

THE MORAY COUNCIL

**SPECIAL PLANNING & REGULATORY SERVICES COMMITTEE
(PLANNING HEARINGS)**

TUESDAY 3 JUNE 2008

COUNCIL OFFICE, ELGIN

PRESENT

Councillors S. Cree (Chair), J Russell (Deputy Chair), G Coull, J Divers, M McConachie, A McDonald, G McDonald, A McKay, F Murdoch, D Stewart and A Wright

APOLOGIES

Apologies for absence were intimated on behalf of Councillors L Bell and J Hamilton.

ALSO PRESENT BY INVITATION

In respect of item 3 (i)

The applicant, Mr S Strathdee, Glenmore Properties.

In respect of item 3 (ii)

Mr K Edwards, representing the applicant Mr S Cox, and Mr & Mrs R Laing, objectors to the application.

IN ATTENDANCE

The Development Control Manager, E Clark & B Smith, Planning Officers (Development Control), P Haslam, Senior Engineer (Flooding and Coastal Protection), A Scott & A McEachan, Principal Solicitors (Commercial & Conveyancing) and the Senior Committee Services Officer, Clerk to the Meeting.

1. DECLARATION OF GROUP DECISIONS

There were no declarations from group leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the Agenda.

PLANNING APPLICATION PUBLIC HEARINGS

- (i) **PLANNING APPLICATION 08/00163/FUL : ERECT NEW AGRICULTURAL GENERAL PURPOSE BUILDING AT TROVES FARM ELGIN FOR GLENMORE PROPERTIES**

There was submitted a report by the Director of Environmental Services, recommending that, subject to conditions detailed in the report, planning consent be

granted in respect of an application to erect a new agricultural general purpose building at Troves Farm, Elgin for Glenmore Properties.

The meeting noted that the application had been advertised as a departure from policy to which a representation had been received. Therefore, in terms of the Council's Scheme of Delegation relating to Planning applications, the application had been referred direct to this Hearing to which the applicant and objector were invited to attend and afforded the opportunity of being heard. The meeting also noted that members of the Committee visited the site of the application on Friday 30 May 2008.

There was also circulated to members of the Committee, prior to the meeting, in accordance with the policy decision of December 1991, additional representations from the applicant in support of the application. Reference was also made to the letter from A Scott, Principal Solicitor (Commercial & Conveyancing) to all members of the Committee advising as to which sections of these additional representations were relevant, in planning terms, to the application under consideration.

The Chairman welcomed those present to the meeting and advised them that submissions must be restricted to those already submitted and that the Hearing would be confined to examining the planning merits of the application and therefore discussion on irrelevant non-planning related issues would not be considered.

The meeting noted that the applicant, Mr Strathdee, Glenmore Properties was present and would be addressing the meeting on his application.

The Clerk advised the meeting that the objector to the application, Mr Salter had declined the invitation to be heard. In doing so he wished to reiterate his objection to the application on the grounds that it was contrary to policy E10 in that, in his opinion, the proposed development would not be used for agricultural purposes.

REPRESENTATIONS ON BEHALF OF THE APPLICANT

Mr Strathdee addressed the meeting on his application for planning permission to erect a new agricultural general-purpose building at Troves Farm, Elgin. He advised the meeting that whilst Glenmore Properties is mainly a property development company it also has heavy involvement with farming. In this regard he advised the meeting that the company owned 39 farms and substantial forestry in Scotland and was one of the largest farmers in Scotland. Mr Strathdee advised that the proposed development was for a new farm building mainly for the storage of grain at harvest time. In regard to the objection to the application Mr Strathdee intimated that he considered that the previous replies to the objection have provided the Committee with enough evidence in support of the application to show that the Company are actually farming. In conclusion Mr Strathdee expressed his appreciation of being given the opportunity to address the Committee in support of his application and sought the Committee's support of the application.

There were no questions to Mr Strathdee.

SUMMARIES OF SUBMISSIONS

On the invitation of the Chairman, Mr Strathdee declined the invitation to summarise intimating that he had covered everything and would be happy to answer any questions. In response to a question from the Chair, Mr Strathdee intimated that he was satisfied with the conduct of the proceedings of the Hearing.

COMMITTEE CONSIDERATION OF THE APPLICATION

Thereafter the meeting agreed to approve the application, as an acceptable departure, subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
3. The permission hereby granted shall not be exercised in addition to, or in conjunction with the Agricultural Prior Notification cleared in January 2007 (Ref. 06/02814/AGR).

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that there are no unauthorised departures from the approved plans, which could adversely affect the development or character and amenity of the surrounding properties and area.
3. In order to avoid any ambiguity regarding the terms of the consent.

