

ENVIRONMENTAL SERVICES

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Our reference: LR/LRB229

Your reference: LR229

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

22 August 2019

Dear Madam

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

**REQUEST FOR REVIEW: PLANNING APPLICATION 19/00295/PPP ERECT DWELLINGHOUSE ON
PLOT 2 SITE TO REAR OF THE OLD STATION HOUSE BUCKIE**

I refer to your letter dated 7 August 2019.

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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Planning Application Reference 19/00295/PPP Erect dwellinghouse on Plot 2 Site To Rear Of The Old Station House Buckie

Response from Transportation, Moray Council

1. This document is in response to the Notice of Review and the Statement of Case submitted by Mr Alfie Morrison and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 19/00295/PPP to erect a dwelling at Plot 2 Site To Rear Of The Old Station House Buckie on a site served by existing substandard accesses onto the A98 Fochabers – Cullen Road (private track serving Rathven Station with two access points approximately 280 metres apart).
3. Transportation received the consultation for planning application 19/00295/PPP on 26th March 2019. A copy of the consultation response dated 5th April 2019 is attached (TMC01).
4. The Moray Local Review Body (MLRB) is advised that previous planning applications for a house on this plot were submitted in 2008 (08/01235/FUL) and 2014 (14/00174/APP). The 2008 application was subject to an objection from Transportation on road safety grounds and ultimately the application was refused by Moray Council. However, the decision was overturned at appeal by the Scottish Government (Appeal Reference P/PPA/300/318), with a decision noticed dated 18th February 2009.
5. In regards to Transportation issues, the Reporter noted in the Appeal Decision Notice that “the A98 at this point carries no special speed limit but visibility is good in each direction”. Transportation does not agree with this assessment and instead considers that visibility is restricted at the accesses onto the A98 and they are not conducive to supporting an intensification of use. The Reporter also noted that allowing the site affords an opportunity to provide a service layby to the frontage of the site. Given this layby would be on a short section of private track, Transportation are of the view that this would only provide a benefit to this application site (i.e. for servicing and deliveries) and would not help to address the wider road safety concerns at this location.
6. The 2008 permission subsequently expired and in 2014 the application was resubmitted under reference 14/00174/APP at which time an objection was provided from Transportation on road safety grounds as before. However, as this application was seen as a renewal of the 2008 permission (granted by Scottish Government) the application was ultimately granted permission by Moray Council despite the continued objection from Transportation.
7. All previous permissions at this site have now lapsed and it has been confirmed by Moray Council Planning that the 2018 application is to be considered as a new application and assessed against current policies and guidance. The 2008 and 2014 decisions are therefore not considered to be material in the assessment of this application. It is important to note that at all times Transportation have sustained an objection to this proposal, and other applications utilising these accesses.

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8. The A98 is part of the strategic road network in Moray, providing an important link along the coast of Moray into North Aberdeenshire. It is a key route for the movement of goods both within Moray and to locations beyond. The eastern of the two accesses serving the site is only 85 metres from the A98/U65L March Road junction, which provided access to the eastern industrial areas of Buckie and is the main route to Buckie Harbour for commercial vehicles.
9. The proposed accesses onto the A98 which would serve the appeal site are narrow and at an acute angle to the public road A98. Turning onto the A98 at either access can be difficult depending on the direction of travel. The accesses currently serve approximately 6 dwellings. The existence of these accesses in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs, but the intensification of that interference which this proposal would engender would be detrimental to road safety
10. Transportation's consideration of the site noted that whilst the accesses onto the A98 are on a straight section of road, the visibility from both accesses is restricted due to a number of factors including vegetation, road infrastructure, parking activity and due to the substandard alignment of the accesses themselves. Photographs showing visibility from the accesses, taken during Transportation's site visit on the 29th March 2019 are attached (TMC02).
11. Visibility splays for private accesses onto the public road are required to ensure that there is adequate inter-visibility between vehicles onto the public road and a vehicle at the private access onto the private road.
12. 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 a. the design speed of the main road and a corresponding "stopping sight distance" or b. in some circumstances may be based on "85th percentile vehicle speeds".
13. The visibility splays that would be required to be provided are 4.5m (x distance) by 215m (y distance) in both directions, to be kept clear of obstruction exceeding 0.26m in height measured from the level of the carriageway. The Supporting Statement submitted as part of the planning application states that the westernmost access would be used to serve this development site however this cannot be enforced. In consideration of the spacing of the two accesses and the likelihood that both would be utilised dependent on the direction of travel, Transportation would require this splay to be provided at both accesses. A drawing was submitted detailing the splay for the Western access however this was insufficient to demonstrate achievability. A drawing detailing the splay for the Eastern access has not been submitted as part of the application nor as further submission to the Local Review Body.
14. The required visibility splays are restricted by vegetation, including a mature beech hedge to the West and trees and hedges between the two access points. Part of this vegetation lies out with the road verge. At the Western access there is also a fence line within the sightline. During the course of the application insufficient evidence was

