



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR189
 - Application for review by Mr and Mrs C Addison by Mr Ritchie of Mantell Ritchie against the decision of an Appointed Officer of Moray Council
 - Planning Application 17/00044/APP for proposed change of use of domestic garage to commercial garage at 17 Cathay Terrace, Cullen, Buckie
 - Unaccompanied site inspection was carried out by the MLRB on 23 October 2017
 - Date of decision notice: 9 November 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 24 October 2017.
- 1.3 The MLRB was attended by Councillors M Macrae (Chair), D Bremner, C Feaver, D Gatt, A Patience and D Ross.

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 an application on the grounds that the proposal is contrary to policies EP8 and IMP1 of the Moray Local Development Plan (MLDP) 2015 and Scottish Government Planning Advice Notice 1/2011: Planning and Noise.
- 2.2 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.

- 2.3 With regard to the unaccompanied site inspection carried out on 23 October 2017, the Chair stated that Members of the Moray Local Review Body (MLRB) were shown the site where the proposed development would take place and had before them papers setting out both the reasons for refusal and the Applicant's grounds for review.
- 2.4 The Chair asked if there were any preliminary matters which the Planning or Legal Adviser wished to raise. In response, both the Planning and Legal Advisers confirmed that they had no preliminary matters that they wished to raise.
- 2.5 The Chair then asked the Committee if they had sufficient information to determine the request for review. In response, the Committee unanimously agreed that they had enough information.
- 2.6 Councillor Macrae, having had the opportunity to visit the site and consider the Applicant's grounds for review stated that he agreed with the view of the Appointed Officer in that the proposal was contrary to policies EP8 and IMP1 of the MLDP 2015 particularly in relation to noise pollution and noted the number of representations that had been made in relation to the application. He further noted that the Applicant had likened the work that he proposed to carry out in his garage to that which would take place in any domestic garage however, in his opinion, this would be an intensification of work that may be undertaken in a domestic garage and moved that the review be dismissed and the Appointed Officer's decision upheld to refuse planning permission in respect of Planning Application 17/00044/APP.
- 2.7 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR189 and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 17/00044APP.

Mr Paul Nevin
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.