

**Review of Planning Application Decision 14/02088/APP**  
**Replace Storage Shed and Yard with House and Garage**  
**350m North West Of Damhead, Forres.**

**Response to objections by Applicant, Mrs F Spillings**

I am pleased to have the opportunity to respond to objections to my application.

These objections seem to fall in to two categories

- 1) The allegation that that there is insufficient planning permission on the storage shed and yard.
- 2) That the nature of the junction at the B9010/U107E is unsafe for my continued use.

**The Storage Shed and Surrounding Yard Area**

Planning permission to build the storage shed was given in 1998 ref 97/01658/FUL.

The permission allowed 5 years for the shed to be built, and no one is disputing that it was built within that time frame. Mr Hallett says it was built around 2001. That is still within the 5 years of time permitted.

Mr P. Hizzett built the shed and also built Mr Hallett's house around the same time. Mr Hizzett then went on to build several more houses on the lane, including those of Mr Kemp and Mr Dawson.

Mr Hizzett has used the storage shed, beginning around that time, to safely store building materials, tools, machinery etc.

Mr Hallett complained in 2002 to the Council that Mr Hizzett "did not have permission to build the shed and that it was being used as a builders yard/storage".

The Council investigated. A Council Officer, Ms Beverly Smith, met with Mr Hizzett on site to investigate whether there was any breach. She interviewed Mr Hizzett, took photographs of the inside and outside of the building and the yard and went on to make her report.

Mr Hizzett was not asked/told to apply for further permission and did not hear any further on the matter. Everything was in order as far as he was/is aware.

After refusal of my planning application in January, I contacted the Council's Enforcement Department in writing on 9<sup>th</sup> March 2015 about this matter to clear it up fully.

I was advised in an e-mail by an Enforcement Officer, Mr Stuart Dale, that the case had been investigated in 2002 and the papers were archived. He said he was requesting the file and it would take about a week to obtain. I have sent Mr Dale a reminder but have not heard back from him so far.

**I think it is fair to assume that the Council only files away and archives resolved investigations and that the use of the shed and yard area was found to be in order.**

I have asked Mr Dale to supply me with a copy of the paperwork to include with this statement, but it has not been forth-coming as yet.

-----Original message-----

From : [REDACTED]  
Date : 14/04/2015 - 21:01 (GMTST)  
To : Stuart.Dale@moray.gov.uk  
Subject : Re: Large Storage shed at Damhead, Rafford

Hello Mr Dale,

I am wondering why I have not had response from you on the matter of the Storage Shed/Builders Storage Yard at Damhead, Rafford.

In particular, my solicitor is keen to have a copy from you of ALL the papers showing the council's response to the original complaint in 2002 and also their action taken and their response on any subsequent complaints from Mr Hallett, a neighbour at Pennyhill, Rafford.

The Planning Department was aware that in 2002 there was, as you describe it, a change in use and Mr Hizzett was quite open about what the area was used for. He also confirms that Beverly Smith made an inspection of the yard and building and took photographs, including photos of the inside of the building

Was any enforcement action taken on the situation being brought to the council's attention and if so, what form did it take and what was the outcome???

I look forward to your response.

Regards

Fran Spillings

-----Original message-----

From : Stuart.Dale@moray.gov.uk

Date : 11/03/2015 - 14:10 (GMTST)

To : [REDACTED]

Subject : Large Storage shed at Damhead, Rafford

Dear Ms Spillings,

I have been tasked with investigating the enquiry as outlined in your email to Beverly Smith on the 9<sup>th</sup> March 2015. Upon searching our records it would seem that this matter was investigated by Beverly Smith in 2002 not 2007 as mentioned in your email. Because of the length of time that has passed since 2002 the file in relation to this matter has been archived some time ago. I have ordered the file from the archivist but it will probably take a week or so to get it.

Mr Hallett also alleges that Mr Hizzett does not use the yard or shed any longer. This is not the case. I purchased the property in 2009, but part of the agreement was that Mr Hizzett would have use of the yard until I have another approved use for it. He is still working as a builder and still rents the yard from me.

Here are some current photos of the yard taken this week:







**Use of the shed/yard has generated traffic for around 14 years.** Current details of which have been supplied by Mr Hizzett as they relate to my planning application.

