



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR158
 - Application for review by Mr & Mrs Gray, c/o Mr A. Murdoch, Ashley Bartlam Partnership against the decision of an Appointed Officer of The Moray Council
 - Planning Application 16/00449/APP to amend design of vestibule roof approved under planning consent 15/01401/APP for demolish 2 dwellinghouses (Cairnend and Lismore) and associated outbuildings and workshop and erect new dwellinghouse with garage at Cairnend, Fochabers
 - Unaccompanied site inspection carried out by the MLRB on 24 June 2016
 - Date of decision notice: 28 July 2016
-

Decision

The MLRB agreed to uphold the request for review and grant planning permission, subject to the conditions appended to this decision notice. Attention is also drawn to the informative notes which follow the conditions.

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 30 June 2016.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Cowie 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 amend design of vestibule roof approved under planning consent 15/01401/APP for demolish 2 dwellinghouses (Cairnend and Lismore) and associated outbuildings and workshop and erect new

dwellinghouse with garage at Cairnend, Fochabers.

- 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 24 June 2016, Mr Henderson, as Planning Adviser to this review, advised that Members of the MLRB 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 H6: Re-use & Replacement of Existing Buildings in the Countryside, H7: New Housing in the Open Countryside and IMP1: Developer Requirements of the Moray Local Development Plan 2015 and associated 'Housing in the Countryside' Supplementary Guidance.
- 2.6 Stating that the proposed amended design by virtue of its proportion, form and pitch does not comply with the design requirements of Policy H7, the Planning Adviser noted that the design was not considered to be innovative and responsive to the setting of the house and as such the development would not be in keeping with the design of houses found in the surrounding countryside, detracting from the character of the area.
- 2.7 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the development is in keeping with the design of houses found in the surrounding countryside and would not detract from the character. While acknowledging that the design does not comply with policy requirements in relation to the design criteria, they advised that the design intention is to distinguish between the 'rear door' utility entrance and the 'front door' entrance vestibule which are side by side. The Applicant stated that the square hipped roof, as approved, helps to achieve the visual element desired in the overall house design but advised that in order to achieve a raised awareness of a front door entrance it is desirable to have a more unusual design.
- 2.8 The Applicant stated that the only exception to Policy H7 design requirements is the roof design and advised that, when viewed from a distance, the roof merges into the backdrop of the garage and main slated roofs thus making no material change to the impact of the house in the surrounding countryside. They stated that this would not detract from the character of the area.
- 2.9 Councillor Cowie, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that he did not agree with the Appointed Officer's opinion and noted that the proposed roof height is the same as the backdrop of the garage.
- 2.10 The Chair stated that he believed the proposal complied with Policy H7 on the

grounds of innovative design and moved that the review be upheld and planning permission be granted in respect of Planning Application 16/00449/APP, subject to standard conditions. This was seconded by Councillor Cowie.

- 2.11 Councillor Shepherd stated that he was of the same opinion as the Chair and Councillor Cowie.
- 2.12 Thereafter, the MLRB agreed that the review be upheld and planning permission be granted in respect of Planning Application 16/00449/APP, subject to standard conditions.

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.

IMPORTANT NOTE

YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

SCHEDULE OF CONDITIONS

By this Notice, The Moray Council has **GRANTED PLANNING PERMISSION** for this proposal subject to conditions as appropriate to ensure implementation of the proposal under the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

CONDITION(S)

Permission is granted subject to the following conditions: -

None.

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

The following notes are provided for your information, including comments received from consultee(s):-

None.

IMPORTANT NOTES ABOUT THIS DECISION

DURATION OF THIS PERMISSION

In accordance with Section 58 (i) of the Town and Country Planning (Scotland) Act 1997 as amended, 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.

If the development has not commenced within this period then this permission shall lapse unless there is a specific condition attached to this permission which varies the stated timescale.

COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT

The following are statutory requirements of the Town & Country Planning (Scotland) Act 1997, as amended. Failure to meet their respective terms represents a breach of planning control and may result in formal enforcement action. Copies of the notices referred to below are attached to this permission for your use.

NOTIFICATION OF INITIATION OF DEVELOPMENT - S.27A of the 1997 Act, as amended requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission. Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to the Moray Council, as planning authority, the attached Notification of Initiation of Development.

NOTIFICATION OF COMPLETION OF DEVELOPMENT - S.27B of the 1997 Act, as amended requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions. Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to the Moray Council, as planning authority the attached Notification of Completion of Development.

NOTIFICATION OF COMPLETION OF PHASED DEVELOPMENT – Under S.27B(2) of the 1997 Act, as amended where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete. When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.

THE MORAY COUNCIL

NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Planning Application Reference No:

Date issued:

I hereby give notice that works as detailed under the above planning application will commence on:

Signed: Date:

THE FOLLOWING INFORMATION MUST BE PROVIDED:

1. Name and address of person carrying out the development:

.....
.....
.....

2. The full name and address of the landowner, if a different person:

.....
.....
.....

3. Where a site agent is appointed, their full name and contact details:

.....
.....
.....

4. The date of issue and reference number of the grant of planning permission:

.....
.....

Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office
High Street
Elgin IV30 1BX

Or email to: - development.control@moray.gov.uk

IMPORTANT

It is important that the Environmental Services Department is advised when you propose to start work as failure to do so may result in enforcement action be taken.

Please complete and return this form.

THE MORAY COUNCIL

NOTIFICATION OF COMPLETION OF DEVELOPMENT

Section 27B Town and Country Planning (Scotland) Act 1997

Planning Application Reference No:

Date issued:

I hereby give notice that works as detailed under the above planning application will be completed on:

Signed: Date:

Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office
High Street
Elgin IV30 1BX

Or email to: - development.control@moray.gov.uk

IMPORTANT

It is important that the Environmental Services Department is advised when the development has been completed as failure to do so may result in enforcement action be taken.

Please complete and return this form.