

**Notice of Review – Planning Application Ref 13/01341/APP
Create new vehicular access on to the A98 at the Paddock, Arradoul Buckie**

**Comment by Futureplans on Moray Council Transport Manager’s submission
dated 28th February 2014**

We append an annotated copy of the Transportation Manager’s submission for ease of cross reference. Our comments on the points of referred to, taken in order, are as follows:-

Ref 1 – Our submission to the review argues that there are in fact 6 properties effectively using the existing access. We trust that the Review Body will visit the site to see this for themselves. The fact that 6 properties effectively use the access renders it sub standard in respect of para 2.7 of the Moray Council Standards for Road Construction Consent and Adoption for the provision of vehicular accesses serving 6 houses (Appendix 8a of our initial submission). We trust that the Review Body will also see from the visibility deficiencies illustrated by measurements in our main submission (drawing in Appendix 9) that the access does not achieve the visibility required within a 50mph limit as set out in para 5.6.7 of The Moray Council Transportation Service Requirements for Small Developments in the Countryside August 2011 (Appendix 8b of our initial submission)

Ref 2 - New Material

We are puzzled and alarmed that the Transport Manager should seek to suppress this information. It must surely be relevant that the Council has come to a “settled view,” in formally seeking to remove the embargo on new accesses at Arradoul. The preparation of the new Development Plan at a very advanced state. The Transportation Manager must surely have been involved in its preparation. The Local Review Body has the power to accept new material .The date of publication meant that we could not have referred to this statement until after Feb 3rd 2014. As a result, in terms of the Council Guidance on Reviews, we believe this material could be described as new material that “could not have been raised before that time,” and also as an “exceptional case.” Furthermore we believe it would be perverse if the LRB did not take account of the Council’s recent and publicly stated intention.

Ref 3 - Para 8 - The reason for refusal of this Planning Application makes reference to two policies only i.e.

- Policy T2 and
- the Arradoul rural community statement.

It is our understanding of the review process that the Council cannot introduce any other policy reasons for refusal at this stage. Policy T6 and The Moray Structure Plan 2007 were not mentioned as reasons for refusal and therefore cannot properly be introduced now.

However since we are dependent on the LRB's concurrence with our opinion regarding acceptance of this new material we currently feel bound to answer any points relating to Policy T6 and The Moray structure Plan 2007.

Ref 4- Para 9 – Our point is that while the principle is set out, or indeed, asserted in the Plan it's justification is not clearly described and it is this lack of clarity in the justification which is the focus our client's request for review.

Ref 5 – The Traffic Flow Diagram TMC01 is new information. It is of interest and bearing in mind that the source is a permanent traffic counter we wonder why this information was not presented when the application was undergoing initial consideration. It reinforces our argument in that the existing access with its substandard visibility has to deal with a substantial amount of passing traffic

Ref 6- Our client supports the aims of the North East Safety Camera Partnership.

Ref 7- Par 13 – Again Traffic Speed Diagram TMC02 is new material referring to a period (i.e. 25th Jan – 1st Feb 2014) after the refusal date of the planning application. During the consideration of the application we did ask if the Transportation Manager had any measurements to back up his position but none were forthcoming. TMC02 is of concern. Many drivers appear to be freely committing an offence. To our mind TMC02 demonstrates a need to enforce the 50mph limit by means such as Speed Cameras, Police supervision, Automatic Speed Indicators etc or perhaps a lowering of the speed limit to 40mph. (We note that Alves on the A96 Trunk Road , another part of the strategic network in Moray is subject to a 40mph limit). We do not know whether the authorities are taking any action to address these figures. As far as our client is concerned, he is in a position to provide better visibility at a new access, all of which will aid him when joining a road where such a substantial number of road users appear to be freely contravening the speed limit.

