



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR290
 - Application for review by Mr Graham Clader c/o Mrs Colin Keir against the decision of an Appointed Officer of Moray Council
 - Planning Application 22/01849/APP – Erect free standing car port at 32 Muirfield Road, Elgin
 - Unaccompanied site inspection carried out by the MLRB on 16 August 2023
 - Date of decision notice: 21 August 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 17 August 2023.
- 1.3 The MLRB was attended by Councillors Macrae (Chair), Dunbar (Depute), Cameron, Harris, Keith, 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 car port does not comply with the Moray Local Development Plan Policy DP1 - Development Principles and National Planning Framework 4 Policy 16 - Quality Homes because it would sit forward of the principle elevation of a mid-terrace house in an area where there are no buildings/structures that sit to the front of houses. The proposal therefore

would appear out of place and be detrimental to the established character of the surrounding area. It would also set a precedent for further similar development.

- 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 and Planning Advisers had any preliminary matters to raise, the Legal Advisers advised that they had nothing to raise at this time.
- 2.4 Mrs MacDonald, Planning Adviser, advised that there was an error in Response Point 1 in the Statement of Case submitted by the Applicant. In the response the Applicant states that they are of the opinion that NPF4 policies were not in place at the time of the application and therefore should not be considered. Mrs MacDonald advised that NPF4 was not in place when the application was submitted but was in place when the application was determined and therefore should be considered.
- 2.5 The Chair the 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.
- 2.6 Councillor Harris sought clarification as to whether the Applicant had provided any evidence of free standing structures to the front of houses in the estate.
- 2.7 In response, the Planning Adviser confirmed that all of the photographs provided by the Applicant were of porches, extensions or conservatories, there was nothing free standing and, as per the Appointed Officer's report, it was the freestanding nature of the building that was the issue.
- 2.8 Councillor Van der Horn sought clarification on the plans that had been submitted by the Applicant, as he was of the opinion that the elevations showed free standing structures at neighbouring properties and that was not how the properties were in reality.
- 2.9 In response, the Planning Adviser confirmed that they were actually three separate drawings, 2 side elevations and the front, but the way they had been presented looked confusing when viewed as A4.
- 2.10 Councillor Van der Horn accepted this explanation.
- 2.11 There being no one otherwise minded, the MLRB unanimously agreed to uphold the original decision of the Appointed Officer to refuse Planning Application 22/01849/APP as the proposal does not comply with the Moray

Local Development Plan Policy DP1 - Development Principles and National
Planning Framework 4 Policy 16 - Quality Homes.

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.