



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR227
  - Application for review by Mr Iain Whitecross c/o Karine Suller, Suller & Clark against the decision of an Appointed Officer of Moray Council
  - Planning Application 19/00318/APP – Erection of dwellinghouse and garage at The Maltings, Adjacent to Cairn vonie Farm, Archiestown
  - Unaccompanied site inspection carried out by the MLRB on 23 August 2019
  - Date of decision notice: 12 September 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 at the meeting held on 29 August 2019.
- 1.3 The MLRB was attended by Councillors Taylor (Chair), Alexander, Gatt and R McLean.

#### 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 on the grounds that:

The proposal is contrary to the provisions of the Moray Local Development Plan (MLDP) 2015 because the proposal would contribute to an inappropriate build-up of development that would be detrimental to the rural character of the surrounding area, contrary to policies H7 (Housing in the Countryside) and IMP1 (Developer Requirements), as well as the Supplementary Guidance on

## Housing in the Countryside.

This is further supported by the Moray Local Development Plan supplementary Guidance Note on Landscape and Visual Impacts of Cumulative Build-Up of Houses in the Countryside, whereby the site is located in an area where a build-up of housing (built and consented) is considered to have an adverse impact on the character of the surrounding rural area. The development of a house on this site would further exacerbate this.

Whilst limited weighting is given to it, the proposal is also contrary to the Proposed Moray Local Development Plan 2020 (policies DP1 (Developer Requirements) and DP4 (Rural Housing)).

- 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 23 August 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 Planning Adviser advised that she had nothing to raise at this time. The Legal Adviser advised that the Applicant had submitted a letter in support of her appeal which had included additional information which was not before the Appointed Officer at the time of consideration. He advised that the majority of the information contained within the supporting letter was not relevant in planning terms however it did mention that, although the proposal was for development in a "hot spot" area with restricted development which neither the Applicant nor Agent were aware of at the time of application, the Applicant stated that they had gone to great expense and taken a lot of time to ensure that the proposed house is in keeping with the countryside area. With this in mind, the Legal Adviser advised that the MLRB should decide whether to include the supporting letter when considering the application, in which case, in terms of Regulation 17 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, the Appointed Officer should be afforded the opportunity to comment on the additional information. He further advised that the MLRB may also choose to consider the application discounting the letter of support from the Applicant if it is of the view that the letter is not relevant in planning terms.
- 2.5 Councillor Gatt was of the view that the supporting letter from the Applicant should be discounted as it was background information relating to the Applicant's motives for the application and so was not relevant to the planning decision and further, the MLDP 2015 and supplementary guidance is widely available to all members of the public when considering development. There being no-one otherwise minded, the MLRB agreed to discount the supporting letter and went on to consider the planning application without further process being necessary.

- 2.6 The Chair asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.
- 2.7 Councillor Gatt, having had the opportunity to visit the site and consider the Applicant's grounds for review moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00318/APP as the proposal is contrary to policies H7 (Housing in the Countryside) and IMP1 (Developer Requirements), as well as the Supplementary Guidance on Housing in the Countryside, MLDP supplementary Guidance Note on Landscape and Visual Impacts of Cumulative Build-Up of Houses in the Countryside and policies DP1 (Developer Requirements) and DP4 (Rural Housing) of the proposed MLDP 2020.
- 2.8 There being no-one otherwise minded, the MLRB agreed to dismiss Case 227 and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00318/APP as the proposal is contrary to policies H7 (Housing in the Countryside) and IMP1 (Developer Requirements), as well as the Supplementary Guidance on Housing in the Countryside, MLDP supplementary Guidance Note on Landscape and Visual Impacts of Cumulative Build-Up of Houses in the Countryside and policies DP1 (Developer Requirements) and DP4 (Rural Housing) of the proposed MLDP 2020.

**Mr Sean Hoath**  
**Senior Solicitor**  
**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.