



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR258
 - Application for review by Mr Alan Ralph c/o Mr Alastair Rennie, Moray Architectural Services against the decision of an Appointed Officer of Moray Council
 - Planning Application 21/00044/PPP - Proposed subdivision of garden ground to form building plot at 33 Golf Crescent, Hopeman
 - Date of decision notice: 10 September 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 26 August 2021.
- 1.3 The MLRB was attended by Councillors Taylor (Chair), Bremner (Depute Chair), Alexander, Cowie, Coy, Gatt, R McLean, Powell 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 planning permission on the grounds that:

The proposal is contrary to the provisions of the Moray Local Development Plan (MLDP) 2020 because: The proposed dwelling is to be positioned to the side of the parent property and set significantly further back into the plot than is the established pattern at this location. The site lacks its own roadside frontage and can only be access via an access drive to be created through the

parent property's garden. These characteristics are symptomatic of backland development, leading to the inappropriate subdivision of garden ground to form an additional building plot. It is further noted that the presence of an additional dwelling at the existing cul de sac location is considered to increase the density of housing development to the extent that the proposal is considered to be detrimental to the character and appearance of the area. On this basis, the proposal is considered to be contrary to the terms Policies DP1 (i), part f and Policy EP3 part b).

- 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 Gatt, having considered the case in detail, referred to the map detailing the surrounding plots and was of the view that the area is well proportioned therefore moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 21/00044/PPP as the proposal is contrary to policies DP1 (i), part f (Development Principles - Design) and Policy EP3 part b) (Special Landscape Areas and Landscape Character) of the MLDP 2020. This was seconded by Councillor Ross.
- 2.6 Councillor Bremner, having considered the case in detail, was of the view that, given the Housing in the Countryside policy discourages housing development in the countryside, the Council should try to allow development in existing settlements. He stated that the proposal would bring the plot in line with other plots in the area therefore moved, as an amendment, that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 21/00044/PPP as, in his view, the proposal complies with policy DP1 (i) f) (Development Principles - Design) as he does not consider the proposal to be back land development and, in his opinion, the siting and design of the proposal complies with policy EP3 b) (Special Landscape Areas and Landscape Character). This was seconded by Councillor Coy.
- 2.7 On a division there voted:

For the Motion (5):	Councillors Gatt, Ross, Alexander, R McLean and Powell
For the Amendment (4):	Councillors Bremner, Coy, Cowie and Taylor
Abstentions (0):	Nil

- 2.8 Accordingly, the Motion became the finding of the meeting and the MLRB agreed to refuse the appeal and uphold the original decision of Appointed Officer to refuse planning permission in respect of Planning Application 21/00044/PPP as the proposal is contrary to the terms of policies DP1 (i), part

f (Development Principles - Design) and Policy EP3 part b) (Special Landscape Areas and Landscape Character) of the MLDP 2020.

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.