



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR191
  - Application for review by Mr Nigel Atkinson, c/o Mr Craig Mackay, CM Design against the decision of an Appointed Officer of Moray Council
  - Planning Application 17/00735/APP for the erection of a dwelling-house on a site west of Kempston House, Maverston, Urquhart
  - Unaccompanied site inspection carried out by the MLRB on 27 November 2017
  - Date of decision notice: 13 December 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 30 November 2017.
- 1.3 The MLRB was attended by Councillors M Macrae (Chair), D Bremner, D Gatt, M McLean, A Patience and D Ross.

#### 2. MLRB Consideration of Request for Review

- 2.1 Councillor M McLean, having not taken part in the site visit for this Review, took no part in the relevant discussion or decision.
- 2.2 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 on the grounds that the site is immediately out with the Maverston Rural Grouping, and policy E9 states that such settlement boundaries represent the limit to which these settlements can expand during the Local Development Plan period. As a development immediately out with the

boundaries of this settlement, such development is stated as not being acceptable. On this basis, it is considered that the proposal would represent the unplanned expansion of a boundary specifically defined to avoid such development and protect distinction between settlement and surrounding countryside.

- 2.3 Furthermore, on the available evidence, the Applicant did not appear to control sufficient land in order to provide the required visibility splay at the development access on to the prospective public road. Therefore the proposal, if permitted, would be likely to give rise to conditions detrimental to the road safety of road users contrary to the Moray Local Development Plan policies T2 Provision of Access and IMP1 Development Requirements.
- 2.4 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.
- 2.5 With regard to the unaccompanied site inspection carried out on 27 November 2017, the Chair stated that Members of the Moray Local Review Body (MLRB) were shown the site where the proposed development would take place and had before them papers setting out both the reasons for refusal and the Applicant's grounds for review.
- 2.6 The Chair asked if there were any preliminary matters which the Planning or Legal Adviser wished to raise. In response, both the Planning and Legal Advisers confirmed that they had no preliminary matters that they wished to raise.
- 2.7 The Chair then asked the MLRB if they had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.
- 2.8 Councillor Ross, having had the opportunity to visit the site and consider the Applicant's grounds for review stated that he agreed with the view of the Appointed Officer in that the proposal was contrary to Policy E9 as it is out with the settlement boundary of the Maverston Rural Grouping and moved that the review be dismissed and the Appointed Officer's decision upheld to refuse planning permission in respect of planning application 17/00735/APP.
- 2.9 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR191 and uphold the Appointed Officer's decision to refuse planning permission in respect of planning application 17/00735/APP.

**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.