



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR216
 - Application for review by Mr Ian Riddoch, c/o Mr John Wink of John Wink Design against the decision of an Appointed Officer of Moray Council
 - Planning Application 18/00628/PPP – Erect dwelling house on site adjacent to Bracobrae, Grange, Keith
 - Unaccompanied site inspection carried out by the MLRB on 13 December 2018
 - Date of decision notice: 9 January 2019
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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 on the following occasions:- 29 November and 20 December 2018.
- 1.3 On 29 November 2018, the MLRB was attended by Councillors George Alexander, David Bremner, Paula Coy and Derek Ross. On 20 December 2018, Councillors George Alexander, David Bremner, Paula Coy, Donald Gatt and Derek Ross were in attendance.

2. MLRB Consideration of Request for Review

29 November 2018

- 2.1 The Chair stated that the Moray Local Review Body (MLRB) had received an email from the Clerk advising that incorrect paperwork had been issued with

the Agenda for Case LR216 and asked the Legal Adviser to provide further information in this regard.

- 2.2 The Legal Adviser advised that it had become apparent that the wrong Site Location Plan had been published in the Agenda and, in order to ensure that there is no dubiety over the site which is subject of the review, asked that the MLRB consider deferring Case LR216 until the next meeting of the MLRB scheduled for 20 December 2018 to allow publication of the correct paperwork. This was agreed.
- 2.3 Thereafter, the MLRB agreed to defer Case LR216 until the next meeting of the MLRB scheduled for 20 December 2018 to allow publication of the correct paperwork.

20 December 2018

- 2.4 Under reference to paragraph 5 of the Minute of this Committee dated 29 November 2018, the (Moray Local Review Body) MLRB continued to consider 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 on the following grounds:

The proposal is unacceptable and contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies H7 and IMP1) and, as a material consideration, the associated Supplementary Guidance 'Housing in the Countryside' where, because of its location/siting, this would be an inappropriately located site as development thereon would lead to a joining up and coalescence of development in the vicinity of the site, and in creating and serving to reinforce a ribbon or linear form of development extending along the C47H road, the proposal would therefore be detrimental to and undermine the character, appearance and amenity of the open countryside within this part of Grange.

- 2.5 A Summary of Information report set 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.
- 2.6 The Chair stated that, at the meeting of the MLRB on 29 November, it had become apparent that the wrong location plan had been published in the Agenda and it was agreed to defer Case LR216 until the next meeting of the MLRB scheduled for 20 December 2018 to allow publication of the correct paperwork.
- 2.7 With regard to the unaccompanied site inspection carried out on 13 December 2018, the Chair stated that all members of the MLRB present were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicant's grounds for review.
- 2.8 In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

- 2.9 The Chair then asked the MLRB if they had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.
- 2.10 Councillor Gatt, having had the opportunity to visit the site and consider the Applicant's grounds for review, moved that the appeal be refused and the original decision of the Appointed Officer upheld, as the proposal was contrary to Policies H7 and IMP1 of the MLDP 2015 and the associated Supplementary Guidance 'Housing in the Countryside'. This was seconded by Councillor Alexander.
- 2.11 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR216 and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 18/00628/APP as the proposal was contrary to Policies H7 and IMP1 of the MLDP 2015 and the associated Supplementary Guidance 'Housing in the Countryside'.

Mrs Aileen Scott
Legal Services Manager (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.