



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 046
 - Site address: Opposite to Westerton Cottages, Arradoul, Buckie
 - Application for review by Mr Derek Reid against the decision by an Appointed Officer of Moray Council.
 - Application 11/00672/PPP : Erect 2 dwelling houses on a site opposite to Westerton Cottages, Arradoul, Buckie
 - Unaccompanied site inspection carried out by the MLRB on Monday 19 March 2012
 - Date of Decision Notice : 30 April 2012
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Decision

The MLRB agreed to dismiss the request for review and uphold the decision of the Appointed Officer to refuse full planning permission.

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 full planning permission was considered by the MLRB at a meeting on 23 February and 22 March 2012. The Review Body was attended at both meetings by Councillors R Shepherd (Chair), J Mackay & P Paul.

2.0 Proposal

- 2.1 The planning application seeks planning permission in principle for the erection of a pair of semi-detached dwellings. The application includes an indicative site layout showing the proposed position of the dwellings and access onto the public road. The two dwellings are to be situated in the south eastern corner of the site and will have plot areas of 339 sq m (plot 1) and 351 sq m (plot 2). The proposed access arrangements to these dwellings will accommodate two lay bys and an additional lay by installed further down the public road at the other end of the application site is also proposed. Two parking spaces and a turning area are proposed for each property. The development is to be served by a connection to the public water supply. In terms of drainage, the two properties would share a specialist treatment plant which is to be installed at the north western corner of the application site.

The site is a parcel of farmland rectangular shape (approximately 2948m²), which occupies a roadside position opposite Westerton Cottages, 120 metres to the south of the Arradoul rural community boundary. The site is surrounded by farm land which forms part of a flat plateau that rises gradually to the south. The site in question has 75% of its boundary defined by post and wire fencing.

This location was previously the site of eight local authority dwellings which were demolished circa 1968 and were replaced by Westerton Cottages on the opposite side of the road from the site.

MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 23 February 2012 there was submitted a 'Summary of Information' report by the Clerk to the MLRB setting out the reasons for refusal together with a copy of the Report of Handling and a copy of the Notice of Review & supporting documents.
- 3.2 Following consideration of the case papers the MLRB agreed that it did not have sufficient information in order to proceed to determine the request for review and agreed that an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of Policies 1(e) of the approved Moray Structure 2007 and policies H8 and IMP1 of the adopted MLP 2008. It was also agreed that the Planning Adviser attend the unaccompanied site inspection
- 3.3 At the subsequent meeting of the MLRB on 23 March 2012 there was submitted a 'Summary of Information' report detailing the outcome of the MLRB's previous consideration of the request for review and advising that the unaccompanied site inspection was undertaken on Monday 19 March 2012.
- 3.4 In regard to the unaccompanied site inspection the Planning Adviser advised that the application was for two dwelling houses in a countryside location which was refused on the grounds of a build up of development, would detract from character and appearance of the surrounding area and that it was felt that there was no natural backdrop or means of enclosure which resulted in an advertently prominent application. The applicant's case was based on the fact that the houses would not be readily visible from the surrounding areas and that when seen would be viewed in association with other houses. The applicant was also of the opinion that site was previously a brownfield site, had houses on it in the past and had a backdrop thereby reducing the prominence of the development.

- 3.5 The MLRB agreed that it now had sufficient information and proceeded to determine the request for review.
- 3.6 Councillor Mackay expressed the view that the site was opposite to Westerton Cottages and would be very prominent and totally out character with existing houses in that area and for these reasons he was in agreement the decision of the Appointed Officer that the application was contrary to policies H8 and IMP1 being totally out of character with the area.
- 3.7 Councillor Paul expressed the view that although there had been eight houses on this site sometime in the past, there was no evidence now and should not be taken into consideration. Referring to policy IMP1 of the Moray Local Plan 2008 (MLP) in terms of build up of the development opposite an existing group of properties Councillor Paul expressed the view that, in her opinion, the application would detract from the character of the surrounding area and existing properties. She was of the opinion, having looked at the maps of Arradoul which shows the houses on one side of the road, that this was not the right application for this location and, if approved, would change the whole appearance of the village. She was also of the view that there was insufficient backdrop and as the site was located in a relatively flat area the proposed development would be prominent and for these reasons she also agreed with the decision of the Appointed Officer.
- 3.8 Thereafter, the MLRB unanimously agreed to refuse the request for review and uphold the decision of the Appointed Officer to refuse the application on the grounds that the application is contrary to policy 1(e) of the approved Moray Structure 2007 and policies H8 and IMP1 of the adopted Moray Local Plan 2008 for the following reasons:
- (i) The resultant build-up of development located outwith and opposite an existing group of properties would lead to a suburban form of development that would detract from the character and appearance of the surrounding area.
 - (ii) This site has an open setting with no existing natural backdrop or means of enclosure that would result in an overtly prominent development detrimental to the rural character of the surrounding area. The landscape proposals are not considered sufficient to mitigate the impact of the development on the surrounding area due to the currently open setting of the site.
 - (iii) At the time of determining this application, the contribution identified by the Planning Gain Unit in relation to this development had not been provided in accordance with IMP3.

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Sean Hoath
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.