

ENVIRONMENTAL SERVICES

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Our reference: DA/AG/LRB144

Your reference: MLRB0144/ACK

Chief Legal Officer
Per Mr D Westmacott
Committee Services
The Moray Council
High Street
ELGIN
IV30 1BX

12 February 2016

Dear Sir

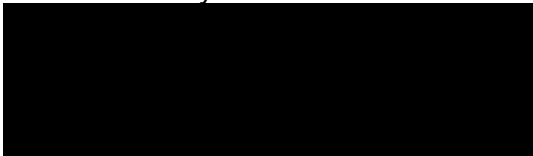
**TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008
REQUEST FOR REVIEW: PLANNING APPLICATION 15/01656/PPP REPLACEMENT OF EXISTING BUILDING TO FORM TWO DWELLINGS ON THE SITE AT REAR OF ST ANDREWS SCHOOL LHANBRYDE**

I refer to your letter dated 01 February 2016.

I respond on behalf of the Transportation Manager with respect to our observations on the applicant's grounds for seeking a review of the planning authority's decision to refuse the above planning application.

Transportation has reviewed the appellant's grounds for review and the associated documents, and submits the attached representation with associated documents in response.

Yours faithfully



Diane Anderson
Senior Engineer

Enclosures : See over.

Nicola Moss – Transportation Manager



Certificate GB13/89299

- LRB # 144 Transportation Response Issued 02 February 2016
- TMC01 Transportation Consultation Response dated 06 October 2015
- TMC02 Site Photograph May 2015
- TMC03 Annotated extract from Drawing 1048823/PL01RevA showing areas required to provide 4.5 metres by 215 metres visibility splay.
- TMC04 Extract on Visibility Splays from Transportation Requirements for Small Developments in the Countryside
- TMC 05 Extract on Visibility Splays from Design Manual for Roads and Bridges, Volume 6 Section 2 Part 6
- TMC 06 Appeal Decision Notice for development with access onto the public road with restricted visibility where appellant does not have control over full visibility splay.

Local Review

LRB Ref 144

Planning Application Reference 15/ 01656/ PPP Site at Rear of St Andrews School
Lhanbryde

Response from Transportation, Moray Council

1. This document is in response to the Notice of Review and the Statement of Case submitted by Savills and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns outline planning application 15/01656/PPP for replacement of a derelict former school building with the erection of two dwelling houses along with the formation of an access onto the B9103 Lossiemouth–Sherriffston Road.
3. Transportation received the first consultation for the planning application on 22 September 2015. A copy of the consultation response (dated 6 October 2015) is attached (TMC01), which details Transportation’s objection on the grounds of Moray Local Plan Policy T2: Provision of Road Access.
4. The proposed development was the subject of a previous planning application, 15/00874/APP in May 2015. Transportation also objected to this previous planning application on the same grounds. This planning application was withdrawn. A site visit was undertaken in May 2015 for the previous planning application, with a follow up site visit undertaken in September 2015 which confirmed that there had been no material changes to the road network in the intervening period.
5. Transportation’s visit to this site identified that the required visibility splay is restricted by trees, a large mature hedge and vegetation both within and out with the site. The road verge along the site frontage is very narrow due to the depth of the existing hedge. Beyond the site, to the north-east, the boundary fence for the adjacent property is close to the edge of the carriageway with very limited road verge. The visibility splay here is obstructed by matures trees within the adjacent grounds of the property. The visibility to the north-east is also restricted by vegetation out with the road verge on the inside of the bend on the opposite side of the road. Photographs taken during the site visit are attached (TMC02).
6. The required visibility splay for the proposed development is 4.5m x 215m in both directions (based on vehicle speeds of 60mph). Drawing no. 1048823/PL01, submitted as part of the planning application showed visibility splays of 2.4m x 215m to the south and 2.4m x 160m to the north-east of the proposed new access. However the applicant submitted no evidence to support the proposed reduction in the ‘y’ distance from 215m to 160m and the proposed ‘x’ distance was not acceptable, as multiple properties would be served by the proposed new access.
7. The applicant was given the opportunity to resolve Transportation’s concerns regarding visibility from the proposed access. A revised drawing, drawing no 1048823/PL01RevA, was submitted by the applicant showing visibility splays of 2.4m x 215m at the access onto the public road in both directions on 2 November 2015.

