



ENVIRONMENTAL SERVICES

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Our reference: DA/AG/LRB161

Your reference: MLRB0161/ACK

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

21 July 2016

Dear Sir

TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008
REQUEST FOR REVIEW: PLANNING APPLICATION 16/00344/APP ERECT A SINGLE STOREY OFFICE BUILDING ON LAND 170M NORTHWEST OF DAMHEAD FARM KINLOSS

I refer to your letter dated 07 July 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 :

LRB # 161

TMC01 Transportation Consultation Response dated 29 March 2016

TMC02 Site photographs of access onto the Public road

Nicola Moss – Transportation Manager



Certificate GB13/89299

Local Review

LRB Ref 161

Planning Application Reference 16/00344/APP Erect a single storey Office building on land 170m northwest of Damhead farm, Kinloss

Response from Transportation, Moray Council

1. This document is in response to the Notice of Review and the Statement of Case submitted on behalf of Mr David Nelmes and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 16/00344/APP for the erection of a single storey Office building on a site served by a private access off the B9089 Kinloss – Burghead Road.
3. Transportation received the consultation for planning application 16/00344/APP on 11 March 2016. A copy of the consultation response is attached (**TMC01**).
4. The B9089 is part of the strategic road network in Moray, providing an important link from Elgin and Burghead and onwards to the west. The B9089 at this location is subject to a de-restricted speed limit.
5. The proposed development would utilise an existing private access. However the existing access has restricted visibility in both directions. This is due to the alignment of the road, hedges/trees/ vegetation and the position of an adjacent boundary fence. Photographs of the view from the access onto the public road are attached (**TMC02**).
6. A visibility splay of 4.5 metres x 120 metres to the west, and 4.5 metres x 160 metres to the east, clear of any obstruction above 0.26 metres would be required at this existing access. Formation of the visibility splay would require removal of all vegetation within the splay and the setting back of fencelines to a position outwith the splay. Signage present at the access would also need to be positioned such that it was not an obstruction.
7. The Appellant's statement of appeal acknowledges the requirement to improve the visibility at the access onto the public road and states in paragraph 4.4.1 b) that '*The Appellant has the permission of the local landowner to control and maintain the visibility splay required.*' However there has been no written evidence of any agreement with the local landowner submitted as part of the planning application or to the Local Review Board.
8. The Appellant's statement goes on to suggest that the issues relating to visibility can be '*suitably mitigated and dealt with suspensive condition*'. The use of suspensive planning conditions is only suitable when there is a reasonable prospect that the condition can be achieved. In this case there has been no evidence submitted of an agreement with the landowner.
9. There have been a number of recent planning applications and enquiries relating to housing development which would be served by the same access onto the Public road and which would be subject to the same requirements to improve the visibility splay. To date there has been no evidence submitted to indicate that the applicants for the housing developments were able to provide the required visibility splays.

Local Review

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Planning Application Reference 16/00344/APP Erect a single storey Office building on land 170m northwest of Damhead farm, Kinloss

10. Transportation is aware that the landowner to the east of the access onto the public road has been unwilling to enter into an agreement with the promoters of the housing development sites. Transportation therefore considers that without written evidence of an agreement there is no reasonable prospect of the visibility splay being provided for the proposed Office development.
11. The location of the proposed office is remote from the main settlement area of Kinloss. Paragraph 4.5.2 of the Appellant's statement states that '*The Appellant would argue that this proposal also satisfies some of the more intrinsic aims of this Policy in terms of sustainability, pedestrian access, cycle access, etc.*'. However the footway from the majority of housing in Kinloss, which is on the northern side of the B9089, terminates some 320 metres to the west of the private access onto the public road. Pedestrians wishing to access the site from Kinloss would need to cross the B9089 and then walk along a grass verge, which in places is restricted in width. Transportation does not consider this to be an acceptable level of provision for pedestrians to access the proposed development.
12. It is noted that within the Appellant's statement the number of staff expected to be working at the proposed office is eight. The number of parking spaces shown on the submitted layout drawing is also eight. This level of parking provision exceeds the Moray Council Parking Standards. Transportation considers that staff would be highly likely to be travelling to work by private car, particularly as the site is remote from the main settlement area of Kinloss and a safe access to the site for pedestrians is not available.
13. The existence of the access at this location is a matter of fact. However this proposed office would result in the intensification of the use of this access which (without the provision of the required sightlines) in turn would be detrimental to road safety.
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
21 July 2016

Documents

TMC01 Transportation Consultation Response dated 29 March 2016
TMC02 Site photographs of access onto the public road

Consultation Request Notification

| | |
|--|---|
| Planning Authority Name | The Moray Council |
| Response Date | 25th March 2016 |
| Planning Authority Reference | 16/00344/APP |
| Nature of Proposal (Description) | Erect a single storey office building |
| Site | Land 170M Northwest Of Damhead Farm Kinloss Moray |
| Site Postcode | N/A |
| Site Gazetteer UPRN | 000133069430 |
| Proposal Location Easting | 308226 |
| Proposal Location Northing | 862507 |
| Area of application site (Ha) | 892 m² |
| Additional Comment | |
| Development Hierarchy Level | LOCAL |
| Supporting Documentation URL | http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=O3CM8ABGMSQ00 |
| Previous Application | |
| Date of Consultation | 11th March 2016 |
| Is this a re-consultation of an existing application? | No |
| Applicant Name | Winterburn Media Ltd |
| Applicant Organisation Name | |
| Applicant Address | Comraich Woodside Farm Kinloss Forres Scotland IV36 3UA |
| Agent Name | PM Designs |
| Agent Organisation Name | |
| Agent Address | Sonas Todholes Dallas Forres United Kingdom IV36 2RW |
| Agent Phone Number | |
| Agent Email Address | N/A |
| Case Officer | Richard Smith |
| Case Officer Phone number | 01343 563256 |
| Case Officer email address | richard.smith@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: 16/00344/APP

Erect a single storey office building Land 170M Northwest Of Damhead Farm Kinloss Moray for Winterburn Media Ltd

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

- | | Please |
|---|--------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | X X |
| (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 intensification of use an access onto B9011 Kinloss-Burghead Road where visibility is restricted by the alignment of the road, hedges/trees/vegetation and an adjacent boundary fence, and would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policies T2 Provision of Access and IMP1 Development Requirements.

Further Information

The required visibility splay at this access onto the public road is 4.5 metres by 120 metres to the west and 4.5 metres by 160 metres to the east, clear of any obstruction above 0.26 metres. All vegetation would need to be removed and boundary fences set back to the position behind the visibility splay.

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

Date 29 March 2016

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/> (

TMC02 Site photographs of access onto Public road



PHOTO SHOWING AVAILABLE VISIBILITY AT 4.5M BACK EASTBOUND



PHOTO SHOWING AVAILABLE VISIBILITY AT 4.5M BACK WESTBOUND