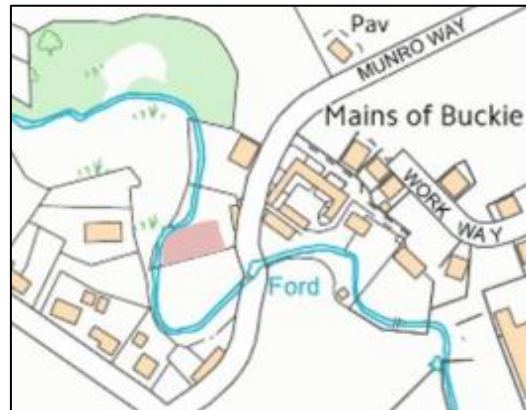


# SUPPORTING STATEMENT

to the Notice of Review in respect of  
Planning Application 18/00227/APP for  
Development at Ferndale,  
Munro Way, Mains of Buckie



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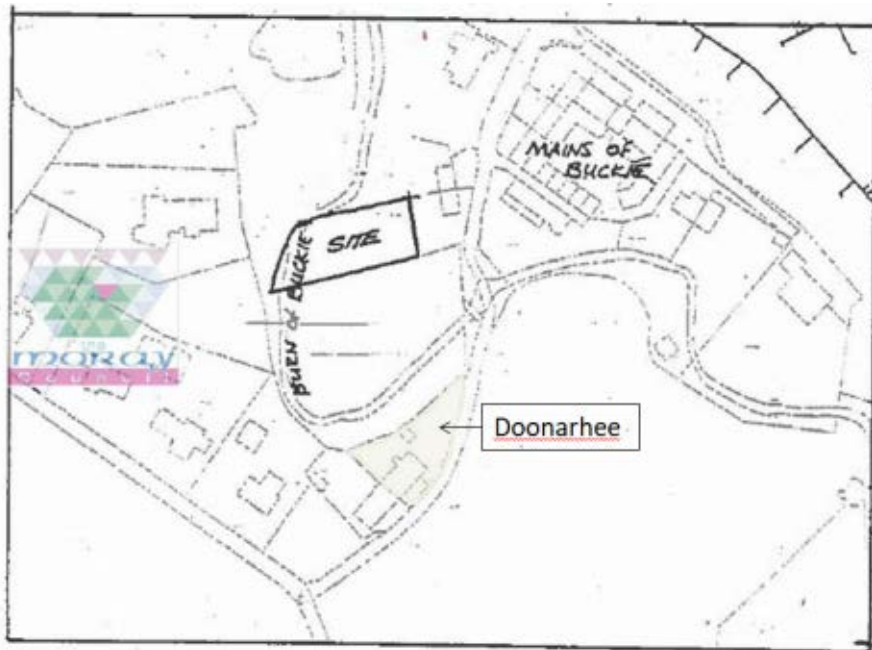
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- 10 Extract from the Moray Urban Design Guide 2015 (pages 2, 3, 9, 10 and 12)

## 1. The Application

The Application is a retrospective one, seeking permission for the change of use of amenity land to garden land (with fencing) at the rear of Mr Mair's home, Ferndale adjacent to the Burn of Buckie.

The Location Plan Drawing and Site Plan Drawing from the Application are reproduced in full at Appendix 1. However, for ease of reference image clips from both Drawings are shown below (these are of course not to scale). The property known as Doonarhee to the south of the Site has been annotated on the first image as well because this is discussed in Section 4 of this Statement and identifying it on the image may help the Local Review Body:



## 2. Appointed Officer's Decision

Planning permission was refused on 3<sup>rd</sup> May 2018. The full Notice of Decision is provided at Appendix 2.

The Officer's grounds of refusal allege that as the Development involves the loss of undeveloped open ground forming part of the Buckie ENV6 green corridor designation to private enclosed garden ground, it would not meet the terms/objectives of Local Plan Policies E5 (Open Spaces) and IMP1 (Developer Requirements) and the Moray Open Space Strategy Supplementary Guidance.

The focus of the Officer's concern is thus the alleged conflict of the Development with open space policy.

Some of the Site lies in the Burn's floodplain. Whilst flooding is discussed in the Officer's Report of Handling, this was not a reason for refusal and the relevant Local Plan policy on this matter, Policy EP7 is not cited in the Notice of Decision.

In their consultation responses, the Scottish Environmental Protection Agency (SEPA) and Moray Flood Risk Management recommended some conditions/actions to manage potential flooding risk. These included no alteration to ground levels on the Site, the removal of permitted development rights and removal of the lower section of the fencing as erected, so as to enable burn water to flow unrestricted through the Site during any flood event.

The Report of Handling accepts that as a result of the Development, Site levels have not been increased substantially. Mr Mair has also already removed the lower section of the fencing as evidenced by the photograph below:



*Plate 1: Gap at bottom of fencing as a result of the removal of the lower section*

In addition, Mr Mair is happy to accept a planning condition removing any permitted development rights from the Site as appropriate.

### **3. Summary of Reasons for Requesting a Review**

1. The Appointed Officer's decision was based on an inadequate assessment of the merits of the Application against the provisions of the Local Plan, bearing in mind the purpose/objectives of Policy E5 and the Buckie ENV5 green corridor designation, the characteristics of the Buckie ENV5 green corridor in the vicinity of the Site and the limited effects of the development on the specific qualities of the burnside environment/space in this location.
2. The Appointed Officer's decision gave undue weight to the contents of the 2015 Open Space Audit which is inadequate in the level of analysis/description its provides about the nature of the burnside environment/space with regards to the Site and the immediate environs.
3. The Appointed Officer's decision didn't give adequate weight to a key aspect of the planning history of the immediate locality, namely the 1991 Appeal Decision for Planning Application 900693 which granted planning permission for 2 houses and a garage in this burnside location.
4. The Appointed Officer's decision failed to consider certain benefits of the development that are material planning considerations, supported by Local Plan Policy PP3 and the Urban Design Supplementary Guidance 2015, namely the improvement to streetscene appearance, highway safety and community safety.

These matters are discussed in greater detail in the next Section of this Statement. They are all matters that were capable of consideration at the time the Application was determined by the Appointed Officer. They represent material planning issues that ought to be considered by the Local Review Body in its determination<sup>1</sup>.

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<sup>1</sup> In line with Section 43B (2) of the Town & Country Planning (Scotland) Act 1997, which requires all material planning considerations to be addressed in the process regardless of any prohibition implied by the preceding Section.

#### 4. The Planning Case in favour of a Grant of Permission

It is quite true that the current Local Plan Proposals Map shows the Development Site lying within an area designated as an open space (ENV6).

This is one of several in and around Buckie identified as contributing to the town's amenity.

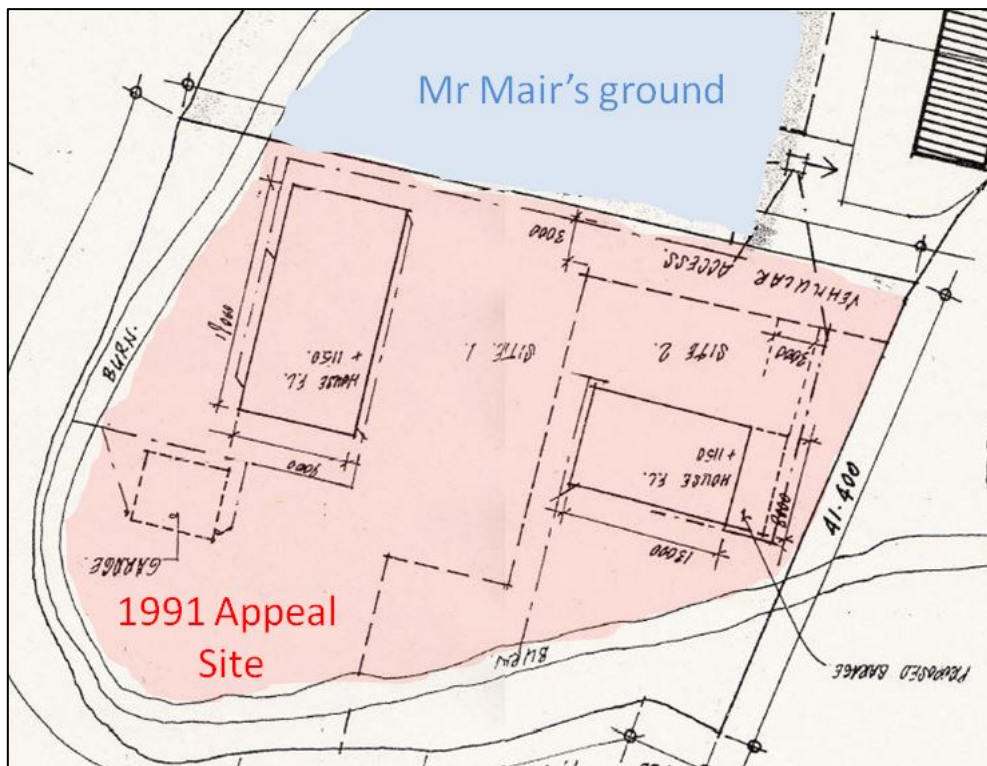
The Notice of Decision states that the ENV6 designation has been designated to 'preserve open/amenity space within settlements'.

