



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR143
  - Site address: North Wardend, Wardend, Birnie
  - Application for review by Mr Gavin Strathdee, c/o Mr Stewart Reid, Strathdee Properties Ltd against the decision of an Appointed Officer of The Moray Council
  - Planning Application 15/01762/APP to erect dwellinghouse with detached garage
  - Unaccompanied site inspection carried out by the MLRB on 24 February 2016
  - Date of decision notice: 3 March 2016
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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 2013.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 25 February 2016.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Cowie, K. Reid and R. Shepherd.

#### 2. Proposal

- 2.1 This is an application for planning permission to erect dwellinghouse with detached garage at North Wardend, Wardend, Birnie.

#### 3. MLRB Consideration of Request for Review

- 3.1 The Chair noted that as Councillor Shepherd did not attend the site visit, he could not take part in the deliberation of the case.

- 3.2 The Moray Local Review Body (MLRB) considered a request from the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application to erect dwellinghouse with detached garage at North Wardend, Wardend, Birnie.
- 3.3 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.
- 3.4 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.5 With regard to the unaccompanied site visit carried out on 24 February 2016, Mrs Gordon, Planning Adviser, advised that Members were shown the site where the proposed development would take place.
- 3.6 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policies H7, PP3 and IMP1 of the Moray Local Development Plan 2015 in that 10 plots have been approved within this woodland, which is an area of significant build up as identified in the Housing in the Countryside Supplementary Guidance. She further advised that the introduction of a further house in this location would result in an unacceptable build-up of housing that would irreversibly change the rural character of the area.
- 3.7 Stating that despite screening afforded by the established trees, the Planning Adviser advised that the cumulative build-up of these proposals would alter the appearance and character of the area through increased visibility of built development and through associated activity i.e. increased vehicle movements, refuse bin collections etc. which in turn would erode and undermine its rural character and would not create a place with character and identity. She also noted that the development would undermine the character of the area as it cannot be effectively integrated into the surrounding landscape.
- 3.8 She stated that the site lacks sufficiently established boundaries to distinguish the site from the surrounding landscape.
- 3.9 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the prevailing settlement pattern is characterised by both small clusters of housing and individual houses nestled in existing mature and semi mature trees and that the plot would be situated deep into the existing woodland away from the large cluster of dwellings to the north and would be well placed to blend in with the settlement pattern. The Applicant stated their belief that no detrimental impact would be felt and no irreversible change to the rural character of the area would occur.
- 3.10 Advising that this proposal has been designed as a standalone dwelling concealed by woodland to ensure that it integrates with the existing settlement pattern, the Applicant stated that the large woodland area means it is effectively hidden by tree screening. They advised that it is considered unlikely that the increased traffic of an additional dwelling will noticeably cause any problems.

- 3.11 Referring to site boundaries, the Applicant stated that it is contended that the site would be bounded by at least 50% boundaries, consisting of existing mature trees together with an existing defined track along the south western and south eastern boundaries. They advised that they would be willing to carry out the required area of compensatory planting elsewhere in Moray on land that they own.
- 3.12 The Chair, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated his belief that the site lacks sufficiently established boundaries to distinguish the site from the surrounding landscape and moved that the review be dismissed and the Appointed Officer's decision be upheld to refuse the planning application.
- 3.13 There being no one otherwise minded, the MLRB agreed to dismiss the review and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 15/01762/APP.

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

## **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

### **Notification to be sent to Applicant on determination by the Planning Authority of an application following a review conducted under Section 43A(8)**

#### **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 Authority 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.