

## PLANNING APPLICATION: 06/02222/FUL

*In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications*

### **The Proposal**

- The application proposes the erection of a detached garage on an area of ground under the applicant's ownership but separated from his house and garden by a private access road serving 4 other properties.
- The garage will be finished with drydash render and slate coloured tiles to blend with the finishes to the parent house.
- A timber-slatted fence is to be erected just inside the site boundary so as not to restrict vehicular movements on the access road. The fence will vary between 1.0m and 1.5m high.
- Access to the garage will be taken directly off Beach Brae. Storm water drainage is to be taken to a soakaway.

### **The Site**

- The property is located to the north east side of Beach Brae, Lossiemouth.

### **Policy / Objections-Representations / Consultations - See Appendix**

### **History**

**05/02368/OUT** - Outline to erect proposed new dwellinghouse on site adjacent To Rockhaven, Beach Brae, Lossiemouth, Moray – application withdrawn.

**01/00743/FUL** - Erect new dwellinghouse on land to north of Firthside, Stotfield Road, Lossiemouth – permitted 28 June 01.

### **Advertisement**

None.

### **Observations**

Determining Issues:

**Impact of the proposal on the character and amenity of the existing and surrounding properties L/IMP1**

The design and finishes to the garage will integrate well with the existing surrounding properties. This development will not have any significant impact on the amenity of the area, as it will be viewed against the existing group of dwellings. In these circumstances the proposed development is considered to comply with the relevant local plan policies and is therefore acceptable.

**Recommendation**

Approve.

**Author/Contact Officer:** Jim Gibson  
Planning Officer

**Ext:** 01343 563279

*Signature* ..... (*Alan Short, Development Control Manager*)

***R A STEWART***  
***DIRECTOR OF ENVIRONMENTAL SERVICES***

## **APPENDIX**

### **POLICY**

#### **Moray Structure Plan and/or Moray Local Plan 2000**

##### **Policy S/ENV1: Approach to the Environment**

The approach to Environmental Policy is to conserve and enhance Moray's environmental assets, and require that new development is sensitive to siting, location, and design considerations, whether in town or country.

##### **Policy S/IMP1: Development Siting, Layout and Design**

New development will require to be sensitively sited, designed and serviced. It should meet the following criteria:-

- i) its, scale, density and character is appropriate to the surrounding area;
- ii) it can be successfully integrated into the surrounding landscape;
- iii) it meets wider transportation and local site energy efficiency objectives;
- iv) adequate infrastructure is available or could be made available in conjunction with the development;
- v) consideration is given to the provision of infrastructure which meets sustainable urban drainage principles using appropriate Sustainable Urban Drainage Systems;
- vi) adequate social and community facilities are available or could be provided in conjunction with the development;
- vii) it does not adversely affect nature, urban or historic conservation resources;
- viii) it seeks to manage flood related issues;
- ix) pollution is avoided, including pollution of ground water.

##### **Policy L/IMP1: Development in Built-up Areas**

In areas covered by this policy, (i.e. all land within settlement boundaries and rural communities), the Council will, in considering applications for planning permission, try to ensure that proposals for development do not harm the general character of the surrounding area. Applications will therefore take account of the main uses of land and buildings in the vicinity, the mix of such uses and the architectural quality of the area. The main concern of the Council is to ensure that development proposals should neither conflict with nor detract from the character, amenity and design of an area. This policy will not preclude appropriate new development and is not intended solely to maintain the status quo.

In interpreting and clarifying this policy, the Council will take into account the guidelines on Character, Amenity and Design.

### **Guidelines on Character, Amenity and Design (L/IMP1)**

#### **a. Character**

The character of an area is assessed by the;

- (i) main uses;
- (ii) appropriateness of a diversity of uses; and
- (iii) desirability of introducing a development which may detrimentally alter the existing balance of usage
- (iv) architectural style of the area.

#### **b. Amenity**

The amenity of an area is assessed in terms of both the people who will occupy the development site, and the adjoining occupiers. In short, new developments should be "good neighbours". Where there is an inherent incompatibility of neighbouring developments, or where remedial action cannot be made effective, applications are likely to be refused.

