



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR160
  - Application for review by Mr G. Strathdee, c/o Mr S. Reid, Strathdee Properties Ltd against the decision of an Appointed Officer of The Moray Council
  - Planning Application 16/00052/APP to erect dwellinghouse with detached garage at Drybridge Side, Drybridge
  - Unaccompanied site inspection carried out by the MLRB on 24 June 2016
  - Date of decision notice: 28 July 2016
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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 30 June 2016.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Cowie and R. Shepherd.

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

- 2.1 A request was submitted by 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 a dwellinghouse with detached garage at Drybridge Side, Drybridge.
- 2.2 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with documents considered or prepared by the

Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

- 2.3 The Moray Local Review Body (MLRB) agreed that it had sufficient information to determine the request for review.
- 2.4 With regard to the unaccompanied site inspection carried out on 24 June 2016, Mr Henderson, as Planning Adviser to this review, advised that Members of the MLRB were shown the site where the proposed development would take place.
- 2.5 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to the provisions of Policies H7: New Housing in the Open Countryside and IMP1: Developer Requirements and, as a material consideration, the associated 'Housing in the Countryside' Supplementary Guidance of the Moray Local Development Plan 2015 where, because of its siting/location, the proposal would result in an additional dwelling contributing to an unacceptable build up of housing changing the rural character of the area.
- 2.6 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the house is not on artificially raised ground or in the centre of a field and, if approved, would have an ascending public road as a backdrop along with the vast gorse bush growth to the east which helps it integrate into the housing pattern.
- 2.7 The Applicant stated their opinion that the proposal would integrate into the existing settlement pattern and, if approved, would form a cluster of 8 properties with more than sufficient farmland between them and around them to ensure that a rural character is maintained. They advised that the site has at least 50% of existing boundaries.
- 2.8 Councillor Shepherd queried whether the site was rejected as a 'Residential' designation by Ward Members during the recent Local Development Plan process. In response, Mrs Gordon, Planning Officer (Planning & Development) advised that the site was proposed as an extension to the Drybridge settlement but this had been rejected. She advised, as such, that the proposal was considered under 'Housing in the Countryside' Supplementary Guidance.
- 2.9 The Chair, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated his belief that the proposal would form a cluster with the dwellings to the north and south. He moved that the review be upheld and planning permission be granted in respect of Planning Application 16/00052/APP, subject to standard conditions.
- 2.10 Councillor Shepherd stated that he was of the same opinion as the Chair and seconded his motion.
- 2.11 Councillor Cowie stated he was of the same opinion as the Chair and Councillor Shepherd.
- 2.12 Thereafter, the MLRB agreed that the review be upheld and planning permission be granted in respect of Planning Application 16/00052/APP,

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. Notwithstanding the submitted details, prior to any development works commencing, full details of the widening of the U61L Greenbank Road to a minimum carriageway width of 5.5 metres, with minimum verge widths of 2.0m either side of the widened road at the junction with the C11L Drybridge-Deskford Road for a minimum distance of 15 metres measured from the edge of the C11L carriageway, shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority and Transport Scotland. For the avoidance of doubt, the details shall include drainage infrastructure and supporting drainage calculations.

Thereafter, the road widening shall be constructed and completed in accordance with the approved details, prior to the occupation of the dwellinghouse.

Reason - To ensure acceptable infrastructure to access the development through the provision of details currently lacking.

2. 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 4.5 metres by 120 metres 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;
  - (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.

3. The width of the vehicular access shall be 5.5m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. 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.

Reason - To ensure acceptable infrastructure at the development access.

4. An access lay-by 12.0m long by 2.5m wide with 30 degrees splayed ends shall be provided at the edge of the public road to allow visiting service vehicles to park clear of the public road. The vehicular access should lead off the lay-by. The lay-by must be constructed in accordance with The Moray Council specification and surfaced with bituminous macadam.

Reason - To enable visiting service vehicles to park clear of the public road in the interests of road safety.

5. 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.

6. 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.

7. A turning area shall be provided within the curtilage of the site/each plot to enable vehicles to enter and exit in a forward gear.

Reason - To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road.

## **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 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](mailto: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](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.

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](mailto: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 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:

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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](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.**