



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR285
 - Application for review by Mr J Gardiner, c/o Grant and Geoghegan against the decision of an Appointed Officer of Moray Council
 - Planning Application Planning Application 22/00327/APP – Change of use of amenity land to garden ground at Rockside, 8 Jubilee Terrace, Findochty, Buckie
 - Unaccompanied site inspection carried out by the MLRB on 14 February 2023
 - Date of decision notice: 30 May 2023
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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 20 April 2023.
- 1.3 The MLRB was attended by Councillors Macrae (Chair), Dunbar (Depute Chair), Cameron, Harris, Keith, McBain, Ross, Van Der Horn and Warren.

2. MLRB Consideration of Request for Review

- 2.1 Under reference to paragraph 4 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 16 February 2023, 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 would be contrary to policies EP9, EP3, EP6 and DP1 of the Moray Local Development Plan (MLDP) 2020 for the following reasons:

- 1 This proposed change of use would result in the loss of a portion of distinctive grassland, which acts as an attractive transition between the built up area of the village and the beach beyond and also acts as a useful amenity area and as such its loss would have an adverse impact on the amenity, character and appearance of the conservation area in which it lies and the qualities of the wider Special Landscape Area.
 - 2 The proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary, where policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts on the character and amenity of the area which would result from the development, there is not considered to be any material planning considerations which would merit departing from policy.
- 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, the Legal Adviser advised that he had nothing to raise at this time.
 - 2.4 Mrs MacDonald, Planning Adviser advised that the Case included 2 copies of the plan, one being the original plan and another called "Revision A" and that Members should consider "Revision A", as this was the plan that was refused. This was noted.
 - 2.5 Councillor Warren stated that local Ward Members had been consulted on the sale of land referred to in this proposal and sought guidance from the Legal Adviser as to whether she should declare a full interest in this case and take no part in the consideration of this item.
 - 2.6 In response, the Legal Adviser advised that it is up to each member to decide whether they can fairly consider each application based on the information provided within the case.
 - 2.7 In response, Councillor Warren stated that local Ward Members had been provided with 3 options in relation to the sale of this land and that they had settled on one option therefore declared a full interest in this item, left the meeting at this juncture and took no further part in the consideration of this item.
 - 2.8 Councillor Cameron, having visited the site and considered the case in detail, agreed with the original decision of the Appointed Officer stating that permitting the development would erode public land and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 22/00327/APP as the proposal does not comply with policies EP9 (Conservation Areas), EP3 (Special Landscape Areas and Landscape Character), EP6 (Settlement Boundaries) and DP1

(Development Principles) of the MLDP 2020. This was seconded by Councillor Harris.

- 2.9 There being no-one otherwise minded, the MLRB agreed to refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 22/00327/APP as the proposal does not comply with policies EP9 (Conservation Areas), EP3 (Special Landscape Areas and Landscape Character), EP6 (Settlement Boundaries) and DP1 (Development Principles) of the 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.