



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR131
 - Site address: Plot to the North of Shalom, Rathven Station, Buckie
 - Application for review by Mr A. Morrison, c/o Mr Colin Keir, Plans Plus against the decision of an Appointed Officer of The Moray Council
 - Planning Application 15/00764/PPP to erect dwellinghouse
 - Unaccompanied site inspection carried out by the MLRB on 22 September 2015
 - Date of decision notice: 10 November 2015
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Decision

The MLRB agreed to dismiss the request for review and uphold the original decision of the Appointed Officer to refuse the above noted application.

1. Preliminary

- 1.1 This Notice constitutes the formal decision of the MLRB as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 24 September 2015.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Coull (Deputy Chair), J. Allan, G. Cowie, K. Reid and R. Shepherd.

2. Proposal

- 2.1 This is an application for planning permission erect dwellinghouse on Plot to the North of Shalom, Rathven Station, Buckie.

3. MLRB Consideration of Request for Review

- 3.1 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with copies of the Report of Handling, Notice of Review, Grounds for Review and supporting documents.

- 3.2 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.3 With regard to the unaccompanied site inspection carried out on 22 September 2015, Mr K. Henderson, Planning Adviser advised that Members of the MLRB were shown the site where the proposed development would take place.
- 3.4 Mr Henderson advised the MLRB that the application had been assessed against the Moray Local Plan 2008 and Moray Structure Plan 2007. He further advised that, under the Moray Local Development Plan 2015, the Housing the Countryside Policy had changed from Policy H8 to H7 and that there had been slight changes to the wording but the overriding principles of the policy - to which this application was assessed against - had remained the same. He noted that Policy E10 'Countryside Around Towns' had not changed and that the overriding principle of Policy E4, which was now E5 in the 2015 Plan, has remained the same bar some slight changes to the wording.
- 3.5 He further advised that the proposal was refused on the grounds that the proposal does not comply with Policies 1 and 2 of the Moray Structure Plan 2007 and Policies E10, H8, T2 and IMP1 of the Moray Local Plan 2008 on the grounds that the proposal does not involve the replacement of any existing buildings, is not related to agriculture or low intensity recreation, or is designated as long term housing land and as such would represent an unwarranted development within the Countryside Around Town (CAT) area, undermining the principles of Policy E10 and Structure Plan Policy 2 which aim to prevent development sprawl.
- 3.6 Stating that the proposed site would detract from the character of the existing grouping, Mr Henderson noted that the house, when viewed from the A98, would occupy a skyline position, appearing prominent within the landscape and lacking any form of mature backdrop to offset this impact and that the existing access junctions from the A98 serving the site are substandard, due to their narrow nature, acute angle in relation to the public road and substandard visibility splays and any intensification of use of this junction would be detrimental to road safety.
- 3.7 Referring to the Applicant's Ground for Review, Mr Henderson advised that the Applicant states that the proposal falls within the CAT and that the plot for the proposed dwellinghouse is the final part of the garden ground of the existing property Shalom, referring to the proposed site as being a brownfield site. He also made reference to a separate planning application immediately to the South East of the site for two dwellinghouses which was granted permission on review by the Scottish Office in 2009 where the site was deemed by the Reporter to be brownfield.
- 3.8 Stating that the current policy does not make allowances for brownfield sites within the CAT area, the Applicant advised that the proposal will not lead to a development sprawl as suggested but will merely be finishing infill to an existing group of houses within this brownfield site. He advised that the proposed plot would not occupy a skyline position and that that tree planting will help merge the house into the CAT area and that it would not be visible from the A98.

- 3.9 The Applicant stated that the current access points are used by a number of properties and have remained consistent for a number of years. He advised that visibility in both directions is excellent and that any overgrown foliage could be trimmed back on the assumption that either The Moray Council or Trunk Roads have control of this verge.
- 3.10 In response to a query from Councillor Cowie, Mr J. Killeen, Engineer (Transport Development) confirmed that the required visibility splay for the two accesses was 4.5 metres by 215 metres.
- 3.11 Councillor Cowie, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that he was of the same opinion as the Appointed Officer and moved that the review be dismissed and the Appointed Officer's decision be upheld to refuse the application.
- 3.12 Councillor Shepherd stated he was of the same opinion as Councillor Cowie and seconded his motion.
- 3.13 The Chair, whilst remaining unconvinced that the application fails to comply with Policy H8, stated he was of the same opinion as Councillors Cowie and Shepherd.
- 3.14 There being no one otherwise minded, the MLRB agreed to dismiss the review and uphold the Appointed Officer's decision to refuse the planning application.

Paul Nevin
Senior Solicitor (Property & Contracts)
Legal Adviser to the MLRB

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

1. If the Applicant is aggrieved by the decision of the Planning Authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the Applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Muthority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.