



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference: Case 092
 - Site Address: South Oldtown, Oldtown, Mulben, Craigellachie
 - Application for review by Gavin Strathdee, Strathdee Properties, Viewfield Farm, Craigellachie, Aberlour, AB38 9QT
 - Planning Application 13/00988/APP – Proposed erection of dwelling house with detached garage at South Oldtown, Oldtown, Mulben, Craigellachie
 - Unaccompanied site inspection carried out by the MLRB on Tuesday 26 November 2013
 - Date of Decision Notice: 9 December 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 28 November 2013.

- 1.3 The Review Body was attended by Councillors C Tuke (Chair), G Leadbitter, G Coull, J Mackay and R Shepherd

2.0 Proposal

- 2.1 This is an application for planning permission for a proposed erection of a dwelling house with detached garage at South Oldtown, Oldtown, Mulben, Craigellachie.

3.0 MLRB Consideration of request for review

- 3.1 With regard to the unaccompanied site inspection carried out on 26 November 2013, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.2 In terms of the reasons for refusal, the Planning Adviser advised that the development was deemed to be contrary to policy 1(e) of the Moray Structure Plan, policy H8 and IMP1 of the Moray Local Plan and the Supplementary Planning Guidance (SPG): Housing in the Countryside. It was considered that the development, in terms of its siting in proximity to other approved dwellings, would result in further incremental and cumulative build up and this linear pattern of development would be unacceptable and detract from the character and appearance of the surrounding rural landscape.
- 3.3 In terms of the Appellant's grounds for review, the Appellant was of the opinion that the proposal adhered to policy 1(e) of the Moray Structure Plan, policy H8 and IMP1 of the Moray Local Plan and SPG Housing in the Countryside as the plot suits the location due to its proposed low contour setting. Furthermore, the difference in height would ensure the proposal is broken up from previously consented applications and would provide a non-linear, staggered arrangement. The Appellant further stated that the proposed planting would help to soften the development and, as the design was low impact, would fully comply with the design criteria of policy H8. Furthermore, as the plot was sited 68 metres away from the recently approved plot to the north-west, and with the spacing density, it would not be overly excessive with another dwelling consented in this locale. The Appellant further stated that the site would look integrated into the landscape because it would be set into the existing sloped ground.
- 3.4 Councillor Coull, having had the opportunity to visit the site and consider the Appellant's grounds for review, was of the opinion that, due to the contour of the site, the development would not detract from the area, nor would it be overtly prominent and therefore moved to uphold the appeal and grant planning permission in terms of policy H8 and IMP1 of the Moray Local Plan 2008.
- 3.5 Councillor Leadbitter, having had the opportunity to visit the site and consider the Appellant's grounds for review, was of the same mind as Councillor Coull and stated that, in his opinion, the development would be well sited, with a decent backdrop, masked against the hillside and would therefore comply with policies H8 and IMP1 of the Moray Local Plan 2008 and thereafter seconded Councillor Coull's motion.

- 3.6 Councillor Mackay, having had the opportunity to visit the site and consider the Appellant's grounds for review, agreed with the opinion of the Planning Officer on the basis that a further dwelling house in this area would result in a cumulative build up and detract from the surrounding character of the area, and therefore moved an amendment to refuse the appeal.
- 3.7 Councillor Shepherd, having had the opportunity to visit the site and consider the Appellant's grounds for review, agreed with the opinion of Councillor Mackay and seconded his amendment on the grounds that further development of the site would result in an unacceptable cumulative build up.
- 3.8 On a division there voted:-
- For the Motion (3): Councillors Coull, Leadbitter and Tuke
- For the Amendment (2): Councillors Mackay and Shepherd
- 3.9 Accordingly the Motion became the finding of the Meeting, the appeal was upheld and planning permission granted, subject to standard conditions.

