



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case 105
 - Site address: Cockmuir Lodge, Wardend, Birnie
 - Application for review by Mr Gavin Strathdee, c/o Strathdee Properties Ltd against the decision of an Appointed Officer of The Moray Council.
 - Planning Application 14/00555/APP to erect a dwelling house with integral garage at Cockmuir Lodge, Wardend, Birnie.
 - Unaccompanied site inspection carried out by the MLRB on 31 July 2014.
 - Date of decision notice: 26 August 2014
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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. Preliminary

- 1.1 This Notice constitutes the formal decision of the 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 31 July 2014.
- 1.3 The Review Body was attended by Councillors C. Tuke (Chair), B. Jarvis (Vice Chair), G. Leadbitter (Deputy Vice), G. Coull, F. Murdoch, J. Mackay and R. Shepherd.

2. Proposal

- 2.1 This is an application for planning permission to erect a dwelling house with integral garage at Cockmuir Lodge, Wardend, Birnie.

3. MLRB Consideration of Request for Review

- 3.1 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with copies of the Report of Handling, Notice of Review and supporting documents.
- 3.2 With regard to the unaccompanied site inspection carried out on 31 July 2014, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.3 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policies H8 and IMP1 of the Moray Local Plan 2008. She informed the MLRB that the Appointed Officer had advised that a line has to be drawn where further development begins to detrimentally impact on the rural character of the area. The Planning Adviser also advised that the current proposal, in addition to the several other consents granted in the vicinity, would begin to have a detrimental impact on the rural character of the area and further such development would be encouraged.
- 3.4 Referring to the Appellant's grounds for review, the Planning Adviser advised that the Appellant considered the development complied with Policies H8 and IMP1 as the site design is of an adequate size and spacing to enhance the area without creating a sense of overcrowding. They stated that the scale and low impact rural design would be similar to approved developments nearby, with a large amount of trees will be retained to screen the site and integrate the development into the landscape.
- 3.5 Councillor Leadbitter, having had the opportunity to visit the site and consider the Appellant's grounds for review, stated that he was of the opinion that the proposal complied with Policies H8 and IMP1 of the Moray Local Plan 2008 in that the development would not detract from the rural characteristics of the landscape, the site was well screened and there was sufficient space between plots. Accordingly, he moved that the appeal be upheld and planning permission be granted, subject to standard conditions.
- 3.6 There being no one otherwise minded, the MLRB agreed to uphold the appeal and grant planning permission, subject to standard conditions.

Paul Nevin
Senior Solicitor (Property and Contracts)
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.

Conditions

1. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.
2. The first 10m of the access track, measured from the edge of the public road (U119E Birkenbaud Road), shall be constructed to the Moray Council specification and surfaced with bituminous macadam.
3. Three car parking spaces shall be provided within the site prior to the occupation or completion of the dwellinghouse, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.
4. Point of entry ultraviolet treatment and pre-filtration to be fitted to the water supply.

Reasons

1. To ensure acceptable development that does not create any hazard to road users in the interests of road safety, in accordance with 2008 Moray Local Plan Policy T2.
2. To ensure acceptable infrastructure at the development access, in accordance with 2008 Moray Local Plan Policy T2.
3. To ensure an acceptable development in terms of parking provision and amenity of the area, in accordance with 2008 Moray Local Plan Policy T5.
4. In order to ensure a wholesome water supply.

Informatives

The Transportation Manager advises:

The applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. Advice on this matter can be obtained by emailing roads.permits@moray.gov.uk and reference to the following page on the Council web site

Road Opening: http://www.moray.gov.uk/moray_standard/page_79860.html

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

The applicant shall be responsible for ensuring that surface/ground water does not run from the public road into his property.

The applicant shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.