



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR281
 - Application for review by Mr Ronald Stewart, c/o Mr Craig Mackay, CM Design against the decision of an Appointed Officer of Moray Council
 - Planning Application 22/00215/APP – Erect dwelling house on land adjacent to Easter Covesea Cottage, Duffus, Moray
 - Unaccompanied site inspection carried out by the MLRB on 10 November 2022
 - Date of decision notice: 6 December 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 17 November 2022.
- 1.3 The MLRB was attended by Councillors Macrae (Chair), 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 application proposes a new dwellinghouse on a site within an identified pressurised and sensitive area where no new housing will be permitted due to the landscape and visual impacts associated with buildup and is

therefore contrary to policy DP4 - Rural Housing.

2. A new house on this site would detract from the rural landscape character of the wider area as the site would not contain sufficient backdrop and containment and would create ribbon development with the neighbouring plot (with extant permission for a new house) contrary to the siting criteria as set by Policy DP4 Rural Housing as well as DP1 Development Principles.
 3. The site is located within the Burghead to Lossiemouth SLA the proposal for a house plot would not fall within any of the development categories permitted under EP3 for a rural location within the SLA and no new housing is permitted in the open countryside in this SLA therefore the proposal would be contrary to policy EP3 - Special Landscape Areas.
- 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, both the Legal and Planning Advisers advised that they had nothing to raise at this time.
 - 2.4 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.
 - 2.5 Councillor Cameron, having considered the case in detail, stated that the reasons for refusal were clear and that the development should not be permitted. This was unanimously agreed by the other members of the MLRB.
 - 2.6 The MLRB therefore agreed to refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 22/00215/APP as the proposal is contrary to policies DP4 (Rural Housing), DP1 (Development Principles) and EP3 (Special Landscape Areas) 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.