

Appendices for Grounds of Appeal

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

January 2016

Planning Application Ref No 15/01582/APP

Prepared by Grant and Geoghegan

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**THE MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Speyside Glenlivet]
Application for Planning Permission**

TO



With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

Erect dwellinghouse with garage on Site At Glen Of Rothes Rothes Moray

and for the reason(s) set out in the attached schedule.

Date of Notice: **4 November 2015**



HEAD OF DEVELOPMENT SERVICES
Environmental Services Department
The Moray Council
Council Office
High Street
ELGIN
Moray
IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposal would be contrary to policy H7 in the Moray Local Plan 2015 on the following basis :

- (i) 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 this basis would be visually intrusive, unsympathetic development.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
015/01529/01		Site plan
015/01529/02		Block plan
015/01529/03		Location plan
015/01529/04		Elevations
015/01529/05		Floor plans
015/01529/06		Section plan
015/01529/07		Sections A and B
015/01529/08		Sections C and D
015/01529/09		Garage elevations and floor plan
015/01529/010		Visibility splay

**NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, The Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

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 5 of the Town and Country Planning (Scotland) Act 1997.



ANNEX A

DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A(5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any 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 as 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.
3. There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
 - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.

5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy, and UK Government policy on reserved matters
 - The National Planning Framework
 - Scottish planning policy, advice and circulars
 - European policy
 - a proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance
 - Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
 - a National Park Plan
 - the National Waste Management Plan
 - community plans
 - the environmental impact of the proposal
 - the design of the proposed development and its relationship to its surroundings
 - access, provision of infrastructure and planning history of the site
 - views of statutory and other consultees
 - legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

Policy H7

New Housing in the Open Countryside

This policy assumes in favour of an application for a new house in the open countryside provided all of the following requirements are met:

Siting

- a) 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;
- b) 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;
- c) 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,
- d) 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).

Justification

The Plan aims to allow housing in the open countryside that can be easily absorbed into the landscape. New development should be low impact and reflect the character of the surrounding area in terms of the traditional pattern of settlement and the scale and design of housing. The introduction of suburban layouts and house styles and the incremental build up of new houses have the potential to alter the rural character and detrimentally impact on the area's high quality rural environment.

Proposals that add to an existing grouping, such as an established re-use or rehabilitation scheme, will be more satisfactorily integrated where they connect through built form, layout and landscape features. Development that adds to an existing suburban layout should be avoided. Infill development along a road or landscape feature may be appropriate where this does not detract from the character or setting of existing houses.

Innovative modern design and energy efficiency measures are encouraged to promote sustainable development.

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

Design

- i) A roof pitch between 40-55 degrees;
- ii) A gable width of no more than 2.5 times the height of the wall from ground to eaves level (see diagram 2);
- iii) Uniform external finishes and materials including slate or dark 'slate effect' roof tiles;
- iv) A vertical emphasis and uniformity to all windows and doors;
- v) Boundary demarcation that reflects the established character or style (e.g. dry stone dykes, hedges) in the locality;
- vi) 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.

Exceptions to the above design requirements will only be justified on the basis of innovative designs that respond to the setting of the house.

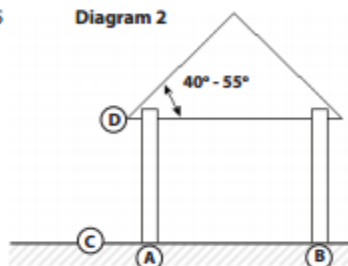
Proposals which involve the loss of woodland will be assessed against policy ER2 and must take account of the Council's Supplementary Guidance on Trees and Development.

Supplementary Guidance has been produced in order to provide further advice on the interpretation of this policy, and will be used in the process of determining planning applications.

Proposals for holiday homes in the open countryside will be assessed against this policy.

Other considerations such as noise contours, developer contributions and energy efficiency will be taken into account in the determination of a planning application, and advice on these matters can be viewed in the aforementioned Supplementary Guidance.

Diagram 2



Ground Level:

A fixed point measured 100mm below the finished floor level of a house with a solid ground floor;

or 300mm below finished floor level of a suspended ground floor

Eaves:

The point where the front face of the external wall intersects with the uppermost point of the roof line

The width of the gable as measured from A to B should not be greater than 2.5 times the height of the ground to eaves measurement C to D.

