



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR183
 - Application for review by Mr D McLeod, c/o Wittets Ltd against the decision of an Appointed Officer of Moray Council
 - Planning Application 17/00146/PPP – Erect dwellinghouse on site 300m north east of Glenlatterach Farm, Birnie, Elgin
 - Unaccompanied site inspection carried out by the MLRB on 28 August 2017.
 - Date of decision notice: 6 October 2017
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Decision

The MLRB agreed to uphold the request for review and grant planning permission in principle, 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 in principle was considered by the MLRB at the meeting held on 31 August 2017.
- 1.3 The MLRB was attended by Councillors W Wilson (Chair), C Feaver (Depute Chair), D Bremner, D Gatt, M Macrae and A Patience.

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 on 28 March 2017 on the grounds that the proposal is contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies H7 and IMP1).
- 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 accompanied site inspection carried out on 28 August 2017, the Chair stated that Members of the MLRB were shown the site where the proposed development would take place and had before them papers setting out both the grounds for refusal and the grounds for review.
- 2.5 The Chair asked if there were any preliminary matters which the Planning or Legal Adviser wished to raise.
- 2.6 In response, the Planning Adviser advised that, if the LRB was minded to approve the application, an amended Developer Obligations assessment would require to be issued as the methodology had changed in that the Council no longer takes contributions towards the extension of Greenwards Primary School and instead seeks contributions to the new primary school in Elgin South. The Planning Adviser confirmed that this would make very little material change to the amount sought. This was noted.
- 2.7 The Chair, 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 granted as, in his opinion, policy H7 was subjective and he did not believe that the proposed development was obtrusive or in a prominent position.
- 2.8 Councillor Bremner, having had the opportunity to visit the site and consider the Applicant's grounds for review agreed with the Chair and stated that, with the amendments to the design, he was of the opinion that the development would improve the site.
- 2.9 The Planning Adviser highlighted that the application was for planning permission in principle and therefore the design was indicative. This was noted.
- 2.10 In acknowledging that the Chair had moved that the review be upheld as he believed the development complied with policy H7, the Legal Adviser sought the Chair's opinion in relation to why he believed it complied with IMP1.
- 2.11 In response, the Chair stated that, again, he believed IMP1 to be a subjective policy and that in his opinion the development would be sensitively sited.
- 2.12 Councillor Feaver having had the opportunity to visit the site and consider the Applicant's grounds for review was of the opinion that the MLRB should abide by the policies set by Officers and moved, as an amendment, that the review be dismissed and the Appointed Officer's decision upheld and that planning permission be refused. On failing to find a seconder, Councillor Feaver's motion fell.

2.13 There being no-one otherwise minded, the MLRB agreed to uphold Case LR183 and grant planning permission in respect of Planning Application 17/00146/PPP subject to standard/consultee conditions.

Mr Paul Nevin
Senior Solicitor
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, 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.The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions, including the siting, design and external appearance of the building(s) the means of access thereto and the landscaping of the site shall be obtained from the Council, as Planning Authority.

Reason - In order to ensure that the matters specified can be fully considered prior to the commencement of development.

2.The grant of planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the matters specified in conditions numbered 3-8 below.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

3.Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition no. 2 above.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

4. The proposed layout of the site showing the exact position of the site boundaries, the position of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with condition no. 2 above.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

5. Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no. 2 above.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

6. Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no. 2 above.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

7. Landscaping proposals showing any existing trees/hedges/shrubs to be retained or removed together with details of the type, position and number of all planting to be undertaken and details of all surfacing materials shall be submitted in accordance with condition no. 2 above.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

8. As part of part of the requirements of Conditions 2-7:

a) The dwelling shall not exceed one and a half storey construction with any upper floor accommodation located wholly or substantially with the roof space and served by dormers and/or roof light arrangements;

b) The design and materials of the dwellinghouse and landscaping proposals shall include the following requirements:-

(i) A roof pitch of between 40-55 degrees;

(ii) A gable width of no more than 2.5 times the height of the wall from ground to eaves level;

(iii) Uniform external finishes and materials including slate or dark "slate effect" roof tiles;

(iv) A vertical emphasis and uniformity to all windows and doors;

(v) Proposals must be accompanied by a landscaping plan showing 25% of the plot area to be planted with native species trees, at least 1.5m in height;

(vi) The boundary demarcation for the site shall reflect the established character or style (e.g. beech hedges, dry stone dykes or equivalent) in The locality; and

c) All access (including visibility splays), parking and turning arrangements shall include the requirements of Conditions 9-14 below.

