



## **ENVIRONMENTAL SERVICES**

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Our reference: DA/LRB191

Your reference: MLRB0191/ACK

Chief Legal Officer  
Per Ms L Rowan  
Committee Services  
The Moray Council  
High Street  
ELGIN  
IV30 1BX

17 October 2017

Dear Madam

**TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL  
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008**

**REQUEST FOR REVIEW: PLANNING APPLICATION 17/00735/APP ERECT DWELLINGHOUSE ON  
SITE WEST OF KEMPSTON HOUSE MAVERSTON URQUHART**

I refer to your letter dated 02 October 2017.

I respond on behalf of the Transportation Manager with respect to our observations on the applicant's grounds for seeking a review of the planning authority's decision to refuse the above planning application.

Transportation has reviewed the appellant's grounds for review and the associated documents, and submits the attached representation with associated documents in response.

Yours faithfully

**Diane Anderson**  
**Senior Engineer**

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## Local Review

LRB Ref 191

Planning Application Reference 17/00735/APP Erect dwellinghouse on Site West Of Kempston House Maverston Urquhart

### Response from Transportation, Moray Council

1. This document is in response to the Notice of Review and the Statement of Case submitted on behalf of Mr N Atkinson and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 17/00735/APP for the erection of a dwelling house on a site west of Kempston House at Maverston, near Urquhart.
3. Transportation received the consultation for planning application 17/00735/APP on 23 May 2017. A copy of the consultation response is attached (**TMC01**), which details Transportation's objection on the grounds that the proposal would be likely give rise to conditions detrimental to the road safety of road users.
4. The site is accessed via the recently upgraded roads which form part of the Maverston development. Whilst these roads have yet to be adopted, the roads were subject to Roads Construction Consent which would enable the roads, if suitably constructed, to become part of the public road network. Transportation is in possession of no evidence to suggest that the road would not be adopted.
5. Moray Local Development Plan 2015 Policy T2 Provision of Access states that:

*"Development must meet the following criteria: .....*

- *Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends. ..."*

Policy T2 makes no differentiation on the road status.

6. The proposed development would utilise an existing access track onto the Maverston development road network. However the existing access has restricted visibility in both directions. This is due to the alignment of the road, hedges/trees/vegetation and the position of an adjacent boundary fence. Photographs of the view from the access onto the public road are attached (**TMC02**).
7. Drawing no. 150144.ATKINSON.01PP(C), submitted as part of the planning application documents, indicates that a visibility splay of 2.4 metres x 180 metres would be provided at the access onto the prospective public road (**TMC03**). However the visibility splay shown has not been drawn correctly – to the north-west of the access the sightline is also required to the tangent of the bend in the road. This requirement is set out in Technical Directive 42/95 Geometric Design of Major/Minor Priority Junctions, an extract of which is attached (**TMC04**).
8. The formation of the visibility splay would require removal of all vegetation/trees/hedges within the splay and the setting back of fence lines to a position out-with the splay. This would require land out with the application site and under the control of third parties.

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## Local Review

LRB Ref 191

### Planning Application Reference 17/00735/APP Erect dwellinghouse on Site West Of Kempston House Maverston Urquhart

9. To the north-west of the access require additional third party land over and above that shown in drawing no. 150144.ATKINSON.01PP(C).
10. The Appellant's statement of appeal refers to planning permission 08/02070/FUL which was granted for a house plot in 2009. At the time of the consideration of application 08/02070/FUL, the construction of the Maverston development road network had not commenced.
11. However at the time of application 17/00735/APP it was clear that the Maverston development had commenced, with the road constructed and a number of houses already occupied. Each application was considered on the basis of the prevailing conditions surrounding the site at the time of that application.
12. The Appellant's statement of appeal also makes reference to planning permission 15/00600/APP for a house plot to the north-west of the access. This permission requires the setting back of the boundary fence which currently obstructs sightlines from the access. However at the time of application 17/00735/APP, development of the house plot 15/00600/APP had not commenced.
13. Furthermore it was understood from representations made during the consideration of application 17/00735/APP that the owner of the site (15/00600/APP) had no intention of developing. Therefore Transportation does not consider there to be a reasonable prospect that the fence line would be set back.
14. Transportation is aware that the landowner to the north-west of the access onto the public road has been unwilling to enter into an agreement with the appellant. It is also unclear as to whether the appellant has control over the land to the south-east of the access to form and maintain the visibility splay as this lies out with the planning application boundary. Transportation therefore considers that without written evidence of an agreement there is no reasonable prospect of the visibility splay being provided for the proposed development.
15. The existence of the access at this location is a matter of fact. However the proposed development would result in the intensification of the use of this access which (without the provision of the required sightlines) in turn would be detrimental to road safety.
16. Transportation, respectfully, requests the MLRB to uphold the decision by the appointed officer. In particular on the grounds that Moray Local Plan Policy T2: Provision of Road Access is not satisfied.