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presented to demonstrate control over these obstructions. No further evidence of control of the land required for formation of the splays has been submitted to the Local Review Body.

15. Sightlines from both accesses are further obstructed by vehicles when parked in the layby to the Northern side of the A98 located between the two accesses. This lay-by is well utilized and the only layby on the Northern side of the A98 between Fochabers and Cullen. In addition, road infrastructure (signage) obstructs visibility at the Eastern access. Transportation can confirm that a proposal to modify or relocate the road signage would not be supported. These are matters that cannot be resolved by the applicant and as such the required visibility splays cannot realistically be provided.
16. The alignment of the accesses themselves also compounds the visibility and road safety issue due to the way in which drivers have to position themselves to turn onto the public road. To support any intensification of use both access points would need to be realigned to provide formal, perpendicular junctions of the A98. Such modifications may require third party land. This matter has not been addressed either via the application process or via further submission to the Local Review Body.
17. A detailed description of the relevance and consideration of visibility splays is attached (TMC03) which is an extract from The Moray Council document Transportation Guidelines for Small Developments in the Countryside, approved at the Economic Development and Infrastructure Services Committee on 8th March 2016.
18. The proposed development, if permitted, would lead to an intensification of use of two existing accesses with substandard alignment and restricted visibility at a location onto the strategic road network. Furthermore, there is insufficient evidence to indicate the required visibility splays and access improvements could be provided. The proposed development would therefore be detrimental to road safety.
19. 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 Access and IMP1 Developer Requirements are not satisfied.

Transportation
22 August 2019

Documents

TMC01 Transportation Consultation Response dated 5th April 2019
TMC02 Site Photographs
TMC03 Extract on Visibility Splays from Transportation Requirements for Small Developments in the Countryside

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	9th April 2019
Planning Authority Reference	19/00295/PPP
Nature of Proposal (Description)	Erect dwellinghouse on
Site	Plot 2 Site To Rear Of The Old Station House Buckie Moray
Site Postcode	N/A
Site Gazetteer UPRN	000133050821
Proposal Location Easting	344150
Proposal Location Northing	864544
Area of application site (M²)	
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=POEWOYBG0CR00
Previous Application	19/00294/PPP 14/00174/APP 08/01235/FUL
Date of Consultation	26th March 2019
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Alfie Morrison
Applicant Organisation Name	
Applicant Address	1 Edwards Avenue Lossiemouth Moray IV31 6FE
Agent Name	Plans Plus
Agent Organisation Name	Plans Plus
Agent Address	Main Street URQUHART By Elgin Moray IV30 8LG
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Shona Strachan
Case Officer Phone number	01343 563303
Case Officer email address	shona.strachan@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

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.

Data Protection - Moray Council is the data controller for this process. Information collected about you on this form will be used to process your Planning Application, and the Council has a duty to process your information fairly. Information we hold must be accurate, up to date, is kept only for as long as is necessary and is otherwise shared only where we are legally obliged to do so. You have a legal right to obtain details of the information that we hold about you.

