

Mr. D. Westmacott
Clerk of the Moray Local Review Body
Moray Council
High Street
ELGIN
IV30 1BX

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Maitland
- 2 MAR 2015

28th February 2015

Dear Sir,

Planning Application 14/01733/APP. Erect Single Storey Dwelling, Formation of Access Driveway and Associated Landscaping Works on Site to the South-East of Orchard House, Spey Street, Garmouth.

We, Mr. John Nicholson and Mrs. Sarah Nicholson, [REDACTED] and Mrs. Moyra Welsh [REDACTED] (acting on behalf of her mother Mrs. Moyra McPherson of [REDACTED]) objected to the above planning application in October 2014. A copy of our written submission is enclosed.

Since then the application has been refused, but apparently the applicant is now appealing against that decision and accordingly we wish to make clear that our earlier, reasoned objections still stand. In addition, having read the appellant's supporting statement, we wish to make the following observations.

In order to separate these observations from the previous correspondence and to provide a background to the application we have also enclosed a summary document.

The appellant submitted two planning applications for development of this site prior to that recently refused, ref nos: 11/019961/APP and 14/00747/APP. Both attracted a large number of objections, and both were withdrawn by the applicant before they could be determined. Both involved the erection of a house firmly anchored to the ground, albeit via stilts in one instance and both were accompanied by the applicant's statements in support in an attempt to seek justification for formal planning consent as he was fully aware, prior to making these submissions, that they were in contravention of several Local Plan policies and Scottish Planning Policy (SPP) and PAN 69 all of which stipulate that new development should be located away from functional flood plains and areas of medium to high flood risk: the appeal site lies in both such areas. These statements were seriously flawed and contained many inaccuracies, particularly with regard to hydrological claims, none of which were found acceptable by either the Scottish Environment Protection Agency (SEPA) or Moray Flood Risk Management (MFRM). It is perhaps significant that the appellant did not submit any pertinent, additional hydrological information/calculations/data in support of planning application ref. no: 14/01773/APP, nor has he done so in support of his current appeal.

This third application, ref. no. 14/01773/APP, the refusal of which is now the subject of a Local Review Procedure, proposed the construction of an accommodational unit on a raft, or pontoon type base, which the applicant maintained would float in the event of the site being inundated. It would, allegedly, be prevented from drifting away by being tethered to several steel stanchions concreted into the ground in such a way that would also enable it to rise and fall with the floodwater. Perhaps these things might happen during a flood event, and then perhaps they might not. The theory has not been put to any kind of practical tests in this

country of which we are aware and most certainly not been put to the test on any of the functional floodplains to be found along the length of the River Spey, the fastest flowing river in Scotland, if not in the UK.

The above apart, SEPA, which acts in an advisory capacity on behalf of the Scottish Government regarding environmental matters and the Moray Council as Local Planning Authority which refers to SEPA as a consultee in such matters, both authorized and appointed by the Scottish Government to implement its Planning Policy on flooding, have adhered to the overriding principle of the latter, namely that the best way to avoid flood risk is to avoid selecting a site in a flood plain in the first instance, which it must surely be agreed is the most commonsensical approach. As far as we are aware there is no reason why the appellant should want to live on a functional flood plain, and there certainly cannot be any kind of justifiable need. No reason or need has been submitted by the appellant.

Finally, it has to be said that the Moray Council could have proposed to grant planning permission contrary to SEPA's advice on flood risk, in which instance the matter would have had to be referred to the Scottish Ministers for their consideration and determination. It is worth noting that Moray Council acted on SEPA's advice. We trust that the Moray Council's Local Review Body will do the same.

[Redacted]

JOHN NICHOLSON (Mr.)

[Redacted]

[Redacted]

SARAH NICHOLSON (Mrs.)

[Redacted]

[Redacted]

MOYRA WELSH (Mrs.)

[Redacted] on behalf of Mrs. Moyra MacPherson, Mother of Signee, [Redacted]

Head of Development Services,
Environmental Services Department,
Moray Council,
High St.,
Elgin,
IV30 1BX

13th October 2014

Dear Sir/Madam,

PLANNING APPLICATION 14/01773/APP. ERECT SINGLE STOREY DWELLING, FORMATION OF ACCESS DRIVEWAY AND ASSOCIATED LANDSCAPING WORKS ON SITE TO THE SOUTHEAST OF ORCHARD HOUSE, SPEY ST., GARMOUTH.

We, the undernoted, wish to object to the above planning application for the following reasons:

Ref. the applicant's supporting statement.