Earlier Local Plans have contained similar open space policy designations focussed on the Burn of Buckie, going back to at least 1993 (see details of enquiries undertaken at Appendix 3).

Each Plan since then has, more or less, shown the same detailed boundaries and 'accepted wisdom' of the preceding version.

However, the historic evidential basis for the original, detailed definition of the boundaries of these open space designations is not so clear, nor the criteria employed.

Oddities have occurred. For example, in defining the open space, the 1993/98 Local Plan Proposals Map seems to have effectively ignored the existence of a then extant planning permission granted on Appeal in 1991 for the development of 2 houses and a garage on land immediately south of the Site (see Appendix 4). The image below is an annotated extract from the approved Appeal site plan drawing. The Reporter did not consider that residential development here, even of this scale, would detract from the qualities of the burnside environment.



The approved area for the proposed new houses, garage and gardens was included within the open space designation rather than being shown as part of the built-up area. Other residential properties and curtilages in the vicinity were in contrast excluded from the space. This gives an impression of inconsistency on how the boundary between the open space and the built-up parts of the settlement were originally defined.

Even the current 2015 Local Plan was not informed by a study looking at/reviewing open space policy designations and their detailed boundaries. The Open Space Audit that underpins the 2018 Moray Open Space Strategy Supplementary Guidance was undertaken in 2015 as the ink was drying on the current Local Plan.

The Audit did 'survey' the whole of the Burn of Buckie (Audit Site Reference M/BCOS/011) and records an overall 'quality' score for the entire open space corridor against various criteria. It also briefly describes the Burn valley as a landscape feature, noting its steep slopes and gorge-like appearance in parts, both of which it acknowledges limit public access (see extracted Table from the Open Space Strategy at Appendix 5). These generic comments represent the extent of information from the survey on the physical aspects of the space.

However, in the same part of the Strategy, there is no discussion of the appropriateness of the boundaries of the existing open space designation or even the criteria for the definition of its boundaries.

Furthermore, the same enquiries referred to above (Appendix 3), have also revealed that detailed information from the Audit does not survive e.g. survey sheets, the locations at which the burnside environment was evaluated, the disaggregated scores for different sections of the burnside corridor, the basis for retaining the existing boundaries of ENV Designations and how these key judgements were made.

So, the Audit was very strategic in its study and 'review' of the ENV6 designation and it is not possible from the Audit to gain an in-depth picture of the specific characteristics/qualities of the burnside environment immediately around the Site, which might suffer from development and which planning decisions ought to be safeguarding.

The Site and adjacent burnside area forms a relatively low lying and sheltered 'hollow' in the local landscape of this part of Buckie - something acknowledged by the 1991 Appeal Reporter, and to a certain extent the post-Local Plan Open Space Audit and Landscape Study work carried out to assess development bids for the 2015 Local Plan (see Extract at Appendix 6). Development also fringes the space, further limiting long distance views.

The setting of the Burn valley in the locality of the Site is thus visually well-contained.

Whilst it is not common for people to walk up/down the Burn north/south at this point, a local Core Path route does cross the Burn here west/east (BK03 Laird's Way to Drybridge) using the road and a footbridge adjacent to a ford (see Appendix 7). It is noted that Criteria c) of Local Plan Policy IMP1 expects new development not to adversely affect Core Paths (see Appendix 8).

To the north-west, past the footbridge/ford, the Burn takes an extensive looping meander in



the valley around a large semi-circular area of flat open land (which was where the 1991 Appeal was allowed). This area contains considerable tracts of broom and Japanese knot weed.

This vegetation further limits views into the Site and adjacent burnside area. Heading east down towards to the Burn of Buckie, Core Path users experience screened views of the Development as evidenced in the photographs below:



*Plate 2: Looking eastwards towards Ferndale from the western side of the Burn*



*Plate 3: Looking eastward towards Ferndale from the Footpath over the Burn*

Coming from the other way, out of town along Munro Way, views are even less affected. Initially, this is because of the narrow roadway and effects of existing housing development, either side. Then, the focus of one's attention is on long open views towards the wider countryside beyond the Burn. Furthermore, at Ferndale there is Leylandii hedging to the rear of the property, which also screens the development that has been carried out. This is illustrated by the photographs below.



*Plate 4: Approaching Ferndale from the east along Munro Way*



*Plate 5: The focus attention travelling west down to the Burn*





*Plate 6: Looking into the rear of Ferndale from Munro Way*

So the Development's impact on how walkers/cyclists/horse-riders experience the Core Path as it crosses the Burn seems limited. They are not impeded in using the Path and the pleasantness/tranquillity of the burnside environment is not affected to an unacceptable extent. Any recreational objective/purpose/value of the ENV6 Local Plan designation in the local context therefore does not appear to have been critically undermined as a result of the Development. The Development doesn't conflict with Criteria c) of Local Plan Policy IMP1 either.

In physical terms too, a very large part of the space around the Burn remains open as undeveloped land to the south of the Site (the semi-circular shaped piece of ground where housing development was allowed on Appeal in 1991) and a corridor is still maintained through to the rest of the valley further north/north-west by virtue of the Burn itself and open ground on the other side of valley, which is steep and landscaped, rising to a substantial height above the Burn. Part of the land on the northern side of the valley is in Mr Mair's ownership and is included in the Application Site – he is happy to see this area permanently given over to 'public' open space use. In addition, whilst that part of Site on the southern side of the Burn is fenced-off, the land itself remains open in nature as garden ground. The current ENV6 designation as defined on the Local Plan Proposals Map includes some of the garden ground at the property known as Doonarhee on the southern side of the Burn, just beyond the footbridge/ford – so, unless this is a drafting error or arbitrary inclusion, it must be possible for enclosed private open space like Doonarhee's garden, to contribute to the purpose/role of the ENV6 designation. It was mentioned in Section 2 of this Statement that SEPA would like to remove any permitted development rights from the Site if permission is granted for the change of use. This action would ensure no potentially large built structures such as domestic outbuildings could be erected in future on it without express planning permission from the Council and would maintain openness. In terms of the entire Burn of Buckie open space designation (a whole 17.9 hectares in extent), the Site (just 682 square

metres) represents a mere 0.3% of the total. Finally, Mr Mair's garden extension/fencing is far less substantial in physical terms than the 2 houses and garage what were permitted in the Appeal on the semi-circular area of ground to the south of his ground – the Reporter didn't consider that the loss of this space to significant built development would be detrimental to the 'open gap' formed by the burnside valley.

Bearing in mind the above points, any landscape/townspace objective/purpose/value of the ENV6 Local Plan designation in the local context therefore does not appear to have been critically undermined as a result of the Development (or likely to be so in the future). The Development likewise appears to satisfy Criteria a), b) and c) of Local Plan Policy IMP1 dealing with siting and design issues. If, following a site visit, the Local Review Body are minded to grant permission for the change of use including the wooden fencing, it would of course be possible to impose a condition requiring the fence to be painted in a darker colour to further match other fencing in the immediate locality and help it blend into the local surroundings.

As far as enquiries could reveal (Appendix 3), no habitat mapping of the Burn of Buckie by a professional ecologist appears to have been undertaken as part of the 2015 Open Space Audit. Mr Mair has confirmed that vegetation on the Site that was cleared for the Development was similar ecologically speaking to that occupying the large semi-circle of land to the south: mainly broom, grass and Japanese Knotweed. The latter species is of course an invasive alien species and general nuisance. Little, if anything of value on the Site appears to have been lost in biodiversity terms as a result of the Development. The maintenance of the Burn as a watercourse and a corridor of open land between the area around the footbridge/ford and the rest of the valley, albeit reduced in size, still allows for the theoretical movement of aquatic and terrestrial wildlife up and down the Burn of Buckie open space. Any ecological objective/purpose/value of the ENV6 Local Plan designation in the local context therefore does not appear to have been critically undermined as a result of the Development. Likewise, the Development appears to satisfy Criteria c) of Local Plan Policy IMP1 in relation to conserving natural resources.

It is noted that the Officer Report of Handling did make some reference to Local Plan Policy PP3 on Placemaking (see Appendix 9). It is considered that this Policy is indeed material to the Review Body's appraisal of the merits of the Development. This is because Policy PP3 seeks to minimise the visual impact of parked cars on the streetscene through new development as well as acknowledging the role planning can play in reducing the fear of crime and improving community safety. The related Urban Design Supplementary Guidance 2015 (see Appendix 10) contains similar sentiments and is also considered relevant in this case. The Guidance seeks to avoid parking within the front curtilage of houses as this breaks up the building frontage, leads to a visual dominance of parked cars, restricts natural surveillance/overlooking of the street and affects how garden space can be used. It also notes that well designed places should take account of crime prevention measures.