Local Review

LRB Ref 144

**Planning Application Reference 15/ 01656/ PPP Site at Rear of St Andrews School
Lhanbryde**

8. Transportation was not consulted on this revised drawing. However the drawing does not show the correct area for the visibility splay, as the 'x' distance is only 2.4 metres (an 'x' distance of 4.5 metres is required) and the splay to the north-east has not been shown tangentially to the bend in the road.
9. Transportation has prepared two drawings which provide an indication of the required 4.5 metres by 215 metres visibility splay (TMC03 North and TMC03 South). These drawings clearly indicate the areas of ground where the splay lies out with the site and the road verge (third party land), within which there are obstructions to the line of sight. The applicant has not provided any evidence of control over these areas to remove the obstructions and undertake future maintenance of the visibility splay.
10. Visibility splays for private accesses onto the public road are required to ensure that there is adequate inter-visibility between vehicles on the public road and a vehicle at the private access onto the public road. If a development involves the formation of a new vehicular access onto the public road where visibility is severely restricted by adjacent hedges/trees/walls/embankment/buildings/obstructions and would be likely to give rise to conditions detrimental to the road safety of road users, the development is contrary to Moray Local Plan policies T2 Provision of Access and IMP1 Development Requirements.
11. 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'. For a single house in the countryside the 'x' distance is 2.4m, measured from the edge of the public carriageway along the centre-line of the proposed private access. For 2 or more houses the 'x' distance is 4.5m.
12. A detailed description of the relevance and consideration of visibility splays is attached (TMC04) which is an extract from The Moray Council document Transportation Guidelines for Small Developments in the Countryside (TRSDC). TRSDC was approved at the Economic Development & Infrastructure Committee on 20 April 2010. The full document is available via the following web link <http://www.moray.gov.uk/downloads/file79761.pdf> It should be noted that the requirements for visibility splays within the document TRSDC are based on those set out in the Design Manual for Roads and Bridges (DMRB) Volume 6 Section 2 Part 6 TD 42/95, which has been industry standard guidance since 1995. An extract from the DMRB is attached (TMC05).

Local Review

LRB Ref 144

**Planning Application Reference 15/ 01656/ PPP Site at Rear of St Andrews School
Lhanbryde**

13. The issue of control over requirement visibility splays is not unique to this particular development proposal. An example of an appeal to The Scottish Government is attached (TMC06). In this example the appellant was unable to secure suitable control over third party land where a hedge restricted the visibility splay. The Reporter dismissed the Appeal.
14. Transportation, respectfully, requests the MLRB to uphold the decision by the appointed officer. In particular on the grounds that Moray Local Plan Policy T2: Provision of Road Access is not satisfied.

Transportation

12 February 2015

Documents

- | | |
|-------|--|
| TMC01 | Transportation Consultation Response dated 06 October 2015 |
| TMC02 | Site Photographs May 2015 |
| TMC03 | Annotated extract from Drawing 1048823/PL01RevA showing areas required to provide 4.5 metres by 215 metres visibility splay. |
| TMC04 | Extract on Visibility Splays from Transportation Requirements for Small Developments in the Countryside |
| TMC05 | Extract on Visibility Splays from Design Manual for Roads and Bridges, Volume 6 Section 2 Part 6 |
| TMC06 | Appeal Decision Notice for development with access onto the public road with restricted visibility where appellant does not have control over full visibility splay. |

