



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR207
  - Application for review by Mr Walter Meldrum, c/o Mr Colin Keir, Plans Plus against the decision of an Appointed Officer of Moray Council
  - Planning Application 17/01775/APP to convert part of bar area into 3 no flats at The Golden Pheasant, North Street, Bishopmill, Elgin, IV30 4EF
  - Unaccompanied site inspection carried out by the MLRB on 28 May 2018
  - Date of decision notice: 22 June 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 31 May 2018.
- 1.3 The MLRB was attended by Councillors D Gatt (Chair), D Bremner, G Cowie, A Patience and M McLean.

#### 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 the provisions of the Moray Local Development Plan 2015 (Policies H1, EP8, T2 & IMP1) for the following reasons:

1. The development would involve a significant intensification of the use of an existing access where visibility is severely restricted and the access lane is not wide enough to allow two vehicles to pass clear of the public road. This development will therefore fail to provide safe entry and exit to the site contrary to policy T2 and H1 and would give rise to conditions detrimental to road safety which would undermine the amenity of the area contrary to policy IMP1.
  2. The application has failed to demonstrate either that the development would not be subject to significant pollution or that any noise pollution could be satisfactorily mitigated contrary to policies EP8 and IMP1.
- 2.2 A Summary of Information report set 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 28 May 2018, the Chair stated that all members of the Moray Local Review Body (MLRB) present 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 Applicant's grounds for review.
  - 2.4 In response to a question from the Chair as to whether the Legal and 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 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 During discussion surrounding the reasons for refusal of the application some members of the MLRB stated that in their opinion the proposal was not contrary to policies H1, EP8, T2 and IMP1 in terms of pollution and road safety.
  - 2.7 In response, the Planning Adviser advised that the application had been refused in terms of policies T2 and H1 as the Transportation Service had reported that the development would result in intensification in usage of the existing access which was considered to be detrimental to road safety due to restricted visibility. With regard to policy EP8 in terms of noise pollution, as there was no noise impact assessment submitted with the application, it was refused on those grounds as it was unknown whether the noise from the adjoining bar would be of an acceptable level.
  - 2.8 The MLRB, in noting the response from the Planning Adviser sought clarification as to whether they could grant planning permission subject to the provision of a satisfactory Noise Impact Assessment and reduction in the height of the wall to the right of the exit to achieve appropriate visibility splay lines.
  - 2.9 In response to the query in relation to improving visibility by reducing the height of the wall to the right of the exit, the Planning Adviser advised that, even if the height of this wall could be reduced, the actual building was blocking the view to the left hand side resulting in decreased visibility to the

left also.

- 2.10 The Chair then queried whether signage could be displayed stating that vehicles leaving the car park could only turn left.
- 2.11 In response the Legal Adviser advised against this course of action as the MLRB was at risk of granting planning permission subject to conditions that were possibly not achievable and suggested that the MLRB consider deferring the appeal to request further information from the Applicant in relation to whether it was possible to reduce the height of the wall to improve visibility and whether a Noise Impact Assessment could be obtained although it was noted that this was expensive and would not guarantee planning permission. He further suggested that consideration be given to requesting further information from Transportation in relation to the possibility of enforcing “no right turn” when exiting the car park.
- 2.12 Councillor Ross stated that, in his opinion, there were too many conditions and uncertainties in relation to this request for review and moved that the LRB refuse the appeal and uphold the decision of the Appointed Officer to refuse the application as it was contrary to policies H1, EP8, T2 and IMP1 of the Moray Local Development Plan 2015. This was seconded by Councillor Patience.
- 2.13 Thereafter the MLRB agreed to dismiss Case LR207 and uphold the original decision of the Appointed Officer to refuse planning permission in respect of planning application 17/01775/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.