As mentioned previously and shown on Plate 4, the highway known as Munro Way narrows considerably in the vicinity of Ferndale. On-street parking is problematic. There is some space in the front curtilage of Ferndale for off-street parking but use of this hitherto, has led to the very issues/effects highlighted in the Urban Design Guidance. The inclusion of extra

garden ground to the rear of the property, beyond the existing Leylandii hedge allows less intrusive and secure parking of vehicles in line with Local Plan Policy PP3. The removal of parked cars off the highway in this way, increases the pleasantness of Munro Way at this point for users of the Core Path. The fencing of the ground also improves the general security of Ferndale and its neighbouring property, Burnbank, which adds to a greater sense of well-being for their occupants due to the reduced possibility/fear of crime. These benefits of the Development were overlooked in the Report of Handling and the Appointed Officer's decision.

## **5. Conclusion**

The preceding Section has sought to demonstrate that the Development does not frustrate the objectives of relevant Local Plan policies, nor undermine the fundamental integrity of the Burn of Buckie open space designation.

It would appear that there has been no substantial harm to any interest of acknowledged planning importance and indeed some benefits have been identified that were previously overlooked.

In this case, it is hoped that Members of the Local Review Body will be able to agree to a grant of planning permission for Mr Mair's Application.

He is happy to accept a condition to paint the wooden side fencing in a darker colour to further match other fencing in the immediate locality and help it blend into the local surroundings, if this is something the Local Review Body consider would be beneficial.

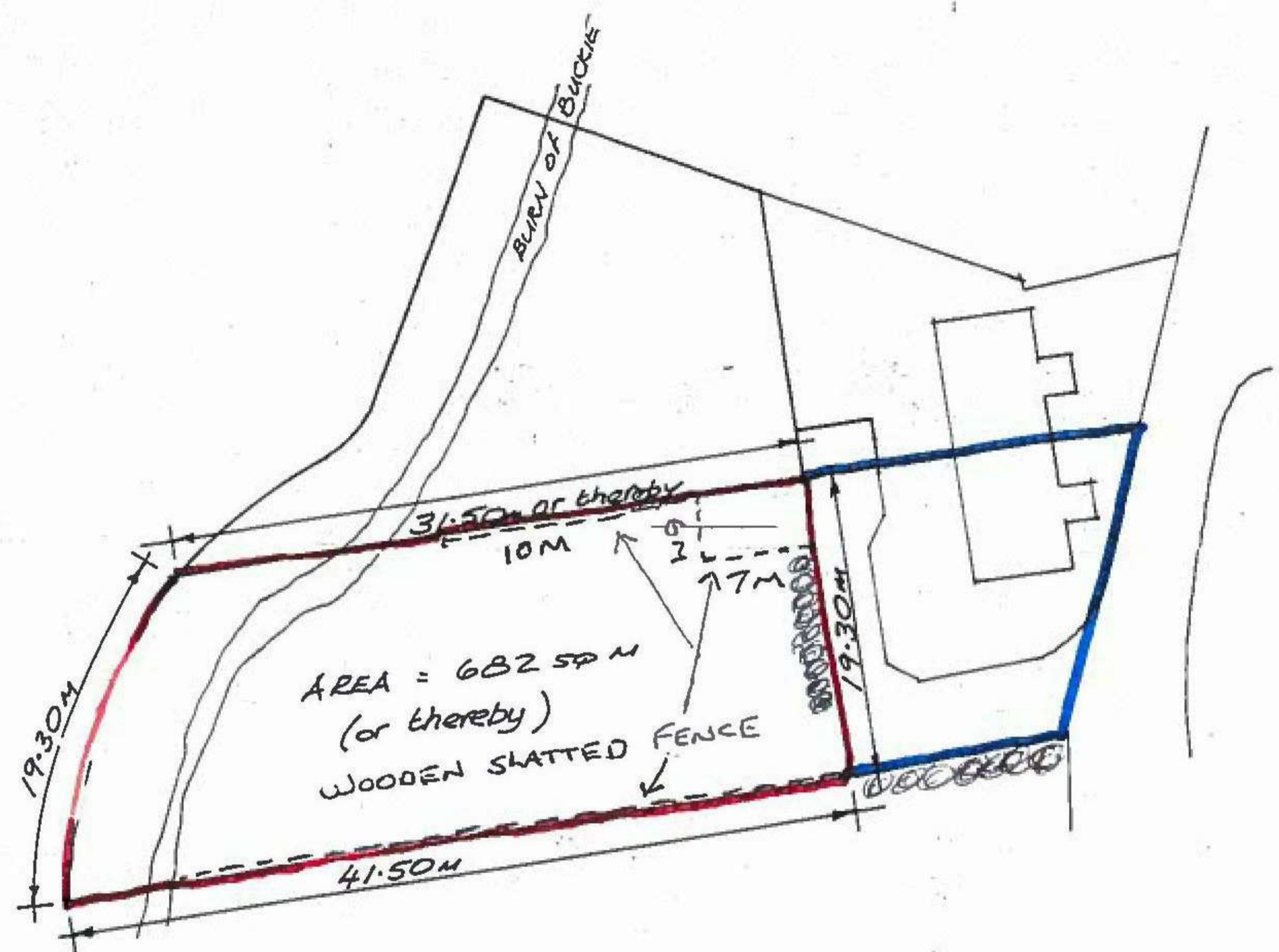
He is also happy to accept conditions along the lines previously suggested by SEPA in the interests of managing flood risk in the Burn of Buckie valley, noting that one removing permitted development rights would retain the openness of the Site and support the open space designation.

