

Erect dwellinghouse on site 150 metres east of Breannach, Birnie, Elgin, Moray

August 2016

Appendices for Grounds of Appeal

Planning Application Ref No 16/00382/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

**[Fochabers Lhanbryde]
Application for Planning Permission**

TO

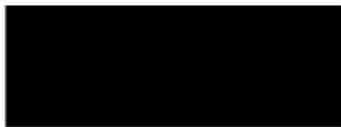


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

Erect dwellinghouse on Site 150M East Of Brennach Birnie Elgin Moray

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

Date of Notice: **13th May 2016**



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 is contrary to the provisions of the Moray Local Development Plan 2015 (Policies H7 and IMP1) where:
 1. Because of its siting/location the proposal would result in an additional dwelling contributing to an unacceptable build-up of housing changing the rural character of the area;
 2. The boundaries are not long established by dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways, but will be created by arbitrary woodland clearance.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
016/0298/03		Location plan
016/0298/02		Block plan
016/0298/04		Elevations
016/0298/05		Floor plans
016/0298/08		Section C
016/0298/06		Section plan
016/0298/07		Section A and B
016/0298/01		Site plan

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

None.

DETAILS OF MATTERS SPECIFIED IN CONDITIONS

None.

**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.

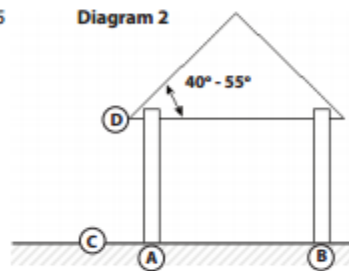
Proposals that add to an existing grouping, such as an established re-use or rehabilitation scheme, will be more satisfactorily integrated where they connect through built form, layout and landscape features. Development that adds to an existing suburban layout should be avoided. Infill development along 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.



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°

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.

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 Paces – 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 EP2 Recycling Facilities

Proposals for new development must ensure the provision of adequate space within layouts for well designed waste storage, recycling and collection systems to maximise waste reduction and the separation of materials at source. The scheme should be designed in consultation with the Council's Waste Manager.

For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

Justification

The Scottish Government has adopted Zero Waste as a goal. Recycling is a key element in the waste hierarchy as it promotes the sustainable use of materials and reduces the amount of waste that has to be dealt with by landfill. The policy aims to ensure that all residential, commercial and industrial properties provide facilities for waste separation and collection.

Policy EP3 Identifying and Safeguarding Key Waste Sites

Key waste sites are identified at Dallachy, Gollachy, Moycroft and Waterford. Development on adjoining land will not be approved if it is considered there will be an unacceptable conflict that could prejudice their continued operation.

Justification

The aim of this policy is to safeguard waste sites and ensure these are protected from any conflicting development. These are shown on Proposals Map: Waste and Minerals.

Policy EP4 Private Water Supplies

All proposals to use a private water supply must demonstrate that a wholesome and adequate supply can be provided. Applicants will be required to provide a National Grid Reference for each supply source and mark the supply (and all works associated) e.g. the source, holding tank and supply pipe, accurately on the application plan. The applicant will also be required to provide information on the source type (e.g. well, borehole, spring). This information is necessary to enable the appropriate authorities to advise on the environmental impact, adequacy, wholesomeness, capacity of supply for existing and proposed users and pollution risks.

Justification

The aim of the policy is to ensure safe water supplies where a private source is to be used.

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.

range of policies that provide for additional housing requirements, economic development, and the varying proposals that may come forward, while taking account of the overarching objectives and other elements of the plan.

79. Plans should set out a spatial strategy which:

- reflects the development pressures, environmental assets, and economic needs of the area, reflecting the overarching aim of supporting diversification and growth of the rural economy;
- promotes economic activity and diversification, including, where appropriate, sustainable development linked to tourism and leisure, forestry, farm and croft diversification and aquaculture, nature conservation, and renewable energy developments, while ensuring that the distinctive character of the area, the service function of small towns and natural and cultural heritage are protected and enhanced;
- makes provision for housing in rural areas in accordance with the spatial strategy, taking account of the different development needs of local communities;
- where appropriate, sets out policies and proposals for leisure accommodation, such as holiday units, caravans, and huts;
- addresses the resource implications of the proposed pattern of development, including facilitating access to local community services and support for public transport; and
- considers the services provided by the natural environment, safeguarding land which is highly suitable for particular uses such as food production or flood management.

