



MORAY COUNCIL LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR121
 - Site address: Lower Buthill, Wester Buthill Farm, 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 14/02202/APP for proposed erection of dwellinghouse with detached garage.
 - Unaccompanied site inspection carried out by the MLRB on 24 April 2015.
 - Date of decision notice: 20 May 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 30 April 2015.
- 1.3 The Review Body was attended by Councillors C. Tuke (Chair), G. Coull (Deputy Chair), J. Allan and K. Reid.

2. Proposal

- 2.1 This is an application for planning permission for proposed erection of dwellinghouse with detached garage at Lower Buthill, Wester Buthill Farm, 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 24 April 2015, Mr K. Henderson, 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 application is contrary to Policies H8 (and Supplementary Guidance) and IMP1 of the Moray Local Plan 2008 in that the site is in an area of open landscape and, as an addition to the existing consents in the vicinity, there would be a detrimental impact on the rural characteristics of the landscape, and the proposal would contribute to an urbanisation of the setting.
- 3.5 Referring to the Appellant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the plot would suit the proposed location and complement the existing adjacent consents due to the size of the plot itself and the size of the adjacent neighbouring plots to create a small cluster of rural dwellings with a similar aesthetic and a sense of space. They noted that the proposed dwelling would be located at least 35m from the nearest proposed dwelling house to the East and 47m from the nearest dwellinghouse to the west and that this exceeds the spacing of dwellings at the existing nearby Old Steading/Mid Buthill and Holme Steading development to the east of the application site.
- 3.6 Stating that the dwellinghouse would integrate well into the surrounding countryside and rather than detracting from the local area would complement this landscape setting, the Applicant advised that it is intended to retain as many of the existing trees as possible, ensuring a minimum of 25% of the existing site area is covered in foliage. They noted that the house design is of a low-impact, rural style which is considered well-designed and has previously been approved at other country locations throughout Moray. The Applicant advised that there is a demand and need for rural accommodation within a short commuting distance of Elgin and that the proposal will help the local economy to retain skills and jobs in the area which in turn helps local services, schools, shops and wider economy.
- 3.7 Councillor Reid, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated she was of the same opinion as the Appointed Officer, namely in regard to the unacceptable cumulative build-up, and moved that the appeal be dismissed and the Appointed Officer's decision be upheld to refuse the application.

- 3.8 As an amendment, the Chair stated that he was of the opinion that the proposal complied with Policies H8 and IMP1 in that the development would be integrated into the existing woodland and was not in the proximity of arterial or minor roads. Accordingly, he moved that the appeal be upheld and planning permission granted, subject to standard conditions.
- 3.9 Councillor Coull stated he was of the same opinion as Councillor Reid and seconded her motion. He stated that he believed the site had reached the point of urbanisation.
- 3.10 Councillor Allan stated he was of the same opinion as Councillors Reid and Coull.
- 3.11 Accordingly, there being no seconder, the Chair's motion fell and the MLRB agreed to dismiss the appeal and uphold the Appointed Officer's decision to refuse planning permission.

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.