

Grounds of Appeal

Erect dwellinghouse with garage on Site at Glen of Rothies, Rothies, Moray

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Planning Application Ref No 15/01582/APP

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Appendices – separate document:

Appendix 1: Decision Notice 15/01582/APP

Appendix 2: Circular 4/2009 – Development Management Procedure (Annex A)

Appendix 3: Moray Local Development Plan- Extracts

- Policy H7 Housing in the Countryside
- Policy IMP1 Developer Requirements
- Policy T2 Provision of Access
- Policy T5 Parking Standards
- Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)
- Policy EP10 Foul Drainage

Appendix 4: Scottish Planning Policy- Extracts

Appendix 5: Planning Advice Note (PAN) Housing in the Countryside

Appendix 6: Handling Report 15/01582/APP

Appendix 7: Moray and Nairn Landscape Character Assessment 1998- Extract

Introduction

These grounds for review of a decision to refuse planning permission for a house in the Glen of Rothes are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three month period from the refusal of permission dated the 4th of November 2015.

The grounds for review respond to the reasons for the refusal of planning permission and address the proposal in relation to Development Plan Policies and relevant material planning considerations as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Background

The application was dated 1st of September 2015 and was refused under the Councils Delegation Scheme by the case officer on the 4th of November 2015. The reason for refusal (Appendix 1) states that;

The proposal is contrary to policy H7 of the Moray Local Development Plan 2015 on the basis that:

A house on the proposed site would not reflect the traditional settlement pattern in the locality and would not be integrated within the landscape setting, and on the basis would be visually intrusive, unsympathetic development.

The Proposal

The proposal is for a simple modest dwellinghouse served by a public water supply and private drainage (septic tank/soakaway) and SUDS. The application also includes details of a large garage building. The proposed site is served by an access which extends from the U131E Auchinroath road.

The design of the proposed dwelling would be of one and a half storey construction, in a T shaped plan form with 45 degree pitched roof and traditional gables. External finishes include natural slate to the roof and a combination of white K rend and Siberian larch linings to the walls.

The Site

The site is located in the Glen of Rothes, adjacent to Littlehaugh Cottage which fronts on to the A941. It forms part of a wider scattering of houses and agricultural buildings and there is a distillery nearby. These buildings are a long established and accepted feature of the landscape.

The site forms part of a defined parcel of low quality agricultural land used for rough grazing which extends to approximately 1.53ha. It is defined to the north west by the U131E Auchinroath road, to the south west by the A941, to the north east and south east by a combination of a disused railway line and the 'Broad Burn' stream.

There are no environmental designations (National or International) covering the site and no archaeological/ historic has been identified. There is not considered to be any flood risk at the site.

Development Plan Policy

The Development Plan for Moray comprises the Moray Local Development Plan 2015 and its associated Supplementary Guidance. The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

Scottish Government Circular 4/2009 (Appendix 2) describes how planning applications should be determined when balancing the Development Plan and material considerations. It sets out the following approach;

- Identify the provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well detailed wording of policies;
- Consider whether or not the proposal accords with the Development Plan,
- Identify and consider relevant material considerations for and against the proposal, and
- Assess whether these considerations warrant a departure from the Development Plan.

The provisions of the circular are important in the context of this application because the appellants consider the proposal to be in full accordance with the Development Plan and that there are no material considerations that would warrant the refusal of this application.

Moray Local Development Plan 2015

Policy H7 Housing in the Countryside (Appendix 3, page 8) contains a general presumption in favour of small scale housing developments in the countryside provided the prescribed siting and design of the proposal are in accordance with the following criteria;

Siting

- It reflects the traditional pattern of settlement in the locality and is sensitively integrated with the surrounding landform using natural backdrops, particularly where the site is clearly visible in the landscape. Obtrusive development (i.e. on a skyline, artificially elevated ground or in open settings such as the central area of a field) will not be acceptable;
- It does not detract from the character or setting of existing buildings or their surrounding area when added to an existing grouping or create inappropriate ribbon development;
- It does not contribute to a build-up of development where the number of houses has the effect of changing the rural character of the area. Particular attention will be given to proposals in the open countryside where there has been a significant growth in the number of new house applications; and;
- At least 50% of the site boundaries are long established and are capable of distinguishing the site from surrounding land (e.g. dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways).

