



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR208
 - Application for review by Mr Ronald Mair against the decision of an Appointed Officer of Moray Council
 - Planning Application Planning Application 18/00227/APP – Change of use of amenity land to garden ground at Ferndale, Mains of Buckie, Buckie
 - Unaccompanied site inspection carried out by the MLRB on 27 August 2018
 - Date of decision notice: 17 September 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 30 August 2018.
- 1.3 The MLRB was attended by Councillors David Bremner, Paula Coy and Amy Patience.

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 adopted Moray Local Development Plan 2015 (Policies E5 and IMP1 as well as the Moray Open Space Strategy Supplementary Guidance 2018) for the following reason:

The proposal to change the land from undeveloped open ground into private enclosed garden ground does not meet any of the policy objectives or

exemptions identified and would lead to the loss of part of the Buckie ENV6 designation which is designated to preserve open/amenity space within settlements. The proposal, in failing to maintain the designated ENV6 green corridor, would also fail to comply with the objectives of the Moray Open Space Strategy Supplementary Guidance 2018.

- 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 unaccompanied site inspection carried out on 27 August 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 Councillor Bremner, having had the opportunity to visit the site and consider the Applicant's grounds for review stated that he agreed with the original decision of the Appointed Officer and moved that the MLRB refuse the appeal and uphold the decision of the Appointed Officer to refuse the application as it was contrary to policies E5 and IMP1 of the Moray Local Development Plan 2015 as well as the Moray Open Space Strategy Supplementary Guidance 2018.
- 2.7 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR208 and uphold the original decision of the Appointed Officer to refuse planning permission in respect of planning application 18/00227/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.