



MORAY COUNCIL LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR112
 - Site address: Oldmills, Oldmills Road, Elgin
 - Application for review by Mr Patrick Thirkell against the decision of an Appointed Officer of The Moray Council.
 - Planning Application 14/00517/APP to erect caretaker's cottage at Oldmills, Oldmills Road, Elgin
 - Unaccompanied site inspection carried out by the MLRB on 26 January 2014
 - Date of decision notice: 12 February 2015
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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 29 January 2014.
- 1.3 The Review Body was attended by Councillors C. Tuke (Chair), G. Coull, K. Reid and R. Shepherd.

2. Proposal

- 2.1 This is an application for planning permission to erect caretaker's cottage at Oldmills, Oldmills Road, Elgin.

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, Grounds for Review and supporting documents.
- 3.2 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.3 With regard to the unaccompanied site inspection carried out on 26 January 2015, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.4 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policies EP7, BE2, E4, ENV6, H3 and IMP1 of the Moray Local Plan 2008. She informed the MLRB that the Appointed Officer had advised that insufficient information was provided to demonstrate that the risks of flooding from both the fluvial and surface water sources had been mitigated and to ensure that the risk of flooding to the development, or elsewhere, was not exacerbated. She advised that, by virtue of its design, the new building would have a detrimental impact on the setting of the Category B listed building.
- 3.5 Noting that the proposal will cause loss of, and impact upon, the 'green space' environmental designation, the Planning Adviser advised that no justification had been provided to support the proposal in relation to the relevant criteria identified in Policy E4 and therefore would detract from the character and appearance of the designation and surrounding area.
- 3.6 Referring to the Appellant's Grounds for Review, the Planning Adviser advised that the Appellant had stated that the Watermill must be allowed to pay for its regeneration, with an initial application for a caretakers cottage followed by a development of log cabins. He noted that the property was well designed and would be built to a high specification. Referring to the risk of flooding, he advised that a £86m bund had been built around the mill meaning there was no longer a risk of flooding. He further stated that the mill was in urgent need of funds and protection.
- 3.7 Councillor Coull, referring to pages 7 and 28 of the papers, noted that the Appointed Officer had stated that no flood risk assessment had been submitted with the application whilst the Applicant stated that there had been and sought clarification on the matter. In response, the Legal Adviser noted that the MLRB had to consider the application based on the information before them and if they feel they do not have enough then they would have to defer consideration of the appeal and make a request for the information.
- 3.8 Thereafter, Councillor Coull, having had the opportunity to visit the site and consider the Appellant's Grounds for Review and the advice from the Legal Adviser, stated that he was of the same opinion as the Appointed Officer and

moved that the appeal be dismissed and the Appointed Officer's decision be upheld to refuse the application.

- 3.9 The Chair stated that he was of a similar opinion, stating that the flood issues had not been addressed and the proposed polytunnels was not in keeping with the surrounding area.
- 3.10 Councillors Shepherd and Reid stated they were of the same opinion as Councillor Coull and the Chair.
- 3.11 Thereafter, the MLRB unanimously agreed to dismiss the appeal and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 15/00517/APP.

Paul Nevin
Senior Solicitor (Property and Contracts)
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.