



## MORAY COUNCIL LOCAL REVIEW BODY

### Review Decision Notice

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Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 008
- Site address: Plot A, Lockers, Followsters Farm, Newmill, Keith
- Application for review by Mr John Cousar against the decision by an Appointed Officer of Moray Council.
- Application 09/01109/OUT : Planning permission in principle for the erection of a dwellinghouse.
- Accompanied site inspection carried out by the MLRB on Friday 14 May 2010.

Date of Decision Notice: 7 June 2010

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### Decision

The MLRB agreed to dismiss the request for review and 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 meetings on 22 April and 19 May 2010. The Review Body was attended at both meetings by Councillors P Paul (Chair), B Jarvis and J MacKay.

## **2.0 Proposal**

- 2.1 This is an application for planning permission in principle for the erection of a dwellinghouse and associated works to upgrade/extend track to Plot A, Lockers, Followsters Farm, Newmill, Keith.

## **3.0 MLRB Consideration of request for review**

- 3.1 At the meeting of the MLRB on 22 April 2010 it was agreed that there was insufficient information in order to proceed to determine the request for review and agreed that a site inspection be undertaken, the purpose of which being to view the site in the context of policy 1(e) of the Moray Structure Plan 2007, and Policies H8 and IMP1 of the Moray Local Plan 2008. The MLRB also agreed that given the site could not be accessed safely that the site inspection be accompanied with the Planning & Legal Advisers in attendance.
- 3.2 The accompanied site inspection was carried out on Friday 14 May 2010. On the site the Planning Adviser to the MLRB summarised the grounds for refusal and the case put forward by the applicant for a Review. He also pointed out that although there was evidence of previous buildings on the site, the applications were not on a "replacement" basis, as the remains did not meet Level 2 requirements of policy H7 of the Moray Local Plan 2008. He indicated the location of the public road to the east, referred to in the reasons for refusal, from which the LRB also viewed the site. The MLRB noted that the site would be accessed via an extension of an existing track to the south, which would be extended to Plot B, Lockers and then across the field to Plot A. There were no requests from those accompanying the MLRB on the site inspection to view anything further. The MLRB then proceeded, unaccompanied, with the knowledge of the applicant's agent, to view the site from the public road to the east.
- 3.3 Whilst viewing the site from the public road to the east clarification was sought by the MLRB members as to whether 25% tree planting would make the site more acceptable. The Planning Adviser to the MLRB advised that this was not intended to be used as a mitigating factor to justify otherwise intrusive development, and is to be applied to all applications. He had referred the MLRB to the two aspects of the Council's Housing in the Countryside policy which relate to siting and design. The 25% tree planting is in the 'Design' section and only comes in to play if the siting elements have been met, which had been deemed not to be the case in this instance. The Planning Adviser was not required to give any other substantive planning advice.
- 3.4 On reviewing the case at the meeting on 19 May 2010 the MLRB agreed that it now had sufficient information in order to proceed to determine the request for review. The MLRB was of the opinion that whilst the land rises to the west of the site this was not, in their opinion, sufficient to overcome the prominence of the site and the proposed access to the site from Plot B, Lockers, which would result in an overtly prominent development in the middle of an open field.

- 3.5 The MLRB unanimously agreed that the request for review be refused and the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the proposal is contrary to policy 1(e) of the Moray Structure Plan 2007 and policies H8 and IMP1 of the adopted Moray Local Plan 2008 for the following reasons:-

‘The proposal involves the formation of a house plot and associated access track in the central area of a field within an open rural setting. It would be readily visible from elevated viewpoints along the public road to the east and other than a small stand of trees within the site, would have no backdrop to offset its prominence. Given these site characteristics and surroundings, the prospective dwelling and access track would represent inappropriate ‘overtly prominent’ development in the countryside that would neither be low-impact nor well located. The resultant development would detract from the rural character of this part of the countryside contrary to the above provisions. No material considerations exist to warrant a departure from policy’.

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**R D Burns**  
**Clerk 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.