



LOCAL REVIEW BOARD

STATEMENT OF APPEAL

*REVISED DESIGN ON APPROVED SITE AT GREENFIELDS,
BOGTON FARM, LHANBRYDE, ELGIN*

MARCH 2016



**St. Brendans
South Guildry Street
Elgin
Moray
IV30 1QN**

**t. 01343 540020
w. cmdesign.biz**

**4 Bridge Street
Nairn
Highland
IV12 4EJ**

**t. 01667 300230
w. cmdesign.biz**



St. Brendans
South Guildry Street
Elgin
Moray
IV30 1QN

planning**consultancy** • architectural**design** • project**management**

t. 01343 540020 f. 01343 556470
e. office@cmdesign.biz

| | |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Our Reference: | 15/0063/ROBERTS |
| Local Authority: | The Moray Council |
| Planning Application Ref: | 15/02110/APP |
| Application Proposal: | Erect dwellinghouse – revised design |
| Site Address: | Greenfields, Bogton Farm, Lhanbryde, Elgin |
| Appellants: | Mr C Roberts |
| Date Application Validated: | |
| Council Decision Notice Date: | 18 th January 2016 |
| Reason for Refusal: | <p><i>The proposal is contrary to the policies H7 and IMP1 of the Moray Local Development Plan (MDLP) 2015 for the following reasons :</i></p> <p><i>The submitted house design of the form, massing and proportions proposed would fail to reflect traditional Scottish rural Architecture and would neither be low impact nor reflect the character of the existing traditional housing in the surrounding area.</i></p> |
| Application Drawings & Supporting Documents: | <ul style="list-style-type: none"> • CMD Doc 001 – Moray Council Refusal Notice • CMD Doc 002 – CMD Planning Application Drawings • CMD Doc 006 – Supporting Design Statement • CMD Doc 003 – CMD 3D view (west) • CMD Doc 004 – CMD 3D view (east) • CMD Doc 005 – CMD 3d view (aerial) |

1. The following Statement of Case, submitted by **CM Design Town Planning & Architectural Consultants**, has been prepared to support a Local Review Board submission relating to a :

Revised house design – for a rural site with full detailed planning consent.

1.2 This case relates to a the appellants desire to take advantage of the uniquely secluded nature of a site that **already enjoys detailed planning approval**, upon his own farmland and to propose a new house design that departs from the ubiquitous norm that is commonly seen around Moray.

1.3 In the midst of this Review statement, the appellant wishes to demonstrate that -
 1) the design is considerably smaller in scale to the design already permitted and lastly,
 2) the site currently hosts a large and prominent agricultural building and this proposal will replace that view to the wider locale,
 3) Policy H7 has been incorrectly applied and provides ample scope to justify the **innovative** design being proposed,
 4) the form and design reflects the previously approved design in key areas but takes greater advantage of the site and its surroundings.

1.4 No objections to this application were raised by neighbours or consultees to the design.

1.5 The previously approved house design does not meet the prescribed requirements of the Supplementary guidance on Housing in the Countryside and the new design is permissible under wider terms of policy H7 which encourages brave and **innovative** house design.

