



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR214
 - Application for review by Mr and Mrs G Whyte, Mr N Grant, Grant and Geoghegan against the decision of an Appointed Officer of Moray Council
 - Planning Application 18/00626/APP – Erect dwelling house and associated works at land adjacent to Crannoch Lodge, Grange, Crossroads, Keith
 - Unaccompanied site inspection carried out by the MLRB on 23 October 2018
 - Date of decision notice: 30 November 2018
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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 2013.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 25 October 2018.
- 1.3 The MLRB was attended by Councillors Alexander, Bremner, Coy, Patience and Ross.

2. MLRB Consideration of Request for Review

- 2.1 A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application on the grounds that:

The proposal would be contrary to policies PP1, H7 and IMP1 of the Moray Local Development Plan (MLDP) 2015 and Supplementary Guidance 'Housing in the Countryside' (2015) for the following reasons:

1. The existing row of 5 houses immediately adjacent to the proposed site is at odds with the established traditional development pattern of the surrounding countryside. The row of houses is not included as part of a rural grouping as defined by the MLDP 2015 and is classed a ribbon development further along the roadside. The proposed house would act to extend this ribbon development further along the roadside and as such is not compliant with criteria (b) of the policy H7, which aims to restrict ribbon development due to the detrimental impact that it has on the character of the countryside.
 2. The proposed site is very open within the surrounding landscape and any house on this site, will on occasion appear above the ridgeline on which it is sited especially when traveling on the main road through the valley (B9018), in turn resulting in a very prominent and obtrusive development within the surrounding landscape. The site has no mature features or planting that would act to settle the development into the landscape and although the applicants have carried out planting along the northern boundary of the site, this is immature at present and would take a substantial amount of time to mature and assist with the integration of the house and as such does not justify the erection of a house on this site.
- 2.2 A Summary of Information report set out the reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
 - 2.3 With regard to the unaccompanied site inspection carried out on 23 October 2018, the Chair stated that all members of the Moray Local Review Body (MLRB) present, were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicant's grounds for review.
 - 2.4 In response to a question from the Chair as to whether the Planning or Legal Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.
 - 2.5 The Chair then asked the MLRB if they had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.
 - 2.6 Councillor Ross, having had the opportunity to visit the site and consider the Applicant's grounds for review, disagreed with the view of the Appointed Officer in relation to the proposal being prominent and obtrusive and was of the view that, given that there was already a large barn and large shed adjacent to the site and the Applicant had attempted some planting on the site to help integrate the house into its surroundings, the proposed development would not be contrary to policy H7 of the MLDP 2015. He also disagreed that the proposal was contrary to policy PP1 in relation to sustainable economic growth as the proposal aimed to provide employment for local people and therefore moved that the appeal be upheld and planning permission granted in respect of planning application 18/00626/APP.
 - 2.7 Councillor Bremner, having had the opportunity to visit the site and consider the Applicant's grounds for review, was of the same opinion as Councillor Ross and further stated that in his opinion the design complied with policy with

regard to the size and proportion of the proposal and the materials that were to be used were environmentally friendly. He further stated that he disagreed with the Appointed Officer regarding the proposal being ribbon development as he was of the view that the proposal would enhance the site as it was currently quite industrial having a large barn and shed located next to it. Councillor Bremner agreed to second Councillor Ross' motion to uphold the appeal and grant planning permission in respect of planning application 18/00626/APP.

- 2.8 There being no-one otherwise minded, the MLRB agreed to uphold the appeal and grant planning permission in respect of planning application 18/00626/APP subject to standard conditions and the receipt of developer obligations as required by the Council as it was agreed that the proposal would not detract from the current surroundings, was not visually intrusive, would not form a ribbon development, was aesthetically pleasing and provide employment for the local community and therefore complied with policies PP1, H7 and IMP1 of the MLDP 2015 and Supplementary Guidance 'Housing in the Countryside' 2015.

Mrs A Scott
Legal Services Manager (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 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

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.

