



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR261
 - Application for review by Mr Steven Jefferies, Co-op c/o Ms Victoria Mungall, Springfield Real Estate Management Ltd against the decision of an Appointed Officer of Moray Council
 - Planning Application 20/00474/APP – Demolish existing service station and garage and erect retail unit, light industrial unit and 2no blocks of residential flats at Hopeman Service Station, Forsyth Street, Hopeman, Elgin
 - 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 would be contrary to policies PP1, PP3, DP1, DP5, DP7, EP3, EP12 and Hopeman I1 Designation of the Moray Local Development Plan (MLDP) 2020 for the following reasons:

1. The proposal would introduce non-compliant uses (flats and retail) onto the Hopeman I1 site which is protected for business uses. There is no need for additional housing land in Hopeman as there are two housing sites identified in the Local Development Plan and no shortfall in the effective housing land supply. The proposed uses would lead to a loss of employment land within the village resulting in the loss of effective employment land from Hopeman and jeopardising the future development of the rest of the Hopeman I1 designation contrary to policy DP5 and Hopeman I1.
 2. The application has failed to demonstrate that the proposed retail unit will not adversely impact on the distinctive character or vitality and viability of Hopeman contrary to policy DP7.
 3. The design of the proposed retail unit and in particular the lack of a strong road frontage is not considered to be of sufficiently high design standard to fit with the distinctive character of Hopeman or create a strong sense of place. The proposal would be detrimental to the Burghead to Lossiemouth Special Landscape Area and contrary to policies DP1 (i) (a), PP1 (i) and EP3.
 4. The application has failed to demonstrate satisfactory arrangements in relation to access for vehicles or pedestrians, access visibility, access to public transport, suitable crossing to the site or adequate servicing arrangements for any part of the development giving rise to conditions that would be detrimental to road safety contrary to policies PP3 (a) (iii) and DP1 (ii) (a & c).
 5. The application has failed to demonstrate that drainage from the proposed retail service bay can be dealt with in an acceptable manner contrary to policies DP1 and EP12.
 6. The application has failed to provide parking bays of sufficient size or number to comply with Moray Council parking standards contrary to policy DP1 (ii) (e).
 7. The application has failed to provide adequate provision of Electric Vehicle Charging contrary to policy PP3 (a) (iv).
- 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, although there was a significant amount of paperwork associated with this case, a lot of it was repetition and that Members should concentrate on planning policy reasons when considering the planning application. He further advised that the Applicant had requested a hearing procedure and that Members should decide whether they consider there is enough information within the papers provided to make a decision or

whether a hearing is necessary to provide further information. This was noted.

- 2.5 Councillor Gatt was of the view that, as there was considerable information provided in the papers and a number of representations received in relation to the proposal, Members would benefit from a site visit to provide some context to the proposed development.
- 2.6 In response, the Legal Services Manager advised that the Council had made a decision to temporarily suspend site visits associated with cases considered by the Moray Local Review Body (MLRB) due to the ongoing Covid-19 pandemic and that, although restrictions are easing, this decision has yet to be reversed therefore a site visit would not be appropriate.
- 2.7 In light of this response, Councillor Gatt stated that he would take no further part in the determination of this case.
- 2.8 The Chair stated that she would be willing to consider a hearing however sought the opinion from the MLRB as to whether it felt there was sufficient information to determine the request for review.
- 2.9 In response, the remaining members of the MLRB, agreed that it had sufficient information to determine the case.
- 2.10 Councillor Alexander, having considered the case in detail, was of the view that a supermarket on the edge of the village would be detrimental to the character and vitality of the village 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 20/00474/APP as it is contrary to policies PP1 (Placemaking), PP3 (Infrastructure and Services), DP1 (Development Principles), DP5 (Business and Industry), DP7 (Retail/Town Centres) , EP3 (Special Landscape Areas and Landscape Character), EP12 (Management and Enhancement of the Water Environment) and Hopeman I1 Designation of the MLDP 2020. This was seconded by Councillor Ross.
- 2.11 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 20/00474/APP as it is contrary to policies PP1 (Placemaking), PP3 (Infrastructure and Services), DP1 (Development Principles), DP5 (Business and Industry), DP7 (Retail/Town Centres) , EP3 (Special Landscape Areas and Landscape Character), EP12 (Management and Enhancement of the Water Environment) and Hopeman I1 Designation 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.