



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR253
 - Application for review by Miss Lauren Hambly against the decision of an Appointed Officer of Moray Council
 - Planning Application 20/01419/APP - Change of use from office workshop to kids club and fitness club at 14 Pinefield Parade, Elgin, Moray, IV30 6AG
 - Date of decision notice: 7 April 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:- 25 February 2021 and 25 March 2021.
- 1.3 On 25 February 2021, the MLRB was attended by Councillors Taylor, Bremner, Alexander, Cowie, Coy, Gatt, R McLean, Powell and Ross. On 25 March 2021, Councillors Taylor, Bremner, Cowie, Coy, Gatt, R McLean, Powell and Ross were in attendance.

2. MLRB Consideration of Request for Review

25 February 2021

- 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 proposed change of use is contrary to Moray Local Development Plan 2020 DP1 (i)(a), DP5, Elgin I5 and DP (ii)(a &e) for the following reasons:-

- i. The proposal would introduce an incompatible use into an established industrial area and would create conflict with other existing uses.
 - ii. The proposal fails to provide for safe access and parking and would give rise to conditions that are detrimental to the safety of road users and pedestrians.
- 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, the Planning Advisers advised that they had nothing to raise at this time.
- 2.4 The Legal Adviser advised that the Applicant had included a Safety Statement that was not before the Appointed Officer at the time of considering the original planning application and that, should the Moray Local Review Body (MLRB) wish to view this additional information then, in terms of the procedure, the case should be deferred until the next meeting of the MLRB to allow the Appointed Officer the opportunity to consider and comment on the Safety Statement.
- 2.5 Councillor R McLean moved that the MLRB defer the case until the next meeting of the MLRB to allow the Appointed Officer the opportunity to consider and comment on the Safety Statement. This was seconded by Councillor Alexander.
- 2.6 There being no-one otherwise minded, the MLRB agreed to defer the case until the next meeting of the MLRB to allow the Appointed Officer the opportunity to consider and comment on the Safety Statement.

25 March 2021

- 2.7 Under reference to paragraph 8 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 25 February 2021, 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 proposed change of use is contrary to Moray Local Development Plan (MLDP) 2020 DP1 (i)(a), DP5, Elgin I5 and DP (ii)(a &e) for the following reasons:-

- i. The proposal would introduce an incompatible use into an established industrial area and would create conflict with other existing uses.
- ii. The proposal fails to provide for safe access and parking and would give rise to conditions that are detrimental to the safety of road users and pedestrians.

- 2.8 The Chair stated that, at the meeting of the MLRB on 25 February 2021, it was noted that the Applicant had included a Safety Statement that was not before the Appointed Officer at the time of considering the original planning application therefore it was agreed to defer the case until the next meeting of the MLRB to allow the Appointed Officer the opportunity to consider and comment on the Safety Statement. The Safety Statement was set out in Appendix 2 and the response to the Safety Statement was set out at Appendix 5.
- 2.9 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.
- 2.10 Having received the Safety Statement and further comment from the relevant Officer, 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.
- 2.11 Councillor R McLean, having considered the case in detail was of the view that there was considerable community benefit from the proposal and that, as there was already a gym and dog day care in the industrial estate, change of use for the purpose of the proposal was acceptable. He noted the reasons for objecting to the proposals from the Transportation Service however was of the view that Transportation were being overly cautious therefore moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 20/01419/APP as in his opinion, the proposal complies with policies DP1 (Development Principles) and DP5 (Business and Industry) of the MLDP 2020. This was seconded by Councillor Ross as he was familiar with the area and knew that children walked the route regularly.
- 2.12 Councillor Coy, having considered the case in detail, welcomed the proposal however agreed with the view of the Appointed Officer in that the location of the proposal was not suitable for children and moved, as an amendment, that the MLRB agree to dismiss the appeal and uphold the decision of the Appointed Officer to refuse Planning Application 20/01419/APP. This was seconded by Councillor Bremner.
- 2.13 On a division there voted:
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|------------------------|--|
| For the Motion (5): | Councillors R McLean, Ross, Cowie, Gatt and Powell |
| For the Amendment (3): | Councillors Coy, Bremner and Taylor |
| Abstentions (0): | Nil |
- 2.14 Accordingly, the Motion became the finding of the Meeting and the MLRB agreed to grant planning permission in respect of Planning Application 20/01419/APP as the proposal complies with policies DP1 (Development Principles) and DP5 (Business and Industry) of 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.

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