

Local Review Body
15 September 2009

IRVINE, 15 September 2009 - At a Meeting of the Local Review Body of North Ayrshire Council at 2.00 p.m.

Present

Elizabeth McLardy, Margie Currie, Robert Barr, Matthew Brown, Ian Clarkson, John Ferguson, Ronnie McNicol, John Moffat, David Munn, Ryan Oldfather and Robert Rae.

In Attendance

I.T. Mackay, Assistant Chief Executive and A. Craig, Senior Solicitor (Legal and Protective); and M. Anderson Committee Services Officer (Chief Executive's Service).

Chair

Councillor McLardy in the Chair.

Apologies for Absence

Pat McPhee.

1. Appointment of Chair

The Assistant Chief Executive (Legal and Protective) called for nominations for the position of Chair of the Local Review Body.

Councillor Currie, seconded by Councillor Munn, moved the appointment of Councillor McLardy as Chair of the Local Review Body. There being no further nominations, the motion was carried.

Thereafter, the Local Review Body discussed the appointment of a Vice Chair.

The Local Review Body unanimously agreed (a) to appoint Councillor McLardy as Chair of the Local Review Body; and (b) subject to approval by the Council of the necessary change to the Scheme of Administration, to the creation of the position of Vice Chair of the Local Review Body and the appointment of Councillor Currie to that position.

2. Declarations of Interest

There were no declarations of interest by Members of the Local Review Body.

3. Adoption of Procedures and Hearings

Submitted report by the Assistant Chief Executive (Legal and Protective) on the adoption of procedures for Hearings undertaken by the Local Review Body (LRB).

On 1 July 2009, the Council approved the creation of, and terms of reference for, the Local Review Body. As part of its role in considering a review, the LRB. may hold hearings to allow parties the opportunity to present their case in person. The procedures for conducting both a hearing and any necessary preliminaries, are contained in Schedule 1 to the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008, as set out in Appendix 1 to the report. Suggested procedures to cover the format of the actual hearing, including the order in which parties may address the Local Review Body, were detailed in Appendix 2 to the report.

The Assistant Chief Executive (Legal and Protective) advised of a proposed amendment to section 5 of Appendix 2, to provide for the Assessor appointed by the Local Review Body to address the LRB immediately following the appointed Officer.

The Local Review Body agreed to approve and adopt the procedures for the conduct of Hearing as set out in Appendices LRB1 and LRB2 to this Minute.

The Meeting ended at 2.45 p.m.

SCHEDULE 1

Regulation 2

Hearing Session Rules

Procedure notice and specified matters

1. (1) Where the local review body have determined that a hearing session should be held the local review body are to give written notice to that effect to-
 - (a) the applicant; and
 - (b) any interested party who made representations in relation to specified matters;
 - (c) any other body or person from whom the local review body wish to receive further representations or to provide further information on specified matters at a hearing session.
- (2) The notice given under paragraph (1) is to set out the matters which are to be considered at the hearing session.
- (3) Only specified matters are to be considered at the hearing session.
- (4) A person or body given notice under paragraph (1) and who intends to appear at the hearing session must within 14 days of the date of such notice inform the local review body in writing of that intention.

Appearances at hearing session

2. The persons entitled to appear at a hearing session are
 - (a) the applicant; and
 - (b) any other person or body who, in response to a procedure notice, has informed the local review body of their intention to appear at the hearing session in accordance with rule 1(4).

Date and notification of hearing session

3. (1) The date, time and place at which the hearing session is to be held is to be determined (and may subsequently be varied) by the local review body.
- (2) The local review body are to give to those persons entitled to appear at the hearing session such notice of the date, time and place fixed for the holding of a hearing session (and any subsequent variation thereof) as may appear to the local review body to be reasonable in the circumstances.

