



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case 096
 - Site address: Site Adjacent to The Willows, Main Street, Urquhart.
 - Application for review by Grant & Geoghegan, Unit 4, Westerton Road Business Centre, 4 Westerton Road South, Keith, AB55 5FH against the decision by an Appointed Officer of The Moray Council.
 - Planning Application 13/01004/APP to erect a house on adjacent site.
 - Unaccompanied site inspection carried out by the MLRB on 20 February 2014
 - Date of decision notice: 7 April 2014
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Decision

The MLRB agreed to uphold the original decision of the Planning Officer to refuse the above noted application.

1. Preliminary

- 1.1 This Notice constitutes the formal decision 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 27 February 2014.
- 1.3 The Review Body was attended by Councillors C. Tuke (Chair), B. Jarvis (Vice Chair), G. Alexander and J. Mackay.

2. Proposal

- 2.1 This is an application for planning permission to erect a house on site adjacent to The Willows, Main Street, Urquhart.

3. MLRB Consideration of Request for Review

- 3.1 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with a copy of the Report of Handling and a copy of the Notice of Review and supporting documents.
- 3.2 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.3 With regard to the unaccompanied site inspection carried out on 20 February, 2014, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.4 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policies H8 and IMP1 of the Moray Local Plan 2008 in that its siting in relation to neighbouring dwellings would detract from their setting and result in an unacceptable build-up of housing located beyond the settlement boundary of Urquhart, thereby detracting from the character and appearance of the surrounding countryside. The proposal was also deemed to be contrary to Policy E9 (Settlement Boundaries) and IMP1 of the Moray Local Plan 2008 where, in being located less than 60 metres outside the Urquhart settlement boundary, the development would result in the outward expansion and build-up of dwellings on and beyond the existing periphery of the village boundary, thereby eroding the distinction between the built-up environment of Urquhart and the surrounding open countryside.
- 3.5 Referring to the Appellant's grounds for review, the Planning Adviser advised that the Appellant had stated that the proposal would not detract from the Character and Setting of neighbouring properties as there is a substantial level of screening on the proposed plot, the neighbouring plots contain established mature landscaping and screening and the site will be separated from the existing properties by an established track and public road meaning that there will be very little inter-visibility between the proposal and existing properties.
- 3.6 Addressing comments regarding Policy E9, the Appellant stated that there was a very clear area of separation between Urquhart and the proposed site, the effect of which is added to by the very strong screening along the road. They advised that the proposal was not precluded by Policy E9 as it is 'beyond' not 'on' the settlement boundary and therefore not the type of development precluded by Policy E9 which is in place to control the unacceptable expansion of settlements. The Applicant stated that the proposal was a separate site, physically and visually distinct from and beyond Urquhart.
- 3.7 The Appellant also advised that it was their opinion that the site would not result in an unacceptable build-up of housing beyond the settlement boundary detracting from the appearance and character of the surrounding countryside given that the site is well-screened, integrated with the landscape and will round off a small grouping.

- 3.8 The Chair, having had the opportunity to visit the site and consider the Appellant's grounds for review, stated that he was of the opinion that the proposal complied with policy IMP1 and H8 of the Moray Local Plan, in that the house would not be adversely prominent and would not detract neighbouring dwellings from their setting and moved that planning permission be granted subject to standard conditions.
- 3.9 Councillor Mackay, in seconding the Chair's motion, expressed his opinion that the proposed development did not deter from the existing properties and that a condition regarding a boundary hedge along the road-side boundary would assist with screening. The Chair agreed to amend his motion accordingly.
- 3.10 Councillors Alexander and Jarvis stated that they were of the same view as the Chair.
- 3.11 Thereafter, the MLRB agreed to uphold the appeal and grant planning permission, subject to standard conditions and an additional condition for a boundary hedge along the road-side boundary.

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 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.

CONDITIONS

1. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by the Planning Authority. Details of the scheme shall include:
 - A plan showing existing landscaping features and vegetation to be retained and those to be removed;
 - The location and design, including materials, of any existing or proposed walls, fences and gates;
 - All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities. The Scheme details shall provide for 25% of the plot area to be planted/covered with native species trees/shrubs at least 1.5m in height;
 - The scheme shall make provision for a hedge along the boundary of the site with the public road

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

2. No development shall commence until a detailed drawing (scale 1:500 which shall also include details to demonstrate control of the land) showing the visibility splay 2.4 metres by 70 metres and a schedule of maintenance for the splay area has been submitted to and approved by the Planning Authority in consultation with the Roads Authority. No development or works (except for those associated with the provision of the visibility splay) shall commence until the visibility splay has been provided in accordance with the approved drawing. 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.
3. No development shall commence until full written and plan details of all measures for surface water management have been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority and Moray Flood Risk Management. No development or works (except for those associated with the approved surface water management scheme) shall commence until the approved details have been implemented in full. For the avoidance of doubt the scheme shall include the proposals set out in 'the Ground Assessment and Surface Water Drainage Design Report' dated 11 October 2013.
4. The width of the vehicular access 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 house hereby approved shall not be occupied until the first

5m of the access track, measured from the edge of the public road has been constructed to the Moray Council specification and surfaced with bituminous macadam.

5. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.
6. 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 house hereby approved shall not be occupied until the lay-by has been constructed in accordance with The Moray Council specification and surfaced with bituminous macadam.
7. The house hereby approved shall not be occupied until three car parking spaces have been provided within the site. The parking spaces shall thereafter be retained as such in perpetuity.
8. Any existing ditch, watercourse or drain under the site access shall be piped using a pipe of a minimum diameter of 300 mm to be approved in writing by the Planning Authority in consultation with the Roads Maintenance Manager. The pipe shall be laid to a self-cleansing gradient and connected to an outfall.
9. A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.
10. Boundary walls/fences shall be set back from the edge of the public carriageway at a minimum distance of 2.0m and to a position behind the required visibility splay.

REASONS

1. In order to ensure that the development harmonises with the character and appearance of the surrounding properties and area.
2. 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. To ensure acceptable drainage infrastructure to accommodate surface water flowing into the development site.
4. To ensure acceptable infrastructure at the development access.
5. To ensure acceptable development that does not create any hazard to road users in the interests of road safety.
6. To ensure acceptable infrastructure at the development access.
7. To ensure an acceptable development in terms of parking provision and amenity of the area.

8. To ensure acceptable infrastructure at the development access.
9. To ensure acceptable development in the interests of road safety.
10. To ensure acceptable development in the interests of road safety.

INFORMATIVES

Planning consent does not carry with it the right to carry out works within the public road boundary.

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.

If required, street furniture will need to be repositioned at the expense of the developer. Advice on this matter can be obtained by emailing road.maint@moray.gov.uk

Visibility splays relate to the visibility available to a driver at or approaching a junction in both directions. It is related to the driver's eye height, object height above the road, distance back from the main road known as the 'X' distance and a distance along the main road known as the 'Y' distance. The Y distance is related either to the design speed of the road and a corresponding 'stopping sight distance' or in some circumstances may be based on observed '85th percentile vehicle speeds'. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site

Transportation Service Requirements for Small Developments in the Countryside
Full document <http://www.moray.gov.uk/downloads/file79761.pdf>
Checklist <http://www.moray.gov.uk/downloads/file68812.pdf>

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

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.

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 developer must contact the Roads Authority Roads Maintenance Manager (West) at Ashgrove Depot, Elgin – Tel (01343) 557300, Ext 7349 to discuss the proposals.