



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 006
- Site address: Site at Thornton Croft, Davoch of Grange, Keith.
- Application for review by Mr Thorald Munro against the decision by an Appointed Officer of Moray Council.
- Application 09/00955/OUT : Planning permission in principle for the erection of a house and garage.
- Unaccompanied site inspection carried out by the MLRB on Friday 14 May 2010.

Date of Decision Notice: 7 June 2010

Decision

The MLRB reverses the decision of the Appointed Officer and grants 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.

This permission does not carry with it any necessary consent or approval to the proposed development under the Building (Scotland) Act 1959 as amended or other enactments.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission in principle was considered by the MLRB at meetings on 22 April and 19 May 2010. The Review Body was attended at both meetings by Councillors P Paul (Chair), B Jarvis and J MacKay.

2.0 Proposal

- 2.1 This is an application for planning permission in principle for the erection of a house and garage on a site at Thornton Croft, Davoch of Grange, Keith.

3.0 MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 22 April 2010 it was agreed that there was insufficient information in order to proceed to determine the request for review and it was agreed that an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of policy 1(e) of the Moray Structure Plan 2007, and Policies H8 and IMP1 of the Moray Local Plan 2008. The Planning Adviser to be in attendance.
- 3.2 The unaccompanied site inspection was carried out on Friday 14 May 2010. The MLRB viewed the site from the roadside and the location of other approvals in the immediate locale was noted. The Planning Adviser to the MLRB summarised the reasons for refusal, which related to build up and character, and the grounds for seeking a review, including the reference to other groupings of houses characteristic in the area. During the site inspection clarification was sought as to the number of properties within the groupings referred to in the grounds for review and the Planning Adviser undertook to produce this information for the meeting of the MLRB on 19 May 2010. A note setting out the numbers within each of the groupings referred to was handed out at the meeting of the MLRB on 19 May 2010 and it was noted that a copy had been circulated, prior to the meeting, to the applicant and interested parties. The Planning Adviser also confirmed that he was not required to give any substantive planning advice on the site inspection.
- 3.3 At the meeting of the MLRB on 19 May 2010 it was agreed that, having visited the site, it now had sufficient information in order to proceed to determine the request for review and proceeded to consider the terms of refusal and grounds for review.
- 3.4 Councillor Jarvis was of the view that the proposed development would represent an unacceptable build up and for that reason the decision of the Appointed Officer to refuse the application should be upheld.
- 3.5 Councillor MacKay was of the view that each application required to be considered on its merits and was of the opinion that another house would not create an unacceptable build-up to the existing grouping of buildings and new house plots and would not detrimental to the rural character of the area. Councillor Paul was of the same opinion.
- 3.6 Accordingly MLRB agreed, by a two to one majority, that the request for review be granted and that the application for planning permission in principle be approved as complying with policy, subject to the attached conditions and informatives which include a specific condition that the height of the proposed dwelling does not exceed one and a half storeys in height and conditions and informatives recommended by consultees.

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R D Burns
Clerk to the MLRB

CONDITIONS

1. (a) That in the case of any matter specified in conditions attached to the planning permission in principle, application for approval must be made before:-
 - (i) that expiration of 3 years from the date of the grant of planning permission in principle; or
 - (ii) the expiration of 6 months from the date on which an earlier application for such approval for the same matters was refused; or
 - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed; whichever is the latest: provided that only one such application for approval of matters specified in conditions may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (i) above.
- (b) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
 - (i) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (ii) the expiration of 2 years from the final approval of the matters specified in conditions or in the case of approval on different dates the final approval of the last such matter to be approved.
2. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions, including the siting, design and external appearance of the building(s) the means of access thereto and the landscaping of the site shall be obtained from the Council, as Planning Authority.
3. The grant of planning permission hereby granted for the proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the matters specified in conditions numbered 4-7 below.
4. Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition 3 above.
5. The proposed layout of the site showing the exact position of the site boundaries, the position of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with condition 3 above.
6. Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition 3 above.
7. Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition 3 above.
8. The dwelling shall be single or one and a half storey construction.

