



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference: Case 075
 - Site address: 19 Craig View Road, Portknockie, Buckie
 - Application for review by Mrs C Bettison against the decision by an Appointed Officer of the Moray Council.
 - Applications 12/01164/APP: Planning Permission for proposal to raise the height of an existing timber fence from 1.1m for a length of 10.10m along the mutual garden boundary of the neighbouring residential property.
 - Unaccompanied site inspection carried out by the MLRB on Thursday 29 March 2013
 - Date of Decision Notice: 18 April 2013
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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 application for planning permission was considered by the MLRB at the meeting held on 28 March 2013.
- 1.3 The Review Body was attended by Councillors C Tuke (Chair), B Jarvis, G Coull, L Creswell, J MacKay and R Shepherd.

2.0 Proposal

- 2.1 This is an application for planning permission to raise the height of an existing timber fence from 1.1m to 1.8m for a length of 10.10m along the mutual garden boundary of the neighbouring residential property.

3.0 MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 28 March 2013 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 Thursday 21 March 2013 the Planning Adviser advised the meeting that on arrival at the site members viewed the fence as constructed currently and were referred to the paperwork where the appellant had sited various examples of fences in the vicinity.
- 3.3 The reasons for refusal were by reason of its siting and height close to the public road the fence would make for a visually intrusive and uncharacteristic addition onto the streetscape and would not integrate sensitively with the locality or surrounding front gardens.
- 3.4 In the grounds for review the appellant states that there are properties in Craigview Road, Samson Street and Admiralty Street with fences in front and side gardens above 1m in height. There were no objections to the proposal on road safety grounds and the appellant had been advised prior to submitting an application that there would be no reason why permission would be refused.
- 3.5 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.6 Councillor Tuke having visited the site and considered the Appellant's reasons for review advised that he agreed entirely with the Appointed Officer's decision to refuse the application and believed that the fence was over the prescribed height for compliance with the Moray Local Planning Policy IMP1.
- 3.7 Councillor Jarvis having visited the site and considered the reasons for review advised that he disagreed with the view of the Appointed Officer that the proposal would be visually intrusive and did not integrate sensitively with the surrounding gardens. In his opinion this fence would form a longer part of the fence that leads to the back garden and would more adversely affect the character of the area if it was not the same height as the adjoining fence and for these reasons he moved that the request for review be upheld.
- 3.8 Councillor J Mackay having visited the site and considered the Appellant's grounds for review was of the opinion that the fence was contrary to the Moray Local Planning Policy IMP1 and for this reason he seconded the motion of Councillor Tuke to uphold the original decision of the Appointed Officer to refuse the application for the reasons stated in the report.
- 3.9 Councillor Leadbitter having visited the site and considered the Appellant's grounds for review was of the opinion that if the fence was higher than 1m it would not be in keeping with the rest of street which has quite an open aspect down to the sea and for this reason he agreed with Councillor Tuke and Councillor J MacKay that the request for review be refused.

- 3.10 On a 3 to 1 majority the MLRB agreed to uphold the original decision of the Appointed Officer to refuse the application for the reasons stated in the report. Therefore the request for review was refused.
- 3.11 The Planning Officer clarified that the fence posts were above the 1m height restriction and that this case be referred back to Development Management to rectify this.



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.