



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case 098
 - Site address: The Paddock, Arradoul, Buckie
 - Application for review by Mr Malcolm D Leiper, Future Plans Ltd, The Barnyard Studio, Upper Garmouth, Fochabers, IV32 7AB against the decision of an Appointed Officer of The Moray Council
 - Planning Application 13/01341/APP – Create new vehicular access on to the A98 at The Paddock, Arradoul, Buckie
 - Unaccompanied site inspection carried out by the MLRB on 20 March 2014
 - Date of decision notice: 21 April 2014
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Decision

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

1. Preliminary

- 1.1 This Notice constitutes the formal decision 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 27 March 2014.
- 1.3 The Review Body was attended by Councillors B Jarvis, G Leadbitter, G Alexander and G Coull.

2. Proposal

- 2.1 This is an application for planning permission to erect a house and garage on the site at The Paddock, Arradoul, Buckie

3. MLRB Consideration of Request for Review

- 3.1 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.
- 3.2 Prior to the determination of the Case, the Chair asked the Planning Adviser and the Legal Adviser if there were any preliminary matters that they required to raise. In response, the Legal Adviser advised that within the Applicant's Notice of Review, reference was made to the Moray Local Development Plan 2015 which is new material. He further stated that the Appellant was of the opinion that as his application was refused in November 2013 and the Moray Local Development Plan 2015 was made available on 3 February 2014, it could not have been introduced earlier. Therefore, the Legal Adviser invited Members to firstly decide whether the new evidence was material or otherwise.
- 3.3 In response Councillor Leadbitter stated that, as the Moray Local Development Plan 2015 was still out for consultation and could still incur changes, it was not material. This was unanimously agreed by the MLRB.
- 3.4 Thereafter, the MLRB agreed that it had sufficient information to determine the request for review.
- 3.5 With regard to the unaccompanied site inspection carried out on 20 March 2014, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.6 With regard to the reasons for refusal, the Planning Adviser advised that the proposal would be contrary to Moray Local Plan 2008 policy T2 and the Arradoul Settlement Statement where the addition of a further access, with associated additional turning traffic, would increase the risk of accidents and impede the free flow of traffic.
- 3.7 With regard to the Appellant's grounds for review, the Appellant is of the opinion that the current access does not meet current Council standards due to a lack of visibility and that the proposed access would meet current Council standards required for a free flowing road with a 50 mph limit. The Appellant further stated that only one accident had taken place at a residential access over the 7 year period up to 2012 and that road safety would not be compromised by a single residential access with proper visibility.

- 3.8 Further representation had been received from the Transportation Department which stated that, as the A98 is a strategic local road with up to 7000 vehicles per day travelling at speeds up to 50 mph, introducing the proposed new access would increase the risk of accidents.
- 3.9 In response to the further representation from the Transportation Department, the Appellant stated that as 6 properties use the existing access then it is sub standard in respect of the Council's standards as it does not achieve the visibility required within a 50 mph limit.
- 3.10 Councillor Coull having had the opportunity to visit the site and consider the Appellant's grounds for review stated that the Moray Local Plan 2008 clearly stated that no additional access would be permitted on the A98 and moved that the original decision of the Appointed Officer be upheld and planning permission refused.
- 3.11 Councillor Alexander, being of the same mind as Councillor Coull seconded his motion and suggested that, if the existing access is problematic, then it could be modified.
- 3.12 There being no one otherwise minded, the original decision of the Appointed Officer was upheld and planning permission was refused.

Mr Paul Nevin
Senior Solicitor
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.