



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR155
 - Site address: South Rashcrook, Rashcrook, Birnie
 - 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 15/02019/APP to erect dwellinghouse with detached garage
 - Unaccompanied site inspection carried out by the MLRB on 17 May 2016
 - Date of decision notice: 21 June 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 26 May 2016.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Cowie, K. Reid and R. Shepherd.

2. MLRB Consideration of Request for Review

- 2.1 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 with detached garage at South Rashcrook, Rashcrook, Birnie.
- 2.2 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.

- 2.3 The Moray Local Review Body (MLRB) agreed that it had sufficient information to determine the request for review.
- 2.4 With regard to the unaccompanied site inspection carried out on 17 May 2016, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 2.5 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 Open Countryside, E9: Settlement Boundaries and IMP1: Developer Requirements of the Moray Local Development Plan (MLDP) 2015 on the grounds that the proposal would contribute to a build-up of development, as an addition to the two houses permitted to the south, and would establish a ribbon form of development around the southern and western sides of the extensive field areas involved.
- 2.6 Stating that the two houses approved to the south of the field area are considered the limit of what can be accommodated in the landscape without an increasingly detrimental impact on the open rural characteristics of the area that would be caused by ongoing residential development, the Planning Adviser noted that the site is immediately outwith the Thomshill settlement boundary and therefore would effectively involve expansion of that settlement which is contrary to Policy E9.
- 2.7 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated their belief that the house is not overtly prominent as it is not artificially elevated, on a skyline and in the centre of a field. They advised that the proposal would have a tree lined backdrop helping it to integrate into the housing pattern.
- 2.8 The Applicant advised that the prevailing settlement pattern is characterised by both small clusters and individual houses. Noting that Cluster 1 consists of two house plots to the south of the site, they advised that the introduction of this proposal would extend Cluster 2 which would consist of this proposal with four house sites to the west at Thomshill Heights. They stated that the proposed plot would be well placed to blend into the existing settlement pattern and would not detract from the character of the Rashcrook area.
- 2.9 Stating that, if approved, the Rashcrook fields would have 3 approved houses over an area of 24 acres, the Applicant advised that, taking into consideration the Thomshill Heights plots, it is difficult to see how over development has been reached or that the rural character of the area has been changed. They advised that the proposal would be bounded by at least 50% existing boundaries with mature trees and existing post and wire fences.
- 2.10 Councillor Reid, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that she was minded to agree with the Appointed Officer and moved that the review be dismissed and the Appointed Officer's decision be upheld to refuse planning permission in respect of Planning Application 15/02019/APP.

- 2.11 Councillor Shepherd stated he was of the same opinion as Councillor Reid and seconded her motion.
- 2.12 The Chair and Councillor Cowie stated they were of the same opinion as Councillors Reid and Shepherd.
- 2.13 Accordingly, the MLRB agreed to dismiss the review and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 15/02019/APP.

Paul Nevin
Senior Solicitor (Property & 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.