



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR257
 - Application for review by Mrs Donna McArthur, c/o Martin Archibald, Architectural and Planning against the decision of an Appointed Officer of Moray Council
 - Planning Application 20/01692/APP – Alterations and extension, dwelling house, 8 Moray Street, Hopeman
 - Date of decision notice: 4 June 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 at the meeting held on 27 May 2021.
- 1.3 The MLRB was attended by Councillors Alexander, Bremner, Cowie, Coy, Gatt, Ross and Taylor

2. MLRB Consideration of Request for Review

- 2.1 Councillor Bremner, having declared an interest in this item, took no part in the decision.
- 2.2 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 first floor extension, above the existing single storey extension would give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north) which would lead to an overbearing loss of amenity to that property and would be contrary to the requirements of policy DP1 (i) (e).

- 2.3 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.
- 2.4 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.
- 2.5 The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review.
- 2.6 Councillor Gatt queried why there was no response from the Appointed Officer in relation to the Applicant's Statement of Case.
- 2.7 In response, the Planning Adviser advised that comment on the Notice of Review and Supporting Documents is only sought from interested parties and the Appointed Officer would not be expected to comment at this stage.
- 2.8 Councillor Coy noted that that MLRB should determine each planning application in it's own merits therefore queried why a photograph of the neighbouring property's extension had been included in the additional photographs of the site.
- 2.9 In response, the Planning Adviser advised that she had included that photograph to show the property from the back garden.
- 2.10 After considering the information provided from the Planning Adviser, the MLRB agreed that it had sufficient information to determine the case.
- 2.11 Councillor Alexander, having considered the case in detail, noted Councillor Coy's comments in relation to how each planning application should be determined in its own merits however raised concern that the similar extension on the neighbouring property had been granted planning permission and queried whether there had been any change in planning policy since the neighbouring extension had been granted planning permission.
- 2.12 In response, the Planning Adviser advised that the Moray Local Development Plan (MLDP) 2020 had recently been adopted by the Council and that she was not aware of any significant change in the policy which had informed the reason for refusal. The Planning Adviser further advised that it was for the MLRB to consider the application based on the information contained within the case and make a decision in accordance with the MLDP 2020.
- 2.13 After considering the advice from the Planning Adviser, Councillor Alexander stated that, in his opinion, the proposed first floor extension, above the existing single storey extension would not give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north) and would not lead to an overbearing loss of amenity to that property and

therefore complied with policy DP1 (i) (e) (Development Principles) and moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 20/01692/APP. This was seconded by Councillor Gatt.

2.14 Councillor Coy agreed with the original view of the Appointed Officer and moved as an amendment that the MLRB refuse the appeal and uphold the decision of the Appointed Officer to refuse Planning Application 20/01692/APP. On failing to find a seconder, Councillor Coy's motion fell.

2.15 There being no-one otherwise minded, the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 20/01692/APP.

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.

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**

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|---------------------------------------|--|
| Date works are to Commence | |
|---------------------------------------|--|

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

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|------------------------------------|--|
| Date of completion of works | |
|------------------------------------|--|

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