



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 049
- Site address: Burghead Neuk, Burghead, Moray
- Application for review by Mr Gavin Strathdee against the decision by an Appointed Officer of Moray Council.
- Application 11/01840/APP for planning permission for the erection of a new dwellinghouse and separate double garage.
- Unaccompanied site inspection carried out by MLRB on 21 June 2012

Date of Decision Notice: 18 July 2012

Decision

The MLRB agreed to uphold the decision of the Appointed Officer to refuse 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 planning permission was considered by the MLRB at two meetings on 7 June and 28 June 2012. The Review Body was attended at both meetings by Councillors B Jarvis (Chair), L Creswell and R Shepherd.

2.0 Proposal

- 2.1 This is an application for planning permission to erect a new dwellinghouse at Burghead Neuk, Burghead, Moray. The proposal site, which measures 2400 sq m, is in the corner of a grazing field with a frontage onto the B9013 and the south boundary defined by a stob and wire fence. The other two boundaries are undefined.

3.0 MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 7 June 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 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 Policies H8, ENV1 and E9 of the adopted Moray Local Plan 2008. It was also agreed that the Planning Adviser attend the unaccompanied site inspection.
- 3.3 At the subsequent meeting of the MLRB on 28 June 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 Thursday 21 June 2012.
- 3.4 In regard to the unaccompanied site inspection the Planning Adviser advised the meeting that on arrival at the site she had reminded members about the location of the site, the established boundaries and the mature trees in the surrounding area. She also outlined the reasons for refusal and the grounds for review.
- 3.5 The MLRB agreed that it now had sufficient information and proceeded to determine the request for review.
- 3.6 Councillor Jarvis having had the opportunity to visit the site expressed the view that in his opinion the site was not sufficiently screened and would have a detrimental impact on the surrounding area in terms of policy H8.
- 3.7 There being no one otherwise minded 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 Policies H8, ENV1 and E9 of the Moray Local Plan 2008 for the following reasons:
 - (i) The proposal would be overtly prominent due to the openness and elevated nature of the roadside development proposal, and would have a detrimental impact on the character of the setting.
 - (ii) The proposal would encourage a build up of development in the immediate vicinity of the Burghead settlement and lead to pressure for the unplanned expansion of that settlement; and
 - (iii) Further such development would be encouraged.

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Paul Nevin
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.