



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR167
  - Application for review by Mr Gavin Strathdee, c/o Mr Stewart Reid, Strathdee Properties Ltd against the decision of an Appointed Officer of Moray Council
  - Planning Application 16/01011/APP to erect a dwellinghouse with a detached garage at Upper Hilton View, Hilton Farm, Buckie [Ward 3: Buckie]
  - Unaccompanied site inspection carried out by the MLRB on 26 October 2016
  - Date of decision notice: 24 November 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 27 October 2016.
- 1.3 The MLRB was attended by Councillors G. Coull (Deputy Chair), G. Cowie, M. McConachie, K. Reid and R. Shepherd.

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

- 2.1 In the absence of the Chair, Councillor Coull, in his role as Deputy Chair of the Body, assumed the position of Chair.
- 2.2 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 a dwellinghouse with a detached garage at Upper Hilton View, Hilton Farm, Buckie.

- 2.3 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.
- 2.4 The MLRB agreed that it had sufficient information to determine the request for review.
- 2.5 With regard to the unaccompanied site inspection carried out on Wednesday 26 October 2016, Ms Webster, 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.
- 2.6 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to the provisions of Policies H7: New Housing in the Open Countryside and IMP1: Developer Requirements of the adopted Moray Local Development Plan 2015 and, as a material consideration, the associated Supplementary Planning Guidance 'Housing in the Countryside.' She noted that the site does not have long-established boundaries and lacks sufficient backdrop and enclosure and that the proposal would result in obtrusive form of development which would be highly visible from the A98 road and the surrounding area.
- 2.7 Stating that, as an additional dwelling, the introduction of this development would contribute further to the build-up of development in this locality, the Planning Adviser advised that as such, the location and siting characteristics of the proposal are unacceptable and the development would fail to integrate sensitively into its setting, and both detract from and undermine the character, appearance and amenity of the rural character of the surrounding open countryside within which it is located.
- 2.8 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the dwelling would have existing mature trees as well as the raised edge of a quarry as a backdrop which would integrate the house within the landscape. The Applicant acknowledged that the building would be visible from the A98 and surrounding areas but stated their belief it would provide an attractive feature in the landscape.
- 2.9 The Applicant advised that the proposal would form a cluster of 2 houses with a consented agricultural building and as such would be similar in nature to other clusters of development nearby thereby integrating well into the surrounding settlement pattern. Stating that whilst the proposal would increase the number of houses in the area, the Applicant advised that they do not believe it would change the rural character of this part of the countryside.
- 2.10 Referring to the site, the Applicant advised that it was defined and bounded by at least 50% of existing boundaries consisting of existing shrubbery, post and wire fencing and a descending access track. Stating their belief that the design requirements set out in Policy H7 are met and noted that the finish does not form any sense of urbanisation.
- 2.11 Councillor Cowie, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that he agreed with the Appointed

Officer and believed that the proposal would be very prominent from the A98. Accordingly, he moved that the review be dismissed and the Appointed Officer's decision be upheld to refuse planning permission in respect of Planning Application 16/01011/APP.

- 2.12 Councillor Shepherd stated that he was of the same opinion as Councillor Cowie and seconded his motion.
- 2.13 There being no one otherwise minded, the MLRB agreed to dismiss Case LR167 and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 16/01011/APP.

**Aileen Scott**  
**Legal Services Manager (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.