The important aspects of amenity which the Council considers are worth protecting are:-

- (i) **Privacy** - for both the occupants of a proposed development and surrounding neighbours. Loss of privacy can be minimised by re-orientation, reducing the densities of development reducing the size of buildings, and attention to building levels or by design modifications, for example, window proportion and size.
- (ii) **Traffic** - the introduction of increased traffic movement and resulting noise, can significantly detract from the amenities of an area.
- (iii) **General Disturbance** - protection from activities which create unreasonable levels of noise, smells and other discomforts including wheeled bin locations.
- (iv) **Sunlight/Daylight** - adequate levels of sunlight and daylight, and to a lesser extent, outlook, should be safeguarded for surrounding properties and afforded to new developments.

#### **c. Design**

Design of new development should not only relate to the type of development in the immediate vicinity but also to the wider issues of context and setting. This need not be restrictive to new or innovative architectural expression.

Applicants should, therefore, avoid design proposals which compromise the appearance of design characteristics of the surrounding area.

In considering the appropriateness of a design the Council will have regard to:

- (i) The scale of adjoining development.

- (ii) The materials, finishes and colours used in nearby development.
- (iii) Any features on or near the site worthy of reproduction, protection or enhancement, e.g. trees, hedges, views and other features of public importance.
- (iv) Principles of site sensitive design e.g. that pitched roofs are preferred to flat roofs, piended dormers to box dormers, vertical windows to horizontal picture windows etc., where these features predominate in an area.

## **OBJECTIONS-REPRESENTATIONS**

The application has resulted in letters of objection being received from:-

- Elizabeth Wynne, 46 Community Way Lossiemouth Moray IV31 6RL
- Iain M Main, Ronaldsay Stotfield Road Lossiemouth IV31 6BJ
- Jeffrey Wynne, 46 Community Way Lossiemouth Moray IV31 6RL
- Jennifer Main, Ronaldsay Stotfield Road Lossiemouth IV31 6BJ
- Lossiemouth Foreshore Protection Group, Per Graham Kilpatrick Chair Boulah Bembah Prospect Terrace Lossiemouth IV31 6JS
- J Margaret McConachie, 40 Stotfield Road Lossiemouth Moray IV31 6QP
- Mr John McConachie, 40 Stotfield Road Lossiemouth Moray IV31 6QP
- Alex J Metzler-Trembath, Charlesville Stotfield Road Lossiemouth IV31 6QP
- Ann M Metzler-Trembath, Charlesville Stotfield Road Lossiemouth IV31 6QP
- Mr S MacDonald, Westlands Beach Brae Off Stotfield Road Lossiemouth
- J M Campbell, Clarmont Kimberley Street Lossiemouth
- C L Tough, Culdres Marine Court Stotfield Road Lossiemouth
- M M Tough , Culdres Marine Court Stotfield Road Lossiemouth
- Sandra Stewart, Beracah 9 Brander Street Lossiemouth IV31 6BL
- James J Stewart, Beracah 9 Brander Street Lossiemouth IV31 6BL
- Mrs Lydia King, Achilty Dunbar Street Lossiemouth Moray IV31 6RB
- Mr Brian Stewart, Achnamara Commerce Street Lossiemouth Moray IV30 6BW
- Judith Liebutz, Parklands Dunbar Street Lossiemouth IV31 6AL
- Bill Liebnitz , Parklands Dunbar Street Lossiemouth IV31 6AL
- Florence Stewart, Achnamara Commerce Street Lossiemouth Moray IV31 6BW
- Mr Cowe, Spinningdale Beach Brae Stotfield Road Lossiemouth IV31 6QS
- Mrs J Cowe, Spinningdale Beach Brae Stotfield Road Lossiemouth IV31 6QS
- Debbie Paterson, Rockhaven Beach Brae Stotfield Road Lossiemouth Moray IV31 6QR
- Sinclair Paterson, Rockhaven Beach Brae Stotfield Road Lossiemouth Moray IV31 6QR
- Elaine Campbell, 35 Hillview Place Lossiemouth Moray IV31 6RR
- P Campbell, 42 King Street Lossiemouth Moray IV31 6AE
- James Campbell, 42 King Street Lossiemouth Moray IV31 6AE
- James Campbell, 35 Hillview Place Lossiemouth Moray IV31 6RR
- Alistair McLeod, 16 Argyle Street Lossiemouth Moray IV31 6AY
- Julie McLeod, 16 Argyle Street Lossiemouth Moray IV31 6AY
- J Flett, 27 Moray Street Lossiemouth Moray IV31 6JD
- A Flett, 27 Moray Street Lossiemouth Moray IV31 6JD
- Allan Ross, 48 Commerce Street Lossiemouth Moray IV31 6QQ
- James Stewart, 23 Commerce Street Lossiemouth Moray IV31 6PQ
- Margaret Ross, 48 Commerce Street Lossiemouth Moray IV31 6QQ

