



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR221
 - Application for review by Mr Douglas Fraser, c/o Neil Grant, Grant & Geoghegan against the decision of an Appointed Officer of Moray Council
 - Planning Application 18/00862/APP – Erect dwelling house and associated works at a site at Kirkton Cottage, Alves, Moray
 - Unaccompanied site inspection carried out by the MLRB on Monday 25 March 2019
 - Date of decision notice: 20 May 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:- 28 March 2019 and 25 April 2019.
- 1.3 On 28 March 2019, the MLRB was attended by Councillors Alexander, Bremner, Coy, Gatt, McLean, Ross and Taylor. On 25 April 2019, Councillors Alexander, Bremner, Coy, Gatt, Ross and Taylor were in attendance.

2. MLRB Consideration of Request for Review

28 March 2019

- 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 on the grounds that:

The proposal is contrary to Policies PP1, H7 and IMP1 of the adopted Moray Local Development Plan 2015 and, as a material consideration, the associated Supplementary Guidance: Housing in the Countryside, whereby

- i. individually, the proposal would not integrate sensitively with the surrounding area where, given the open setting of the site on part of an agricultural field, any resultant dwelling thereon would appear as an obtrusive and conspicuous form of development and, in addition, the site lacks sufficient backdrop, screening and enclosure to mitigate the impact of the development and assist in its integration sensitively into the surrounding landscape; and
- ii. cumulatively, the introduction of an additional dwelling would contribute to the further build-up of development in the locality and thereby, it would detract from, and be detrimental to, the character, appearance and amenity of the surrounding rural area within which it is located.

2.2 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 in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

2.3 With regard to the unaccompanied site inspection carried out on 25 March 2019, the Chair stated that all present members of the Moray Local Review Body (MLRB) 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.

2.4 In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, the Legal Adviser advised that she had nothing to raise. The Planning Adviser advised that the consultation response from Transportation was not included in the papers therefore the case should be deferred to the next meeting of the MLRB to give members the opportunity to review the consultation response from Transportation. This was unanimously agreed.

2.5 Accordingly, the MLRB agreed to defer Case LR221 until the next meeting of the MLRB scheduled for 25 April 2019 to give members the opportunity to review the consultation response from Transportation.

25 April 2019

2.6 Under reference to paragraph 6 of the Minute of the Moray Local Review Body dated 28 March 2019, the 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 grounds that:

The proposal is contrary to Policies PP1, H7 and IMP1 of the adopted Moray Local Development Plan 2015 and, as a material consideration, the associated Supplementary Guidance: Housing in the Countryside, whereby

- i. individually, the proposal would not integrate sensitively with the surrounding area where, given the open setting of the site on part of an

agricultural field, any resultant dwelling thereon would appear as an obtrusive and conspicuous form of development and, in addition, the site lacks sufficient backdrop, screening and enclosure to mitigate the impact of the development and assist in its integration sensitively into the surrounding landscape; and

- ii. cumulatively, the introduction of an additional dwelling would contribute to the further build-up of development in the locality and thereby, it would detract from, and be detrimental to, the character, appearance and amenity of the surrounding rural area within which it is located.
- 2.7 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 in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
 - 2.8 With regard to the unaccompanied site inspection carried out on 25 March 2019, the Chair stated that all member of the Moray Local Review Body (MLRB) 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.
 - 2.9 The Chair further stated that at the meeting of the MLRB on 28 March 2019, it had been noted that the consultation response from Transportation was not included in the papers therefore Case 221 had been deferred until the next meeting of the MLRB to give members the opportunity to review the consultation response from Transportation.
 - 2.10 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.
 - 2.11 Having had this further information, the Chair asked the MLRB if it now had sufficient information to determine the request for review. In response, the MLRB agreed that it had sufficient information.
 - 2.12 The Chair, 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.
 - 2.13 There being no-one otherwise minded, the MLRB agreed to dismiss Case 221 and uphold the original decision of the Appointed Officer to refused Planning Application 18/00862/APP as the proposal is contrary to Policies PP1, H7 and IMP1 of the adopted Moray Local Development Plan 2015 and, as a material consideration, the associated Supplementary Guidance: Housing in the Countryside.

Mrs Aileen Scott
Legal Services Manager
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.