

## MORAY COUNCIL LOCAL REVIEW BODY

### Review Decision Notice

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#### Decision by Moray Local Review Body (the MLRB)

- Request for Review reference: Case 087
  - Site Address: Land South of 7 Burnbank, Brodie, Forbes, Moray
  - Application for review by Scottish Planning & Architecture Ltd, 56 Lawers Way, Inverness, IV3 8NU
  - Planning Application 13/00947/APP – Proposed house and associated works on land south of 7 Burnbank, Brodie, Forbes, Moray
  - Unaccompanied site inspection carried out by the MLRB on Wednesday 18 September 2013
  - Date of Decision Notice: 15 October 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 26 September 2013.

- 1.3 The Review Body was attended by Councillors C Tuke (Chair), B Jarvis, J Mackay and R Shepherd.

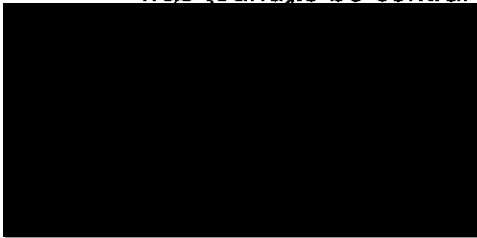
## **2.0 Proposal**

- 2.1 This is an application for planning permission for a proposed erection of a house and associated works on land south of 7 Burnbank, Brodie, Forres, Moray

## **3.0 MLRB Consideration of request for review**

- 3.1 With regard to the unaccompanied site inspection carried out on Wednesday 18 September 2013, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.2 In terms of the refusal, the Planning Adviser advised that the proposal was contrary to policy E9 (Settlement Boundaries) of the adopted Moray Local Plan 2008 as the new development was immediately out with the defined settlement and such a proposal would result in an unplanned sprawl. In addition, it was felt that this proposal would facilitate and encourage further such proposals.
- 3.3 In terms of the Appellant's grounds for review, the Appellant was of the opinion that the development should be approved as there are no alternative routes to development in this location. The appellant further stated that they were advised during the early stages of the review of the Local Plan that the most appropriate means to consider the proposal was to submit a formal planning application given the small scale of the development. Furthermore, the Appellant was of the opinion that the proposal complies with policy H8 and also benefited from an existing access with compliant visibility, was out with SEPAs floor risk map and could provide adequate parking facilities. The Appellant also stated that if the application was approved, the proposal would benefit existing residents and would result in increased safety to road users as HGV, bus and delivery vehicles can utilise the turning facilities requested by Transport Scotland.
- 3.4 Councillor Jarvis, having had the opportunity to view the site and consider the Appellant's grounds for review stated that as proposals of a similar nature had been refused due to them being contrary to Policy E9 with regard to settlement boundaries, then, for consistency, he moved that the decision of the Planning Officer be upheld and the appeal refused.
- 3.5 Councillor Mackay, having had the opportunity to view the site and consider the Appellant's grounds for review was minded to agree with Councillor Jarvis and seconded his motion.

- 3.6 Councillor Shepherd, having had the opportunity to view the site and consider the Appellant's grounds for review was of the same opinion as Councillors Jarvis and Mackay and agreed that the appeal should be refused.
- 3.7 Councillor Tuke, having had the opportunity to view the site and consider the Appellant's grounds for review agreed that the proposal would not be acceptable in terms of Policy E9 and agreed that the appeal should be refused.
- 3.8 There being no-one otherwise minded, the Committee unanimously agreed to uphold the decision of the Planning Officer and refused the appeal as the proposal was found to be contrary to policy E9 of the adopted Moray Local Plan 2008.



**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.