



## 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 083
  - Site Address: 133b Mid Street, Keith
  - Application for review by Mr M Temple, CM Design, St Brendans House, South Guildry Street, Elgin, IV30 1NQ
  - Planning application 13/00406/APP – Erect a conservatory at 133b Mid Street, Keith
  - Unaccompanied site inspection carried out by the MLRB on Friday 23 August 2013
  - Date of Decision Notice: 23 September 2013
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#### Decision

The MLRB agreed to uphold the request for review and grant planning permission, subject to the conditions appended to this decision notice. Attention is also drawn to the informative notes which follow the conditions.

#### 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 considered by the MLRB at the meeting held on 29 August 2013.
- 1.3 The Review Body was attended by Councillors B Jarvis (Chair), G Leadbitter, G Coull, and J Mackay.

## **2.0 Proposal**

2.1 This is an application for planning permission for a proposed erection of a conservatory at 133B Mid Street, Keith.

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

3.1 With regard to the unaccompanied site inspection carried out on 23 August 2013, the Planning Adviser advised that Members visited the site and viewed the existing conservatories that were proposed for demolition and replacement. Members also visited Mid Street to view the types of window materials present in surrounding buildings.

3.2 In terms of the refusal, the Planning Adviser advised that the proposal was contrary to the conservation area and implementation policies on the basis that constructing a modern UPVC conservatory would have a detrimental impact on the character and appearance of the conservation area.

3.3 In terms of the Appellant's grounds for review, he is of the opinion that there is no current policy that categorically forbids the use of UPVC within Conservation Areas. He further stated that in the immediate locality of the property, UPVC might even be considered the dominant material. Therefore, on this basis the proposals would have no detrimental impact on the character and appearance of the Conservation Area and would be a vast improvement on present structures.

3.4 Councillor Leadbitter, having had the opportunity to view the site and consider the Appellant's grounds for review sought clarification that, if approved, the UPVC used would be of a wood effect. The Planning Adviser advised that this could be added as a condition. Councillor Leadbitter further stated that as there was UPVC in buildings surrounding the site and as the site was not in a prominent location of the conservation area, he could find no reason to refuse the appeal. Therefore Councillor Leadbitter moved that the decision of the Planning Officer be overturned and the appeal be upheld. This was seconded by Councillor Mackay who was also of the opinion that this application be upheld subject to a condition that the UPVC used is wood effect.

3.5 Councillor Coull agreed with the views of Councillors Leadbitter and Mackay and agreed that the appeal should be upheld.

3.6 There being no-one otherwise minded, the decision of the Planning Officer was overturned and the appeal was upheld subject to the conditions detailed below.

**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(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.

**Condition for the LRB decision:**

The proposed conservatory shall be finished in wood effect Rosewood UPVC.

**Reason:**

In order to match the appearance of other windows and doors on the parent property