Reason - In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area, and to ensure an acceptable form of development in terms of road safety and parking provision in conjunction with the proposed development.

9. 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 120 metres to the east, and 2.4 metres by 70 metres to the west, 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 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 road users.

10. Prior to any development works commencing:

- i) a detailed drawing (scale 1:500) showing the location and design of a passing place on the section of the U118E Glenlatterach Road (to the Moray Council standards and specification), shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority; and
- ii) thereafter the passing place shall be constructed in accordance with the approved drawing prior to any development works commencing (except for those works associated with the provision of the passing place).

Reason: To enable drivers of vehicles to have adequate forward visibility to see approaching traffic and for two vehicles to safely pass each other ensuring the safety and free flow of traffic on the public road.

11. Prior to the commencement of development details shall be submitted for the approval in writing of the Planning Authority, in consultation with the Roads Authority, to ensure no water or loose material shall be permitted to drain or be carried onto the public footpath/carriageway for the life time of the development.

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 new access.

12. The width of the vehicular access shall be a minimum of 3.0m 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 the construction of an acceptable access.

13. An access lay-by 8.0m 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.

14. Parking provision shall be as follows:

- 2 spaces for a dwelling with three bedrooms or less; or
- 3 spaces for a dwelling with four bedrooms or more.

The 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.

15. A turning area shall be provided within the curtilage of the site 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 for the passing place. The applicant will be required to provide technical information, including drawings and drainage calculations. Advice on this matter can be obtained from the Moray Council web site or by emailing road.maint@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

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 their property.

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

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

The formation of the required visibility splay will involve the removal of vegetation, setting back of boundary fences and the lowering of ground levels.

Scottish Water Response to be issued with decision.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
15:41:04	A	Location Plan
15:41:02	C	Proposed Site Plan
15:41:03	A	Site Sections

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 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 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.

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: - 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.

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: - 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.

23/02/2017

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



Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Free phone Number - 0800 389 0379
E-Mail – DevelopmentOperations@ScottishWater.co.uk
www.scottishwater.co.uk

Dear Sir/Madam

**IV30 Moray Elgin Glenlatterach Farm 300M NE Of
PLANNING APPLICATION NUMBER: 17/00146/PPP
OUR REFERENCE: 740231
PROPOSAL: Erect a dwellinghouse**

Please quote our reference in all future correspondence

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

- There is currently insufficient capacity in the Glenlatterach Water Treatment Works to service your development.
- There are no public sewers within the vicinity of the proposed development.

Please note: To allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water. The applicant can download a copy of our PDE Application Form, and other useful guides, from Scottish Water's website at the following link www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms/pre-development-application

The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is

submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

Due to the proximity of the proposed site to the water treatment works the applicant should identify any potential conflicts with Scottish Water assets and contact the Asset Impact Team at service.relocation@scottishwater.co.uk.

The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not normally accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- Scottish Water asset plans can be obtained from our appointed asset plan providers:

Site Investigation Services (UK) Ltd
Tel: 0333 123 1223
Email: sw@sisplan.co.uk
www.sisplan.co.uk

National One-Call
Tel: 0844 800 9957
Email: swplans@national-one-call.co.uk
www.national-one-call.co.uk/swplans

- 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 to be installed, subject to compliance with 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 the 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) by way of a deed of servitude.
- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.

Next Steps:

- **Single Property/Less than 10 dwellings**

For developments of less than 10 domestic dwellings (or non-domestic equivalent) we will require a formal technical application to be submitted directly to Scottish Water or via the chosen Licensed Provider if non domestic, once full planning permission has been granted. Please note in some instances we will require a Pre-Development Enquiry Form to be submitted (for example rural location which are deemed to have a significant impact on our infrastructure) however we will make you aware of this if required.

If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on 0800 389 0379 or at planningconsultations@scottishwater.co.uk.

Yours sincerely

Angela Allison

Angela.Allison@scottishwater.co.uk