



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 016
- Site address: Site adjacent to Upper Forgie Farm, Newmill, Keith
- Application for review by Mr & Mrs Graham & Karen Scott against the decision by an Appointed Officer of Moray Council.
- Application09/01812/PPP : Planning permission in principle to erect a dwellinghouse and detached garage.
- 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 planning permission in principle.

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 planning permission in principle for the erection of a new dwellinghouse and detached garage on a site adjacent to Upper Forgie Farm, Newmill Keith, Moray

3.0 MLRB Consideration of request for review

- 3.1 Prior to considering the request for review at the meeting of the MLRB on 12 August 2010 the Planning Adviser to the MLRB advised the meeting that whilst there were two reasons for refusal, one relating to Policy H8, in terms of sighting, and the other relating to Policy T2 in regard to provision of road access, the applicant had confirmed in the supporting grounds for review that he would now be happy to make a financial contribution towards off-site road improvements as sought. A passing place would still be required between the site and the B9016, but this could be controlled by condition. Thus if the MLRB was minded to overturn the H8 interpretation, the situation with T2 compliance could now be resolved if the MLRB was satisfied that the issues raised in terms of policy T2 were sufficiently addressed by the financial contribution and proposed passing place.
- 3.2 Following consideration on the request for review 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 & H8 of the Moray Local Plan 2008. The MLRB also requested that the Planning Adviser attend the site inspection.
- 3.3 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, which forms the corner of a field and advised that there were two similar sites further up the roadway one of which was the subject of a review by the MLRB at its' first sitting and refused and the second having been approved, under delegation, as complying with policy. The two sites referred to had been pointed out as part of the site inspection. He also advised that whilst there were two separate reasons for refusal, one in terms of policies H8 and IMP1 and the other on roads and transportation issues in terms of policy T2, the roads and transportation issues can now be satisfied and were the MLRB minded to approve the request for review these issues could be conditioned as part of the consent.
- 3.4 He also outlined the key issues for the grounds for refusal and the meeting noted that the proposed site was seen to occupy an open location, it lacked a backdrop which was insufficient to overcome the prominence of the site, it failed to integrate with the landscape and that the road network was regarded as inadequate with incremental traffic.
- 3.5 The meeting also noted that the case being made by the applicant, as set out in the grounds for review, was that, in their opinion, the proposal complied with local plan policies which allowed for new housing in the Keith area, the site was considered to fit well in terms of scale, density

and character and would be successfully accommodated in a rural environment. They also advised that the new development

itself would provide new landscaping and that the site is located on a slope beyond which there were trees which provides the required backdrop and therefore the site is not, in their opinion, regarded as being prominent and that there were precedents for similar developments in the wider area. They also confirmed that were the request for review to be successful they would be happy to pay the developer contribution towards off-site road improvements and that the other issues could be conditioned.

- 3.6 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.
- 3.7 Councillor Ross, having noted that the reason for refusal relating to policy T2 could now be overcome by conditions, moved refusal of the request for review on the grounds that it failed to comply with policies H8 and IMP1 of the Moray Local Plan 2008 in that the proposed development failed to integrate with the surrounding landscape.
- 3.8 In support of the motion Councillor Hogg added that, in his opinion, the site of the proposed development was a very exposed site when viewed from the north-west and south and whilst it has an upward slope it has no features on the ground which would allow the development to integrate into the landform and therefore the proposed development did not comply with policies H8 and IMP1 of the Moray Local Plan 2008.
- 3.9 The MLRB unanimously agreed that the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the application is contrary to Policies H8 and IMP1 of the Moray Local Plan 2008 on the grounds that the site occupies an open location, lacking in a backdrop sufficient to prevent any house from occupying a prominent location, which would therefore fail to integrate into the surrounding landscape.

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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.