IMPORTANT NOTE

YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

SCHEDULE OF CONDITIONS

By this Notice, Moray Council has **GRANTED PLANNING PERMISSION** for this proposal subject to conditions as appropriate to ensure implementation of the proposal under the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

CONDITION(S)

Permission is granted subject to the following conditions: -

1. Notwithstanding the submitted details no development shall commence until:
 - (i) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing the visibility splay 2.4 metres by 120 metres in both directions, 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; and
 - (ii) thereafter the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
 - (iii) 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.

Reason: To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users.

2. Prior to the occupation of the dwellinghouse, the first 10m of the access track, measured from the edge of the public carriageway, shall be constructed to the Moray

Council specification and surfaced with bituminous macadam. The width of the vehicular access shall be minimum 3.5 metres, and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway.

Reason: To ensure acceptable infrastructure at the development access.

3. Prior to the occupation of the dwellinghouse, 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. 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.

Reason: To enable visiting service vehicles to park clear of the public road in the interests of road safety.

4. Any existing ditch, watercourse or drain under the site access shall be piped using a suitable diameter of pipe, agreed with the Roads Maintenance Manager (300mm minimum). The pipe shall be laid to a self-cleansing gradient and connected to an outfall.

Reason: To ensure the construction of an acceptable access in the interests of road safety and effective drainage infrastructure.

5. Three car parking spaces shall be provided within the site prior to the occupation or completion of the dwellinghouse, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

6. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.

7. A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.

Reason: To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road.

8. New boundary walls/fences shall be set back from the edge of the public carriageway at a minimum distance of 3.0m (as existing) and to a position behind the required visibility splays.

Reason: To ensure acceptable development in the interests of road safety.

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

The following notes are provided for your information, including comments received from consultees:-

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 56 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.

IMPORTANT NOTES ABOUT THIS DECISION

DURATION OF THIS PERMISSION

In accordance with Section 58 (i) of the Town and Country Planning (Scotland) Act 1997 as amended, the development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

If the development has not commenced within this period then this permission shall lapse unless there is a specific condition attached to this permission which varies the stated timescale.

COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT

The following are statutory requirements of the Town & Country Planning (Scotland) Act 1997, as amended. Failure to meet their respective terms represents a breach of planning control and may result in formal enforcement action. Copies of the notices referred to below are attached to this permission for your use.

NOTIFICATION OF INITIATION OF DEVELOPMENT

S.27A of the 1997 Act, as amended requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission. Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to Moray Council, as planning authority, the attached Notification of Initiation of Development.

NOTIFICATION OF COMPLETION OF DEVELOPMENT

S.27B of the 1997 Act, as amended requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions. Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to Moray Council, as planning authority the attached Notification of Completion of Development.

NOTIFICATION OF COMPLETION OF PHASED DEVELOPMENT

Under S.27B(2) of the 1997 Act, as amended where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete.

When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.



THE MORAY COUNCIL

NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Application Number

Date Decision Issued

Location and Description of
Development

**Please note that all suspensive conditions must be discharged prior to
commencement of development**

Date works are to Commence	
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Name, Address and contact details of developer

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**The Full name and Address and contact details of the landowner, if a different
person**

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Where an agent is appointed, their full name and contact details

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Signed

Name (Print)

Date

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Please complete and return this form to:

**The Moray Council, Development Management Manager, Council Offices, High
Street, Elgin, Moray IV30 6UG**

OR

E-mail: development.control@moray.gov.uk



THE MORAY COUNCIL

NOTIFICATION OF COMPLETION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Application Number

Date Decision Issued
Location and Description of
Development

Date of completion of works	
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Name, Address and contact details of developer

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The Full name and Address and contact details of the landowner, if a different person

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Where an agent is appointed, their full name and contact details

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Signed

Name (Print)

Date

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Please complete and return this form to:

The Moray Council, Development Management Manager, Council Offices, High Street, Elgin, Moray IV30 6UG

E-mail: development.control@moray.gov.uk