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For full Data Protection policy, information and rights please see http://www.moray.gov.uk/moray_standard/page_119859.html

You can contact our Data Protection Officer at info@moray.gov.uk or 01343 562633 for more information.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 19/00295/PPP

Erect dwellinghouse on Plot 2 Site To Rear Of The Old Station House Buckie Moray for Mr Alfie Morrison

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

- | | Please |
|---|--------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | x
x |
| (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"/> |

History of Site

This application represents a renewal of an expired planning permission (reference 14/00174/APP). The history on this site dates back to a 2006 application which was refused by Moray Council at that time (06/02310/FUL). A subsequent application came forward in 2008 (08/01235/FUL) which was again refused by Moray Council however was permitted on appeal by the Scottish Government Reporter (P/PPA/300/318). All three previous planning applications have been subject to an objection from Transportation on road safety grounds. An objection is being raised again at this time, particularly in consideration of Moray Local Development Plan 2015 policies.

Preamble

The proposed development would intensify the use of existing accesses on a stretch of the A98 Fochabers-Culllen Road which carries significant traffic movements, usually at speed. The accesses are narrow and at an acute angle to the public road. Turning onto the A98 can be difficult depending on the direction of travel.

The existence of these accesses in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs, but the intensification of that interference which this proposal would engender would be detrimental to road safety.

The submitted layout plan details a visibility splay from the Westernmost access of 4.5m by 215m in both directions. However, the 4.5m (x distance) is not drawn correctly and

does not accurately reflect the position of a vehicle given the acute angle of the access. In addition the splay would be required to be clear of obstruction greater than 0.26m rather than 0.6m as proposed. The supporting letter states that the Westernmost access would be used to serve this development site however sole use of this access cannot be enforced. Given the spacing between the two accesses Transportation consider both would be utilised frequently, influenced by the direction of travel. Therefore, a visibility splay of 4.5m by 215m in both directions, clear of obstructions measuring 0.26m above the level of the carriageway, would also be required to be provided at the Easternmost access point.

Visibility is restricted by vegetation, fence lines, and road infrastructure. At the Westernmost access visibility is restricted to the West by a hedge and a boundary fence – the position of the boundary fence and the ability of the applicant to modify this has not been accurately represented on the submitted Site Layout Drawing. At the Easternmost access visibility is restricted by road infrastructure (signage), even at a reduced x distance of 2.4m.

There is also a parking layby on the A98 to the South of the road serving these plots which further restricts visibility when vehicles are present.

The alignment of the accesses themselves also compounds the visibility and road safety issue due to the way in which drivers have to position themselves to turn onto the public road. To support any intensification of use both access points would need to be realigned to provide formal, perpendicular junctions of the A98. Such modifications may require third party land.

As far as can be determined from the submitted plans, the Applicant does not appear to control sufficient land to provide adequate visibility and improvements at the accesses onto the A98. The proposed development would therefore be detrimental to road safety.

Reason(s) for objection

The proposed development, if permitted, would involve the intensification of use of two existing vehicular accesses onto the A98 Fochabers – Cullen road which suffer from sub-standard road alignment and where visibility is restricted adjacent trees/ hedges/ obstructions and would likely give rise to conditions detrimental to the road safety of road users contrary to Moray Local Plan policies T2 Provision of Access and IMP1 Development Requirements.

Contact:LL
email address:transport.develop@moray.gov.uk
Consultee: Transportation

Date 05.04.19

Return response to	consultation.planning@moray.gov.uk
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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://publicaccess.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.

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TMC02 Site Photographs



4.5m visibility splay to west from western access



4.5m visibility splay to east from western access

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TMC02 Site Photographs



4.5m visibility splay to west from eastern access



4.5m visibility splay to east from eastern access

5.6 Visibility Splays

- 5.6.1 A well-designed access is important for the safety and convenience of all road users - those proceeding on the public road as well as those using the access. Proposals for a new access or the intensification of use of an existing access will normally have a number of requirements to promote safety and avoid excessive delay
- 5.6.2 Transportation will object to proposals likely to prejudice road safety.
- 5.6.3 Transportation will also raise an objection to the creation of an access and/or visibility splays, unless the applicant is able to demonstrate control or the reasonable prospect of acquiring control of any land likely to be the subject of a condition relating to the provision of any such access and/or visibility splays.
- 5.6.4 Good visibility is essential to enable drivers emerging from the minor road (Private Access/Development Access) to see and be seen by drivers proceeding along the priority road (Public Road)