Pitch on roof to be 40° - 55°

Policy IMP1 Developer Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Justification

The quality of development in terms of its siting, design and servicing is a priority consideration within the Plan. In the first instance, development needs to be suitable to the surrounding built and natural environment. Development should be adequately serviced in terms of transport, water, drainage, with particular emphasis on providing pedestrian and cycle access, and any necessary public transport facilities/connections. The use of SUDS and incorporation of renewable energy techniques and sustainable design and construction methods will all help promote sustainability in Moray. Most of the serious flood risks have been addressed by flood alleviation schemes, but there are still areas that are susceptible and these should be avoided. Similarly, pollution issues in relation to air, noise, groundwater and ground contamination, must be adequately addressed to provide proper development standards.

Policy T2**PROVISION OF ACCESS**

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries appropriate to the type of development and location. Development must meet the following criteria:

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.
- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.
- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.
- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.
- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

Developers should give consideration to aspirational core paths (under Policy 2 of the Core Paths Plan) and active travel audits when preparing proposals.

New development proposals should enhance permeability and connectivity, and ensure that opportunities for sustainable and active travel are protected and improved.

Justification

Policy supports the creation of sustainable communities accessible by a range of transport modes including viable alternatives to private vehicles. Pedestrian movement, cycling and public transport routes will be a priority. At the early design stages consideration should be given to the likely desire routes (public transport, schools, and facilities) which shall inform the layout and design of the development. Inclusion of aspirational core paths and active travel audit proposals will provide new links that have a focus on facilitating active travel and sustainable transport helping to maximise new development's accessibility and connections to existing networks and facilities.

The street design guidance within Designing Streets can be used as a material consideration in determining applications. Proposals must incorporate the principles of "Designing Streets" and the Council's supplementary guidance "People and Places – A design Guide for Moray". Consideration should also be given to any active travel audits in place. For smaller developments in the countryside the Council's guidance "Transportation Requirements in Small Developments in Rural Parts of Moray" should be considered. The Planning Authority will be realistic about the likely availability of public transport services in rural areas. Innovative solutions such as demand responsive public transport and small scale park and ride facilities at nodes on bus corridors are encouraged to reduce travel demands by private vehicles.

Continued on next page.

Policy T5**PARKING STANDARDS**

Proposals for development must conform with the Council's current policy on parking standards.

Justification

The application of parking standards related to development assists in the implementation of appropriate traffic management, and in the availability of on-street car parking provision. The standards specify where there is scope to provide commuted payments as an alternative to parking on site, as well as the need for parking for commercial vehicles.

Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)

Surface water from development should be dealt with in a sustainable manner that has a neutral effect on the risk of flooding or which reduces the risk of flooding. The method of dealing with surface water should also avoid pollution and promote habitat enhancement and amenity. All sites should be drained by a sustainable drainage system (SUDS). Drainage systems should contribute to enhancing existing "blue" and "green" networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

Specific arrangements should be made to avoid the issue of permanent SUD features becoming silted-up with construction phase runoff. Care must be taken to avoid the introduction of invasive non-native species during the construction of all SUD features.

Applicants must agree provisions for long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.

A Drainage Assessment (DA) will be required for developments of 10 houses or more, industrial uses, and non-residential proposals of 500 sq metres and above.

The Council's Flood Team will prepare Supplementary Guidance on surface water drainage and flooding.

Justification

Under the Water Environment Controlled Activity (Scotland) Regulations 2011, SUDS are a statutory requirement for almost all development and therefore this needs to be considered during the site design to ensure adequate space will be available. Well designed and maintained, SUDS can reduce diffuse pollution from surface water run-off, free up capacity in water management infrastructure, contribute to green/blue networking thereby supporting River Basin planning. Blue networks are identified to ensure that new development is set back from and planned around watercourses to create networks and corridors to facilitate natural hydrological process, enhance biodiversity and help create a "unique sense of place" on-site. Systems should be designed to comply with the Controlled Activity Regulations (CAR) general binding rules (GBR's). SUDS also have a role in reducing flood risk and mitigating against the effects of climate change.



