



## MORAY COUNCIL LOCAL REVIEW BODY

### Review Decision Notice

#### Decision by the Moray Local Review Body (MLRB)

- Request for review reference: Case 091
- Site address: Land Adjacent To Meadowlark Nursing Home, Mannachie Road, Forres
- Application for review by: Renaissance Care (No 1) Limited, c/o Davidson Baxter Partnership Ltd, 191A Nicol Street, Kirkcaldy, KY1 1PF against the decision by an Appointed Officer of the Moray Council
- Planning Application: 13/01158/PPP - Erect 5 houses including a new access road and private section of road located off Mannachie Road Land Adjacent To Meadowlark Nursing Home, Mannachie Road, Forres
- Unaccompanied site inspection carried out by the MLRB on: 13 December 2013
- Date of decision notice: 17 January 2014

### Decision

The MLRB agreed to uphold the original decision of the Planning Officer to refuse the application.

#### 1. Preliminary

- 1.1 This Notice constitutes the formal decision 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 Thursday 19 December 2013.
- 1.3 The Review Body was attended by Councillors C Tuke (Chairman), B Jarvis, G Leadbitter and J Mackay.

## **2. Proposal**

- 2.1 This is an application for planning permission for a proposed erection of 5 houses including a new access road and private section of road located off Mannachie Road Land adjacent to Meadowlark Nursing Home, Mannachie Road, Forres

## **3. MLRB Consideration of Request for Review**

- 3.1 With regard to the unaccompanied site inspection carried out on 13 December 2013, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.2 In terms of the reasons for refusal, the Planning Adviser advised that the application was found to be contrary to policies H3 relating to new housing in the built up area and IMP1 relating to development requirements of the Moray Local Plan 2008, as the openness of the area makes a valuable contribution to the setting of the nursing home and to the character of the area. Furthermore, it was considered that the development would have an adverse impact on the surrounding environment.
- 3.3 The Planning Adviser further advised that this was a revised application for a previously refused proposal for 6 houses (12/01409/PPP) with the key differences between the two applications being:
- the house previously proposed to Mannachie Road frontage of site has been deleted and the area of land for that house left open;
  - the layout of the other 5 houses is similar to what was proposed before but the spacing of the houses is slightly increased with the nearest house to Mannachie Road side of the site brought slightly forward from where it was before;
  - the houses would now be single storey with the house at the rear of the site having a garage below living accommodation and being 2 storey in height on the side facing the nursing home.
- 3.4 In terms of the Appellant's grounds for review, the Appellant was of the opinion that the proposal is suitable and fully compliant with relevant planning policies as the design issues raised with the first application have been addressed and the revised scheme conforms to the policies. The Appellant further stated that the site was suitable for residential use as it lies within an established residential area and does not impact on the surrounding housing or environment. The scale and character of the proposed houses are in line with the housing surrounding the site and, as the new proposal has one less house than it incorporates enhanced open space provision. With regard to open space provision for care home residents, the Appellant considers this to be achieved via the 2 dedicated garden areas and is of the opinion that, as the proposed site is unusable for the elderly due to its topography, it is surplus to requirement. Furthermore, the Appellant stated that there is adequate servicing and infrastructure available to serve the proposal and that there has been no objection raised by Transportation Services.

- 3.5 Councillor Mackay, having had the opportunity to visit the site and consider the Appellant's grounds for review, stated that he was still of the opinion that a sense of openness was valuable to the nursing home and should be preserved and that one house less than the initial application made no significant difference from the original plan. He therefore moved that the application be refused on the grounds that the project was contrary to policies IMP1 and H3 of the Moray Local Plan 2008.
- 3.6 Councillor Jarvis, having had the opportunity to visit the site and consider the Appellant's grounds for review was of the same opinion as Councillor Mackay and seconded his motion to refuse the application on the grounds that the project was contrary to policies IMP1 and H3 of the Moray Local Plan 2008.
- 3.7 Councillor Leadbitter, having had the opportunity to visit the site and consider the Appellant's grounds for review, was of the same mind as Councillors Mackay and Jarvis and stated that a sense of openness is important and agreed that the application should be refused.
- 3.8 The Chairman, having had the opportunity to visit the site and consider the Appellant's grounds for review sought clarification as to whether planning permission was required for the erection of the fence separating the nursing home from the proposed development. In response, the Planning Adviser agreed to refer this to the Manager in Development Management for enforcement action if required. With regard to the proposed development, he was of the opinion that it would not have a detrimental impact on the surrounding area as the proposed development was similar to the development of houses on the opposite side of Mannachie Road and therefore moved that planning permission be granted subject to a condition that all houses would be single storey with exception to the house on plot 5 where an underground garage would be incorporated. There being no seconder, the Chairman's motion fell.
- 3.9 Thereafter, the Committee agreed to uphold the decision of the Appointed Officer and refuse the application.

**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.