



## MORAY COUNCIL LOCAL REVIEW BODY

### Review Decision Notice

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Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 032
- Site address: The Muckle Hoose, Birnie
- Application for review by Rothies Forest Estate against the decision by an Appointed Officer of Moray Council.
- Application 10/00923/APP : Full planning permission for the erection of a dwellinghouse on land adjacent to The Muckle Hoose, Birnie.
- Unaccompanied site inspection carried out by the MLRB on Monday 25 July 2011
- Date of Decision Notice: August 2011

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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 meetings on 30 June and 28 July 2011. The Review Body was attended at both meetings by Councillors B Jarvis (Chairman) L Creswell & G Leadbitter.

### 2.0 Proposal

- 2.1 This is an application for full planning permission for the erection of a dwellinghouse on land adjacent to The Muckle Hoose, Birnie.

### **MLRB Consideration of request for review**

- 3.1 At the meeting of the MLRB on 30 June 2011 there was submitted a Summary of Information report setting out the reasons for refusal together with a copy of the Report of Handling, a copy of the Notice of Review, a copy of the Grounds for Review and supporting documents and a copy of a further representation received from interested party following notification of request for review.
- 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 IMPI of the Moray Local Plan 2008. The MLRB also requested that the Planning Adviser attend the unaccompanied site inspection.
- 3.3 At the meeting of the MLRB on 28 July 2011 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 carried out on Monday 25 July 2011.
- 3.4 In regard to the unaccompanied site inspection the Planning Adviser advised the meeting that on arrival at the site he gave a brief resume of the grounds for refusal by the Appointed Officer and the grounds for review as set out by the appellant. Members of the MLRB then viewed the proposed site in terms of its context in relation to County Cottages and the nearby Birnie Inn to the west of the site.
- 3.5 The MLRB agreed that it had sufficient information and proceeded to determine the request for review.
- 3.6 Councillor Leadbitter expressed the view that, in his opinion, the proposed development represented linear development which is contrary to Policy H8 of the Moray Local Plan 2008 (Local Plan). He also referred to the reference made by the appellant to the existing new house build and an existing planning approval which applied to a site at the opposite end of the settlement and was of the opinion that they do not contribute to a linear extension of the settlement and whilst there is linear extension on one side of the road the overall settlement is not increased. He was also of the view that the nature of the land on the proposed site provided a natural boundary to the existing settlement and did not consider extending the settlement towards the Birnie Inn would be beneficial to the area. For these reasons Councillor Leadbitter moved that the request for review be dismissed and the original decision of the Appointed Officer to refuse the application be upheld.

- 3.7 Whilst Councillor Creswell was minded to uphold the request for review Councillor Jarvis supported the views expressed by Councillor Leadbitter and therefore it was agreed, by a 2:1 majority, that the request for review be dismissed and the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the development does not comply with Local Plan policies H8 and IMP1 on the basis that the site would extend linear development along the roadside toward the existing grouping of buildings to the north west and would act to amalgamate the two currently separate groups resulting in a build up of development in the countryside to the detriment of the character of the existing groups of houses and surrounding countryside.

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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.