



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR287
 - Application for review by Mrs Carrie Cuthill against the decision of an Appointed Officer of Moray Council
 - Planning Application 22/01423/APP – Change of use from amenity to garden ground with erection of 1.8m timber fence at 10 Linksvie Road, Mosstodloch
 - Unaccompanied site inspection carried out by the MLRB on 18 April 2023
 - Date of decision notice: 30 May 2023
-

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:

The proposed development departs from the Moray Local Development Plan (MLDP) 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.

- 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 Ross, having visited the site and considered the case in detail, moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 22/01423/APP as the proposal is contrary to Policy EP5 (Open Space) of the MLDP 2020 and the Mosstodloch designation ENV6 (Natural/Semi-Natural Greenspace).
- 2.6 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 permission in respect of Planning Application 22/01423/APP as the proposal is contrary to Policy EP5 (Open Space) of the MLDP 2020 and the Mosstodloch designation ENV6 (Natural/Semi-Natural Greenspace).

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.