



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR260
 - Application for review by Mr Donald Canavan against the decision of an Appointed Officer of Moray Council
 - Planning Application 21/00272/APP – Change of use and alterations to boatshed to provide a hut for occasional overnight stays at site adjacent to 212A Findhorn, Moray
 - 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 requirements of policies DP1 (l)(a & e), DP8 and EP3 of the Moray Local Development Plan (MLDP) 2020 because:

- The site at 84m² is not of a scale that reflects the existing pattern of residential development in the immediate vicinity and is therefore

unsuitable for residential development of any kind;

- The relationship between the shed and the neighbouring house is such that use of the site even for non-permanent residential use would adversely impact on the amenity of neighbouring properties;
- There would be an adverse impact on the privacy of neighbouring properties as a result of overlooking from the proposed opening on the western elevation which is in close proximity to the site boundary and
- The proposal fails to reflect the traditional settlement pattern of the immediate vicinity and therefore would erode the traditional settlement character of the Culbin to Burghead Coast Special Landscape Character.

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 Adviser advised that she had nothing to raise at this time.

2.4 Mr Hoath, Legal Adviser advised that the Applicant had indicated that he wished to provide further written submissions however on reviewing the paperwork, all information appeared to be included and it was presumed that the Applicant was asking that the Moray Local Review Body (MLRB) make a decision based on all the information provided as he was of the view that the Appointed Officer had not taken account of some of the information. This was noted.

2.5 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 enough information to determine the case.

2.6 The Chair, having considered the case in detail, agreed with the original decision of the Appointed Officer and 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 21/00272/APP as the proposal is contrary to the requirements of policies DP1 (I)(a & e) (Development Principles - Design), DP8 (Tourism Facilities and Accommodation) and EP3 (Special Landscape Areas and Landscape Character) of the MLDP 2020. This was seconded by Councillor Coy.

2.7 There being no-one otherwise minded, the MLRB agreed to refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of planning application 21/00272/APP as the proposal is contrary to the requirements of policies DP1 (I)(a & e) (Development Principles - Design), DP8 (Tourism Facilities and Accommodation) and EP3 (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.