
Local Review

LRB Ref 312

Planning Application Reference 25/00361/APP Erect new house at Wagtail Lodge, Whiteinch Small Holdings Forres

Response from Transportation, Moray Council

1. This document is in response to the Notice of Review and the Statement of Case submitted by [REDACTED] and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 25/00361/APP for the erection of new house at Wagtail Lodge, Whiteinch Small Holdings, Forres served by a shared private access track connected to U62E Sea Park Road
3. Transportation received the consultation for planning application 25/00361/APP on 02 April 2025. A copy of Transportations consultation response dated 17th April 2025 is attached (TMC01).
4. Transportation objected to the proposed development on road safety grounds as sufficient evidence has not been provided to demonstrate control of land within the required visibility splays.
5. The Planning Officer for this application has confirmed that the proposal should be considered as a 'new dwelling house development' rather than an annex to the existing holiday home.
6. Therefore, all the Transportation requirements associated with the proposed new house development were evaluated based on the council approved document: *'The Moray Council Transportation Service Requirements for Small Developments in the Countryside'*
7. The access to the proposed development would be via a shared private access track connected to U62E Sea Park Road. U62E Sea Park Road is a single-track road with a 60mph speed limit in the vicinity of the development access. The current private access track serves more than 10 properties along the track.
8. The visibility splays at the access onto the public road are presently constrained due to the presence of boundaries and vegetation, see attached photographs (TMC02).
9. The existing building at the proposed site is currently used as a holiday home. It appears that multiple other properties, which gain access from this shared private access road, also operate as holiday lets. It is therefore likely that, some drivers will be unfamiliar with the access and the U62E Sea Park Road.
10. While the existence and use of this private access road by several properties is a matter of fact, the proposed intensification of its use would be detrimental to road safety.
11. Transportation's consultation response for planning application 22/01140/APP (for the existing house) clearly stated that any further development resulting in increased use of the shared private access would require improvements to the existing visibility splays (TMC03).

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12. The appellant disputes that the proposed new house would intensify use of the access, stating: "The use of the existing, and well-used, access road half a mile from the proposals will not be intensified by the proposals, and the appellant will upgrade the existing access in accordance with Moray Council Standards." However, as this is considered a new dwelling, additional daily trips for employment, education, shopping, and services such as healthcare will increase use of the access onto the public road.
13. The appellant also states they are willing to restrict use of the existing holiday home to family and friends only to avoid increased use of the access. However, such a restriction would be unenforceable and would not meet the tests for planning conditions as set out in Planning Circular 4/1998: The Use of Conditions in Planning Permissions.
14. Visibility splays for private accesses onto the public road are required to ensure that there is adequate inter-visibility between vehicles on the public road and a vehicle at the private access onto the public road.
15. 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 road and a corresponding 'stopping sight distance' or b) in some circumstances may be based on observed '85th percentile vehicle speeds'.
16. The minimum 'x' distance for the visibility splay serving this development (taking into consideration of existing dwellings) is 4.5 metres. Ideally, the 'y' distance should be 215 metres for a 60mph road. However, Transportation considers a minimum 'y' distance of 120 metres acceptable here, based on a 40mph operating speed. Visibility splays are required in both directions at both access points onto the public road.
17. Sections of the visibility splays lie within land out with the public road/public road verge. No evidence was submitted as part of planning application to demonstrate that the appellant has the agreement of the relevant land owner(s) for the clearance of the obstructions/set back fence line and on-going maintenance where the splays cross their land. Furthermore, there has been no evidence submitted as part of the documents for this Local Review.
18. During earlier correspondence regarding planning application 23/02065/APP, consideration was given to whether a reduced visibility splay of 2.4m x 120m could be provided, given the constraints in achieving the standard 4.5m x 120m splay.
19. However, even the reduced visibility splay is currently not available, and its provision would still require clearance of land out with the road boundary which is not controlled by the applicant. The appellant's submission acknowledges their inability to provide the required visibility splay due to the absence of land agreements for the 2.4m x 120m splay.

