



## **MORAY LOCAL REVIEW BODY**

### **DECISION NOTICE**

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR199
  - Application for review by Discovery Assets, c/o Mr Alastair Rennie, Moray Architectural Services against the decision of an Appointed Officer of Moray Council
  - Planning Application 17/01619/APP – Change of use from dwelling-house to House of Multiple Occupation (HMO) for student accommodation at 18 South Guildry Street, Elgin
  - Unaccompanied site inspection carried out by the MLRB on 26 March 2018
  - Date of decision notice: 16 April 2018
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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 29 March 2018.
- 1.3 The MLRB was attended by Councillors D Gatt (Chair), M Macrae (Depute Chair), D Bremner, G Cowie, M McLean 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 would be contrary to the provisions of the Moray Local Development Plan 2015 (Policies T5 and IMP1) for the following reasons:-

1. The proposal does not include sufficient on-site vehicular parking and manoeuvring space and as such does not comply with Moray Council's Parking Standards contrary to policy T5.
2. The proposal does not include sufficient on-site vehicular parking and manoeuvring space and would lead to an undesirable increase in on-street parking to the detriment of road safety which would not be appropriate to the amenity of the surrounding area contrary to policy IMP1.
- 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 accompanied site inspection carried out on 26 March 2018, the Chair stated that all Members of the Moray Local Review Body (MLRB), with the exception of Councillor Maria McLean, were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicants grounds for review.
- 2.4 The Chair asked if there were any preliminary matters which the Planning or Legal Advisers 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 MLRB if they had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.
- 2.6 Councillor Cowie sought clarification on the planning policy in relation to the ratio for the provision of car parking as he was aware of other Houses of Multiple Occupation (HMO) where fewer car parking spaces were required.
- 2.7 In response, the Planning Adviser advised that the consultation response from Transportation stated that HMOs required 1 car parking space per flat therefore as the HMO had 10 rooms, 10 car parking spaces were required. The Planning Adviser further advised that the Appointed Officer's Report of Handling stated that the 7 car parking spaces identified by the Applicant were substandard, the cycle parking was not big enough and there had been no provision for bin storage.
- 2.8 Councillor Macrae sought clarification as to whether a condition could be imposed to limit the use of the property for student accommodation as opposed to a regular HMO.
- 2.9 In response the Legal Adviser advised that the Report of Handling stated that a condition could be attached to restrict the occupancy of the building to students only which would ensure that the type and tenure of the of the occupation could be controlled.
- 2.10 Councillor Cowie raised concern in terms of exits within the proposed development and sought clarification as to whether the MLRB could approve

the application with a condition that another exit is provided from the property as he was concerned that the MLRB were being asked to approve an application for a property that did not meet the building standards required for an HMO.

- 2.11 In response, the Legal Adviser advised that an application for an HMO licence could not be made unless planning permission was granted for a change of use to an HMO however advised that all HMOs must be licensed and fire standards adhered to.
- 2.12 The Chair, having had the opportunity to visit the site and consider the Applicant's grounds for review, agreed with the opinion of the Appointed Officer in that the proposal was contrary to the provisions of the Moray Local Development Plan 2015 in terms of policies T5 and IMP1 and moved that the appeal be refused on those grounds. This was seconded by Councillor Bremner.
- 2.13 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR199 and uphold the decision of the Appointed Officer to refuse planning permission in respect of planning application 17/01619/APP.

**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.