



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR286
  - Application for review by Mr John Marshall, c/o Mr Neil MacFarlane, Machin Dunn and MacFarlane against the decision of an Appointed Officer of Moray Council
  - Planning Application 22/01594/APP – Proposed erection of garage/storage shed and partial change of use from Farm Land to Garden Ground at The Forecourt, Cummington
  - Unaccompanied site inspection carried out by the MLRB on 18 April 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 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 proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummington Settlement Text as the proposal would introduce a large building at the edge of the village on land that is

immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.

- 2 The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (i) (a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.
- 2.2 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.
- 2.3 Mr Miller, Planning Adviser advised that Members on the site visit had noted that some works had already commenced on the site and that, whilst some of these works did not require planning permission, some of the works do need planning permission including the change of use of agricultural land to garden ground, which is subject to the planning application. However he reminded the Moray Local Review Body (MLRB) that the planning application should be considered based on the information considered by the Appointed Officer at the time of determination and no weight should be given to the partly retrospective nature of this review. This was noted.
- 2.4 The Chair then asked the 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 During discussion, the MLRB raised concern in relation to the size of the proposal which is not in keeping with the character of the surrounding area and unanimously agreed to uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 22/01594/APP as the proposal is contrary to policy EP6 (Settlement Boundaries), DP1 (Development Principles) (i) (a) and EP3 (Special Landscape Areas and Landscape Character) 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.