

## PLANNING APPLICATION: 10/00164/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

- Detailed permission sought for the removal of planning condition numbers 6, 7, and 8 from the detailed consent granted under application reference number 04/00491/FUL. These conditions relate to junction improvements to the A96/Wittet Drive junction.

### The Site

- There is no specific development site for this application, as it is for the removal of conditions from a previous grant of planning permission only. However, this is inextricably linked to the previous application which is for the development of the former Sheriffmill nursery site. This extends to around 1.66 hectares (4.1 acres) and lies immediately to the north of the A96 and west of the River Lossie.

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

### History

- 04/00491/FUL** - Erect Garden Centre with external sales area and associated parking at Sheriffmill Road, Elgin for Decora. This application was considered at a Hearing of the Environmental Services committee of this Council on 22nd September 2005. The application was subsequently approved as an acceptable departure to the Elgin ENV1 (Lossie corridor) policy, notwithstanding the recommendation for refusal.
- 02/00897/PE** - Proposed garden and agricultural supplies centre at The Nursery Gardens, Sheriffmill. Noted that refusal likely for any application on the basis of the Elgin ENV1 Lossie Corridor designation.
- 02/00555/PE** - Proposed development of former nursery on site adjoining 59 Sheriffmill Road. Noted that proposal to establish a nursing home on the site would be incompatible with the environmental designation, and that any application would likely be recommended for refusal.
- 93/00606/FUL** - Erect seed warehouse at Sheriffmill nursery - approved 11th August 1993.
- MP/770/86** - Outline application to construct garden centre and car parking at Sheriffmill, Elgin - approved.

## **Advertisement**

Advertised under neighbour notification regulations.

## **Observations**

The main planning considerations are:

### **Road Access/Traffic Management (T2, T6)**

These policies are designed to address issues of road safety, and to ensure that all new development is served with access that is appropriate to the nature and scale of the development concerned.

As Members will have noted from the section of this report above detailing the history of applications relating to this site, there was a previous application for the development of a garden centre on the Sheriffmill site considered. Although that application was recommended for refusal, Committee were minded to support the application and consent was granted. At that time one of the key issues was that of access to the development site, and the approval was subject to conditions of planning permission relating to;

- Improvements to the A96(T)/Wittet Drive junction, and
- Installation of traffic lights at the A96(T)/Wittet Drive junction.

The current application is due to a directive from Transport Scotland as the Trunk Roads Authority confirming that the traffic lights solution for the A96/Wittet Drive junction is no longer considered acceptable. The applicants have attempted to find a solution to the issue which will be to the satisfaction of the Trunk Roads Authority, but have been unable to find a means of complying with the conditions noted. To resolve this matter, and allow the development of the approved garden centre to proceed, it was suggested that a legal agreement be concluded with the applicant for the payment of funds approximating to the cost of installing traffic signals at the A96/Wittet Drive junction. The monies then paid by the applicant would be available for improvements to the road network in mitigation of the possible impact of traffic generated by the garden centre. This proposal has the support of the Transportation Manager, and Transport Scotland have not objected to the application.

It is therefore concluded that the proposal to delete conditions 6, 7, and 8 of planning permission ref. 04/00491/FUL is acceptable, and that it is appropriate to grant permission for the current application, subject to conclusion of an appropriate legal agreement with the developer. The recommendation to Committee is that the application be delegated to this Service to approve, subject to conclusion of the agreement.

### **Developer Contributions (IMP3)**

The aim of this policy is to ensure that all new development which would have a measurable impact on infrastructure or services is addressed through contributions to mitigate against that impact.

In the case of the current application, it has been agreed that a legal agreement with the developer to secure financial contributions is appropriate in place of the works required by the conditions of the previous permission. The process to establish a legal agreement has already been initiated, and it is hoped to up-date Members on progress with this at Committee. The proposal is therefore considered to be in compliance with this policy.

**Author/Contact Officer:** Jim Martin  
Principal Planning Officer

**Ext:** 01343 563399

***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.

##### **T6: Traffic Management**

The road hierarchy will be used to assist the assessment of planning applications, in particular for the consideration of the appropriate road design and traffic management requirements. The road hierarchy will be used when considering appropriate traffic management options/schemes to optimise the performance of specific roads.

##### **Policy IMP3: Developer Contributions**

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact on existing infrastructure, community facilities or amenity, and those contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

Where the necessary contributions can be secured satisfactorily by means of planning conditions attached to a planning permission, this should be done, and only where this cannot be achieved, for whatever reason, the required contributions should be secured through a planning agreement.

### **OBJECTIONS-REPRESENTATIONS**

None.

### **CONSULTATIONS**

**Transportation Manager, Direct Services** - The Transportation Manager has not objected to the proposal to delete the noted conditions of the previous planning permission, but has recommended that an appropriate legal agreement be concluded with the applicants to secure funding which will be used for future measures to reduce or remove the impact of traffic associated with the new garden centre development on the road network.

**Transport Scotland** - In their response to consultation on this application, Transport Scotland confirm that they do not propose to advise against the grant of permission.