



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR152
  - Site address: Garden Ground of Inyanga, Findhorn
  - Application for review by Mr James Jackson, c/o Mr Denis Forrest, Denis E Forrest Chartered Architect against the decision of an Appointed Officer of The Moray Council
  - Planning Application 15/02023/PPP for proposed 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 April 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 for proposed dwellinghouse in Garden Ground of Inyanga, Findhorn.

#### **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 for proposed dwellinghouse in Garden Ground of Inyanga, Findhorn.

- 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, Mrs Gordon, 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 E5: Open Spaces, ENV6, IMP1: Developer Requirements and H3: Sub Division for House Plots of the Moray Local Development Plan (MLDP) 2015.
- 3.6 Stating that the proposal would result in the loss of part of designated site ENV6, the Planning Adviser advised that this was an established green wooded corridor at the entrance to Findhorn Village which is specifically protected under the terms of Policy E5 to maintain the environmental amenity of this part of the settlement. She further advised that the introduction of a dwelling and associated development on the subject site, positioned between two existing houses, would consolidate built form in this locality, and in turn would erode the pleasant and attractive open character of the ENV designation contrary to Policies E5, ENV6 and IMP1 of the MLDP. The Planning Adviser noted that any visual impact in this regard would be exacerbated further by the prominent roadside location of the development which would be readily visible on the approach to the village.
- 3.7 The Planning Adviser advised that the house site of the proportions proposed, located between existing housing, would fail to reflect the low density and spacing pattern of development in this area, which is largely characterised by spacious plots dispersed across the ENV. Stating that the proposal would therefore represent an inappropriate form of development that would be out of keeping with its immediate surroundings, the Planning Adviser advised that the proposal would fail to accord with the requirements of Policies IMP1 and H3 in terms of appropriate scale, density and character.
- 3.8 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the area is a private house site which is not open to public access and, in this sense, the value must be seen in what is perceived as wider open space provided by the green corridor area approach to Findhorn. The Applicant stated their belief that the use of the word loss is misleading as the existing house site is within an area that has been designated ENV6 and what is proposed will not change the designation. They advised that what has to be established is whether it will seriously change the nature of the green corridor in that area.
- 3.9 The Applicant stated their belief that saying no to avoid damage is not progressive and that existing guidance on fitting housing into the landscape will address this problem and demonstrate how to enhance sites with no perceived loss. They advised that incorporating good architectural design can

create opportunities to absorb development just like this.

- 3.10 Advising that the form of development protected by the refusal can be described as suburban which does not respect follow the traditional village structure or pattern of Findhorn or the Moray coast, the Applicant advised that the area has standard deep house plans with little diversity, failing to create focal points and landmarks. They further advised that what is being proposed follows the traditional arrangements of landscape and building and will be based on high standards of design and quality, noting that good architectural design would avoid visual impact being exacerbated by the roadside location.
- 3.11 The Applicant stated their belief that the proposal meets all the technical requirements set out within Policy H3 and, as an application in principle, noted that there is no actual house design. They advised that the design statement attempts to show a proposal that adopts a traditional design and will be able to take its place alongside the village created by earlier generations.
- 3.12 Councillor Cowie, 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 15/02023/PPP.
- 3.13 Councillor Shepherd stated he was of the same opinion as Councillor Cowie and seconded his motion.
- 3.14 Councillor Coull stated that he believed the proposal complied with Policy IMP1 and was an acceptable departure from Policies E5 and ENV6 on the basis that the proposal was set back from the roadside and formed a cluster with surrounding properties. Accordingly, as an amendment, Councillor Coull moved that the review be upheld, and planning permission be granted in respect of Planning Application 15/02023/PPP.
- 3.15 The Chair stated that he was of the same opinion as Councillors Cowie and Shepherd.
- 3.16 There being no seconder, Councillor Coull's amendment fell.
- 3.17 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 15/02023/PPP.

**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.