80. Where it is necessary to use good quality land for development, the layout and design should minimise the amount of such land that is required. Development on [prime agricultural land](#), or land of lesser quality that is locally important should not be permitted except where it is essential:

- as a component of the settlement strategy or necessary to meet an established need, for example for essential infrastructure, where no other suitable site is available; or
- for small-scale development directly linked to a rural business; or
- for the generation of energy from a renewable source or the extraction of minerals where this accords with other policy objectives and there is secure provision for restoration to return the land to its former status.

81. In accessible or pressured rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate, and plans and decision-making should generally:

- guide most new development to locations within or adjacent to settlements; and
- set out the circumstances in which new housing outwith settlements may be appropriate, avoiding use of occupancy restrictions.

82. In some most pressured areas, the designation of green belts may be appropriate.

83. In remote rural areas, where new development can often help to sustain fragile communities, plans and decision-making should generally:

- encourage sustainable development that will provide employment;
- support and sustain fragile and dispersed communities through provision for appropriate development, especially housing and community-owned energy;

- include provision for small-scale housing⁴¹ and other development which supports sustainable economic growth in a range of locations, taking account of environmental protection policies and addressing issues of location, access, siting, design and environmental impact;
- where appropriate, allow the construction of single houses outwith settlements provided they are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies;
- not impose occupancy restrictions on housing.

National Parks

84. National Parks are designated under the National Parks (Scotland) Act 2000 because they are areas of national importance for their natural and cultural heritage. The four aims of national parks are to:

- conserve and enhance the natural and cultural heritage of the area;
- promote sustainable use of the natural resources of the area;
- promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- promote sustainable economic and social development of the area's communities.

85. These aims are to be pursued collectively. However if there is a conflict between the first aim and any of the others then greater weight must be given to the first aim. Planning decisions should reflect this weighting. Paragraph 213 also applies to development outwith a National Park that affects the Park.

86. Development plans for National Parks are expected to be consistent with the National Park Plan, which sets out the management strategy for the Park. The authority preparing a development plan for a National Park, or which affects a National Park, is required to pay special attention to the desirability of consistency with the National Park Plan, having regard to the contents.

Coastal Planning

87. The planning system should support an integrated approach to coastal planning to ensure that development plans and regional marine plans are complementary. Terrestrial planning by planning authorities overlaps with marine planning in the intertidal zone. On the terrestrial side, mainland planning authorities should work closely with neighbouring authorities, taking account of the needs of port authorities and aquaculture, where appropriate. On the marine side, planning authorities will need to ensure integration with policies and activities arising from the National Marine Plan, Marine Planning Partnerships, Regional Marine Plans, and Integrated Coastal Zone Management, as well as aquaculture.

Development Plans

88. Plans should recognise that rising sea levels and more extreme weather events resulting from climate change will potentially have a significant impact on coastal and island areas, and that a precautionary approach to flood risk should be taken. They should confirm that new development requiring new defences against coastal erosion or coastal flooding will not be supported except where there is a clear justification for a departure from the general policy to

⁴¹ including clusters and groups; extensions to existing clusters and groups; replacement housing; plots for self build; holiday homes; new build or conversion linked to rural business.

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 Auchtermoidie, Perth & Kinross
2: Contemporary artist's studio and home, Perth & Kinross

Opportunities

Some landscapes will probably have to accommodate considerable change in the coming years. This change needs to be planned and managed so that the effects are positive. Buildings in rural areas can often be seen over long distances and they are there for a long time. Careful design is essential. Traditional buildings can be an inspiration but new or imaginative re-interpretation of traditional features should not be excluded. Where possible, the aim should be to develop high quality modern designs which maintain a sense of place and support local identity.

Examples of the main opportunities include:

conversion or rehabilitation

The revival of rural buildings to provide comfortable modern homes has become increasingly popular. It not only brings a building back to life but it may provide opportunities to sensitively conserve our built heritage, including buildings of merit which are not listed. The sympathetic restoration of buildings which are structurally sound, largely intact, safely accessible and linked to water and other services maintains the character and distinctiveness of places.



