



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case No LR263
 - Application for review by Mrs F Cumming, c/o Mr Douglas Shand, Shand Building Design Limited against the decision of an Appointed Officer of Moray Council
 - Planning Application 21/00485/APP - Convert garage to hairdressing salon at 14 Victoria Place Keith
 - Date of decision notice: 21 October 2021
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Decision

The MLRB agreed to uphold the request for review and grant planning permission, 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 30 September 2021.
- 1.3 The MLRB was attended by Councillors Taylor, Bremner, Cowie, Coy, Gatt, R McLean, Nicol and Powell.

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:
- 2.2 The development is contrary to Policies DP1 (Development Principles) and DP7 (Retail/Town Centres) of the Moray Local Development Plan (MLDP) 2020 for the following reasons:

1. The level of activity and infrastructure associated with the change of use would be out of keeping with the character, appearance and scale of the existing residential street and this would impact adversely on neighbouring residential properties, giving rise to an unacceptable overbearing loss of amenity, in terms of noise and disturbance.
 2. As the development would be likely to generate significant footfall, it should be located within a town centre. The proposed site is outwith Keith town centre and it has not been demonstrated that no sequentially preferable sites are available.
- 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 Bremner, having considered the case in detail was of the view that the proposal complied with policies DP1 (Development Principles) and DP7 (Retail/Town Centres) as, in his opinion, the business attracting 6-8 clients per day did not constitute a significant increase in footfall. In terms of policy DP7, his interpretation of this policy was that the Council should support small units of up to 150 m² that contribute to a mix of use such as class 2, professional services. With regard to policy EP5 (Open Space), Councillor Bremner acknowledged the Appointed Officer's view that the proposal was an acceptable departure from this policy due to the minimal impact on the amenity and quality of the ENV designation. Taking the above points into consideration, Councillor Bremner moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 21/00485/APP as in his opinion the proposal complies with policies DP1 (Development Principles), DP7 (Retail/Town Centres) and, as the Appointed Officer had stated, was an acceptable departure from policy EP5 (Open Space). This was seconded by Councillor Coy.
- 2.7 Councillor R McLean was of the view that the location of the proposal was not suitable and moved as an amendment that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 21/00485/APP as the proposal is contrary to Policies DP1 (Development Principles) and DP7 (Retail/Town Centres) of the MLDP 2020. This was seconded by Councillor Powell.
- 2.8 On a division there voted:
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|---------------------|--|
| For the Motion (4): | Councillors Bremner, Coy, Nicol and Taylor |
| For the Amendment | Councillor R McLean and Powell, Cowie and |
| (4): | Gatt |
| Abstentions (0): | Nil |

- 2.9 There being equality of votes, and in terms of Standing Order 63(e), the Chair cast her casting vote in favour of the motion.
- 2.10 Accordingly the Motion became the finding of the Meeting and the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 21/00485/APP as the proposal complies with policies DP1 (Development Principles), DP7 (Retail/Town Centres) and is an acceptable departure from policy EP5 (Open Space).

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**

Date works are to Commence	
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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

Date of completion of works	
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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