



## MORAY COUNCIL LOCAL REVIEW BODY

### Review Decision Notice

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case 106
  - Site address: 20 Reidhaven Street, Portknockie
  - Application for review by Mr Alan Campbell, c/o Mr Christopher Bremner, against the decision of an Appointed Officer of The Moray Council.
  - Planning Application 13/02296/APP to convert a net store to house at 20 Reidhaven Street, Portknockie.
  - Unaccompanied site inspection carried out by the MLRB on 31 July 2014.
  - Date of decision notice: 28 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 convert a net store to house at 20 Reidhaven Street, Portknockie.

### **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 BE3, H3 and IMP1 of the Moray Local Plan 2008. She informed the MLRB that the Appointed Officer had advised that by virtue of their non traditional proportion, scale and design, the proposed windows on the north elevation detract from the character of the existing building and overall character and appearance of the wider conservation area.
- 3.4 Referring to the Appellant's grounds for review, the Planning Adviser advised that the Appellant believed that the windows to the north gable are sympathetic to the proportion, scale and shape of the existing gable and would take advantage of the views as have other properties in the surrounding area. They stated that the windows were more lightly framed than originally proposed and that other examples in the vicinity detract from the character of existing buildings and the wider conservation area more so than the proposal in question.
- 3.5 Councillor Coull, clarifying that the proposed development is in Ward 2 Keith and Cullen and not Ward 3 Buckie, stated that, having had the opportunity to visit the site and consider the Appellant's grounds for review, he was of the opinion that the proposal complied with Policies BE3, H3 and IMP1 of the Moray Local Plan 2008 in that the development was sympathetic to the surrounding area and would look aesthetically better than what current exists. Accordingly, he moved that the appeal be upheld and planning permission be granted, subject to standard conditions.
- 3.6 In seconding Councillor Coull's motion, Councillor Mackay expressed his opinion that the windows proposed were in keeping with the surrounding areas and would not have an adverse impact on the character of surrounding conservation area.
- 3.7 Councillor Shepherd stated he was of the same view as Councillors Coull and Mackay.
- 3.8 As an amendment, Councillor Murdoch stated that whilst she did not object to windows being placed on the north elevation gable, she believed the proposed ones were in the wrong proportion and not consistent with other windows in

the building and moved that the appeal be dismissed and planning permission refused.

3.9 Councillor Tuke, in seconding Councillor Murdoch's motion, stated that he believed the windows to be proportionate to the gable but not in keeping with tradition within the conservation area. Referring to the Report of Handling and the pre-application advice given to the Appellant, he advised that the smaller vertical style windows would have been more appropriate.

3.10 On a division, there voted:-

For the Motion (4): Councillors Coull, Mackay, Leadbitter and Shepherd.

For the Amendment (3): Councillors Murdoch, Tuke and Jarvis.

Abstentions (0)

3.11 Accordingly, the motion became the finding of the meeting and 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. One car parking space shall be provided within the site prior to the occupation or completion of the conversion, 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.

## **Reasons**

1. To ensure acceptable development that does not create any hazard to road users in the interests of road safety, in accordance with Moray Local Plan 2008 Policy T2.
2. To ensure an acceptable development in terms of parking provision and amenity of the area, in accordance with Moray Local Plan 2008 Policy T5.

## **Informatives**

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