



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference: Case 088
- Site Address: Maggieknockater, Craigellachie
- Application for review by Grant and Geoghegan, Unit 4, Westerton Road Business Centre, 4 Westerton Road South, Keith, AB55 5FH
- Planning Application 13/00753/APP – Erect house on site at Maggieknockater, Craigellachie
- Unaccompanied site inspection carried out by the MLRB on Thursday 24 October 2013
- Date of Decision Notice: 14 November 2013

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 the meeting held on 31 October 2013.

- 1.3 The Review Body was attended by Councillors B Jarvis (Chair), G Alexander, G Coull, J Mackay and R Shepherd

2.0 Proposal

- 2.1 This is an application for planning permission for a proposed erection of a house on a site at Maggieknockater, Craigellachie

3.0 MLRB Consideration of request for review

- 3.1 With regard to the unaccompanied site inspection carried out on 24 October 2013, the Planning Adviser advised that Members were shown the site and the representations to the proposal were summarised.
- 3.2 In terms of the reason for refusal, the Planning Adviser advised that the development was contrary to policies H8 relating to New Housing in the Open Countryside and IMP1 relating to Development Requirements, of the Moray Local Plan, as the proposal would not be sympathetic to the character of the surrounding area or integrate in the landscape setting as the site is in an elevated, open roadside location and would appear as sporadic development unrelated to the settlement pattern and hence would be overtly prominent. Furthermore, it would encourage further intrusive development.
- 3.3 In terms of the Appellant's grounds for review, the Appellant was of the opinion that the development was not of the type of elevated position precluded by policy H8 and would sit along the roadside at a lower level than other established properties in the vicinity. The Appellant further stated that prominent sites were acceptable if they had a natural backdrop therefore even if the site was considered to be prominent it would have a very strong natural backdrop of rising land to the east up to the wooded hill of Newton. Furthermore, the roadside locations are not precluded by policy and that in meeting the siting requirements of policy H8, it is not unrelated to the settlement pattern in an unacceptable manner. In conclusion, it was the Appellant's opinion that the proposal was not intrusive as it would meet the siting requirements of policy H8 and the proposed design was not an issue in the reasons for refusal.
- 3.4 Councillor Mackay having had the opportunity to visit the site and consider the Appellant's grounds for review stated that in his opinion the proposed development would integrate into the surrounding area and would not be overtly prominent as it had a natural backdrop of rising land to the east up to a line of trees at the rear. The site also had the necessary 50% boundaries, a public road to the west and a belt of mature trees to the south. Therefore as there had been no objections to this application and in his opinion the application satisfied the requirement of policies H8 and IMP1 of the Moray Local Plan, Councillor Mackay moved to uphold the appeal and grant planning permission.
- 3.5 Councillor Coull having had the opportunity to visit the site and consider the Appellant's grounds for review agreed with the comments from Councillor Mackay

in particular that the development would not be overtly prominent and seconded Councillor Mackay's motion.

- 3.6 There being no-one otherwise minded, the appeal was upheld and planning permission was granted subject to standard conditions.

Paul Nevin
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 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.

13/00753/APP – Site at Maggieknockater, Craigellachie

Conditions

None

Reason for Decision

- The Proposal was considered to be in accordance with the development plan and there were no material considerations which outweighed the proposal's accordance with the development plan.

Informatives

MANAGER (DEVELOPMENT MANAGEMENT) has commented that:-

It is noted that your planning application proposes a septic tank and soakaway/infiltration drainage system and the suitability of the ground condition to accommodate this will be dealt with as part of your Building Warrant application. Full details of a ground assessment, trial pit investigations and percolation test results, from a suitably qualified person as contained within the Council's List of Approved Certifiers, will be required prior to obtaining a Building Warrant

An application for a Building Warrant and compliance with the Building Regulations are entirely separate from Planning procedures. Furthermore, the granting of Planning Consent does not guarantee approval of a Building Warrant.

If you have not already done so and you may wish to satisfy yourself about the adequacy of ground conditions separately at this stage, if so I recommend that you contact the Building Standards Section directly at Environmental Services, The Moray Council, Council Offices, High Street, Elgin, IV30 1BX, telephone(01343) 563243.

Please note that any proposed discharges to land or the water environment will require authorisation from SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2011. For further details refer to SEPA website http://www.sepa.org.uk/water/water_regulation/regimes.aspx.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

The proposed development includes the formation of a new access onto the B9008, which is a public road subject to the national speed limit.

It is noted that the applicant has shown 2.4m x 120m visibility splays at the proposed access. However these splays relate to vehicle speeds of 44mph or less.

Observed vehicle speeds in the vicinity of the proposed development show a requirement for visibility splays of 2.4m x 160m in both directions.

Additional information is required from the applicant to demonstrate provision of and control over 2.4m x 160m visibility splays, drawn to the edge of the carriageway on the same side of

the road as the proposed access and additionally for the splay to the south to the edge of the carriageway on the far side of the road, see attached photograph taken approximately 100m from the proposed access showing obstructions to sight for vehicles travelling north.

Comments received from SCOTTISH WATER are attached for your information.

14th May 2013

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

SCOTTISH WATER

Customer Connections
419 Balmore Road
Glasgow
G22 6NU

Customer Support Team
T: 0141 355 5511
F: 0141 355 5386
W: www.scottishwater.co.uk
E: connections@scottishwater.co.uk

Dear Sir Madam

PLANNING APPLICATION NUMBER: 13/00753/APP
DEVELOPMENT: Moray Site At MaggieKnockater
OUR REFERENCE: 626687
PROPOSAL: Erect Dwellinghouse

Please quote our reference in all future correspondence

Scottish Water has no objection to this planning application. This response is made based on the information available to us at this time and does not guarantee a connection to Scottish Water's infrastructure. A separate application should be submitted to us made for connection to our infrastructure after full planning has been granted.

Spey Badentinian Water Treatment Works – has limited capacity available for new demand. The Developer should discuss their development 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.

Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, Bullion House, Dundee, DD2 5BB. Tel – 0845 601 8855.

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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.

Yours faithfully

Janine Franssen
Customer Connections Administrator