



MORAY COUNCIL LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR116
 - Site address: 25 Rockall Place, Lossiemouth.
 - Application for review by Mrs Val Cooksley, c/o Ms Cynthia Colhoun, Wittets Ltd against the decision of an Appointed Officer of The Moray Council.
 - Planning Application 14/01628/APP to erect timber fencing to boundary at 25 Rockall Place, Lossiemouth.
 - Unaccompanied site inspection carried out by the MLRB on 26 January 2014
 - Date of decision notice: 20 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.

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 timber fencing to boundary at 25 Rockall Place, Lossiemouth.

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 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 Policy IMP1 of the Moray Local Plan 2008. She informed the MLRB that the Appointed Officer had advised that by reason of its siting and height close to pedestrian footpaths, the fence would make for a visually intrusive and uncharacteristic addition within the locality and surrounding front gardens.
- 3.5 Referring to the Appellant's Grounds for Review, the Planning Adviser advised that the Appellant had stated that Transportation made no comment on sightlines in their consultation response. They advised that the fence is intended to be the same height, specification and finish as existing fencing to adjacent courtyard and noted that there is fencing to the front of gardens throughout the development which, in some instances, were higher than proposed. Referring to the purpose of the fence, the Applicant advised that they wished to get some year round privacy, stop the garden being used as a shortcut and improve amenity.
- 3.6 Councillor Reid, having had the opportunity to visit the site and consider the Appellant's Grounds for Review, stated she was of the opinion that the proposal complied with Policy IMP1 in that it would not visually intrusive and uncharacteristic in the area and that, due to the layout of the public footways, vision would not be affected by the introduction of the fence and that planning permission should be granted, subject to standard conditions.
- 3.7 In seconding Councillor Reid's motion, the Chair stated there was no requirements for sightlines on footpaths and noted that higher fences exist in close proximity.
- 3.8 There being no one otherwise minded, the MLRB unanimously agreed to uphold the appeal and grant planning permission in respect of Planning Application 14/01628/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.

CONDITIONS

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

Reason – The time limit condition is imposed in order to comply with the requirements of Section 58(i) of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.

Reason – In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.

3. Prior to work commencing on site the applicant shall complete the attached notification of initiation of development and submit it to the local planning authority.

Reason – To ensure that the planning authority is aware that development is about to commence and any suspensive conditions can be followed up.

4. Upon completion of the development or as soon as practicable after doing so the attached notification of completion of development shall be completed and submitted to the local planning authority.

Reason – To ensure that the planning authority is aware that the development is complete and is able to follow up any conditions.