



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR137
  - Site address: Craigellachie Meadows, Craigellachie
  - Application for review by Mr and Mrs Stephen Strathdee, c/o Mr Stewart Reid, Strahdee Properties Ltd against the decision of an Appointed Officer of The Moray Council.
  - Planning Application 15/00947/APP to erect dwellinghouse with detached double garage
  - Unaccompanied site inspection carried out by the MLRB on 20 November 2015
  - Date of decision notice: 17 December 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 2013.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 26 November 2015
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Cowie, M. McConachie and K. Reid.

#### 2. Proposal

- 2.1 This is an application for planning permission for to erect dwellinghouse with detached double garage at Craigellachie Meadows, Craigellachie.

#### 3. MLRB Consideration of Request for Review

- 3.1 Councillor McConachie, having not taken part in the site visit for this Review, took no part in the relevant discussion or decision.

- 3.2 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 to erect dwellinghouse with detached double garage at Craigellachie Meadows, Craigellachie.
- 3.3 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.
- 3.4 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.5 With regard to the unaccompanied site inspection carried out on 20 November 2015, Ms Webster, Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.6 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policy 1(e) of the Moray Structure Plan 2007, Policies H8, E7 and IMP1 of the Moray Local Plan 2008, Policies E7, H7 and IMP1 of the Moray Local Development Plan 2015, and Supplementary Guidance 'Housing in the Countryside (2012) and 'Housing in the Countryside (Moray Local Development Plan 2015)' on the grounds that the prevailing pattern of settlement within this part of the countryside is characterised by both small clusters of housing and individual houses dispersed along the valley of the River Spey to the northeast of Craigellachie. The Planning Adviser stated that there are three live planning consents for house plots within the immediate locality, to the west, southwest and south of the current site and that the introduction of a further house plot into this setting, which would be readily visible from the surrounding road network, would result in an unacceptable cumulative build-up of housing, that would be detrimental to the rural character of the area. She advised that any impact in this regard would be exacerbated by virtue of the extensive size of the proposed plot, which once developed as domestic garden land, would further diminish the rural character of the area.
- 3.7 Referring to the Moray Local Development Plan 2015, the Planning Adviser noted that Policy H8 was now H7 and, along with Policies E7 and IMP1, contain updated criteria along similar lines and reinforce objective for new development to reflect traditional settlement pattern and integrate sensitively into the landscape. She advised that 'Housing in the Countryside' Supplementary Guidance states that 'a proposal that is considered to contribute to a build-up of development that detrimentally impacts on the rural character of the area will not be acceptable. The addition of another dwelling in a locality that has experienced a considerable level of development may be judged to adversely impact on the distinctive rural qualities (i.e. open appearance or ambience) of the countryside. For example, successive applications for houses in the corner of fields within a dispersed settlement pattern may be deemed to detrimentally alter the character of the countryside...There has been a significant growth in the number of new house applications in specific areas of Moray. Proposals for further development in these area will be given particular attention in terms of contributing to build-up that could irreversibly alter the character in the locality. These areas include... Craigellachie'.

- 3.8 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that there had been no technical objections from statutory consultees and that, within the vicinity of the proposed house there are a number of obvious groupings of existing houses or natural clusters. They advised that a third cluster would be formed in the area with the introduction of this plot, forming a link between Telford Cottage and the 4 properties to the west and effectively closing the gap between these properties. The Applicant stated that given this arrangement the proposed dwelling will not detract from the character and setting of the existing buildings and would comply with the settlement pattern. They advised that the house is not sited in an overtly prominent location and the large hillside backdrop behind it would help to integrate it with the housing pattern in the area. From 3 obvious viewpoints in Craigellachie, the Applicant advised that the proposal would be either partly or fully hidden from view by existing mature tree growth. The Applicant noted that the site is defined by at least 50% long established boundaries and whilst the plot size is of a generous area, only a portion would be utilised as garden ground with the remaining area being left 'rough' to help it integrate with the rural setting.
- 3.9 Councillor Reid, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that she was minded to agree with the Appointed Officer and moved that the review be dismissed and the Appointed Officer's decision be upheld to refuse the planning application.
- 3.10 The Chair stated that he believed that the proposal complied with policy on the grounds that the development would continue the pattern of single and small clusters of housing; that the proposal would not be overtly prominent and, as such, would not detract from the character of the area. Accordingly, he moved that the review be upheld and planning permission granted, subject to standard conditions and that the first 10m of access from the public road be tarmacked.
- 3.11 Councillor Cowie seconded the Chair's amendment.
- 3.12 There being no seconder, Councillor Reid's motion fell.
- 3.13 Accordingly, the MLRB agreed to uphold the review and grant planning permission in respect of Planning Application 15/00947/APP, subject to standard conditions and that the first 10m of access from the public road be tarmacked.

**Paul Nevin**  
**Senior Solicitor (Property and 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:-
  - (i) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land ) showing the visibility splay 2.4 metres by 43 metres, with all boundaries set back to a position behind the required visibility splay, and a schedule of maintenance for the splay area shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and
  - (ii) the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
  - (iii) thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

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.

2. 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.

3. The first 10m of the access track, measured from the edge of the public road, shall be constructed to The Moray Council specification and surfaced with bituminous macadam prior to the occupation or completion of the dwellinghouse, whichever is the sooner.

Reason: To ensure acceptable infrastructure at the development access, in accordance with 2008 Moray Local Plan Policy T2.

4. That all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out in the first planting and seeding seasons following the occupation of the dwellinghouse or the completion of the building works, whichever is the sooner. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.

Reason: In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area

## **ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT**

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

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

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](mailto: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.

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

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

## **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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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](mailto: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](mailto: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.**