

Notice of Review Reference: 12/00046/RBREF

Original Planning Reference: 11/02248/FUL

DECISION NOTICE OF THE HIGHLAND COUNCIL PLANNING REVIEW BODY

- Application for review by Mr Ian Wilson
- Site address: Land South of Wester Cairnglass Farmhouse, Clephanton
- Proposal: Erect 3 no. dwellings, drainage systems and associated works
- Reason for Notice of Review: Refusal of application by appointed officer.
- Related Plans:

Type of Plan	Plan No.	Version	Date Plan Received
Location Plan	*110069.WILSON.P04		17.06.2011
Floor Plan	110069.WILSON.P06		17.06.2011
Floor Plan	110069.WILSON.P05		17.06.2011
Drainage Mitigation Plan	110069.WILSON.P07A		13.05.2014

*(For the avoidance of any doubt, the communal drainage arrangement shown on Location Plan 110069.WILSON.P04 is superseded in its entirety by the Drainage Mitigation Plan 110069.WILSON.P07A received on 13.05.2014 and by Conditions 1 and 2 below).

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 mitigating waste water drainage infrastructure at the existing property indicated on Plan 110069.WILSON.P07A and as outlined in the submitted details received on 13 May 2014, has been installed. For the avoidance of any doubt, the installed drainage infrastructure at the remote existing property as indicated and approved shall include a package biological treatment plant to conform to BS EN 12566:3 and shown to be capable of achieving 2mg/l P discharge with a soakaway to land and shall be installed with a CAR authorisation from SEPA in place, routinely monitored, maintained and retained unless replaced by an approved equivalent (or better) system, all to the reasonable satisfaction of the Planning Authority. Following the installation and effective operation of upgraded waste water drainage infrastructure at the existing property above, each new property within the proposed development shall only be occupied once its own waste water drainage infrastructure, (which shall also include a package biological treatment plant to conform to BS EN 12566:3 and shown to be capable of

achieving 2mg/l P discharge with a soakaway to land), has been installed in accordance with submitted plans and details to be provided to comply with Condition 2 below and with a CAR authorisation from SEPA in place, and shall thereafter be routinely monitored, maintained and retained unless replaced by an approved equivalent (or better) system, all to the reasonable satisfaction of the Planning Authority.

Reason: to ensure that waste water drainage infrastructure capable of achieving not less than 125% phosphorus mitigation associated with this development at an existing property shall be undertaken in a phased manner to mitigate discharge of phosphorous in accordance with Policy 5 of the Inner Moray Firth Proposed Local Development Plan (IMFLDP) and that all new waste water drainage infrastructure associated with the proposed development meets an appropriate level of phosphorous discharge thereby safeguarding the integrity of the NATURA interests in Loch Flemington within the catchment of which the site lies.

2. Full details of each of the waste water drainage systems to be installed in compliance with condition 1 above shall be submitted for the prior approval of the Planning Authority in writing and in consultation with SEPA. For the avoidance of doubt, the details shall include: confirmation of the means of installation of the systems, including the relevant standards to be followed; proposals for routine monitoring of the standard of discharge (particularly with regard to phosphorous) to be undertaken and for records to be kept (which shall be made available within an agreed timescale following any reasonable request by the Planning Authority and in the event of any complaint considered worthy of investigation in consultation with SEPA); and of the routine maintenance regime to be adopted and maintained and records kept.

Note: In the event that remedial action is considered necessary in relation to any individual system or part of a system, (excluding the soakaway), this could be the subject of enforcement by SEPA under the CAR Regulations.

Reason: since not all details of waste water drainage infrastructure have been provided, and to ensure on-going mitigation of phosphorous discharge from the proposed and mitigating development to groundwater within the Loch Flemington catchment and thereby the integrity of NATURA interests in the Loch.

3. No other development shall commence on plot 3 until the access to the site at its junction with the B9090 has been upgraded 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 No SDB 2 - Service Bay to a Rural Development of up to 4 Houses
 - II. visibility splays of 2.4m x 215m (the X dimension and Y dimension respectively)

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.

4. No other development shall commence on plots 1 and 2 until the access to the site at its junction with the B9090 has been upgraded 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 No SDB 2 - Service Bay to a Rural Development of up to 4 Houses amended to form a 5.5m width bell mouth with 6m wide radii and surfaced over the first 10 metres from the edge of the public road, thereafter reduced to 3.3metres wide single track standard.
- II. visibility splays of 2.4m x 215m (the X dimension and Y dimension respectively)

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. No development shall commence until full details of wheelie/kerbside recycling bin storage areas at both junctions with the B9090, capable of accommodating bins for the total number of properties served by each access and located outwith any visibility splays, have been submitted to, and approved in writing by, the Planning Authority. The communal storage area shall be constructed in accordance with these approved details prior to the first occupation of the relevant development served by each access and thereafter maintained in perpetuity.

Reason: To ensure that suitable provision is made for the storage of waste and recycling bins.

6. No development shall commence on each of the three plots until a detailed Landscape Plan and Maintenance Programme for each (either taken together or separately) have been submitted to, and approved in writing by, the Planning Authority. The Landscape Plan shall be implemented in full during the first planting season following commencement of development, with maintenance thereafter being carried out in accordance with the Maintenance Programme. For the avoidance of doubt, any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

Note: This Decision Notice has been issued following an Appropriate Assessment undertaken by Highland Council in accordance with the European Species and Habitats Regulations.

REASON FOR DECISION

The Planning Review Body consider 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

Limit for the implementation of this planning permission

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission 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. Scottish Planning Policy 2014 at paragraph 259 notes "Developers should take into account flood risk and the ability of future occupiers to insure development before committing themselves to a site or project, as applicants and occupiers have ultimate responsibility for safeguarding their property".

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.

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 Building.Standards@highland.gov.uk or on 01349 886606.

Nairn to Inverness Gas Pipeline Exclusion Zone

Please note that it is the developer's responsibility to comply with the exclusion zone requirements within Plot 3 and to consult with the relevant Gas Network Provider as required prior to any development taking place within the boundaries of that plot

Dated: 14 October 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.