



# East Birkenbaud, Wardend, near Elgin, Moray

proposed erection of  
dwelling-house with  
detached garage

## **Grounds for Review of Refusal of Planning Application**

Planning reference - 15 / 02084 / APP

Prepared by  
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# Introduction / Background to Application

These grounds for review of a decision to refuse planning consent for a house site named East Birkenbaud which is located at Birnie, near Elgin 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 planning permission dated 5th January 2016.

## **The Council's reason(s) for this decision are as follows -**

The proposal would be contrary to policies H7 and IMP1 of the Moray Local Development Plan 2015 and Supplementary Guidance 'Housing in the Countryside' (MLDP 2015) for the following reasons: The rural housing pattern within this part of the district is characterised by single house plots and clusters of housing dispersed across the countryside to the south of Elgin. The application site itself falls within the area of 'Wardend' which has seen a significant growth in single house developments over recent years, and is specifically highlighted within Supplementary Guidance as an area where the impact of cumulative build-up of housing requires particular attention. In the case of the current application five house plots have been approved to the west (with 2 built and 3 to be erected), three plots lie within cleared forestry to the north and a further plot (and 3 houses) lie to the south east. The introduction of a further house plot into this locality (in addition to these approved plots and built dwellings) would result in an unacceptable cumulative build-up of residential development that would be detrimental to the rural character of the area. Whilst currently screened by trees the cumulative impact of the proposals in terms of associated activities i.e. increased traffic movements, bin collections etc. would bring further inappropriate suburban development into the area. Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of policies H7, IMP1 and associated Supplementary Planning Guidance 'Housing in the Countryside' (MLDP 2015).

**The report confirms that there were no technical objections to the proposal from any of the following statutory consultees - Environmental Health, Contaminated Land and Transportation**



# The Proposal

The proposal is for a single dwelling-house accessed from an existing access track which connects to the U119E.

If approved, the site would be served by a private water supply and private drainage system.

Careful consideration has been given to the individual house layout / fenestration / detail and the resultant design is one of a contemporary style with traditional characteristics including vertically proportioned windows, gables with 40 - 45 degree pitches, gable widths no larger than 2.5 times the ground to eaves height, well placed velux rooflights doubled up in many instances to accentuate traditional openings and a general fenestration in keeping with a traditional cottage appearance. In terms of material use, the walls will be finished with white or cream roughcast and natural stone with grey concrete tiles specified to the roof to imitate traditional natural slates.

At present, the proposed site is populated with mature trees on the eastern and northern sides. Various numbers of these trees will be felled to form appropriate space for the construction of the dwelling-house and associated works however sufficient trees will be retained to ensure a minimum of 25% of foliage / site cover will exist in accordance with planning guidelines (please see site plan - EAST-BIRKENBAUD / PLANNING / 01).

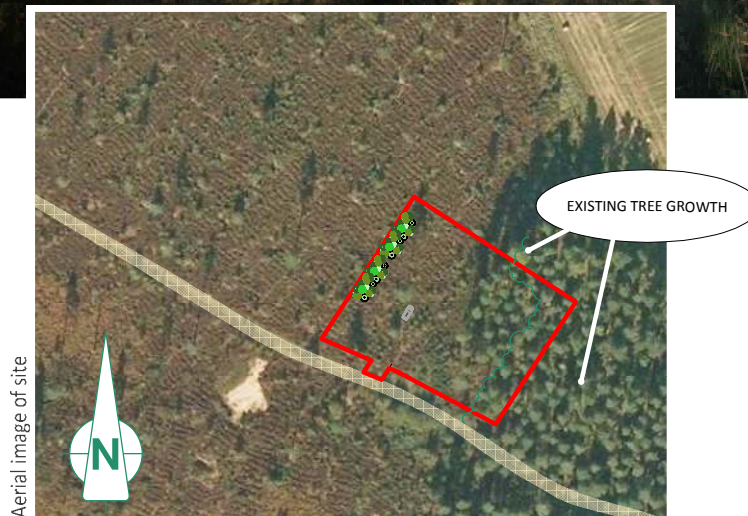


3d image denoting proposal with existing trees to the north east and south east

# The Site



Photo of site



Aerial image of site

The proposed site is situated near Birnie and is approximately 5 miles from Elgin. It is located off an existing access track which connects to the U119E.