7

small-scale infill

Small-scale infill in existing small communities can bring economic and social benefits by supporting existing services such as schools and shops. Planning authorities should generally seek to reinforce the building pattern of the existing settlement and ensure that new buildings respect and contribute to the area's architectural and cultural heritage.



new groups of houses

Housing related to existing groupings will usually be preferable to new isolated developments. The groupings should not be suburban. They should be small in size, and sympathetic in terms of orientation, topography, scale, proportion and materials to other buildings in the locality. They should take account of sustainable development criteria in location and infrastructure needs.



single houses

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.



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:	16/00382/APP	Officer:	Derek Wilson
Proposal Description/ Address	Erect dwellinghouse on Site 150M East Of Brennach Birnie Elgin Moray		
Date:	13/05/2016	Typist Initials:	RS

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

CONSULTATIONS		
Consultee	Date Returned	Summary of Response
Environmental Health Manager	15/04/2016	No objections
Contaminated Land	27/04/2016	No objections
Private Water Supplies	16/03/2016	Report received
Transportation Manager	05/05/2016	No objections, conditions and informatives

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
PP1: Sustainable Economic Growth	N	
PP3: Placemaking	N	
H7: New Housing in the Open Countryside	Y	Refer to observations below
E4: Trees and Development	N	
EP4: Private Water Supplies	N	
EP5: Sustainable Urban Drainage Systems	N	
EP9: Contaminated Land	N	
EP10: Foul Drainage	N	
T2: Provision of Access	N	
T5: Parking Standards	N	

IMP1: Developer Requirements	Y	Refer to observations below
E3: Protected Species	N	
ER2: Development in Woodlands	N	

REPRESENTATIONS

Representations Received		NO
Total number of representations received		
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:		
Comments (PO):		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

The Proposal

- The site is approximately 425m north easterly of the small grouping of Shougle and some 2.5km south west of Fogwatt. The site is not within a rural grouping.
- The site has not been cleared of trees and is set in the heavily wooded area around 20m north of the main access road.
- The proposal is a one and a half storey dwelling-house with a rectangular footprint and subordinate utility and vestibule space on the southerly, principle elevation.
- The house is approximately 124sqm in footprint and is orientated lengthwise west to east in the centre of the 3114sqm plot.
- The ground is uneven and initially slopes steeply downwards to the north of the access to the site. The extent of tree cover masks the site contours, but cutting and mounding will be necessary for a house of these dimensions to be built on a level surface. Due to the nature of the site, the proposed cutting and mounding will not make the proposed house unduly prominent within the landscape.
- For that part of the site to contain the house its accesses and amenities, extensive tree and gorse clearance will be required before the levelling can commence. No indication is given whether a sustainable use will be made of these cleared trees.
- The materials will be natural slate roof tiles, smooth K-render white render with larch cladding on the utility/vestibule rooms. Windows/rooflights will be grey uPVC.
- There will be separate foul and surface water soakaways at least 5m from the main house and a septic tank connecting to the foul water soakaway. A private water supply is proposed.
- Much of the site will retain its existing tree cover with the cleared area of sufficient size for the house and its amenities. The retained trees will screen the house on all sides except a section to the south at the proposed access. No further landscaping is proposed.
- The access, turning area and parking will be to the south of the proposed house. Access onto the unclassified carriageway will be from a new 15m track to join the existing track which is not in bituminous macadam.
- None of the proposal's boundaries are established and the intention is to define them by post and wire fence and the existing trees to be retained.

Appraisal

Section 25 of the Town and Country Planning (Scotland) etc. Act 2006 requires applications to be determined in accordance with the current Moray Local Development Plan 2015 unless material considerations indicate otherwise. The planning issues for this proposal are the following:

Policy H7 assumes in favour of an application for a new house in the open countryside provided the following requirements are met. The boundaries proposed are acceptable under Policy H7 d). The boundaries are not established within the woodland. The intention is to create the boundaries by woodland clearance which is not acceptable under this policy, due to the lack of any established and distinguishable 50% boundaries.

Development must reflect 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. It should not detract from the character and setting of existing buildings or their surrounding area when added to an existing grouping and nor does it 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 significant growth in house applications.

This table shows existing permitted housing approvals in this locale.