Consultation Request Notification

Planning Authority Name	The Moray Council
Response Date	6th October 2015
Planning Authority Reference	15/01656/PPP
Nature of Proposal (Description)	Replacement of existing building to form two dwellings on the
Site	Site At Rear Of St Andrews School Lhanbryde Elgin Moray
Site Postcode	N/A
Site Gazetteer UPRN	000133046271
Proposal Location Easting	325721
Proposal Location Northing	862047
Area of application site (Ha)	5125 m²
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=NUG61BBGAK000
Previous Application	15/00874/PPP
Date of Consultation	22nd September 2015
Is this a re-consultation of an existing application?	No
Applicant Name	Innes Trading Company
Applicant Organisation Name	
Applicant Address	7 The Square Fochabers IV32 7DG
Agent Name	Savills-Smiths Gore
Agent Organisation Name	
Agent Address	7 The Square Fochabers Moray IV32 7DG
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Shona Strachan
Case Officer Phone number	01343 563303
Case Officer email address	shona.strachan@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

If you do not respond by the response date, it will be assumed that you have no comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 15/01656/PPP

Replacement of existing building to form two dwellings on the Site At Rear Of St Andrews School Lhanbryde Elgin Moray for Innes Trading Company

I have the following comments to make on the application:-

- | | Please |
|---|-------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | <input checked="" type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | <input type="checkbox"/> |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Reason(s) for objection

The proposed development, if permitted, would involve the formation of a new access onto the B9013 Lossie-Sheriffston Road where visibility is severely restricted by the adjacent hedges/trees/obstructions and would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Plan policies T2 Provision of Access and IMP1 Development Requirements.

It is noted that the applicant has submitted a drawing indicating provision of a visibility splay at the proposed new access onto the public road to the north of 160 metres, and to the south of 215 metres. For a new access on this stretch of public road, a visibility splay with an 'x' distance of 4.5 metres is required, in accordance with the document *'Transportation Service Requirements for Small Developments in the Countryside'*, and a 'y' distance of 215 metres is required in both directions. This visibility splay is not available and requires land out with the application and boundary and public road verge.

The proposed new access would be in close proximity to the existing access for the property 'Kilcluan House'. *'Transportation Service Requirements for Small Developments in the Countryside'* seeks a minimum access spacing of 30 metres between adjacent properties.

Contact: DA
email address: transport.develop@moray.gov.uk
Consultee: TRANSPORTATION

Date 6 October 2015

Return response to

consultation.planning@moray.gov.uk

Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://public.moray.gov.uk/eplanning/> (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.