Policy EP10 Foul Drainage

All development within or close to settlements (as defined in the Local Development Plan) of more than 2,000 population equivalent will require to connect to the public sewerage system unless connection to the public sewer is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has confirmed investment to address this constraint has been specifically allocated within its current Quality Standards Investment Programme and the following requirements apply:

- Systems shall not have an adverse impact on the water environment;
- Systems must be designed and built to a standard which will allow adoption by Scottish Water.
- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

All development within or close to settlements (as identified in the Local Development Plan) of less than 2000 population equivalent will require to connect to public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area. Consultation with Scottish Environment Protection Agency will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

Justification

This policy aims to achieve the satisfactory disposal of sewage. The policy encourages new development to connect to the mains system whenever possible but recognises that in some cases this will not prove possible. The policy seeks to ensure that drainage systems can be designed to a standard that can be adopted by Scottish Water and which could be connected to a public system in the future.

- the scale of development proposed is appropriate, and it has been shown that the proposal cannot reasonably be altered or reduced in scale to allow it to be accommodated at a sequentially preferable location;
- the proposal will help to meet qualitative or quantitative deficiencies; and
- there will be no significant adverse effect on the vitality and viability of existing town centres.

Promoting Rural Development

NPF Context

74. NPF3 sets out a vision for vibrant rural, coastal and island areas, with growing, sustainable communities supported by new opportunities for employment and education. The character of rural and island areas and the challenges they face vary greatly across the country, from pressurised areas of countryside around towns and cities to more remote and sparsely populated areas. Between these extremes are extensive intermediate areas under varying degrees of pressure and with different kinds of environmental assets meriting protection. Scotland's long coastline is an important resource both for development and for its particular environmental quality, especially in the areas of the three island councils.

Policy Principles

75. The planning system should:

- in all rural and island areas promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces;
- encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality; and
- support an integrated approach to coastal planning.

Key documents

- [Getting the Best from Our Land – A Land Use Strategy for Scotland](#)⁴⁰
- National Marine Plan

Delivery

76. In the pressurised areas easily accessible from Scotland's cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car-based commuting and the suburbanisation of the countryside, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land. Plans should make provision for most new urban development to take place within, or in planned extensions to, existing settlements.

77. In remote and fragile areas and island areas outwith defined small towns, the emphasis should be on maintaining and growing communities by encouraging development that provides suitable sustainable economic activity, while preserving important environmental assets such as landscape and wildlife habitats that underpin continuing tourism visits and quality of place.

78. In the areas of intermediate accessibility and pressure for development, plans should be tailored to local circumstances, seeking to provide a sustainable network of settlements and a

⁴⁰ www.scotland.gov.uk/Publications/2011/03/17091927/0

Rural development

Problems to solve

For over 10 years, *PAN 36* has had some positive impact on new housing development but, nevertheless, concerns remain:

- an inability to understand designs particular to local areas;
- development plans and supporting guidance not always sufficiently clear about the standards required;
- a lack of confidence in articulating and holding out for quality design, and following through to appeal, if necessary;
- an over reliance on houses not designed specifically for the site; and
- roads and drainage engineers using urban solutions rather than having greater flexibility to reflect local circumstances.

It is therefore appropriate to restate the importance of quality development in the countryside by expanding on the messages in *PAN 36*.

Changing circumstances

One of the most significant changes in rural areas has been a rise in the number of people wishing to live in the accessible parts of the countryside while continuing to work in towns and cities within commuting distance. Others wish to live and work in the countryside. These trends derive from lifestyle choices and technological changes which allow working from home. More people are now also buying second or holiday homes. In addition, leisure and tourism businesses have been increasingly active, for example through timeshare and chalet developments. It is for planning authorities to assess these demands and decide how, and where, to accommodate them.



a rise in the number of people wishing to

live

in the countryside



1: Self catering units, near Auchtermadar, Perth & Kinross
2: Contemporary artist's studio and home, Perth & Kinross

Some landscape considerations

Location within the landscape – Location concerns site selection within the wider landscape. Some areas are so prominent that it is accepted that any development at these locations would be detrimental to the surrounding landscape. Most new developments should try to fit into or nestle within the landscape. Skyline development should normally be avoided, as should heavily engineered platforms. This is to ensure that the building does not interrupt and conflict with the flow of the landform or appear out of scale. Even where sites are less visible they will still require a significant level of skill to assimilate buildings into the landscape. Sites which are least visible can often be suitable for more adventurous or individual designs. Occasionally, where a landmark development is considered to be appropriate, its design needs to be of the highest quality and considered very carefully. Likewise, where there are groupings of new buildings, their location within the landscape and relationship to each other is important.



