



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR274
 - Application for review by Mr and Mrs W Stennett, c/o Mr C Mackay, CM Design against the decision of an Appointed Officer of Moray Council
 - Planning Application 21/01277/APP – Demolish existing house and erect new dwellinghouse at 3 Town Hall Lane, Lossiemouth, Moray, IV31 6DF
 - Date of decision notice: 30 August 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 18 August 2022.
- 1.3 The MLRB was attended by Councillors Macrae, Dunbar, Cameron, Harris, Keith, McBain, Ross and Warren.

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:
 1. The large split level contemporary design proposed on this elevated prominent cliff top location would have an excessive over dominant impact on the site and its surrounds. The overall design, form, appearance and
- 2.2 The proposal is contrary to the provisions of the Moray Local Development Plan 2020 because:
 1. The large split level contemporary design proposed on this elevated prominent cliff top location would have an excessive over dominant impact on the site and its surrounds. The overall design, form, appearance and

finish of the dwelling would be at odds with the more traditional existing established character at this locality resulting in a design which is out of character and incongruous to the site and its surrounds. The proposal therefore fails to reflect the traditional settlement character as required by Policy EP3 (i) b) and DP1 (i).

2. The design moves the footprint of the dwelling closer to the existing houses to the north therefore taking account of the extensive glazing and large outdoor terrace/balcony areas the design is also considered to result in unacceptable overlooking and privacy impacts for these existing neighbouring residential properties to the north of the site. The proposal therefore also fails to comply with the amenity considerations set out in policy DP1 (i) part (e).
- 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, the Legal Adviser advised that he had nothing to raise at this time.
- 2.5 The Planning Adviser highlighted an inaccuracy in the Applicant's Statement of Case where reference was made to planning policy DP1 being introduced in June 2021 when all policies within the Moray Local Development Plan 2020 were adopted in May 2020. This was noted.
- 2.6 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.
- 2.7 During discussion surrounding the reasons why the planning application had been refused, Councillor McBain noted that one of the reasons was due to the contemporary design of the proposal which was not considered to be in keeping with the other traditional buildings in the area. Councillor McBain noted that a contemporary dwelling had already been build next to the proposed development and was of the view that the proposal would have no impact or disadvantage on surrounding properties and moved that the appeal be upheld and planning permission granted in respect of Planning Application 21/01277/APP as the proposal is an acceptable departure from policies EP3 (Special Landscape Areas and Landscape Character) (i) b) and DP1 (Development Principles) (i). This was seconded by Councillor Dunbar.
- 2.8 Councillor Cameron acknowledged that the planning application was for a stunning development however agreed with the Appointed Officer in that it did not fit with the surrounding area 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 21/01277/APP as it is contrary to policies EP3 (Special Landscape Areas and Landscape Character) (i) b) and DP1 (Development Principles) (i). This was seconded by Councillor Keith.

2.9 On a division there voted:

For the Motion (3):	Councillors McBain, Dunbar and Macrae
For the Amendment (5):	Councillors Cameron, Keith, Harris, Ross and Warren
Abstentions (0):	Nil

2.10 Accordingly, the Amendment became the finding of the MLRB and it was agreed to refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning application 21/01277/APP as it is contrary to policies EP3 (Special Landscape Areas and Landscape Character) (i) b) and DP1 (Development Principles) (i).

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.