



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR241
  - Application for review by Miss M McConachie, c/o Mr Neil Grant, Grant and Geoghegan against the decision of an Appointed Officer of Moray Council
  - Planning Application 20/00311/APP – Erect dwellinghouse at site at Convalley, Dufftown
  - Date of decision notice: 6 January 2021
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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 on the following occasions:- 29 October 2020 and 17 December 2020.
- 1.3 On 29 October 2020, the MLRB was attended by Councillors Alexander, Bremner, Cowie, Gatt, R McLean, Powell, Ross and Taylor. On 17 December 2020, Councillors Alexander, Bremner, Cowie, Coy, Gatt, Powell, Ross and Taylor were in attendance.

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

##### **29 October 2020**

- 2.1 The Legal Adviser advised that Agenda Items 5) LR240 (Planning Application 20/00195/PPP), 6) LR241 (Planning Application 20/00311/APP) and 7) LR242 (Planning Application 20/00355/PPP) had been determined in accordance with the Moray Local Development Plan (MLDP) 2015 however the Applicant

had made brief mention of the new MLDP 2020 in all 3 cases. As the new MLDP 2020 was adopted on 27 July 2020, the Legal adviser advised that the MLRB should determine the planning applications in accordance with the MLDP 2020. As the Appointed Officer had determined the planning applications in accordance with the MLDP 2015, the Legal Adviser advised that the MLRB defer cases LR240, LR241 and LR242 to allow the Appointed Officer the opportunity to determine the planning applications in accordance with the MLDP 2020 and in turn, the Applicant should be allowed to comment on the Appointed Officers findings. Once this has taken place, all 3 cases will come back to a future meeting of the MLRB for consideration. This was agreed.

- 2.2 Accordingly, the MLRB agreed to defer cases LR240 (Planning Application 20/00195/PPP), LR241 (Planning Application 20/00311/APP) and LR242 (Planning Application 20/00355/PPP) to allow the Appointed Officer the opportunity to determine the planning applications in accordance with the policies in the new MLDP 2020, and thereafter, allow the Applicant to make further representation on the Appointed Officers findings, with all 3 cases coming back to a future meeting of the MLRB for consideration.

### **17 December 2020**

- 2.3 Under reference to paragraph 8 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 29 October 2020, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer to refuse planning permission on the grounds that:

The proposal is contrary to policies H7 and IMP1 of the Moray Local Plan 2015, the Housing in the Countryside Supplementary Guidance and the Guidance Note on Cumulative Build UP of New Houses in the Countryside for the following reasons:

- i. The proposed development is contrary to Policy IMP1: Developer Requirements, Policy H7: New Housing in the Open Countryside and Policy E7: Areas of Great Landscape Value (AGLV) and Impacts upon the Wider Landscape of the adopted Moray Local Development Plan (2015) and, as a material consideration, associated Supplementary Guidance on Housing in the Countryside and Guidance Note on the Landscape and Visual Impacts of Cumulative Build-Up of Houses in the Countryside, for the following reasons:
  1. It does not reflect the traditional pattern of settlement in the locality and will be viewed as part of a grouping together with adjacent constructed and consented houses at Convalleys, detracting from the character of the surrounding area.
  2. It will contribute to a build-up of development where the number of houses will have the effect of changing the rural character of the area.
  3. It will contribute to a sequential visual effect of cumulative build-up of new housing experienced when travelling along roads in the vicinity of the site in terms of its siting particularly in relation to existing and consented houses at Convalleys and the designated rural grouping at Lettoch.

4. It will have a significant adverse effect upon an Area of Great Landscape Value and the landscape character of the area as a result of this siting and build-up of development.
- 2.4 At the meeting of the MLRB on 29 October 2020, the MLRB agreed to defer case LR241 to allow the Appointed Officer the opportunity to determine the planning application in accordance with the policies in the new Moray Local Development Plan (MLDP) 2020, and thereafter, allow the Applicant to make further representation on the Appointed Officers findings.
- 2.5 In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.
- 2.6 Having received the further photographs of the site and information from both the Appointed Officer and the Applicant, the Chair then asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.
- 2.7 Following consideration, the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/00311/APP as it is contrary to policies DP4 (Rural Housing), DP1 (Development Principles) and EP3 (Special Landscape Areas and Landscape Character of the MLDP 2020).

**Mr S Hoath**  
**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.