## APPENDIX 1

Submitted Location Plan and Site Plan Drawings



----- / SLATED FENCE 1.8 HIGH WITH 6INCH GAP AT GROUND LEVEL  
 ○○○○○○ / LEYLANDII HEDGE



SITE PLAN 1:500 

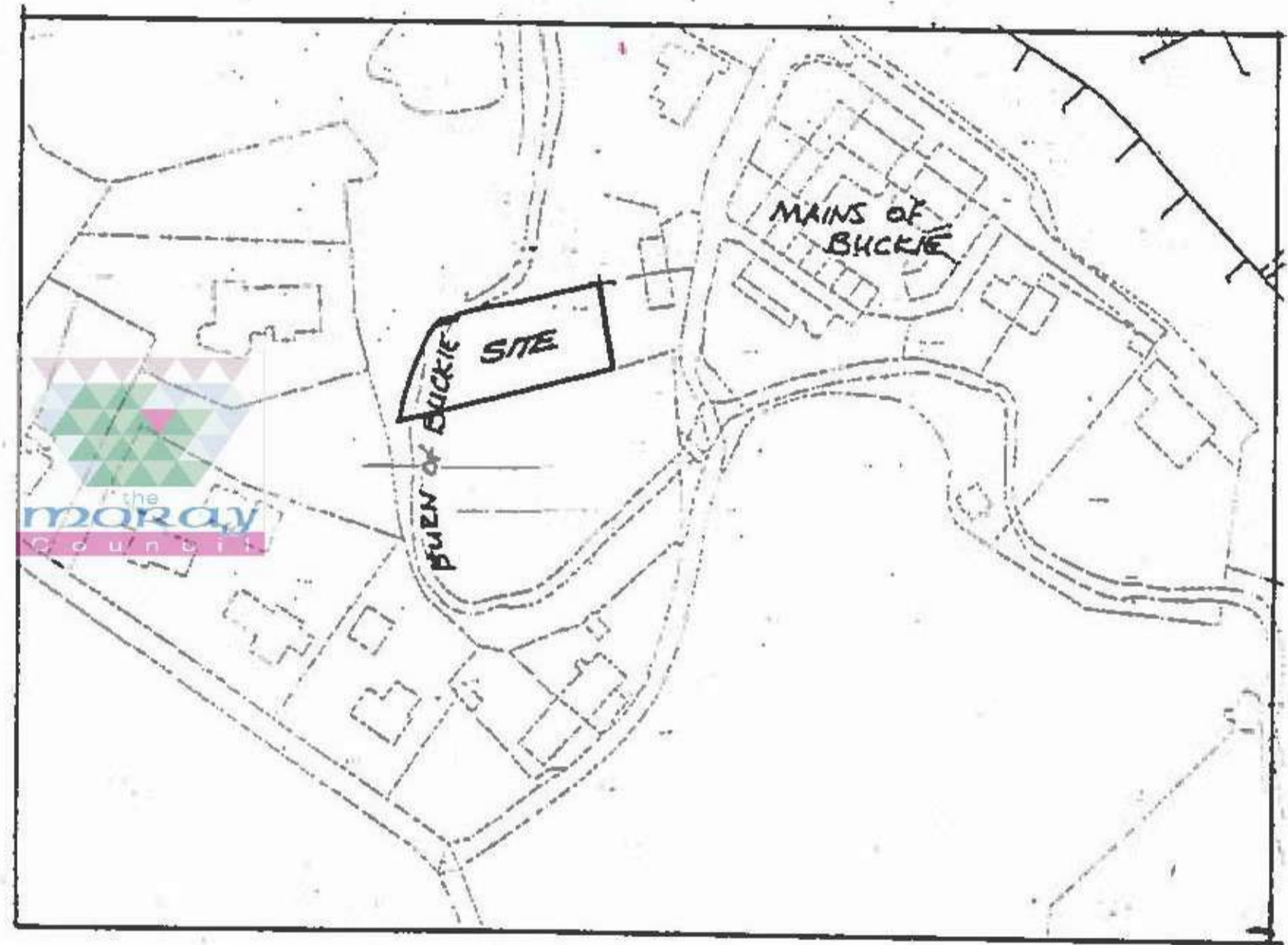


Town & Country Planning  
 (Scotland) Act, 1997  
 as amended

**REFUSED**

03 May 2018

Development Management  
 Environmental Services  
 The Moray Council



LOCATION PLAN 1:2500 

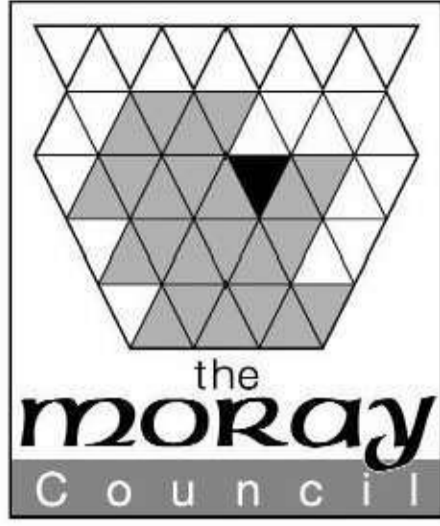
**GROUND AT FERNDALE, MAINS OF BUCKIE,  
 BUCKIE, MORAY**

**DAVID A. SMITH**  
 DIP.ARCH. Leics  
 ARCHITECT  
 BERRYBAUDS, CLOCHAN, BUCKIE AB56 5HX  
 TEL: 01542 850286 FAX: 01542 850336 EMAIL: [david@dasmith.co](mailto:david@dasmith.co)



## APPENDIX 2

### Notice of Decision



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

**REFUSAL OF PLANNING PERMISSION**

**[Buckie]  
Application for Planning Permission**

TO

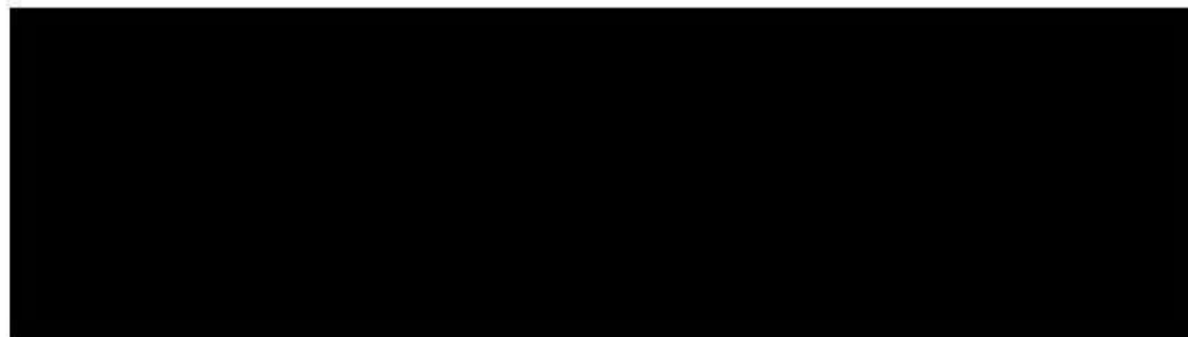


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Change of use of amenity land to garden ground at Ferndale Mains Of Buckie  
Buckie Moray**

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

Date of Notice: **3 May 2018**



**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 adopted Moray Local Development Plan 2015 (Policies E5 and IMP1 as well as the Moray Open Space Strategy Supplementary Guidance 2018) because the proposal to change the land from undeveloped open ground into private enclosed garden ground does not meet any of policy objectives or exemptions identified and would lead to the loss of part of the Buckie ENV6 designation which is designated to preserve open/amenity space within settlements. The proposal in failing to maintain the designated ENV6 green corridor would also fail to comply with the objectives of the Moray Open Space Strategy Supplementary Guidance 2018.

**LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

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

Reference	Version	Title
		Site and location plan

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

N/A

**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](http://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.



## APPENDIX 3

### Note/details of Enquiries made for the Review with the Council's Planning Policy personnel

On Wednesday 30<sup>th</sup> May 2018, Michael McLoughlin phoned Moray Council's Planning Policy Team to ask a number of questions about the evolution of Local Plan policy in the Mains of Buckie locality and the detail of the 2015 Open Space Audit with respect to the Burn of Buckie (method and findings).

Mr Keith Henderson was very helpful. The email exchange that followed the telephone conversation is provided on the pages towards the back of this Appendix.

The key points about the Audit from the telephone conversation and email exchange can be summarised thus:

- the survey sheets from the Open Space Audit no longer exist, nor the master spreadsheet
- precise details of the exact spots from where the Burn valley was assessed are also now unknown
- the general approach of the surveyor was to 'walk down the length of the space as much as you can'
- the Audit following on from the adoption of the current Plan

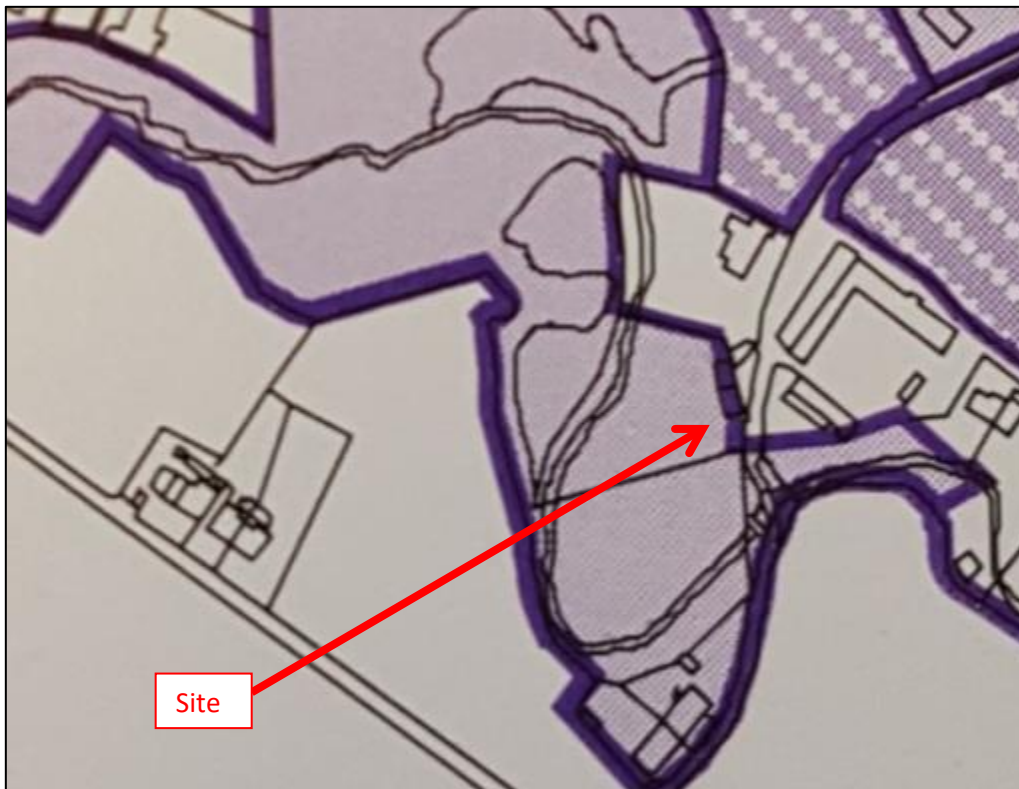
The key points about the evolution of Local Plan policy from the telephone conversation and email exchange are outlined below.

Although in the Appeal Decision Letter (at Appendix X), the Reporter refers at paragraph 11 to the Buckie Area Local Plan, Mr Henderson was unable to uncover further details of this Plan. From what the Reporter says it appears that at the time of the planning appeal decision, the Site lay in an area treated as countryside in policy terms.

