

MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference: Case 073
- Site address: Meadowlark Nursing Home Mannachie Road, Forres, Moray
- Application for review by Renaissance Care (No 1) Limited, against the decision by an Appointed Officer of the Moray Council
- Application 12/01409/PPP: Planning permission for proposed development for 6 houses on land adjacent to Meadowlark Nursing Home, Mannachie Road, Forres, Moray
- Unaccompanied site inspection carried out by the MLRB on Thursday 21 March 2013
- Date of Decision Notice: 18 April 2013

Decision

The MLRB agreed to uphold the original decision of the Planning Officer to refuse the application.

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 case was considered at the meeting of the MLRB on 28 March 2013. The Review Body was attended by Councillors C Tuke, (Chair), B Jarvis, J Mackay and R Shepherd.

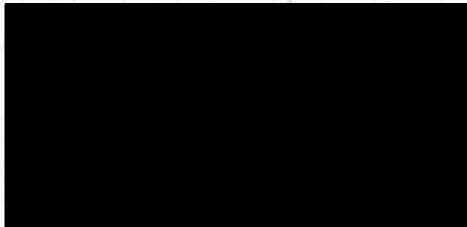
2.0 Proposal

2.1 This is an application for a proposed residential development for 6 houses on land adjacent to Meadowlark Nursing Home, Mannachie Road, Forres, Moray.

3.0 MLRB Consideration of request for review

- 3.4 At the meeting of the MLRB 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 and supporting documents.
- 3.5 In regard to the unaccompanied site inspection carried out on Wednesday 27 February 2013 the Planning Adviser advised the meeting that on arrival at the site members had viewed the land surrounding the Nursing Home where the houses were proposed and were able to see the relationship to the surrounding houses and topography of the site.
- 3.6 In terms of the refusal the Planning Adviser advised that the openness of the area makes a useful contribution to the setting of the Nursing Home and to the character of the area and the development would have an adverse impact on the surrounding environment.
- 3.7 In the Appellant's grounds for review it states that the proposed layout does not impact upon the surrounding housing or the environment. It also states that the open space provision and servicing of the site has been demonstrated and the Transportation Section is satisfied with the proposal. The indicative proposals are considered to reflect the character of the area and are comparable with nearby houses. The open aspect of Mannachie Road is maintained and landscape areas have been provided to alleviate concerns regarding overlooking. The surrounding land is surplus to the requirements of the home and cannot be used due to its gradient. The land is private and has no public value and the ground for refusal that open space is being lost is inappropriate.
- 3.8 The MLRB agreed that it has sufficient information to determine the request for review.
- 3.9 Councillor J MacKay having had the opportunity to view the site and consider the Appellant's ground for review advised that he was of the opinion that Forres had enjoyed the status of being one of the most beautiful towns in Scotland and should not be destroyed by allowing a project of this nature to proceed. He was of the view that the proposal was contrary to the Moray Local Planning Policies IMP1 and H3. He advised that in terms of openness the area makes a valuable contribution to the setting of the Nursing Home and to the character of the area. The development would also have an adverse impact on the surrounding environment. He compared Meadowlark Nursing Home to Netherha Residential Home in Buckie and felt that residents should be allowed to enjoy the peace and tranquillity they so thoroughly deserve. In his opinion the residents of Meadowlark should not be subject to the intrusion of a building site and the disruption which would be inevitable. In his opinion this is an area that should be preserved rather than built on and for these reasons he moved that the original decision of the Appointed Officer to refuse the application be upheld for the reasons stated in the report.

- 3.10 Councillor Tuke having had the opportunity to view the site and consider the Appellant's grounds for review intimated that neighbours had been notified of the proposals and all the objection points from 6 objectors had been dealt with by Officers. One of the objectors to the proposal was located well away from the development, whereas the other 5 were overlooking the site. He was of the view that the area was well screened with trees. Furthermore there had been no objections submitted from either the Nursing Home staff or residents and he would have liked to think that the management in the Nursing Home would have spoken to the residents to see if there were any objections. In terms of green space he was of the opinion that there were plenty of other green public spaces whereas this ground was private to the nursing home. Furthermore he would suggest that the density of the development was extremely similar to the adjoining properties in Mannachie Avenue and Mannachie Brae and in his opinion complied with the Moray Local Planning Policies IMP1 or H3 and for these reasons he moved that the application for review be upheld.
- 3.11 The Planning Adviser clarified that it was wrong to assume that because there had been no representations from Meadowlark that residents had been notified and were in agreement with the proposals.
- 3.12 Councillor Tuke further clarified that the application for review be upheld as there was screening around the site; the area was not used because of the steep hill and that there was plenty of other green space nearby.
- 3.13 Councillor Jarvis, having visited the site and considered the Appellant's grounds for review expressed the view that he was in agreement with the Planning Officer's decision to refuse the application in terms of the Moray Local Planning Policies IMP1 and H3 as the development would have an adverse impact on the surrounding environment and he was of the opinion that he did not think that any amount of mitigating works would ever really avoid this and for these reasons he seconded the motion proposed by Councillor J MacKay to refuse the application.
- 3.14 Councillor Shepherd having visited the site and considered the Appellant's grounds for review supported the views expressed by Councillors J MacKay and B Jarvis that the proposal was contrary to the Moray Local Planning Policies IMP1 and H3 and agreed that the original decision of the Appointed Officer be upheld.
- 3.15 On a 3 to 1 majority the MLRB agreed to uphold the decision of the Appointed Officer to refuse the application. Therefore the appeal is refused.



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.