



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR222
  - 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 18/01576/APP – Convert part of bar to 3no flats at The Golden Pheasant, North Street, Bishopmill, Elgin, IV30 4EF
  - Unaccompanied site inspection carried out by the MLRB on 24 May 2019
  - Date of decision notice: 25 June 2019
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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 May 2019.
- 1.3 The MLRB was attended by Councillors Amy Taylor (Chair), David Bremner (Depute Chair), George Alexander, Paula Coy, Ray McLean and Derek 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 the Moray Local Development Plan 2015 because:

- i. The proposal 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 proposal will therefore fail to provide safe entry and exit to the site, giving rise to conditions detrimental to the safety of road users. This is contrary to policies T2, H1 and IMP1.

- ii. A Noise Impact Assessment has not been provided that demonstrates the occupants of the proposed residential units will not be subject to adverse noise emissions detrimental to their residential amenity from nearby sources (road traffic, the remaining public house, its internal ventilation systems and the car parking area to the rear). This is contrary to policies EP8 and IMP1.
- 2.2 The proposal also fails to comply with the requirements of the Proposed Moray Local Development Plan 2020 (policies PP3, DP1, DP2 and EP14).
  - 2.3 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, in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
  - 2.4 With regard to the unaccompanied site inspection carried out on 24 May 2019, the Chair stated that all present members of the Moray Local Review Body (MLRB), with the exception of Councillors Ross and Coy, 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.
  - 2.5 In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.
  - 2.6 The Chair asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.
  - 2.7 Councillor Bremner, having had the opportunity to visit the site and consider the Applicant's grounds for review stated that he had some sympathy for the application however based on the current policies of the Council saw no way that the MLRB could approve the application.
  - 2.8 The Chair shared the same opinion as Councillor Bremner and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning application 18/01576/APP.
  - 2.9 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR222 and uphold the original decision of the Appointed Officer to refuse Planning Application 18/01576/APP as the proposal is contrary to Policies T2, H1, EP8 and IMP1 of the Moray Local Development Plan 2015.



**Mrs A Scott**  
**Legal Services Manager**  
**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.