The same enquiries have confirmed that for the period 1993-1998, the Local Plan in force was the Moray District Plan. The Proposals Map from that Plan shows that, rather oddly the Site was included in a green space designation area (L/ENV1) despite the appeal decision and extant planning permission for new housing development. The image clip below pinpoints the Site on an extract of the relevant part of the Proposals Map (the original having been kindly provided by Mr Henderson with his email):

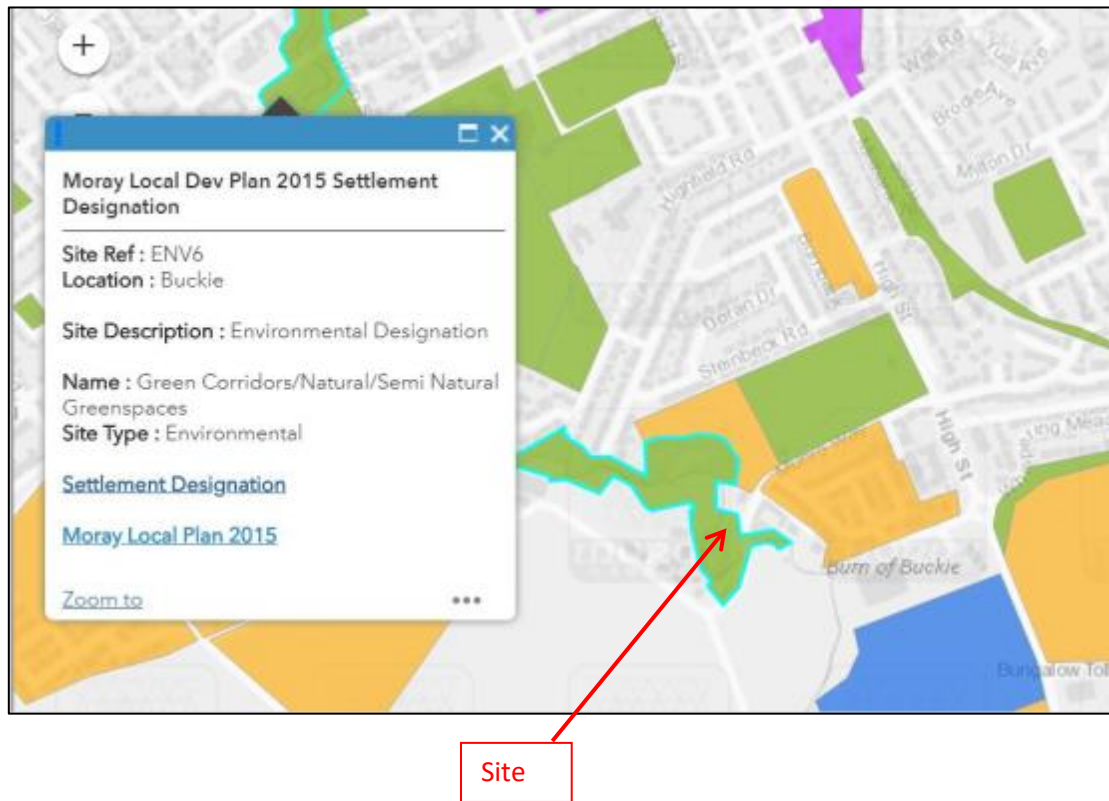


When the 1993-1998 Local Plan was superseded by the Moray Local Plan 2000, this approach was carried forward without much alteration apart from the green space policy designation label changing from L1/ENV to ENV1. The image clip below pinpoints the Site on an extract of the relevant part of the Proposals Map (the original having been kindly provided by Mr Henderson with his email):



Another Local Plan followed in 2008 along the same lines.

The current Local Development Plan (2015) adopts a similar approach, with the Site and the burnside environment shown as falling within an environmental designation ENV 6. The image clip below pinpoints the Site on an extract of the relevant part of the Proposals Map (the original having been taken from the Council's online version):



The ENV6 designation is described in the Local Plan Settlement Statement for Buckie as relating to open space sites identified as contributing to the amenity of the town, covering the following: 'Green Corridors/Natural Coastal Braes/slopes; Valleys Semi Natural Greenspaces Valleys of Buckie; Freuchny and Rathven burns; old railway lines, Portessie Station'. The Settlement Statement states that in line with Policy E5 these areas should be safeguarded from development not related to their current use.

NB Please see overleaf for copies of the emails referred to above.

# RE: Open Space at Mains of Buckie/Buckie Burn

Keith Henderson <Keith.Henderson@moray.gov.uk>

Thu 31/05/2018 15:59

To: michael mcloughlin <mcloughlin\_\_michael@hotmail.co.uk>;

 4 attachments (17 MB)

Local Plan 2000 map.jpg; Local Plan 2000.jpg; Moray District Plan - 1993 - 98.jpg; Moray District Plan 1993 - 98.jpg;

Michael,

I have had a look around and found a copy of the Moray Local Plan 2000 and the Moray District Plan 1993 – 1998. I have attached some photographs (as it is hopefully clearer than scanning) of the Buckie Burn ENV designation and the area that you had in the red dashes. Sorry for the large files. We do not have a record or any knowledge of a Buckie Local Plan in the 1990's and do not have any copies of the older plans to sell but let me know if there is anything else you need.

Regards

Keith

**Keith Henderson** | Planning Officer | Planning & Development  
[keith.henderson@moray.gov.uk](mailto:keith.henderson@moray.gov.uk) | [website](#) | [facebook](#) | [twitter](#) | [newsdesk](#)  
01343 563614



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**From:** michael mcloughlin [mailto:mcloughlin\_\_michael@hotmail.co.uk]

**Sent:** 31 May 2018 12:35

**To:** Keith Henderson

**Subject:** Re: Open Space at Mains of Buckie/Buckie Burn

Thanks Keith - most kind!

Michael

**From:** Keith Henderson <Keith.Henderson@moray.gov.uk>  
**Sent:** 31 May 2018 12:32  
**To:** michael mcloughlin  
**Subject:** RE: Open Space at Mains of Buckie/Buckie Burn

Good afternoon Michael,

Sorry to hear that your throat is worse. I will have had a look and ask around and get back to you.

Kind regards

Keith

**Keith Henderson** | Planning Officer | Planning & Development  
[keith.henderson@moray.gov.uk](mailto:keith.henderson@moray.gov.uk) | [website](#) | [facebook](#) | [twitter](#) | [newsdesk](#)  
01343 563614



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**From:** michael mcloughlin [mailto:mcloughlin\_\_michael@hotmail.co.uk]  
**Sent:** 31 May 2018 10:39  
**To:** Keith Henderson  
**Subject:** Open Space at Mains of Buckie/Buckie Burn

Morning Keith,

Thank you again for your help yesterday on the phone and for bearing with me and my croaky voice. Today I now have a full blown throat infection! Hence the late start.

I can fully understand that 3 years on the survey sheets from the Open Space Audit no longer exist, nor the spreadsheet and that precise details of the exact spots from where the Burn valley was assessed are lost in the mists of planning time. I noted what you said too about the Audit following on from the adoption of the current Plan.

As discussed I am trying to understand how local planning policy has evolved for the area around Mains of Buckie over the past 30 years.

I believe that in 1990 there was a Buckie Area Local Plan.



6/8/2018

RE: Open Space at Mains of Buckie/Buckie Burn - michael mcloughlin

Is there any chance that you could ask around the 'old-timers' or look in your library to see what this Plan was subsequently replaced by? It may be that it was superceded by the 2000 Moraywide Local Plan that you mentioned.

Would it be possible to purchase a photocopied/scanned extract of the Proposals Map from the 2000 Moraywide Local Plan for the area marked by a red dashed line on the attached plan? It is at Mains of Buckie, north-west of the Tesco store.

Likewise, if there was another Local Plan adopted between the Buckie Area Local Plan and 2000 Moraywide Local Plan, would it also be possible to purchase a photocopied/scanned extract of the Proposals Map from it for the same area?

I hope you are able to help further.

Best regards

Michael

APPENDIX 4

Planning Appeal Decision Letter for Planning Application 900693 and Approved Site  
Layout Drawing

COPY



THE SCOTTISH OFFICE

Inquiry Reporters

2 Greenside Lane  
EDINBURGH  
EH1 3AG

Alexander George & Company  
Solicitors  
24 Shore Street  
Macduff  
AB44 1TX

Telephone 031-244 5663.  
Fax 031-244 5680

Your ref: ELA/EMB

Our ref: P/PPA/GE/207

24 October 1991

Dear Sirs

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972: SECTION 33 AND SCHEDULE 7  
APPEAL BY MR W MILTON: ERECTION OF 2 DWELLINGHOUSES AND ONE GARAGE AT  
MAINS OF BUCKIE, BUCKIE

1. I refer to your client's appeal, which I have been appointed to determine, against the refusal of planning permission by Moray District Council for the erection of 2 dwellinghouses and one garage at Mains of Buckie, Buckie. I made an accompanied inspection of the site and surroundings on 22 August 1991.