Woodlands – Setting a building against a backdrop of trees is one of the most successful means by which new development can blend with the landscape. Where trees exist they should be retained. Care should be taken to ensure an appropriate distance between tree root systems and building foundations, so that neither is compromised. In some parts of Scotland, where there is little existing planting and limited scope for landscaping, particular care should be taken in the selection of sites and design of houses.



New planting – The purpose of new planting is not to screen or hide new development, but to help integration with the surrounding landscape. New trees and shrubs which are locally native will usually be easier to establish than non-native plants, and will be more in keeping with the character of the area. Planting with locally native species has the additional benefits of creating habitats for wildlife and potentially contributing to Local Biodiversity Action Plans.



Boundary treatments – The open space associated with a house or houses should be considered as an integral part of the development, not as an afterthought, and again be treated in relation to the surrounding environment. Suburban ranch-type fences, concrete block walls and the regimented use of non-native fast-growing conifers should be avoided. Although the use of dry-stone walling in some areas can help the integration of new development with the landscape, the costs involved may mean that this can only be justified in exceptional circumstances. Such circumstances are most likely to arise in designated areas, e.g. National Parks, National Scenic Areas, Conservation Areas and local landscape designations.



REPORT OF HANDLING

Ref No:	15/01582/APP	Officer:	Maurice Booth
Proposal Description/ Address	Erect dwellinghouse with garage on Site At Glen Of Rothies Rothies Moray		
Date:	04.11.2015	Typist Initials:	LMC

RECOMMENDATION

Approve, without or with condition(s) listed below		N
Refuse, subject to reason(s) listed below		Y
Legal Agreement required e.g. S,75		N
Notification to Scottish Ministers/Historic Scotland		N
Hearing requirements	Departure	N
	Pre-determination	N

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Environmental Health Manager	24/09/15	No objection
Contaminated Land	24/09/15	No objection
Transportation Manager	16/10/15	No objection subject to standard conditions, including the provision/ownership of a splay, lay-by etc.
Scottish Water		No response
Aberdeenshire Council Archaeology Service	08/10/15	No objection

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
H7: New Housing in the Open Countryside		
EP9: Contaminated Land		
IMP1: Developer Requirements		
EP10: Foul Drainage		
T2: Provision of Access		
T5: Parking Standards		
BE1: Sch Monuments and Nat Designations		

REPRESENTATIONS

Representations Received	YES	
Total number of representations received: 2		
Names/Addresses of parties submitting representations		
Name and address details of parties submitting representations withheld in accordance with the Data Protection Act.		
Summary and Assessment of main issues raised by representations		
Issue: Problems with proposed public water supply. Comments (PO): The stated intention in the submitted details is to connect to the public water supply, and although Scottish Water have not responded this would be a matter that could reasonably be expected to be address in relation to separate building control legislation.		
Issue: Proposals contrary to the local plan and would have a detrimental impact on the natural environment. Comments (PO): See 'Observations'		
Issue: Land is agricultural land. Comments (PO): This does not have a specific bearing on the planning merits of the proposal.		
Issue: No evidence of a previous house on the site. Comments (PO): This is accepted, and on this basis the proposals fall to be considered under policy H7 - see 'Observations'.		
Issue: Trout fishery omitted from the plans and this has the potential to flood the site. Comments (PO): the plans provided show all the details necessary to make a proper assessment of the proposals. It is not considered that there is any significant likelihood of this being an issue in relation to the house in the location proposed.		
Issue: Drainage, precedent. Comments (PO): No details of the concerns in these respects are provided. There is no evidence that there would be a material issue from drainage, and this would be a matter addressed under separate building control legislation. Precedent is not in itself a reason for resisting the proposals.		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

The Proposal

The proposal in involves a compact one and a half storey house with full height glazing to the gable. Finishes proposed are natural slate roofing and larch/roughcast finishes to the walling.

The Site

The proposal site is a large open area of grazing land sloping steeply to the north-east, the overall size of which is 145m x 137m. At the front corner of the site on the A941 there is 'Littlehaugh Cottage', giving a remaining site area of 1.53 ha. Running down the north-western frontage of the site from the junction with the main Elgin-Rothes road there is the minor unclassified Smallburn road. The bottom end of the site is defined by a disused railway line and the deeply cut wooded valley of the 'Broad Burn' stream.

