



MORAY LOCAL REVIEW BODY

SUMMARY OF INFORMATION FOR CASE No 011

COUNCILLORS B JARVIS (CHAIR) (SUBSTITUTING FOR COUNCILLOR R SHEPHERD) J HOGG (SUBSTITUTING FOR COUNCILLOR D ROSS - WARD MEMBER), & J MACKAY.

1. Ward 4 : FOCHABERS LHANBRYDE

Planning application 09/01618/PPP – Planning permission in principle to erect a house at Upper Thorn, Drybridge, Buckie

2. Planning permission in principle was refused under the Statutory Scheme of Delegation by the Appointed Officer on 26 January 2010 on the grounds that:

The proposal is contrary to policy 1(e) of the Moray Structure Plan 2007 and policies H8, IMP1 and T2 of the adopted Moray Local Plan 2008 for the following reasons:

- (i) *The proposal involves the formation of a house plot on elevated open ground, which rises away from the adjacent highway. It would have no backdrop or natural enclosure. These factors combined would give rise to a situation where any prospective dwelling or associated outbuildings on the site would largely occupy the skyline when viewed from the adjacent highway. On this basis, the proposal would fail to satisfy the siting criteria of the above provisions because it would be located within an open rural setting, which would lack sufficient backdrop to offset its prominence when viewed from the adjoining public road. Any development on the site would therefore represent inappropriate 'overtly prominent' development in the countryside, that would neither be low-impact nor well located and which would detract from the rural character of this part of the countryside.*

- (ii) *The proposed access would require a visibility splay of 2.4m x 120m. At present the applicant has indicated works to clear vegetation from the road verge and his land to provide the visibility splay. However the visibility splay to the north crosses land which is outside the control of the applicant and there is no guarantee that the splay can be provided and maintained for the lifetime of the development. The proposals do not demonstrate control over the required visibility splay at the proposed access junction and does not conform to Local Plan Policy T2. Furthermore any additional traffic using the U63bL Minduff Road, without improvements to this road, is not acceptable.*

3. Case submitted to MLRB on 15 May 2010.
(Members are referred to the Case papers previously circulated for the meeting on 15 May 2010)

Prior to the MLRB considering the request on 15 May 2010 the Planning Adviser referred the meeting to additional information submitted by the applicant, in support of the grounds for review, relating to access visibility and, on the advice of the Legal & Planning Advisers, it was agreed to accept this additional information as 'New Evidence' in terms of Section 43B(1) of the Town & Country Planning (Scotland) Act 1997, as amended, and to seek the views of the Applicant, the Appointed Officer and Interested parties through the 'Written Submissions' procedure set out in Regulation 15 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2008 on:-

- (a) whether they are aware of any facts or circumstances which would preclude the applicant from meeting the statutory test for the consideration of new evidence ie 'new material will only be permitted where the party can demonstrate that it could not have been introduced earlier in the process, or that it arises as a consequence of exceptional circumstances'; and
- (b) the substance of the information.

Following consideration the MLRB agreed that there was insufficient information in order to proceed to determine the request for review and agreed that as well as obtaining the views of the Applicant, the Appointed Officer and Interested parties on the new evidence an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of policies H8, IMP1 and T2 of the Moray Local Plan 2008. The Planning Adviser to be in attendance.

It was also agreed that an overview of the history of all applications determined since to the 2000 Moray Local Plan within a 1 mile radius of Upper Thorn, Drybridge be provided to the LRB prior to the site inspection.

It was noted that this overview was considered planning advice on a matter of fact, part of the planning application history, and could be provided to the LRB and not considered to be further information in terms of Regulation 15 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2008 nor new evidence in terms of Section 43B(1) of the Town & Country Planning (Scotland) Act 1997.

4. Unaccompanied site inspection to be carried out on Monday 28 June 2010.
5. Details of the new evidence referred to at the meeting on 15 May 2010 is contained within the Grounds for Review, see page 15 of the papers submitted to the meeting on 15 May 2010.
6. Copies of the responses received to the new evidence submission sought in terms of Regulation 15 'Written Submissions Procedure' are attached as **Appendix 1**.