



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR138
 - Site address: Kinloss Garage, Kinloss
 - Application for review by Mr Andrew Housby, c/o Mr Nick Brown, NB Planning and Architecture against the decision of an Appointed Officer of The Moray Council
 - Planning Application 15/01380/APP for proposed extension to workshop and office
 - Unaccompanied site inspection carried out by the MLRB on 11 November 2015
 - Date of decision notice: 25 February 2016
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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 2013.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 28 January 2016.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Coull (Deputy Chair), G. Cowie, M. McConachie and R. Shepherd.

2. Proposal

- 2.1 This is an application for planning permission for proposed extension to workshop and office at Kinloss Garage, Kinloss.

3. MLRB Consideration of Request for Review

- 3.1 Councillor Coull, having not taken part in the site visit for this Review, took no part in the relevant discussion or decision.

- 3.2 Under reference to paragraph 5 of the minute of this Body dated 17 December 2015, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application for a proposed extension to workshop and office at Kinloss Garage, Kinloss.
- 3.3 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, Grounds for Review and supporting documents.
- 3.4 As requested by the MLRB at its meeting on 17 December 2015, a response from the Head of Development Services on whether a suspensive condition could completely address traffic flow at the site, and if it is competent, provide a draft condition for the MLRB's consideration was provided as Appendix 5 to the report.
- 3.5 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.6 Mr K. Henderson, Planning Adviser, advised that it was not deemed possible to apply an enforceable condition to control traffic movements on the site, however, if the MLRB were minded to uphold the review, the impact on highway safety could be negated by controlling the intensification of traffic. He noted that the Head of Development Services had provided a condition designed to control the intensification of traffic for the MLRB's consideration and that this condition would limit the bays for restoration purposes only and for no more than 12 vehicles a year, thus controlling traffic intensification. Stating that the Applicant would also be required to maintain a car restoration log book, which shall be submitted to the Planning Authority annually as well as being made available on the premises for inspection during business hours.
- 3.7 In response to the proposed condition, the Planning Adviser stated that the Applicant feels that the figure of 'no more than 12 vehicles on one calendar year' is limiting and has requested that this be raised to at least 20.
- 3.8 The Chair, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, reiterated his belief that the increase of traffic movements would be negligible in comparison to the overall traffic movements on the junction and that the proposed condition, with a slight amendment, from the Head of Development Services addresses concerns regarding traffic flow through at the site. Accordingly, he moved that the review be upheld and planning permission be granted, subject to the proposed conditions set out in Appendix 5, with Condition 1 being amended to 24 vehicles in one calendar year.
- 3.9 Councillor McConachie seconded the Chair's motion.
- 3.10 There being no one otherwise minded, the MLRB agreed to uphold the review and grant planning permission in respect of Planning Application 15/01380/APP, subject to the conditions set out in Appendix 5, with Condition 1 being amended to 24 vehicles in one calendar year.

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 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

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.

IMPORTANT NOTE

YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

SCHEDULE OF CONDITIONS

By this Notice, The Moray Council has **GRANTED PLANNING PERMISSION** for this proposal subject to conditions as appropriate to ensure implementation of the proposal under the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

CONDITION(S)

Permission is granted subject to the following conditions: -

1. The two repair bays hereby granted shall be used for restoration purposes only and for no more than 24 vehicles in one calendar year.

Reason: In order to facilitate the monitoring of the conditions seeking to protect highway safety.

2. Pursuant to Condition 1 above, the Applicant shall maintain a car restoration log book (to include registration details and dated of entry and exit of each vehicle), and this shall be submitted every 12 months to the Planning Authority to check for compliance purposes, as well as being maintained and available for inspection during business hours at the premises.

Reason: In order that the Planning Authority may retain control over the use of the site and to ensure that highway safety is protected.

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

The following notes are provided for your information, including comments received from consultee:-

None.

IMPORTANT NOTES ABOUT THIS DECISION

DURATION OF THIS PERMISSION

In accordance with Section 58 (i) of the Town and Country Planning (Scotland) Act 1997 as amended, the development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

If the development has not commenced within this period then this permission shall lapse unless there is a specific condition attached to this permission which varies the stated timescale.

COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT

The following are statutory requirements of the Town & Country Planning (Scotland) Act 1997, as amended. Failure to meet their respective terms represents a breach of planning control and may result in formal enforcement action. Copies of the notices referred to below are attached to this permission for your use.

NOTIFICATION OF INITIATION OF DEVELOPMENT - S.27A of the 1997 Act, as amended requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission. Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to the Moray Council, as planning authority, the attached Notification of Initiation of Development.

NOTIFICATION OF COMPLETION OF DEVELOPMENT - S.27B of the 1997 Act, as amended requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions. Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to the Moray Council, as planning authority the attached Notification of Completion of Development.

NOTIFICATION OF COMPLETION OF PHASED DEVELOPMENT – Under S.27B(2) of the 1997 Act, as amended where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete. When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.

THE MORAY COUNCIL

NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Planning Application Reference No:

Date issued:

I hereby give notice that works as detailed under the above planning application will commence on:

Signed: Date:

THE FOLLOWING INFORMATION MUST BE PROVIDED:

1. Name and address of person carrying out the development:

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2. The full name and address of the landowner, if a different person:

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3. Where a site agent is appointed, their full name and contact details:

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4. The date of issue and reference number of the grant of planning permission:

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Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office
High Street
Elgin IV30 1BX

Or email to: - development.control@moray.gov.uk

IMPORTANT

It is important that the Environmental Services Department is advised when you propose to start work as failure to do so may result in enforcement action be taken.

Please complete and return this form.

THE MORAY COUNCIL

NOTIFICATION OF COMPLETION OF DEVELOPMENT

Section 27B Town and Country Planning (Scotland) Act 1997

Planning Application Reference No:

Date issued:

I hereby give notice that works as detailed under the above planning application will be completed on:

Signed: Date:

Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office
High Street
Elgin IV30 1BX

Or email to: - development.control@moray.gov.uk

IMPORTANT

It is important that the Environmental Services Department is advised when the development has been completed as failure to do so may result in enforcement action be taken.

Please complete and return this form.