

22 September 2010

Our Ref. 0800089/BALLINDALLOCH/mjh
Your Ref. RR/LRB/Case 018

Clerk to the Local Review Board
The Moray Council
High Street
Elgin
Moray

Dear Mr Ritchie:

LOCAL REVIEW BOARD APPEAL – 08/01369/FUL – ERECT REPLACEMENT HOUSE ON TOMNAGLEIN COTTAGE, BALLINDALLOCH FOR THE BALLINDALLOCH ESTATE

I refer to the above LRB appeal and your letter dated 27th August 2010 enclosing the representation from Transportation Scotland.

Initially, I would like to thank you for providing the appellant the opportunity to respond to Transportation Scotland comments and they would wish to highlight the following points:

1. In Section 2.1 of Transport Scotland representation, they refer to the consultation received from the Council on 24th April 2010, where they recommend against this application. However, they fail to even acknowledge the fact that they were consulted by the appointed officer on 25th June 2008 for this application via email and responded to the appointed officer stating that they had no objection to this application on 4th July 2008 (Document CMD007 – enclosed).

It was on the basis of this email that the appellant commissioned nearly £10,000.00 of private water bore hole testing and, as such, we find it astonishing that Transport Scotland makes no reference to this email in their representation.

2. They go on to state in Section 3.5 that the required setback distance for a junction onto a trunk road has to be 4.5 metres as defined in DMRB (TD 41/95). Nevertheless, this document states:

'Normally, an "X" distance of 4.5m shall be provided for a direct access where use in the design year is forecast not to exceed 500 AADT. The choice of set back distance is related to the forecast traffic using the access. For lightly used accesses, for example those serving a single dwelling or a small cul-de-sac of a half a dozen dwellings, the set back "X" may be reduced to 2.4m. The 2.4m set back relates to normally only one vehicle wishing to join the trunk road at one time. The 4.5m covers the situation where two light vehicles may want to accept the same gap in the trunk road traffic. Where in the case of lightly used accesses the site

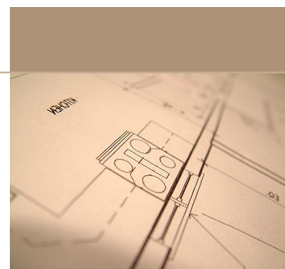
1 - 5 Pinetree House
Pinefield Crescent
Elgin
Moray
Scotland
IV30 6HZ

† 01343 540020
† 01343 540038
w cmdesign.biz
e office@cmdesign.biz

4 Bridge Street
Nairn
Highland
Scotland
IV12 4EJ

† 01667 300230
† 01667 454318
w cmdesign.biz
e office@cmdesign.biz





conditions are particularly difficult, then the set back "X" may be reduced to 2.0m as a Relaxation."

The appellant accepts that ideally a 4.5 metre set back should be provided for new junctions on to a Trunk Road. However, the document that Transport Scotland refers to in their representation (DMRB (TD 41/95) - Document CMD0010) does allow for a reduced set back distance of 2.4metres where the junction will be lightly trafficked, such as where it serves less than 12 houses.

The appellant has undertaken a review of the properties that would utilise this junction and has identified 3 existing properties, namely; 1. Peterfair Cottage, 2. Tomnavounan Farm & 3. Tomfarclas. This number is significantly below the 12 properties cut off point referred to in the DMRB (TD 41/95) even when the proposal is included and, as such, the appellant believes that in this instance the set back distance can easily be accepted to be 2.4metres. To this end, the appellant Statement of Case includes a Visibility Plan of this junction, utilising the 2.4metre set back distance (CMD005). This plan demonstrates that an adequate visibility splay can be provided with a limited amount of remedial works.

It is also worth noting, that this application is proposing the demolition and replacement of an existing house, rather than an entirely new build. Therefore, the appellant would also assert that in practice there is no net increase in the vehicles which historically utilised this junction.

Finally as this is an existing junction and Transport Scotland is raising concerns regarding its safety under Section 83 of the Roads (Scotland) Act 1984, Transport Scotland have a duty to remove obstructions to visibility at any bend, corner or junction on a road. The fact that they have not choose not to exercise these powers should not necessarily prevent minor development in these circumstances. In this instance the biggest obstacle to visibility in the Southey direction is a strip of shrubs wholly within the road verge and the appellant, would be content to remove these should approval be granted.

Based on the above comments and the appellants Statement of Case, they contend that this development is acceptable and is compliant with both Local Planning policies and national policy. Consequently, we would ask that this appeal is duly supported.

Sincerely,

Matthew Hilton

Chartered Planning Consultant
matthew.hilton@cmdesign.biz

1 - 5 Pinetree House
Pinefield Crescent
Elgin
Moray
Scotland
IV30 6HZ

† 01343 540020
† 01343 540038
w cmdesign.biz
e office@cmdesign.biz

4 Bridge Street
Nairn
Highland
Scotland
IV12 4EJ

† 01667 300230
† 01667 454318
w cmdesign.biz
e office@cmdesign.biz

