

## 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 064
  - Site address: Wellside House, Easter Buthill, Roseisle, Elgin, Moray
  - Application for review by Ms Charleen Miller against the decision by an Appointed Officer of the Moray Council.
  - Application 11/01889/PPP: Erection of House on Site at Wellside House, Easter Buthill, Roseisle, Elgin, Moray Lossiemouth.
  - Unaccompanied site inspection carried out by the MLRB on 23 October 2012
  - Date of Decision Notice: 5 December 2012
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#### Decision

The MLRB agreed to uphold the request for review and grant planning permission, subject to the conditions appended to this decision notice.

#### 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 case was considered at the meeting of the MLRB on 25 October 2012. The Review Body was attended by Councillors G Leadbitter (Chair), G Coull, L Creswell and J MacKay.

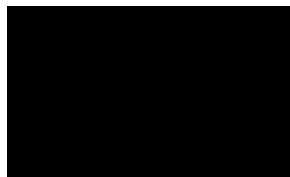
#### 2.0 Proposal

- 2.1 This is an application for planning permission in principle for the erection of a Dwellinghouse on a Site at Wellside House, Easter Buthill, Roseisle, Elgin.

### **3. MLRB Consideration of request for review**

- 3.1 In regard to the unaccompanied site inspection carried out on Tuesday 23 October 2012 the Planning Adviser advised the meeting that on arrival at the site members were shown the site and the extent of the proposal. She advised that in terms of access that safe and suitable access could not be provided. The visibility splay at the access onto the public road B9103 encroached into areas outwith the site which are restricted by vegetation with the garden ground to the south (Achmor) and horizontal alignment of the road to the north. In terms of housing in the countryside the house when added to the existing properties in this immediate vicinity would detrimentally change the character of the countryside and lead to build up of housing outwith a defined settlement or rural community.
- 3.2 The grounds for review dispute the assertion that the development will not achieve safe and suitable access. It was acknowledged within the statement that the junction did not achieve the visibility splay requirement expected of a new road. It went on to state that the road has existed for a considerable period and it stands to reason that it is already substandard and road safety is an issue for existing traffic. Furthermore, the applicant's agent suggested that the transportation section should have removed obstructions to the visibility at this junction, which they have not done and have no plans to do so. They stated that there was no evidence that this junction is dangerous and no record of any accidents. Members' attention was also drawn to the extensive correspondence between the roads section and the applicant on these points.
- 3.3 In relation to the character issues, the applicant has advised that the house is surrounded by 10 existing properties and would not extend the limits of the built developed area and he failed to see how this would change the character of the area.
- 3.4 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.5 Councillor J MacKay expressed the view that having visited the site and having considered the appellant's grounds for review moved that the original decision of the Appointed Officer to refuse the application on the grounds that the application is contrary to policies T2, H8 and IMP1 of the Adopted Moray Local Plan be upheld for the reasons stated in the report.
- 3.6 Councillor Coull expressed the view that having visited the site and having reviewed the Appellant's grounds for review he was of the opinion that as the road was already being used, the splay was quite good and visibility could be achieved in both directions. He further stated that traffic was already slowing down when approaching the junction due to the nature of the road. For these reasons he was of the view that in terms of transport the proposal complied with policy. In terms of policy H8 he was of the view that the proposal would not extend the limit or lead to a build up of the area and for these reasons he moved approval of the appeal as complying with policies T2, H8 and IMP1 of the Adopted Moray Local Plan.
- 3.7 Councillor Creswell having visited the site expressed the view that she found the application quite difficult to envisage what it would look like because of the planning permission in principal. However, she was of the opinion that there would not be a build up of the area and although she had some concerns about traffic approaching from the right hand side, she was of the view that traffic would slow down when approaching the corner and for these reasons she was minded to approve the appeal.

- 3.8 Councillor Leadbitter expressed the view that having visited the site and having viewed the road junction and the site lines he was of the opinion that the junction was not as high as the rest of road and that traffic tended to slow down at this point. In terms of policies H8 and IMP1 he had more difficulty with these, however on balance he was minded to approve the appeal as complying with policy.
- 3.9 Accordingly, the MLRB agreed on a three to one majority that the request for review is upheld and that planning permission be approved as complying with policy subject to standard conditions.