The topography of the site is such that it is gently slopes down from the north east to south west direction.

The site will be defined and bounded by at least 50% of existing boundaries which consists of existing mature trees together with an existing defined track along the south west boundary.

# Planning Policies

- Moray Local Plan 2015  
The Local Plan assumes in favour of an application for a new house in the countryside provided certain criteria are met.
- Policy H7 sets out requirements on the siting and design of new houses in the open Countryside which;
  - a) reflect the traditional pattern of settlement in the locality and are 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) is not acceptable;
  - b) do 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) do 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) have at least 50% of the site boundaries as long established and are capable of distinguishing the site from surrounding land (e.g. dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways).
- As regards design policy H7 also requires;
  - a roof pitch of between 40 and 45 degrees, a gable width no more than 2.5 times the height of the wall from ground to eaves, uniform external finishes including slate or slate effect roof tiles, a vertical emphasis and uniformity to windows, additional planting and boundaries sympathetic to the area.

## Moray Local Development Plan 2015

[Policies including Introduction and Contents](#) (90 page pdf 3.74 MB)

[Settlement Statements](#)

[Action Programme](#)

[Supplementary Guidance](#)

[Proposals Maps](#)



# Main Issues answered in terms of planning policy (part A)

Having set out the policy background we would like to now consider the main issues that arise from the proposal in relation to this policy context. The main issues are considered to be ;

- Principle of the site
- Design
- Infrastructure and servicing
- Loss of Woodland

## • PRINCIPAL OF THE SITE

The Moray Local Plan in line with National Planning Policy is committed to the principle of well sited and designed new housing in the countryside.

Policy H7 (New Housing in the Open Countryside) is the predominant policy in terms of the acceptability of a new house in the countryside and states that new development should be "easily absorbed" into the landscape and should be "low impact and reflect the character of the surrounding area in terms of the traditional pattern of settlement."

The application is for a single house and is in accordance with the main thrust of this policy.

There are four specific criteria under the heading "siting" which have to be met for the principle of a site to be acceptable.

- In the first instance the house must reflect the traditional pattern of settlement in the locality and must be sensitively integrated with the surrounding landform using natural backdrops, particularly where the site is clearly visible in the landscape. Obtrusive development (ie. on a skyline, artificially elevated ground or in open settings such as the central area of field) will not be acceptable.

The first of the siting criteria within Policy H7 concerns the dwelling not be overtly prominent. Examples of overtly prominent locations given are sites on a skyline, on artificially elevated ground, or in open settings such as the centre of fields. The site is not on artificially elevated ground and is not in the centre of a field. The dwelling-house, if approved, would have a tree lined backdrop to the rear (north) and side (east) which would help it to integrate with the housing pattern here. Please see the photomontage below which denotes how the dwelling may look when complete.



# Main Issues answered in terms of planning policy (part B)

- Secondly, it must not detract from the character or setting of existing buildings or the surrounding area when added to an existing grouping or create inappropriate ribbon development.

As with other areas in Moray the prevailing pattern of settlement within this part of the countryside is characterised by both small clusters of housing and individual houses nestled among existing, mature and semi-mature tree growth. This house plot, if approved, would have existing woodland to the north east and south east boundaries and would form a cluster of two properties (see yellow line). Nearby, there are a number of similar type clusters (see pink, green and blue lines). We are therefore of the opinion that the proposed arrangement would be similar to other clusters nearby and would integrate well to the surrounding settlement pattern at Wardend.

- Thirdly, 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.

While it is acknowledged the proposal would increase the amount of houses within this area we very much feel that it would not change the rural character of this part of the countryside.

- Lastly, Policy H7 states that the site should have 50% of it's boundaries as long established.

The site would be defined and bounded by at least 50% existing boundaries. These boundaries would consist of existing mature trees together with an existing defined track along the south west boundary.

## • DESIGN

There are a series of specific design requirements within policy H7.