TMC02



Y distance = 215m



red denotes area of splay over land outwith applicants control

9.8m

FB

Garden Cottage

Kirside Lodge

FB

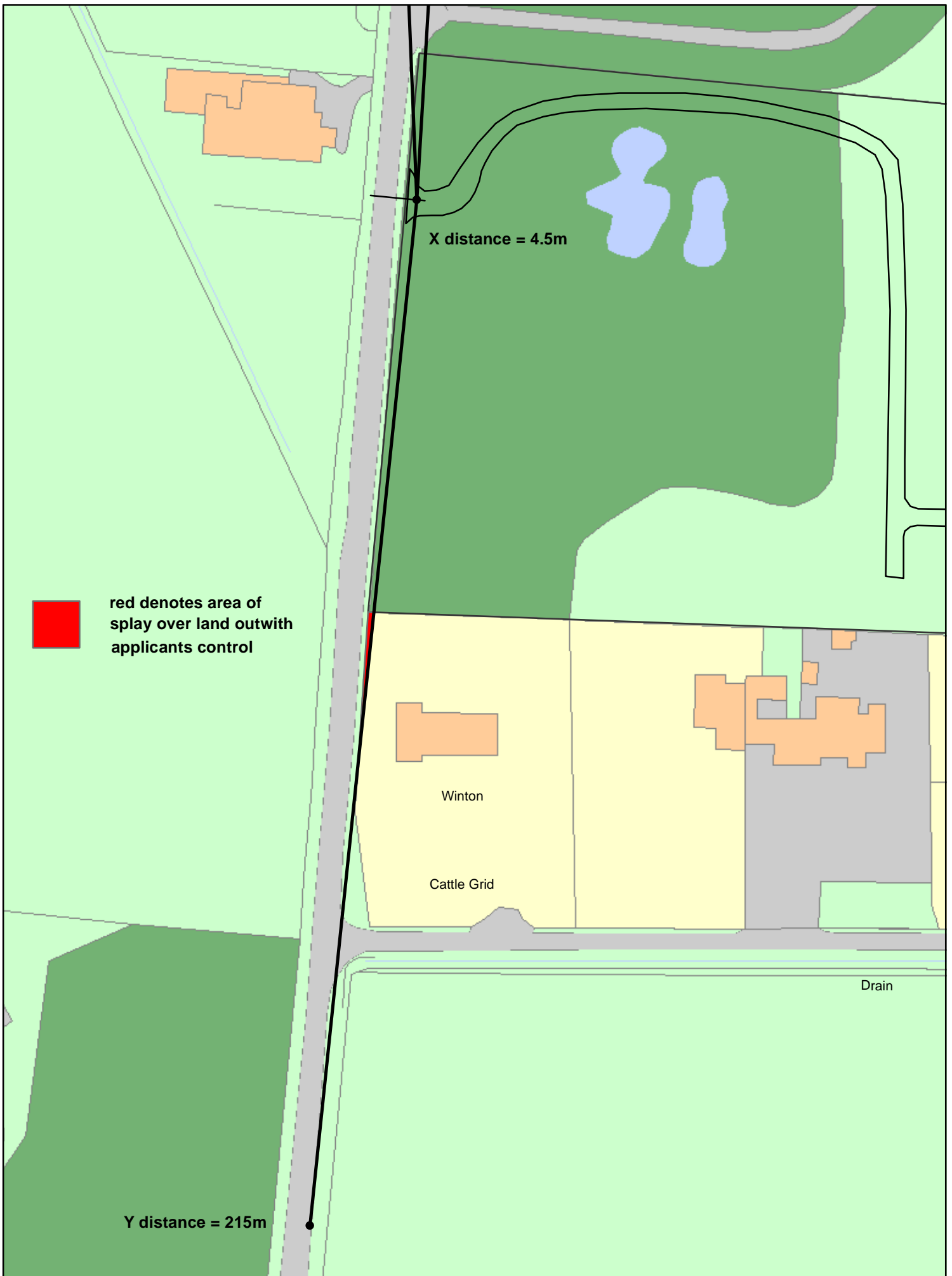
X distance = 4.5m



1:1,000 @ A4
Moray Council

MLRB CASE 144 - APPENDIX TMC 03 (1 of 2)

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deficiency in achieving a suitable and safe access to new developments along these roads.

- 5.4.2 The provision of passing places on single track roads in the countryside requires a strategic approach i.e. passing places which are appropriately spaced and in locations which will provide benefit where there is restricted forward visibility.
- 5.4.3 The location of proposed new developments that will be eligible for the provision of a passing place/several passing places (based on scale of development) are those which are adjacent to single track roads and more than 500 metres from the junction with a S2 (single carriageway 2 lane) road. Eligible developments will be required to provide a maximum of one new passing place on the single-track road per dwelling.
- 5.4.4 The location of existing passing places on single track roads will be taken into account when considering each development proposal.
- 5.4.5 If an applicant has land which can facilitate a passing place in a strategic location then this method of delivering a passing place will be considered. Any proposal for a passing place should be included in the planning application, shown on the planning application drawings along with evidence of control of the land. Delivery of the passing place would be a condition of the development, prior to the commencement of development. The passing place will form part of the adopted road and will therefore require road construction consent.
- 5.4.6 From 1st June 2010, in the absence of a proposal for provision of a passing place as part of a relevant planning application Moray Council will seek a Developer Contribution from applicants in lieu of the provision.
- 5.4.7 An assessment of the inter-visibility of passing places will be required to confirm the location and number of passing places required between the proposed development and the two-lane road.
- 5.4.8 The dimensions required for passing places are shown at **Appendix C**.