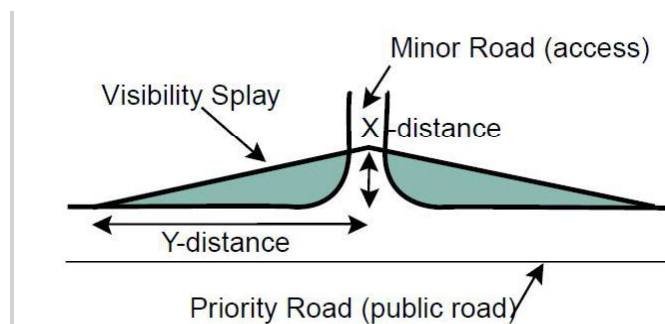


Figure 3: Visibility Splays

- 5.6.5 The x-distance is measured along the centre-line of the minor road from the edge of the running carriageway of the priority road. The y-distance is measured along the near edge of the running carriageway of the priority road from the centre-line of the minor road. Where the access is on the outside of a bend, an additional area will be necessary to provide splays which are tangential to the road edge

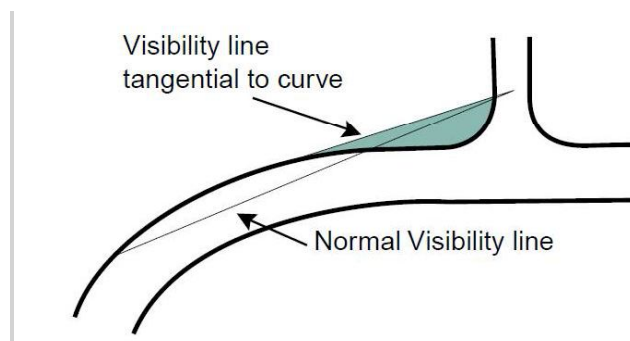


Figure 4: Visibility Splays for Access on Outside of Bend

- 5.6.6 In the case of a new access, x- and y- distances must be adjusted as necessary to allow for any planned road improvements.
- 5.6.7 Forward visibility as shown in Figure 5 is also required to provide inter-visibility between vehicles using the minor road and those proceeding along the priority road. In particular, a vehicle waiting on the priority road to turn right into the access must be able to see oncoming traffic and be seen by following traffic. Forward visibility depends on the same factors as y-distance.