They are all met by the proposal as follows -

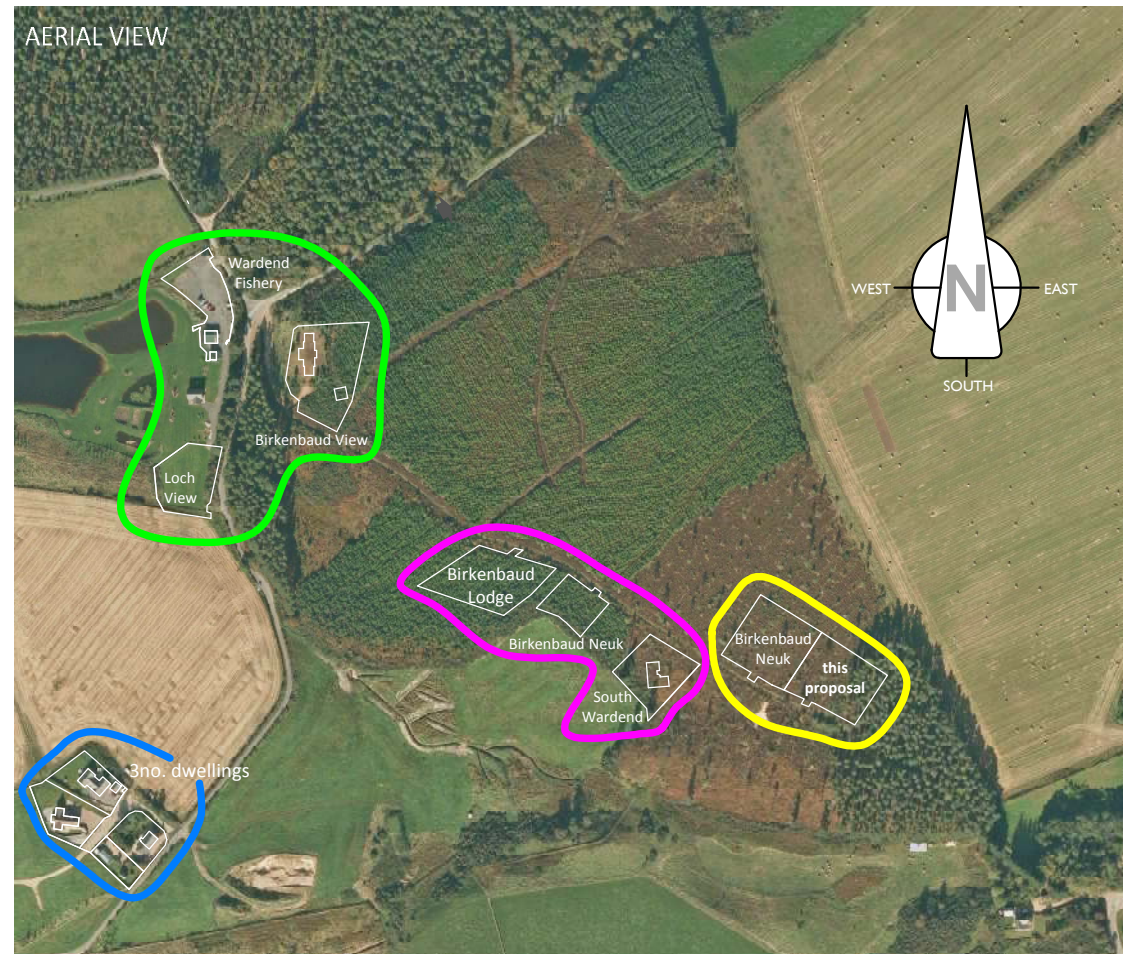
a roof pitch of between 40-55 degrees, gable widths of no more than 2.5 times the height from ground to eaves level, uniform finishes, a vertical emphasis to the fenestration, existing planting within the plot and boundaries sympathetic to the area.

## • INFRASTRUCTURE AND SERVICING

Access, parking and drainage are all salient factors pertaining to this application and ones which can be accommodated.

## • LOSS OF WOODLAND

We would be more than willing to carry out the required area of compensatory planting elsewhere in Moray on land that we own for this proposal.





