



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 021
- Site address: The Mill House, Sheriffmill, Elgin
- Application for review by Mr S Masson against the decision by an Appointed Officer of Moray Council.
- Application10/00745/APP: Full planning permission for the erection of a dwellinghouse on a site at the Mill House, Sheriffmill, Elgin
- Unaccompanied site inspection carried out by the MLRB on Friday 12 December 2010.

Date of Decision Notice: 22 December 2010

Decision

The MLRB reverses the decision of the Appointed Officer and grants Full Planning Permission, 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 21 October and 18 November 2010. The Review Body was attended at both meetings by Councillors D Ross (Chair), J Hogg and J MacKay.

2.0 Proposal

2.1 This is an application for full planning permission for the erection of a dwellinghouse on land at Sheriffmill, Elgin. The site lies to the north-west of Mill House, with the River Lossie forming its' south-western boundary. The boundary to the north-east is a post and wire fence with agricultural grazing land beyond. To the south-east the site is bounded by the existing mill house and attendant outbuildings. The site at present contains a good number of mature deciduous trees which are mostly concentrated to the north-western portion where the site narrows, and along the banks of the river. Ground level rises uphill to the north-east away from the river before dropping again, outwith the site, in a gradual slope back down towards the River Lossie to the north.

3.0 MLRB Consideration of request for review

3.1 At the meeting of the MLRB on 21 October 2010 it was agreed that there was insufficient information in order to proceed to determine the request for review and agreed that an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of Policies E4 and ENV6 of the Moray Local Plan 2008 (MLP) and from the roadway running south-west through south-east and the A96. The MLRB also requested that the Planning Adviser to the MLRB be in attendance.

3.2 The unaccompanied site inspection was carried out on Friday 12 December 2010 at which the Planning Adviser confirmed the location of the proposed development site when viewed from several vantage points in the surrounding area. The Planning Adviser also confirmed, from the Handling Report, that the level of the site was to be reduced by approximately 2.7m, the design of the proposed dwellinghouse and height to ridge level. The Planning Adviser further confirmed that the surrounding ground, including the mature trees, was in the ownership of the applicant, the reasons for refusal and the location of the garden centre site referred to in the applicant's submission.

3.3 At the meeting of the MLRB on 18 November 2010 members of the MLRB agreed that they now had sufficient information and proceeded to determine the request for review.

3.4 Prior to considering the request the Chairman, Councillor Ross, enquired as to the reasons for the withdrawal of an application in 2007 and sought clarification in regard to the applicant's statement on page 26 of the papers which assumes that as a list of specific locations are mentioned in Policy ENV6 of the MLP they are the key or core elements of the ENV6 designation and as the proposed application site is not within any of the specified locations policy ENV6 of the MLP is not applicable.

- 3.5 The Planning Adviser advised the meeting that he was unaware of the reasons why the 2007 application was withdrawn and confirmed that the proposed application site was clearly within the ENV6 Designation as detailed in the Elgin proposals map in the MLP which defines the boundaries of designation. The area designated followed the entire Lossie corridor from the Eight Acres to Borough Briggs, Elgin. Morriston Playing Fields was a generic description which covered the whole stretch shown delineated in the plan in that area.
- 3.6 Thereafter the Chairman, Councillor Ross, expressed the view that, having considered all the relevant fact of the case and having visited the site, he was in agreement with the Appointed Officer's reasons for refusal and moved that the request for review be refused.
- 3.7 Councillor Hogg referred to the reasons for refusal and was of the opinion that consideration required to be given as to whether the development, if approved, would lead to the loss of an ENV area or impact upon the amenity value of the site location within an ENV area. He referred the other members of the MLRB to the site plan on page 33 of the papers and the site inspection route to the site which passed The Oaks, engineering premises with extensive workshops and car parking and the brown field site of the proposed garden centre. On viewing the site on approach, as shown on page 35 of the papers, and then on site Councillor Hogg was of the view that the proposed house would be substantially cupped into the bank separating the site from the field to the north and from a large house elevated upwards to the east which could be seen from several of the site inspection vantage points. The site, in his opinion, was well screened from the west by the mature trees and south and east by the banking. Councillor Hogg was also of the opinion that this area of the ENV designation had a substantial brown field element and is not actually open space which will be vastly reduced once the garden centre is built. He also expressed the view that, in his opinion, the site was an integral part of quite a substantial and accepted mix of commercial businesses and houses which are part of the brownfield element that exists in the area. For these reasons Councillor Hogg was of the opinion that approval of the application for a low built single storey house would not lead to the loss of an ENV area nor would it adversely impact in the ENV location and moved that the request for review be granted and that the application for full planning permission be approved as complying with policy. This was seconded by Councillor MacKay.
- 3.8 Accordingly MLRB agreed, on a two to one majority, that the request for review be granted and that the application for full planning permission be approved as complying with policy, subject to standard conditions and conditions and informatives recommended by consultees.

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Rhona Gunn
Legal Adviser to the MLRB

CONDITIONS

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 this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
3. Prior to work commencing on site the applicant shall complete the attached notification of initiation of development and submit it to the local planning authority.
4. Upon completion of the development or as soon as practicable after doing so the attached notification of completion of development shall be completed and submitted to the local planning authority.
5. No land below 20.6m above Ordnance Datum is to be developed, including any land raising or changes to existing ground levels.

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 there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.
3. To ensure that the planning authority is aware that development is about to commence and any suspensive conditions can be followed up.
4. To ensure that the planning authority is aware that the development is complete and is able to follow up any conditions.
5. To reduce the risk of flooding on the site.

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

THE CONTAMINATED LAND SECTION has commented that:-

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

Chemical works (fertiliser manufacture) on site as indicated on map group A, B and D.
Sawmill approximately 8 metres to the west as indicated on map group B and C.

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.

The Moray Council

NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Planning Application Reference No: 10/00745/APP

Date issued:

I hereby give notice that works as detailed under the above planning application will commence on:

Signed: Date:

THE FOLLOWING INFORMATION MUST BE PROVIDED:

1. Name and address of person carrying out the development:

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2. The full name and address of the landowner, if a different person:

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3. Where a site agent is appointed, their full name and contact details:

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4. The date of issue and reference number of the grant of planning permission:

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Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office,
High Street
Elgin IV30 1BX

IMPORTANT

It is important that the Environmental Services Department is advised when you propose to start work as failure to do so may result in enforcement action be taken.

Please complete and return this form.

The Moray Council

NOTIFICATION OF COMPLETION OF DEVELOPMENT

Section 27B Town and Country Planning (Scotland) Act 1997

Planning Application Reference No: 10/00745/APP

Date issued:

I hereby give notice that works as detailed under the above planning application will be completed on:

Signed: Date:

Please return this form, duly completed to: - The Moray Council
Development Management
Development Services
Environmental Services Department
Council Office
High Street
Elgin IV30 1BX

IMPORTANT

It is important that the Environmental Services Department is advised when the development has been completed as failure to do so may result in enforcement action be taken.

Please complete and return this form.