



## 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 012
- Site address: Land South of Innes Road, Garmouth, Moray
- Application for review by Mr Alan Williams against the decision by an Appointed Officer of Moray Council.
- Application 09/01127/OUT : Planning permission in principle to erect two dwellinghouses.

Date of Decision Notice: 19 August 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 a meeting on 12 August 2010. The Review Body was attended by Councillors B Jarvis (Chair), J Hogg and J MacKay.

#### **2.0 Proposal**

- 2.1 This is an application for planning permission in principle for the erection of two dwellinghouses on land south of Innes Road, Garmouth.

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

- 3.1 As a preliminary issue at the meeting of the MLRB on 12 August 2010 the Legal Adviser to the MLRB referred the meeting to the applicant's suggestion that he would be prepared to accept approval for one house as opposed to the two houses requested were this to be a more attractive solution to the MLRB and advised the MLRB that this was not an issue within the powers of the MLRB. The request for review required to be considered in terms of the application which was before the Appointed Officer which was for two houses.
- 3.2 The MLRB noted that the key argument in this case related to whether the site was within or outwith the settlement boundary of Garmouth. As unusually there was no location plan with the papers and to assist the MLRB the Planning Adviser had prepared a layout plan showing the settlement boundary in relation to the proposed development site. The MLRB agreed to the location plan, prepared by the Planning Adviser, being tabled at the meeting, noting that it was not technically new evidence in terms of the Regulations.
- 3.3 Councillor Hogg sought guidance as to the accuracy of the tabled location plan and as to whether or not there was any long term release of land in the area under Policy H2 of the Moray Local Plan 2008.
- 3.4 The Planning Adviser advised the MLRB that the line on the tabled plan, which also indicated the location of the proposed development site, had been copied over from the Garmouth settlement plan on page 176 of the Moray Local Plan 2008 and also confirmed that there were no long term sites identified for Garmouth indicating where the village might expand in the longer term beyond the Local Plan period. The settlement boundary on the Local Plan map is the definitive line and does not respect land ownerships. He also advised the meeting that during the Local Plan process there were no objections to the proposed location of the settlement boundary and against that background any arguments for the release of land outwith the settlement boundary really ought to wait to the next Local Plan Review.
- 3.5 Thereafter the MLRB agreed that it had sufficient information in order to proceed to determine the request for review.
- 3.6 Councillor J MacKay expressed the view that the application was contrary to Policy E9 of the Moray Local Plan 2008 in that the proposed development is located immediately outwith the settlement boundary of Garmouth and represented an unplanned extension to the settlement and, in his opinion, there were no material considerations to justify departing from policy. For these reasons Councillor MacKay moved refusal of the request for review and that the Appointed Officer's decision to refuse the application for the reasons set out in the decision notice be upheld. The motion was supported by Councillors Hogg and Jarvis.

- 3.7 Accordingly the MLRB agreed that the original decision of the Appointed Officer to refuse the application be upheld on the grounds stated namely that the application does not comply with Policy E9: Settlement Boundaries of the Moray Local Plan 2008 in that the proposed development is located immediately outwith the settlement boundary of Garmouth and represents an unplanned extension to the settlement and there are no material considerations to justify departing from this policy.

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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.