



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR268
 - Application for review by Mr Donnie McLennan against the decision of an Appointed Officer of Moray Council
 - Planning Application 21/01153/APP – Carport with Balcony at 20 Elmfield Road, Elgin, IV30 6HQ
 - Date of decision notice: 9 March 2022
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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 24 February 2022.
- 1.3 The MLRB was attended by Councillors Bremner, Cowie, Gatt, A McLean, 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:
- 2.2 The proposed carport and balcony are contrary to Moray Local Development Plan (MLDP) 2020 policy DP1 for the following reasons:-
 1. The balcony would give rise to any unacceptable loss of privacy and overlooking to the neighbouring property to the south-west of the site.

2. The balcony would be out of keeping with the scale and character of the existing dwellinghouse and surrounding area.
- 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, having considered the case in detail 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 21/01153/APP as it is contrary to MLDP 2020 policy DP1 (Development Principles). This was seconded by Councillor A McLean.
- 2.7 There being no-one otherwise minded, the MLRB unanimously agreed to refuse planning permission in respect of Planning Application 21/01153/APP as it is contrary to MLDP 2020 policy DP1 (Development Principles) as the balcony would give rise to any unacceptable loss of privacy and overlooking to the neighbouring property to the south-west of the site and would be out of keeping with the scale and character of the existing dwellinghouse and surrounding area.

Mrs Aileen Scott
Legal Services Manager
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.