

## 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 086
  - Site Address: Sunnybank, Findochty, Buckie, Moray
  - Application for review by Grant and Geoghegan, Unit 4, Westerton Road Business Centre, 4 Westerton Road South, Keith, AB55 5FH
  - Planning Application 13/00592/APP – erect house at site adjacent to Sunnybank, Findochty, Buckie, Moray
  - Unaccompanied site inspection carried out by the MLRB on Wednesday 18 September 2013
  - Date of Decision Notice: 15 October 2013
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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. 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.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 26 September 2013.

- 1.3 The Review Body was attended by Councillors C Tuke (Chair), B Jarvis, J Mackay and R Shepherd.

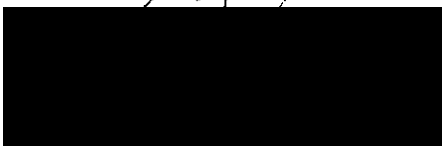
## **2.0 Proposal**

- 2.1 This is an application for planning permission for a proposed erection of a house at the site adjacent to Sunnybank, Findochty, Buckie, Moray

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

- 3.1 With regard to the unaccompanied site inspection carried out on Wednesday 18 September 2013, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.2 In terms of the refusal, the Planning Adviser advised that the proposal is contrary to policies H8 and IMP1 of the adopted Moray Local Plan 2008 as, when the proposal is viewed from the southern edge of the settlement of Findochty and public roads to the north and south, the site would appear in an overtly prominent, skyline location to the detriment of the rural character of the surrounding countryside without any form of natural backdrop. Furthermore, the proposal would result in a grouping of houses along a prominent ridge by infilling an existing gap between Sunnybank Farm and Sunnybrae Cottage, eroding the rural undeveloped character of the countryside area in close proximity to and highly visible from the settlement of Findochty. In addition, the design of the dwelling, by virtue of its large footprint and scale, is not in keeping with neighbouring properties or an open countryside location and acts to exacerbate the prominence and intrusion of the development to the detriment of the surrounding countryside.
- 3.3 In terms of the Appellant's grounds for review, the Appellant is of the opinion that the reasons for refusal do not reflect the impact of the proposal in the context of the site or settlement pattern of the area. The site does not sit in isolation in a skyline location and it is part of a long-established group of buildings at Sunnybank/Sunnybrae which are in themselves part of an established settlement pattern of the countryside in the area south of Findochty and Portknockie. The site is a natural part of the group allowing the proposed house to be a natural part of the existing settlement pattern of the area. It will relate to the settlement pattern of the area as well, if not better, than the site and design approved, under current policies, for a new house at Bloomfield Farm to the north-east. Furthermore, the design of the house meets the specific design requirements of policy H8. The footprint of the proposed house is subservient to the size of the plot and sits well within it. The impact will be reduced by the proposed house being set down in the site (by between 0.8 m to 1.3 m) to integrate the proposal naturally with the existing contours of the site.

- 3.4 Councillor Mackay, having had the opportunity to view the site and consider the Appellant's grounds for review was not of the opinion that the proposal would be overtly prominent as, in his opinion, it would be part of a long established group of buildings at Sunnybrae and Sunnybank, which are part of the rural character of the area. Councillor Mackay further stated that, in his opinion, this was a gap site which suited the proposal and complied with the Local Plan. He therefore moved that the decision of the Planning Officer be overturned and the appeal be upheld.
- 3.5 Councillor Shepherd, having had the opportunity to view the site and consider the Appellant's grounds for review agreed with the opinion of Councillor Mackay and seconded his motion.
- 3.6 Councillor Jarvis, having had the opportunity to view the site and consider the Appellant's grounds for review was of the same opinion as Councillors Mackay and Shepherd and did not agree that the proposal was overtly prominent and agreed that the Appellant's appeal be upheld.
- 3.7 Councillor Tuke, having had the opportunity to view the site and consider the Appellant's grounds for review did not agree that the proposal would detract from the area and was of the opinion that it was not overtly prominent and agreed with Councillors Mackay, Shepherd and Jarvis that the appeal should be upheld.
- 3.8 There being no-one otherwise minded, the Committee unanimously agreed to overturn the decision of the Planning Officer and the appeal was upheld as the proposal was not found to be contrary to Policy H8 and IMP1 of the adopted Moray Local Plan 2008.



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

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.

## **CONDITIONS**

1. Prior to any development works commencing:

i) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land ) showing the visibility splay 2.4 metres by 160 metres to the northwest and 2.4 metres by 120 metres to the southeast and a schedule of maintenance for the splay area shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and

ii) the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and

iii) thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 1.0 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

2. The width of the vehicular access shall be a minimum of 3.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the public footway/verge shall be to The Moray Council specification and surfaced with bituminous macadam.

3. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

4. An access lay-by 8.0m long by 2.5m wide with 30 degrees splayed ends shall be provided at the edge of the public road to allow visiting service vehicles to park clear of the public road. The vehicular access should lead off the lay-by. The lay-by must be constructed in accordance with The Moray Council specification and surfaced with bituminous macadam.

5. Three 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.

6. A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.

7. Boundary walls/fences shall be set back from the edge of the public carriageway at a minimum distance of 2.0m and to a position behind the visibility splay.

8. All planting as shown on the approved site plan approved shall be undertaken in the first planting season following completion of the development. Any plants which, within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.

## **REASONS**

1. To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road, in accordance with 2008 Moray Local Plan Policy T2.
2. To ensure acceptable infrastructure at the development access, in accordance with 2008 Moray Local Plan Policy T2.
3. To ensure acceptable development that does not create any hazard to road users in the interests of road safety, in accordance with 2008 Moray Local Plan Policy T2.
4. To ensure acceptable infrastructure at the development access, in accordance with 2008 Moray Local Plan Policy T2.
5. To ensure an acceptable development in terms of parking provision and amenity of the area, in accordance with 2008 Moray Local Plan Policy T5.
6. To ensure acceptable development in the interests of road safety, in accordance with 2008 Moray Local Plan Policy T2.
7. To ensure acceptable development in the interests of road safety, in accordance with 2008 Moray Local Plan Policy T2.
8. In order to ensure a successful scheme of planting.

## **INFORMATIVES**

The applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. Advice on this matter can be obtained by emailing [roads.permits@moray.gov.uk](mailto:roads.permits@moray.gov.uk) and reference to the following page on the Council web site

Road Opening: [http://www.moray.gov.uk/moray\\_standard/page\\_79860.html](http://www.moray.gov.uk/moray_standard/page_79860.html)

Visibility splays relate to the visibility available to a driver at or approaching a junction in both directions. It is related to the driver's eye height, object height above the road, distance back from the main road known as the 'X' distance and a distance along the main road known as the 'Y' distance. The Y distance is related either to the design speed of the road and a corresponding 'stopping sight distance' or in some circumstances may be based on observed '85th percentile vehicle speeds'. Advice on this matter can be obtained by emailing [transport.develop@moray.gov.uk](mailto:transport.develop@moray.gov.uk) and reference to the following pages on the Council web site

Transportation Service Requirements for Small Developments in the Countryside Full document <http://www.moray.gov.uk/downloads/file79761.pdf>

Checklist <http://www.moray.gov.uk/downloads/file68812.pdf>

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

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 applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.