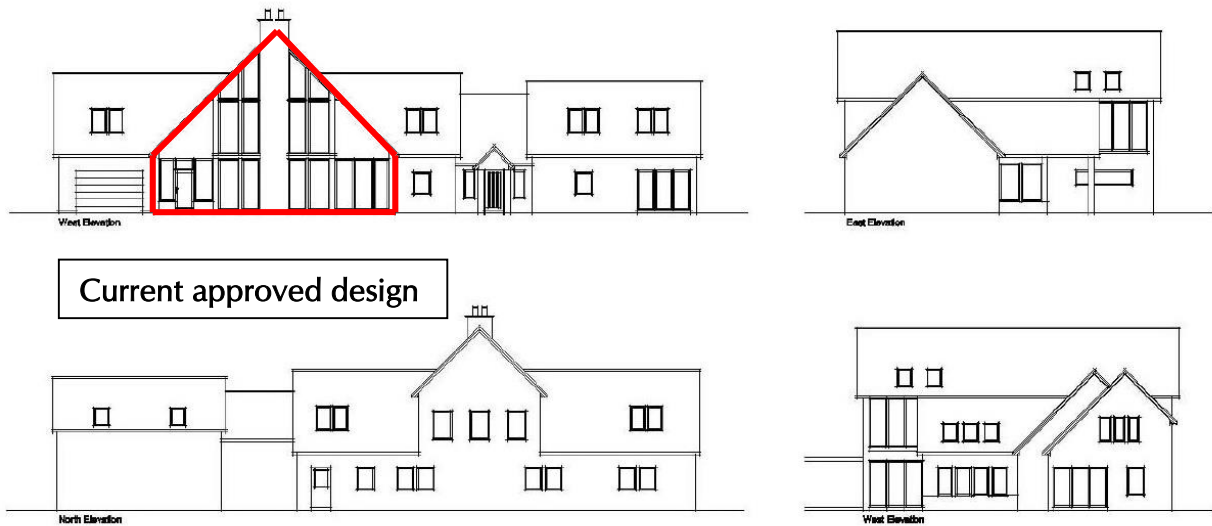
1.6 Pre-application advice in relation to this design process recorded responses suggesting that *“the level of glazing could be supported”* and *“the modern use of traditional materials is acceptable”*. The current design was arrived at following extensive discussion with Planners and several significant amendments – see para 2.9.

1.7 The appellant wishes that special attention be given to the incredibly secluded setting of this application and that some courage be applied to how this design could be accommodated and in doing so, contributing to the wider diversity of Architecture in Moray.

2. Background.

2.1 In August 2011, the appellant secured detailed planning consent for a new house upon elevated ground at Bogton Farm, Lhanbryde.

2.2 This original house design presented a frontage of 33m and a footprint of 320m². It suffered also from excessively inflated proportions to satisfy various formulae requirements of Supplementary Guidance on new housing in the countryside.



2.3 This house design did not meet the needs of the applicant and nor did it take appropriate advantage of the site, its elevation, sun path and secluded nature and was thus never constructed.

2.4 In October 2014, the appellant secured an extension to the original consent allowing further time to consider a more appropriate design.

2.5 The new design is considerably **smaller** than the original, yet offers more accommodation and takes greater advantage of the setting.

2.6 The frontage of the new design is only 18m as opposed to the original 33m and a footprint of only 164m² as opposed to the original circa 320m²

2.7 Most importantly, the proposed building will be located in front of an existing agricultural building which currently occupies the elevated ground on site and in doing so, will present an altogether more interesting landscape view.

2.8 Several rounds of pre-application advice suggested that there was scope for an innovative approach to a new house upon this particularly site.

2.9 Early drawn proposals were significantly amended to reflect discussions with planners and in particular to more adequately reflect the previous form of the original approval and to reduce glazing levels and scale. The results of this process can be seen here.



2.9.1 These 3D images demonstrate the pre-application process in which Planners requested a gable and significant changes to the original scheme



2.9.1 The above 3D view represents a design scheme which is significantly **smaller** than the originally approved design

2.9.2 A planning application was eventually lodged after much discussion and without any indication that a refusal was likely to be forthcoming. The application was unfortunately refused due to the Planning Officers dislike of the design.

3. Statement of Case

3.1 Section 25 of the Town and Country Planning (Scotland) 1997 Act (as amended) requires that planning applications be determined in accordance with the development plan unless material considerations require otherwise.

3.2 It is contended that this re-design does comply with the Development Plan and that there are several material considerations that might negate any area of dubiety in this regard.

3.3 The refusal notice in this case cites contraventions of policies **H7** (New Housing in the Open Countryside) and **IMP1**(Development implementation) and includes a narrative in which terms of reference are used that do not appear to originate from the critical area of policy being used to justify refusal. (ie H7 Design)

3.4 Policy H7 is split into two sections relating to 1) **Siting** and 2) **Design**.

3.5 In choosing to refuse this application, planners appear to be confusing the distinctly different criteria being placed upon the decision to approve the “siting” for a new house with the criteria suggested to approve the “design” of a new house. This is not appropriate nor the intention of this Policy.

3.6 The appellant asks the board to first agree that the siting of a new house at Bogton Farm, in this location and position, has already been approved in the original consent and thus no further discussion is perhaps required on the suitability of the site for a new house.

