



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100596173-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Change of use from amenity to private garden for an area of land totalling 360 metres squared to the rear of 10 Linksfield Road. Solely to extend the current garden area. Erection of 1.8 traditional slatted timber fence around new boundary to enclose proposed new extended garden space off from public.

Is this a temporary permission? * Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) * Yes No

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Carrie"/>	Building Number:	<input type="text" value="10"/>
Last Name: *	<input type="text" value="Cuthill"/>	Address 1 (Street): *	<input type="text" value="Linksfeld Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: *	<input type="text" value="Mosstodloch"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV32 7LB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="10 LINKSFIELD ROAD"/>
Address 2:	<input type="text" value="MOSSTODLOCH"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="FOCHABERS"/>
Post Code:	<input type="text" value="IV32 7LB"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="860203"/>	Easting	<input type="text" value="332360"/>
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

Spoke with Duty Planning Officer on 22/8/22 at 13:25 via telephone - gentleman but didn't catch his name. Confirmed change of use application would be needed and that he knew others had been granted planning permission for the same thing in the past and did not foresee any issues.

Title:	<input type="text"/>	Other title:	<input type="text"/>
First Name:	<input type="text"/>	Last Name:	<input type="text"/>
Correspondence Reference Number:	<input type="text"/>	Date (dd/mm/yyyy):	<input type="text"/>

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

Informed that a departure from policy would be required as the land is currently designated as ENV in LDP. Homeowners along Linksfield and Pinewood Road have been granted permission for the same land use change and a precedence has been set for an acceptable departure from policy. Also confirmed what the application fee would be.

Title:	<input type="text" value="Mr"/>	Other title:	<input type="text"/>
First Name:	<input type="text" value="Iain"/>	Last Name:	<input type="text" value="Drummond"/>
Correspondence Reference Number:	<input type="text" value="N/A"/>	Date (dd/mm/yyyy):	<input type="text" value="25/08/2022"/>

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Amenity land currently owned by Crown Estate Scotland. Unused land currently grown over with gorse bushes.

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? * Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * Yes No

Do your proposals make provision for sustainable drainage of surface water?? * (e.g. SUDS arrangements) * Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? * Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

≤ Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

≤ Yes No

If Yes or No, please provide further details: * (Max 500 characters)

Solely extending garden area - no waste is being generated or stored on the land.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

≤ Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

≤ Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

≤ Yes ≤ No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

≤ Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

≤ Yes No

Is any of the land part of an agricultural holding? *

≤ Yes No

Are you able to identify and give appropriate notice to ALL the other owners? *

Yes ≤ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Address:

Crown Estate Scotland
Crown Estate Scotland, Quatermile 2, 2nd Floor, 2, 2 Lister Square, Edinburgh, EH3 9GL

Date of Service of Notice: *

23/09/2022

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: *

Signed: Mrs Carrie Cuthill

On behalf of:

Date: 29/09/2022

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

Site Layout Plan or Block plan.

Elevations.

Floor plans.

Cross sections.

Roof plan.

Master Plan/Framework Plan.

Landscape plan.

Photographs and/or photomontages.

Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *	≤	Yes	T	N/A
A Design Statement or Design and Access Statement. *	≤	Yes	T	N/A
A Flood Risk Assessment. *	≤	Yes	T	N/A
A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *	≤	Yes	T	N/A
Drainage/SUDS layout. *	≤	Yes	T	N/A
A Transport Assessment or Travel Plan	≤	Yes	T	N/A
Contaminated Land Assessment. *	≤	Yes	T	N/A
Habitat Survey. *	≤	Yes	T	N/A
A Processing Agreement. *	≤	Yes	T	N/A

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mrs Carrie Cuthill

Declaration Date: 01/10/2022

Payment Details

Online payment: 003977

Payment date: 01/10/2022 17:48:33

Created: 01/10/2022 17:48

1. Do not scale drawing. All dimensions and levels to be verified on site by Contractor.
2. Any discrepancies to be reported to the designer.