1. The applicant states that since he withdrew the previous application, ref. 14/00747/APP, he has had "*extensive discussions and correspondencewith both SEPA and MFRM....*" the outcome of which, it is claimed, is that certain matters were agreed between the three parties. Upon enquiry it would appear that this is not only an inaccurate, but also a spurious statement and the applicant should be asked to produce evidence in its support.
2. The three "*design challenges*" enumerated are not as so described but simply matters which have to be addressed and resolved to the joint satisfaction of SEPA and MFRM if a proposed development on a functional flood plain is being considered.
3. The claims regarding and resulting from an alleged local 1 in 200 year flooding event are unsubstantiated by a site specific Flood Risk Assessment in the form of hydrological assessment and hydraulic analysis/modelling which MFRM continues to request but which has not been submitted.
4. The applicant states: "*With SEPA and MFRM agreeing to the proposed new access driveway not being heightened in view of there being a safe dry alternative pedestrian access westward up the ascending Mill Lane...*" As far as we are aware neither SEPA nor MFRM has agreed to anything of the kind and if the applicant wishes to proceed on the basis of this claim then evidence in its support has to be produced.
5. "*The amphibious house concept...*" is exactly as the applicant states: a concept, meaning an abstract or general idea, which apparently is in its early, experimental stages in Holland, the locations used being water recreational areas which have virtually no horizontal flows but only depth fluctuations. The Spey, on the other hand, is the fastest flowing river in Scotland, if not the UK and is unusual in that its speed increases as it nears the sea. It does not meander, although it rapidly moves its banks. The Spey railway bridge, now pedestrianised, was designed originally with its main span over the main flow of the river, but before construction was completed the river had changed its course and was running at one end of the bridge.

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To quote SEPA: "...the River Spey is a dynamic river, geomorphologically active and a high energy environment. Even if the (Scottish Planning) policy supported such an approach to development on the floodplain we would have technical concerns regarding the suitability of this particular location for such a design, particularly given that detailed information regarding flood levels and velocities are not known."

Velocity: the speed at which something is moving in a particular direction. The mean, or average flow, or velocity of the River Spey along its entire length and moving in the direction of the sea, is 16 metres per second, i.e 57.6 kilometres per hour. Anyone who has stood on the railway bridge or the road bridge at Fochabers when the river is engorged with meltwater or rainwater runoff from the hills higher up cannot fail to be impressed by its awesome ferocity. When, as sometimes happens, this gigantic flow of water comes up against prevailing winds and tides in its estuarine reaches, its progress to the sea is slowed considerably, exacerbating the inundation of the floodplain and spreading to land beyond. The applicant is proposing to build a house on a site that, by his own admission, lies within these areas of flooding and on the edge of the course of a river that allegedly has a flow rate in excess of 70 kilometres per hour when in full spate and which in recent years has burst its banks on several occasions, removing a large portion of Garmouth Golf Course which lies immediately to the east of the application site, sections of wall surrounding Gordon Castle, parts of the Speyside Way and some of the B9104 road.

6. This amphibious house concept "would seem to offer the undernoted design advantages.

- i). There would be no deflection of flood water on to other properties with a floating structure.
- ii). There would be no diminishment of existing flood water storage capacity on site with a floating structure. Indeed the swales proposed would offer more capacity and a route for water flowing in the lower reaches of Mill Lane to escape to.
- iii). The rise and fall capacity of a floating structure would work automatically giving a safe method of addressing any flood event, as much as twice the known 1 in 200 year event, without the 'at rest' height of the structure exceeding 6 metres."

This is specious reasoning.

- i). From the application drawings it would appear that the dimensions of the raft on which the proposed house would sit are 18m x 9m x 1m, a volume of 162m³, which equates with 162 tonnes of water. The weight of the house is not known and it has to be presumed, from secondhand information supplied by the applicant, that the 1m depth of the raft would be adequate to float it. Whilst the house and raft are sitting on the ground, they can potentially deflect the volume of the former until they are both afloat - approximately 162 tonnes. When the raft and house are afloat, they will displace water, just as a boat does. If the raft is designed to keep the house just afloat, then 162 tonnes of water will be displaced. No solution as to how this amount of deflected and/or displaced water will be dealt with or how it might affect neighbouring land and property.
- ii). The volume of the raft will diminish the capacity of the swales by 162m³.
- iii). No evidence or calculations have been produced/submitted that would give either credence or support to such a statement.

Contd.

SEPA has made it quite clear, time and again that

- i). The cornerstone of sustainable flood risk management is the avoidance of flood risk in the first instance.
- ii). The site, which forms part of the functional flood plain of the River Spey is not suitable for development.
- iii). There is no technical solution to the development of the site which complies with Scottish Planning Policy and this also applies to the new house design now proposed. The loss of flood plain storage is a secondary issue to the principle position that land in the functional flood plain is not suitable for new development and should be avoided in the first instance.
- iv). There are no overriding reasons for development in the flood plain in Scotland where the availability of lower risk land is much greater than in countries such as the Netherlands.

Given all of the above, we are of the opinion that the application should be refused and ask, respectfully, that it be determined accordingly.

Yours faithfully,

John Nicholson (Mr.) Orchard House, Spey St., Garmouth, IV32 7NJ

Sarah Nicholson (Mrs.) Orchard House, Spey St., Garmouth, IV32 7NJ

Moyra Welsh (Mrs.) Ashlea, Dunkirk Rd., Garmouth, IV32 7NZ, on behalf of Mrs. Moyra MacPherson, Mother of Signee, The Cottage, Spey St., Garmouth, IV32 7NJ

Summary to date of PLANNING APPLICATION 14/01773/APP Erect Single Storey Dwelling, Formation of Access Driveway and Associated Landscaping Works on Site to the SouthEast of Orchard House, Spey Street, Garmouth.

