



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR245
 - Application for review by Ms Karen Collins, c/o David Dittman against the decision of an Appointed Officer of Moray Council
 - Planning Application 20/00718/APP – Erect dwellinghouse on site at Marcassie Farm, Rafford, Forres, Moray
 - Date of decision notice: 6 January 2021
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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 17 December 2020.
- 1.3 The MLRB was attended by Councillors Councillors Alexander, Bremner, Cowie, Coy, Gatt, Powell, Ross and Taylor

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 planning permission on the grounds that:

The application proposes a new dwellinghouse on a site within an identified pressurised and sensitive area where no new housing will be permitted and is therefore contrary to the siting and design requirements of policy DP4 – Rural Housing. A house on the site would therefore detract from the rural landscape character of the wider area, contrary to policy DP1 – Development Principles, as well as DP4 – Rural Housing.

- 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 In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.
- 2.4 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.
- 2.5 Councillor Alexander noted that this Planning Application, like others considered at the meeting, had been refused in terms of policy DP4 (Rural Housing) in the Moray Local Development Plan (MLDP) 2020 and urged prospective applicants to note that, unless the planning application complied with this policy, it was likely to be refused. Councillor Coy agreed with Councillor Alexander's comments and asked what advice was available to prospective applicants prior to submitting a full planning application, which is costly.
- 2.6 In response, Mr Henderson, Planning Adviser advised that the MLDP 2020 went through extensive public consultation prior to being formally adopted by the Council. He further advised that pre-application advice can be requested from the Planning Service if required.
- 2.7 Following consideration, the MLRB unanimously agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/00718/APP as it is contrary to policies DP4 (Rural Housing) and DP1 (Development Principles) in the MLDP 2020.

Mr S 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.