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Whiteinch Small Holdings Forres**

20. The appellant argues that the area of third-party land required for the visibility splay is minimal. However, the distance to the fence line from the road edge is 1.2m, meaning that approximately half of the required 'x' distance lies within third-party land. This is significant and could obstruct the sightline.
21. The appellant also expresses willingness to upgrade the first 5 metres of the access to Moray Council specifications and maintain the part of the visibility splay within the council verge. However, this does not mitigate the road safety risks posed by the constrained access.
22. The proposed development would lead to an intensification of use of an existing access with restricted visibility. Improvements to sightlines are sought to reduce the risk of accidents. Where these cannot be provided, additional traffic increases the risk. Transportation, respectfully, requests the MLRB to uphold the decision by the appointed officer. In particular on the grounds that Local Development Plan policies DP1 (ii) a, c: Provision of safe entry and exit from the development.

Transportation

12 June 2025

Documents

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| TMC01 | Transportation Consultation Response dated 17 April 2025 |
| TMC02 | Site Photograph 08 December 2023 |
| TMC03 | Transportation Consultation Response dated 29 September 2022 |

Consultation Request Notification

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|--|---|
| Planning Authority Name | Moray Council |
| Response Date | 16th April 2025 |
| Planning Authority Reference | 25/00361/APP |
| Nature of Proposal (Description) | Erection of new house at |
| Site | Wagtail Lodge Whiteinch Small Holdings Forres Moray IV36 3TS |
| Site Postcode | N/A |
| Site Gazetteer UPRN | 000133073953 |
| Proposal Location Easting | 305542 |
| Proposal Location Northing | 860823 |
| Area of application site (M²) | 4286 |
| Additional Comment | |
| Development Hierarchy Level | LOCAL |
| Supporting Documentation URL | https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=STTNJRBGGA500 |
| Previous Application | 21/00606/APP |
| Date of Consultation | 2nd April 2025 |
| Is this a re-consultation of an existing application? | No |
| Applicant Name | |
| Applicant Organisation Name | |
| Applicant Address | Wagtail Lodge Whiteinch Small Holdings Kinloss IV36 3TS |
| Agent Name | C M Design |
| Agent Organisation Name | |
| Agent Address | St Brendans 69 South Guildry Street Elgin Moray IV30 1QN |
| Agent Phone Number | |
| Agent Email Address | N/A |
| Case Officer | Emma Mitchell |
| Case Officer Phone number | 01343 563326 |
| Case Officer Mobile number | 07966 120592 |
| Case Officer email address | emma.mitchell@moray.gov.uk |

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|-----------------------|------------------------------------|
| PA Response To | consultation.planning@moray.gov.uk |
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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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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: 25/00361/APP

Erection of new house at Wagtail Lodge Whiteinch Small Holdings Forres Moray for Mr & Mrs G Forbes

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 |
| (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"/> |

Preamble

This proposal is for the erection of a new dwelling linked to existing holiday home which is to be served by a shared private access track connected to U62E Sea Park Road. The current private access track serves more than 10 properties along the track. The Planning Officer for this application has confirmed that the proposal should be considered as a 'new dwelling house development' rather than an annex to the existing holiday home. The proposed new dwelling would result in the intensification of the use of the existing access onto the public road. Transportation objected to a previous proposal for a new dwelling at this location (24/01254/APP) because there was insufficient information to confirm the control of land within the required visibility splay.

The visibility splays at the access onto the public road are presently constrained due to the presence of boundaries and vegetation. A visibility splay 4.5 m x 120m would be required in both directions at the track access onto the U62E Sea Park Road clear of any obstructions greater than 0.6m in height measured from the level of the carriageway, with all boundaries set back to a position behind the required visibility splays. The visibility splays appear to pass across land not under the control of the applicant. Evidence of control is therefore sought, through ownership or provision of third-party agreement, to demonstrate that the required visibility can be provided and maintained thereafter.

The existing building at the proposed site is currently used as a holiday home. It appears that multiple other properties, which gain access from this shared private access road, also operate as holiday homes. Consequently, there is a high probability that some road users utilising the existing entry/exit point onto the public road have limited awareness of the area and the constrained nature of the access arrangement.

Consideration has been given to whether a reduced visibility splay of 2.4 m x 120m could be provided. However, this is currently not available, and the provision of the reduced splay would still require clearance of land out with the road boundary which is not controlled by the applicant.