If the above criteria for the setting of the new house are met, the following design requirements then apply:

Design

- A roof pitch between 40-55 degrees;
- A gable width of no more than 2.5 times the height of the wall from ground to eaves level (see diagram 2);
- Uniform external finishes and materials including slate or dark 'slate effect' roof tiles;
- A vertical emphasis and uniformity to all windows and doors;
- Boundary demarcation that reflects the established character or style (e.g. dry stone dykes, hedges) in the locality;
- Proposals must be accompanied by a landscaping plan showing an appropriate proportion of the plot, generally 25%, to be planted with native tree species at least 1.5 metres in height.

The siting and design criteria in Policy H8 are supplemented by the general criteria based Policy IMP1 – Development Requirements (Appendix 3, page 10). This policy has a range of requirements applicable to all new development including that;

- scale, density and character must be appropriate to the surrounding area;
- development must be integrated into the surrounding landscape.

In addition, there are a range of other policies relating to infrastructure and servicing which seek to ensure that new development is provided with a safe and suitable access, adequate car parking and adequate surface and foul drainage, namely;

- T2: Provision of Access (Appendix 3, page 11);
- T5: Parking Standards (Appendix 3, page 12);
- EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) (Appendix 3, page 13);
- EP10: Foul Drainage (Appendix 3, page 14);

National Planning Policy and Guidance

National Planning Policy and Guidance is a material planning consideration to be taken into account in the consideration of planning applications. It is set out in Scottish Planning Policy (SPP) and Planning Advice Notes (PAN's).

Scottish Planning Policy 2014 (Appendix 4)

Scottish Planning Policy (SPP) sets out the Scottish Governments overarching policy on land use planning. SPP advises that Planning should take a positive approach to enabling high quality development and making efficient use of land to deliver long term benefits for the public, while protecting and enhancing natural and cultural resources.

With respect to rural development, SPP states that the planning system should promote a pattern of development that is appropriate to the character of the particular rural area.

Planning Advice Note 72 (PAN72) – Housing in the Countryside (2005) (Appendix 5)

PAN72 starts by recognising changing circumstances and points out that one of the most significant changes in rural areas has been a rise in the number of people wishing to live in accessible parts of

the countryside while continuing to work in towns and cities within commuting distance. It contains guidance in some detail on how to achieve a successful development in the countryside.

The PAN acknowledges that there will continue to be a demand for single houses, often individually designed, but these have to be planned, with location carefully selected and design appropriate to locality.

Setting a building against a backdrop of trees is identified in the PAN as one of the most successful means by which new development can blend with the landscape. However it also states that the purpose of new planting is not to screen or hide new development, but to help integration with the surrounding landscape. The PAN also cautions against skyline development and heavily engineered platforms.

Main Issues

Siting

Having set out the National policy background it is now necessary to consider the principle of the site in relation to its policy context. As previously stated, there is a clear commitment in National Planning Policy to encourage well sited and designed housing in the countryside.

Policy H7 of the Moray Local Development Plan 2015 (Appendix 3, page 8) carries this through locally; its stated aim being *to allow housing in the open countryside that can be easily absorbed into the landscape*. It sets out four specific criteria under the heading of 'siting' which have to be met to secure the principle of development.

Firstly, the proposed site should reflect the traditional pattern of development in the locality and should not constitute obtrusive development. The settlement pattern in this area of Moray is characterised by single and small groups of houses and outbuildings dispersed throughout the rural area, as such the introduction of a dwelling beside an existing residential property set in a wider scattering of houses and agricultural buildings can be seen to reflect the established settlement pattern.

In addition, the site does not meet with the Council's definition of obtrusive development i.e. on a skyline, artificially elevated ground or in open settings such as the central area of a field. The proposed dwelling is, by the Officer's own admission, located in the lower, north eastern corner of the site (Appendix 6, page 20). Once built, it will not be possible to view this modest structure on the skyline from the surrounding countryside, and it is not the appellant's intention to build the house on artificially elevated ground (conditions relating to finished floor levels can be imposed to ensure control is retained over this matter).

The second element of the siting criteria states that the proposed development should not detract from the character or setting of existing buildings or their surrounding area or create inappropriate ribbon development. The closest dwelling in this case is Littlehaugh Cottage (approximately 120 metres to the south west) and views of the cottage are restricted by the mature planting which surrounds it. As a result, there is little or no impact on the character or setting of this property or upon neighbouring amenity (privacy, prejudice to sunlight/ daylight etc). Furthermore, the proposed development does not result in ribbon development.