**From:** joe [REDACTED]  
**Sent:** 05 June 2014 10:58  
**To:** [development.control@moray.gov.uk](mailto:development.control@moray.gov.uk)  
**Cc:** [REDACTED]  
**Subject:** Preliminary Enquiry - Proposed house to replace builders store and yard to South of Rafford

Can you please consider this as a preliminary enquiry for a single house to replace a builders store and yard to the South of Rafford as per the attached plans. Some photos of the store and yard are also attached. Can you also take account of the following information when considering the enquiry

- The builders store and yard has been in operation for the last 14 years
- Vans and pickups visit the site approximately 3 times a week
- A car and light van visit the site approximately four times a week
- Twice a month a 20 tonne lorry with cabins etc. visits the site
- Every couple of months there is a visit by an articulated lorry with materials

**The level of traffic and activity will be considerable reduced with this proposal for a single house in place of the store and yard that exist at present.**

We will also be consulting the following;

- Transportation
- Environmental Health
- Contaminated Land
- Moray Flood Team
- Archaeology
- SNH
- Planning Gain

Regards,

Joe

## **The Junction of the B9010/U107E**

In addition to traffic from the yard, my family also frequently drive to my property and we have planted fruit trees, we walk the dogs, we maintain the landscape etc. We are also going to keep a few chickens plus grow our own vegetables in a poly tunnel there.

We will be increasing our visits to several journeys per day to and from my land to attend to my chickens and vegetables. I have 5+ acres including the shed area and we want to put that land to fruitful use. That will necessitate either living on the land or continuing to travel there frequently by vehicle, using the B9010/U107E junction.

My three neighbours mention concerns about the junction. An acquaintance of ours, Mr Jackson, formally contacted the Council's road safety office to request improvements to be made to satisfy safety concerns.

Mr Jackson told the Council on Thursday 22nd January 2015 that both the houses at the junction had their hedges, on the front and sides, growing on public land and not within their garden perimeters and asked them to check this.

The Council sent someone up to check measurements. By Tuesday 27<sup>th</sup> the front hedge at The Holm had been cut down completely by the Council and I have been informed that the hedge of Kantara and improvements to that side (left) will also be carried out.

Below is an extract of an e-mail response from the council to another acquaintance of ours: (I have her permission to use this)

**James Smith <James.Smith@moray.gov.uk>**

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Mrs G,

I was passed your inquiry in relation to the visibility in Rafford. It's not often we get any positive comments, so thank you for that.

We are working with the owner of "The Holm" on the junction improvement which will resolve the visibility issue to the right. To the left, "Kantara" we have been negotiating with the owner and the hedge has been lowered adjacent to the road which has been an improvement. The house is currently for sale and I would like to make further improvements

You may also have noticed we are also improving the Sourbank Road onto the B9010 Main Road, Rafford I hope this is also considered a positive move by the local community.

Regards

James Smith  
Moray Council  
Traffic Engineer  
01343 563812

Since January 2015, the junction has been improved, with further improvements pending on the Kantara side. It seems that the gardens of the houses on the junction, Kantara and The Holm, have exceeded boundary lines with hedges growing over public highway land.

Please see photos below showing one of the hedges that has overgrown on the U107E:



With regard to my photograph of two cars passing at the junction, I would suggest that the space is adequate. However, if the Roads /Transport Department disagree then by reclaiming the strip of public land that currently has a hedge growing on it along the U107E side, the road would be further widened and at little or no expense to the Council.

I have also attached more photos taken today that show that 2 cars can pass at the junction with ample space and fully on the tarmac:



## **Summary:**

- Replacing the Storage Shed/Yard with a house and garage would not generate more traffic. It would actually reduce traffic.
- Improvements to the B9010/U107E junction have been made and are continuing.
- The junction is already used on a regular basis by myself and my family.
- My proposal for the house and garage is in keeping with the character of the area.

I am grateful to my neighbours who have expressed their support for me, either in writing or verbally, including Mr & Mrs Reid, Mr & Mrs Carpenter and Mrs Munroe.

I am also grateful to my nearest neighbours who have not objected and to my neighbours who see my proposed house and garage as a definite improvement to the area.