



## MORAY COUNCIL LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case 108
  - Site address: Moray Coast View, Hilton Farm, Buckie
  - Application for review by Mr Gavin Strathdee, c/o Strathdee Properties Ltd against the decision of an Appointed Officer of The Moray Council.
  - Planning Application 14/00903/APP for proposed erection of dwelling house with detached garage.
  - Unaccompanied site inspection carried out by the MLRB on 22 August 2014.
  - Date of decision notice: 11 September 2014
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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. 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 2008.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 28 August 2014.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Coull, F. Murdoch, J. Mackay and R. Shepherd.

#### 2. Proposal

- 2.1 This is an application for planning permission for proposed erection of dwelling house with detached garage at Moray Coast View, Hilton Farm, Buckie.

### **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 copies of the Report of Handling, Notice of Review, Grounds for 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 22 August 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 Policy 1 of the Moray Structure Plan 2007 and Policies H8 and IMP1 of the Moray Local Plan 2008. She informed the MLRB that the Appointed Officer had advised that the development would be the seventh to be approved in the immediate vicinity during the current Local Plan period and would lead to an unacceptable cumulative build-up of housing that would detract from the rural character of the area.
- 3.5 Referring to the Appellant's Grounds for Review, the Planning Adviser advised that the Appellant had stated that the proposal complies with Policies H8 and IMP1 and would not lead to an unacceptable cumulative build-up as the plots had been purposely spread out over a wide area to provide a rural, country feel with a sense of space. They also advised that plots are effectively split due to an existing tree lined backdrop to the rear. The Appellant stated that the proposal would provide a small cluster of dwellings with a sense of space and character appropriate for the location.
- 3.6 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 Policies H8 and IMP1 in that the development would not be adversely prominent due to the woodland backdrop and that it would be almost invisible from any public thoroughfare. Stated that there would be no woodland removal, he moved that the appeal be upheld and planning permission be granted, subject to standard conditions. This was seconded by Councillor Shepherd.
- 3.7 Councillor Coull sought clarification on the linear development policy and the proposal would result in a line of five properties. In response, the Chair advised that a proposal would not be acceptable if it was considered to detract from the character or setting of existing buildings and their surroundings.
- 3.8 Councillor Mackay stated that he was of the opinion that the development does comply with Policy H8 in that it would integrate well with the surrounding countryside, and that it was not overtly prominent as it does not sit on a

skyline, artificially elevated ground or open ground, such as a field. He also advised that the proposal complied with Policy IMP1 as it would be integrated into the mature treed landscape and the Appellant would ensure 25% of the plot would be covered with foliage to provide a softening of the development.

- 3.9 There being no one otherwise minded, the MLRB agreed to uphold the appeal and grant planning permission, subject to standard conditions.

**Paul Nevin**  
**Senior Solicitor (Property and 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;
  - The location and design, including materials, of any existing or proposed walls, fences and gates and
  - 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. For the avoidance of doubt at least 25% of the site shall be planted with native species trees at least 1.5m in height.

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) showing the location and design of a passing place on a single track section of the C11L Drybridge-Deskford Road between the A98 and the site access (to the Moray Council standards and specification), has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority; and thereafter no development (except for that associated with the provision of the passing place); shall commence until the passing place has been constructed in accordance with the approved drawing.
3. No development shall commence until a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land ) showing the visibility splay 4.5 metres by 160 metres and a schedule of maintenance for the splay area has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority. No development (except for that associated with the provision of the visibility splay) shall commence until the visibility splay shall has been provided in accordance with the approved drawing and thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 1.0 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.
4. The width of the vehicular access shall be 5.5m for the first 15 metres and 3.5m thereafter and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The first 15m of the access track, measured from the edge of the public road, shall be constructed to the Moray

Council specification and surfaced with bituminous macadam prior to the first occupation of the house hereby approved.

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 lay-by must be constructed in accordance with The Moray Council specification and surfaced with bituminous macadam prior to the first occupation of the house hereby approved.
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 throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.
8. The house hereby approved shall not be occupied until effective ultra-violet treatment and prefiltration for the private water supply has been fitted

### **Reasons**

1. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
2. 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.
3. 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.
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 the provision of a wholesome supply of water

## **Informative Notes**

**The Transportation Manager** has commented:

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. 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 [transport.develop@moray.gov.uk](mailto:transport.develop@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](mailto:roadspermits@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](mailto: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](mailto: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.