

Notice of Review Reference: 13/00049/RBREF

Original Planning Reference: 11/01495/PIP

DECISION NOTICE OF THE HIGHLAND COUNCIL PLANNING REVIEW BODY

- Application for review by Aros Mathieson
- Site address: Land NE of Myrtle Cottage, Whitebridge, Inverness, IV2 6UR
- Proposal: Formation of 2 No House Plots (One House Per Plot)
- Reason for Notice of Review: Refusal of application by appointed officer.
- Related Plans:

Type of Plan	Plan No.	Version	Date Plan Received
Location Plan	XP33436.1.SP1		22.08.2011
Location Plan	XP33436.1LR1		22.08.2011
Site Layout Plan	2012-02-1542-01	A	03.09.2012

This Notice constitutes the formal decision notice of the Planning Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

The Planning Review Body **upheld** the Notice of Review, subject to the conditions below, namely:

1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority relative to each plot:
 - i. a detailed layout of the site of the proposed development (including site levels as existing and proposed);
 - ii. the design and external appearance of the proposed development on the plot;
 - iii. landscaping proposals for the site of the proposed development (including boundary treatments);
 - iv. details of access and parking arrangements; and
 - v. details of the proposed water supply and drainage arrangements.

Reason: Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

2. Any details pursuant to Condition 1 above shall show a development featuring the following elements:

- i. The building shall be generally rectangular in shape and with traditional gable ends;
- ii. The building shall not exceed 1.5 storeys in height;
- iii. The walls shall be finished in either a natural stone, timber cladding or a white wet dash render, or a combination of these materials;
- iv. The roof shall be symmetrically pitched between 40 and 45 degrees, finished in natural blue grey slate;
- v. The use of pitched dormers and chimneys will be encouraged;
- vi. Windows shall have a vertical emphasis;
- vii. A parking and turning area shall be provided on each plot for at least two vehicles

Reason : To ensure the building integrates satisfactorily with its landscape setting in accordance with Policy 28 of the Highland-wide Local Development Plan and the guidance in Supplementary Planning Guidance : Housing in the Countryside and Siting and Design.

- 3. With effect from the date of this permission no fences, trees, hedges or other vegetation within the development site are to be removed, cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the Council.

Reason: In order to enable the Council to consider these matters in detail and in the interests of local amenity in accordance with Policy 28 of the Highland-wide Local Development Plan 2012.

- 4. No other development shall commence on either plot until the single access to the site has been provided in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines, with:
 - i. the junction formed to comply with drawing ref. 2012-02-1542-01A
 - ii. visibility splays of 4.5m x 112m (the X dimension and Y dimension respectively) to the left and 4.5m x 128m to the right formed from the centre line of the junction.
 - iii. the bin storage areas provided for each plot to comply with drawing ref. 2012-02-1542-01A prior to occupation of each respective house

Reason : To ensure that an adequate level of access is timeously provided for the development in the interests of road safety and amenity in accordance with Policy 28 of the Highland-wide Local Development Plan 2012.

- 5. Any details pursuant to Condition 1 above either together or in relation to each plot and the single access shall include for submission and approval of a Tree Survey, Report, Protection Plan and a Compensatory Tree Planting Scheme (CTPS) as required under Policy 52 of the HwLDP and the Council's Trees, Woodlands and Development Supplementary Guidance. Such details shall be in accordance with BS5837:2012 – Trees in Relation to Design, Demolition and Construction (or any superseding document prevailing at the time). The Survey shall highlight the expected tree loss arising from the house(s), any associated garage(s), boundary treatments, garden areas and access drive on existing trees within and adjacent to the approved site for each house plot, the shared road access, and impacts arising from all off-site service and drainage way-leaves. The Survey shall also include a statement on tree shadow and the risk of tree fall from all retained trees surrounding and outwith the development site and occasioned by any new plantings proposed under the CTPS. Any approved Tree Protection Plan shall be implemented, with tree

protection barriers erected prior to any development, site excavation or groundwork commencing on any site or the joint access. Barriers shall remain in place, and must not be moved or removed without the prior written approval of the Planning Authority, throughout the construction period. The approved CTPS shall be implemented as approved on the agreed timetable which shall incorporate ongoing maintenance and management of the trees for a minimum of 10 years. For the avoidance of any doubt the expected CTPS may take into account recent tree plantings undertaken within the land holding around Myrtle Cottage in so far as they are assessed to adequately meet the requirements of a compensatory tree planting scheme as distinct from general landscape works associated with the existing residential property (Myrtle Cottage) and its associated garden area.

Reason : In order to ensure the protection of retained trees, which are important amenity assets during construction and to allow for an appropriate level and type of replacement tree cover as required under policy 52, and under Policy 28 of the Highland-wide Local Development Plan 2012, all in the interests of amenity.

6. Any details pursuant to Condition 1 above shall include a plan outlining the extent of the residential curtilage to be associated with the respective house on each plot hereby approved. Thereafter, all land included within the residential curtilage delineated on the approved plan shall be taken as being the area to which the change in use of land permitted by this planning permission applies. For the avoidance of doubt, the use of any land lying outwith the residential curtilage delineated on the approved plan shall remain unchanged by this planning permission.

Reason : In order to ensure that the residential curtilage is not excessive, in the interests of amenity, to maintain the character of the area and safeguard access to the shore and beaches in accordance with Policies 49 and 77 of the Highland-wide Local Development Plan 2012.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and applicable supplementary guidance. There are no material considerations which would warrant refusal of the application.

TIME LIMITS

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i. The expiration of THREE YEARS from the date on this decision notice;
- ii. The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained), whichever is the later. If development has not commenced within this period, then this planning permission in principle shall lapse.

INFORMATIVES

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. Consent may also be required for any works impacting upon the road surface, the verge, drainage or any roadside footway or pavement.

These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from: <http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any

material deposited on the public road network and maintain this until development is complete.

Damage to the Public Road

Please note that the Council, under Section 96 of the Roads (Scotland) Act 1984, reserves the right to recover all costs for repairing any damage to the public road (and/or pavement) which can be attributed to construction works for this development.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species - Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Protected Species - Contractors' Guidance

You must ensure that all contractors and other personnel operating within the application site are made aware of the possible presence of protected species. They must also be provided with species-specific information (incl. guidance on identifying their presence) and should be made aware of all applicable legal requirements (incl. responsibilities and penalties for non-compliance).

Protected Species - Tree Felling

Any mature trees within the application site which are to be felled, lopped or topped must be surveyed for bats prior to the works being carried out. If a bat roost is identified work must stop and further advice sought from SNH's area office. It is an offence to interfere with bats and/or their roosts without a license and strict penalties will be applied through the courts where a license has not been obtained.

Building Regulations

Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's

Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at BuildingStandards@highland.gov.uk or on 01349 886606.

Dated: 3 July 2014 Clerk to the Planning Review Body

Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

1. If the applicant is aggrieved by the decision of the planning authority-
 - (a) to refuse permission for the proposed development;
 - (b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; or
 - (c) to grant permission or approval, consent or agreement subject to conditions,the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.