(ii) **PLANNING APPLICATION 07/01679/FUL : DEMOLISH EXISTING HOUSE AND REPLACE WITH FOUR BEDROOMED HOUSE AT STRATHLENE COTTAGE, CALCOTS, LOSSIEMOUTH FOR Mr S COX**

There was submitted a report by the Director of Environmental Services, recommending that, subject to conditions detailed in the report, planning consent be granted in respect of an application to demolish an existing house and replace it with a four bedroomed house at Strathlene Cottage, Calcots, Lossiemouth for Mr S Cox

The meeting noted that the application had been advertised as a departure from policy to which representations had been received. Therefore, in terms of the Council's Scheme of Delegation relating to Planning applications, the application had been referred direct to this Hearing to which the applicant and objector were invited to attend and afforded the opportunity of being heard. The meeting also noted that members of the Committee visited the site of the application on Friday 30 May 2008.

There was also tabled at the meeting several flood risk mapping plans of the area which had been prepared by the Moray Flood Alleviation (MFA) team and SEPA covering flood risk in 1:50 years, 1:100 years and 1:200 years.

The Chairman welcomed those present to the meeting and advised them that submissions must be restricted to those already submitted and that the Hearing would be confined to examining the planning merits of the application, therefore discussion on irrelevant non-planning related issues would not be considered.

The meeting noted that the applicant would be represented by Mr K Edwards.

The Clerk to the Committee advised that the objectors to the application Roy & Anne Laing were present and would be addressing their objections.

REPRESENTATIONS ON BEHALF OF THE APPLICANT

Mr Edwards advised the meeting that his client had submitted an application for detailed planning permission for the demolition of a single storey house and garage, known as Strathlene Cottage, Calcots on the outskirts of Elgin, which has always been within the countryside around town area. He advised the meeting that the proposal is for a replacement storey and a half style house, incorporating a garage at ground level, as the existing house has been empty for about 8 years and is in very poor condition. Given that the site lies within the flood plain the proposed house requires to be constructed to conform rules set out by SEPA and MFA. In this respect Mr Edwards advised that the house, at ground floor level, had to be raised to a point above the notional 1 in 200 year flood level which in this case was 500 mm above the adjoining road level. The construction agreed was to raise the house and then allow the floodwaters when they come to flow through the solum area of the house and also to allow the garage itself to flood. The meeting noted that this meant that there would be no knock on effect of water displacement and would in fact slightly reduce the effect to the adjacent properties.

In regard to the objections Mr Edwards was of the view that these related to the potential increased flood risk and the height of the property. In regard to these issues Mr Edwards advised that the first point has been addressed with regard to the flooding and the second, when the house was redesigned the overall height was reduced by about 700mm. The meeting noted that this would have been more if the required increase in floor levels to address the flooding risk did not have to be taken into account. Mr Edwards also advised that the position of the new house is approximately 15 metres from its neighbour and will not impede any day lighting at any time and there are now no first floor windows overlooking the neighbouring site. He also advised that the site itself is surrounded by mature Leylandi trees which will be taken down on the road front with quite a number of the remaining trees being trimmed and thinned to increase the effect of ground area within the surrounding boundary walls.

There were no questions to Mr Edwards.

REPRESENTATIONS TO THE APPLICATION

Mr & Mrs Laing addressed the meeting on their objections to the application. Mrs Laing advised the meeting that, as confirmed by MFA their property is at risk of flooding. On receiving confirmation of this they were also advised that the MFA model did not take into account the affect this new development might have on their property. Mrs Laing referred to the proposed substantial flood prevention measures included in the proposed new development, which include raising the entrance road to the new house by 100mm above the roadway and a new surrounding wall, which will almost certainly have a material detrimental affect on their property. She referred to instances when floodwaters have been flowing down the road and that particular property has had water right up its walls. Mrs Laing was of the opinion that increasing the height of the access roadway clearly increased the flood risk to their property. She was also of the view that it is not acceptable to permit new development in a known flood risk in the knowledge of the likely impact this may have on adjoining properties.

Mr Laing made reference to the drawing covering the access to the site which indicates that this will rise 100mm above road level at the entrance and then fall at the garage entrance in order to prevent flood waters gaining immediate access to this site which is walled all round. This means, in his opinion, that during periods of flooding there will be an additional 100mm of water on the road which is going to flow into their property or into fields and then into their property before it has even gone onto the site under consideration. At the moment the proposed development site is actually lower than the B9103 and if the site is walled all round with the exception of this there is no other way that water is going to get into it until it is above 100mm deep on the road.

In conclusion Mrs Laing intimated that on one hand the Council are saying that it is uneconomical to protect properties downstream but allowing development, which is clearly going to pose a significant higher risk to existing properties, is, in their opinion, irresponsible. For these reasons Mr & Mrs Laing were requesting that consideration of the application be deferred until the flood levels for their property, which include the effects of the proposed flood alleviation protection proposals are actually known and considered.

