



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR259
 - Application for review by Mr Graeme Proctor c/o Ms Jane Shepherd, The Town Planner against the decision of an Appointed Officer of Moray Council
 - Planning Application 20/01658/APP – Erect 1.25 Storey Dwelling House and Detached Timber Garage at Site South-West of Sourbank Farm, Rafford, Forres
 - 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 Councillor Alexander, 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 development is contrary to Policy DP4: Rural Housing and DP1: Development Principles of the Moray Local Development Plan (MLDP) 2020 for the following reasons:

1. The introduction of a new house in the identified pressurised and sensitive location would have a detrimental landscape and visual impact as well as negatively impacting on the character and appearance of this rural area.
 2. There is not an acceptable level of enclosure and containment for a new house.
 3. Together with other development in the immediate vicinity it would have the effect of detrimentally altering the rural character of the area contributing an unacceptable build-up of housing.
 4. It will contribute to a sequential visual effect of cumulative build-up of new housing experienced when travelling along roads in the vicinity of the site in terms of its siting, particularly in relation to existing new houses in the area
 5. There is no policy exception to allow new housing in Pressurised and Sensitive areas on the basis of agricultural need and the supporting information provided is not considered sufficient to outweigh the Local Development Plan policies.
- 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. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.
- 2.6 Councillor Gatt noted that the Applicant had highlighted that Moray Council does not appear to have a policy to support the provision of farm accommodation for farm workers when other Local Authorities do. He stated that the Applicant had provided evidence to support how the proposal would comply with policy DP1 (Development Principles) and moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 20/01658/APP as it complies with policy DP1 (Development Principles) and is an acceptable departure from policy DP4 (Rural Housing).
- 2.7 In response to Councillor Gatt's comment regarding a lack of policy in relation to the provision of accommodation for farm workers, Ms Webster, Planning Adviser advised that policy DP4 does not have any exemptions that would allow for the provision of agricultural accommodation in the MLDP 2020 and, when consulted on the original planning application, the Strategic Planning and Development Service had stated that, over the last decade and more, justification of new housing on the basis of agricultural need has not been an

issue in Moray and doesn't feature within the current policy. She further stated that occupancy conditions are not enforceable.

- 2.8 In terms of the Appointed Officer's reason for refusal, Mr Hoath sought valid planning reasons from Councillor Gatt as to why he believes this proposal is an acceptable departure to policy.
- 2.9 Councillor Gatt stated that, in his opinion, he agreed with the points stated in the Applicant's Notice of Review which detailed why the proposal complied with policy DP1 (Development Principles) and that the proposal is an acceptable departure from policy DP4 (Rural Housing) as the Council has a lack of policy to account for proposals such as this where individuals required to be onsite to facilitate animal husbandry. He further stated that the Council should be encouraging the correct type of development in the countryside and that this proposal would support the rural economy in Moray.
- 2.10 Councillor Bremner stated that policy PP2 (Sustainable Economic Growth) supported proposals that contribute to sustainable economic growth and acknowledged that there was clearly a locational need for the proposal providing all perceived impacts could be mitigated against and agreed to second Councillor Gatt's motion.
- 2.11 Councillor Coy was of the view that she could not support the proposal and moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/01658/APP as it is contrary to policy DP1 (Development Principles) and DP4 (Rural Housing) of the MLDP 2020. This was seconded by Councillor Cowie.
- 2.12 On a division there voted:

For the Motion (3):	Councillors Gatt, Bremner and R McLean
For the Amendment (5):	Councillors Coy, Cowie, Powell, Ross and Taylor
Abstentions (1):	Councillor Alexander

- 2.13 Accordingly, the Amendment became the finding of the meeting and the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/01658/APP as it is contrary to policy DP1 (Development Principles) and DP4 (Rural Housing) 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.