

Notice of Review Reference: 14/00013/RBCON

Original Planning Reference: 13/04511/FUL

### **DECISION NOTICE OF THE HIGHLAND COUNCIL PLANNING REVIEW BODY**

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- Application for review by Mr & Mrs M Duffy
- Site address: Former Steading 40M SW Of The Old Manse, Manse Brae, Rosemarkie
- Proposal: Change of use and extension of steading building to form house
- Reason for Notice of Review: Conditions imposed on consent by appointed officer
- Related Plans:

Type of Plan	Plan No.	Version	Date Plan Received
Location Plan	0436/300/C		28.11.2013
Existing Floor Plan	0436/301		28.11.2013
Existing Elevation Plan	0436/302		28.11.2013
Existing Elevation Plan	0436/303		28.11.2013
Ground Floor Plan	0436/304/B		28.11.2013
First Floor Plan	0436/305/B		28.11.2013
Proposed Elevation Plan	0436/306/B		28.11.2013
Proposed Elevation Plan	0436/307/B		28.11.2013
General Plan	0436/308	WINDOWS	28.11.2013
Roof Plan	0436/309		28.11.2013

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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 **partially upheld** the Notice of Review, subject to the conditions below, namely:

1. Prior to any works being carried out to the steading building, the existing gate on the west side of the steading building which lies at the heel of the public footpath shall be refurbished or replaced by a gate of a design appropriate to the Listed steading building, the details of which shall be submitted for the prior consideration and written approval of the Planning Authority. For the avoidance of doubt, the gate shall be fixed shut at all times, and shall not constitute a means of access into or out of the property.

**Reason:** To preserve or enhance the character of the Listed building and to remove this route as a means of vehicular access to the steading as it is not suitable as a means of access to a house due to the lack of visibility in an easterly direction onto

an 'A' class road and the unacceptable risk that this would present to pedestrians and other road users in the interests of safety.

2. Prior to any works being carried out to the steading building, a programme of works for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development, including a timetable for investigation, all in accordance with the attached specification, shall be submitted to and agreed in writing by the Planning Authority. The agreed proposals shall be implemented in accordance with the agreed timetable for investigation.

**Reason:** In order to protect the archaeological interest of the site.

3. Prior to any works being carried out to the steading building, proposals for an archaeological watching brief, in accordance with the attached specification, to be carried out on site clearance and excavation works shall be submitted to and agreed in writing by the Planning Authority. No site clearance or excavation works shall take place until such proposals are agreed. Thereafter the agreed proposals shall be implemented.

**Reason:** In order to protect the archaeological interest of the site.

4. No development shall commence on works to the steading building, until evidence that the site is suitable for its proposed use, by way of an assessment of potential contamination, has been submitted to, and approved in writing by, the Planning Authority. The assessment shall be consistent with the approach to land contamination contained in Planning Advice Note 33 and the British Standard BS 10175:2011+A1:2013 Investigation of potentially Contaminated Sites Code of Practice. In the event that contamination is found, details of the measures required to treat/remove contamination (a remedial strategy) to ensure that the site is fit for the uses proposed shall be submitted to, and approved in writing by, the Planning Authority. The approved remedial strategy shall be implemented prior to development commencing.

**Reason:** In order to ensure that the site is suitable for redevelopment given the nature of previous uses/processes on the site in the interests of health and safety of future occupants.

5. Prior to any works being carried out to the steading building, the building shall be inspected for the presence of bats and as required a bat pre-commencement survey (carried out within 12 months of the date of commencement of works to the building) shall be undertaken and a report of survey shall be submitted to, and approved in writing by, the Planning Authority. The report of survey shall include all mitigation measures required where any impact, or potential impact, on protected species or their habitat has been identified. Thereafter the approved mitigation measures shall be implemented prior to first residential occupation of the building.

**Reason:** In order to ensure that the appropriate measures are taken at the pre-commencement stage regarding a European Protected Species.

6. Prior to any works being carried out to the steading building, specifications of the inset panels below the windows on the north east elevation of the building shall be submitted for the prior consideration and written approval of the Planning Authority. Thereafter the development shall proceed in accordance with the agreed specifications.

**Reason:** In the interests of visual amenity and to ensure that the proposals do not adversely affect the architectural and historic character of the building.

7. The windows and doors shall be painted, not finished with a translucent preservative, all to the satisfaction of the Planning Authority.

**Reason:** In the interests of visual amenity and to ensure that the proposals do not adversely affect the architectural and historic character of the building.

8. The slatted timber fence shall be of the same design and finish to that approved under planning permission 13/01137/FUL.

**Reason:** In order to ensure that there is a continuity in the boundary treatment around the Old Manse to protect the setting of this Listed building.

9. The flue shall be coated with a dark non reflective finish. All rainwater goods shall be cast iron or an aluminium equivalent and shall match the profile of the existing guttering. Where existing guttering is present this shall be retained all to the satisfaction of the Planning Authority.

**Reason:** In the interests of visual amenity given the architectural and historic interest of the Listed building.

## **REASON FOR DECISION**

The proposals accord with the provisions of the Development Plan and 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**

### **Initiation and Completion Notices**

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

### **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.

## **Local Roads Authority Consent**

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent at the western existing access gate, a road openings permit, occupation of the road or pavement permit etc.) from the Council as Roads Authority 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 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 (**Note:** any works to improve the existing access onto an 'A' class road requires planning permission) 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](mailto: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](http://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).

### **Listed Buildings**

Both planning permission and listed building consent are required for these works. You are not authorised to commence development until you have both consents in place. Furthermore, both consents and their respective conditions must be read, and complied with, in tandem. Also, householder permitted development rights within the curtilage of a Listed building are restricted, and for the avoidance of doubt, any works involving the creation of a hardstanding, other than that already delineated and approved on Plan 0436/300/C will require a separate planning permission.

### **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](mailto:Building.Standards@highland.gov.uk) or on 01349 886606.

Dated: 22 August 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.