



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR226
  - Application for review by Ms Laura Mackay c/o Mr Neil Grant, Grant and Geoghegan Ltd against the decision of an Appointed Officer of Moray Council
  - Planning Application 19/00173/APP – Change of use of amenity land to garden ground and erect summer house/work room and shed at 65 Marleon Field, Elgin
  - Unaccompanied site inspection carried out by the MLRB on 23 August 2019
  - Date of decision notice: 12 September 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 29 August 2019.
- 1.3 The MLRB was attended by Councillors Taylor (Chair), Alexander, Gatt and R 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 because the introduction of a business use to which there would be visiting members of the public is considered to result in an adverse impact on the amenity of neighbouring properties in the surrounding residential area,

contrary to policy IMP1.

The proposal also fails to comply with the requirements of the Proposed Moray Local Development Plan 2020 (policy DP1).

- 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, in addition to 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 August 2019, the Chair stated that all present members of the Moray Local Review Body (MLRB) 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 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.
- 2.6 Councillor Alexander, having had the opportunity to visit the site and consider the Applicant's grounds for review moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00173/APP as it is contrary to policy IMP1 (developer requirements) of the MLDP 2015.
- 2.7 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR226 and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00173/APP as the proposal is contrary to policy IMP1 of the MLDP 2015 and also the requirements of policy DP1 (Development Principles) of the proposed MLDP 2020.

**Mr Sean Hoath**  
**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.