



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR172
 - Application for review by Mr Carlo Miele, c/o Mr Ian Holmes, IH Designs (Moray) against the decision of an Appointed Officer of Moray Council
 - Planning Application 16/01305/APP to site 7no self storage containers on Site to Rear of 24, 26 and 28 High Street, Forres
 - Unaccompanied site inspection carried out by the MLRB on 25 January 2017
 - Date of decision notice: 24 February 2017
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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 26 January 2017.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Coull (Deputy Chair), G. Cowie and R. Shepherd.

2. MLRB Consideration of Request for Review

- 2.1 Councillor Shepherd, having not taken part in the site visit, took no part in the relevant discussion or decision.
- 2.2 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 a planning application to site 7no self storage containers on Site to Rear of 24, 26 and 28 High Street, Forres.
- 2.3 There was submitted a 'Summary of Information' report setting out the

reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

- 2.4 The MLRB agreed that it had sufficient information to determine the request for review.
- 2.5 With regard to the unaccompanied site inspection carried out on 25 January 2017, the Senior Planning Officer (Planning & Development), as Planning Adviser to this review, advised that Members of the MLRB were shown the site where the proposed development would take place and provided with a summary of the reasons for refusal and the Applicant's Grounds for Review.
- 2.6 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policies BE3 *Conservation Areas*, ED1 *Development of New Employment Land*, T2 *Provision of Access*, T5 *Parking Standards*, PP1 *Sustainable Economic Growth* and IMP1 *Developer Requirements* of the Moray Local Development Plan 2015 where the scale of the proposal is overdevelopment within the curtilage of the site and the detrimental impact of this would be exacerbated by the site's presence within the conservation area, where a better standard of design and layout is required. She further advised that the space limitations for traffic movement and customer/staff parking in and around the site would be inappropriate for the use proposed.
- 2.7 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that a precedent had been set by a recent consent granted for a 2 storey factory extension adjacent the proposed site. They advised that they did not believe that overdevelopment was an issue as the scale of development is less intrusive than that of a 2 storey factory extension which was approximately 6m high. The Applicant advised that the proposal does not impede the amenity of the adjacent timber building at Leys Road Car Park, as the aforementioned factory extension does. They further noted that the Applicant required space for storing packaging which was the same reason the aforementioned 2 storey factory extension.
- 2.8 The Applicant stated their belief that the small scale, infrequent use of the storage units does not raise parking issues. They noted that the 2 storey factory has no provision for staff, customer, delivery and collection and had no provision in regard to Policies T2 and T5 whilst their proposed site does. Noting that the mobile containers could be moved off site at any time, the Applicant advised that the factory extension's planning application had 52 objections and still received approval.
- 2.9 Councillor Coull, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that the proposal lacked detail regarding the containers and how they would integrate into the character of the Conservation Area. Expressing concern regarding the inadequacy of parking provision and turning areas, he moved that the review be dismissed and the Appointed Officer's decision be upheld to refuse planning permission in respect of Planning Application 16/01305/APP.
- 2.10 As an amendment, the Chair moved that the MLRB defer consideration of the review and request further information from the Applicant on the site layout

and proposed containers.

- 2.11 Councillor Cowie stated that he was of the same opinion as Councillor Coull and seconded his motion.
- 2.12 There being no seconder, the Chair's amendment fell.
- 2.13 Accordingly, the MLRB agreed to dismiss Case LR172 and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 16/01305/APP.

A handwritten signature in black ink, appearing to read 'P. Nevin', is positioned above the typed name.

Paul Nevin
Senior Solicitor (Property & Contracts)
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.