



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR304
 - Application for review by Pinefield Glass c/o Mr Stewart Reid, S Reid Design against the decision of an Appointed Officer of Moray Council
 - Planning Application 23/01862/APP – Proposed extension to existing car part at Pinefield Glass, 1 Pinefield Parade, Elgin
 - Unaccompanied site inspection carried out by the MLRB on 6 November 2024
 - Date of decision notice: 22 November 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 14 November 2024.
- 1.3 The MLRB was attended by Councillors Macrae (Chair), Dunbar (Depute), Cameron, Harris, McBain, van der Horn, Warren and Williams.

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:

The proposed change of use of designated ENV land to car parking is contrary to Elgin ENV5 East Road Moray Local Development Plan (MLDP) settlement designation, MLDP Policies DP1 and EP5, MLDP Open Space

Strategy Supplementary Guidance and National Planning Framework 4 (NPF4) Policies 14 and 20 because:

The proposed development seeks a crude encroachment into the safeguarded ENV for car parking in a design and form which would erode the purpose and function of the ENV at this prominent access route in the town, resulting in piecemeal fragmentation and erosion of the overall integrity of the ENV5 East Road Green Corridor as part of the wider green network in Elgin. In these terms the proposal is unacceptable and contrary to the Elgin ENV5 East Road MLDP settlement designation, MLDP Policies DP1 and EP5, MLDP Open Space Strategy Supplementary Guidance and NPF4 Policies 14 and 20.

- 2.2 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.
- 2.3 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.
- 2.4 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.
- 2.5 Councillor Harris, having considered case in detail and attended the site visit, noted that the site of the proposal was on part of a green corridor used by nearby residents and parents walking children to school and further noted that the Applicant had not attempted to minimise the land take, reconfigure the proposal or rationalise existing parking despite efforts made by the Planning Service. Taking this into consideration, Councillor Harris moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 23/01862/APP as the proposal is contrary to Elgin ENV5 East Road MLDP settlement designation, MLDP Policy DP1 (Development Principles) and EP5 (Open Space), MLDP Open Space Strategy Supplementary Guidance and NPF Policy 14 (Design, quality and place) and 20 (Blue and green infrastructure). Councillor Cameron seconded this.
- 2.6 Councillor McBain, having considered the case in detail and attended the site visit stated that, in his opinion the proposal complies with Elgin ENV5 East Road MLDP settlement designation, MLDP Policy DP1 (Development Principles) and EP5 (Open Space), MLDP Open Space Strategy Supplementary Guidance and NPF Policy 14 (Design, quality and place) and 20 (Blue and green infrastructure). He noted that the business had grown over the years since being established in the 1980s and had remained in the same location and understood the desire of the Applicant to split the car park to accommodate customers on one side and deliveries on the other. He was of the view that there would still to be a significant portion of green space remaining once the proposal was complete and moved, as an amendment, that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 23/01862/APP as, in his opinion, the proposal complies with MLDP Policies DP1 (Development Principles) and EP5 (Open Space), MLDP Open Space Strategy Supplementary Guidance and NPF4 Policies 14

(Design, quality and place) and 20 (Blue and green infrastructure). The Chair seconded this.

2.7 On a division there voted:

For the Motion (4):	Councillors Harris, Cameron, van der Horn and Williams
For the Amendment (3):	Councillors McBain, Macrae and Warren
Abstentions (1):	Councillor Dunbar

2.8 Accordingly, the Motion became the finding of the Meeting and the MLRB agreed to uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 23/01862/APP as the proposal is contrary to Elgin ENV5 East Road MLDP settlement designation, MLDP Policy DP1 (Development Principles) and EP5 (Open Space), MLDP Open Space Strategy Supplementary Guidance and NPF Policy 14 (Design, quality and place) and 20 (Blue and green infrastructure).

Mr S 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.