



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 001
- Site address: Clayland, Auchairn By Keith AB55 6QU
- Application for review by Mr Stephen Moir against the decision by an Appointed Officer of Moray Council.
- Application 09/00961/OUT for Outline planning permission for the erection of a new dwellinghouse.
- Unaccompanied site inspection carried out by MLRB on 19 March 2010

Date of Decision Notice: 19 April 2010

Decision

The MLRB agreed to uphold the decision of the Appointed Officer to refuse planning permission in principle.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission in principle was considered by the MLRB at two meetings on 25 February and 24 March 2010. The Review Body was attended at both meetings by Councillors D Ross (Chair), J Hogg and P Paul.

2.0 Proposal

2.1 This is an application for planning permission in principle to erect a new dwellinghouse at Clayland, Auchairn, By Keith AB55 6QU. The site currently comprises a fenced-off parcel of rough ground of approx. 0.165 ha (0.4 acres). The site is irregular in shape, has 100 % boundaries defined by post and wire fencing and contains stands of immature trees. Access to be formed onto adjacent C74H minor road. Foul drainage by private septic tank and soakaway system. Public water supply.

3.0 MLRB Consideration of request for review

3.1 At the meeting of the MLRB on 25 February 2010 it was agreed that there was insufficient information in order to proceed to determine the request for review and it was agreed that an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of Policy H8 of the Moray Local Plan 2008, in particular to the natural backdrop, prominence of the site and overall character of the area and that the Legal & Planning Advisors be in attendance.

3.2 The unaccompanied site inspection was carried out on Friday 19 March 2010. Members of the MLRB viewed the site on approach, on site and from different aspects of the public road network particularly the series of 'C' class roads round four sides of the site. Members also tried to view the site from the B9016 in Aultmore.

3.3 At the meeting of the MLRB on 24 March 2010 the LRB agreed that it considered that it now had sufficient information in order to proceed to determine the request for review and proceeded to consider the terms of refusal and grounds for review with specific reference to the prominence of the site when viewed from the adjoining public road network and the reasons for refusal. The LRB also agreed that Policy H8 of the Moray Local Plan 2008 was the lead policy.

3.5 Following consideration the MLRB agreed, by a two to one majority, that the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the proposal is contrary to Policy H8 of the Moray Local Plan 2008 for the following reasons:-

- (i) that the proposal would be located within an open rural setting of largely uniform landform character, which would lack sufficient backdrop to offset its prominence when viewed from the adjoining U141H Followsters Road; and
- (ii) the resultant development would represent an unacceptable visual impact from the adjoining U141H Followsters Road which would detract from the rural character of this part of the countryside.

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Rhona Gunn
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 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 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.