



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 013
- Site address: Site adjacent to Westcroft, Pluscarden, Elgin, Moray
- Application for review by Mr P Oliver against the decision by an Appointed Officer of Moray Council.
- Application10/00115/APP: Full permission for the erection of a dwellinghouse.
- Unaccompanied site inspection carried out by the MLRB on Friday 17 September 2010

Date of Decision Notice: 13 October 2010

Decision

The MLRB agreed to dismiss the request for review and uphold the decision of the Appointed Officer to refuse full planning permission.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for full planning permission was considered by the MLRB at meetings on 12 August & 22 September 2010. The Review Body was attended at both meetings by Councillors B Jarvis (Chair), J MacKay & D Ross.

2.0 Proposal

- 2.1 This is an application for full planning permission for the erection of a dwellinghouse on a site adjacent to Westcroft, Pluscarden, Elgin.

3.0 MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 12 August 2010 Councillor Ross sought guidance as to the weight to be given to the applicant's references in the grounds for review to other approved dwellings in the vicinity of the proposed development and sought further information on the reference to Areas of Great Landscape Value (AGLV).
- 3.2 The Planning Adviser advised the meeting that whilst planning applications required to be considered on their individual merit in terms of the policies set out in the Moray Local Plan 2008, were the MLRB so minded and if the MLRB could identify specific planning application approvals in the vicinity of interest, the Reports of Handling could be obtained and circulated to members of the MLRB to enable members to consider the reasons for each specific approval.
- 3.3 In regard to the AGLV the members of the MLRB were referred to Policy E7 on page 46 of the Moray Local Plan 2008 which gave a definition and justification relative to an AGLV. Councillor Ross referred to the grounds for refusal and the Appointed Officer's Report of Handling and asked for confirmation that, given that the reasons for refusal do not reject the proposed design of the house, could it be assumed that the design is considered acceptable, or was this not considered relevant as the Appointed Officer was recommending refusal. The MLRB agreed that clarification be sought from the Appointed Officer in terms of the written submissions procedure set out in Regulation 15.
- 3.4 Councillor J MacKay expressed the view that, in his opinion, there was insufficient information in order to proceed to determine the request for review and requested that an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of Policies H8 and E7 of the Moray Local Plan 2008. This was agreed by the other members of the MLRB who also requested that the Planning Adviser attend the site inspection.
- 3.5 It was also agreed that further information be obtained in regard to the planning application referred to in Section 11.1 of the applicant's grounds for review as having been approved which the applicant considers to be in far more open and exposed site to the proposed development which is the subject of review. This information was considered a matter of fact and not new evidence in terms of the Regulations as the Appointed Officer would be deemed to have knowledge of approvals in the surrounding area.

- 3.6 The unaccompanied site inspection was carried out on Friday 17 September 2010 and at the meeting of the MLRB on Wednesday 22 September 2010 the Planning Adviser to the MLRB advised the meeting that on arrival, he identified the site, subject of the review, as within the fenced area of land within the garden of an existing house and not the vacant field between the house and the forest. He had also pointed out the location of other sites in the vicinity, referred to in the applicant's grounds for review, one of which had been granted consent, under delegation, and the other pending a decision. He also advised the meeting that the key issues in the refusal were that the proposal was seen to be contrary to Moray Local Plan 2008 Policies H8, E7 and IMP1 in that it represented intrusive suburban style development, it would form roadside ribbon development, it would have a detrimental impact on the attractive rural character of the area, the capacity for more housing in the area had been reached and that approval would encourage further cumulative development to the visual detriment of the wider area.

The Planning Adviser also advised the meeting that the counter arguments set out in the grounds for review were based on the site being part of a small cluster of existing houses and therefore it related to the character of the area, it had the required boundary definition, it would not be overtly prominent, as described in the local plan policy, it was felt be well assimilated and screened and this was in contrast to the recent approval granted nearby. No objections had been submitted and it was argued that the proposal complied with policy and was not ribbon development but was effectively a gap between the existing house and the cottage further to the east.

- 3.7 Thereafter the MLRB agreed that it now had sufficient information in order to proceed to determine the request for review and proceeded to consider the request for review.
- 3.8 During consideration of the request for review clarification was sought in regard to the definition of roadside 'ribbon development' and the Planning Adviser advised the meeting that, in planning terms, this is regarded as a progressive extension of a linear row of houses or properties along a roadside frontage and is deemed to be bad practice. In this instance the Appointed Officer had taken the view that the addition of a house at this location constituted ribbon development whereas on the other hand the appellant was of the view that the review site is an infill of a gap-site given that there is another property to the east of the site on the other side of the road and not a linear extension. The meeting also noted that the existing two roadside houses were allowed as replacements for an existing steading complex and complied with policy. Clarification was also sought in regard to the definition of a 'gap-site' and the Planning Adviser advised that whilst there was no specific definition it normally is referred to a gap between two houses as opposed to a gap between a house and another feature on the ground.

- 3.9 Councillor MacKay expressed the view that, in his opinion, the application had the characteristics of a gap-site rather than an application that would create any form of ribbon development and would not detract from the existing rural setting of the area nor would it be overtly prominent. For these reasons Councillor MacKay was of the view that the request for review should be granted and full planning consent granted as complying with policy.
- 3.10 Councillor Jarvis was of the view that, in his opinion, the proposed development would constitute ribbon development and therefore the request for review should be refused and the original decision of the Appointed Officer to refuse the application be upheld.
- 3.11 Councillor Ross expressed the view that had the two established properties been new build with no previous history on the site as opposed to a replacement for a previous development on the site then he would have been minded to support the view expressed by Councillor MacKay. However in this instance he was of the opinion that the application did constitute ribbon development with potential for further development. There are already four properties within the vicinity of the application and he was of the view that this would be extended further if the request for review were to be granted.
- 3.12 The MLRB agreed, by a 2 to 1 majority, to refuse the request for review and that the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the proposal is contrary to policies H8, E7 (Areas of Great Landscape Value) and IMP1 in the Moray Local Plan for the following reasons:
- (i) Both in itself and in combination with the neighbouring consents for housing granted the proposal is an intrusive suburban type of development that would form roadside ribbon development and would have a detrimental impact on the attractive rural character of the area.
 - (ii) Further such cumulative development would be encouraged both in the vicinity and elsewhere, to the visual detriment of the wider area.

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Rhona Gunn
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 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 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.