



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR278
  - Application for review by Mr Steve Cox, c/o Mr Stewart Reid, S Reid Design against the decision of an Appointed Officer of Moray Council
  - Planning Application 22/00542/PPP – Proposed dwelling-house and detached garage at site adjacent to 1-5 South Darkland, Lhanbryde, Elgin
  - Date of decision notice: 8 November 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 in principle was considered by the MLRB at the meeting held on 27 September 2022.
- 1.3 The MLRB was attended by Councillors Macrae (Chair), Dunbar (Depute Chair), Cameron, Harris, Keith, McBain, Ross and Warren.

#### **2. MLRB Consideration of Request for Review**

- 2.1 Councillor Dunbar, having declared an interest in this item, left the meeting at this juncture and took no part in the debate.
- 2.2 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 policies DP4 Part d) ii), DP1(i) and EP4 for the following reasons:

1. The proposal site falls within the Pressurised and Sensitive Area identified by Policy DP4 Part d) ii), in which no new house sites will be permitted due to the detrimental landscape and visual impacts associated with high levels of rural housing build up in these areas. The proposed house in this location is contrary to Policy DP4 and DP1(i). The proposed new dwellinghouse will have an adverse impact on the character and appearance of the surrounding area given that the site lacks the required immediate (on the boundary of the site) backdrop of existing landform, trees and buildings to provide acceptable enclosure.
  2. The proposed introduction of a further house in this location alongside existing housing is considered to constitute an unacceptable cumulative build-up of housing which will negatively impact the landscape character of this area.
  3. The site falls within the Countryside Around Towns Area identified by Policy EP4, in which no new rural housing will be permitted unless the proposal involves the rehabilitation, conversion, limited extension, replacement; or change of use of existing buildings or for the purpose of agriculture, forestry or low intensity recreational or tourism; or is designated as long term housing allocation released for development. The proposals do not fall within any of the above criteria and will result in development sprawl into the countryside affecting the special character of this 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 Ross, having considered the Case in detail, stated that he agreed with the original decision of the Appointed Officer in that Planning Application 22/00542/PPP should be refused for the reasons stated in the report.
- 2.7 There being no-one otherwise minded, the MLRB unanimously agreed to refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 22/00542/PPP as it is contrary to policies DP4 (Rural Housing) Part d) ii), DP1 (Development Principles) (i) and EP4 (Countryside Around Towns) of the Moray Local Development Plan (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.

