustic Engineer on behalf of the applicant, Mr Snowie; Mr J Anderson, on behalf of objectors to the application and Mr A Kinloch, objector to the application; and Mr B Stanford, Projects Team Leader, Perth and Kinross Council, on behalf of the Appointed Officer. The members of the Local Review Body questioned each of the parties who made submissions and the applicant, they also had regard to the written material lodged and to their own assessment from attendance at the site visits on 22 September and 30 November 2015.

Decision:

Resolved by unanimous decision that:

- (i) having regard to the material before the Local Review Body, and their own assessment from the unaccompanied site visit on 3 November 2015, sufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) the Review application for the change of use of agricultural shed for the processing and storage of biomass materials (in retrospect), land at Lambhill, Blairingone be refused for the following reasons:
 1. The proposal is contrary to Policy EP8: Noise Pollution, of the Perth and Kinross Local Development Plan 2014 as without mitigation, the development will have a significant adverse impact on the amenity of nearby residential properties. The mitigation measures which are recommended in the submitted noise impact are considered to be neither practical nor satisfactorily enforceable. The adverse noise impact cannot therefore be adequately controlled.
 2. The proposal would generate an unacceptable level of noise and activity which would adversely affect the character and amenity of the surrounding area, which is characterised by agriculture, forestry and scattered residential properties given the transient nature of the chippers and the dynamic nature of the acoustic timber barriers. The proposal is therefore contrary to Policy PM1A of the Local Development Plan 2014 which seeks to ensure that new developments respect the amenity of the area concerned.

Justification

Having weighed the information the proposal was found to be inconsistent with the previous known operation of the biomass process, notably the area over which the operation had previously been undertaken and the more limited boundary of the application site. There was a fundamental lack of clarity as to the manner and location within which the proposed biomass processing and storage would take place. The proposal was not considered to constitute a coherent or workable basis for biomass processing. It required the use and change

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of use of other land at this location for purposes that were integral to this industrial enterprise, but which lay out with this planning application which did not enjoy the benefit of planning permission for this activity. The mobile and transient nature of the proposed noise mitigation measures were unlikely to provide a reasonable, workable means of protecting the amenity neighbouring noise sensitive properties. Consequently, the proposal was not considered to accord with the Perth and Kinross Local Development Plan 2014 Policies EP8 and PM1A and there are no over-riding material planning considerations which would justify departing from the Development Plan.

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