



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR316
 - Application for review by Mr David Anderson c/o AK Architecture against the decision of an Appointed Officer of Moray Council
 - Planning Application 25/00923/APP - Retrospective application to erect timber fence and gate and paint external walls white at Ivy Cottage Mid Street Kingston Fochabers
 - Unaccompanied site inspection carried out by the MLRB on 18 February 2026
 - Date of decision notice: 6 March 2026
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Decision

The MLRB agreed to uphold the request for review and grant planning permission/planning permission in principle, subject to the conditions appended to this decision notice. Attention is also drawn to the informative notes which follow the conditions.

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 19 February 2026.
- 1.3 The MLRB was attended by Councillors Neil Cameron, Amber Dunbar, Juli Harris, Marc Macrae, Paul McBain, Sonya Warren and Ben 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 retrospective planning permission on the grounds that:

The retrospective proposal for the fence atop the wall to the front (east) of the house restricts visibility for users of the neighbouring driveway, giving rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan (MLDP) 2020 Policy DP1 - Development Principles.

- 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 as well as further representations received from interested parties and the applicant's response to these further representations.
- 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.
- 2.5 Councillor Warren sought clarification as to whether there had been any reported road traffic accidents for the area surrounding the proposal.
- 2.6 In response, Fiona Olsen, Planning Adviser advised that there were no recorded accident statistics for the location of the proposal.
- 2.7 Councillor Cameron sought clarification as to where Willows Cottage is on the map in the agenda pack.
- 2.8 In response, Fiona Olsen, Planning Adviser advised that Willows Cottage is to the rear of the proposal and that access to the cottage is adjacent to the fence which has been erected.
- 2.9 The Chair then sought confirmation from the MLRB as to whether it now had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.
- 2.10 Councillor McBain, having visited the site and considered the case in detail stated that, in his opinion, the access in question functions more as a path than a conventional road and should not be assessed to main-highway visibility standards. He was of the view that the proposal complies with Policy DP1, in particular DP1 (e), highlighting that the replacement of a 2.5 m hedge with a 1.8 m fence improves light, reduces overbearing impact, and enhances amenity in what is a tightly constrained area. He further expressed the view that Transportation's concerns regarding visibility splays were a matter of opinion rather than a strict policy requirement and were unrealistic for the setting in Kingston and moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 25/00923/APP.
- 2.11 Councillor Warren, having visited the site and considered the case in detail, seconded the motion stating that there had been no road traffic accidents in the area to justify the suggested impact of loss of vision and noted that replacing the hedge with a lower fence actually improved the area.

- 2.12 Councillor Cameron, having visited the site and considered the case in detail, highlighted that the removal of the hedge had increased visibility splays, which in turn could encourage higher vehicle speeds and raise the risk of accidents, aligning with Transportation's objections and moved, as an amendment, that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 25/00923/APP, as the proposal fails to comply with policy DP1 (Development Principals) of the MLDP 2020.
- 2.13 Councillor Harris, having visited the site and considered the case in detail, noted that the applicant had expressed concerns about neighbours overlooking his property.
- 2.14 At this point, Sean Hoath, Legal Adviser advised that any potential neighbour dispute was not relevant to the planning application and should not be taken into consideration.
- 2.15 Councillor Harris, while recognising that such neighbour disputes are not material planning considerations, accepted that privacy formed part of the applicant's reasons for erecting the fence however, raised significant concerns about the impact of the fence and the additional screening on vehicle visibility at the access. She noted that, although the road is not a public road, it is nonetheless regularly used by cars, and the level of screening would make visibility through the fence slats extremely limited and therefore seconded the amendment.
- 2.16 After hearing the advice from the Legal Adviser, the Chair confirmed that Officers had emailed the MLRB ahead of the meeting to advise that certain redactions had already been made to remove references to a dispute and further that any information relating to a potential neighbour dispute was not relevant in planning terms and should not be considered as part of the decision making process.
- 2.17 Councillors McBain, Warren, Cameron and Harris took the opportunity to sum up ahead of the vote.
- 2.18 On a division there voted:
- For the Motion (5): Councillors McBain, Warren, Dunbar, Macrae and Williams
- For the Amendment (2): Councillors Cameron and Harris
- Amendment (0): Nil
- 2.19 Accordingly, the Motion became the finding of the meeting and the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 25/00923/APP as the proposal complies with policy DP1 of the MLDP 2020.
- 2.20 The Chair noted that, although not a requirement of the decision, the applicant had indicated a willingness to install a convex mirror to improve visibility at the

junction and suggested that the applicant may also wish to consider appropriate 'slow' signage, provided it meets relevant road signage standards, as a further measure to support road safety. These suggestions were offered as advisory comments following the committee's decision to uphold the appeal.

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.

IMPORTANT NOTE

YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

SCHEDULE OF CONDITIONS

By this Notice, Moray Council has **GRANTED PLANNING PERMISSION** for this proposal subject to conditions as appropriate to ensure implementation of the proposal under the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

CONDITION(S)

Permission is granted subject to the following conditions: -

The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

The following notes are provided for your information, including comments received from consultees:-

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
0249-01-01-02-001 F01		Location plan
0249-01-01-02-003 F01		Proposed site and roof plan
0249-01-01-02-004 F01		Existing and proposed site plan
0249-01-01-02-005 F01		Proposed gate detail
0249-01-01-02-006 F01		Proposed fence and store detail

IMPORTANT NOTES ABOUT THIS DECISION

DURATION OF THIS PERMISSION

In accordance with Section 58 (i) of the Town and Country Planning (Scotland) Act 1997 as amended, the development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

If the development has not commenced within this period then this permission shall lapse unless there is a specific condition attached to this permission which varies the stated timescale.

COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT

The following are statutory requirements of the Town & Country Planning (Scotland) Act 1997, as amended. Failure to meet their respective terms represents a breach of planning control and may result in formal enforcement action. Copies of the notices referred to below are attached to this permission for your use.

NOTIFICATION OF INITIATION OF DEVELOPMENT

S.27A of the 1997 Act, as amended requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission. Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to Moray Council, as planning authority, the attached Notification of Initiation of Development.

NOTIFICATION OF COMPLETION OF DEVELOPMENT

S.27B of the 1997 Act, as amended requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions. Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to Moray Council, as planning authority the attached Notification of Completion of Development.

NOTIFICATION OF COMPLETION OF PHASED DEVELOPMENT

Under S.27B(2) of the 1997 Act, as amended where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete. When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.



THE MORAY COUNCIL

NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Application Number

Date Decision Issued

Location and Description of
Development

**Please note that all suspensive conditions must be discharged prior to
commencement of development**

Date works are to Commence	
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Name, Address and contact details of developer

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**The Full name and Address and contact details of the landowner, if a different
person**

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Where an agent is appointed, their full name and contact details

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Signed

Name (Print)

Date

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Please complete and return this form to:

**The Moray Council, Development Management Manager, Council Offices, High
Street, Elgin, Moray IV30 6UG**

OR

E-mail: development.control@moray.gov.uk



THE MORAY COUNCIL

NOTIFICATION OF COMPLETION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Application Number

Date Decision Issued
Location and Description of
Development

Date of completion of works	
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Name, Address and contact details of developer

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The Full name and Address and contact details of the landowner, if a different person

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Where an agent is appointed, their full name and contact details

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Signed

Name (Print)

Date

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Please complete and return this form to:

The Moray Council, Development Management Manager, Council Offices, High Street, Elgin, Moray IV30 6UG

E-mail: development.control@moray.gov.uk