- Mrs Patricia Stewart, 23 Commerce Street Lossiemouth Moray IV31 6PQ
- Leslie Lumley, 33A Argyle Street Lossiemouth Moray IV31 6AP
- Mr And Mrs J Paterson, 24 James Street Lossiemouth Moray IV31 6AU
- Mary Hewitt, La Spezia 44 King Street Lossiemouth IV31 6JT
- Maria Owen, 109 Dunbar Street Lossiemouth Moray IV31 6RE
- Colin And Rona Stephen, Firthside Stotfield Road Lossiemouth Moray IV31 6QP
- George Runcie, Culane 36 Stotfield Road Lossiemouth Moray IV31 6QP
- Elizabeth Runcie, Culane 36 Stotfield Road Lossiemouth Moray IV31 6QP
- AA Dunbar's Descendants' Trust, Pitgaveny Elgin Moray IV30 5PQ
- John And Ishbel Harris, Norland Stotfield Road Lossiemouth Moray IV31 6QP

The bulk of the objection letters uses exactly the same wording and refers to an outline application. This current application is in detail, whereas the outline application referred to in the history section was withdrawn as a result of access problems.

- Establishing outline permission to build a garage on the site could easily lead to the development of a house in the future.

**Applicant's Response:** The recent application to build a house was withdrawn following receipt of concerns from the Roads Department in relation to access. The proposals for a garage, which allows a revised access arrangement, are understood to be acceptable now to the Roads Department. The change is therefore intended to satisfy the concerns of the Roads Department and allow the site, which is in the applicant's ownership, to be utilised. The existing integral garage is intended to be changed to provide an additional apartment for the house.

**Comment:** The application under consideration is for a domestic garage; any future change to a dwellinghouse or commercial enterprise would require to be the subject of a further application.

- When permission was given for Water's Edge to be built, it was required to be no higher than the top of Firthside's garden wall so that it would be unobtrusive in its setting. This very large garage, which is to be built on much higher ground, would be considerably higher than the top of this wall and would be extremely visually intrusive.

**Applicant's Response:** The reference to the height of the new house Water's Edge related to requirements to retain the open outlook within the ENV1 designation. The application site is outwith the ENV1 designation and therefore does not require to satisfy the same criteria.

**Comment:** The site is outwith the ENV1 designated area. In this location the height of the garage is less critical to the impact on the area as it is seen in the context of adjoining buildings, which already impact on the open views of the area.

- Putting a building within this 180' degree curve in the road would seriously impair visibility both for drivers coming along this narrow bend and for the many pedestrians who regularly use the lane. (There is no pavement). This, along with the positioning of the driveway entrance right in the middle of the bend in the lane, seems to be unacceptable in terms of road safety.

**Applicant's Response:** The positioning of the driveway entrance is based upon the recommendation of the Roads Department.

