



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR159
 - Application for review by Mr A. Bruce, c/o Mr R. Acock, Highland Designs against the decision of an Appointed Officer of The Moray Council
 - Planning Application 16/00341/APP for proposed extension with balcony over at 76 Main Street, Buckie
 - Unaccompanied site inspection carried out by the MLRB on 24 June 2016
 - Date of decision notice: 28 July 2016
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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 for the proposed extension with balcony over at 76 Main Street, Buckie.
- 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 H4: Housing Alterations and Extensions and IMP1: Developer Requirements of the Moray Local Development Plan 2015 in that the proposed balcony in this location would result in a detrimental loss of privacy/amenity to the rear gardens of neighbouring properties.
- 2.6 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the main purpose of the application was to extend the existing kitchen on the ground floor and remove the existing block shed.
- 2.7 The Applicant advised that, during early design discussions, it was apparent that a pitched roof would be of a low angle due to existing dormers and that the only sensible option would be a flat roof but that this was not desirable due to its unattractive appearance. They advised that given the low sill level and height of the bedroom window, they had expressed the idea of making the flat roof a balcony with the design of a pitched roof section to the north east side to break up the flatness. Noting that the balcony wall was designed to be solid and 1.2 m high to provide maximum privacy to both the Applicant and the adjoining property, the Applicant advised that the new extension would also be well forward of the neighbouring property and would be in line with the back garden.
- 2.8 Providing two letters of support from both neighbours within their Grounds for Review, the Applicant stated their opinion that there are no issues of overlooking and there has been a lack of consideration for the main purpose of the application which was the extension to the kitchen and dining area.
- 2.9 Councillor Cowie, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated his opinion that the loss of privacy was not an issue, especially with letters of support from the relevant neighbours, and therefore complied with policy. He moved that the review be upheld and planning permission be granted in respect of Planning Application 16/00341/APP, subject to standard conditions.
- 2.10 The Chair stated that he was of the same opinion as Councillor Cowie and seconded his motion.
- 2.11 Councillor Shepherd stated he was of the same opinion as Councillor Cowie and the Chair.

2.12 Thereafter, the MLRB agreed that the review be upheld and planning permission be granted in respect of Planning Application 16/00341/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: -

1. 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.

Reason – The time limit condition is imposed in order to comply with the requirements of Section 58(i) of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.

Reason – In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.

3. Prior to work commencing on site the applicant shall complete the attached notification of initiation of development and submit it to the local planning authority.

Reason – To ensure that the planning authority is aware that development is about to commence and any suspensive conditions can be followed up.

4. Upon completion of the development or as soon as practicable after doing so the attached notification of completion of development shall be completed and submitted to the local planning authority.

Reason – To ensure that the planning authority is aware that the development is complete and is able to follow up any conditions.

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:

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

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

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

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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.