

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Mark this box to confirm all contact should be through this representative: Yes No

* Do you agree to correspondence regarding your review being sent by e-mail? Yes No

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application

Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

/

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE REVIEW STATEMENT ON SEPARATE SHEET

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

WE ARE REFERRING TO 2 SCOTTISH OFFICE APPEALS GRANTING CONSENT FOR PLANNING PERMISSION IN PRINCIPAL FOR 2 SIMILAR PLOTS IN MORAY WITH IDENTICAL CIRCUMSTANCES. IT WAS NOT THOUGHT NECESSARY TO REFER TO THESE APPEALS AS WE FELT THE APPLICATION COMPLIED WITH LOCAL PLAN POLICIES.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

PLANNING APPLICATION FORMS. (OUTLINE).
 " " DRAWINGS.
 " DECISION NOTICE.
 REVIEW STATEMENT.
 COPIES OF APPEALS GRANTED BY SCOTTISH OFFICE FOR IDENTICAL DEVELOPMENTS.
 SITE PHOTOGRAPHS. INDICATING GROUND TOPOGRAPHY.
 NOTICE OF REVIEW FORMS.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed [Redacted Signature]

Date 18/12/09



design consultants

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NOTICE OF REVIEW

STATEMENT

PPP FOR NEW DWELLING HOUSE AT CLAYLAND, AUCHAIRN, AULTMORE, KEITH FOR MR STEPHEN MOIR.

In support of our review statement we would ask the committee to consider the following:-

This application was made on the basis that the current **Moray Council Local Plan** document requires for housing in the countryside to be successful, the proposed site to have 50% long established boundaries and additional 50% of boundaries can be formed to enclose the site. This site has the roadside as one of the boundaries and the second long established boundary is the fence between the boundary of our client's property and that of the fields belonging to his farming neighbour, Mr John Cousar at Followsters Farm. The Ordinance Survey also carries evidence that these fence lines have been in place for at least 100 years.

Our client planted trees in this area and fenced the "plot" off to avoid the trees being eaten or destroyed by animals. We have this situation where the proposed site has 2 long established boundaries and almost 25% tree cover on the site already which is what the Local Plan ideally is looking for housing to be successful.

Our understanding was that the current Local Plan's requirement for the 25% tree cover was to help any new dwelling integrate into the landscape of the surrounding countryside. Although these trees have only been planted for a couple of years they are above the minimum standard of 1.5 meters expected by the Local Plan. The additional tree planting would again assist the integration of the dwelling into the landscape.

Taking the Planning officials' comments for refusing this application into consideration, we feel that a site visit by the review panel will confirm that the site does have a backdrop but it all depends on where you view the site from. The topography of the ground is such that when heading towards the site from Aultmore,



there is a fairly steep hill to climb and then there is a lesser incline before passing the site and climbing again to the highest part of the hill. If you stand at the side of the road next to the site it could be argued that there is no real backdrop to the site. However, the planners' concern was when the site was viewed from the surrounding road network and by this we assume he is referring to the A96 Keith to Fochabers road and/or the B9016 Keith to Buckie road, the site would be prominent when viewed from these particular roads. We dispute this quite strongly and state that as these roads are much lower lying than the site, IF the site can be seen at all from them then any house built here would still have a backdrop of the hill to help the house integrate into the countryside. We doubt if the site could be seen from the Buckie road as the steep incline would provide a screen for the house as the plot is set back further from the brow of this part of the hillside.

The distance from the site in question and the A96 must be in excess of 1.5 miles. There is nothing in the Local Plan document to say a house cannot be seen from the surrounding road network. However, in this case we feel that the distance the house is in relation to any of the major road networks coupled with the topography of the ground in front of and to the rear of the site would render this house plot "invisible" in terms of prominence. We do not think that the planning officer has considered how this house will actually be viewed from the surrounding road networks. We think he has isolated the house when viewed from the track leading to Followsters and this is giving a false impression of the actual backdrop that does exist behind this plot when viewed from either the A96 or the B9016 roads.

In support of our review, we enclose photographs of the site taken from both the A96 and the B9016 and written on the back of the photographs are descriptions to assist you to determine whether the planning officer is correct or not. We would strongly request that the review panel visit the site and see for themselves how the contours of the ground actually assist in the setting of where the house will be rather than saying that a house would be overtly prominent. We feel the single most decisive factor when determining this case is the fact that the planning officer has stated that his decision has been made on this site when viewed by the surrounding road network. Should the panel be disposed to carry out a site visit and find places to park to try and view this site, we hope that you will agree that this site does have a backdrop to it and that a house could sit on this hillside and integrate sensitively into the surrounding countryside. We feel certain that any house built on this site would not break the skyline in any shape or form. This being the case, there must be a backdrop to the site over and above the tree planting.



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RECENT APPEALS.

We enclose copies of two Appeals to the Scottish Office Reporters unit where the Reporter came down in our favour for 2 Outline planning applications which were originally refused by planning officers. Citing for reasons for refusals, the officers felt that as the proposed sites were on open countryside with no backdrop, and could be clearly seen from the existing road network, that the sites did not comply with policies contained within the Council's Local Plan. However, you will see in both cases that the Reporters have overturned these decisions and granted clients Outline Planning Approval as the Reporters disagreed with the planning officers' interpretation of their own Local Plan. In both these instances the proposals were to site houses at the roadside where two boundaries existed and when viewing the sites from the local road network, the contours of the land to the rear created the backdrop to the site that the planning officers wrongly stated did not exist. The fact that there are existing trees on this site, already grown well above the 1.5 meters required by the Local Plan, and the existing contours of the land locally, will provide adequate backdrop to this site when viewed from the road network.

SUMMARY.

The proposed site lies on a hill side where the ground in front of the site protects and screens the site from the main road networks and the contours to the rear of the site provides along with the existing trees on the site, a suitable backdrop for any house proposed for this site. The site is not prominent and will have little or no impact on the surrounding countryside especially if viewed from the main road network. Recent Appeals in Moray for identical cases have been successful and granted by the Scottish Office Reporters Unit despite being refused by Moray Council planning officers.

With respect, we feel that in this instance the officer's decision is flawed as his reasons for refusal are similar to other cases which have been overturned at Appeal. In view of this we ask you on behalf of our client, Mr Stephen Moir, to grant him Planning Permission in Principal for his new dwelling house.

