



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR165
 - Application for review by Mr & Mrs D. McWhirter, c/o Mr S. Morrison, Grant & Geoghegan against the decision of an Appointed Officer of The Moray Council
 - Planning Application 16/00382/APP to erect dwellinghouse and associated works on Site 150m East of Brennach, Birnie
 - Unaccompanied site inspection carried out by the MLRB on 27 September 2016
 - Date of decision notice: 24 October 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 29 September 2016.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Cowie, M. McConachie, K. Reid and R. Shepherd.

2. MLRB Consideration of Request for Review

- 2.1 A request was submitted by 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 and associated works on site 150m east of Brennach, Birnie.
- 2.2 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with documents considered or prepared by the

Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

- 2.3 The MLRB agreed that it had sufficient information to determine the request for review.
- 2.4 With regard to the unaccompanied site inspection carried out on 27 September 2016, Mrs Gordon, as Planning Adviser to this review, advised that Members of the MLRB were shown the site where the proposed development would take place and provided with a summary of the reasons for refusal and the Applicant's Grounds for Review.
- 2.5 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal is contrary to the provisions of Policies H7: *New Housing in the Open Countryside* and IMP1: *Developer Requirements* of the Moray Local Development Plan 2015 where, because of its siting/location, the proposal would result in an additional dwelling contributing to an unacceptable build-up of housing changing the rural character of the area. She also advised that the boundaries are not long established by dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways, but will be created by arbitrary woodland clearance.
- 2.6 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had noted that the site is located in a relatively well settled part of Moray, characterised by single and small groups of buildings dispersed throughout the rural area. They stated their belief that the addition of a sensitively sited and designed single dwelling which reflects the separation between properties in this existing group cannot reasonably be seen as unacceptable build-up of development or detract from the rural character of the area.
- 2.7 The Applicant advised that the existing layout of the group lends itself to an additional site in this position and it consolidates and reinforces this housing group. Stating that it is considered that this site has all the characteristics of an acceptable infill site, the Applicant advised that the proposal to add another house to an existing, well screened grouping is reasonable and compliant with development plan because it related well to the established settlement pattern.
- 2.8 Stating that the modest scale and appearance of the proposal of the proposed development, coupled with the implementation of a long term landscaping planning, will protect and enhance the important amenity value of the area, the Applicant noted that substantial mature planting will meet and exceed aspects of the prescribed siting criteria in terms of the lack of 50% boundaries. They stated their belief that the site is very well defined and enclosed in comparison houses to other houses in the area granted planning permission.
- 2.9 Councillor McConachie queried whether the area was classed as a settlement under the Rural Groupings Supplementary Guidance. In response, the Planning Adviser advised that the area was not classed as a settlement.
- 2.10 The Chair, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that he believed the proposal complied

with Policy IMP1 on the basis that the site was well screened and hidden but was contrary to Policy H7.

- 2.11 Councillor Cowie, stating that he was of the same opinion as the Chair, moved that that the review be dismissed and the Appointed Officer's decision be upheld, on the grounds that the proposal was only contrary to Policy H7, to refuse planning permission in respect of Planning Application 16/00382/APP.
- 2.12 There being no one otherwise minded, the MLRB agreed to dismiss Case LR165 and uphold the Appointed Officer's decision, on the grounds that the proposal was only contrary to Policy H7, to refuse planning permission in respect of Planning Application 16/00382/APP.

Paul Nevin
Senior Solicitor (Property & 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.