Proposal	Approve date	Direction	Distance from proposal at boundary	Access	Initiation
15/00609/APP	11.06.2015	W	345m	Share with proposal	none
11/01546/APP 16/00120/ID	17.11.2011 02.03.2016	W	83m	Separate	none
15/01958/APP	22.12.2015	N	62m	Share with proposal	none
15/00363/APP	24.06.2015	W	215m	Share with proposal	none
15/00540/APP	18.05.2015	E	234m	Separate	none
15/00463/AMC	30.04.2015	E	45m	Share with proposal	none
14/02346/APP	04.02.2015	E	372m	Separate	none
14/00661/AMC	06.06.2014	E	333m	Separate	08.06.2014
12/01378/APP	27.09.2012	E	256m	Separate	none
13/00241/APP	09.04.2013	W	154m	Share with proposal	none

A further house would detract from the character of the surrounding countryside by resulting in an uncharacteristic cluster of houses and the loss of woodland further altering the character. As such this proposal would conflict with dispersed rural housing addressed under policies H7, IMP1 and associated supplementary planning guidance. By nature of its siting, this proposal if approved, would be unacceptable build-up of housing development in this area of countryside.

It is noted that the proposal would result in the loss of mature existing woodland. Had the proposal been otherwise acceptable discussion with the applicant would have to have taken place regarding compensatory tree planting in line with Policy ER2.

The applicant has provided a specific protected species survey which would have informed a probable condition had permission been granted in accordance with Policy E3.

In terms of design, the house would be acceptable where the character of the surroundings could be maintained. The site is of sufficient size that there are not deemed to be any overlooking or amenity issues concerning this proposal.

Access/Parking

Policies T2 and T5 would be satisfied regarding vehicle safety accessing, proceeding, manoeuvring and parking recommended by the Transport Manager. There is sufficient available space within the site for parking and turning. The Transport Manager is content with parking provision but would require further ample turning space within the curtilage of the site and requests subject to conditions/informatives to be attached to any approval.

Drainage and Water Supply

Policy IMP1 requires new development to make acceptable water drainage and waste management provision including the use of sustainable urban drainage systems for dealing with surface drainage. Policy EP5 requires a method of dealing with surface water which should avoid pollution and promote habitat enhancement and amenity. Policy EP7 requires an assessment demonstrating that any flood risk can be satisfactorily mitigated without increasing risk elsewhere and proposals must not exacerbate significantly the risk of flooding to the site or elsewhere. Policy EP10 requires small scale developments in the countryside intending to discharge to the land to use a system compatible with Building (Scotland) regulations 2004. In this case the proposals for soakaways are in principle acceptable and satisfy relevant policy. The detailed arrangements will require to be further assessed as part of any separate application for a building warrant. The site is sufficiently large to accommodate the necessary septic tank and soakaway. The arrangements for a private water supply are acceptable.

Conclusion

For the reasons described in the appraisal section the application is being refused. The build-up of housing will form the basis for refusal.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None.

HISTORY			
Reference No.	Description		
11/01546/APP	Erect house on Site At Dallas View Elgin Moray		
	Decision	Permitted	Date Of Decision 17/11/11
12/01462/APP	Erect house at Site 620M North West Of Grant Lodge Birnie Elgin Moray		
	Decision	Permitted	Date Of Decision 06/11/12
13/00241/APP	Erect house on Site Approximately 380M North West Of Grant Lodge Birnie Elgin Moray		
	Decision	Permitted	Date Of Decision 09/04/13
15/00363/APP	Erect dwellinghouse with integral garage on Site 150M North Of Brennach Birnie Elgin Moray		
	Decision	Permitted	Date Of Decision 24/06/15

15/00463/AMC	Erect a dwellinghouse on site Site At Shougle Wood Birnie Elgin Moray			
	Decision	Permitted	Date Of Decision	30/04/15
15/00609/APP	Extend boundaries and revise house design on planning consent ref 12/01462/APP and add garage on Site 620M North West Of Grant Lodge Birnie Elgin Moray			
	Decision	Permitted	Date Of Decision	11/06/15
15/01958/APP	Revise house design house position and site boundaries on planning consent ref: 14/01523/APP for dwellinghouse at Site At Shougle Woods Birnie Moray			
	Decision	Permitted	Date Of Decision	22/12/15

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	No Premises	12/05/16
PINS	No Premises	12/05/16

DEVELOPER CONTRIBUTIONS (PGU)	
Status	N/A

DOCUMENTS, ASSESSMENTS etc. *		
<small>* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc</small>		
Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Protected Species Survey	
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)			