The site has its south-western frontage defined by the A941.

The proposed house would be towards the lower, north-eastern part of the site.

Principle in Relation to Housing in the Countryside policy (IMP1 and H7)

At a general level policy IMP1 requires that the scale, density and character of new development must be appropriate and integrated in the surrounding area. However, the specific policy for assessing new housing in the countryside is H7. This policy assumes in favour of new houses in the countryside providing all of the four stated criteria are met.

Under H7 the first of these criteria is that:

a) 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;

Although on a lower part of the site and set away from the main road, the site is in a very open section of the Rothes Glen with exposed public views across it and prominently visible from the unclassified public road from which access would be gained. As an exposed house site set in isolation it would not reflect the traditional settlement pattern, and in the open field area involved there are no topographical or other landscape features that would serve to integrate the development in its landscape setting. On this basis the proposal is considered to breach the specific requirement of H7 (a) and therefore should be refused.

Access (T2)

Subject to standard conditions, including visibility splay/ownership requirements Transportation raise no objections to the proposals.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

There are no other material consideration that would alter this assessment.

HISTORY			
Reference No.	Description		
	Decision		Date Of Decision

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	No Premises	22/10/15
PINS	No Premises	22/10/15

DEVELOPER CONTRIBUTIONS (PGU)	
Status	None required

DOCUMENTS, ASSESSMENTS etc. *

** Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

Supporting information submitted with application?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

S.75 AGREEMENT

Application subject to S.75 Agreement		NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

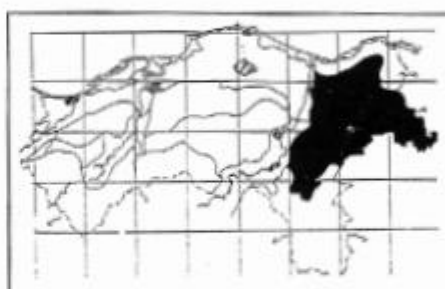
DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)

Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			

Upland Farmland

Location

This is a large area of land lying to the east of the Spey, between the Coastal Farmland and Open Uplands. It extends into the 'Knock Hill/Aberchirder' Character Area identified in the Banff and Buchan Landscape Assessment Report (Cobham Resource Consultants, 1997).

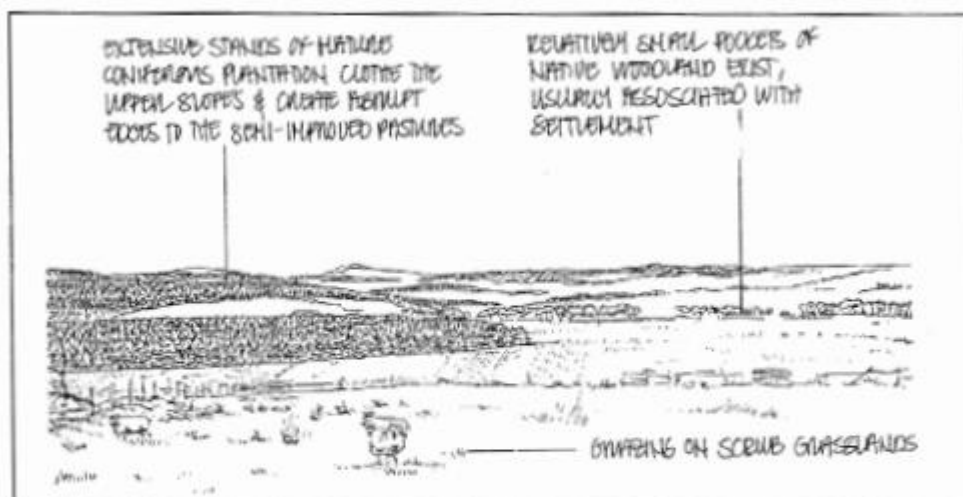


Overall Description

The landform of this Landscape Character Area comprises broad, gently undulating slopes rising in close proximity to the coast, cut by gently graded valleys to the higher lands of the Open Uplands, and punctuated by distinctive conical hills such as the Bin of Cullen and Knock Hill.

