



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR233
  - Application for review by Mr and Mrs Colin Addison c/o Mr Michael Ritchie, Mantell Ritchie against the decision of an Appointed Officer of Moray Council
  - Planning Application 19/01290/APP – Change of use of first floor ancillary accommodation to holiday let at 17 Cathay Terrace, Cullen, Buckie, AB56 4RX
  - Unaccompanied site inspection carried out by the MLRB on 20 February 2020
  - Date of decision notice: 15 April 2020
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### Decision

The MLRB agreed to dismiss the request for review and uphold the original decision of the Appointed Officer to refuse the above noted application.

#### 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 27 February 2020.
- 1.3 The MLRB was attended by Councillors Taylor (Chair), Bremner (Depute Chair), Alexander, Coy, Gatt, R McLean and Ross.

#### 2. MLRB Consideration of Request for Review

- 2.1 A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application on the grounds that:

The proposal is contrary to the provisions of the adopted Moray Local Development Plan (MLDP) 2015 (Policies ED8, IMP1 and PP3) because:

The proposal would result in the intensification of use of an existing domestic garage (permitted and conditioned for ancillary domestic purposes only),

resulting in a form of backland development providing tourist accommodation which would be incongruous and detrimental to the character and amenity of the area; an area in which no other examples of backland development exist, exemplifying further how out of character the proposal would be in this particularly residential area. On this basis the proposal represents an unacceptable form of development which would result in an inappropriate use of an existing domestic garage building at this location. The proposal therefore fails to comply with Policies ED8, IMP1 and PP3 of the MLDP 2015.

- 2.2 A Summary of Information Report set out the reasons for refusal, together with the documents considered or prepared by the Appointed Officer in respect of the planning application, in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
- 2.3 With regard to the unaccompanied site inspection carried out on 20 February 2020, the Chair stated that members in attendance at the official site visit were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicant's grounds for review.
- 2.4 In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.
- 2.5 The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.
- 2.6 Councillor Gatt, having visited the site and considered the Applicant's grounds for review, stated that he agreed with the decision of the Appointed Officer and moved that the MLRB refuse the appeal as the proposal is contrary to policies ED8 (Tourism Facilities and Accommodation), IMP1 (Developer Requirements) and PP3 (Placemaking) of the MLDP 2015. This was seconded by Councillor Ross.
- 2.7 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR233 and uphold the original decision of the Appointed Officer to refuse Planning Application 19/01290/APP as the proposal is contrary to policies ED8 (Tourism Facilities and Accommodation), IMP1 (Developer Requirements) and PP3 (Placemaking) of the MLDP 2015.

**Mr Sean Hoath**  
**Senior Solicitor**  
**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.