



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR292
 - Application for review by Ms S Brennan c/o CM Design against the decision of an Appointed Officer of Moray Council
 - Planning Application 23/00132/APP – Alter and extend dwellinghouse at 9 Pitgaveny Street, Lossiemouth
 - Unaccompanied site inspection carried out by the MLRB on 09 November 2023
 - Date of decision notice: 29 November 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 16 November 2023
- 1.3 The MLRB was attended by Councillors Macrae (Chair), Dunbar (Depute Chair), 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 extended box dormer to the front and new box dormer to the rear of the existing dwelling are contrary to the Moray Local Development Plan (2020) and National Planning Framework 4 for the following reasons:

1. The proposals are unacceptable in terms of policy DP1(g) which precludes box dormers. Furthermore, the dormers are of a poor design which is

incongruous with the character and scale of the existing property and surrounding area due to the unnecessary bulk and box-like appearance which the box dormers would introduce. The dormers would also be considered overdevelopment of the existing front and rear roofplanes and as such would fail to comply with MDLP2020 Policy DP1 and NPF4 Policies 14 and 16.

2. The Moray Local Landscape Review Designation Review for the Burghead to Lossiemouth SLA specifically states that development should be of the highest quality and of a scale and style that reflects buildings within the original core of the settlement. It is noted that proposed extended box dormer and new rear box dormer would have a detrimental impact on the character of the wider SLA and is therefore not considered to comply with MLDP 2020 policy EP3 and NPF4 Policy 4.
- 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 Mr Miller, Planning Adviser advised that he had nothing to raise at this time.
- 2.4 The Mr Hoath, Legal Adviser advised that the Applicant had included 3D images with his Notice of Review application that were not before the Appointed Officer at the time of determination, however this had not gone through the new information procedure as it was considered that these were the same plans albeit presented in a different manner.
- 2.5 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.
- 2.6 Councillor Cameron, having visited the site and considered the case in detail agreed with the original decision of the Appointed Officer to refuse the planning application and moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 23/00132/APP as it is contrary to policy DP1 (Development Principles) and EP3 (Special Landscape Areas and Landscape Character) of the MLDP 2020 and policies 4, 14 and 16 of NPF4. This was seconded by Councillor Warren.
- 2.7 There being no-one otherwise minded, the MLRB unanimously agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 23/00132/APP as it is contrary to policy DP1 (Development Principles) and EP3 (Special Landscape Areas and Landscape Character) of the MLDP 2020 and policies 4, 14 and 16 of NPF4.

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.