Revisions:



CP Plans
 2 Balvenie Park
 Elgin
 IV30 8AJ

Tel: 07467 231872
 cpplanselgin@gmail.com

Job Title

New rear boundary fence
 at 10 Linksfield Road
 Mosstodloch
 IV32 7LB

Drawing Title

Fence & gate plan

Drawing Number

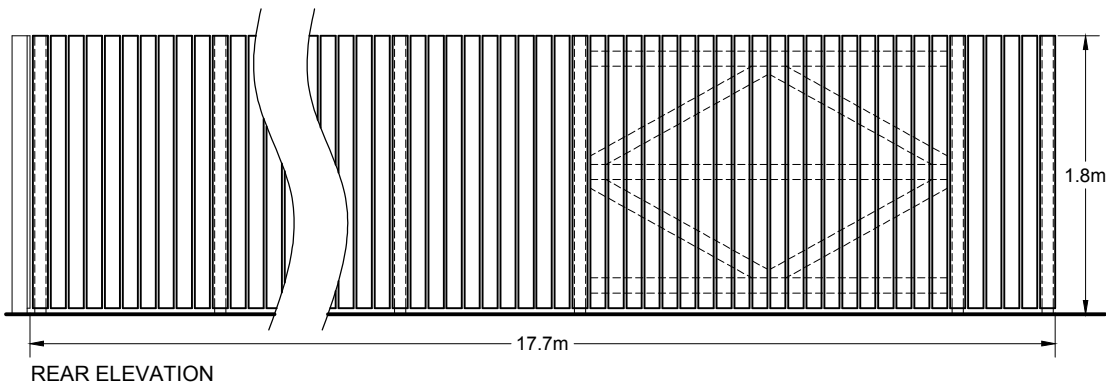
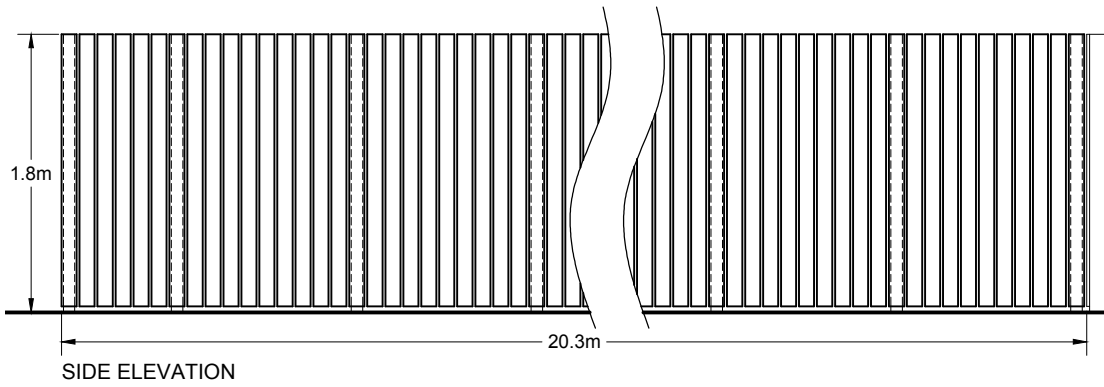
PL-01

Scale	Date	Rev
1:200	Oct 22	

Drawing by CP

1. Do not scale drawing. All dimensions and levels to be verified on site by Contractor.
2. Any discrepancies to be reported to the designer.

Revisions:



CP Plans
2 Balvenie Park
Elgin
IV30 8AJ

Tel: 07467 231872
cpplanselgin@gmail.com

Job Title

New rear boundary fence
at 10 Linksfield Road
Mosstodloch
IV32 7LB

Drawing Title

Fence elevations

Drawing Number

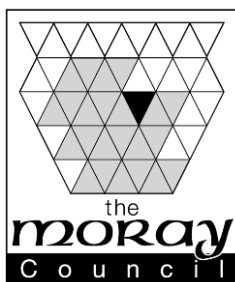
PL-02

Scale	Date	Rev
1:50	Oct 22	

Drawing by CP

10 Linksfield Road, Mosstodloch, Fochabers, IV32 7LB





MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 031
- Site address: 72 Pinewood Road, Mosstodloch
- Application for review by Mr Iain MacLeod against the decision by an Appointed Officer of Moray Council.
- Application10/01928/APP : Retrospective change of use of waste ground to garden ground.
- Unaccompanied site inspection carried out by the MLRB on Monday 25 July 2011.
- Date of Decision Notice: August 2011

Decision

The MLRB agreed to uphold the request for review and grant retrospective planning permission for the change of use of waste ground to garden ground.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for full planning permission was considered by the MLRB at meetings on 26 May and 28 July 2011. The Review Body was attended at both meetings by Councillors B Jarvis (Chairman), L Creswell & G Leadbitter.

2.0 Proposal

- 2.1 This is an application for retrospective planning permission for the change of use from waste ground to garden ground at 72 Pinewood Road, Mosstodloch.

MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 26 May 2011 there was submitted a Summary of Information report setting out the reasons for refusal together with a copy of the Report of Handling, a copy of the Notice of Review and a copy of the Grounds for Review and supporting documents
- 3.2 Following consideration of the case papers the MLRB agreed that it did not have sufficient information in order to proceed to determine the request for review and agreed that an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of Policies E4, ENV6, ENV10 and IMPI of the Moray Local Plan 2008. The MLRB also requested that the Planning Adviser attend the unaccompanied site inspection.
- 3.3 Councillor Leadbitter referred to the reference in the Report of Handling to seven properties having extended their garden ground/curtilage into the amenity strip and requested that clarification be sought from the Appointed Officer in regard to the locations of these properties and the current position regarding enforcement proceedings which may be ongoing. He also referred to a reference in the appellant's grounds for review in regard to 'advice received at the time was to fence off the purchased piece of ground' and requested that the appellant be requested to clarify from whom this advice had been obtained, for instance the Appellant's own legal adviser, or an officer of the Council. The MLRB agreed that the information requested by Councillor Leadbitter be obtained through the 'Written Submission' procedures set out in Regulation 15 of the Town & Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 and the responses thereto submitted to the next meeting of the MLRB following expiry of the written submission procedure timescales and the unaccompanied site inspection.
- 3.4 At the meeting of the MLRB on 28 July 2011 there was submitted a 'Summary of Information' report detailing the outcome of the MLRB's previous consideration of the request for review and advising the unaccompanied site inspection was carried out on Monday 25 July 2011. There were also appended to the report as Appendices 1& 2 respectively a response from the Appointed Officer to the written submission request and one from the appellant.
- 3.5 In regard to the unaccompanied site inspection the Planning Adviser advised the meeting that on arrival at the site he reminded members of the MLRB of the reasons for refusal and the appellant's grounds for review. Members then viewed the site under review and accessed the track to the rear of the property and proceeded along the track to the west to see other examples where enclosure for additional garden ground had taken place.
- 3.6 The MLRB agreed that it had sufficient information and proceeded to determine the request for review.
- 3.7 Councillor Jarvis sought clarification in regard to the reasoning for establishing a 'buffer zone' between the housing development and agricultural land. The Planning Adviser advised the meeting that the reason was in order to provide separation between the agricultural land to the north and the settlement of Mosstodloch and provides a distinction between the two and the amenity value of it.

- 3.8 Thereafter Councillor Jarvis expressed the view, having considered all aspects of the case and having the opportunity to visit the site, that rather than being detrimental to the concept of the area being an informal recreational open space or having a significant and detrimental impact on the amenity of the area the enclosed additional garden ground was a significant improvement to the area and for these reasons the request for review should be upheld and retrospective consent granted. Councillor Creswell supported Councillor Jarvis's views and added that, in her opinion, the enclosed additional garden ground enhanced the area rather than having a detrimental impact as implied in the grounds for refusal.
- 3.9 Councillor Leadbitter intimated that there were no objections to the proposal from the community and expressed the view that given several parcels of amenity land had been acquired by householders for additional garden ground it would be very difficult to develop the amenity zone in a planned manner. He also expressed the view that it was clear from the site inspection that the amenity on the north side of the core path is much more sympathetic than the amenity to the south side of the core path bordering the houses, which can be described as scrub land. He was also of the view that the core path is clearly defined and the enclosed additional areas of garden ground do not encroach onto the path. Councillor Leadbitter also referred to Policies E4, ENV6 & ENV10 and was of the opinion that whilst the enclosure of the additional garden ground does not outweigh the value of the open space its conversion into garden ground in this case provides a greater degree of amenity and enhances the area. He was also of the view that the provision of additional garden ground was, in effect, an improvement to the landscaped setting as opposed to what previously existed. It was in his opinion the areas to the north and west of the core path that require to be protected. For these reasons Councillor Leadbitter was also of the view that the request for review should be upheld and retrospective consent granted for the change of use to garden ground.
- 3.10 Thereafter the MLRB agreed that the views expressed by the MLRB members were a material consideration of such weight to justify departing from policy and agreed that the request for review and be granted and retrospective planning consent be granted as an acceptable departure from the Moray Local Plan 2008, subject to standard conditions.

.....

Rhona Gunn
Legal Adviser to the MLRB

CONDITIONS

1. 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.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.

REASONS

1. The time limit condition is imposed in order to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area

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 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 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.