Transportation  
17 October 2017

#### Documents

|       |  |
|-------|--|
| TMC01 | 17/00735/APP Transportation Consultation Planning response 25 May 2017 |
| TMC02 | Site Photographs   |
| TMC03 | Drawing no. 150144.ATKINSON.01PP(C)                                    |

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**Local Review**

**LRB Ref 191**

**Planning Application Reference 17/00735/APP Erect dwellinghouse on Site West Of  
Kempston House Maverston Urquhart**

TMC04      Extract from Technical Directive 42/95 Geometric Design of Major/Minor  
Priority Junctions showing extent of visibility splays.

# Consultation Request Notification

|   |   |
|---|---|
| Planning Authority Name                               | <b>The Moray Council</b>  |
| Response Date   | <b>6th June 2017</b>  |
| Planning Authority Reference                          | <b>17/00735/APP</b>   |
| Nature of Proposal (Description)                      | <b>Erect dwellinghouse on</b>   |
| Site  | <b>Site West Of Kempston House<br/>Maverston<br/>Urquhart<br/>Elgin</b>   |
| Site Postcode   | <b>N/A</b>  |
| Site Gazetteer UPRN                                   | <b>000133055336</b>   |
| Proposal Location Easting                             | <b>329573</b>   |
| Proposal Location Northing                            | <b>863703</b>   |
| Area of application site (Ha)                         | <b>13029 m<sup>2</sup></b>  |
| Additional Comment                                    |   |
| Development Hierarchy Level                           | <b>LOCAL</b>  |
| Supporting Documentation URL                          | <a href="http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=OPZCU7BGH9O00">http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=OPZCU7BGH9O00</a> |
| Previous Application                                  | <b>16/01582/APP<br/>16/00409/APP<br/>08/02070/FUL</b>   |
| Date of Consultation                                  | <b>23rd May 2017</b>  |
| Is this a re-consultation of an existing application? | <b>No</b>   |
| Applicant Name  | <b>Mr Nigel Atkinson</b>  |
| Applicant Organisation Name                           |   |
| Applicant Address                                     | <b>[REDACTED]<br/>[REDACTED]<br/>[REDACTED]<br/>[REDACTED]<br/>[REDACTED]<br/>[REDACTED]</b>  |
| Agent Name  | <b>C M Design</b>   |
| Agent Organisation Name                               |   |
| Agent Address   | <b>St Brendans<br/>69 South Guildry Street<br/>Elgin<br/>Moray<br/>IV30 1QN</b>   |
| Agent Phone Number                                    |   |
| Agent Email Address                                   | <b>N/A</b>  |
| Case Officer  | <b>Emma Mitchell</b>  |
| Case Officer Phone number                             | <b>01343 563326</b>   |
| Case Officer email address                            | <b>emma.mitchell@moray.gov.uk</b>   |
| PA Response To  | <b>consultation.planning@moray.gov.uk</b>   |

**NOTE:**

If you do not respond by the response date, it will be assumed that you have no comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

Please respond using the attached form:-

## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Transportation Manager

**Planning Application Ref. No: 17/00735/APP**

**Erect dwellinghouse on Site West Of Kempston House Maverston Urquhart Elgin for Mr Nigel Atkinson**

I have the following comments to make on the application:-

**Please**

- |     |   |                          |
|-----|---|--------------------------|
| (a) | I OBJECT to the application for the reason(s) as stated below   | <b>x</b>                 |
| (b) | I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal            | <input type="checkbox"/> |
| (c) | I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below                                 | <input type="checkbox"/> |

#### **Reason(s) for objection**

The applicant does not appear to control sufficient land in order to provide the required visibility splay at the development access onto the prospective public road. The proposal, if permitted, would therefore be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policies T2 Provision of Access and IMP1 Development Requirements

#### **Further comment(s) to be passed to applicant**

The applicant should note that although at the present time the roads within the Maverston development are Private, the process of adoption of the roads onto the List of Public Roads (LoPR) is underway and once adopted the responsibility for the road would vest with the Roads Authority.

There is a request within the supporting statement in relation to the use of a suspensive planning condition to secure the visibility splay at the access onto the prospective public road.

However, Transportation notes that there has been an objection submitted from the owner of land over which part of the visibility splay falls and within which there is a boundary fence. The existence of this objection implies to Transportation that at the present time there is no reasonable prospect of an agreement being reached between the applicant and the land owner. Transportation therefore considers that unless circumstances change, a suspensive planning condition in relation to the access onto the prospective public road should not be applied.

