



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR300
  - Application for review by Ms Joanna Inch, c/o Mr Colin Keir, Plans Plus against the decision of an Appointed Officer of Moray Council
  - Planning Application 23/01973/APP – Proposed off street car parking space at St Hilda, 31 West Road, Elgin
  - Unaccompanied site inspection carried out by the MLRB on 15 May 2024
  - Date of decision notice: 25 June 2024
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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 16 June 2024.
- 1.3 The MLRB was attended by Councillors Macrae (Chair), Dunbar (Depute), Cameron, Harris, Keith, McBain, van der Horn and Warren.

#### 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 planning permission on the grounds that:

- 2.2 The proposal seeks to form a new access onto the A96(T) Road to provide off-street parking for one vehicle and is contrary to the Moray Local Development Plan (MLDP) 2020 and National Planning Framework 4 (NPF4) for the following reasons:
- i) The proposals seek to form a new access onto the A96(T) road which is not permitted by MLDP 2020 Policy PP3.
  - ii) The proposed parking space would fail to meet the size requirements for a standard parking space as set by Moray Council Parking Standards and if permitted, could result in vehicles obstructing the footway which would fail to comply with policy DP1 which requires that developments provide a safe access to and from the road network and NPF4 Policy 18 which require the impact of proposals on existing infrastructure to be mitigated.
  - iii) The proposals could result in reversing manoeuvres onto the A96(T) which would interfere with the safety and free flow of the traffic on the A96(T) and this would fail to comply with policy DP1 which requires that proposals must provide a safe entry and exit from the development and NPF4 Policy 13 which requires developments that have the potential to affect the operation and safety of the Strategic Transport Network to be fully assessed
- 2.3 The Summary of Information Report set out the reasons for refusal, including the documents considered or prepared by the Appointed Officer regarding the planning application. It also included the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
- 2.4 In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, the Legal Adviser advised that he had nothing to raise at this time.
- 2.5 Mr Miller, Planning Adviser advised that, following the site visit, Members had queried the dimensions of the garden and confirmed that the depth of the garden was 4.5 metres and not 4.6 metres as stated in the plan. In relation to parking standards referenced in the case, he noted that this was stated as being 2.5 m x 5 m however, whilst this is correct, with regard to driveways, the MLDP refers to national development guidelines which state that the minimum should be 5.5 m deep and 3 m wide. Mr Miller further confirmed that Transport Scotland had objected to the application therefore if the MLRB were minded to uphold the appeal, Transport Scotland would require to be notified of the MLRB's intention, and any decision may be subject to call-in by the Scottish Ministers. This was noted.
- 2.6 The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.
- 2.7 Councillor Keith, being familiar with the site and having viewed it himself prior to the meeting, moved that the MLRB uphold the original decision of the Appointed Officer and refuse the appeal as it was clear that the proposal is contrary to NPF4 policies 13 (Sustainable Transport) and 18 (Infrastructure First) and MLDP 2020 policies PP3 (Infrastructure and Services), DP1 (Development Principles).

- 2.8 There being no-one otherwise minded, the MLRB agreed to uphold the original decision of the Appointed Officer and refuse the appeal as the proposal is contrary to NPF4 policies 13 (Sustainable Transport) and 18 (Infrastructure First) and MLDP 2020 policies PP3 (Infrastructure and Services), DP1 (Development Principles).

**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.