Although woodlands exist, these cover a smaller proportion of land than the Rolling Farmland and Forest Character Area, and are less integrated within the farmland, forming large scale coniferous plantations of uniform colour and height to the western edge of the Character Area, on the fringes of the Spey Valley. Smaller scale geometrically shaped young coniferous plantations are prominent on higher hill slopes, forming an abrupt edge to semi improved pastures and moorland. The few areas of native woodland that exist tend to be small isolated pockets associated with individual farmsteads.

Pasture interspersed with some arable land is the dominant land use within the broad valleys and this is where the dispersed settlement pattern of small farms is concentrated.



Upland Farmland



In this undulating and generally open farmed landscape of broad valleys and rounded hills, simple vegetation patterns prevail, with geometric plantations visually dominating upper slopes, while open fields are occasionally fringed by pockets of coarser grassland and heath.



The marginal appearance of the upper hill slopes and tops is reflected in isolated fields and derelict stone farmsteads, and an increasing proportion of coniferous plantations and heather moor. The less intensive use of the land for agriculture and forestry has resulted in the area still containing traces of later prehistoric, medieval and later settlement.



Small farmsteads, often partially enclosed by isolated woodland pockets, are characteristic of the landscape.

Upland Farmland

Upland Farmland

Designations/Policies

No designations or specific policies apply to the landscape of this area, although some SSSIs are located in the general vicinity of the Isla valley.

Key Issues

This is a predominantly agricultural landscape, although some large coniferous plantations are located on the higher ground and on the western fringes of the Character Area. Potential landscape change is therefore likely to be associated with the following:

- Rural development
- Future felling/restocking of forests
- Agricultural change
- Telecommunications
- Windfarm development

Sensitivity to Change

This is a large scale landscape with a simple vegetation pattern and mainly rural population. It is a landscape where visual diversity is somewhat limited and some forms of landscape change could offer opportunities for enhancement, although it would be important to conserve the positive features of the landscape such as the extensive views and general open character and landform of distinctive hills such as the Bin of Cullen and Knock Hill.

Guidelines

Rural Development

The landscape has a dispersed pattern of settlement of small farms with few clustered settlements. The dispersed nature of existing settlement is reduced as newer buildings are often placed in close proximity along the roadside. The size and shape of recent housing is often quite different to the older traditional buildings, as is the use of modern materials in their construction, which contrasts with the naturally weathered stone.

New housing development in the countryside should be sensitively located away from prominent ridges and hills and where it is placed next to the roadside, it should be in close proximity to existing trees and woodland, which would help tie the building to the landscape. Where derelict or abandoned buildings can be reused, this should be encouraged through design guidance, as outlined in the Moray Local Plan - 'Housing in the countryside' (Moray District Council, 1993), and through the targeting of financial incentives.

Upland Farmland

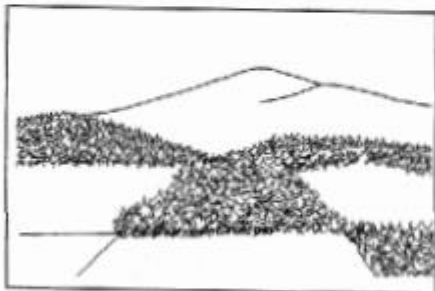
Future Felling/Restocking of Existing Forestry

Some felling and restocking has occurred within Forest Enterprise forests at Whiteash Hill Wood and the Wood of Ordiequish. Although there is no long-term design plan for these forests, it is likely that redesign of inappropriately shaped margins will concentrate on those close to public road corridors.

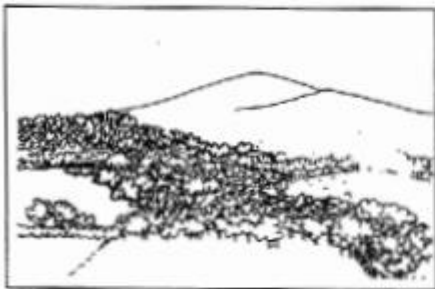
The presence of a substantial area of unstable lodge pole pine on the higher ground within these forests may be a constraint to sensitive felling in the future, and the amelioration of visual problems may need to take a long term view.

Many of the plantations, which tend to be located on the more marginal higher ground, are poorly scaled and shaped with geometric margins inappropriate to the rounded landforms of the area. The majority of these plantations are relatively young, planted between 10-30 years ago and have limited species and age diversity.