2. The site lies in countryside to the south west of the former farmstead of Mains of Buckie, and about 200m south of the built up area of Buckie. It comprises an overgrown area of low lying land, extending to about 0.25 ha, which is bounded to the west, south and south east by the Burn of Buckie, and to the north by a slightly higher area of overgrown land. There are about 5 occupied houses at or near Mains of Buckie. Conversion work on the main part of the former steading, to provide further houses, is well advanced, but appeared to have been suspended. Access to the area is by way of a minor road running west from the A942 road. It deteriorates beyond the farm steading, as it descends towards the appeal site and a bridge over the burn.

3. Each proposed house has a rectangular plan, buff harled walls, and a shallow pitched roof clad with charcoal coloured tiles. Each has a lounge, kitchen, 4 bedrooms and a bathroom. One also has a large snooker room, and a detached garage. Elevations of the garage have not been submitted. The block plan shows septic tanks and soakaways close to the burn.

4. The reasons stated for the refusal of planning permission are that the proposal is contrary to the council's policies on housing development in the countryside and the green belt surrounding Buckie, that it would set an undesirable precedent, that connections to the public sewerage system have been required in rehabilitation schemes in the area, and that the design of the proposed properties does not readily relate to existing ones in the vicinity.

5. On behalf of your client, you state that he wishes to erect one house for himself and one for his parents. There is limited scope for this type



of development in Buckie. The proposal would be in keeping with existing development at Mains of Buckie. As the site is low lying, the development would not be visually obtrusive. Any precedent problem would be limited as the site is small and there are few, if any, similar sites in the area. Your client is prepared to connect the development to the public sewer. He would be willing to conform to reasonable requirements regarding design, and would prefer a "cottage type" design to a more modern design.

6. The district council states that the site lies within the boundaries of the Buckie Area Local Plan and the Buckie green belt. A precedent would be created for possibly a further 2 houses sites on adjacent land. The house styles, while simple, incorporate a shallow roof pitch. Septic tank drainage is contrary to policy and to recent committee decisions in the area.

7. The North East River Purification Board states that the conversion of the Mains of Buckie steading to houses required a connection to the public foul sewer, and this development should also be connected to the foul sewer.

8. A letter of support was submitted by the owner of the appeal site. He states that the site was previously a stockyard, not a field, and that it is completely isolated from the rest of the farm by housing development.

#### CONCLUSIONS

9. From my inspection of the site and surroundings and consideration of the written submissions, I believe that the main issues in this appeal are whether the principle of erecting houses on this site is contrary to the relevant national and local planning policies, whether the design of the proposed houses would be seriously out of keeping with the character of the area, whether adequate drainage can be provided, and whether the possibility of a precedent being set provides an adequate basis for withholding planning permission in this case.

10. The first reason for refusal refers to local plan green belt policy. In accordance with SDD Circular 24/1985 ("Development in the Countryside and Green Belts"), the strategic context for a green belt should be established in a structure plan before its boundaries are defined in a local plan. As the structure plan for this area contains no such provision, the area around Buckie is not a statutory green belt. The advice on green belts contained in Circular 24/1985 is therefore not relevant to this appeal.

11. Paragraph 7.3.8 of the Buckie Area Local Plan, which deals with these non-statutory green belts, states that they are intended to prevent unnecessary development on the edge of the built up areas so that a clear distinction is kept between town and countryside. It emphasises the need to protect the east and west edges of coastal towns, and the separate identity of the village of Rathven to the south. It states that some sites within the defined green belt may be acceptable because they are obscured from settlements by the contour of the land. The appeal site lies in a hollow, next to a small group of buildings. The proposed development would not erode the physical distinction between town and country, the east or west edges of Buckie or the identity of Rathven. In my opinion it would not run counter to the objectives of this policy.



12. Policy 3.3.7 of the local plan states that there is no inherent presumption against new housing development in the countryside. Policy 7.3.1 states that a site proposed for development in the countryside will be assessed in relation to both the natural features and the number and location of buildings in the locality, as well as considerations of road access and road safety, availability of services and the means of sewage treatment proposed. The last issue is discussed below in paragraph 14. No objections on road access or safety grounds were raised by the planning or roads authorities. The first part of the policy, regarding natural features and buildings, is not expressed as clearly as it might be, and allows for considerable flexibility in interpretation. However it appears to encourage planned, grouped development that fits relatively inconspicuously into the landscape, and discourage an unplanned build up of isolated and prominent development. The proposed houses would be built in a hollow, next to an existing group of buildings, and as such they would appear to comply closely with the terms of this policy. I conclude that the principle of erecting houses on this site is not contrary to the relevant national and local planning policies.

13. The proposed houses would have a traditional harl finish, and fairly innocuous charcoal coloured tiles. The site is not very prominent, and existing houses near the former steading display a variety of styles. However I share the planning authority's concern about the inappropriateness of the shallow pitched roofs. The roofs would be particularly noticeable parts of these low lying houses. Steeper roof pitches, generally between 40 and 45 degrees, are a characteristic feature of Scottish rural buildings, and I would have thought that they could be provided here without any major difficulty. I note that your client has a preference for more traditional looking houses. Subject to this proviso, I consider that the design of the proposed houses would not be seriously out of keeping with the character of the area.

14. The application proposed septic tank drainage, but this is unacceptable to the planning authority and the river purification board. You state that your client would be prepared to connect the development to the public sewer. This has apparently been done elsewhere in the area, and I therefore assume that adequate drainage could be provided in this case.

15. The district council is concerned that approval could set a precedent for the development of up to 2 more houses on adjoining land. I assume it is referring to the overgrown land to the north of the appeal site. I do not know whether such a proposal has been made, or whether it would be feasible or desirable. It would be inappropriate for me to comment on such a proposal. Each planning application falls to be determined on its individual merits, and I see no reason to withhold planning permission in this case because of fears about possible development on that, or any other site.

16. I therefore find the proposal to erect the 2 houses acceptable. In the absence of details of the garage I cannot approve it. Accordingly, and in exercise of the authority delegated to me, I hereby sustain the appeal and grant planning permission for the erection of 2 dwellinghouses at Mains of Buckie, Buckie, in accordance with planning application No 900693, dated 17 July 1990, subject to the following conditions:

1. The permission hereby granted shall lapse if the development is

24 October 1991

not begun within 5 years from the date of this decision.

2. Details of the external materials to be used on the houses shall be approved by the planning authority prior to the start of construction work on site.

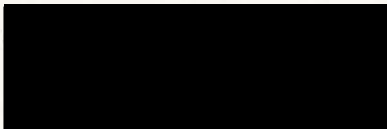
3. The roofs of the houses shall have a pitch of between 40 and 45 degrees.

4. The houses shall be connected to the public sewerage system before they are occupied. They shall not be drained by means of septic tanks and soakaways.

17. The foregoing decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks from the date hereof as conferred by sections 231 and 233 of the Town and Country Planning (Scotland) Act 1972; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1971 or of any orders, regulations or rules made under these Acts.