The third of the siting criteria states that new housing in the countryside should not contribute to a build up of development where the number of houses has the effect of changing the rural character of the area. The submitted plans clearly demonstrate that the addition of one dwellinghouse, with the proposed separation between buildings, in this location will not have this effect nor are there any approved plots in the vicinity that would contribute to this effect in the future.

Finally, the site should have at least 50% of its boundaries as long established features capable of distinguishing it from the surrounding land. Examples of acceptable boundaries are listed as dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways. The proposed development meets and exceeds the boundary requirements prescribed through a combination of roads, a watercourse and a disused railway track.

In reality, because the site is so well defined and because the structures are proposed in the lower north eastern corner of the site, it will not detract visually from the character of the area or from the setting of existing buildings. The appellants would contend quite the opposite; the proposed development can be seen to complement the existing dispersed settlement pattern and once established will integrate successfully with its surroundings.

Design

Although the proposed design of the property is not identified as an issue in the reasons for refusal, there are a series of specific design requirements within policy H7 which are all met by the proposal;

- A roof pitch between 40-55degrees;
- A gable width of no more than 2.5 times the height of the wall from ground to eaves level
- Uniform external finishes and materials including slate or dark 'slate effect' roof tiles;
- A vertical emphasis and uniformity to all windows and doors;
- Boundary demarcation that reflects the established character or style (e.g. dry stone dykes, hedges) in the locality;
- Proposals must be accompanied by a landscaping plan showing an appropriate proportion of the plot, generally 25%, to be planted with native tree species at least 1.5 metres in height.

Overall it is considered that the proposal meets the requirements of Policy H7 and the related Supplementary Guidance on Housing in the Countryside. In doing so it also satisfies the requirements of Policy IMP1 which requires development to be integrated into the landscape and of a character appropriate to the surrounding area.

Infrastructure and Servicing

The proposal is in accordance with policies T2 Provision of Access and T5 Parking Standards; the Transportation Section has confirmed that a safe and suitable access and adequate parking provision can be provided.

Policy EP10 Foul Drainage allows for private drainage systems and the proposed septic tank/soakaway system with a discharge to land is deemed to be acceptable at this stage. It should be noted that this will be dealt with in detail under the Building Regulations, if approved.

SUDS (Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems) will be provided and this can be controlled through planning conditions. As stated previously, the water supply will be from the public mains.

Reason for refusal

The reason for refusal states that the proposed development does not reflect the traditional settlement pattern in the locality, that it would not be integrated within its landscape setting and on this basis the proposal would be visually intrusive, unsympathetic development.

Consequently, the test in policy is whether or not the proposal detracts from the established settlement pattern, and whether the introduction of a dwellinghouse onto this site could not be integrated within its landscape setting. It has already been shown that the proposal meets the criteria set out in policies H7 and IMP1 but the following paragraphs address the reason for refusal directly.

The Moray and Nairn Landscape Character Assessment characterises this area as 9. Upland Moorland and Forestry; it recognises that there are large tracts of landscape which are sparsely populated, interspersed with pockets of forestry. Crucially, it does not identify any particular sensitivity to new built form in the lower reaches of the Glens (Appendix 7).

The site is located in a relatively well settled part of this landscape character type; as previously stated the locality is characterised by single and small groups of buildings dispersed throughout the rural area, so the addition of a sensitively sited and designed development would not have a significant detrimental impact upon landscape character, so as to warrant refusal of the planning application.

The proposed dwellinghouse has been positioned in the lower part of the site, which in reality will result in views of the buildings being restricted by the surrounding landform and existing mature planting. The implementation of a long term landscaping scheme will ensure that views of the site are further restricted, and once established the proposed planting will integrate easily into the wider landscape and character of the area.

Taken together with the modest scale and design of the house and outbuilding, this will ensure that the finished development is neither visually intrusive nor unsympathetic to its surroundings.

Conclusion

The appellants consider that contrary to the appointed officer's decision, the proposals are wholly consistent with adopted planning policy, in particular policy H7 and IMP1 and that the finished development would make a positive contribution to the immediate and wider surrounding area, as opposed to a negative impact.

It has also been shown that the proposal is acceptable in relation to other relevant Local Plan policies regarding design, provision of access, parking and drainage, and there were no objections to the proposal from consultees.

As stated, the Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are "material considerations" to justify doing otherwise. As the

proposal can be accepted under Development Plan policies and there are no known material considerations to the contrary, it is respectfully requested that the Local Review Body reconsider the decision to refuse the proposed development and grant planning permission.