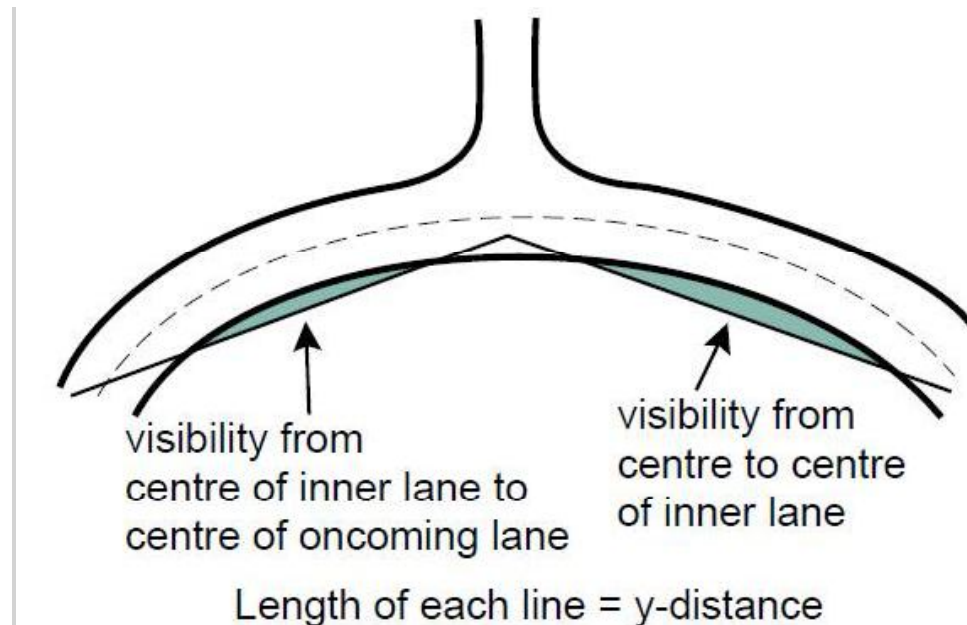


Figure 5: Forward Visibility Requirements

- 5.6.8 The size of the visibility splay depends on the speed limit or observed vehicle speeds on the public road. It is necessary to consider the driver's line of vision, in both the horizontal and vertical planes, and the stopping distance of the vehicle. Where the applicant does not provide observed vehicle speed data, the speed limit will normally be used.
- 5.6.9 The distance along the public road, Y distance, is the distance the driver needs to see along the road edge (see table below). This is measured from the centre line of the access to the location on the road of the approaching vehicle, which varies depending on the speed of approaching traffic. The faster the approaching vehicles, the longer the distance required to see and be seen.
- 5.6.10 The distance back from the public road, X distance, is shown in the table below. The distance varies according to the number of dwellings. The distance is taken from the edge of the carriageway back along the centre line of the private access.

5.6.11 The visibility splay must be assessed between minimum driver's eye line 1.05 metres above the road up to a height 2m above the road and to objective points at the end of the Y distance normally between 0.6m and 2m above the carriageway surface. The assessment must consider obstructions to visibility within the visibility splay including the horizontal and vertical topography in between i.e. hidden dips and crests along the road and any large utilities or other infrastructure already in the area between these points.

5.6.12 For situations with more complex circumstances, such as vertical and horizontal alignment issues, a detailed topographical survey may be requested to ensure the vertical and horizontal zones can be clearly ascertained and any necessary modifications identified.

5.6.13 The following table shows the Y and X values based on speed limit values.

Speed Limit	30	40	50	60
Y Distance (metres)	90	120	160	215
X Distance (metres)	Single dwelling = 2.4m; > 1 dwelling = 4.5m			

5.6.14 The y values shown are based on the speed limit of the public road. It may be possible to reduce y values if actual traffic speeds are provided. This should be based on survey data gathered over a minimum duration of one week at locations to be agreed with the Moray Council.

5.6.15 The access, lay-by and visibility splay (both those beside the minor road and those required for forward visibility) must be established before building work commences, to ensure a safe access for builders and tradesmen.

5.7 Providing and Maintaining Visibility Splays

5.7.1 When submitting a planning application it is necessary for the applicant to demonstrate that they have, and can maintain control over the visibility splay area. The applicant will have responsibility for the maintenance of unobstructed sight lines over the visibility splay area. If the visibility splay area includes any neighbouring land then the applicant will need to discuss this with the landowner and make arrangements to satisfy the requirement to demonstrate adequate control for the lifetime of the development.

- 5.7.2 Applicants should give careful consideration to the Trees and Development Supplementary Guidance. Applicants should note that there is a presumption against the felling/removal of trees purely to form an access/visibility. For the avoidance of doubt the visibility splay is an essential feature required for achieving the Moray Local Development Plan Policy T2 Provision of Road Access.
<http://www.moray.gov.uk/downloads/file100519.pdf>
- 5.7.3 There may be circumstances when the developer wishes to locate the private access on or near a bend in the road. The outside of a bend is the safest option. The extent of the visibility splay must be clearly identified.
- 5.7.4 If there is no alternative arrangement other than to locate the access on the inside of a bend, the applicant must be fully aware of the extent of the area which will be affected by the visibility requirements which they must demonstrate that they have, and can maintain control over, and which must be kept free of obstructions such as buildings, trees shrubs and long grass or other vegetation. In these circumstances early consultation with Transportation officers is recommended.
- 5.7.5 Once provided, visibility splays must be retained and kept clear. In this regard it will be helpful for trees and shrubs to be planted at least 3m to the rear of the visibility splay to allow for future growth.
- 5.7.6 Any boundary walls/fences must be set back to a position behind the required visibility splays.
- 5.7.7 To reduce the impact of an access on the countryside, its location and design must be carefully considered and existing access, including lanes, should be used where possible.
- 5.7.8 Transportation will not introduce a speed limit or warning signage simply to facilitate a new access.
- 5.7.9 Reductions in visibility standards will not be permitted simply because the applicant does not control the required visibility area or does not have a reasonable prospect of bringing it under his control
- 5.7.10 If a dwelling access is located near a junction, visitors might park their vehicles on the priority road and obstruct junction visibility. To reduce this risk, dwelling accesses should not normally join a priority road within the y-distance of a junction.