

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 28 July 2015 at 10.30am.

Present: Councillors M Lyle, D Cuthbert, and T Gray.

In Attendance: D Harrison (Planning Adviser); M Easton (Legal Adviser) and P Frazer (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

. **DECLARATIONS OF INTEREST**

There were no declarations of interest in terms of the Councillors' Code of Conduct.

. **MINUTE OF LAST MEETING**

The Minute of meeting of the Local Review Body of 30 June 2015 was submitted and noted.

. **APPLICATIONS FOR REVIEW**

- (i) **TCP/11/16(364)**
Planning Application 14/00132/FLL – Removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex, East Hill, Murrayshall, Perth, PH2 7PL – Mrs M Elphinstone.

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex, East Hill, Murrayshall, Perth, PH2 7PL.

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, sufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) the Review Application for permission for removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex, East Hill, Murrayshall, Perth, PH2 7PL be refused for the following reasons:

1. The proposal is contrary to Policy NE5 of the Perth and Kinross Local Development Plan 2014. The proposal to remove Condition 2 of planning permission 99/01746/FUL to enable the proposed residential annex to become an independent dwellinghouse fails to comply with any of the categories within the policy, in particular, it has not been demonstrated that the proposed house is essential for agriculture, horticulture or forestry operations.

Justification

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

- (ii) **TCP/11/16(365)**
Planning Application 14/00575/IPL – Erection of dwelling house and garage (in principle), land 70 metres south west of West Wing, The Coach House, Kinloch, PH10 6SG – Mr G Allen.

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of dwelling house and garage (in principle), land 70 metres south west of West Wing, The Coach House, Kinloch, PH10 6SG.

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, insufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) the applicant/agent be invited to provide further information to the Local Review Body in terms of the economic need for the proposed development;
- (iii) following receipt of the requested information from the applicant, copies be submitted to the Development Quality Manager and all interested parties for further representation;
- (iv) following receipt of all further information and responses, 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.

(iii) **TCP/11/16(366)**
Planning Application 15/00586/IPL – Erection of a dwellinghouse and garage (in principle), land 90 metres north east of Craignorth House, Balthayock – R Townsley.

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 garage (in principle), land 90 metres north east of Craignorth House, Balthayock.

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:

- (ii) having regard to the material before the Local Review Body, sufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) the Review Application for permission for the erection of a dwellinghouse and garage (in principle), land 90 metres north east of Craignorth House, Balthayock be refused for the following reasons:
 - 1. The proposal is contrary to policy NE5 Greenbelt, of the Perth and Kinross Local Development Plan 2014. The erection of a dwellinghouse on this site would not meet any of the criteria set out in Policy NE5 sections (a) to (f). The site is located in a rural area; a dwellinghouse would have a negative impact on the local landscape which has an existing open, agricultural character.
 - 2. The proposal is contrary to Policy PM1A of the Perth and Kinross Local Development Plan 2014 as a dwellinghouse in this location would not contribute positively to the quality of the surrounding area in terms of character, amenity or natural heritage.
 - 3. The proposal is contrary to Policy ER6 of the Perth and Kinross Local Development Plan 2014, and the associated Landscape Supplementary Guidance 2015, regarding the maintenance and enhancement of the landscape of the Sidlaw Hills.

Justification

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

DEFERRED APPLICATIONS FOR REVIEW

Deferred for further information and unaccompanied site visit.

- (i) **TCP/11/16(334)
Planning Application 14/01280/FLL – Erection of 2
dwellinghouses, land 150 metres south west of Merklands House,
Ballintuim, Bridge of Cally, PH10 7NN – S Bennett.**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of 2 dwellinghouses, land 150 metres south west of Merklands House, Ballintuim, Bridge of Cally, PH10 7NN.

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.

