



## MORAY COUNCIL LOCAL REVIEW BODY

### Review Decision Notice

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Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 004
- Site address: Roadside Croft, Grange, Keith
- Application for review by Mr John Sim against the decision by an Appointed Officer of Moray Council.
- Application 09/01611/PPP for Planning Permission in Principle for the erection of a new dwellinghouse.
- Unaccompanied site inspection carried out by MLRB on 19 March 2010

Date of Decision Notice: 14 May 2010

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### 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 two meetings on 25 February and 22 April 2010. The Review Body was attended at both meetings by Councillors D Ross (Chair), J Hogg and P Paul.

## **2.0 Proposal**

- 2.1 This is an application for planning permission in principle for a single dwelling served by public water supply and private drainage, septic tank/soakaway and SUDS on a site adjacent to Roadside Croft, Grange, Keith

## **3.0 MLRB Consideration of request for review**

- 3.1 At the meeting of the MLRB on 25 February 2010 it was agreed that that there was insufficient information in order to proceed to determine the request for review.
- 3.2 Consideration was also given to a request from the applicant's agent for his interpretation of updated Scottish Planning Policy (SPP) Guidance to be included as part of the review submission, a copy of which was tabled at the meeting. The MLRB agreed to treat the 2010 SPP as new evidence in terms of section 43B of the Planning etc. (Scotland) Act 2006. As this new information would not have been before the Appointed Officer, prior to the delegated determination of the application, the views of the Appointed Officer, and interested parties were sought, under the 'Written Submissions' procedure in terms of Regulation 15 of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008, on the impact the 2010 SPP might have on the application under review.
- 3.3 It was also agreed to undertake an unaccompanied site inspection, the purpose of which being to view the site in the context of Policy H8, in particular to the natural backdrop, prominence of the site and overall character of the area.
- 3.4 The unaccompanied site inspection was carried out on Friday 19 March 2010. Members of the MLRB viewed the site on approach, existing approvals highlighted in the applicant's submission, the actual site and from various vantage points on the road network to the west.

The MLRB agreed, at the meeting on 22 April 2010 that it now had sufficient information in order to proceed to determine the request for review and agreed that the additional information on the updated SPP be accepted for consideration as 'any other material consideration' in terms of Section 43 (B)(2) of the Planning etc. (Scotland) Act 2006. The MLRB then proceeded to consider the submissions in respect of this additional information with particular reference to the paragraphs on Rural Development.

- 3.2 The MLRB then proceeded to consider the terms of refusal and grounds for review and it was agreed that the key criteria related to compliance or otherwise with Moray Local Plan Policy H8 in regard to prominence, rural character of the surrounding area, precedent and the extent of the backdrop.
- 3.3 Following consideration of the review Councillor Ross expressed the view that, in his opinion, the roadside location of the site was overtly prominent and for that reason the request for review should be refused and the Appointed Officer's decision upheld for that reason.
- 3.4 Councillor Paul was of the opinion, that the site was not overtly prominent, it has sufficient backdrop, the proposed development would not change the character of the surrounding rural area and overall she considered it a suitable site for development. For these reasons Councillor Paul was of the view that the request for review be granted and that the application for planning permission in principle be approved as complying with policy, subject to Moray Council standard planning application conditions and conditions and informatives recommended by consultees. This view was shared by Councillor Hogg.

- 3.5 On a two to one majority the MLRB agreed 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.

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**Rhona Gunn**  
**Legal Adviser 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 4-9 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. Landscaping proposals showing any existing trees/hedges/shrubs to be retained or removed together with details of the type, position and number of all planting to be undertaken and details of all surfacing materials shall be submitted in accordance with condition 3 above.
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. 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.
11. 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.
12. No water shall be permitted to drain onto the public footpath/carriageway.
13. 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.
14. 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.
15. 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.
16. A turning area shall be provided within the curtilage of the site to enable vehicles to enter/exit in a forward gear.

17. A visibility splay of 2.4 metres x 120 metres shall be provided at the access and maintained at the access in both directions.
18. New boundary walls/fences shall be set back from the edge of the public road at a distance of 2.0 metres.

## **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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8. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
9. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
10. In the interests of road safety.
11. In the interests of road safety.
12. In the interests of road safety.
13. In the interests of road safety.
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.

## **ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT**

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

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 developer must contact the Roads Authority Roads Maintenance Manager (East) at Ashgrove Depot, Elgin – Tel (01343) 557300, Ext 7325 to discuss the proposals.

SCOTTISH WATER has commented:-

The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network at the appropriate time. It is important to note that the granting of planning consent does not necessarily guarantee a connection to Scottish Water's assets.

## 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.