



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR182
 - Application for review by Mr C Mackay, CM Design against the decision of an Appointed Officer of Moray Council
 - Planning Application 16/01901/APP – Demolish Existing Shed and Erect 2 Dwellinghouses on Garage Site, Chapel Lane, Lossiemouth
 - Unaccompanied site inspection carried out by the MLRB on 26 June 2017
 - Date of decision notice: 8 August 2017
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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 29 June 2017.
- 1.3 The MLRB was attended by Councillors W Wilson (Chair), D Bremner, D Gatt, M Macrae, A Patience and D Ross.

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 under the Statutory Scheme of Delegation by the Appointed Officer on 7 February 2017.
- 2.2 A 'Summary of Information' report was submitted 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 accompanied site inspection carried out on 26 June 2017, Ms R MacDougall, as Planning Adviser to this review, advised that Members of the MLRB were shown the site where the proposed development would take place and provided with a summary of the reasons for refusal and the Applicant's Grounds for Review.
- 2.5 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal would be contrary to policies IMP1, H1 and PP3 in the Moray Local Development Plan 2015 as, due to the levels, scale of development and closeness to the boundary, the houses would have a dominating relationship with the neighbouring houses, to the detriment of the privacy and amenity of those properties (with reference to the houses 'Wyndale' to the N.E. and 'Fetlar' to the S.E.). It was also considered that the two houses proposed would represent overdevelopment of the site to the detriment of the openness and visual character of the area.
- 2.6 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that, given the costs of developing a former commercial brownfield site, it was vital that two units are proposed to make the development financially feasible and that the passage of time since early attempts to develop the site had also proven the need for the development to be commercially viable.
- 2.7 The Applicant further stated that the amenity of the area would be significantly enhanced with the removal of the large commercial building that currently overshadows and imposes on every neighbour and the streetscape and would also decrease anti-social behaviour.
- 2.8 It was also the opinion of the Applicant that two houses could be accommodated within the streetscape without impacting on amenity and that the proposal occupied the same ratio of the site as the current commercial building, the design reflected the traditional form of development (1 ½ storey) and that the scale of the houses had been reduced and set back from the roadside. The Applicant cited various examples of similar sized sites and semi-detached developments which provided context and justification for the proposals.
- 2.9 To address concerns raised in previous applications, the Applicant stated that the site size had been increased, the house size reduced and various windows removed and that all reasons for refusal to previous applications had been dealt with including house size, house position, site size and privacy. The issue of privacy had been adequately mitigated as demonstrated by a site section which demonstrates that proposed housing could not view into the properties to the rear or side and windows had been omitted and amended to ensure this, as well as boundary and fence line proposals to limit views.
- 2.10 The Applicant also noted that the potential for a single house site had been confirmed by the Planning Case Officer in the Report of Handling and, if privacy could be deemed sufficient for one property, it should also be deemed sufficient for two. The Applicant also highlighted the need for low cost, local and small scale housing for young families.

- 2.11 The Planning Adviser advised that further representations had been submitted commenting on the grounds for review and raising concerns about floor levels, ridge height, and overshadowing and boundary treatment and that the Applicant had responded to these comments.
- 2.12 Councillor Ross, having had the opportunity to visit the site and consider the Applicant's Grounds for Review agreed with the original decision of 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 16/01901/APP. This was seconded by Councillor Bremner.
- 2.13 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR182 and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 16/01901/APP.

Mr Paul Nevin
Senior Solicitor
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.