A strategy for the future felling and restocking of both FE and privately owned forests and plantations needs to be devised which has, as one of its principal objectives, the amelioration of the visual problems outlined above. Such a strategy could also serve as a vehicle for directing specific incentives towards the establishment of new woodlands within the area.



A strategy for the felling and restocking of both FE and privately owned forests and plantations of an appropriate scale and form/texture, should be devised and implemented to reduce the existing harshness of plantation when compared to the gently undulating landform.



Geometric blocks should be ameliorated by selective felling, extensions of the planted area, and the grading out of margins.

Upland Farmland

Agricultural Change

Changes to agricultural policy and market forces may encourage farmers in this area to consider diversification in the future. This may well include the establishment of woodlands, as land values in this area are generally less than in other more favourable agricultural areas in Moray. The establishment of sensitively designed new mixed species woodlands would provide opportunities for enhancing the landscape by introducing visual diversity and creating a strong enclosure pattern to visually contain and shelter farmland. A potential inhibiting factor may however be associated with the tenure and size of land holdings and in view of this it may be necessary to consider the targeting of incentives towards new planting within a more detailed strategy, as previously described.

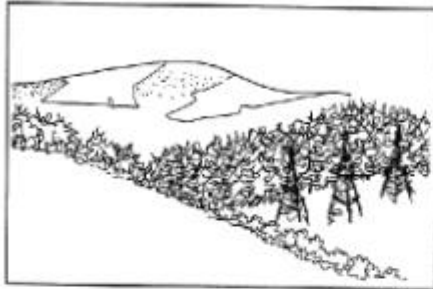
The scale of new woodlands needs to be carefully considered in relationship to their proposed location, particularly in view of the size of land holdings, as does the overall desired balance of open space to planting. It will be important to consider the conservation of heather moorland on upper hill slopes and tops which presently adds much visual interest to the landscape. The archaeological potential of the upland areas, which have been less modified by agriculture and forestry in the past, needs to be addressed as an integral part of the planning, design and establishment of new woodlands. Publications such as *Forests and Archaeology* (Forest Authority, 1995), and expert archaeological advice will be important in this respect.

Telecommunications

The growth in telecommunications forecasts an increase in the number of mast installations and supporting infrastructure, usually on high ground. The masts tend to be placed on hills within close proximity to the settlements and the roads which they are servicing in order to get the best possible reception. The prominent rocky hill summits surrounding the Moray Firth are unsuitable for forestry and, as such, their presence as focal points is emphasised when seen in contrast to the surrounding even, dark, forest texture. If telecommunications' constructions are sited on these prominent summits, the visual importance of, and significance attached to, the natural landform would be affected. Access roads for these installations can appear as hard, linear features, superimposed on the underlying natural form.

Masts and supporting infrastructure may be placed within this Landscape Character Area in locations where the landform would help to absorb the man-made features, rather than draw attention to them. The nature of the generally convex rounded slopes means that masts could be placed in an open position, but one where the upland backdrop reduces the vertical emphasis. This would give the necessary height whilst avoiding the need to be placed on important hill summits. Where the existing forest roads are unsuitable for servicing the telecommunication building, the flow of the landform contours may be used as a guide when placing new roads to achieve a sense of unity. However, new access road development could be avoided if helicopter access were a feasible option.

Upland Farmland



Masts should be located away from prominent locations, such as open hilltops and should, where possible, be set against a backdrop of hill and/or forest, which would reduce their visual impact.

Windfarm Development

In visual terms there is scope for accommodating a limited amount of windfarm development in this area due to the simple character of the landscape elements such as landform, vegetation patterns and settlement, which would help reduce any feeling of 'clutter'. It will be important to consider the following aspects relating to the siting and layout design of such development:

- The avoidance of intrusion on the long views south east to the Buchan plain and south to Ben Rinnes from key viewpoints on roads and within settlements;
- Designing the layout of turbines to respond to the smooth curving hill tops and to the margins of existing forestry where present (see Guidelines for Upland Moorland and Forestry Character Area which follow); and
- Limiting the number of turbines in each development to a maximum of 30 and considering the cumulative effect of a number of individual developments, so as to reduce a potentially cluttered appearance occurring which may visually conflict with the simplicity of the landscape.