



MORAY COUNCIL LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR115
 - Site address: Upper Buthill, Wester Buthill, Roseisle.
 - Application for review by Mr Gavin Strathdee, c/o Mr Stewart Reid, Strathdee Properties Ltd against the decision of an Appointed Officer of The Moray Council.
 - Planning Application 14/01772/APP to erect dwellinghouse with detached garage at Upper Buthill, Wester Buthill, Roseisle.
 - 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 uphold the request for review and grant planning permission, subject to the conditions appended to this decision notice. Attention is also drawn to the informative notes which follow the conditions.

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 dwellinghouse with detached garage at Upper Buthill, Wester Buthill, Roseisle.

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 H8 (and Supplementary Guidance) and IMP1 of the Moray Local Plan 2008. She informed the Meeting that the Appointed Officer had advised that the site is in an area of open landscape and, as an addition to existing consents, would have a detrimental impact on the characteristics of the landscape and contribute to urbanisation of the setting.
- 3.5 Referring to the Appellant's Grounds for Review, the Planning Adviser advised that the Appellant had stated that the plot would suit the proposed location and complement existing adjacent consents due to the size of the plot and neighbouring plots which are all at least half an acre. They noted that the plot is 52 metres from the nearest proposed dwelling which exceeded the standards of nearby development and forming a small cluster of dwellings with a sense of space.
- 3.6 The Applicant expressed their opinion that the proposed dwelling is considered to integrate well and is not overtly prominent. They stated that the design does not detract from rural character as the dwelling is a contemporary low impact design with traditional features and materials.
- 3.7 Noting that there was a huge demand for rural accommodation, the vast majority of which was for local people, the Applicant stated that this type of development helps the local economy and has an effect on services, schools and shops, offering valuable work to local tradesmen and building merchants. They advised that the application should be treated on its own merits.
- 3.8 Councillor Coull, having had the opportunity to visit the site and consider the Appellant's Grounds for Review, stated that he was of the opinion that the proposal did comply with Policies H8 and IMP1 in that the site was not in an area of open landscape and would be well secluded by the surrounding forestry. He stated that he did not believe the development would have a detrimental impact on the characteristics of the landscape nor contribute to

urbanisation of the setting and moved that the appeal be upheld and planning permission granted, subject to standard conditions.

- 3.9 Councillor Shepherd stated that he was of the same mind as Councillor Coull and seconded his motion.
- 3.10 Advising that he was of the same mind as Councillors Coull and Shepherd, the Chair stated that he believed the development was well sheltered by tree belts and would not create a linear development.
- 3.11 Councillor Reid stated that she was of the same mind as Councillor Coull.
- 3.12 There being no one otherwise minded, the MLRB unanimously agreed to uphold the appeal and grant planning permission in respect of Planning Application 14/01772/APP, subject to standard conditions.

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.

Conditions

1. Prior to the occupation or completion of the dwellinghouse, whichever is the sooner, the upgrading of the private access onto the C25E Alves-Roseisle Road (Road Construction Consent No. 805317-331A) shall be completed to the satisfaction of the Roads Authority.

Reason – To ensure acceptable infrastructure at the development access.

2. A visibility splay of 4.5m x 215m shall be provided and maintained at the access onto the C25E in both directions, clear of any obstruction above 1.0m in height (measured from the level of the carriageway).

Reason – To enable drivers of vehicles entering or exiting the access onto the public road have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

3. Prior to occupation, point of entry ultraviolet treatment and pre-filtration shall be fitted.

Reason – To ensure a wholesome water supply.

Informative Notes

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Planning consent does not carry with it the right to carry out works within the public road boundary.

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing roadspersmits@moray.gov.uk

Visibility splays relate to the visibility available to a driver at or approaching a junction in both directions. It is related to the driver's eye height, object height above the road, distance back from the main road known as the 'X' distance and a distance along the main road known as the 'Y' distance. The Y distance is related either to the design speed of the road and a corresponding 'stopping sight distance' or in some circumstances may be based on observed '85th percentile vehicle speeds'. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site

Transportation Service Requirements for Small Developments in the Countryside

Full document <http://www.moray.gov.uk/downloads/file87786.pdf>

Checklist <http://www.moray.gov.uk/downloads/file68812.pdf>

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

If required, street furniture will need to be repositioned at the expense of the developer. In addition any existing roadside ditch may require a pipe or culvert. Advice on these matters can be obtained by emailing road.maint@moray.gov.uk

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

The applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.