



## 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 018
- Site address: Todholes, Pluscarden, Rafford
- Application for review by Mr & Mrs Wilson Rennie against the decision by an Appointed Officer of Moray Council.
- Application 09/01875/PPP for planning permission in principle for the erection of a new dwellinghouse.
- Unaccompanied site inspection carried out by MLRB on 8 October 2010

Date of Decision Notice: 28 October 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.

#### **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.
- 1.3 The above application for planning permission in principle was considered by the MLRB at two meetings on 22 September and 21 October 2010. The Review Body was attended at both meetings by Councillors D Ross (Chair), B Jarvis and J MacKay.

## **2.0 Proposal**

- 2.1 This is an application for planning permission in principle to erect a new dwellinghouse served by a new access onto the Elgin/Pluscarden Road at The Paddock, Todholes, Pluscarden, Rafford.

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

- 3.1 At the meeting of the MLRB on 22 September 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 Policies H8 and IMP1 of the Moray Local Plan 2008 and that the Planning Adviser be in attendance.
- 3.2 The unaccompanied site inspection was carried out on Friday 8 October 2010 and at the meeting of the MLRB on 21 October 2010 the Planning Adviser advised the meeting that the only advice he was required to give was to confirm, from the Appointed Officer's report of Handling, that the viewpoint from which the site was considered to have a lack of backdrop was when viewed on approach from the west on the public road.
- 3.3 The MLRB agreed that it now had sufficient information in order to proceed to determine the request for review and proceeded to consider the request for review.
- 3.4 Councillor Ross expressed the view that, in his opinion, that there was sufficient backdrop provided with the rising hills to the south and tree coverage to the north and was well screened from the public road and for these reasons moved approval of that the request for review be upheld and the planning application be approved, as complying with policy and planning permission in principle granted. This view was supported by Councillor Jarvis.
- 3.5 Councillor Mackay was of the opinion that whilst there was tree coverage screening the site from the public road there was an absence of an existing backdrop and therefore the request for review should be refused and the original decision of the Appointed Officer to refuse the application be upheld.
- 3.6 Accordingly MLRB agreed, on 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 standard conditions and conditions and informatives recommended by consultees and to include a specific condition restricting the height of the new dwellinghouse to a maximum of one and a half storeys.

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**Roderick D Burns**  
**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 dwelling shall be one or one and a half storey construction.
10. 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.
11. 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.
12. 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.
13. 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.
14. No water shall be permitted to drain, or loose material to be carried onto the public footpath/carriageway.

15. 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.
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 and maintained at the access in both directions, clear of any obstructions above 1.0m in height.
18. New boundary walls/fences shall be set.
19. 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.

## **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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9. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.

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12. In the interests of road safety.
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17. In the interests of road safety.
18. In the interests of road safety.
19. In the interests of road safety.

#### **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.

## 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.