5.5 Visibility Splays

- 5.6.1 Due to the higher traffic speeds on unrestricted rural roads a significant factor to consider is the provision of adequate visibility where an access joins the public road network. The visibility splay is an essential feature of the access and access lay-by provision.
- 5.6.2 Drivers emerging from the property, about to join the public road, must have an unobstructed view to the left and right, across the verge and land adjacent to the road, to see if there is any approaching traffic.

- 5.6.3 The visibility splay also enables traffic on the public road to see all road users leaving the property. The size of the visibility splay depends on the speed limit or observed vehicle speeds on the public road. It is necessary to consider the driver's line of vision, in both the horizontal and vertical planes, and the stopping distance of the vehicle. Where the applicant does not provide observed vehicle speed data the speed limit is used.
- 5.6.4 The distance along the public road, Y distance, is the distance the driver needs to see along the road edge (see table below). This is measured from the centre line of the access to the location on the road of the approaching vehicle, which varies depending on the speed of approaching traffic. The faster the approaching vehicles, the longer the distance required to see and be seen.
- 5.6.5 The distance back from the public road, X distance, is shown in the table below. The distance varies according to the number of dwellings. The distance is taken from the edge of the carriageway back along the centre line of the private access.
- 5.6.6 The visibility splay must be assessed between minimum driver's eye line 1.05 metres above the road up to a height 2m above the road and to an objective points at the end of the Y distance between 0.26m and 2m above the carriageway surface. The assessment must consider obstructions to visibility within the visibility splay including the horizontal and vertical topography in between i.e. hidden dips and crests along the road between these points.
- 5.6.7 The following table shows the Y and X values based on speed limit values.

Speed Limit	30	40	50	60
Y Distance (metres)	90	120	160	215
X Distance (metres)	Single dwelling = 2.4m; > 1 dwelling = 4.5m			

- 5.6.8 The access, lay-by and visibility splay must be established before building work commences, to ensure a safe access for builders and tradesmen.

5.7 Providing and Maintaining Visibility Splays

- 5.7.1 When submitting a planning application it is necessary for the applicant to demonstrate that they have, and can maintain control over the visibility splay area. The applicant will have responsibility for the maintenance of clear sight lines over the visibility splay area. If the visibility splay area includes any neighbouring land then the applicant will need to discuss this with the landowner and make arrangements to satisfy the requirement to demonstrate adequate control.

5.7.2 Applicants should give careful consideration to the Trees and Development Supplementary Planning Guidance (published August 2008). Applicants should note that there is a presumption against the felling/removal of trees purely to form an access/visibility. For the avoidance of doubt the visibility splay is an essential feature required for achieving the Moray Local Plan Policy T2 Provision of Road Access.

[http://www.moray.gov.uk/moray_standard/page_1650.html#Trees and Development](http://www.moray.gov.uk/moray_standard/page_1650.html#Trees_and_Development)

5.7.3 There may be circumstances when the developer wishes to locate the private access on or near a bend in the road. The outside of a bend is the safest option.

5.7.4 If there is no alternative arrangement other than to locate the access on the inside of a bend, the applicant must be fully aware of the extent of the area which will be affected by the visibility requirements which they must demonstrate that they have, and can maintain control over, and which must be kept free of obstructions such as buildings, trees and tall shrubs. In these circumstances early consultation with Transportation officers is recommended.

5.8 Parking and Turning of Vehicles

5.8.1 The provision of the minimum number of parking spaces within the curtilage of the property, based on the number of bedrooms, is the normal requirement for rural developments. The levels of parking required are shown in the following table.

Dwelling Description	Spaces
3 or fewer bedrooms	2
4 or more bedrooms	3

5.8.2 An equally important requirement is the provision of an adequate turning area. Vehicles that enter the development must be able to turn round out with designated parking spaces, and leave the site in forward gear.

