

MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 056
- Site address: Berryhillock, Grange, Keith
- Application for review by Mr Marcus Slater against the decision by an Appointed Officer of Moray Council.
- Application: 12/00327/APP- Erection of a Dwellinghouse including Access Road and Garage at Plot at Berryhillock, Grange, Keith, Moray.
- Accompanied site inspection carried out by MLRB on 18 September 2012.

Date of Decision Notice: 31 October 2012

Decision-

The MLRB agreed to uphold the decision of the Appointed Officer and 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 planning permission was initially submitted to the meeting of the MLRB on 23 August 2012 where the MLRB agreed that all cases would be site visited prior to consideration. The case was therefore first considered at the meeting of the MLRB on 27 September 2012. The Review Body was attended by Councillors C Tuke (Chair), B Jarvis, G Leadbitter, and L Creswell.

2.0 Proposal


- 2.1 This is an application for planning permission in principal for the erection of a dwellinghouse on farm and forestry land at a Plot at Berryhillock, Grange, Keith, Moray. The same proposal was refused planning permission on rural housing policy grounds in 2011 and subsequently dismissed on appeal by the Local Review Body on 14 September 2011.

3.0 MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 27 September 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 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 members were shown the location of the site and given an overview of the planning history and adjacent plots. The LRB were advised that the same proposal was dismissed by the MLRB on 14 September 2011. The reasons for refusal and grounds for review were set out.
- 3.3 The reasons for refusal were that the proposed house when added to the number of approved houses and existing properties in the immediate vicinity would detrimentally change the character from that of open countryside to small settlement where none is designated.
- 3.4 In the grounds for review the applicant states that the proposal when approved will result in a cluster of houses in keeping with the existing rural settlement pattern and characteristics typified by this part of Moray. The principle for residential development has previously been confirmed on this site, coupled with 2 adjacent sites this can be determined as an appropriate location. Identical proposals had been approved on neighbouring plots. The review cites various examples of other planning approvals in the Grange area.
- 3.5 The MLRB agreed that it now had sufficient information and proceeded to determine the request for review.
- 3.6 Councillor Jarvis having visited the site expressed the view that he could see no difference in this application from the previous one submitted and for this reason he moved that the original decision of the Appointed Officer to refuse the application on the grounds that the proposal is contrary to Moray Local Plan policies H8 and IMP1 be upheld.

3.7 In seconding the motion Councillor Leadbitter expressed the view that nothing had changed from the previous application and agreed that the original decision of the Appointed Officer be upheld for the reasons contained within the report.

3.9 There being no one otherwise minded the motion became the finding of the meeting and the MLRB unanimously agreed that the request for review be refused and that the original decision of the Appointed Officer to refuse the application be upheld on the grounds that the proposal is contrary to the Moray Local Plan policies H8 and IMP1 for the following reason:

- (i) the proposal is contrary to Moray Local Plan policies H8 and IMP1. The proposed house, when added to the number of approved houses and existing properties in this immediate vicinity, would detrimentally change the character from that of open countryside to a small  none is designated.



Paul Nevin
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(BJ)

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.