



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

---

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR294
  - Application for review by Cullen Antiques Centre, c/o Grant and Geoghegan against the decision of an Appointed Officer of Moray Council
  - Planning Application 23/00340/APP – Retrospective application for installation of dinosaur head to roof at 1 Bayview Road, Cullen
  - Unaccompanied site inspection carried out by the MLRB on 13 December 2023
  - Date of decision notice: 10 January 2024
- 

#### Decision

The MLRB agreed to uphold the request for review and grant planning permission, subject to the conditions appended to this decision notice. Attention is also drawn to the informative notes which follow the conditions.

#### 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 14 December 2023.
- 1.3 The MLRB was attended by Councillors Macrae (Chair), Dunbar (Depute), 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 proposal is contrary to National Planning Framework 4 policy 7 and 14, Moray Local Development Plan 2020 policies DP1 and EP9 where it would detract rather than enhance the conservation area. The dinosaur head would be incongruous to the traditional appearance, materials and character of the conservation area.

- 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, Mr Hoath, Legal Adviser advised that he had nothing to raise at this time.
- 2.4 The Planning Adviser reminded the MLRB that, although this was a retrospective planning application, this should not be a reason for refusal and that the application should be determined in the same way as any other planning application. This was noted.
- 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 Macrae, being familiar with the site and having considered the case in detail, moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 23/00340/APP as, in his opinion, the siting of the dinosaur head statue on the roof of the building will not have an adverse impact on the appearance of the shop and will preserve the character of the Cullen Seatown Conservation Area, satisfying the requirements of National Planning Framework 4 Policy 7 (Historic Assets and Places) and Policy 14 (Design, Quality and Place), and the Moray Local Development Plan 2020 Policy DP1 (Development Principles) and Policy EP9 (Conservation Areas). He stated that the development is a delightful design that brings joy to the village and adds to the building. He was not of the opinion that the development detracts from the conservation area and stated that people come to Cullen specifically to see the dinosaur which benefits tourism and economic development. He noted that local shops and hotels support the development and further noted that the dinosaur was a temporary fixture that could be removed.
- 2.7 Councillor Ross agreed with the points made by Councillor Macrae and agreed to second his motion.
- 2.8 Councillor Harris, having considered the case in detail, agreed with the original decision of the Appointed Officer and moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in relation to Planning Application 23/00340/APP as it is contrary to policies 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of National Planning Framework 4 and policies DP1 (Development Principles) and EP9 (Conservation Areas) of the Moray Local Development Plan 2020 stating that the top of a shop was not an appropriate place to display the dinosaur head and that it did not enhance the conservation area. This was seconded by Councillor Dunbar.
- 2.9 The Planning Adviser reminded the MLRB that when making decisions that affect conservation areas, there is a duty on the Planning Authority to preserve or enhance the conservation area and, in relation to the statement that the dinosaur is a temporary fixture that could be removed, advised that, should the MLRB be minded, a condition could be placed for a temporary

planning permission.

2.10 Taking the advice of the Planning Adviser into consideration, Councillor Macrae amended his motion to add a condition granting planning permission for a temporary period of 5 years. Councillor Ross, as seconder to Councillor Macrae's motion, agreed with this.

2.11 On a division there voted:

For the Motion (5):	Councillors Macrae, Ross, Keith, Warren and Van Der Horn
For the Amendment (3):	Councillors Harris, Dunbar and McBain
Abstentions (0):	Nil

2.12 Accordingly, the Motion became the finding of the Meeting and the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 23/00340/APP subject to condition limiting its siting for a temporary period of 5 years, the siting of the dinosaur head statue on the roof of the building will not have an adverse impact on the appearance of the shop and will preserve the character of the Cullen Seatown Conservation Area, satisfying the requirements of National Planning Framework 4 Policy 7 (Historic Assets and Places) and Policy 14 (Design, Quality and Place), and the Moray Local Development Plan 2020 Policy DP1 (Development Principles) and Policy EP9 (Conservation Areas).

**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.

## IMPORTANT NOTE

**YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES**

### SCHEDULE OF CONDITIONS

By this Notice, Moray Council has **GRANTED PLANNING PERMISSION** for this proposal subject to conditions as appropriate to ensure implementation of the proposal under the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

### CONDITION(S)

Permission is granted subject to the following conditions: -

1. Within 5 years of the date of this decision, the dinosaur head hereby permitted shall be removed from the building and any damage to the building made good to the satisfaction of the Council, as Planning Authority.

Reason: That this proposal is suitable on a temporary basis.

### ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

The following notes are provided for your information, including comments received from consultees:-

None

### LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
020/975/01		Site and location plan
020/975/03		Proposed elevations

## **IMPORTANT NOTES ABOUT THIS DECISION**

### **DURATION OF THIS PERMISSION**

In accordance with Section 58 (i) of the Town and Country Planning (Scotland) Act 1997 as amended, the development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

If the development has not commenced within this period then this permission shall lapse unless there is a specific condition attached to this permission which varies the stated timescale.

### **COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT**

The following are statutory requirements of the Town & Country Planning (Scotland) Act 1997, as amended. Failure to meet their respective terms represents a breach of planning control and may result in formal enforcement action. Copies of the notices referred to below are attached to this permission for your use.

#### **NOTIFICATION OF INITIATION OF DEVELOPMENT**

S.27A of the 1997 Act, as amended requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission. Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to Moray Council, as planning authority, the attached Notification of Initiation of Development.

#### **NOTIFICATION OF COMPLETION OF DEVELOPMENT**

S.27B of the 1997 Act, as amended requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions. Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to Moray Council, as planning authority the attached Notification of Completion of Development.

#### **NOTIFICATION OF COMPLETION OF PHASED DEVELOPMENT**

Under S.27B(2) of the 1997 Act, as amended where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete.

When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.



# THE MORAY COUNCIL

## NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Application Number

Date Decision Issued

Location and Description of  
Development

**Please note that all suspensive conditions must be discharged prior to commencement of development**

<b>Date works are to Commence</b>	
-----------------------------------	--

**Name, Address and contact details of developer**

.....  
.....  
.....

**The Full name and Address and contact details of the landowner, if a different person**

.....  
.....  
.....

**Where an agent is appointed, their full name and contact details**

.....  
.....  
.....

Signed

Name (Print)

Date

.....  
.....  
.....

**Please complete and return this form to:**

**The Moray Council, Development Management Manager, Council Offices, High Street, Elgin, Moray IV30 6UG**

**OR**

**E-mail: [development.control@moray.gov.uk](mailto:development.control@moray.gov.uk)**



## THE MORAY COUNCIL

### NOTIFICATION OF COMPLETION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Application Number

Date Decision Issued  
Location and Description of  
Development

<b>Date of completion of works</b>	
------------------------------------	--

**Name, Address and contact details of developer**

.....  
.....  
.....

**The Full name and Address and contact details of the landowner, if a different person**

.....  
.....  
.....

**Where an agent is appointed, their full name and contact details**

.....  
.....  
.....

Signed

Name (Print)

Date

.....  
.....  
.....

**Please complete and return this form to:**

**The Moray Council, Development Management Manager, Council Offices, High Street, Elgin, Moray IV30 6UG**

**E-mail: [development.control@moray.gov.uk](mailto:development.control@moray.gov.uk)**