



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case 107
 - Site address: Strathconach House, Ringorm, Elchies
 - Application for review by Mrs Diane McConachie against the decision of an Appointed Officer of The Moray Council.
 - Planning Application 14/00769/APP for proposed erection of a dwelling house with separate garage at Strathconach House, Ringorm, Elchies.
 - Unaccompanied site inspection carried out by the MLRB on 31 July 2014.
 - Date of decision notice: 28 August 2014
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Decision

The MLRB agreed to dismiss the request for review and uphold the original decision of the Appointed Officer to refuse the above noted application.

1. Preliminary

- 1.1 This Notice constitutes the formal decision of the 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 31 July 2014.
- 1.3 The Review Body was attended by Councillors C. Tuke (Chair), B. Jarvis (Vice Chair), G. Leadbitter (Deputy Vice), G. Coull, F. Murdoch, J. Mackay and R. Shepherd.

2. Proposal

- 2.1 This is an application for planning permission to erect a dwelling house with separate garage at Strathconach House, Ringorm, Elchies.

3. MLRB Consideration of Request for Review

- 3.1 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with copies of the Report of Handling, Notice of Review and supporting documents.
- 3.2 With regard to the unaccompanied site inspection carried out on 31 July 2014, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.3 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policies H8 and IMP1 of the Moray Local Plan 2008. She informed the MLRB that the Appointed Officer had advised that the site is in attractive open landscape with extensive views all round, lacks natural landscape features that would mitigate its visual impact and on this basis would be overtly prominent. The Appointed Officer stated that the scale of the house would add to the detrimental visual impact of the development in the exposed setting involved and further such development would be encouraged.
- 3.4 Referring to the Appellant's grounds for review, the Planning Adviser advised that the Appellant believed that the development would not have a detrimental visual impact as the house would be on a lower level than surrounding dwellings and the public road which would ensure the development was well integrated to the gently sloping landscape. She further advised that the low impact rural design would be similar to approved developments in Moray.
- 3.5 Councillor Murdoch, having had the opportunity to visit the site and consider the Appellant's grounds for review, stated that she believed that the site had no appropriate boundaries and was sitting in the middle of a field. She advised that there would be too much an open landscape and moved that the appeal be dismissed and planning permission refused.
- 3.6 As an amendment, Councillor Tuke stated that boundaries were established to the east and north by water features and to the south by an access track. He advised that although the site was on an open landscape, the proposed development sits on a plateau on a rising hill meaning there would be no great visibility from the major road to the south and moved that the appeal be upheld and planning permission be granted, subject to conditions.
- 3.7 In seconding Councillor Murdoch's motion, Councillor Jarvis stated that the landscape was open and wide and he did not believe any level of screening would be enough to mitigate the visual impact of the development.
- 3.8 In response, Councillor Tuke stated that the development would not be overtly prominent from a vast majority of areas, only more so in close proximity.

- 3.9 Councillor Shepherd advised that he was of the same view as Councillors Murdoch and Jarvis and stated that he believed the site lacked the natural landscape features that would mitigate the visual impact of the proposed development.
- 3.10 In seconding Councillor Tuke's motion, Councillor Mackay stated that he believed the site to have an attractive, open landscape with extensive views all round and noted that the house would be set at a much lower level than surrounding dwellings and public road. Councillor Mackay stated that he believed that the development complies with policy, that the site was not overtly prominent and that it would not encourage further development.
- 3.11 Councillor Murdoch questioned statements that the development was not overtly prominent, stating that the MLRB did not view the site from the far side of the valley. She advised that if the view that the site was not overtly prominent would form the basis for recommending approval of the application then the MLRB should revisit the site.
- 3.12 The Legal Adviser stated that the Chair queries whether the MLRB has enough information before them to make a decision and it was for them to convince themselves if what they saw on the site was enough to make a determination.
- 3.13 The Chair advised that, due to the lack of a script, he had omitted to question if the MLRB had enough information to make a decision and questioned the MLRB if they felt there was sufficient information to make a decision. In response, the MLRB agreed that it had sufficient information to determine the request for review.
- 3.14 On a division, there voted:-
- For the Motion (5): Councillors Murdoch, Jarvis, Coull, Leadbitter and Shepherd.
- For the Amendment (2): Councillors Tuke and Mackay.
- Abstentions (0)
- 3.15 Accordingly, the motion became the finding of the meeting and the MLRB agreed to dismiss the appeal and refuse planning permission.

Paul Nevin
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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.