There were no questions to Mr & Mrs Laing.

SUMMARIES OF SUBMISSIONS

On the invitation of the Chairman Mr Edwards and Mr & Mrs Laing summarised their respective presentations and in response to a question from the Chair, intimated that they were satisfied with the conduct of the proceedings of the Hearing.

COMMITTEE CONSIDERATION OF THE APPLICATIONS

In regard to the flooding issues the Development Control Manager advised the meeting that whilst he sympathised with the concerns of the objectors the relative consultees, SEPA and MFA team, had no objections to the application, subject to a requirement (Condition 17) that prior to the commencement on site an emergency response plan for the dwelling will require to be submitted and approved following consultation with the local emergency services, SEPA and the MFA team.

Thereafter Councillor Cree expressed the view that this was for a replacement dwelling with adequate flood protection measures included in the design to meet the requirements of the site. For these reasons Councillor Cree moved approval of the application, as an acceptable departure from policy, subject to the conditions detailed in the report. The motion was seconded by Councillor Russell.

There being no-one otherwise minded the motion became the finding of the meeting and it was agreed that the application be approved, as an acceptable departure, subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
3. Sample panels of roughcast shall be prepared on the site for the inspection and approval of the Head of Development Services and the roughcast work shall not be carried out until agreement has been reached with the Head of Development Services regarding the type and colour of materials to be used.
4. The roof of the dwelling hereby approved shall be finished in natural slate or a good quality artificial slate to be agreed in writing by the Council (as Planning Authority) prior to the commencement of development.
5. No boundary fences, hedges, walls or any obstruction whatsoever over 1.0 m in height and fronting onto the public road shall be within 2.4 m of the edge of the carriageway. This will require considerable trimming or removal of existing vegetation but is essential for road safety.
6. No water shall be permitted to drain or loose material be carried onto the public footpath/carriageway.
7. A turning area shall be provided within the curtilage of the site to enable vehicles to enter/exit in a forward gear.
8. Three no. private parking spaces shall be provided at all times.
9. 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;
 - (d) the position of any children's play areas and public amenity open space. Details of the surface finishes, boundary enclosures and number, type (for example, inclusion of manufacturer's specification) and position of pieces of play equipment to be provided.
10. That all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out in the first planting and seeding seasons following the occupation of the dwelling 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.
11. Notwithstanding the provisions of Class 7 in Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any Order revoking or amending that Order, and unless alternative agreements are reached with the Head of Development Services, the boundaries of the site shall be comprised:-
- Post and wire fence
 - Native hedgerow
12. If significant unsuspected contamination is found then all work shall cease until an appropriate investigation to determine the nature, extent and potential impacts of the contamination has been undertaken and a remediation method statement agreed with The Council as Planning Authority.
13. Prior to the commencement of development an archaeological watching brief shall be submitted to and approved by the local Planning Authority in writing. Terms of reference for the watching brief shall be supplied by the Aberdeenshire Council Archaeology Service. The watching brief shall include details of: -
- the schedule/timetable for development;
 - the name of the archaeological organisation retained shall be given to the Planning Authority and to Aberdeenshire Council Archaeology Service not less than 14 days before development commences.
14. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record the structures that are to be demolished and recover items of interest and finds.
15. No work shall commence on the site until the site has been thoroughly checked for breeding birds and if any are found no breeding birds should be disturbed (breeding season is between 1st April and 31 July inclusive).

16. The finished floor level of the dwelling hereby permitted shall be set no lower than 5.90m AOD (N) as detailed in drawing no. A896.07.02, received 25th October 2007.
17. Prior to any work commencing on site an emergency response plan for the dwelling shall be submitted and approved in writing by the local Planning Authority following consultation with the local emergency services, SEPA and the Moray Flood Team.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that there are no unauthorised departures from the approved plans, which could adversely affect the development or character and amenity of the surrounding properties and area.
3. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
4. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
5. In the interests of road safety.
6. In the interests of road safety.
7. In the interests of road safety.
8. In the interests of road safety.
9. In order that detailed consideration can be given to the landscaping of the site and provision of any play equipment.
10. 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.
11. In the interests of amenity and to ensure that the appearance and character of the area is maintained.
12. In order to safeguard the health and safety of the occupants of the property from the effects of harmful ground contamination.
13. In order to observe work in progress and record items of archaeological interest and finds.
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15. To protect any breeding birds and comply with the Wildlife and Countryside Act 1981 (as amended).
16. To prevent the dwelling from being flooded.
17. To prevent the dwelling from being flooded.