18. A copy of this letter has been sent to Moray District Council.

Yours faithfully



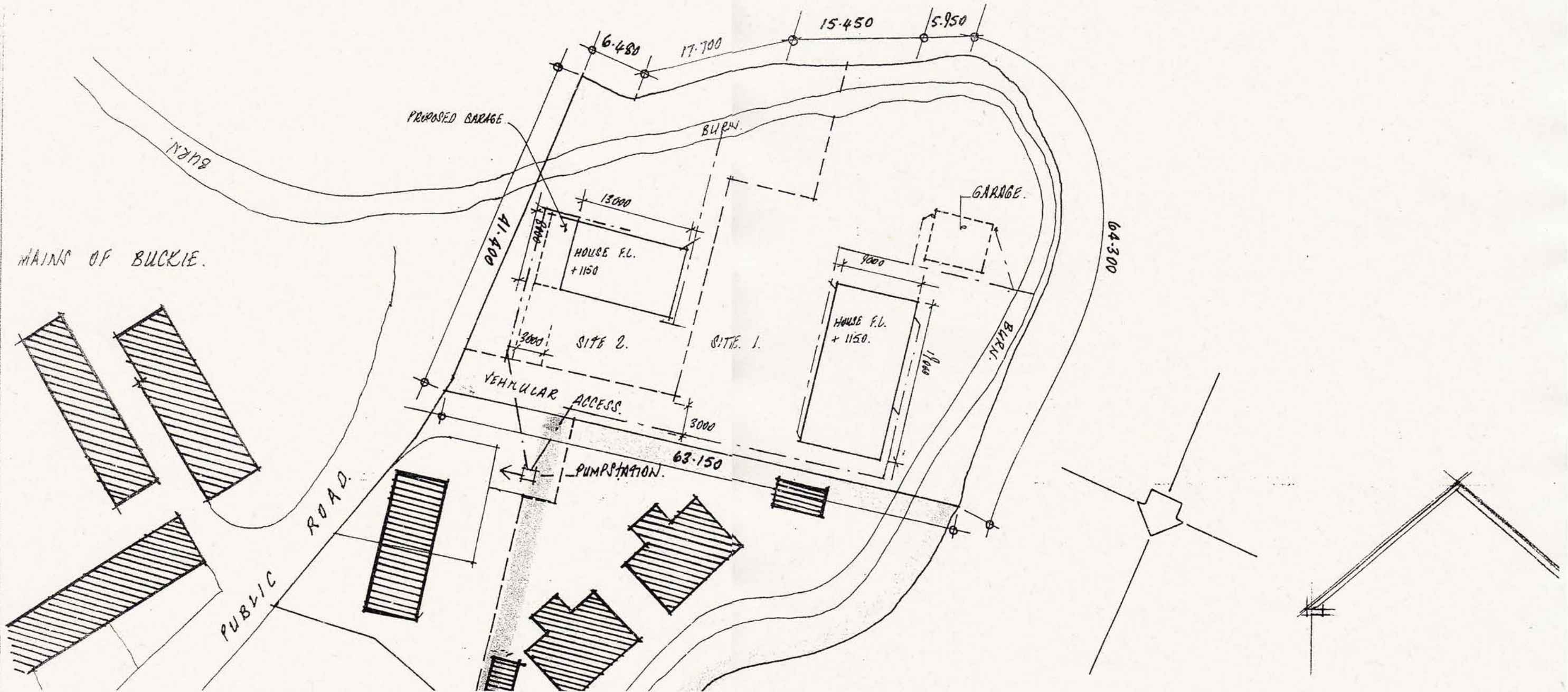
D N GORDON  
Reporter



NOTE: DRAINAGE FROM HOUSES TO PUMPSTATION  
RAINWATER TO BURN.

3

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## APPENDIX 5

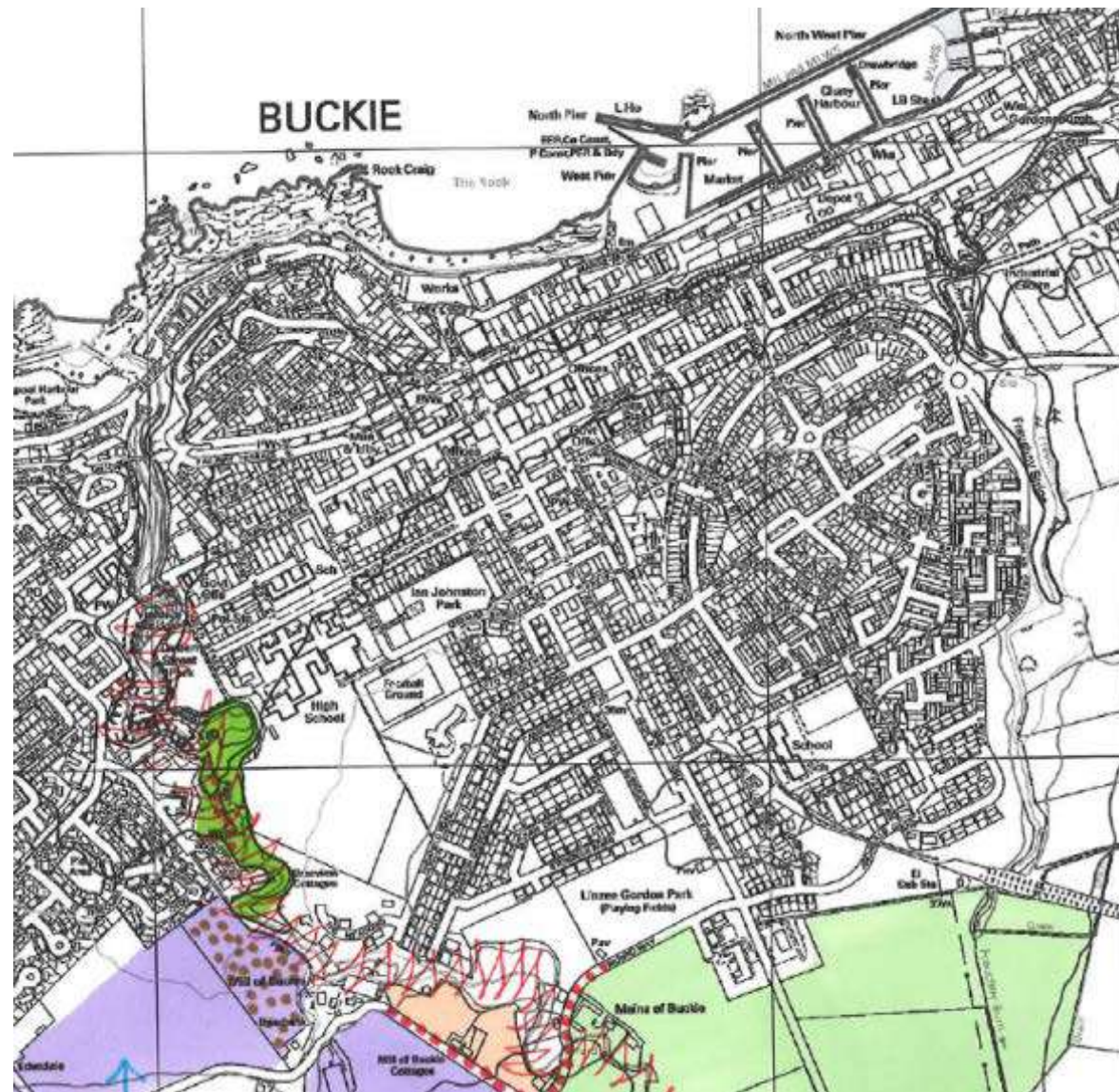
Table extracted from page 45 of Appendix 4 (Buckie Audit Findings) to the Moray Open Space Strategy Supplementary Guidance 2018



Audit Site Ref	Site Name	Ownership/ Responsible for Management	Audit Typology	Area (Ha)	Quality Score	Reasons for Poor	Park Hierarchy	Key qualities and features
M/BC/OS/001	Buckpool Coast	TBC	Green Corridor	0.49	Good		N/A	Area of foreshore, rocky at sea edge with rough grass behind. Coastal path runs through site.
M/BC/OS/002	Buckpool Coast/Shore	TBC	Amenity	0.19	Good		N/A	Area of foreshore, rocky at sea edge with rough grass behind. Coastal path runs through site. Parts surfaced for carparking.
M/BC/OS/003	Buckpool Harbour Park	Moray Council	Public Parks	2.47	Good		Neighbourhood Park	Distinctive public park with attractive setting beside harbour wall. Primarily grass with areas planted with shrubs. Includes well equipped playspace and coastal path. Area of foreshore to the west.
M/BC/OS/004	Coastal slope and former railway	Private /Moray Council path	Green Corridor	3.17	Good		N/A	Former railway with distinctive changes in level. Allows movement between upper and lower parts on steep paths with steps. Distinctive landform which runs through Buckie.
M/BC/OS/006	Buckpool Playing fields	Moray Council	Sports Area	2.17	Good		Neighbourhood Park	Playingfields with playspace.
M/BC/OS/007	The Bow	Moray Council	Amenity	0.17	Poor	Lacks any clear function and made up solely of grass.	N/A	Flat grass area forming a square. Breaks up housing development and provides amenity for housing in immediate vicinity.
M/BC/OS/010	Letterfourie Road	Moray Council	Playspace	0.42	Good		Pocket Park	Landscaped area in centre of housing development with playspace. Includes mature trees and landscaping.
M/BC/OS/011	Burn of Buckie	Moray Council/ Private	Green Corridor	13.79	Good			Corridor for Burn of Buckie which runs through town. Steeply sided and gorge like in parts. Landscape feature. Access limited due to steep slopes.

## APPENDIX 6

Extract of the Buckie West Landscape Analysis Plan from the Council's Final Report on the Integration of New Development into the Landscape, May 2005 (situated between pages 29 and 30)



THE MORAY LANDSCAPE  
**Buckie West**  
 SURVEY AND SITE OBSERVATIONS  
 Scale 1:10 000

Landscape Character

- Level Fields
- Gentle Undulations

Landscape Survey

- Steep slopes enclose the den of the Burn of Buckie
- Long ridges
- Woodland
- Unmanaged grassland
- Golf course
- New cemetery and civic amenity site
- Paths and Tracks
- Houses under construction
- Isolated developments fragment settlement edge

Landscape Setting

- Sense of arrival ambiguous due to fragmented

## APPENDIX 7

Extract from Map 17A (Buckie Inset Map) of the Moray Core Paths Adopted Plan  
2011





### Legend

- Start-finish points
- Core Paths - Public roads/ Roadside paths
- ▤ Core Paths- Off road
- Promoted paths
- Existing paths

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## APPENDIX 8

Local Plan Policy IMP1 (page 84 extracted from the 2015 Moray Local Development Plan)

## 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.

## APPENDIX 9

Local Plan Policy PP3 (page 9 extracted from the 2015 Moray Local Development Plan)

All residential and commercial (business, industrial and retail) developments must incorporate the key principles of Designing Streets, Creating Places and the Council's supplementary guidance on Urban Design.