**Contact: DA/AG**  
**email address: [transport.develop@moray.gov.uk](mailto:transport.develop@moray.gov.uk)**  
**Consultee: TRANSPORTATION**

**Date 25 May 2017**

|                           |   |
|---------------------------|---|
| <b>Return response to</b> | <b><a href="mailto:consultation.planning@moray.gov.uk">consultation.planning@moray.gov.uk</a></b> |
|---------------------------|---|

Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://public.moray.gov.uk/eplanning/> (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.





2.4m visibility splay



2.4m visibility splay





BSI British Standards - B4428: 1989 Code of practice for general landscape operations *excluding hard surfaces*



**cmdesign**  
architectural consultants

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Mr Nigel Atkinson

NEW HOUSE ON SITE WEST OF KEMPSTON HOUSE,  
 MAVERSTON, URQUHART, ELGIN, IV30 8LR

**PLANNING PROPOSALS**  
*SITE & LOCATION PLANS*

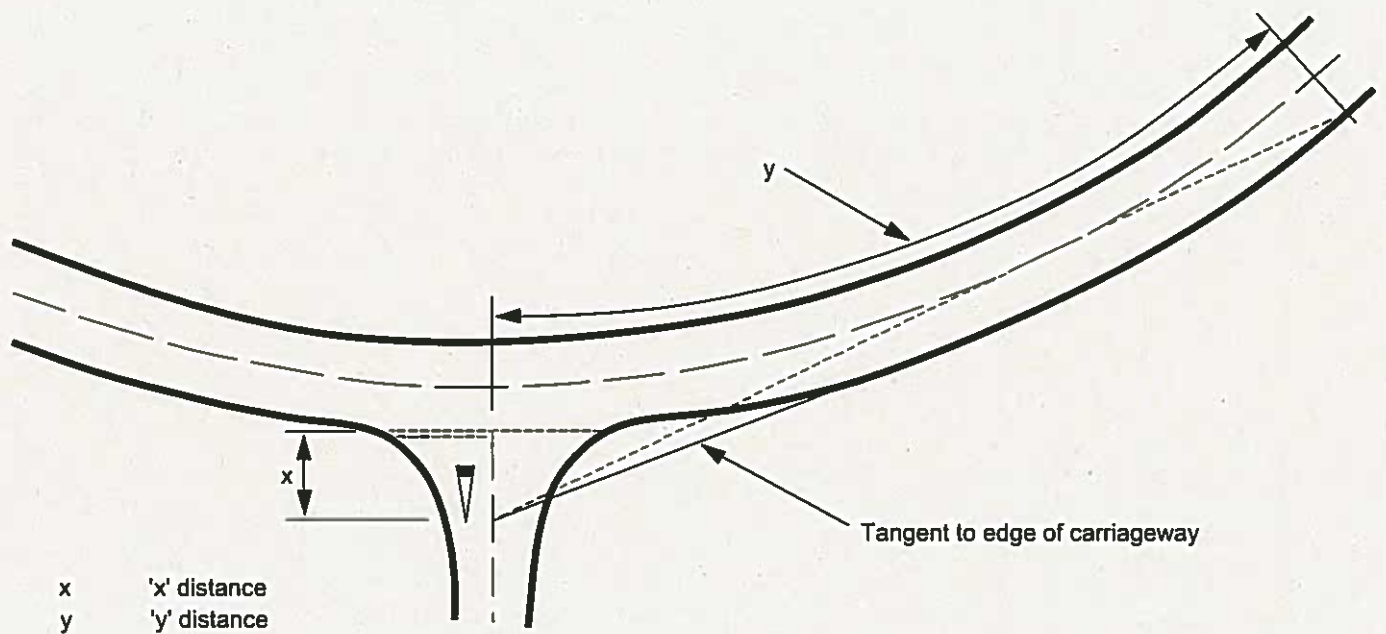
| Date:    | Amendments:                      | Rev: |
|----------|----------------------------------|------|
| 10/10/16 | house position relocated         | A    |
| 26/10/16 | app dwg amended at request of PO | B    |
| 12/05/17 | re-application amends            | C    |

| Drawn By: | Date:    | Checked By:  | Date:    |
|-----------|----------|--------------|----------|
| CJSM      | 10.10.16 | Craig Mackay | 10.10.16 |

**150144.ATKINSON.01PP (C)**



TMC 04 Extract from Technical Directive 42/95  
Geometric Design of Major/Minor  
Priority Junctions showing extent of  
visibility splays.



**Figure 7/2 : Visibility Standards with a Curved Major Road (para 7.7)**