



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 061
- Site address: Ceilidh, 34 Clifton Road, Lossiemouth
- Application for review by Mrs Heather Johnston against the decision by an Appointed Officer of Moray Council.
- Application 10/00874/APP: Alterations to existing garage to form a balcony at Ceilidh, 34 Clifton Road; Lossiemouth.
- Unaccompanied site inspection carried out by the MLRB on 18th September 2012
- Date of Decision Notice: 31 October 2012

Decision

The MLRB agreed to uphold the request for review and grant planning permission, subject to the conditions appended to this decision notice.

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 case was considered at the meeting of the MLRB on 27 September 2012. The Review Body was attended by Councillors B Jarvis, (Chair), G Coull, L Creswell and Leadbitter.

2.0 Proposal

- 2.1 This is an application for planning permission for alterations to the existing garage to form a balcony at Ceilidh, 34 Clifton Road, Lossiemouth.

3. MLRB Consideration of request for review

- 3.1 In regard to the unaccompanied site inspection carried out on Tuesday 18 September 2012 the Planning Adviser advised the meeting that on arrival at the site she had advised that members were shown the location of the proposed balcony, viewed plans of the proposed design and were advised of the materials to be used. The reasons for refusal and grounds for view were also given.
- 3.2 The reasons for refusal are that the removal of the existing pitched roof, build up of wall heads and the formation of a new raised roof will have significant and detrimental impact on the traditional appearance of the existing property. The proposal involves a bulky box like structure that conflicts with the character of the existing property in terms of scale and proportions.
- 3.3 In the grounds for review the applicant states that the material of the garage roof being asbestos is not in character with the main property. There are different characteristics within Clifton Road, including workshops, flats and a fire station. The review is accompanied by photographs of various balconies within Lossie. The applicant states that the design is subjective and in his opinion is contemporary and would enhance the existing property and the surrounding area. Furthermore the balcony would serve to support the business as a B & B by attracting additional clientele.
- 3.4 The MLRB agreed that it now had sufficient information and proceeded to determine the request for review.
- 3.5 Councillor Creswell expressed the view that in her opinion the application was not contrary to Policy H5 and moved that the request for review be upheld.
- 3.6 In seconding the motion Councillor Coull, expressed the view that in his opinion the application met the conditions of Policy H5 and that the appearance would not adversely affect the traditional appearance of the existing properties and indeed adds to the look of the house and the surrounding area.
- 3.7 Councillor Leadbitter expressed the view that he disagreed with the views of both Councillors Creswell and Coull moved that the original decision of the Appointed Officers to refuse the application on the grounds that application is contrary to policy H5 be upheld for the reasons stated in the report.
- 3.8 Councillor Jarvis supported the views expressed by Both Councillors Coull and Creswell.

- 3.9 Accordingly the MLRB agreed on a three to one majority that the request for review be upheld and that planning permission be approved as complying with policy subject to standard conditions.

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Paul Nevin
Legal Adviser to the MLRB

IMPORTANT NOTES ABOUT THIS DECISION

DURATION OF THIS PERMISSION

In accordance with Section 58 (i) of the Town and Country Planning (Scotland) Act 1997 as amended, the development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

If the development has not commenced within this period then this permission shall lapse unless there is a specific condition attached to this permission which varies the stated timescale.

COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT

The following are statutory requirements of the Town & Country Planning (Scotland) Act 1997, as amended. Failure to meet their respective terms represents a breach of planning control and may result in formal enforcement action. Copies of the notices referred to below are attached to this permission for your use.

NOTIFICATION OF INITIATION OF DEVELOPMENT - S.27A of the 1997 Act, as amended requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission. Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to the Moray Council, as planning authority, the attached Notification of Initiation of Development.

NOTIFICATION OF COMPLETION OF DEVELOPMENT - S.27B of the 1997 Act, as amended requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions. Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to the Moray Council, as planning authority the attached Notification of Completion of Development.

NOTIFICATION OF COMPLETION OF PHASED DEVELOPMENT – Under S.27B(2) of the 1997 Act, as amended where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete. When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.

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.

The Moray Council

NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Planning Application Reference No: 10/00874/APP

Date issued:

I hereby give notice that works as detailed under the above planning application will commence on:

Signed: _____ Date: _____

THE FOLLOWING INFORMATION MUST BE PROVIDED:

1. Name and address of person carrying out the development:

2. The full name and address of the landowner, if a different person:

3. Where a site agent is appointed, their full name and contact details:

4. The date of issue and reference number of the grant of planning permission:

Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office,
High Street
Elgin IV30 1BX

IMPORTANT

It is important that the Environmental Services Department is advised when you propose to start work as failure to do so may result in enforcement action be taken.

Please complete and return this form.

The Moray Council

NOTIFICATION OF COMPLETION OF DEVELOPMENT

Section 27B Town and Country Planning (Scotland) Act 1997

Planning Application Reference No: 10/00874/APP

Date issued:

I hereby give notice that works as detailed under the above planning application
will be completed on:

Signed: Date:

Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office
High Street
Elgin IV30 1BX

IMPORTANT

It is important that the Environmental Services Department is advised
when the development has been completed as failure to do so may result
in enforcement action be taken.

Please complete and return this form.