**Paul Nevin**  
**Legal Adviser to the MLRB**

### Conditions

1. 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.
2. The grant of planning permission in principle 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 3 - 7 below.
3. 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 no.2 above.
4. 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 no.2 above (and also take account of the requirements of Conditions 9 – 12 (see below). Drainage arrangements need to be positioned as to not to lead to pollution entering nearby watercourses in accordance with SEPAs approval.
5. 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 no.2 above.
6. Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no. 2 above.
7. 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 no.2 above.
8. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service on behalf of the planning authority, during any groundbreaking and development work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. The Terms of Reference for the watching brief will be supplied by the Aberdeenshire Council Archaeology Service. The name of the archaeological organization retained by the developer shall be given to the planning authority and to the Aberdeenshire Council Archaeology Service in writing not less than 14 days before development commences.
9. Parking provision shall be as follows:  
2 spaces for a dwelling with three bedrooms or less; or  
3 spaces for a dwelling with four bedrooms or more.

The car parking spaces shall be provided within the site prior to the occupation or completion of the dwellinghouse, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

10. Any existing ditch, watercourse or drain under the site access shall be piped using a suitable diameter of pipe, agreed with the Roads Maintenance Manager (300mm minimum). The pipe shall be laid to a self-cleansing gradient and connected to an outfall.
11. A turning area shall be provided within the curtilage of the site plot to enable vehicles to enter and exit in a forward gear.
12. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

#### Reasons

1. In order to ensure that the matters specified can be fully considered prior to the commencement of development.
2. 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. To record items of archaeological interest and finds.
9. To ensure an acceptable development in terms of parking provision and amenity of the area.
10. To ensure acceptable infrastructure at the development access.
11. To ensure acceptable development that does not create any hazard to road users in the interests of road safety.
12. To ensure acceptable development that does not create any hazard to road users in the interests of road safety.

#### Informatives

THE ENVIRONMENTAL HEALTH MANAGER has further commented that:-

This section will have regard to the most recent noise contours at the time when a full application is received to determine if a noise impact assessment is required.

THE CONTAMINATED LAND SECTION has further commented that:-

Due to the past agricultural use of the site, there is always a potential for contamination to have arisen from, for example, farm tips, chemical storage or animal burial sites.

The Moray Council does not have information to confirm whether or not the ground has been contaminated, however it is recommended that you should 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 researching/investigating a site, please visit the Council's website at [www.moray.gov.uk/ContaminatedLand](http://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](mailto:contaminated.land@moray.gov.uk).

THE TRANSPORTATION MANAGER has further commented that:-

Planning consent does not carry with it the right to carry out works within the public road boundary (including the roadside verge) and the applicant must contact the Transportation Manager for a road opening permit in accordance with the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

The applicant shall be responsible for ensuring that surface/ground 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 applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

SCOTTISH WATER has commented that:-

See consultation response dated 6 December 2011 (attached)

06/12/2011

Moray Council  
Development Services Environment Services  
High Street  
Elgin  
IV30 1BX

**SCOTTISH WATER**

Customer Connections  
419 Balmore Road  
Glasgow  
G22 6NU

Customer Support Team  
T: 0141 355 5511  
F: 0141 355 5386  
W: [www.scottishwater.co.uk](http://www.scottishwater.co.uk)  
E: [connections@scottishwater.co.uk](mailto:connections@scottishwater.co.uk)

Dear Sir Madam

**PLANNING APPLICATION NUMBER: 11/01889/PPP**  
**DEVELOPMENT: Moray Elgin Roseisle Easter Bu**  
**OUR REFERENCE: 597659**  
**PROPOSAL: Erect new house**

**Please quote our reference in all future correspondence**

In terms of planning consent, Scottish Water does not object to this planning application. However, please note that any planning approval granted by the Local Authority does not guarantee a connection to our infrastructure. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received.

The water network that serves the proposed development is currently able to supply the new demand.

Glenlatterach Water Treatment Works – has limited capacity available for new demand.  
The Developer should discuss their development directly with Scottish Water.

Water Network – Our initial investigations have highlighted there may be a requirement for the Developer to carry out works on the local network to ensure there is no loss of service to existing customers.

The Developer should discuss the implications directly with Scottish Water.

The waste water network that serves the proposed development is currently able to accommodate the new demand.

Kinloss Wastewater Treatment Works – at present there is limited capacity to serve this new demand. The Developer should discuss their development directly with Scottish Water.

Wastewater Network – Our initial investigations have highlighted there may be a requirement for the Developer to carry out works on the local network to ensure there is no loss of service to existing customers. The Developer should discuss the implications directly with Scottish Water.

In some circumstances it may be necessary for the Developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure, etc the Developer will be required to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.

A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.

Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements installed, subject to compliance with the current water byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections department at the above address.

If the connection to public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s). This should be done through a deed of servitude.

If the developer requires any further assistance or information on our response, please contact me on the above number or alternatively additional information is available on our website:

[www.scottishwater.co.uk](http://www.scottishwater.co.uk).

Yours faithfully

Anne Kemmett  
Customer Connections Administrator