It was noted that, at its meeting on 31 March 2015, the Local Review Body resolved 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;
- (ii) the applicant/agent be requested to provide further information to the Local Review Body in terms of an assessment of the site in terms of its qualities and value as an Ancient Woodland;
- (iii) interested parties and the Development Quality Manager be invited to comment on the further information received from the applicant/agent;
- (iv) an unaccompanied site visit be carried out;
- (v) following receipt of all further information, responses, and 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, and their own assessment from the unaccompanied site visit on 20 April 2015, sufficient information was before the Local Review Body to determine the matter without further procedure;
Thereafter, resolved by unanimous decision that:
- (ii) the Review Application for the erection of 2 dwellinghouses, land 150 metres south west of Merklands House, Ballintuim, Bridge of Cally PH10 7NN be refused for the following reasons:
 - 1. The proposal is contrary to Policy RD3 of the Perth and Kinross Local Development Plan 2014 and the supplementary Housing in the Countryside Guide 2012 as the proposal fails to comply with any of the categories for development outlined in the policy.

2. The proposal is contrary to Policies NE2 A (b), NE2B and NE3 of the Perth and Kinross Local Development Plan 2014 in that the information submitted has not demonstrated that the proposal would not have a detrimental impact on the Ancient Woodland and protected species.

Justification

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

AFTER A SHORT ADJOURNMENT THE COMMITTEE RECONVENED.

- (ii) **TCP/11/16(340)**
Planning Application 14/00627/FLL – Erection of wind turbine and associated infrastructure, land 650 metres north west of Innernyte Farm, Kinclaven – G Lennox.

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of wind turbine and associated infrastructure, land 650 metres north west of Innernyte Farm, Kinclaven.

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.

It was noted that, at its meeting on 31 March 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;
- (ii) the applicant/agent be requested to provide the following information which was omitted from their application to the Local Review Body;
 - (a) Landscape and Visual Impact and Cumulative Impact Assessment Report: – illustrative material/ contents of Appendices 3,4,5,6.
 - (b) Environmental Statement: – illustrative material/ contents of Appendices 1-10
- (iii) Democratic Services, Perth and Kinross Council be requested to provide the Decision Notice refusing planning permission, and all consultation responses and representations received to the planning application;
- (iv) interested parties and the Development Quality Manager be invited to comment on the further information received from the applicant/agent;

- (v) an unaccompanied site visit be carried out;
- (vi) following receipt of all additional information, responses, and 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 and their own assessment from their unaccompanied site visit on 21 July 2015, sufficient information was before the Local Review Body to determine the matter without further procedure; and

Thereafter, resolved by majority decision that:

- (ii) the Review Application for the erection of wind turbine and associated infrastructure, land 650 metres north west of Innernyte Farm, Kinclaven be refused for the following reasons:
 1. The proposed scale of the turbine would not be absorbed by the existing landscape framework surrounding the site. This would lead to the turbine becoming a dominant feature within the landscape which would have a significant adverse impact on the visual amenity and landscape character of the area. The proposal is contrary to Policy 6 of the Tay Plan 2012 and Policies ER1A (a) and (g) and ER6 (a),(b),(e) and (f) of the Perth and Kinross Local Development Plan 2014, all of which seek to ensure that all new developments do not have a significant impact on existing landscapes.
 2. As the proposal would have an adverse impact on the setting of a Listed Building, the proposal is contrary to Policy 3 of the Tay Plan 2012 and Policy HE2 of the Perth and Kinross Local Development Plan 2014 both of which seek to protect the settings of Listed Buildings from inappropriate developments.
 3. As this proposal would not preserve the setting of a Listed Building, a recommendation to approve this application would be contrary to the requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, which states that the Planning Authority shall have special regard to the desirability of preserving the setting of a Listed Building.
 4. As the proposal would have an adverse impact on the setting of a Listed Building, the proposal is contrary to guidance offered in the Scottish Planning Policy (2014) and the Scottish Historic Environmental Policy (2011), both of which promote the protection of Listed Buildings and their settings from inappropriate developments.
 5. As the proposal would have an adverse impact on the carefully planned landscaped view from within an Historic Garden and Designed Landscape (HGDL), the proposal is contrary to Policy HE4 of Perth and Kinross Local

Development Plan 2014, Policy 3 of the Tay Plan 2012 and guidance offered in the Scottish Planning Policy (2014), all of which seek to protect HGDL from inappropriate developments.

