



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR246
 - Application for review by Mr Phil Jeremiah c/o Mr Colin Keir, Plans Plus against the decision of an Appointed Officer of Moray Council
 - Planning Application 20/00622/APP – Retrospective consent to convert existing domestic garage to sweet workshop (including sales) at 14 Park Place, Lossiemouth
 - Date of decision notice: 4 February 2021
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Decision

The MLRB agreed to uphold the request for review and grant planning permission/planning permission in principle, 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 on the following occasions:- 17 December 2020 and 28 January 2021.
- 1.3 On 17 December 2020, the MLRB was attended by Councillors Bremner (Chair), Alexander, Cowie, Coy, Gatt, Powell, Ross and Taylor. On 28 January 2021, Councillors Taylor (Chair), Bremner (Depute), Alexander, Cowie, Coy, Gatt, R McLean, Powell and Ross were in attendance.

2. MLRB Consideration of Request for Review

17 December 2020

- 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 proposal is contrary to the provisions of the Moray Local Development Plan (MLDP) 2020 because the use of a domestic garage as a sweet workshop including sales to customers would result in a business use which would involve visiting members of the public to the site and would be detrimental to the residential character and amenity of the site and adjoining neighbouring properties and is therefore contrary to policies DP1, PP1 and PP2 of the MLDP 2020.

- 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 and Planning Advisers had any preliminary matters to raise, the Planning Adviser advised that she had nothing to raise at this time. The Legal Adviser advised that a plan had been circulated to the Moray Local Review Body (MLRB) ahead of the meeting which included information that was not before the Appointed Officer at the time of determination and, if the MLRB were of the view that this was relevant information that should be taken into consideration, then, in terms of the procedure, the Appointed Officer should have the opportunity to comment on this information.
- 2.4 Following consideration, the MLRB unanimously agreed that the Appointed Officer be given the opportunity to comment on the new information contained within the plan and agreed to defer Case LR246 to a future meeting of the MLRB to allow this.

28 January 2021

- 2.5 Under reference to paragraph 8 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 17 December 2020, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer to refuse planning permission on the grounds that:

The proposal is contrary to the provisions of the Moray Local Development Plan (MLDP) 2020 because the use of a domestic garage as a sweet workshop including sales to customers would result in a business use which would involve visiting members of the public to the site and would be detrimental to the residential character and amenity of the site and adjoining neighbouring properties and is therefore contrary to policies DP1, PP1 and PP2 of the MLDP 2020.

- 2.6 At the meeting of the MLRB on 17 December 2020, the MLRB determined that it did not have sufficient information to make a decision and deferred consideration of the Review to request further representation from the Appointed Officer on a plan that had been circulated to the MLRB ahead of

- the meeting which included information that was not before the Appointed Officer at the time of determination.
- 2.7 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.
- 2.8 Having received the further representation from the Appointed Officer in terms of the new information submitted by the Applicant, the Chair then asked the 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.
- 2.9 Councillor Bremner, having considered the case in detail, noted that the application had been refused as it was found to be contrary to policies DP1 (Development Principles), PP1 (Placemaking) and PP2 (Sustainable Economic Growth) of the MLDP 2020 and sought clarification as to which parts of these policies the application did not comply with.
- 2.10 In response, the Planning Adviser advised that policy DP1 was applicable to all developments as they should not adversely impact on neighbouring properties in terms of scale, density and character. PP2 relates to Sustainable Economic Growth however this policy must be balanced with the need to safeguard Moray's natural and built environment. It is the Appointed Officer's view that this proposal would have an adverse impact on its neighbouring properties therefore does not comply with policies DP1 and PP2. Policy PP1 relates to placemaking and it is the Appointed Officer's view that the proposal is detrimental to the character and amenity of the neighbouring properties and would not be compatible with the surrounding area.
- 2.11 Having considered the advice from the Planning Adviser, Councillor Bremner did not agree with the view of the Appointed Officer and moved that the MLRB uphold the appeal and grant planning permission in relation to Planning Application 20/00622/APP as, in his opinion, the proposal is not contrary to policies DP1 (Development Principles) and PP1 (Placemaking) and would not adversely impact neighbouring properties given that the business is being run from the Applicant's garage therefore no further development of the property is taking place. He was also of the view that the proposal complied with policy PP2 as it is a business in Moray that, although small, would still contribute to sustainable economic growth in Moray. This motion was seconded by Councillor Gatt.
- 2.12 There being no-one otherwise minded, the MLRB agreed to uphold the appeal and grant planning permission in relation to Planning Application 20/00622/APP subject to standard conditions and reasons.

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.

IMPORTANT NOTE

YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

SCHEDULE OF CONDITIONS

By this Notice, 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. All operations at the development shall be carried out and permitted between 1000 - 1800, Monday to Saturday and at no other times without the prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager.

Reason - In the interests of residential amenity

2. Two existing car parking spaces shall be retained, and made available for use by residents and customers throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

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

THE TRANSPORTATION MANAGER, has commented that:

Planning consent does not carry with it the right to carry out works within the public road boundary.

On street parking should be located out with the adjacent turning hammerhead at the end of Park Place.

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

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 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 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

Application Number

Date Decision Issued

Location and Description of
Development

**Please note that all suspensive conditions must be discharged prior to
commencement of development**

Date works are to Commence	
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Name, Address and contact details of developer

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**The Full name and Address and contact details of the landowner, if a
different person**

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Where an agent is appointed, their full name and contact details

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Signed

Name (Print)

Date

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Please complete and return this form to:

**The Moray Council, Development Management Manager, Council Offices, High
Street, Elgin, Moray IV30 6UG**

OR

E-mail: development.control@moray.gov.uk



THE MORAY COUNCIL

NOTIFICATION OF COMPLETION OF DEVELOPMENT

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

Application Number

Date Decision Issued
Location and Description of
Development

Date of completion of works	
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Name, Address and contact details of developer

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The Full name and Address and contact details of the landowner, if a different person

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Where an agent is appointed, their full name and contact details

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Signed

Name (Print)

Date

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Please complete and return this form to:

The Moray Council, Development Management Manager, Council Offices, High Street, Elgin, Moray IV30 6UG

E-mail: development.control@moray.gov.uk