3.7 For an application to be acceptable in terms of “**siting**”, policy H7 asks that any application must “*reflect the traditional pattern of settlement*...” *does not detract from the character or setting of existing buildings*” and “*does not reflect the rural character of the area*” etc.

3.8 These terms of reference relate to the “**siting**” of the proposal and not the “design”. These terms of reference are **not used** to guide planners when considering the merits of any **design**.

3.9 It would appear that references such as the *“rural character of the landscape”* and *“existing traditional housing”* within the refusal narrative have been extracted from guidance on the **siting** of a new house in the countryside and not the design of a new house in the open countryside – an issue which is not disputed in this case.

3.9.1 The appellant believes these terms of reference have been inappropriately applied to the **design** of the proposal when H7 makes no reference to such considerations under its own guidance on “design”.

3.9.2 Before issuing further guidance on design the policy clearly states that.. *“if the above criteria for the **setting** of the new house are met, the following design requirements then apply”*. This policy paragraph allows decision makers to focus entirely on the prescribed criteria for design

3.9.3 The criteria for **design** in the open countryside is quite clear and quite prescriptive in terms of roof pitch, gable width and style. However, the guidance allows for exceptions to these formulae by stating that *“exceptions to the requirements will only be justified on the basis of innovative designs that respond to the setting of the house”*

3.9.4 The appellant believes that the new revised design does indeed *“respond to the setting of the house”* and trusts that this appeal might adequately demonstrate so.

3.9.5 If the crux of this appeal relies on how this new design relates to the setting then the following considerations should be taken into account.

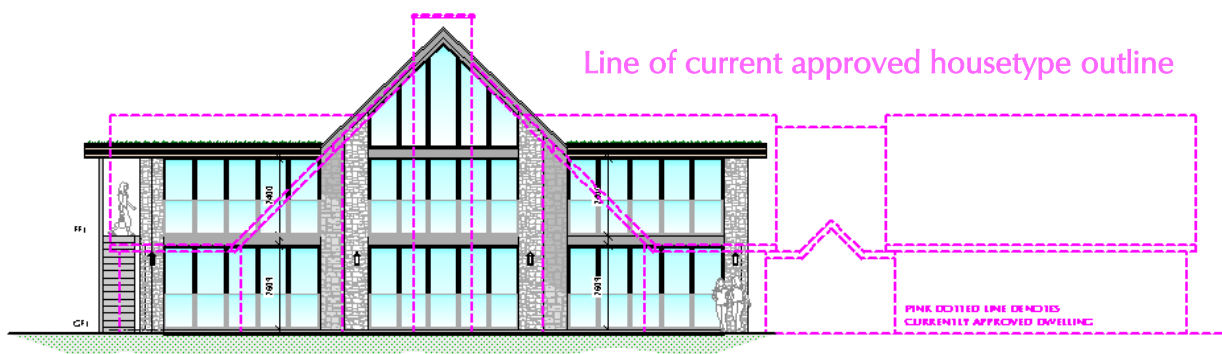
- The elevated nature of the location deserves a design which minimises impact in terms of height and width along the ridgeline. This application does exactly this, by extending the building deeper into the rear of the site and in a manner that cannot be seen from surrounding areas due to the field of view etc.
- The layout of the house pays closer attention to sun path analysis by arranging access and utilitarian areas to the rear and in the shadow of the significant treeline. This allows all amenity spaces to enjoy the panoramic views and as much solar gain as possible.
- The design design maximises the potential for more ecologically friendly sedum grass cover and thus minimising the impact upon the environment and landscape.

4. Design

4.1 Trusting that Board members might see that terms relating to the “siting” of the dwelling have been incorrectly used to justify rejection of the “design” and trusting also that the matter of siting has already been approved previously, this statement of case can therefore focus exclusively on how the **innovation** of this design has **responded to the setting** – as demanded by policy.



4.2 The previous design, however apparently “rural” it might appear on paper, was in fact exceptionally overbearing on the landscape and this can be seen from the pink outline of its form superimposed upon the appellants revised design.



4.3 It is suggested that the actual scale of the previously proposed building was somewhat disguised by its apparently acceptable form and this would have resulted in a perversion of vernacular simply to accommodate floor space.

