



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 044
 - Site address: Belnagarrow, Maggieknockater, Craigellachie
 - Application for review by Mr David Campbell against the decision by an Appointed Officer of Moray Council.
 - Application 11/01566/APP : Full Planning Permission for the erection of a house and garage on a site at Belnagarrow, Maggieknockater, Craigellachie
 - Unaccompanied site inspection carried out by the MLRB on Monday 19 March 2012
 - Date of Decision Notice : 30 April 2012
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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 a meeting on 23 February and 22 March 2012. The Review Body was attended at both meetings by Councillors D Ross (Chair), J Mackay & R Shepherd.

2.0 Proposal

- 2.1 The planning application seeks full planning permission for the erection of a 1½ storey dwellinghouse and associated works on farmland at Belnagarrow Farm, Maggieknockater. The application includes a site layout showing house position, landscaping and access on to the public road, confirmation of private foul drainage arrangements i.e. septic tank and soakaway, connection to an existing private water supply. The proposed dwelling is to be of single storey construction, have an L shaped plan form, 45 degree pitch and provide accommodation including 3 bedrooms and reception rooms as well as a detached garage. External finishes would include Tuscany beige drydash render and dark grey Marley edgemere tiles.

MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 23 February 2012 there was submitted a 'Summary of Information' report by the Clerk to the MLRB setting out the reasons for refusal together with a copy of the Report of Handling and a copy of the Notice of Review & supporting documents.
- 3.2 Following consideration of the case papers the MLRB agreed that it did not have sufficient 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 H8 and IMP1 of the adopted MLP 2008. It was also agreed that the Planning Adviser attend the unaccompanied site inspection.
- 3.3 At the subsequent meeting of the MLRB on 23 March 2012 there was submitted a 'Summary of Information' report detailing the outcome of the MLRB's previous consideration of the request for review and advising that the unaccompanied site inspection was undertaken on Monday 19 March 2012.
- 3.4 In regard to the unaccompanied site inspection the Planning Adviser advised the meeting that on arrival at the site he had explained that the application was for a house in the countryside and the reasons for refusal were effectively the build up of new houses in this area and the affect that this would have on rural character and the setting of the farm complex. The MLRB had observed other new buildings that had been erected in the wider area and also took account of the applicant's response to the review in which they felt that the site was not readily visible and was in fact less obtrusive than other applications that had previously been given consent in that area.
- 3.5 The MLRB agreed that it now had sufficient information and proceeded to determine the request for review.
- 3.6 Councillor Ross expressed the view that he found the site inspection useful in terms of taking into account the points from the applicant's letter and viewing the site in itself. Whilst he had sympathy with the applicant's references to other permissions granted in the area the MLRB could only look at the individual application before them and should not take other consents into consideration. He also reminded the MLRB that the application had previously been refused in 2009 for similar reasons and that he agreed with the decision of the Appointed Officer. For these reasons Councillor Ross moved that the request for review be refused and the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the proposed development was contrary to policies H8 and IMP1 as it constituted a build up in the area and detracted from the rural character of the surrounding area.

- 3.7 There being no-one otherwise minded the MLRB unanimously agreed that the request for review be refused and the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the application is contrary to Local Plan 2008 policies H8 and IMP1 in that the introduction of this new dwelling and detached garage, coupled with the new and approved residential properties to the north and south of the farm, would constitute an unacceptable outward expansion from the farm complex, and serve to detract from the rural character and setting of the farm complex and locality.

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Sean Hoath
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.