



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 015
- Site address: Site to the rear of 12 Alexandra Road, Keith, Moray
- Application for review by Mr B Fettes against the decision by an Appointed Officer of Moray Council.
- Application 09/01147/FUL : Full permission a proposed new 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 D Ross (Chair), J Hogg & J MacKay

2.0 Proposal

- 2.1 This is an application for full planning permission for the erection of a new dwellinghouse on a site to the rear of 12 Alexandra Road, Keith, Moray.

3.0 MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 12 August 2010 the MLRB agreed that there was insufficient information in order to proceed to determine the request for review and agreed that an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of Policies T2 & H4 of the Moray Local Plan 2008. The MLRB also requested that the Planning Adviser attend the site inspection and that the address of the proposed dwelling house be clarified.
- 3.2 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, clarified the confusion regarding numbering and identified four other properties that would share the access to the site. He reminded the members of the MLRB that there were two grounds for refusal. The first being that the site had no roadside frontage, was deemed to be backland development which would be detrimental to the character and amenity of the area. The second reason relating to the adverse effect on road safety at the access onto Alexandra Road and would result in increased congestion on Alexandra Road. The counter argument, set out in the grounds for review, expressed the view that housing in settlements is generally accepted and encouraged, that the proposed development meets the plot size requirements and is in keeping with the surrounding area in terms of scale and density. The applicant was also of the view that there were adequate sight lines and that sufficient parking could be provided for the properties concerned and argued that the proposal was not backland development, it was not totally surrounded by other housing as one aspect is on to an open field and that there were other precedents in Keith for similar type developments.
- 3.3 The MLRB then 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.
- 3.4 Councillor Ross moved refusal of the request for review and that the Appointed Officer's decision to refuse the application for the reasons set out in the decision notice be upheld. There being no-one otherwise minded the motion became the finding of the meeting.

3.5 Accordingly the LRB agreed that the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the proposal is contrary to Policies T2, H4 and IMP1 of the Moray Local Plan 2008 for the following reasons:-

- (i) the proposal would have an adverse effect on road safety at the access onto Alexandra Road that would result in increased congestion or conflict between vehicles departing and arriving at the same time; and
- (ii) as there is no road frontage for the site, it would constitute backland development, which would be detrimental to the character and amenity of the area.

.....

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.