



## 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 090
  - Site Address: Clanchattan, 7 Paradise Lane, Lossiemouth
  - Application for review by Mr Sandy Anderson, Block 9, Architects, 1 South Charlotte Street, Edinburgh, EH2 4AN
  - Planning Application 13/01155/APP – Alter and extend house and erect holiday/granny annexe at Clanchattan, 7 Paradise Lane, Lossiemouth
  - Unaccompanied site inspection carried out by the MLRB on Tuesday 26 November 2013
  - Date of Decision Notice: 12 December 2013
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#### Decision

The MLRB agreed to uphold the request for review and grant planning permission, subject to an amendment to condition 1 to reflect that both the roof and wall be finished in slate.

#### 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 a review of the decision of the Appointed Officer, who had stipulated a condition that the proposed development be externally finished with slates to roof and white render to side walls of east and west elevation, was considered by the MLRB at the meeting held on 28 November 2013.

1.3 The Review Body was attended by Councillors C Tuke (Chair), G Leadbitter, G Coull, J Mackay and R Shepherd

## **2.0 Proposal**

2.1 This is an application seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, which stipulated a condition, in relation to the alteration and extension of a house and erection of a holiday/granny annexe at Clanchattan, 7 Paradise Lane, Lossiemouth, that it be externally finished with slates to roof and white render to side walls of east and west elevation.

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

3.1 With regard to the unaccompanied site inspection carried out on 26 November 2013, the Planning Adviser advised that on the site visit, Members were shown the site where the proposed development would take place.

3.2 In terms of the planning permission, the Planning Adviser advised that the planning application had been granted subject to 8 conditions and that the Appellant was appealing against condition 1, which stated that the development should be externally finished with slates to roof and white render to side walls of east and west elevation, to match the external finishes of the existing property.

3.3 In terms of the Notice of Review, the Appellant was appealing against the stipulation of certain materials imposed on the planning consent by the appointed officer and proposed that both the roof and wall be finished in slate, which was seen as a compromise to the condition and the original design. The Appellant further stated that this option had been presented verbally during the planning process however the Appellant was not given the opportunity to submit it as an option prior to the determination. The Appellant was of the opinion that the construction of the walls and roof in the same material was paramount to the design concept and was essential in holding the design intention of the proposal together. Furthermore, the Appellant stated that the theme of continuous slate roof and walls was not uncommon in the area and in his opinion would represent an innovative addition to the local townscape.

3.4 Councillor Mackay, having had the opportunity to visit the site and consider the Appellant's grounds for review was of the opinion that the development would have an unacceptable impact on, and detract from, the character of the area and therefore moved that the appeal be refused and the decision of the appointed officer upheld.

- 3.5 Councillor Shepherd, having had the opportunity to visit the site and consider the Appellant's grounds for review, was of the same mind as Councillor Mackay and seconded Councillor Mackay's motion.
- 3.6 Councillor Leadbitter, having had the opportunity to visit the site and consider the Appellant's grounds for review, was of the opinion that the appeal should be upheld, as there were similar finishes elsewhere in the area and therefore moved as an amendment, that the appeal be upheld and planning permission granted subject to an alteration to condition 1, that both the roof and wall be finished in slate.
- 3.7 Councillor Coull, having had the opportunity to visit the site and consider the Appellant's grounds for review, was of the same opinion as Councillor Leadbitter and seconded Councillor Leadbitter's motion.
- 3.8 On a division there voted:-  
For the Motion (2): Councillors Mackay and Shepherd  
For the Amendment (3): Councillors Coull, Leadbitter and Tuke
- 3.9 Accordingly the Amendment became the finding of the Meeting and the appeal was upheld subject to an amendment to condition 1 to reflect that both the roof and wall be finished in slate.

**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.

## CONDITIONS

1. Condition 1 (as stated on formal decision notice 11/01155/APP dated 13 September 2013) is hereby substituted by the following:

“Notwithstanding the details shown on drawing no. 111, the use of VM Zinc "pigmento blue" cladding to the roof and walls of the annexe are not approved and the development/annexe as hereby approved shall be externally finished with slates to both roof and walls in accordance with the applicant's agent's submission dated 28 August 2013 (as submitted to the Moray Local Review Board) and prior to development works first commencing, revised elevations for the annexe incorporating the revised external material finishes as hereby approved shall be submitted to and approved by the Council as planning authority.”

2. The extension hereby approved, shall be used as a holiday annexe or granny annexe (in accordance with Conditions 3 - 6 below) at all times and for no other use or purpose without the prior written consent of the Council as planning authority.
3. Where used as a holiday annexe including use for letting purposes, the annexe as hereby approved shall not be used as the sole or main place of residence of any occupant; a holiday being defined as a stay of one or more nights by a person(s) away from that person or persons sole or main place of residence.
4. Notwithstanding the details proposed, the holiday annexe as hereby approved shall not be occupied by the same person or persons for more than 3 months in any calendar year and such period shall not run consecutively to such a period in any successive or preceding year in association with a holiday let.
5. The holiday annexe as hereby approved shall not be used unless a Register is maintained giving details of all lettings which include the name, address and telephone number of the sole, or main place of residence of any person or persons occupying the dwelling, together with expected and actual dates of both arrival and departure of the said person or persons when used as a holiday let.
6. Where used as a granny annexe, the annexe hereby approved shall be used solely as additional living accommodation for use in conjunction with 7 Paradise Road, and at all times it shall remain ancillary to the use of that existing property and shall not be used, let nor otherwise disposed of as a separate unit of accommodation nor used for any other purpose except as a holiday annexe (Condition 2 – 5 refer) without the prior written consent of the Council as planning authority.
7. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the road shall be within 2.4m of the edge of the carriageway.

8. Three car parking spaces shall be provided within the site prior to the completion of the development. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

**The Council's reason(s) for imposing the above condition(s) are:-**

1. In accordance with the agent's submitted particulars and to reflect similar finishes elsewhere in the area
2. To ensure an acceptable form of development in accordance with the applicant's/agent's submitted particulars and to retain control over the use of the site and to ensure that consideration can be given to the effects and impacts of uses other than that approved herewith.
3. In order to ensure the dwelling is used for holiday purposes only.
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6. In accordance with the applicant's submitted particulars and to retain control over the use of the site and ensure that consideration can be given to the effects and impacts of uses other than that approved herewith.
7. To enable drivers to vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users.
8. To ensure an acceptable development in terms of parking provision and amenity of the area.

**IMPORTANT NOTES ABOUT THIS DECISION**

**All previous Notes appended to the earlier decision notice 11/01155/APP regarding the duration of this permission, commencement and completion of the development and additional notes for information of the applicant are hereby reiterated.**