The supporting Statement submitted with the current application states the applicant's inability to provide required visibility splay in the absence of required land agreements to provide and maintain the 2.4 x 120m required visibility splay.

Based on the submitted details to date, transportation considers the current proposals to be contrary to the Moray Local Development Plan (2020) Policies and Supplementary Guidance.

Reason(s) for objection

Insufficient evidence has been provided to demonstrate that the proposed development satisfies the following Local Development Plan policies:

DP1 Development Principles

(ii) Transportation

a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.

c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

Contact: PHN

Date: 17.04.2025

email address: transport.develop@moray.gov.uk

Consultee: TRANSPORTATION

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| 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.

TMC02 - Photographs from Site Visits



Drivers eye view to west for exiting vehicle



Drivers eye view to east for exiting vehicle

TMC02 - Photographs from Site Visits



View into site access – note evidence of loose material/ water ponding



View from east to west

Consultation Request Notification

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| Planning Authority Name | Moray Council |
| Response Date | 4th October 2022 |
| Planning Authority Reference | 22/01140/APP |
| Nature of Proposal (Description) | Reduce size of site approved under ref 21/01505/APP to erect dwellinghouse on |
| Site | Site At Copperfield Whiteinch Kinloss Moray |
| Site Postcode | N/A |
| Site Gazetteer UPRN | 000133074313 |
| Proposal Location Easting | 305474 |
| Proposal Location Northing | 860789 |
| Area of application site (M²) | 3252 |
| Additional Comment | |
| Development Hierarchy Level | LOCAL |
| Supporting Documentation URL | https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RG2U1GBGHLB00 |
| Previous Application | 21/01505/APP 21/01332/APP |
| Date of Consultation | 20th September 2022 |
| Is this a re-consultation of an existing application? | No |
| Applicant Name | |
| Applicant Organisation Name | |
| Applicant Address | Wagtail Lodge Whiteinch Small Holdings Forres Moray IV36 3TS |
| Agent Name | C M Design |
| Agent Organisation Name | |
| Agent Address | St Brendans 69 South Guildry Street Elgin Moray IV30 1QN |
| Agent Phone Number | |
| Agent Email Address | N/A |
| Case Officer | Emma Mitchell |
| Case Officer Phone number | 01343 563326 |
| Case Officer email address | emma.mitchell@moray.gov.uk |

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| PA Response To | consultation.planning@moray.gov.uk |
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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: 22/01140/APP

Reduce size of site approved under ref 21/01505/APP to erect dwellinghouse on Site At Copperfield Whiteinch Kinloss Moray for Mr Graham Forbes

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

Please

- | | | |
|-----|---|-------------------------------------|
| (a) | I OBJECT to the application for the reason(s) as stated below | <input type="checkbox"/> |
| (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 checked="" type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Note: this site was subject to previous planning permission in principle (19/00681/PPP). The previous conditions were re-applied for the more recent consent (21/01505/APP), and as this proposal is simply to reduce the overall plot site the original conditions shall once again be re-iterated. However it should be highlighted that any further development which results in the intensification of the use of the existing (shared) private access onto the public road shall require improvements to the existing visibility splays (setting back fences) along with additional surfacing works.

Condition(s)

1. No development works shall commence on the dwelling house until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where a future Electric Vehicle (EV) charging unit is to be connected to an appropriate electricity supply, including details (written proposals and plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the first occupation of the dwelling house.

Reason: In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport, through the provision of details currently lacking

2. Two car parking spaces shall be provided within the site prior to the first occupation of the dwelling house. 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.

Further comment(s) to be passed to applicant

The provision of Electric Vehicle (EV) chargers and/or associated infrastructure shall be provided in accordance with Moray Council guidelines. Cabling between charging units and parking spaces must not cross or obstruct the public road including footways. Infrastructure provided to enable EV charging must be retained for this purpose for the lifetime of the development unless otherwise agreed in writing by the Planning Authority. Guidance on Electric Vehicle (EV) Charging requirements can be found at: <http://www.moray.gov.uk/downloads/file134860.pdf>

Planning consent does not carry with it the right to carry out works within the public road boundary.

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.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

Contact: AG
email address: transport.develop@moray.gov.uk
Consultee: TRANSPORTATION

Date 29 September 2022

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| Return response to | consultation.planning@moray.gov.uk |
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