4.4 The current revised design – after due discussion with planners – attempted to reflect the central gable of the previous design but dispensed with the excessive wings and roof on each side in favour of a deeper, less prominent and more efficient steel profile solution to the flanking sections of the building.



4.5 Rather than spreading the house type along the ridge line, the appellant has elected to disguise the mass by extending it deeply to the rear which cannot be seen from the lower ground around it.

4.6 The requirement of policy H7 for any “innovative” design to respond to its surroundings can be perfectly demonstrated by the choice to load all glazing accommodation to the front elevation, thus avoiding the shading of the trees to the rear and taking fuller advantage of the view to the North.

4.5 Furthermore, by retaining the previously acceptable gable and removing the pitched roof on each side, the impact of the building on the elevated location is further mitigated.

4.6 It might be of interest for Board members to know that the previous design contravened several areas of specific guidance on new housing in the countryside and in particular the clear guidance on Gable width formula – required to be no more than 2.5 x external wall height. Compliance appears to have been contrived by expressing the principal gable with a short section of full two story accommodation but it is argued that the overall impression of excessive gable size was precisely what policy H7 sought to avoid.



Pic – Original Design approved under app ref – 11/01013/APP

5. Policy Compliance

5.1 **The New Moray Local Development Plan** replaced the Moray Structure Plan 2007 and Moray Local Plan 2008 and is supported by Supplementary Guidance (SG) documents to expand upon Policy statements within the Plan

5.2 As stated previously, the comments made in the rejection notice appear to have been wrongly extracted from the guidance on the “siting” of any new house in the open countryside – see adjacent extract. These comments are not repeated in the guidance on design

5.3 Policy H7 – New Housing in the Open Countryside, **presumes in favour** of an application provided certain criteria are met.

5.4 It is argued that the issue of “siting” any house at this location is already fully supported and that only the criteria on “design” is being questioned

5.5 Policy H7 makes it very clear, that when the siting of a house has been approved **then** the design issues can be examined.

5.6 Policy H7 on design makes no mention of the general matters of refusal specified in the rejection notice such as “*reflecting the traditional form of Scottish Rural Architecture*” and “low impact” and “reflect the character of the existing traditional housing” etc

5.7 Such terms of phrase are entirely subjective and are not so prescribed by Policy H7 on the subject of design.

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 creates 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).

Justific

The Plan country the land be low i the surr traditi scale an introdu styles at houses l charact area's hi

Proposa such as rehabili satisfact through features existing Infill dev landsc where t charact Innovat efficient promot

Policy H7 cont'd - “If the above criteria for the setting of the new house are met, the following design requirements then apply”

5.8 The guidance on design in Policy H7 merely sets out prescribed criteria for designing houses in the open countryside and relating to matters such as roof pitch, gable width and finish etc etc.

5.7 These criteria are intended to be applied to traditional forms of design and not those which seek to be more **innovative** in approach and those that seek to pay more attention to unique surroundings. Policy H7 **does allow for exceptions** to its design criteria where an “innovative” approach has been adopted.

Policy H7 - “Exceptions to (sic) design requirements will only be justified on the basis of innovative designs that respond to the setting of the house”

5.8 It is suggested that the design in this case can be supported as being in the spirit of Policy H7 and in full compliance with its prescribed terms.

5.9 The following photographs indicated the scale of the existing agricultural building at the site, the distance from any vantage point, the significant backdrop of trees and the ability of the landscape to accommodate an innovative design of this type.



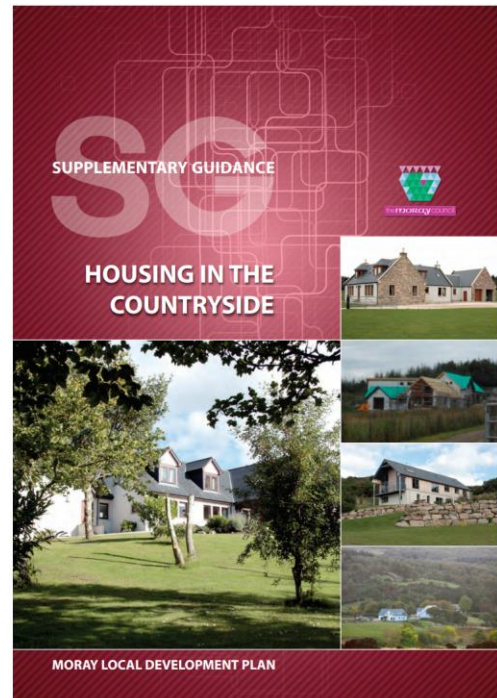
Pics – view of house location from publically accessible vantage points demonstrating the significant separation and cover

6 Supplementary Guidance (SG) – Housing in the Countryside - provides advice on the key aspects of Policy H7 – New Housing in the Open Countryside – to provide a consistent approach to decision making.

