

MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference: Case 072
- Site address: Plot at Lesmurdie House, Elgin, Moray
- Application for review by Mr L McPherson, against the decision by an Appointed Officer of the Moray Council
- Application 12/01915/APP: to amend the drainage proposals to include a Bio-Disc Sewage Plant at a Plot at Lesmurdie House, Elgin
- Unaccompanied site inspection carried out by the MLRB on Wednesday 27 February 2013
- Date of Decision Notice: 23 April 2013

Decision

The MLRB agreed to uphold the original decision of the Planning Officer to refuse the application.

1.0 Preliminary

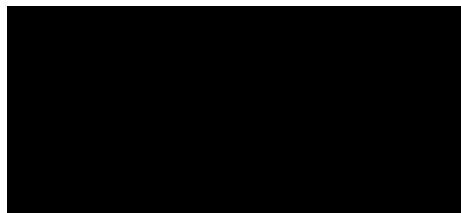
- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above case was considered at the meeting of the MLRB on 28 February 2013.
- 1.3 The Review Body was attended by Councillors C Tuke, (Chair), L Creswell and J Mackay.

2.0 Proposal

- 2.1 This is an application for planning permission to amend the drainage proposals to include a bio-disc sewage plant at a plot at Lesmurdie House, Elgin, Moray.

3.0 MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 28 February 2013 there was submitted a 'Summary of Information' report by the Clerk to the MLRB setting out the reasons for refusal together with a copy of the Report of Handling and a copy of the Notice of Review & supporting documents.
- 3.2 In regard to the unaccompanied site visit carried out on Wednesday 27 February 2013, the Planning Adviser advised that members walked round the site and the grounds of Lesmurdie House and were shown the public sewer connection point.
- 3.3 In terms of the reasons for refusal it was noted that the proposal was contrary to policy EP10 foul drainage which requires that a development within or close to settlements of more than 2000 population equivalent will be required to connect to the public sewage system. Reference was also made to an undesirable precedent for further such proposals.
- 3.4 In the grounds for review the appellant made the following points; the proposed public sewer connection will involve digging up a number of gardens and car parking areas to make the connection, causing considerable upheaval to established property owners. The appellant believes the pump will continually breakdown due to the distance and height involved.
- 3.5 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.6 Councillor Tuke having visited the site made reference to the mention of gardens and hard standing which did not seem to be as written in the papers, as in his opinion it was rough ground in the area of the house and plain open grass towards the main house and sewer connection. The rise in his opinion would be less than 2m and the distance 50-60m rather than a 100m as stated.
- 3.7 Councillor J MacKay having visited the site expressed the view that the application was contrary to policy EP10 and for this reason he moved to uphold the original decision of the Planning Officer to refuse the application.
- 3.18 There being no one otherwise minded the LRB unanimously agreed to uphold the original decision of the Planning Officer to refuse the application.



Paul Nevin
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 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 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.