

PLANNING APPLICATION: 09/02265/APP

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

- This application is for permission to vary the conditions of previous application reference 08/02039/FUL by removing the requirement to comply with condition 3 (part 6) and condition 5.

The Site

- The site of this application is the same as that previously applied for under application reference 08/02039/FUL; the R2 'Waulkmill' site as designated in the Moray Local Plan 2008.

Policy / Objections-Representations / Consultations - See Appendix

History

08/02039/FUL - Detailed application for the erection of 119 dwellinghouses and 30 flats at Waulkmill, Elgin for Grampian Housing Association. This application together with two similar applications for Forres and Buckie were considered at a specially convened meeting of the Planning and Regulatory Services Committee meeting on 16th December 2008. The recommendation to approve the application was supported by Committee, and the matter referred to Scottish Ministers owing to an unresolved objection from a statutory consultee (SEPA). Ministers subsequently agreed that the application should be approved, and consent was issued on 5th February 2009.

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Observations

Road Access (T2)

This policy requires that new development is provided with a suitable and safe access from the public highway, and that where appropriate necessary modifications to the existing road network will be sought to mitigate against impact.

During consideration of the previous application, the need for an additional point of access for the development site was identified and the plans amended accordingly to reflect this, close to the point at which Barlink road enters the application site. As amended, the application plans indicated a second point of access being taken from a spur off Reynolds Crescent. The second point of access for the development is required for safety reasons, so that emergency vehicles are able to access the site unhindered. In light of this, the Transportation Manager recommended conditions of planning permission to ensure delivery of the secondary access, and these were duly reported to and approved by Committee. Condition 5 of that permission allowed development to commence on the site, and for up to 20 units to be completed before the link with Reynolds Crescent required to be completed. Assurances were given at the time by the agents for the application that this could be achieved, notwithstanding a strip of ground between the site boundary and the Reynolds Crescent roadway which was, and at present remains outwith the control of the applicants.

Since the grant of consent, development of the site has commenced and is (as Members are no doubt aware) well underway. Considerably more than the 20 units permitted by condition have been constructed, and construction work continues at present. To date, however, the link road from the application site into Reynolds Crescent has not been formed, and negotiations between the developer and Defence Estates for the strip of land to Reynolds Crescent have failed to agree on terms for the transfer of the land. This has effectively created a 'ransom strip' situation.

Aware of the breach of conditions and hoping to continue with development work, the applicants have submitted the current application to vary those conditions of the previous consent requiring the formation of the link through into Reynolds Crescent. As for the previous application, this has been the subject of consultation with the Transportation Manager, and the response to this consultation has been that the proposal cannot be supported owing to issues of road safety. This Service concurs with this view, and agrees that the proposal is in contravention of Development Plan policy T2 on grounds of road safety.

Although this application has been in and valid since the end of 2009, this Service has held consideration in abeyance to allow for further negotiations and hopefully conclusion of a bargain for the transfer of the 'ransom strip', and to allow compliance with conditions 3(6) and 5 of the previous permission. It was hoped that this would then render the current application superfluous, and that it could be withdrawn. To date this has not been achieved, despite the efforts of officers of this Council to assist in negotiations and achieve a satisfactory conclusion. It is therefore with reluctance that this Service must recommend refusal of the application to vary conditions 3(6) and 5 of the previous application (08/02039/FUL) on the grounds of road safety, and that enforcement action be initiated to halt progress on the continuing and unauthorised development of the Waulkmill site.

Development Requirements (IMP1)

This policy has a general focus which stresses that new development must be sensitively sited and designed, and that the level of servicing is appropriate to the nature and scale of the development proposed.

As will be noted from the paragraphs above relating to road access, the proposal is to effectively delete the requirement for formation of a link road through into Reynolds Crescent, and this would fall short of the standards of access required to service a development of this scale and nature. The current proposal therefore fails to comply with this policy also.

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DONALD LUNAN
PLANNING & DEVELOPMENT MANAGER

APPENDIX

POLICY

Moray Structure Plan 2007 and/or Moray Local Plan 2008

Policy T2: Provision of Road Access

The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians. Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

SPP17 details that there will be a presumption against new accesses onto a trunk road, and that the Scottish Executive will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

IMP1: Development Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It must meet the following criteria:

- a. the scale, density and character must be appropriate to the surrounding area,
- b. the development must be integrated into the surrounding landscape,
- c. adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development,
- d. adequate water, drainage and power provision must be made,
- e. sustainable urban drainage systems should be used where appropriate, in all new developments
- f. there must be adequate availability of social, educational, healthcare and community facilities,
- g. the development should, where appropriate, demonstrate how it will incorporate renewable energy systems and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria,
- h. provision for the long term maintenance of public landscape and amenity areas must be made,
- i. conservation of natural and built environment resources must be demonstrated,
- j. appropriate provision to deal with flood related issues must be made, including the possibility of coastal flooding from rising sea levels and coastal erosion,

- k. pollution, including ground water must be avoided,
- l. appropriate provision to deal with contamination issues must be made, and
- m. the development must not sterilise significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.
- n. where appropriate, arrangements for waste management should be provided.

OBJECTIONS-REPRESENTATIONS

Letter of objection/representation received from:

- Mrs A Beard, 79 Reynolds Crescent, Elgin, Moray, IV30 6TR

The main grounds of objection are as follows:

Flooding: The writer objects to the scheme on the grounds that the site is liable to flooding, and that the development may result in increased risk of flooding to adjoining properties.

Comment: the current application is solely related to the issue of planning conditions as applied to the previous consent, and does not involve proposals for further housing. The matter of flooding was considered in detail with the previous application, and ultimately Scottish Ministers decided that the development could proceed notwithstanding the objections of SEPA. This is therefore not a matter which can be taken into account in the determination of this application.

CONSULTATIONS

Transportation Manager, Direct Services - Objects to the development on the grounds that the development should be served by two points of access to ensure unhindered emergency access and to ensure minimal delays to vehicles entering from and exiting to the traffic distributor road.