



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 053
- Site address: Application for review by Mr Donald Ross against the decision by an Appointed Officer of Moray Council.
- Application: 11/02022/PPP - Demolish flat and erect 4 no residential units at Heather Lodge Flat, Tytler Street, Forres, Moray.
- Accompanied 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 and 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 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), J MacKay and R Shepherd.

2.0 Proposal

- 2.1 This is an application for planning permission in principal for the erection of four residential units on the site of Heather Lodge Flat, Tytler Street, Forres. The proposal involve the demolition of Heather Lodge Flat and associated outbuildings, the erection of two semi-detached dwellings and two flats with associated gardens and areas of hardstanding and the creation of parking area for development.

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 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 H3 and IMP1 of the adopted Moray Local Plan 2008.
- 3.3 It was also agreed that the Planning Adviser attend the unaccompanied site inspection.
- 3.4 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.
- 3.5 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 proposed development and the boundary arrangements with the adjoining Heather Lodge were explained. She also outlined the reasons for refusal and the grounds for review.
- 3.6 The MLRB agreed that it now had sufficient information and proceeded to determine the request for review.
- 3.7 Councillor Shepherd intimated that, having had the opportunity to visit the site of the application, the decision of the Appointed Officer should be upheld for the reasons set out in the application Decision Notice.
- 3.8 There being no-one otherwise minded the MLRB agreed to uphold the Appointed Officer's decision to refuse planning permission on the grounds that the development would be contrary to policies H3 and IMP1 of the Moray Local Plan for the following reasons:

- (i) the development is considered to be over development of the site, with the proposals having an adverse impact on the surrounding environment; and
- (ii) the development is also of an inappropriate scale and density for the locality, thus not complying with policy IMP1.

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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.