Developments should;

- create places with character, identity and a sense of arrival
- create safe and pleasant places, which have been designed to reduce the fear of crime and anti social behaviour
- be well connected, walkable neighbourhoods which are easy to move around and designed to encourage social interaction and healthier lifestyles
- include buildings and open spaces of high standards of design which incorporate sustainable design and construction principles
- have streets which are designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars on the street scene.
- ensure buildings front onto streets with public fronts and private backs and have clearly defined public and private space
- maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity
- The Council will work with developers and local communities to prepare masterplans, key design principles and other site specific planning guidance as indicated in the settlement designations.

#### Justification:

The Scottish Government aims to encourage higher standards of urban design and has published Designing Streets and Creating Places. The Council has approved supplementary guidance on urban design which developers are referred to.

The planning system encourages a designed approach to planning responding to the context and characteristics of each site. The 6 key qualities of distinctive, welcoming, adaptable, resource efficient, safe and pleasant and easy to move around and beyond should be considered and integrated into new developments.

Design statements are required for all major applications, however this approach is encouraged for all developments over 10 units to understand the proposal within the context of the site and surrounding environment.

Scottish Government policies encourage the creation of walkable neighbourhoods which are defined as neighbourhoods which have a range of facilities within 5 minutes (about 400 metres) walking distance of residential areas.

A Design and Access Statement is required for national and major planning applications and the Council encourages preparation of a Design Statement for all housing developments of 10 or more units and commercial developments in excess of 500 sq. metres.

## APPENDIX 10

Extract from the Moray Urban Design Guide 2015 (pages 2,3,9,10 and 12)



## Introduction

The Scottish Government's clear commitment to raising urban design standards is set out in its policy statements 'Creating Places' and 'Designing Streets'. These emphasize the important value that good design brings to creating successful places that enhance our quality of life. Our quality of life is determined by the way in which we interact with our surroundings. Architecture, public space and landscape are central to this.

The Scottish Government's approach to designing successful places is underpinned by six key qualities: a successful place is distinctive, safe and pleasant, easy to move around, welcoming, adaptable, and resource efficient. Creating Places sets out the value (physical, functional, viable, social and environmental) that a creative, innovative and inclusive design process can deliver. Designing Streets puts the importance of well-designed streets and its impact on movement and connection between people and places, building and streets, public and private spaces, and the built and natural environment back at the heart of the design process.

This urban design guide has been produced to ensure that new development, especially Greenfield sites at the gateway to towns and villages are places of character with their own identity, which are well-connected and pleasant to live in. These places should have a sense of place which helps establish communities and foster civic pride.

The aim of this guide is to ensure that good design principles are applied to new developments in order that they become successful places to live, work and relax. The design process must ensure that the site and area appraisal together with design principles are analysed at the outset to create an appropriate design that adds value to the place and people. The planning authority must be involved from the outset to ensure that the key design principles set out in this guide are embedded in new development, and to avoid delays in the planning application process.

Good design can avoid longer term problems of poorly maintained spaces, isolated communities, and social problems. The guide aims to reduce reliance on the car and reinforce the role of our streets as a key way of walking and cycling therefore creating a sense of place and allowing for more social interaction.



The benefits of good urban design are:

- Enhances our quality of life by creating attractive, safe and well-connected places;
- Makes urban areas more attractive and competitive for inward investment;
- Creates distinctive places with their own sense of identity and community;
- Lower crime rates and fewer social problems;
- Provides opportunities for active and healthier lifestyles with more opportunities for walking and cycling as an alternative to the car;
- Creates better access to public transport; and,
- Provides opportunities to maximise energy efficiency and reduce emissions.

This guide is aimed primarily at larger housing developments however, many of the principles should be applied to all sizes and types of developments. The guidance supports and expands on the Moray Local Development Plan (LDP) policies of which Placemaking is a key priority for the Council. The guide also supplements the key design principles set out for development sites in the LDP. The guide is a material consideration in the determination of planning applications.

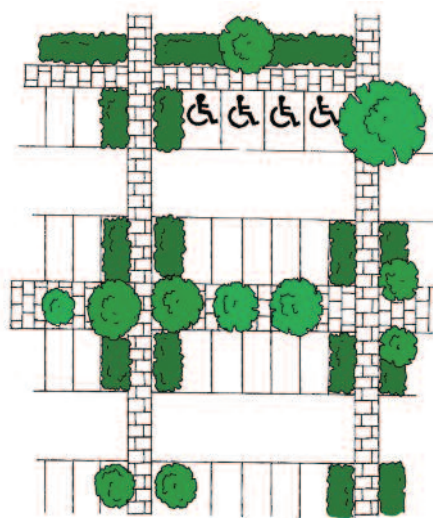


Homezones can form part of a well connected network of public shared spaces which encourage walking, cycling and social interaction. Homezones should conform to the following key principles:

- Access points into homezones must be clearly defined to allow all users to understand the change in street layout and function, which requires different behaviour. Access point design is likely to include design features such as planting, street narrowing, surface level and material changes.
- Streets within homezones must be capable of allowing two-way traffic movements. One way systems will not be acceptable.
- Short forward visibility standards must be applied to influence driver behaviour and encourage low vehicle speeds. This can be achieved with varied deflections in the street and the careful positioning of trees, planters, buildings, lighting columns, etc.
- On street parking should be designed to minimise the impact upon the streetscene, influence traffic movement and speed. Soft and hard landscaping and street furniture should be used to define parking areas.
- Paving material and colours should be varied to distinguish between the preferred use of a particular part of a shared surface and to reinforce the distinctiveness and identity of public spaces. Developers are advised to discuss materials/colours with the Planning Authority at pre-application stage.

### Car parking

Car parking can dominate the streetscape unless it is carefully designed. The street must be capable of accommodating parked vehicles without detracting from the character of the place. Parking and turning space also needs to be considered for bicycles, public transport and service vehicles. The level and location of car parking provision can influence how people travel. Parking should be conveniently located and overlooked by properties. Parking within the front curtilage should be avoided as it breaks up the building frontage and leads to a visual dominance of parked cars, restricts overlooking of the street and minimises garden space.



Parking bays should be broken up with soft landscaping



Most residential car parking must be provided to the side or behind the building line, in areas which allow for active surveillance. Car parking to the side of properties is preferred, but some styles of development, e.g. flats may be suited to the rear or courtyard parking.

Street frontages should not be dominated by garage doors, which should be in line with or set back from the house front.

On-street parking using discrete bays broken up by soft landscaping, kerb features or street furniture softens the impact of communal parking areas. Communal car parking to the rear of flatted developments reduces the impact of the car and allows for a softer, landscaped frontage to the building.

In commercial developments, which involve significant areas of car parking the impact should be reduced by locating parking to the side or rear. Paved surfaces should be kept to a minimum and parking bays broken up into small separated clusters.



Car parking provided to the rear of property reduces the level of parking on the street



### Reducing Street Clutter

Street furniture, signs, bins, bollards, lighting and other items which tend to accumulate on a footway can clutter the streetscape and be visually intrusive. Signage must be kept to a minimum and be well located. Street lighting should be as discreet as possible but provide adequate illumination, e.g. mounted on building walls.





### Crime Prevention

Blank facades, remote footpaths, poor lighting and areas which cannot be observed all contribute to perceptions of poor security. Well designed places should take account of crime prevention measures. Buildings should be orientated to ensure that public open spaces, car parking areas and footpaths are all overlooked to improve security. Active building frontages generate activity and help to increase safety.

Lighting can help to reduce the incidence of crime, add vitality to the area and enhance its attractiveness and sense of place.

Footpaths should have an open aspect, be well lit, with good surveillance allowing pedestrians to see the full length of the path. Pedestrians should not have to negotiate enclosed, poorly lit paths or blind corners or recesses.

### Density

The Moray Local Development Plan identifies indicative capacities for designated housing sites. For other sites the appropriate density will be determined by taking account of a number of criteria including neighbouring density levels, landscaping, access, noise, flooding, etc.

### Sequence Markers

Sequence markers can be added to the design of a development to assist with orientation around an area. Sequence markers are required along longer stretches of paths or roads to remind people where they are and provide a sense of getting somewhere. A sequence marker can be added in a variety of forms including a different house style, landscape feature or street furniture. These can be sited at junctions to become landmarks within a formal grid structure. However, on curved streets they should be sited to be visible from a distance and could project up, down or forward, relative to the building line.



### Mixed Uses

Large residential areas should incorporate a range of non-residential uses, such as shops, school, employment and community facilities. The location of these within predominantly residential areas will reduce the need to travel, and will create activity and the opportunity for social interaction. Community facilities should be sited at locations, which are accessible by a choice of transport modes.