6.1 Much of the SG document is taken up with the matter of appropriate siting of any new house in the countryside.

6.2 As repeatedly stated in this case - “siting” is not a matter for this Review as the location has already been deemed appropriate for a much larger house and design.

6.3 Not until page 22 does the matter of design feature in this SG and this is the main issue for this review.



6.3 The first line of text on the issue design states - ***“in recent times, there has been a general acceptance of extremely unimaginative standards of domestic ‘rural’ house design”***

6.3 It is appreciated that design can be a very subjective matter and whilst every effort has been made to adequately demonstrate the acceptability of a more courageous form of building in this location by the use of 3D etc – a certain degree of courage is required to be able to envisage the finished product when there is so little to benchmark or relate it to.

6.3 Unlike many other sites around Moray this particular site allows all decision makers to be more courageous than might otherwise be the case elsewhere. The site is very secluded and private. It is surrounded by the applicants own lands and property and can only be observed by passers-by from a significant distance away.

7 IMP1 : Development Requirements –

7.1 Policy IMP1 – Development Requirements – is not a new Policy and guides the overall implementation of all current Policy.

7.2 Contravention of IMP1 was specified as a reason for refusal with no further explanation of how it related specifically to this application

7.2 In examining the list of requirements of IMP1 it can be seen that only item (a) might relate to this application and it is suggested that this its requirements have been adequately explored within the arguments surrounding more specific policies in this regard.(H7 for example)

7.2 This being the case, it is suggested that this application complied with IMP1 in all respects.

POLICY IMP1: DEVELOPMENT REQUIREMENTS

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It must meet 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. adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development,
- d. adequate water, drainage and power provision must be made,
- e. sustainable urban drainage systems should be used where appropriate, in all new developments
- f. there must be adequate availability of social, educational, healthcare and community facilities,
- g. the development should, where appropriate, demonstrate how it will incorporate renewable energy systems and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria,
- h. provision for the long term maintenance of public landscape and amenity areas must be made,
- i. conservation of natural and built environment resources must be demonstrated,
- j. appropriate provision to deal with flood related issues must be made, including the possibility of coastal flooding from rising sea levels and coastal erosion,
- k. pollution, including ground water must be avoided,
- l. appropriate provision to deal with contamination issues must be made, and
- m. the development must not sterilise significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.
- n. where appropriate, arrangements for waste management should be provided.

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, power, facilities. Particular emphasis is placed on providing pedestrian, cycle and public transport access to the development, and the use of sustainable urban drainage systems and the incorporation of renewable energy equipment and systems, and sustainable design and construction into the development in order to promote sustainability within Moray. Flooding is an important consideration particularly within the Laich of Moray and needs to be adequately addressed. Similarly, pollution issues in relation to air, noise, ground water and ground contamination must be adequately addressed to provide proper development standards.

CONFORMS TO:

The policy conforms to SPP1 on the Planning System and to national planning guidance and advice generally

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Other policy requirements generally.

6. Conclusion

6.1 This statement of case has demonstrated

- That current policy (H7) supports “innovative” design solutions where they respond to unique site features
- That the proposed design responds to its location and siting in key ways (depth and field of view etc)
- That the design represents a reduction in scale and impact when compared to the previously approved design
- That the reasons for refusal are somewhat arbitrary and not fully reflective of the prescriptive guidance given by Policy and supplementary documents.
- The siting provides decision makers an opportunity to welcome a brave and innovative development without any impact upon the landscape, amenity or character of the viewable area on which it is to be located.

6.2 It is respectfully requested that consideration be given to upholding this Appeal.

C.J.S Mackay

Principle Designer & Planning Consultant

CM Design