



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR289
  - Application for review by Mr Wright c/o Mr C Bremner against the decision of an Appointed Officer of Moray Council
  - Planning Application 22/01292/APP – Erect dwellinghouse on Plot 3, Milnuff, Drybridge, Buckie
  - Unaccompanied site inspection carried out by the MLRB on 14 June 2023
  - Date of decision notice: 3 July 2023
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#### **Decision**

The MLRB agreed to dismiss the request for review and uphold the original decision of the Appointed Officer to grant the above noted application subject to 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 15 June 2023.
- 1.3 The MLRB was attended by Councillors Macrae (Chair), Dunbar (Depute), Cameron, Harris, Keith, McBain, Ross Van Der Horn and Warren.

#### **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 grant planning permission in respect of Planning Application 22/01292/APP, 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 the permission is granted.

**Reason:** The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. No development works shall commence on the dwelling house until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where a future Electric Vehicle (EV) charging unit is to be connected to an appropriate electricity supply, including details (written proposals and plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the first occupation of the dwelling house.

**Reason:** In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport, through the provision of details currently lacking.

3. No water shall be permitted to drain or loose material be carried onto the public carriageway.

**Reason:** To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.

4. A visibility splay 2.4 metres by 120 metres to the north-west shall be provided at the access onto the public road, and maintained thereafter at all times free from any obstruction greater than 0.6m in height measured from the level of the carriageway.

**Reason:** To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users.

5. Three car parking spaces shall be provided within the site prior to the occupation or completion of the dwelling house, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

**Reason:** To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

6. Prior to the occupation of the house hereby approved a scheme of effective treatment to the private water supply shall be fully installed and properly maintained for the lifetime of the development. The scheme must ensure that the water to the house would fully comply with the regulatory limits stated in The Water Intended for Human Consumption (Private Supplies) (Scotland) regulations 2017 and should specifically include effective point of entry ultraviolet treatment, prefiltration, pH correction measures and iron/manganese treatment.

**Reason:** To ensure that the development is served by an adequate and wholesome water supply.

7. The paddock area associated with the plot as identified in the approved site plan, shall be only used as paddock land, and not for domestic garden purposes. Note. For the avoidance of doubt, the paddock does not have the benefit of permitted development rights under Article 2(4), Schedule, Part 1 Classes 3B (Building, engineering, installation or other operation within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by the Town & Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (or any Order revoking and re-enacting that Order(s) with or without modifications).

**Reason:** To safeguard the rural character of the site and its surroundings, by mitigating against any domestic encroachment into adjoining farm/paddock land.

8. Unless otherwise agreed in writing with the Planning Authority, boundary enclosures surrounding the site hereby approved shall only comprise post and wire fencing or hedging made up of native species (birch, gean, hawthorn, scots pine, beech, oak, holly). In addition 15% of the plot must be landscaped with native tree species (whips and feathered trees at least 1.5 metres in height, planted at a density of 1 per 4 sqm). All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the commencement of development. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason:** To ensure an acceptable scheme of landscaping to aid the integration of the house into the surrounding landscape and ensure the planting is timeously provided.

9. Notwithstanding the details shown on the approved plans, the roof of the dwellinghouse hereby approved shall be finished in natural slate.

**Reason:** To ensure the highest standards of material finish are achieved for new housing in the countryside and that new housing is finished in a manner which reflects the traditional material finishes of houses in Moray.

10. The residential caravan hereby permitted is solely for the use of the applicant or developer for the duration of the construction works associated with the development hereby approved. Within 3 years from the date of this decision notice or within 2 months following the occupation or completion of the dwellinghouse, whichever is the sooner, the caravan shall be removed permanently from the site, along with all associated fixtures and fittings.

**Reason:** To ensure the removal of the residential caravan from the site following the completion of the adjacent house, in the interests of minimising and removing the visual impact of the caravan.

- 2.2 A Summary of Information Report set out the reasons for refusal, together with the documents considered or prepared by the Appointed Officer in respect of the planning application, in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
- 2.3 In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, the Legal Adviser advised that he had nothing to raise at this time.
- 2.4 The Mr Miller, Planning Adviser advised that planning permission had been granted in respect of Planning Application 22/01292/APP however the Applicant was appealing against Condition 9. Therefore, if the Moray Local Review Body (MLRB) were minded to uphold the appeal then Condition 9 would be removed from the planning consent and if the appeal was dismissed, the condition would stand. This was noted.
- 2.5 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.
- 2.6 Councillor Harris, having visited the site and considered the case in detail moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to include condition 9 requiring the use of natural slate on the roof in relation to Planning Application 22/01292/APP so that the development is in keeping with adopted policies within the Moray Local Development Plan (MLDP) 2020 and National Planning Framework (NPF) 4. This was seconded by Councillor Cameron.
- 2.7 There being no-one otherwise minded, the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to include condition 9 requiring the use of natural slate on the roof in relation to Planning Application 22/01292/APP so that the development is in keeping with adopted policies within the MLDP 2020 and NPF4

**Mrs Aileen Scott**  
**Legal Services Manager**  
**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.