Consultee Comments for Planning Application 22/01423/APP

Application Summary

Application Number: 22/01423/APP

Address: 10 Linksfield Road Mosstodloch Fochabers Moray IV32 7LB

Proposal: Change of use from amenity to garden ground and erect a 1.8m high timber fence at

Case Officer: Dominic Batty

Consultee Details

Name: Mr CL Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: Not Available

On Behalf Of: Contaminated Land

Comments

Approved unconditionally by Adrian Muscutt (21.10.2022)

REPORT OF HANDLING

Ref No:	22/01423/APP	Officer:	Dominic Batty
Proposal Description/ Address	Change of use from amenity to garden ground and erect a 1.8m high timber fence at 10 Linksfield Road Mosstodloch Fochabers Moray		
Date:	09.12.2022	Typist Initials:	LMC

RECOMMENDATION

Approve, without or with condition(s) listed below	N	
Refuse, subject to reason(s) listed below	Y	
Legal Agreement required e.g. S,75	N	
Notification to Scottish Ministers/Historic Scotland	N	
Hearing requirements	Departure	N
	Pre-determination	N

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Contaminated Land	25/10/22	No objection

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
PP3 Infrastructure and Services	N	
EP2 Biodiversity	N	
EP5 Open Space	Y	
EP7 Forestry Woodland and Trees	N	

REPRESENTATIONS

Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Legislation

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP2020) unless material considerations indicate otherwise. The main planning issues are considered below:

Site

The site is located to the rear of the property at 10 Linksfield Road. The site is bound by a public footpath to the rear. There is a neighbouring site to the east.

Under the MLDP2020 Mosstodloch Settlement Statement, the site is designated ENV6 Natural/Semi-Natural Greenspace.

Proposal

This application seeks consent for a change of use from public amenity to private garden ground and to erect a 1.8m high timber fence surrounding the site. The proposed fence would have a perimeter of 38m. A 2.4m wide double gate would be included on the north elevation.

Policy Assessment

Open Space (EP5)

The Site is designated ENV6 Natural/Semi-Natural Greenspace under the Mosstodloch Settlement Statement. Under the MLDP2020 Policy EP5 Open Space, development which would result in a change of use of a site identified under the ENV designation in settlement statements to anything other than open space will be refused. Neighbouring properties previously eroded this ENV6 designation with similar developments under previous Local Development Plans but the designation has since been reinforced by the Mosstodloch Settlement Statement, which has mapped around these previous infringements into the ENV area. The MLDP2020 takes primacy over any older policy document and Policy EP5 must be followed in this decision.

Within policy EP5 Open Space there are several exceptions identified that might permit development within ENV designations. These are where essential community infrastructure is required to deliver the key objectives of the Council and its Community Planning Partners. The proposal for private garden ground does not constitute one of the exemptions referred to, and therefore must be refused.

The designation acknowledges the existing incursions as can be seen in the Settlement Statement map but still seeks to prohibit further incursions as specifically stated. On this basis, the proposed development deviates from the MLDP2020 Policy EP5 Open Space.

Decision

Refusal of development.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description		
99/00020/AGR	Erect general purpose building at Viewfield Mosstodloch Fochabers Moray		
	Decision	Permitted	Date Of Decision

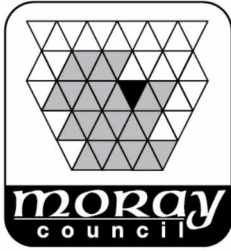
ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	No Premises	17/11/22
PINS	No Premises	17/11/22

DEVELOPER CONTRIBUTIONS (PGU)	
Status	None Sought

DOCUMENTS, ASSESSMENTS etc. *		
<i>* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc</i>		
Supporting information submitted with application?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

S.75 AGREEMENT		
Application subject to S.75 Agreement		NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)			
Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			



**MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Fochabers Lhanbryde]
Application for Planning Permission**

TO



With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

Change of use from amenity to garden ground and erect a 1.8m high timber fence at 10 Linksfield Road Mosstodloch Fochabers Moray

and for the reason(s) set out in the attached schedule.

Date of Notice: **13 December 2022**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Finance
Moray Council
Council Office
High Street
ELGIN
Moray
IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposed development departs from the Moray Local Development Plan 2020 Policy EP5 Open Space and Mosstodloch designation ENV6 Natural/Semi-Natural Greenspace which require ENV designations in settlement statements to be retained as open space and where the proposal does not constitute one of the policy exemptions to the retention of open space. The ENV designation has been reinforced by the Mosstodloch Settlement Statement, superseding the previous erosion of the designation from past consents. The proposal is therefore unacceptable.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
PL-01		Fence and gate location
PL-02		Fence elevations
		Location plan

NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

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 5 of the Town and Country Planning (Scotland) Act 1997.