Justification

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

Note: Councillor Gray dissented from the majority view. He did not consider that the proposed development was more prominent than other turbine developments in the area (notably Stewart Tower) and that the proposal was of economic benefit to the farm enterprise. Consequently, he did not consider that the proposal was contrary to the Local Development Plan.

(iii) TCP/11/16(341)
Planning Application 14/00837/FLL – Erection of 9 turbines and associated infrastructure, Knowes Farm, Dunning - Knowes Renewables LLP.

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of 9 turbines and associated infrastructure, Knowes Farm, Dunning.

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.

It was noted that, at its meeting on 31 March 2015, the Local Review Body resolved by unanimous decision that:

- (i) having regard to the material before the Local Review Body insufficient information was before the Local Review Body to determine the matter without further procedure;
- (ii) the applicant/agent be requested to provide additional information to demonstrate the nature of the proposal and the associated assessments relating to their planning application including the following ;
 - (a) Environmental Report –
 - 1. Non-Technical Summary ;
 - 2. Written statement Part 1;
 - 3. Part 2 – Plan to indicate the proposed access route;
 - 4. Part 3 Risk Assessment and wind speed assessments
 - (b) Figures: Parts 1,2 and 3.
 - (c) Elevation Drawings of the 44 and 55m turbines.
- (iii) Democratic Services, Perth and Kinross Council be requested to provide the Decision Notice refusing planning permission, and all consultation responses and representations received to the planning application;

- (iv) interested parties and the Development Quality Manager be invited to comment on the further information received from the applicant/agent;
- (v) an unaccompanied site visit be carried out;
- (vi) following receipt of all additional information, responses, and site visit the application be brought back to a future meeting of the Local Review Body.

Decision:

Resolved by unanimous decision that:

- (ii) having regard to the material before the Local Review Body and their own assessment from their unaccompanied site visit on 20 July 2015, sufficient information was before the Local Review Body to determine the matter without further procedure; and
- (ii) the Review Application for the erection of 9 turbines and associated infrastructure, Knowes Farm, Dunning be refused for the following reasons:
 1. That by virtue of the location, dominance, scale and layout of the proposed wind farm, the proposal would result in unacceptable adverse landscape impacts having regard to landscape character and setting within the immediate landscape and wider landscape character types contrary to Policy 3 of Tayplan and Policies ER1A (a) and (g), ER6 (a) and (b) of the Perth and Kinross Local Development Plan 2014 and the Landscape Supplementary Guidance 2015.
 2. That by virtue of the location, dominance, scale and layout of the proposed wind farm, the proposal would result in unacceptable visual impacts. Accordingly the proposal is contrary to Policies ER1A (a) and (g), ER6 (a) (b) and (f) of the Perth and Kinross Development Plan 2014 and the Landscape Supplementary Guidance 2015.
 3. That by virtue of the location, prominence, scale and layout of the proposed wind farm and its relationship to other wind turbine developments in the area; the proposal would give rise to unacceptable cumulative landscape and visual impacts. Accordingly the application is contrary to TAYplan Policy 6 and Policies ER1A (a)(g)(h), ER6 (a) (b) of the Perth and Kinross Development Plan 2014 and the Landscape Supplementary Guidance 2015
 4. The Environmental Statement fails to assess:
 - (i) the impact on the Dunning Conservation Area;
 - (ii) the impact on residential receptors in close proximity to the site including a care home;
 - (iii) information associated with the effects on receptors on Ben Cleuch have not been incorporated into the Environmental Statement or planning submission to allow public scrutiny;
 - (iv) the full extent of the development impacts in terms of the magnitude and complexity of those impacts;

the probability of those impacts; and the duration, frequency and reversibility of the impact of the whole scheme has not been provided and, consequently, cannot be considered. This jointly constitutes a lack of information.

