

## **Grounds of Appeal**

**Erect dwellinghouse at Site 370M South of Kinloss Golf Club Clubhouse, Kinloss, Forres, Moray**

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Planning Application Ref No 15/01864/APP

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### Appendices – separate document:

**Appendix 1:** Decision Notice 15/01864/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
- Policy PP1 Sustainable Economic Growth

**Appendix 4:** Scottish Planning Policy- Extracts

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

**Appendix 6:** Handling Report 15/00597/PPP

## **Introduction**

These grounds for review of a decision to refuse planning permission for a house 370M South Of Kinloss Golf Club Clubhouse 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 3rd of December 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 the 9th of October 2015 and was refused under the Councils Delegation scheme by the case officer on the 3<sup>rd</sup> of December 2015. The reason for refusal (Appendix 1) states that;

*The proposal would be contrary to Moray Development Plan 2015 policies H7 (c) and IMP1 for the following reasons:*

- (i) Allowing further expansion of housing in the golf course area together with the associated access roads would result in a build-up such that there would be a detrimental impact on the rural character and important amenity value of the area.*

## **The Proposal**

The proposal is for a single dwelling served by a public water supply and private drainage (septic tank/soakaway and SUDS). Access will be from an existing private track which extends from the B9089 approximately 500 metres to the north.

The design of the proposed house is 1½ storeys incorporating features and finishes that result in a traditional appearance. Existing trees around the boundaries of the site will be retained and supplemented with new planting as required.

## **The Site**

The site is located immediately to the north of an established cluster of eleven houses known as Miltonhill- these buildings are a long established and accepted feature in the landscape. To the north, planning permission has recently been granted for a golf course, 5 houses and 5 chalets, 2 further houses on the periphery of the golf course and most recently a single dwelling under reference 15/01628/APP (15/00597/PPP).

The site is very well defined being an enclosed area of ground surrounded on three sides by mature planting and shrub cover. In addition, 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 (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 the changing circumstances in the countryside 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.

The PAN gives advice on location within the landscape and specifically states that housing related to existing groups will usually be preferable to new isolated development. It requires new housing in small groups to avoid a suburban appearance, by being sympathetic in terms of orientation, topography, scale, proportion and materials to other buildings in the locality (Appendix 5, page 18).

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 (Appendix 5, page 19).

## **Main Issues**

### Siting

There is a clear commitment in National Planning Policy and Guidance and the Moray Local Development Plan to the principle of well sited and designed new housing in the countryside. There is particular support for houses related to existing groups as is the case with the site under appeal.

Policy H7 is the lead local policy in the consideration of this proposal; 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 within an established housing group 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. 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 proposed plot is very well related to the size and characteristics of existing and approved plots to the North and East. In this position, it effectively rounds off this small grouping. The approved plots to the North are set within mature woodland and the proposed site

has the benefit of similar mature landscaped surroundings within which the proposed house is to be contained.

The proposed house has been positioned within the plot to keep it well apart from existing properties and approved plots to ensure that the relationship between the size of the house and the plot is consistent with that of the relationship between the size of the houses and plots. As a result, the proposal will relate very well to the character and setting of the existing small grouping of houses. In addition, there is little or no impact on the character or setting of these properties 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 in this location, set in amongst existing mature planting with the proposed separation between buildings, will not have this effect nor will it contribute to this effect in the future with approved plots.

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 the substantial stand of mature trees that surround the site.

### 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 further expansion of housing in the golf course area together with the associated access roads would result in a build-up such that there would be a detrimental impact on the rural character and important amenity value of the area.

It has already been shown that this site is well screened; near to other long established well screened plots and that a house in this position will round off this small group. In addition to the plots being well screened, the approaches to and from them in both directions from both roads are also well screened.

In reality, because the site is so well defined and because the proposed development is set within a mature woodland setting, views of the proposed development would be restricted from the surrounding area. As a result, concluding that a single house would have such an adverse impact on the appearance and character of existing buildings or the surrounding countryside on account of unacceptable build up is not reasonable.

Furthermore, the recent decision by the same case officer to grant planning permission for a single dwelling 140 metres to the north east highlights inconsistency in decision making. The Report of Handling for 15/00597/PPP (Appendix 6) states that the proposal benefits from existing and approved development in the locality and that the lack of a visual relationship between the proposal and existing consented development would ensure that there is no unacceptable build up.

In this context, the proposed development should have been looked upon favourably. The current proposal is sited further from the already consented development with a substantial backdrop, so a recommendation of refusal based on an adverse impact on the character and appearance of the area in terms of build-up, is highly questionable.

Indeed, the appellants would contend quite the opposite; that a domestic structure on this site can be accommodated sensitively and the proposed development can be seen to complement the wider dispersed settlement pattern, respect and reflect the separation and amenity of existing houses and approved plots and once established will integrate successfully with its surroundings.

The Moray Council's Housing in the Countryside policy offers a flexible approach to ensure appropriate opportunities are enabled and supported and inappropriate development guarded against. It is submitted that the proposal in hand to add another house to an existing, well screened group is reasonable and compliant with the development plan because it relates well to the established settlement pattern. The modest scale and appearance of the proposed dwelling coupled with the implementation of a long term landscaping plan will protect and enhance the important amenity value of the area, despite the officer's assertion to the contrary.



It is important to note that the introduction of a house onto this site is in full accordance with PAN72 because it adds to an existing grouping and owing to its woodland setting and separation from existing and approved plots do not detract from its rural character. The guidance reiterates the importance of locating new houses in existing groups in relation to sustainable development criteria such as location and infrastructure needs.

Through policy PP1 Sustainable Economic Growth (Appendix 3, page 15), the Council recognises the importance of diversifying the rural economy and new small scale housing developments in the Moray countryside undoubtedly contribute directly and indirectly to that over-arching aim. The consolidation of an existing housing group in the way proposed, with all the servicing benefits associated with such a project, point to a well-balanced development that deserves the support of the Local Authority.

It is also important to note that although the area around the site is being looked at as part of the ongoing Rural Groupings Review (referred to in page 2 of handling report, page 21 of Appendix), that this is a separate function to the Development Management process. As such, and in the absence of any reference to it in the Appointed Officer's reason for refusal, it should not be considered relevant to the consideration of this appeal.

## **Conclusion**

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.

National Planning Policy and the Moray Local Development Plan all encourage well sited and designed houses in the countryside and there is a preference for the siting of new houses within existing groupings; recent decisions demonstrate accordance with these aims and objectives so the applicants simply ask that this application be determined in the same manner.

The lead policy in the Local Plan for testing the acceptability of the site as a suitable location for a house in the countryside is Policy H7 and it contains specific criteria about the siting and design of new dwellings. This statement and the submitted plans clearly show that the proposal is acceptable under the criteria set out in the policy. 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.

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.