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. That no development shall take place until a Landscape Scheme (drawn to scale) is submitted to and approved by this Council (as Planning Authority). This Landscape Scheme shall show:-
 - (a) the location of any existing trees, shrubs and hedgerows on the site and identify those to be retained and those to be removed;
 - (b) details of the measures to be taken to protect any existing trees, shrubs and hedgerows during the course of developing the site;
 - (c) details of the numbers, species, position, planting distances and sizes of all planting to be undertaken. The details shall provide for 25% of the plot area to be planted with native species trees, at least 1.5m in height.
2. All planting, seeding or turfing forming part of the approved landscape scheme shall be carried out not later than the end of the first planting and seeding seasons following first occupation of the house or the completion of the building works, whichever is the sooner. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition
3. Prior to any development works commencing
 - i) a detailed drawing (scale 1:500) showing the location and design of a passing place on the U60H Belnagarrow-Oldtown Road (to the Moray Council standards and specification), shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority; and
 - ii) thereafter the passing place shall be constructed in accordance with the approved drawing prior to any development works commencing (except for those works associated with the provision of the passing place).
4. Prior to any development works commencing:
 - i) a visibility splay 4.5 metres by 120 metres shall be provided at the access onto the public road; and
 - ii) thereafter, the visibility splay shall be maintained at all times free from any obstruction exceeding 1.0 metres above the level of the carriageway.
5. The width of the vehicular access shall be 5.5m for the first 15 metres measured from the edge of the carriageway and a minimum of 3.5 metres thereafter and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The first 10m of the access track, measured from the edge of the public road, shall be constructed to the Moray Council specification and surfaced with bituminous macadam.
6. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.
7. 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.

8. 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.
9. 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. It should be noted that the existing pipe diameter is too small and that headwalls are required surrounding the pipe under the access.

REASONS

1. In order that detailed consideration can be given to the landscaping of the site.
2. In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.
3. To enable drivers of vehicles to have adequate forward visibility to see approaching traffic and for two vehicles to safely pass each other ensuring the safety and free flow of traffic on the public road.
4. 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.
5. To ensure acceptable infrastructure is provided at the development access.
6. To ensure an acceptable development that does not create any hazard to road users in the interests of road safety.
7. To ensure acceptable infrastructure is provided at the development access.
8. To ensure an acceptable development in terms of parking provision and amenity of the area.
9. To ensure acceptable infrastructure is provided at the development access.

INFORMATIVE NOTES

Comments from SCOTTISH WATER are attached for your information.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-
Planning consent does not carry with it the right to construct a new road or any part of a road. In accordance with Section 21 of the Roads (Scotland) Act 1984 Construction Consent for new roads (includes passing places, modified junctions and footpaths) that will form part of the public road will be required. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site

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

RCC: http://www.moray.gov.uk/moray_standard/page_65638.html

Specification: <http://www.moray.gov.uk/downloads/file68813.pdf>

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 and reference to the following page on the Council web site

Road Opening: 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 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.

If required, street furniture will need to be repositioned at the expense of the developer. In addition any existing roadside ditch may require a pipe or culvert. Advice on these matters can be obtained by emailing road.maint@moray.gov.uk

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.

21/06/2013



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
E: connections@scottishwater.co.uk

Dear Sir Madam

PLANNING APPLICATION NUMBER: 13/00988/APP
DEVELOPMENT: Moray Craigellachie South Old
OUR REFERENCE: 628472
PROPOSAL: Proposed erection of dwellinghouse with detached garage

Please quote our reference in all future correspondence

Scottish Water has no objection to this planning application. This response is made based on the information available to us at this time and does not guarantee a connection to Scottish Water's infrastructure. A separate application should be submitted to us made for connection to our infrastructure after full planning has been granted.

There are no public sewers in the vicinity of the proposed development.

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

If this development requires the existing network to be upgraded, to enable connection, the developer will generally meet these costs in advance. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules. Costs can be reimbursed by us through Reasonable Cost funding rules

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.

Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, Bullion House, Dundee, DD2 5BB. Tel – 0845 601 8855.

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.

Yours faithfully