Background: The applicant submitted two planning applications for development of this site – **11/01961/APP** and **14/00747/APP**. Both attracted a large number of objections on the grounds of flooding and drainage: both submissions were withdrawn by the applicant before they could be determined. The first house design involved building up the site to allow the house to be clear of floodwater, the second house was on stilts, to allow the house to be clear of floodwater. The applicant withdrew these submissions in the knowledge that he had been asked for full hydrology reports and modelling, in accordance with SEPA guidelines, to demonstrate beyond doubt that his proposed development will not increase the risk of flooding to adjoining properties. He has yet to provide this information to the satisfaction of SEPA or MFRM and Moray Planning Officers because of the flood and drainage issues in this area of Lower Garmouth.

Principal Objections:

- Hydrological and hydraulic analysis/modelling requested by MFRM still not received.
- As far as we are aware SEPA and MFRM have not agreed to the proposed new access, and the applicant has yet to produce evidence that they have.
- Still no technical solution to the development of the site which complies with Scottish Planning Policy and this also applies to the new house design now proposed.
- The maps submitted as evidence that the flooding is only medium risk pre-date the significant damage to the riverbank and destruction of trees at Queenshaugh. The higher risk since the flood in 2009 has been acknowledged by the installation of camera and monitoring systems secured to the Speymouth Viaduct, and early warning systems from SEPA sent by telephone to residents in Lower Garmouth already at risk of flooding. Scottish Natural Heritage has a policy of non-intervention, as does SEPA, so the gravel bed of the river is rising. The direct result of this is more frequent, volatile, flood events when further upstream there is no flooding.

Summary:

In order to quickly outline to you our objections to the proposed development and why we think it is not only an unsuitable location to build a new property but as to why it would have an adverse effect on existing properties we have included the following photographs and conclusion to our objections:



Photograph of proposed development site taken 04/04/2010

The applicant's solution to the "medium" flood risk to the house is to be an amphibious dwelling that is to rise above the floodwater with a gangplank safe exit for pedestrian escape up a public footpath with no vehicular capability. The theory is that this will not displace water onto properties downstream, and will remain tethered



Photograph of proposed development site taken 04/04/2010

This picture clearly demonstrates fast flowing water coming both onto and off the site. This is the water the applicant wishes to channel into the village surface water drainage system running through Orchard House policies, and beside The Cottage. Proposed culverts will apparently cope with this volume of water and protect adjoining proprietor.



Further upstream of the River Spey, at Queenshaugh, it can be seen where this water is coming from, how it has increased over previous years and how other existing properties are affected:

This water carries on downstream to Lower Garmouth via the golf course and into Spey Street. It has nowhere else to go...



Photo taken from Sustrans cycle route looking down golf course towards Garmouth village.

The applicant refers to a map within his application of water flow of the River Spey produced in 1995 by Grampian Regional water services, whilst this map was correct at the time of production the following photographs substantiate how the flow has changed in the last decade and from the 2009 flood...The proposed access to the refused development site will sit within the high flood risk areas



Garmouth and Kingston Village Hall.

Black Burn running through golf course, pours water down past the Village Hall, then into Spey Street.

Proposed new access point: a culvert here can only exacerbate the problem.



Moira McPherson's cottage (located opposite to the village hall and adjacent to the proposed driveway access).

This photograph was taken 11 August 2014. The volume of water is such that it seeps under the boundary wall, under the shed, and into the garden at The Cottage. The proposed developments present an increased risk to this property, and others in the vicinity.



The applicant has said that there has been a corff house with access on this site before, with the implication that the access point is where he intends to create his new driveway. As far as we are aware the route to the buildings and stack yard were through his farm gate... Perhaps this picture illustrates satisfactorily why he has ceased to use the ground for grazing, or replaced any of the buildings he informs were on the land.



Golf Course

Mill Lane. There have been several flood events in the last 10 years that show this area is at High Risk of flooding and is therefore not suitable for creating the proposed access (inc emergency services) and driveway to the site.

Conclusion:

- Whilst it may be an innovative design, it is difficult to understand why anyone would want to develop this site given the challenges presented.
- As SEPA quite rightly observe in Scotland there is no shortage of building land that does not flood, therefore the most sensible approach is **not to build and raise the risk of flooding to other properties.**
- The applicant gives no reason why he would choose to live on the floodplain, nor do we think that financial services for lending or insuring would support his desire to live in an amphibious house with no vehicular exit in times of flooding.

In their consultation response SEPA clearly state that should Moray Council choose to grant planning permission contrary to their advice, the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 allows them to refer the application to the Scottish Ministers to appeal such cases. It is worth noting that Moray Council acted on SEPA's advice. We trust that the Moray Council Review Body will do the same.