



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 055
 - Site address: Fairfield, Ashfield, Garmouth
 - Application for review by Mr Henry Farquhar against the decision by an Appointed Officer of Moray Council.
 - Application 11/01963/APP: Planning Permission for the erection of two houses on ground to the north east of 'Fairfield', Ashfield, Garmouth.
 - Unaccompanied site inspection carried out by the MLRB on 1st August 2012
 - Date of Decision Notice: 31 August 2012
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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.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission was considered by the MLRB at meetings on 28 June 2012 and 2 August 2012. The Review Body was attended at both meetings by Councillors B Jarvis (Chair), L Creswell & J MacKay

2.0 Proposal

- 2.1 This is an application for planning permission for the erection of two houses on ground to the north east of 'Fairfield', Ashfield, Garmouth.

3. MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 28 July 2012 there was submitted a 'Summary of Information' report by the Clerk to the MLRB setting out the reasons for refusal together with a copy of the Report of Handling and a copy of the Notice of Review & supporting documents.
- 3.2 Following consideration of the case papers the MLRB agreed that it did not have sufficient information in order to proceed to determine the request for review and agreed that an unaccompanied site inspection be undertaken the purpose of which being to view the site in the context of Policies H8 and IMP1 of the adopted Moray Local Plan 2008.
- 3.3 It was also agreed that the Planning Adviser attend the unaccompanied site inspection.
- 3.4 At the meeting of the MLRB on 28 June 2012 there was submitted a 'Summary of Information' report detailing the outcome of the MLRB's previous consideration of the request for review.
- 3.5 In regard to the unaccompanied site inspection the Planning Adviser advised the meeting that on arrival at the site members were shown the site and proposed boundaries and a plan showing the relationship between the site and the Garmouth settlement boundary as well as the context in relation to existing grouping of houses in the surrounding area. A recap of the reasons for refusal and grounds for review were also given. She also advised that the Appointed Officers grounds for refusal were that the proposal for two houses would extend the linear development along the road side towards the settlement boundary of Garmouth. The development would also act to diminish the distinction between the open countryside and the built up area resulting in a build up of development in the countryside that is detrimental to the character of existing groups and the surrounding countryside. She further advised that in the grounds for review the applicant had stated that neither policy H8, Housing in the Countryside or IMP1, Development Requirements addresses nor relates to the proximity of new development to existing settlement boundaries. Furthermore the appointed officer has stated that E9, settlement boundaries policy is not relevant to this specific case. Ultimately there is no policy quoted to support the assertion that the development will diminish the distinction between open spaces and built up area. Nowhere in the Moray Local Plan does it state as a distance new development should be from the settlement boundary.
- 3.6 The MLRB agreed that it now had sufficient information and proceeded to determine the request for review.
- 3.7 Councillor Jarvis having visited the site expressed the view that considering the amount of other buildings already in the area that it could already be suggested that the edge of the settlement has been extended and that anyone driving through the site would find it difficult to distinguish between this site and the town and for this reason Councillor Jarvis moved that the request for review be upheld and planning consent granted as complying with policy.

- 3.8 There being no-one otherwise minded the motion became the finding of the meeting and it was agreed to uphold the review subject to standard conditions and informatives.

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Paul Nevin
Legal Adviser to the MLRB

CONDITIONS;

1. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.
2. The width of the individual vehicular accesses shall be 2.4m – 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.
3. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.
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.
5. Three car parking spaces shall be provided for each dwellinghouse 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.
6. A turning area shall be provided within the curtilage of the each plot to enable vehicles to enter and exit in a forward gear.
7. A visibility splay of 2.4m x 120m shall be provided and maintained at the access onto the public road in both directions, clear of any obstruction above 1.0m in height (measured from the level of the carriageway).
8. New boundary walls/fences shall be set back from the edge of the public carriageway at a minimum distance of 2.0m.
9. Prior to the commencement of development, a fully detailed scheme of landscaping for the site, showing 25% of the site planted, including a scheme of maintenance, shall be submitted to and require the approval in writing of the Planning Authority. All planting thereby approved shall be undertaken in the first planting season following completion of the development and shall thereafter be maintained in accordance with the approved scheme of maintenance. Any plants which, within a period of five years from the occupation of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.

REASONS

1. To ensure acceptable development in the interests of road safety.
2. To ensure acceptable infrastructure at the development access.
3. To ensure acceptable development that does not create any hazard to road users in the interests of road safety.
4. To ensure acceptable infrastructure at the development access.

5. To ensure acceptable development in the interests of road safety.
6. To ensure acceptable development in the interests of road safety.
7. 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 road users.
8. To ensure acceptable development in the interests of road safety.
9. In the interests of amenity and in order to ensure that the development is adequately screened.

INFORMATIVES;

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 adjacent to the south-east as indicated on map group E.

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

THE TRANSPORTATION MANAGER, has commented that;

Planning consent does not carry with it the right to carry out works within the public road boundary (including the roadside verge) and the applicant must contact the Transportation Manager for a **road opening permit** in accordance with the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road.

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 ensure that their operations do not adversely affect any Public Utilities, which should be contacted prior to commencement of operations.

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.

SCOTTISH WATER, has commented that;

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

The water network that serves the proposed development may be able to supply the new demand.

Water Network – Our initial investigations have highlighted there may be a requirement for the Developer to carry out works on the local network to ensure there is no loss of service to existing customers.

The Developer should discuss the implications directly with Scottish Water.

The waste water network that serves the proposed development may be able to accommodate the new demand.

Garmouth Sep – at present there is limited capacity to serve this new demand. The Developer should discuss their development directly with Scottish Water.

Wastewater Network – Our initial investigations have highlighted there may be a requirement for the Developer to carry out works on the local network to ensure there is no loss of service to existing customers. The Developer should discuss the implications directly with Scottish Water.

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.

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

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 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 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.

The Moray Council

NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Planning Application Reference No: 10/02125/APP

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

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: 10/02125/APP

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

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.