



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR232
 - Application for review by Mr John Mitchell and Ms Isla Grant against the decision of an Appointed Officer of Moray Council
 - Planning Application 19/00825/APP – Erect dwellinghouse, detached garage and all associated works at Plot on Station Road, Urquhart, Moray
 - Unaccompanied site inspection carried out by the MLRB on 28 January 2020
 - Date of decision notice: 9 April 2020
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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 30 January 2020.
- 1.3 The MLRB was attended by Councillors Taylor, Bremner, Alexander, Coy, Gatt and Ross.

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 2015 because:

- i. It would be prominently and obtrusively sited in an open area of agricultural ground with no natural backdrop, nor any long established

boundaries that would enable it to be adequately integrated without detriment to the rural character of the area. This is contrary to policies H7 (Housing in the Countryside) and IMP1 (Developer Requirements), as well as the Supplementary Guidance on Housing in the Countryside; and

- ii. Its close proximity to the settlement boundary of Urquhart, along with its inappropriate siting (as outlined above) would be detrimental to the clear distinction in place between Urquhart and its surrounding countryside, contrary to policy E9 (Settlement Boundaries).
- 2.2 Whilst minimal weighting is given to it, the proposal would also be contrary to the provisions of the Proposed Moray Local Development Plan 2020 (policies DP1, DP4 and EP6).
- 2.3 A Summary of Information Report set out the reasons for refusal, together with the 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.
- 2.4 With regard to the unaccompanied site inspection carried out on 28 January 2020, the Chair stated that present members and Mr Henderson, Planning Officer 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.
- 2.5 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.
- 2.6 The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.
- 2.7 Councillor Ross, having visited the site and considered the Applicant's grounds for review, stated that it was clear that the proposed development was outwith the settlement boundary and moved that the MLRB refuse the appeal 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. This was seconded by Councillor Alexander.
- 2.8 Councillor Gatt, having also visited the site and considered the Applicant's grounds for review, acknowledged that the proposal was just outwith the settlement boundary however as the proposed development was just across the road from a nearby property within the settlement boundary and wasn't within a red zone (hotspot) or on a site of great landscape value, was of the view that this would be an acceptable departure from policies H7 and IMP1 and moved, as an amendment, that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 19/00825/APP. On failing to find a seconder, his motion fell.
- 2.9 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR232 and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00825/APP as the proposal is contrary to policies H7 (Housing in the Countryside) and IMP1 (Developer Requirements), of the

MLDP 2015 as well as the Supplementary Guidance on Housing in the Countryside. Furthermore, whilst minimal weighting is given to it, the proposal would also be contrary to the provision of the MLDP 2020 (policies DP1, DP4 and EP6).

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.