Ref 8 – The Transportation Manager appears to be continuing to ignore our request for formal confirmation that the visibility splay and photographs submitted (Appendices 5 and 13 of our initial submission) comply with para 5.6.7 of The Moray Council Transportation Service Requirements for Small Developments in the Countryside August 2011 (Appendix 8b). This is an important element in our overall argument. We do not know why he appears to be shying away from it. Surely his confirmation on this point is of vital importance to ourselves and the LRB. Should he have concerns specifically related to the visibility splay as finally submitted, while these would be long overdue, we believe we could make further adjustment as long as we are advised. Meantime, in light of comments made by the Planning Officer we are taking it that the visibility splay does comply. **Para 14** of the Transport Manager's submission almost suggests a case against new accesses anywhere on the network. Our client supports caution and safety but also seeks a proportionate assessment of any degree of risk involved. In **Para 15** the Transport Manager concurs that we are indeed talking about the traffic generated by one house only but he then goes on to describe this single new access as introducing a significant change

to the conditions on the A98. Is this truly proportionate? On the other hand in his Planning Application Consultation reply (Appendix 4 of our initial submission) he states with reference to the existing access “ *The existing access is considered to be of an acceptable standardFurthermore improvements to the visibility splay at this existing access would only be required if there were proposals to serve additional housing via this access or a history of accidents at this particular access. There have been no reported accidents.* ” All of this is said despite our arguments and drawings that appear to clearly indicate that this access does not comply with the Moray Council Standards for Road Construction Consent and The Moray Council Transportation Service Requirements for Small Developments in the Countryside. His latest information regarding traffic volumes and contraventions of the speed limit add further concern. We do not understand why he is not more concerned over conditions at the existing access

Ref 9 – Para 16 -Accident Data. - We accept that the data represents only those accidents recorded by the Police. The Transportation Manager however has not produced any other accident records . **Para 17** - we accept that turning movements are one of the manoeuvres that can be associated with accidents (as can careless and reckless driving). Unlike him we have identified the locations and find that most accidents were taking place at major junctions. We believe the pattern of locations of accidents is very important and significant to what is actually happening. **Para 18** -we agree that one accident is one too many but again what about location and a proportionate assessment of risk. Does one accident at an access with reduced visibility on a bend mean that a new access on a straight with good visibility should automatically be refused. We note that apart from the above accident the Transportation Manager appears to accept the analysis of the Accident Data we submitted. **Para 19** – Our client supports the vision of Moray Road Safety Plan and is doing all he can to make his proposed access a safer one than that currently available to him.

Ref 10 – Para 20 Existing Access – In order to pursue improvements to visibility at the existing access our client would have to gain the agreement of several proprietors and would still be left with the difficulty of ongoing management of any required works and maintenance. We are unsure whether visibility to the west can physically be achieved to the standard set out in The Moray Council Transportation Service Requirements for Small Developments in the Countryside (Appendix 8b). Proper visibility at our client’s proposed access is easier to achieve and control. **Para 21** - This planning application and Request for Review represents a legitimate approach to the Council by a user of the existing access. Since the Transportation Manager makes no reference to the measurements and annotated drawings (Appendix 9) we submitted comparing visibility at the existing access to Council Standards, we assume that our assessment of the situation in these drawings is accepted

Conclusions

We believe that the “new information,” we have put forward is both relevant and justified given the circumstances.

Our client concurs with The Council in seeking road safety for those joining and using the A98

Our client however finds the reasoning put forward by the Transportation Manager in this case confusing. Our client's existing access does not appear to comply with Council Requirements. He is probably the only proprietor that can physically provide visibility up to Council Standards within this 50mph limit. The Transportation Manager has apparently been aware that traffic has been contravening the speed limit in Arradoul for over a year although we have not heard what measures are being deployed to address this. We have only been able to identify one accident in recent years at a residential access, the latter being located on a bend. The Council is proposing to remove its embargo on new accesses to the A98 in its new Local Plan.

We have no doubt this case will give the Local Review Board plenty of reason for careful deliberation and our client trusts that it will deliver him with a safe access.