# Reasons for Refusal and our justification

- **MORAY COUNCIL REASONS FOR REFUSAL -**

The proposal would be contrary to policies H7 and IMP1 of the Moray Local Development Plan 2015 and Supplementary Guidance 'Housing in the Countryside' (MLDP 2015) for the following reasons:

The rural housing pattern within this part of the district is characterised by single house plots and clusters of housing dispersed across the countryside to the south of Elgin. The application site itself falls within the area of 'Wardend' which has seen a significant growth in single house developments over recent years, and is specifically highlighted within Supplementary Guidance as an area where the impact of cumulative build-up of housing requires particular attention. In the case of the current application five house plots have been approved to the west (with 2 built and 3 to be erected), three plots lie within cleared forestry to the north and a further plot (and 3 houses) lie to the south east. The introduction of a further house plot into this locality (in addition to these approved plots and built dwellings) would result in an unacceptable cumulative build-up of residential development that would be detrimental to the rural character of the area. Whilst currently screened by trees the cumulative impact of the proposals in terms of associated activities i.e. increased traffic movements, bin collections etc. would bring further inappropriate suburban development into the area. Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of policies H7, IMP1 and associated Supplementary Planning Guidance 'Housing in the Countryside' (MLDP 2015).

**In response to the above we are keen to articulate our reasons why we feel this proposal would be acceptable. Please see below. –**

- **THE PROPOSAL FITS IN WITH THE EXISTING SETTLEMENT PATTERN**

The council state that "five house plots have been approved to the west (with 2 built and 3 to be erected), three plots lie within cleared forestry to the north and a further plot (and 3 houses) lie to the south east. The introduction of a further house plot into this locality (in addition to these approved plots and built dwellings) would result in an unacceptable cumulative build-up of residential development that would be detrimental to the rural character of the area". While it's true that the introduction of this proposal would constitute another unit within the Wardend area we strongly feel that no detrimental impact would be felt and certainly no irreversible change to the rural character of the area would occur. The existing houses and consented plots either form small clusters of dwellings or are stand-alone properties. This proposal has been designed as part of a cluster within a woodland setting. Please see aerial view on page 6.

- **TREE SCREENING TO NORTH EAST AND SOUTH EAST BOUNDARIES**

A tree lined backdrop to the rear (north) and side (east) which would help the proposal to integrate with the housing pattern here. Please montage below which denotes how the dwelling may look when complete.



- **ADEQUATE BOUNDARIES EXIST TO DEFINE SITE**

The site will be defined and bounded by at least 50% of existing boundaries which consists of existing trees (see above) together with an existing defined track along the south west boundary.

- **NO TECHNICAL OBJECTIONS FROM STATUTORY CONSULTEES**

There were no objections from any of the statutory consultees to the application therefore no technical issues exist.

- **TRAFFIC MOVEMENT WILL NOT BE OVERLY SIGNIFICANT**

Concerning increased traffic movement a good quality, wide access track exists at the moment within this wooded area. In our opinion it is unlikely another dwelling will noticeably increase the flow of traffic or cause any problems.

# Conclusion



We very much hope that we have demonstrated how the proposed dwelling-house is acceptable under the criteria set out in the relevant local plan policies.

There were no technical objections to the proposal from any of the statutory consultees.



The reasons for refusal suggest that the proposal would lead to a development that would detract from the character of this part of the countryside however we feel that when the proposal is considered within the overall context of the nearby houses and plots it will integrate well as part of a housing cluster, reflective of the existing rural settlement pattern.

The design of the house meets the specific design requirements of the relevant local plan policy H7. It is also consistent with the criteria for an acceptable scale of house in the area.



From a development feasibility aspect, recent experience has informed us that there is now a high demand and need for rural accommodation, in the Moray area. Indeed, the vast majority of sites we sell are to local people and we feel it is very important to help meet this demand in order to retain skills and jobs in the area. This not only helps the local economy but also has a “knock on” effect in terms of local services, schools, shops and the wider economy as well. Further, in our view what cannot be underestimated after the recent financial downturn is the need for valuable work for local tradesmen and building merchants etc. We feel that there appears to be nothing to prevent the merits of the application allowing it to progress to approval. Should any unforeseen material consideration arise during determination, please advise us accordingly in order that remedial action and an appropriate response may be pursued. We respectfully ask that the appointed LRB panel approves this application.

Yours sincerely,

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