



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR312
 - Application for review by Mr and Mrs G Forbes c/o Craig Mackay, CM Design against the decision of an Appointed Officer of Moray Council
 - Planning Application 25/00361/APP for the erection of new house at Wagtail Lodge Whiteinch Small Holdings Forres Moray
 - Unaccompanied site inspection carried out by the MLRB on 13 August 2025
 - Date of decision notice: [Date of issue]
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Decision

The MLRB agreed to uphold the request for review and grant planning permission/planning permission in principle, 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 14 August 2025.
- 1.3 The MLRB was attended by Councillors Macrae (Chair), Dunbar (Depute Chair), Cameron, Harris, McBain, van der Horn, Warren and William.

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 planning permission on the grounds that:

The development is contrary to National Planning Framework (NPF) Policies 13 (Sustainable Transport) and 17 (Rural Homes) and the Moray Local Development Plan 2020 (MLDP) Policies DP1 (Development Principles) and DP4 (Rural Housing) for the following reasons: -

The development would result in an intensification of use of the access junction onto the public road (U62E Sea Park Road), where there is presently restricted visibility and which would be likely to give rise to conditions detrimental to the road safety of road users contrary to NPF Policy 13 (b. vi) and MLDP DP1 (ii a and c). The proposed introduction of a further house in this location alongside existing housing is considered to constitute an unacceptable cumulative build-up of housing which will negatively impact the landscape character of this area of open countryside contrary to the siting requirements of policies NPF 17 and MLDP DP4.

- 2.2 The Summary of Information report set out the reasons for refusal, including the documents considered or prepared by the Appointed Officer regarding the planning application. It also included the Notice of Review, Grounds for Review and supporting documents submitted by the applicant. There were further representations received from interested parties and these and the applicant's response were also included in the report.
- 2.3 In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, both the Planning and Legal Advisers advised that they had nothing to raise at this time.
- 2.4 The Chair then asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.
- 2.5 Councillor McBain, having visited the site and considered the case in detail moved that the appeal be upheld and planning permission granted in respect of Planning Application 25/00361/APP as, in his opinion, the proposal complies with the policies on which the Appointed Officer refused it due to the following reasons:
 - NPF Policy 13 (Sustainable Transport) – this policy refers more to housing developments rather than single dwellings;
 - NPF Policy 17 (Rural Homes) – the proposal is for a house on land which family have owned and on since the 1930s. There is currently an existing holiday home used for family coming back to the area visit. The proposal is to facilitate the family coming back to live on their land;
 - MLDP DP1 (Development Principles) – the proposal is of a suitable scale and design;
 - MLDP DP4 (Rural Housing) – this is a small hamlet and not a rural grouping;
 - U62E Road – the photograph in the agenda pack is 2 years old and, whilst visiting the site, the visibility splay was found to be satisfactory.
- 2.6 Councillor Dunbar seconded this.

- 2.7 Councillor Warren agreed with the original decision of the Appointed Officer and moved, as an amendment, that the MLRB refuse planning permission in respect of Planning Application 25/00361/APP as the reasons for refusal were clearly set out and permitting this development would result in overdevelopment in the countryside and may set a precedent for future planning applications. Councillor Harris seconded this.
- 2.8 The Planning Adviser sought clarification from Councillors McBain and Dunbar as to whether there were any conditions they would like added to the planning consent such as a period for implementation, ensuring the landscaping, biodiversity and drainage is provided as per the plans and that the holiday annexe that is already present is ancillary to the house.
- 2.9 Councillors McBain and Dunbar agreed with these conditions.
- 2.10 On a division there voted:
- For the Motion (4): Councillors McBain, Dunbar, Macrae and Williams
- For the Amendment (4): Councillors Warren, Harris, Cameron and van der Horn
- Abstentions (0): Nil
- 2.11 There being an equality of votes and in terms of Standing Order 63 (e) the Chair cast his casting vote in favour of the Motion.
- 2.12 Accordingly, the Motion became the finding of the meeting and the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 25/00361/APP subject to conditions in relation to a period for implementation, ensuring the landscaping, biodiversity and drainage is provided as per the plans and that the holiday annexe that is already present is ancillary to the house.

Mr Sean Hoath
Senior Solicitor
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)

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. The existing holiday home unit, Wagtail Lodge, shall be ancillary to the main use of the house hereby approved and shall not be used as a separate residential unit/holiday accommodation. The house hereby approved shall not be occupied until the glazed link between it and Wagtail Lodge has been provided in full accordance with the approved plans. Thereafter the glazed link shall be retained in accordance with the approved plans unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure the adjacent existing holiday accommodation remains ancillary to the use of the house hereby approved.

3. Prior to any development commencing, a detailed scheme of landscaping, based on the details shown in approved drawing number 230085.FORBES.04PP E shall be submitted to and approved in writing by the Council, as Planning Authority. This shall show the proposed tree planting species, location and maturity at planting, as well as provide tree protection measures for those trees on and adjacent to the site. Thereafter:

- the tree protection measures shall be provided prior to works commencing on site and retained until completion of works at the site, unless otherwise agreed in writing with the Council, as Planning Authority; and
- the tree planting shall be undertaken in the first planting season following completion or first occupation of the house (whichever is the soonest) in accordance with the approved details.

Reason: To ensure suitable protection measures for existing trees on and adjacent to the site, and to ensure appropriate tree planting in the interests of the character of the development and the wider area, and to ensure sufficient biodiversity enhancement.

4. That all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out in the first planting and seeding seasons following the occupation of the house or the completion of the building works, whichever is the sooner. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning

Authority) gives written consent to any variation of this planning condition.

Reason: In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

4. All drainage shall be provided in full accordance with the approved plans and Drainage Statement prior to the first use or occupation of the house (whichever is the soonest).

Reason: To ensure timeous provision of drainage measures.

5. Two car parking spaces shall be provided within the site prior to the first occupation of the replacement 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.

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

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

THE DEVELOPMENT MANAGEMENT & BUILDING STANDARDS MANAGER has commented that:-

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
230085.FORBES.03PP E		Elevations, Floor Plans, Section, Site and Location Plan
230085.FORBES.04PP E		Site and Location Plan
230085.FORBES.05PP E		Visibility Splays

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