



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR136
 - Site address: 7 Duff Street, Hopeman
 - Application for review by Mrs Jacqueline Govier, c/o Mr Matthew Hilton, HHL Scotland against the decision of an Appointed Officer of The Moray Council.
 - Planning Application 15/00648/APP to demolish buildings and replace with new house and associated ancillary buildings
 - Unaccompanied site inspection carried out by the MLRB on 23 October 2015
 - Date of decision notice: 22 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 the demolish buildings and replace with new house and associated ancillary buildings at 7 Duff Street, Hopeman.

3. MLRB Consideration of Request for Review

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

- 3.2 Under reference to paragraph 5(g) of the minute of this Body dated 29 October 2015, the Moray Local Review Body (MLRB) continued to consider 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 demolish buildings and replace with new house and associated ancillary buildings at 7 Duff Street, Hopeman.
- 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 The Legal Adviser advised the MLRB that Party Wall Agreements were not a material consideration in determining the review and that concerns could be addressed by building warrants. Ms Webster, Planning Adviser reiterated the Legal Adviser's advice and stated that informatives and, if required, suspensive conditions could be applied to any planning permission granted.
- 3.6 Councillor McConachie, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, moved that the review be upheld and planning permission be granted.
- 3.7 The Chair stated that there were similar extensions in the area and believed that the proposal complied with Policies IMP1, H3 and H4 of the Moray Local Plan 2008 on the ground that there would no intrusive visual impact or detrimental amenity impact on neighboring properties. He advised that he would second Councillor McConachie's motion, subject to the inclusion of standard conditions and an informative advising that a building warrant is required.
- 3.8 In response, Councillor McConachie agreed to amend his motion to reflect the Chair's statement.
- 3.9 There being no one otherwise minded, the MLRB agreed to uphold the review and grant planning permission in respect of Planning Application 15/00648/APP, subject to standard conditions and an informative advising that a building warrant is required.

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. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 4.0m of the edge of the carriageway.

Reason: To enable drivers to vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other roads users.

2. The width of the vehicular access shall be a minimum of 5.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the public footway/verge shall be to The Moray Council specification and surfaced with bituminous macadam.

Reason: To ensure acceptable infrastructure at the development access.

3. Drop kerbs shall be provided across the access to The Moray Council specification. Where existing dropped kerbs are no longer required they shall be replaced with full height kerbs to The Moray Council specification. A road opening permit must be obtained from the Roads Authority before carrying out this work.

Reason: To ensure acceptable infrastructure at the development access.

4. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the access.

5. A minimum of two 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.

6. New boundary walls/fences shall be set back from the edge of the public carriageway as existing.

Reason: To ensure acceptable development in the interests of road safety.

7. No development shall commence until the developer has ensured all asbestos has been removed from the site by a specialised licensed contractor and disposed of to a suitable waste site. The details of removal and disposal shall be submitted by the developer in writing to the Council as Planning Authority for approval no later than fourteen (14) days prior to commencement of these works. Within six (6) weeks of completion of the agreed works a report shall be submitted by the developer, in writing to the Council as Planning Authority for approval which validates the removal and disposal of the asbestos.

Reason: In order to safeguard the health and safety of the occupants of the properties, construction personnel and the local environment from the effects of asbestos contamination.

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

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

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 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.

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.

Comments received from **Scottish Water** are attached for your information.

The Building Standards Manager has commented that:-

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

The Contaminated Land Section has commented that:-

Your property has been identified as being in the vicinity of the following potential source of contamination:

Railway Land adjacent to the North as indicated on map group A, B, C, D.

Map Group A 1868 - 1897 Ordnance Survey Maps

Map Group B 1898 - 1906 Ordnance Survey Maps

Map Group C 1930 - 1938 Ordnance Survey Maps

Map Group D 1959 - 1971 Ordnance Survey Maps

Map Group E 1969 - 1992 Ordnance Survey Maps

Map Group F Present Day Ordnance Survey Maps

The Moray Council does not have information to confirm whether or not the ground has been contaminated, however it is recommended that you investigate this matter prior to proceeding with the proposed works. Should contamination be identified you should contact the Environmental Health section immediately and carry out agreed remediation works. For advice on researching/investigating a site, please visit the Council website at www.moray.gov.uk/ContaminatedLand. Alternatively you can contact the Environmental Health Section on 01343 563345 or by email to contaminated.land@moray.gov.uk

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.



3rd May 2015

Moray Council
Maurice Booth
Development Services Environment Services
High Street
Elgin
IV30 1BX

Customer Connections
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

T: 0800 3890387

W: www.scottishwater.co.uk

E: CustomerConnections@scottishwater.co.uk

Dear Maurice

PLANNING APPLICATION NUMBER: 15/00648/APP
DEVELOPMENT: Moray Elgin Hopeman Duff Street 7
OUR REFERENCE: 715284

Please quote our reference in all future correspondence

In terms of planning consent, Scottish Water does not object to this planning application. However, please note that any planning approval granted by the Local Authority does not guarantee a connection to our infrastructure. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received.

There are no public sewers in the vicinity of the proposed development.

Glenlaterach Water Treatment Works currently has capacity to service this proposed development.

The water network that serves the proposed development is currently able to supply the new demand.

In some circumstances it may be necessary for the Developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure, etc the Developer will be required to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.

A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.

Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements installed, subject to compliance with the current water byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections department at the above address.

If the connection to public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s). This should be done through a deed of servitude.

Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, Bullion House, Dundee, DD2 5BB. Tel – 0845 601 8855.

If the developer requires any further assistance or information on our response, please contact me on the above number or alternatively additional information is available on our website:
www.scottishwater.co.uk.

Yours sincerely

Tricia McArthur

Tel: 0800 3890379

CustomerConnections@scottishwater.co.uk