



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case No 101
 - Site address: Rabbit Rock, Elchies, Aberlour
 - Application for review by Miss Jean Allan, c/o Plans Plus against the decision of an Appointed Officer of The Moray Council.
 - Planning Application 13/02213/PPP for the erection of a new dwelling house at Rabbit Rock, Elchies, Aberlour
 - Unaccompanied site inspection carried out by the MLRB on 23 May 2014
 - Date of decision notice: 18 June 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 29 May 2014.
- 1.3 The Review Body was attended by Councillors Tuke, Jarvis, Coull, Cowie, Mackay and Shepherd.

2. Proposal

- 2.1 This is an application for planning permission to erect a new dwelling house at Rabbit Rock, Elchies, Aberlour.

3. MLRB Consideration of Request for Review

- 3.1 At the meeting of the MLRB on 29 May 2014, there was submitted a 'Summary of Information' report by the Clerk to the LRB 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 With regard to the unaccompanied site inspection carried out on 23 May 2014, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.3 With regard to the reason for refusal, the Planning Adviser advised that the application had been refused as it was found to be contrary to policies H8 and IMP1 of the Moray Local Plan in that the proposed dwelling house would be unsuitable in terms of its proximity to other dwellings both existing and consented. Furthermore, it was considered that an additional dwelling on a prominent site would result in further incremental build-up of housing within the area surrounding Clachbrake Farm and that the cumulative effect of this development would result in a build-up of residential development that would detract from the rural character and appearance of the surrounding countryside.
- 3.4 The Planning Adviser further advised that 3 representations had been received where the main issues raised had been over development of the area and unsuitable road access.
- 3.5 In terms of the Appellant's grounds for review, the Appellant is of the opinion that the proposal conformed to every aspect of the Moray Local Plan for policies relating to housing in the countryside. He further stated that there were developments had been approved in Moray for 4 or 5 houses and that, as this development consisted of a grouping of 5 units, then it was only fair to grant permission as a matter of consistency. Furthermore, the Appellant was of the opinion that the house would not be highly visible and that, due to the topography of the ground, would not be seen from any road network other than the single track road when viewed from above the plot level.
- 3.6 Councillor Shepherd, having had the opportunity to visit the site and consider the Appellant's grounds for review agreed with the opinion of the Appointed Officer and moved that the appeal should be refused as it did not conform to policies H8 and IMP1 of the Moray Local Plan.
- 3.7 Councillor Jarvis, having had the opportunity to visit the site and consider the Appellant's grounds for review was of the opinion that the proposed development would result in over development of the area and would be overtly prominent and therefore seconded Councillor Shepherd's motion to refuse the appeal.
- 3.8 Councillor Tuke, having had the opportunity to visit the site and consider the Appellant's grounds for review did not agree with the Appointed Officer and could find nothing in policy IMP1 that would warrant refusal of the application

and therefore moved that the appeal be upheld and planning permission granted. However, as Councillor Tuke failed to obtain a seconder, his motion fell.

- 3.9 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.