



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR308
 - 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 24/00905/APP – Proposed erection of detached garage and conversion of existing garage to create utility, shower room and store at The Forecourt, Cummington, Elgin, Moray
 - Unaccompanied site inspection carried out by the MLRB on 12 February 2025
 - Date of decision notice: 5 March 2025
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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 13 February 2025.
- 1.3 The MLRB was attended by Councillors Neil Cameron, Amber Dunbar, Juli Harris, Marc Macrae, Paul McBain, Sonya Warren and Ben Williams

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:
- 2.2 The proposals are contrary to the Moray Local Development Plan (MLDP) (2020) and National Planning Framework (NPF) 4 for the following reasons:

1. The proposed double garage would encroach onto land which is currently beyond the MLDP 2020 designated settlement boundary of Cummingston. The introduction of a garage on this area of land would give rise to conditions of ribbon development and a blurring of distinction between the built-up area of the settlement and the surrounding open countryside which policy EP6 and the Cummingston Settlement Statement seek to avoid. This would fail to comply with NPF4 Policy 16 and MLDP2020 Policies DP1 and EP6.
 2. The application would also fail to comply with NPF4 Policy 4 and MLDP 2020 EP3 as it would erode the special qualities of the designated Burghead to Lossiemouth Special Landscape area by creating a built form which encroaches onto land not currently within the Cummingston settlement boundary.
- 2.3 The Summary of Information report set out the reasons for refusal, including the documents considered or prepared by the Appointed Officer regarding the planning application. It also included the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
 - 2.4 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.
 - 2.5 The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review. Following clarification from the Planning Adviser in relation a query that was raised regarding existing and proposed boundaries relating to the proposal, 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, commended the owner of the property for the work they had undertaken which had resulted in a lovely property, however agreed with the view of the Appointed Officer and 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 24/00905/APP as the proposal is contrary to NPF4 Policies 4 (Natural Places) and 16 (Quality Homes) and MLDP 2020 Policies DP1 (Development Principles), EP6 (Settlement Boundaries) and EP3 (Special Landscape Areas).
 - 2.7 There being no-one otherwise minded, the MLRB unanimously agreed to refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 24/00905/APP as the proposal is contrary to NPF4 Policies 4 (Natural Places) and 16 (Quality Homes) and MLDP 2020 Policies DP1 (Development Principles), EP6 (Settlement Boundaries) and EP3 (Special Landscape 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.