Justification

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

(iv) TCP/11/16(355)
Planning Application 14/01885/IPL – Erection of dwellinghouse (in principle), land 50 metres south west of Milton Farm Cottage, Abernyte – Mr M Sands.

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for the erection of dwellinghouse (in principle), land 50 metres south west of Milton Farm Cottage, Abernyte.

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.

It was noted that, at its meeting on 26 May 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;
- (ii) further information be provided by the applicant in the form of a Tree Survey notably the species, age, condition and canopy spread of the existing trees within, and adjacent to, the site and an assessment of the potential risks to the longevity of the trees as a consequence of development within the application site;
- (iii) further information be provided assessing the provision of foul drainage system to serve the proposed development;
- (iv) following receipt of the requested information from the applicant, copies be submitted to the Development Quality Manager and all interested parties for further representation;
- (iv) following receipt of all further information and responses, an unaccompanied site visit be arranged;
- (v) following the unaccompanied 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.

Decision:

Resolved by unanimous decision that:

- (i) having regard to the material before the Local Review Body and their own assessment from their unaccompanied site visit on 21 July 2015, sufficient information was before the Local Review Body to determine the matter without further procedure; and

Thereafter, resolved by majority decision that:

- (ii) the Review Application for permission for the erection of dwellinghouse (in principle), land 50 metres south west of Milton Farm Cottage, Abernyste be upheld and planning permission granted, subject to the imposition of appropriate conditions including Education and Reduced Transport contributions, tree protection and retention measures, bridge, drainage and SUDS provision.

Justification

The proposal is in accordance with the Perth & Kinross Local Development Plan 2014, in particular policies RD3 and PM1A, and there are no local development plan policies or material reasons which justify refusal.

Note: Councillor Lyle dissented from the majority view. He considered the proposed development was contrary to Policy PM1A of the Perth and Kinross Local Development Plan 2014 as an additional dwelling in this location would not contribute positively to the quality of the surrounding built and natural heritage. Furthermore, the proposal is contrary to Policy RD3 of the Perth and Kinross Local Development Plan 2014 and the Housing in the Countryside Guide 2012 as outlined in the original Reasons for Refusal dated 19 January 2015.

- (v) **TCP/11/16(361)
Planning Application 14/02187/FLL – Extension to dwellinghouse,
7 Corsie Drive, Perth, PH2 7BU – Mr and Mrs Dewar.**

Members considered a Notice of Review seeking a review of the decision by the Appointed Officer to refuse permission for an extension to dwellinghouse, 7 Corsie Drive, Perth, PH2 7BU.

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.

It was noted that, at its meeting on 30 June 2015, the Local Review Body resolved 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;
- (ii) an unaccompanied site visit be carried out; and

Decision:

Resolved by unanimous decision that:

- (iii) having regard to the material before the Local Review Body and their own assessment from their unaccompanied site visit on 21 July 2015, sufficient information was before the Local Review Body to determine the matter without further procedure; and
- (ii) the Review Application for the extension to dwellinghouse, 7 Corsie Drive, Perth, PH2 7BU be refused for the following reasons:
 - 1. The proposed extension by virtue of the unsympathetic roof design in terms of its pitch and bulk, and would have an adverse impact on the visual amenity of the existing dwelling and surrounding area. Approval would therefore be contrary to Policies RD1, PM1A and PM1B (c) of Perth and Kinross Local Development Plan 2014 and Perth and Kinross Placemaking Guide, which seeks to safeguard visual amenity and ensure that development respects the character of the area.
 - 2. The proposed extension, by virtue of its height, position and close proximity to the neighbouring gable window at 9, Corsie Drive, would have an adverse impact on residential amenity. Approval would therefore be contrary to policies RD1, PM1A and PM1B(c) of the Perth & Kinross Local Development Plan 2014, which seek to safeguard the residential amenity of the area.

Justification

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

