



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 059
- Site address: Application for review by Mr John and Mrs Ishbel Harris against the decision by an Appointed Officer of the Moray Council.
- Application: 12/00511/APP – For the erection of 2 storey flats within grounds of Norland, Stotfield Road, Lossiemouth.
- Unaccompanied site inspection carried out by MLRB on 18 September 2012.

Date of Decision Notice: 31 October 2012

Decision

The MLRB agreed to uphold the decision of the Appointed Officer and 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 initially submitted to the meeting of the MLRB on 23 August 2012 where the MLRB agreed that all cases would be site visited prior to consideration. The case was therefore deferred for a site visit and considered at the meeting of the MLRB on 27 September 2012. The Review Body was attended by Councillors B Jarvis, (Chair), G Coull, L Creswell and G Leadbitter.

2.0 Proposal

- 2.1 This is an application for planning permission for the erection of 2 storey flats within grounds of Norland, Stotfield Road, Lossiemouth.

3.0 MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 27 September 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 In regard to the unaccompanied site inspection carried out on Tuesday 18 September 2012 the Planning Adviser advised the meeting that on arrival at the site she had advised members of the MLRB of the reasons for refusal, outlined the previous planning history and summarised the Grounds for Review. On the site inspection members were invited to view the context of the site in terms of other flatted development along Stotfield Road. On site they were shown the location of the development and referred to the drawings, attention was drawn to the immediate adjacent property, window arrangement on the elevation facing the proposed development and the proposed distance the new development would be from the boundary. The reasons for refusal and grounds for review were set out.
- 3.3 The reasons for refusal were that the proposal would result in an unacceptable cramped form of development and overdevelopment of the site thereby it would detract from the character and appearance of the surrounding area. The proximity and scale of the development relative to the western boundary would give rise to adverse loss of amenity in particular day/sunlight.
- 3.4 In the grounds for review the applicant states that the proposals were discussed in detail prior to submission, after refusal in 2011 further discussions were held prior to resubmission and no mention was made of the shape of the site. The building is in scale with adjacent houses to west and east, and the garden ground of 405 sqm allows for garden and parking. The neighbouring house has no low level windows at ground level and has 3 velux windows that are not overlooked or in shadow. The property to the west is of small character and appearance on smaller piece of land which is as narrow. The current proposal is less intrusive than other projects recently built along Stotfield Road.
- 3.5 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.6 Councillor Creswell expressed the view that having visited the site she was of the view that the site was very cramped and for this reasons she moved 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 proposed development was contrary to policies H3 and IMP1.

3.7 In seconding the motion Councillor Leadbitter expressed the view that in his opinion the scale of the development was too large and too close to the proximity of the western boundary and for these reasons the decision of the Appointed Officer should be upheld.

3.8 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 be upheld on the grounds that the proposal is contrary to policies H3 and IMP1, of the adopted Moray Local Plan 2008 where

- (i) by reason of the plot size/shape, in particular the narrow plot width available, the proposal would result in an unacceptable cramped form of development resulting in an over-development of the site and thereby, it would detract from the character and appearance of the surrounding environment;
- (ii) the proximity and scale of the development relative to the western boundary of the site would give rise to an adverse loss of amenity, in particular day/sun light to the adjacent neighbouring property, Laggan.
- (iii) Further such development would be encouraged.

.....

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.