9. The design and materials of the dwellinghouse and landscaping proposals shall comply with the following requirements:-
 - (a) A roof pitch of between 40-55 degrees;
 - (b) A gable width of no more than 2.5 times the height of the wall from ground to eaves level;
 - (c) Uniform external finishes and materials including slate or dark "slate effect" roof tiles;
 - (d) A vertical emphasis and uniformity to all windows;
 - (e) Proposals must be accompanied by a plan showing 25% of the plot area to be planted with native species trees, at least 1.5m in height;
 - (f) Where there is an established character, or style, of boundary demarcation in the locality (e.g. beech hedges, dry stone dykes) new boundaries must be sympathetic.
10. The roof of the dwelling hereby approved shall be finished in natural slate or a good quality artificial slate to be agreed in writing by the Council (as Planning Authority) prior to the commencement development.
11. No boundary fences, hedges, walls or any obstruction whatsoever over 1.0 m in height and fronting onto the public road shall be within 2.4 m of the edge of the carriageway.
12. The width of vehicular access shall be 2.4m – 3.0m and have a maximum gradient of 1:20 measured for the first 5.0 m from the edge of the public carriageway. Section of access over the public footpath/verge shall be to The Moray Council specification and surfaced in bitmac.
13. No water shall be permitted to drain or loose material to be carried onto the public footpath/carriageway.
14. A parking layby 8.0 m long x 2.5 m wide with 30 degrees splayed ends shall be provided at the edge of the public road to allow visiting and service vehicles to park clear of the public road. The vehicular access(es) should lead off the layby(s). Layby to be to The Moray Council specification and be surfaced in bitmac.
15. Two private car parking spaces for up to a 3 bedroomed dwelling and three private car parking spaces for a 4 or more bedroomed dwelling shall be provided.
16. Any existing ditch/waterway under site access to be piped using a suitable diameter of pipe. The pipe shall be laid to self cleansing gradient. Pipe diameter to be agreed with the Roads Authority and have a minimum diameter of 300mm
17. A visibility splay of 2.4 metres x 70 metres clear of obstructions above 1.0m in height shall be provided at the access and maintained at the access in both directions.
18. The first 10m of the access track, measured from the edge of the public road shall be surfaced to the Moray Council specification.
19. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service on behalf of the planning authority, during any ground-breaking work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of Reference for the watching brief will be supplied by the Aberdeenshire Council Archaeology Service.

20. The name of the archaeological organisation retained by the developer shall be given to the planning authority and to the Aberdeenshire Council Archaeology Service in writing not less than 14 days before development commences.

REASONS

1. The time limit condition is imposed in order to comply with the requirements of Section 59 of the town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006.
2. In order to ensure that the matters specified can be fully considered prior to the commencement of development.
3. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
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6. As the approval is granted for planning permission in principle only and in order that consideration can be given to the matters specified.
7. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
8. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
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11. In the interests of road safety
12. In the interests of road safety
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14. In the interests of road safety
15. In the interests of road safety
16. In the interests of road safety
17. In the interests of road safety
18. In the interests of road safety
19. To record items of archaeological interest or finds
20. To record items of archaeological interest or finds

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

THE TRANSPORTATION MANAGER, DIRECT SERVICES, ACADEMY STREET, ELGIN has commented that:-

No building materials/scaffolding/builder's skip shall obstruct the public road (includes footpaths) without permission from this Department.

The applicant shall be responsible for ensuring that water does not run from the public road into his property.

The applicant shall ensure that their operations do not adversely affect any Public Utilities which should be contacted prior to commencement of operations.

The applicant shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

The Transportation Manager must always be contacted before any works commence. This includes any temporary access which should be agreed with the Transportation Manager prior to work on it commencing.

THE CONTAMINATED LAND SECTION OF THE MORAY COUNCIL ENVIRONMENTAL SERVICES DEPARTMENT, HIGH STREET, ELGIN has commented that:-

Your property has been identified as being in the vicinity of the following potential source of contamination:

➤ Ironworks adjacent to the north as indicated on map group A, B.

In addition, due to the past agricultural use of the site, there is always a potential for contamination to have arisen from, for example, farm tips, chemical storage or animal burial sites.

Map Group A 1868 - 1897 Ordnance Survey Maps

Map Group B 1898 - 1906 Ordnance Survey Maps

Map Group C 1930 - 1938 Ordnance Survey Maps

Map Group D 1959 - 1971 Ordnance Survey Maps

Map Group E 1969 - 1992 Ordnance Survey Maps

Map Group F Present Day Ordnance Survey Maps

The Moray Council does not have information to confirm whether or not the ground has been contaminated, however it is recommended that you investigate this matter prior to proceeding with the proposed works. Should contamination be identified you should contact the Environmental Health section immediately and carry out agreed remediation works. For advice on researching/investigating a site, please visit the Council's website at www.moray.gov.uk/ContaminatedLand. Alternatively you can contact the Environmental Health Section on 01343 563345 or by email to contaminated.land@moray.gov.uk

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 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 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.