**Comment:** The Transportation Manager has no objection to the location of the garage or the access.

- Allowing only 1 metre between the boundary fence and the edge of the lane makes it difficult for large vehicles to gain access to the existing houses lower down the lane.  
**Applicant's Response:** There is no requirement to provide a 1 metre strip as the application site is privately owned although the 1 metre strip is proposed to satisfy concerns.  
**Comment:** The applicant could erect a boundary enclosure up to 1 metre high without the need for planning consent. The proposal to move the fence back into the site is therefore an improvement to this possibility.
- The garage would be a gross overdevelopment, aesthetically wrong and totally unnecessary for the needs of the applicants who already have an integral garage, turning space and parking incorporated at Water's Edge.  
**Applicant's Response:** The siting of the garage within the area of ground is not thought to be overdevelopment and aesthetically would have the same roof pitch and finishes as the adjacent dwellinghouse, and to a smaller scale.  
**Comment:** The garage is to be located towards the rear of the site and visually relates to the dwelling house on the adjacent site to the west. It is not considered to be overdevelopment of the site and the design and finishes will integrate with those of the adjoining houses.
- There was an agreement with the original owner of the ground that there would be no building on the plot subject to the current application. A previous drawing specifically showed this piece of ground as an area to be naturally landscaped in dune grasses and gorse. This may have formed a condition of planning for Waters Edge.  
**Applicant's Response:** Regarding any previous agreements, it should be noted that the land for the dwelling Cullane was sold when there was an existing planning consent for a house on the site of the current application. The approved plan ref. 12/99/03F does not include the current application site within the consent and does not refer to any landscaping being undertaken within the area of the current application. Condition no5 of the consent 01/00743/FUL required a landscaping scheme to be submitted prior to construction. This was submitted and approved and did not include any requirement to landscape the area which is the site for the current application for a garage.  
**Comment:** The planning process cannot be used to uphold private agreements. The landscaping condition of the consent for the house was satisfied and did not include the current application site.
- In the current Local Plan the Beach Bar Foreshore is subject to policy ENV1: to be retained as a public open space, in which development may not impair views out to sea, nor the feelings of an open natural space.  
**Applicant's Response:** The application site is outwith the ENV1 designation and therefore the requirements of this policy do not apply.  
**Comment:** The application is being considered on the basis of relevant policies relating to this site.
- Any consent given for this proposal could be used by a developer as a precedent for extending or converting this building into an office or house. The stepped floor suggests this possibility.  
**Applicant's Response:** There is no stepped floor proposed within the garage and the floor area on one level is restricted to 48 m<sup>2</sup>.  
**Comment:** The objector has misread the drawings in that the floor is level. Any future addition or change of use would require to be the subject of a further planning application.

- You are reminded that this is a great area of outstanding natural beauty and any further proposals to build is contrary to the published objectives of both national and local government to protect the environment and the coastline.

**Applicant's Response:** The proposal is not contrary to planning policy and the site is within the built up area for development within Lossiemouth. Other dwellings have been recently approved and constructed within the immediate vicinity and within the same policy designation.

**Comment:** The site is located with a L/IMP1 designation and as such there is no policy conflict in respect of the erection of a garage on this site.

- The proposed garage will tower over Rockhaven, and significantly invade the privacy of its back garden and rooms to the rear of the house.

**Applicant's Response:** The proposed garage has the same pitch of roof as the neighbour's house and is only 1.2m above the ridge of the adjacent dwelling. It will not invade the privacy of the adjoining property, as there are no windows overlooking either the garden or house.

**Comment:** The difference in ridge levels reflect the drop in ground level between the garage and adjoining dwelling and as such will visually integrate into the area.

- As a result of increased construction traffic on the Beach Brae access road while Water's Edge was being built, we experienced substantial movement and cracking on our load bearing garden walls. Clearly further heavy construction traffic would only exaggerate this damage.

**Applicant's Response:** The applicant, who constructed the dwelling Water's Edge, has no knowledge of problems with cracking of garden walls. There is no likelihood that any such damage would either be as a result of previous construction traffic, or be exaggerated by further construction traffic.

**Comment:** This matter is totally outside the remit of the planning process and would require to be resolved privately between the parties concerned.

- There are serious worries with regard to the foundations of Rockhaven due to the close proximity of the building work of the new garage.

**Applicant's Response:** The foundations to the proposed garage would be taken to the same level as the existing foundations to avoid any possible surcharge on existing foundations. The new construction would require to comply with Building Regulations and have structural design certification.

**Comment:** This aspect of the development will be covered under any application for Building Standards Approval and as such is not an issue, which can be considered as a planning matter.

- The proposed development is contrary to the New Moray Development Plan in respect of its aims, which are to maintain areas of built and natural environment which contribute to the character of the town and maintain public access to the surrounding beaches and wooded areas.

**Applicant's Response:** The proposal is not considered to be contrary to the existing local plan, being a domestic development within the domestic built up area of Lossiemouth. The use of a garage is not thought to be overdevelopment of the site and allows vehicular access, which is considered acceptable. In all other circumstances this would not be considered to



be a bad neighbour development and the extent of the objection would appear to relate to the history of proposed development within the I/ENV1 designation.

**Comment:** The policies referred to do not relate to the application site, which is covered under L/IMP1 designation. Under the terms of this policy the application is considered to be acceptable.

## **CONSULTATIONS**

**Building Standards Manager, Development Services** - Building Warrant received.

**Environmental Health Manager, Development Services** - No comment.

**Contaminated Land** - No comment.

**Transportation Manager, Direct Services** - No objection subject to conditions.