



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR126
 - Site address: Arradoul View, Hilton Farm, By Buckie
 - Application for review by Mr Gavin Strathdee, c/o Mr Stewart Reid, Strathdee Properties Ltd against the decision of an Appointed Officer of The Moray Council.
 - Planning Application 15/00396/APP for the proposed erection of dwellinghouse with detached garage.
 - Unaccompanied site inspection carried out by the MLRB on 26 August 2015
 - Date of decision notice: **18 September 2015**
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Decision

The MLRB agreed to uphold the request for review and grant planning permission, 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 2008.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 27 August 2015.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Coull (Deputy Chair), G. Cowie and R. Shepherd.

2. Proposal

- 2.1 This is an application for planning permission for the proposed erection of dwellinghouse with detached garage at Arradoul View, Hilton Farm, By Buckie.

3. MLRB Consideration of Request for Review

- 3.1 The Moray Local Review Body (MLRB) considered a request from the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application for the proposed erection of dwellinghouse with detached garage at Arradoul View, Hilton Farm, by Buckie.
- 3.2 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with copies of the Report of Handling, Notice of Review, Grounds for Review and supporting documents.
- 3.3 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.4 With regard to the unaccompanied site inspection carried out on 26 August 2015, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.5 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal does not comply with Policies H8 and IMP1 of the Moray Local Plan 2008 in that the site, when viewed in conjunction with other approved and existing houses in the surrounding area, leads to an uncharacteristically high density of rural housing, which results in an unacceptable build-up of residential development to the detriment of the character of this open area of countryside.
- 3.6 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the development could be considered as a dwelling house associated with the steading and, whilst not being an actual integral part of the development, could be considered a domestic building associated with the adjacent steading rather than a 'stand-alone' plot. They advised that the plot lends itself to this dynamic give the proximity between the proposal and farmhouse and the proposed dwellings and would enhance the area.
- 3.7 The Applicant stated that the development is generally concealed from public view and was located to the rear of the farmhouse, effectively hidden from view and from the public road by existing tree growth, nearby existing farmhouse and consented dwellings. They noted that the proposed Finished Floor Level will be approximately 1.7 metres lower than the farmhouse or any of the proposed dwellings.
- 3.8 Stating that the existing foliage on site will help soften and integrate the development, the Applicant noted that many of the existing trees will be retained, ensuring a minimum of 25% of the plot is covered in foliage. The Applicant advised that the house design is of a low-impact, rural style which is well-designed and that there is a high demand and need for rural accommodation.
- 3.9 Councillor Shepherd, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that he believed that the proposal complies with Policies H8 and IMP1 and blends into the surrounding

landscape. Accordingly, he moved that the appeal be upheld and planning permission be granted, subject to standard conditions.

3.10 The Chairman stated he was of the same opinion as Councillor Shepherd and seconded his motion.

3.11 There being no one otherwise minded, the MLRB agreed to uphold the appeal and grant planning permission, subject to standard conditions.

Paul Nevin
Senior Solicitor (Property & Contracts)
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, The 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: -

1. Prior to any development works commencing, full details of the widening, including provisions for drainage, of the C11L Drybridge to Deskford Road shown on approved drawing no. ARRADOUL-VIEW/ROAD-WIDE/01 shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority.

Thereafter the road widening shall be constructed in accordance with the approved details.

Reason - To ensure that the road improvement works are designed to an appropriate standard in the interest of road safety and to protect the environment of the local road corridor.

2. A visibility splay 4.5 metres by 215 metres shall be provided in both directions at the access onto the public road and thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.

Reason - To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

3. Three car parking spaces shall be provided within the site prior to the occupation or completion of the dwellinghouse, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason - To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

4. Prior to the occupation of the dwellinghouse, point of entry ultraviolet treatment and pre-filtration, shall be installed and be operational, in order to treat the private water supply serving the house. The treatment system shall thereafter be retained throughout the lifetime of the development unless otherwise agreed in writing with the planning authority.

Reason - To ensure a safe water supply in the interests of the health of the occupants of the dwellinghouse hereby approved.

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

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

The Regional Archaeologist has commented that:-

If human remains are uncovered, the Applicant/Developer has a legal requirement to report this. In the first instance, they should contact ourselves at the Archaeology Service and we will then contact the Police on their behalf. The finding of human remains would not prohibit any proposed development works, but would cause minor delay while the remains were investigated.

The Applicant/Developer also has a legal requirement, under the laws of *bona vacantia*, to report any objects/artefacts found to the Treasure Trove Unit.

The Transportation Manager has commented that:-

Planning consent does not carry with it the right to carry out works within the public road boundary.

Before commencing development, the Applicant is obliged to apply for Construction Consent in accordance with Section 21 of the Roads (Scotland) Act 1984 for new roads. The Applicant will be required to provide technical information, including drawings and drainage calculations, and provide a Road Bond to cover the full value of the works in accordance with the Security for Private Road Works (Scotland) 1985 Regulations. Advice on this matter can be obtained from The Moray Council web site or by emailing transport.develop@moray.gov.uk.

Before starting any work on the existing public road, the Applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing roadspermits@moray.gov.uk

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

If required, street furniture will need to be repositioned at the expense of the developer. In addition any existing roadside ditch may require a pipe or culvert. Advice on these matters can be obtained by emailing road.maint@moray.gov.uk

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

The Applicant shall be responsible for ensuring that surface/ground water does not run from the public road into his property.

The Applicant shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

Visibility splays relate to the visibility available to a driver at or approaching a junction in both directions. It is related to the driver's eye height, object height above the road, distance back from the main road known as the 'X' distance and a distance along the main road known as the 'Y' distance. The Y distance is related either to the design speed of the road and a corresponding 'stopping sight distance' or in some circumstances may be based on observed '85th percentile vehicle speeds'. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site:-

Transportation Service Requirements for Small Developments in the Countryside

Full document <http://www.moray.gov.uk/downloads/file79761.pdf>

Checklist <http://www.moray.gov.uk/downloads/file68812.pdf>

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 the 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 the 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

Planning Application Reference No:

Date issued:

I hereby give notice that works as detailed under the above planning application will commence on:

Signed: Date:

THE FOLLOWING INFORMATION MUST BE PROVIDED:

1. Name and address of person carrying out the development:

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2. The full name and address of the landowner, if a different person:

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3. Where a site agent is appointed, their full name and contact details:

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4. The date of issue and reference number of the grant of planning permission:

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Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office
High Street
Elgin IV30 1BX

Or email to: - development.control@moray.gov.uk

IMPORTANT

It is important that the Environmental Services Department is advised when you propose to start work as failure to do so may result in enforcement action be taken.

Please complete and return this form.

THE MORAY COUNCIL

NOTIFICATION OF COMPLETION OF DEVELOPMENT

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

Planning Application Reference No:

Date issued:

I hereby give notice that works as detailed under the above planning application will be completed on:

Signed: Date:

Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office
High Street
Elgin IV30 1BX

Or email to: - development.control@moray.gov.uk

IMPORTANT

It is important that the Environmental Services Department is advised when the development has been completed as failure to do so may result in enforcement action be taken.

Please complete and return this form.