Service of hearing statements and documents

4. (1) A person entitled to appear at the hearing session must, by such date as the local review body may by notice specify, send to the local review body, the applicant and to such other persons entitled to appear at the hearing session as the local review body may specify in such notice-
 - (a) a hearing statement; and
 - (b) where that person intends to refer to or rely on any documents when presenting their case-
 - (i) a list of all such documents; and
 - (ii) a copy of every document (or the relevant part of a document) on that list which is not already available for inspection under regulation 18(2) or paragraph (2) of this rule.
- (2) The planning authority, until such time as the review is determined, are to afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any hearing statement or other document (or any part thereof) which, or a copy of which, has been sent to the local review body in accordance with this rule.
- (3) Any person who has served a hearing statement in accordance with this rule must-
 - (a) when required by notice in writing from the local review body provide such further information about the matters contained in the statement as the local review body may specify; and
 - (b) at the same time send a copy of such further information to any other person on whom the hearing statement has been served.
- (4) Different dates and different persons may be specified for the purposes of paragraphs (1)(a) and (b).
- (5) In this rule, "hearing statement" means, and is comprised of a written statement which outlines the case relating to the specified matters which a person proposes to put forward at a hearing session and-
 - (a) a list of documents (if any) which the person putting forward such case intends to refer to or rely on;
 - (b) a list of any other persons who are to speak at the hearing session in respect of such case, any matters which such persons are particularly to address and any relevant qualifications of such persons to do so.

Procedure at hearing

5. (1) Except as otherwise provided in these Hearing Session Rules, the local review body shall determine the procedure at a hearing session.
- (2) The local review body, having considered any submission by the persons entitled to appear at the hearing session, are to state at or before the commencement of the hearing session the procedure which the local review body propose to adopt and in particular are to state-

- (a) the order in which the specified matters are to be considered at the hearing session; and
 - (b) the order in which the persons entitled to appear at the hearing session are to be heard in relation to a specified matter (a different order may be chosen for different specified matters).
- (3) Any person entitled to appear may do so on that person's own behalf or be represented by another person.
- (4) Where there are two or more persons having a similar interest in the issues being considered at the hearing session, the local review body may allow one or more persons to appear on behalf of some or all of any persons so interested.
- (5) A hearing shall take the form of a discussion led by the local review body and cross-examination shall not be permitted unless the local review body consider that cross-examination is required to ensure a thorough examination of the issues.
- (6) Subject to paragraph (7) a person entitled to appear at a hearing session shall be entitled to call evidence.
- (7) The local review body may refuse to permit
- (a) the giving or production of evidence;
 - (b) the cross-examination of persons giving evidence; or
 - (c) the presentation of any other matter, which the local review body consider to be irrelevant or repetitious.
- (8) The local review body may proceed with a hearing session in the absence of any person entitled to appear at the hearing session.
- (9) The local review body may from time to time adjourn the hearing session and are to give such notice of the date, time and place of the adjourned hearing session to the persons entitled to appear at the hearing session as may appear to them to be reasonable in the circumstances unless such date, time and place are announced before the adjournment, no further notice is required.

Procedures for Local Review Body Hearings

A Hearing may be held by the Local Review Body. The procedures to be followed are as set out in Schedule 1 to the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008 and as further provided for in the following paragraphs.

Purpose

The purpose of conducting a Hearing is to enable the members of the Local Review Body to receive relevant information from all parties to the Review Procedure while affording those parties an opportunity to present their case in person before the Body.

Procedures

1. A Hearing will be convened following consideration by the Local Review Body (LRB) of an application for review and the matters to be considered .
2. Notification to all relevant parties to the Hearing shall be issued in accordance with the provisions of Schedule 1 to the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
3. The Chair of the LRB shall introduce the members of the LRB and invite all present to identify themselves.
4. The Clerk to the LRB will explain the procedure in order of business to all present. This will include the order in which the Specified Matters will be considered by the LRB.
5. Following the above intimations the parties shall address the members of the LRB in the following order, confining their oral submissions to be Specified Matters as agreed by the LRB and is intimated to the parties in the Notice calling the Hearing:

- The applicant or his/her agent.
 - Parties with an interest in the application, being objectors to the application or consultees having made representation in connection therewith.
 - The appointed Officer, being the Planning Officer whose decision is the subject of the Review.
 - The Assessor appointed by the Local Review Body
6. All parties should limit their oral presentations to no more than 15 minutes unless permitted by the chair of the LRB to extend this time limit.
 7. Members of the LRB may put questions to any of the parties.
 8. If the LRB consider that they require further information from any of the parties, you may agree to adjourn the Hearing to a future date, requiring all parties to return on that date with such additional information as may be called for.
 9. Once the LRB are satisfied that they have received all the required information both written and oral, they will come to a decision.
 10. A Decision Notice shall be prepared by the Clerk on the terms of which shall be put to and agreed by the LRB.
 11. The Decision Notice shall be signed by a Proper Officer of the Council.