



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR151
 - Site address: Site at Greenfields, Bogton Farm, Lhanbryde
 - Application for review by Mr C. Roberts, c/o CM Design against the decision of an Appointed Officer of The Moray Council
 - Planning Application 15/02110/APP to erect dwellinghouse
 - Unaccompanied site inspection carried out by the MLRB on 22 April 2016
 - Date of decision notice: 17 May 2016
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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 2013.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 28 May 2016.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Coull (Deputy Chair), G. Cowie, M. McConachie, K. Reid and R. Shepherd.

2. Proposal

- 2.1 This is an application for planning permission to erect dwellinghouse on Site at Greenfields, Bogton Farm, Lhanbryde.

3. MLRB Consideration of Request for Review

- 3.1 A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application to erect dwellinghouse on site at Greenfields, Bogton Farm, Lhanbryde.
- 3.2 There was submitted a 'Summary of Information' report setting out the

reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

- 3.3 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.4 With regard to the unaccompanied site inspection carried out on Friday 22 April 2016, Mr Henderson, Planning Adviser, advised that Members were shown the site where the proposed development would take place.
- 3.5 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policies H7: New Housing in the Countryside and IMP1: Developer Requirements of the Moray Local Development Plan (MLDP) 2015.
- 3.6 Stating that the submitted house design of the form, massing and proportions proposed would fail to reflect traditional Scottish rural architecture, the Planning Adviser noted that this would neither be low impact nor reflect the character of existing traditional housing in the surrounding area. He advised that the design incorporates a deep plan form, wide flat roofed flank elements and 2 storey full height glazing and balconies across the entire front elevation and stated that these features are generally more suited to an urban setting and would relate poorly to other traditional buildings in the area, altering the rural character of this part of the landscape. The Planning Adviser advised that any adverse impact in this regard would be heightened further due to the elevated position of the site, readily visible from the A96 trunk road to the north. He stated that on this basis, the proposal would represent an inappropriate form of development for this location that would neither integrate sensitively into the landscape nor fit with its rural surrounds, as required by Policies H7 and IMP1.
- 3.7 The Planning Adviser stated that although the house utilises some traditional materials and would have a footprint smaller than the original, traditional design, the current proposal is unacceptable in this instance for the reasons outlined. He noted that although the Applicant's Supporting Case contends that the proposal is an innovative modern design, the Appointed Officer took the contrary view in that it has not been adequately demonstrated that the submitted design is innovative or truly inspirational, or that it relates well to the landscape and setting in which it lies.
- 3.8 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the site already benefits from planning permission for a house in this location and position and argues that as the issue of siting and setting is already supported then it is only the criteria of design that is being questioned. Acknowledging that the criteria for design in the policy is quite prescriptive, the Applicant stated that exceptions can be justified on the basis of innovative designs that respond to the settings of the house.
- 3.9 The Applicant advised that the new design is considerably smaller than the original and takes greater advantage of the setting. They noted that the proposal will be located in front of an existing agricultural building which occupies the elevated ground, altogether providing a more interesting

landscaped view. The Applicant further advised that the site also benefits from a significant backdrop of trees which allows the landscape the ability to accommodate an innovative design.

- 3.10 Noting that the previously approved design was overbearing on the landscape, the Applicant advised that the revised design has attempted to reflect the central gable of the previous design with the excessive pitched roof wings removed, further mitigating the visual impact. The Applicant further advised that rather than spreading the house-type along the ridge line, the proposal disguises the mass by extending it deeply to the rear which cannot be seen from the lower ground around it. The Applicant noted that the layout pays closer attention to sun path analysis therefore maximising the panoramic views and solar gain.
- 3.11 Councillor Shepherd, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, moved that the review be dismissed and the Appointed Officer's decision be upheld to refuse planning permission in respect of Planning Application 15/02110/APP.
- 3.12 Councillor Reid stated she was of the same opinion as Councillor Shepherd and seconded his motion.
- 3.13 The Chair stated that he was of the same opinion as Councillors Shepherd and Reid.
- 3.14 There being no one otherwise minded, the MLRB agreed to dismiss the review and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 15/02110/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 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

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.