5.8.3 This requirement applies, whether you are developing a single house site, or a site with several properties. Vehicles must not reverse out onto the public road. Applicants should consider how materials such as heating oil are delivered and for example place their fuel tank where it can be accessed from the access lay-by. Where there is more than one house this may not be a practical option, then sufficient turning area would normally be required within the development site to enable the delivery vehicle to turn round. Areas provided for turning are in addition to those provided for parking.

c. The distance back along the minor road from which the full visibility is measured is known as the 'x' distance. It is measured back along the centreline of the minor road from the continuation of the line of the nearside edge of the running carriageway of the major road. The 'x' distance shall be desirably 9m (but see para 7.8). From this point an approaching driver shall be able to see clearly points to the left and right on the nearer edge of the major road running carriageway at a distance given in Table 7/1, measured from its intersection with the centreline

of the minor road. This is called the 'y' distance and is defined in Fig 7/1. Relaxations are not available for this distance.

7.7 If the line of vision lies partially within the major road carriageway, it shall be made tangential to the nearer edge of the major road running carriageway, as shown in Fig 7/2.

Design Speed of Major Road (kph)	'y' Distance (m)
50	70
60	90
70	120
85	160
100	215
120	295

Table 7/1: 'y' Visibility Distances from the Minor Road (Relaxations not available - para 7.6c)

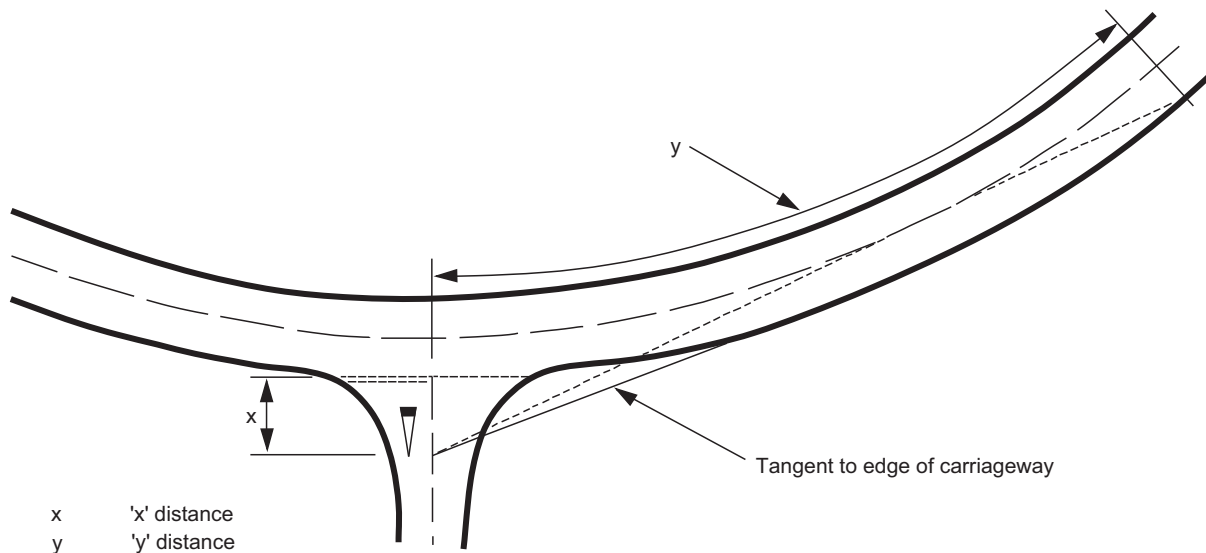


Figure 7/2 : Visibility Standards with a Curved Major Road (para 7.7)

Appeal Decision Notice

T: 01324 696 400
F: 01324 696 444
E: dpea@scotland.gsi.gov.uk



Decision by Malcolm Mahony, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/250/2021
- Site address: Langlees, Backmuir of Pitfirrane, Lundin Rd, Crossford
- Appeal by Mr and Mrs Wylie against the decision by Fife Council
- Application for planning permission 09/01207/WFULL dated 22 May 2009 refused by notice dated 31 July 2009
- The development proposed: conversion of former agricultural building to dwellinghouse
- Date of site visit by Reporter: 21 January 2010

Date of appeal decision: 15 February 2010

Decision

I dismiss the appeal and refuse planning permission.

Reasoning

1. The determining issue in this appeal is road safety at the junction between the access road to the site and Lundin Rd.
2. The proposal satisfies the council's housing and design policies and there has been no objection to any matter other than that of road safety.
3. The precise wording of policy T5 of the Dunfermline and The Coast Local Plan is for the council's Transportation Development Guidelines to apply "in" all new developments rather than at nearby junctions. That wording is perhaps unfortunate, but strictly speaking the result is that this policy is not applicable to the appeal case. However, that does not mean that the guidelines should not carry substantial weight in instances such as this. Good practice for any proposed development includes assessment of impacts at road junctions outwith the site.
4. A narrow private access road serves the existing dwelling at Langlees and the adjoining brick built, largely redundant agricultural building which is proposed for conversion to a 3 bedroom dwellinghouse. The access road also serves 3 other dwellings. It is hard surfaced, including near the junction with Lundin Rd.



5. Lundin Rd connects the village of Crossford to the A907 road on the outskirts of Dunfermline. Because of these connections and proximity to the urban area, the road can be expected to (and in my brief experience does) carry a reasonable amount of traffic for its type. It is a winding country road subject to the national speed limit. At various points, road signs and road markings indicate bends and advise traffic to go slowly. Hedges and other roadside features tend to reduce forward visibility.

6. Because the geometry of the road is likely to reduce vehicles speeds to around 40mph, the roads authority was prepared to accept a reduction in its standard for this junction to 2.5m by 110m in each direction. The authority then agreed with Mr and Mrs Wylie's agent that visibility from the junction in a northerly direction was acceptable in relation to that standard. In a southerly direction, however, both sides have agreed that visibility falls short of the standard. The hedge along the adjacent field boundary restricts visibility to some 2.5m by 65m by the Transport Officer's measurement. The agent's measurement is 2.5m by 75m. Mr and Mrs Wylie have been unable to secure suitable control over the land where the hedge runs in order to improve that level of visibility.

7. Although the additional traffic which would be generated by erecting one more house on the access road would be limited, it would make an already seriously substandard junction (whichever of the above visibility measurements is taken) less safe.

8. The appellants say that they intend to live in the new house in order to be on hand for Mr Wylie's parents in Langlees, because his father suffers from health problems. That, they say, would reduce the additional traffic over the present situation where they are visiting regularly. I am sympathetic to Mr and Mrs Wylie's situation, but the erection of a new house and its effect on road safety has to be considered in the long term rather than in relation to current family arrangements, which may change. I am not persuaded that the suggestion of an occupancy condition would be appropriate, or that it would reduce the additional traffic to an acceptable level.

9. I am informed that about 15 years ago, Langlees used to be a chicken farm. At that time large lorries would use the access and junction on a regular basis. The agent claims the junction performed satisfactorily at that time. However, I consider that the junction must be assessed in relation to current circumstances.

10. I acknowledge that the proposal would bring about the beneficial use of the redundant building. I note the argument that permission could incorporate a condition to require the proper maintenance of the present visibility splay for the benefit of all users. But that would be difficult to enforce and would not address the substandard dimensions of the splay. I also note the absence of recorded road accidents near the junction, but I am aware that not all incidents are reported or recorded, and consider it would be unsound to wait for accidents to demonstrate an already obvious shortcoming. The agent has suggested that additional road signage could be put in place to warn of the junction. But such warnings should be a last resort for an existing hazard rather than to deal with new development

which would accentuate the problem. Therefore, having carefully assessed these points, I consider that they are insufficient to offset or over-ride the clear potential harm to road safety in this location.

This is a true and certified copy as issued to parties on 15 February 2010

MALCOLM MAHONY
Reporter



INVESTOR IN PEOPLE

