

APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997
The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please refer to the accompanying **Guidance Notes** when completing this application
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://www.eplanning.scot>

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR	Ref No.	
Forename	RONALD	Forename	
Surname	MAIR	Surname	
Company Name		Company Name	
Building No./Name	FERNOALE	Building No./Name	
Address Line 1	MAINS OF BUCKIE	Address Line 1	
Address Line 2		Address Line 2	
Town/City	BUCKIE	Town/City	
Postcode	AB564AA	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	

3. Postal Address or Location of Proposed Development (please include postcode)

SAME

NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.

4. Type of Application

What is the application for? Please select one of the following:

- Planning Permission
- Planning Permission in Principle
- Further Application*
- Application for Approval of Matters Specified in Conditions*
- Application for Mineral Works**

NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.

*Please provide a reference number of the previous application and date when permission was granted:

Reference No: Date:

**Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.

5. Description of the Proposal

Please describe the proposal including any change of use:

Change of use of amenity land To garden ground

Is this a temporary permission?

Yes No

If yes, please state how long permission is required for and why:

Have the works already been started or completed?

Yes No

If yes, please state date of completion, or if not completed, the start date:

Date started: OCTOBER 2017

Date completed: DECEMBER 2017

If yes, please explain why work has already taken place in advance of making this application

UNAWARE THAT PLANNING PERMISSION WAS REQUIRED

6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal?

Yes No

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting Telephone call Letter Email

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes No

Please provide a description of the advice you were given and who you received the advice from:

Name: STUART DALE

Date: 14.2.2017

Ref No.:

ADVICE GIVEN IN RELATION TO APPLICATION PACK

7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha):

Square Metre (sq.m.) 682

8. Existing Use

Amenity Ground

Please describe the current or most recent use:

/

9. Access and Parking

Are you proposing a new altered vehicle access to or from a public road?

Yes No

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access?

Yes No

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

2

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces)

6

Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements?

Yes No

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

Yes, connecting to a public drainage network
No, proposing to make private drainage arrangements
Not applicable – only arrangement for water supply required

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway
Discharge to watercourse(s) (including partial soakaway)
Discharge to coastal waters

Please show more details on your plans and supporting information

What private arrangements are you proposing?

Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)
Other private drainage arrangement (such as a chemical toilets or composting toilets)

Please show more details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water?

Yes No

Note:- Please include details of SUDS arrangements on your plans

Are you proposing to connect to the public water supply network? Yes No

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site)

11. Assessment of Flood Risk

Is the site within an area of known risk of flooding? Yes No

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your planning authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? Yes No Don't Know

If yes, briefly describe how the risk of flooding might be increased elsewhere.

12. Trees

Are there any trees on or adjacent to the application site? Yes No

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling) Yes No

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? Yes No

If yes how many units do you propose in total?

Please provide full details of the number and types of units on the plan. Additional information may be provided in a supporting statement.

15. For all types of non housing development – new floorspace proposed

Does your proposal alter or create non-residential floorspace?

Yes No

If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

17. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority?

Yes No

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority?

Yes No

If you have answered yes please provide details:

DECLARATION

I, the applicant/agent certify that this is an application for planning permission The accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed

I, the applicant/agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants

Yes No N/A

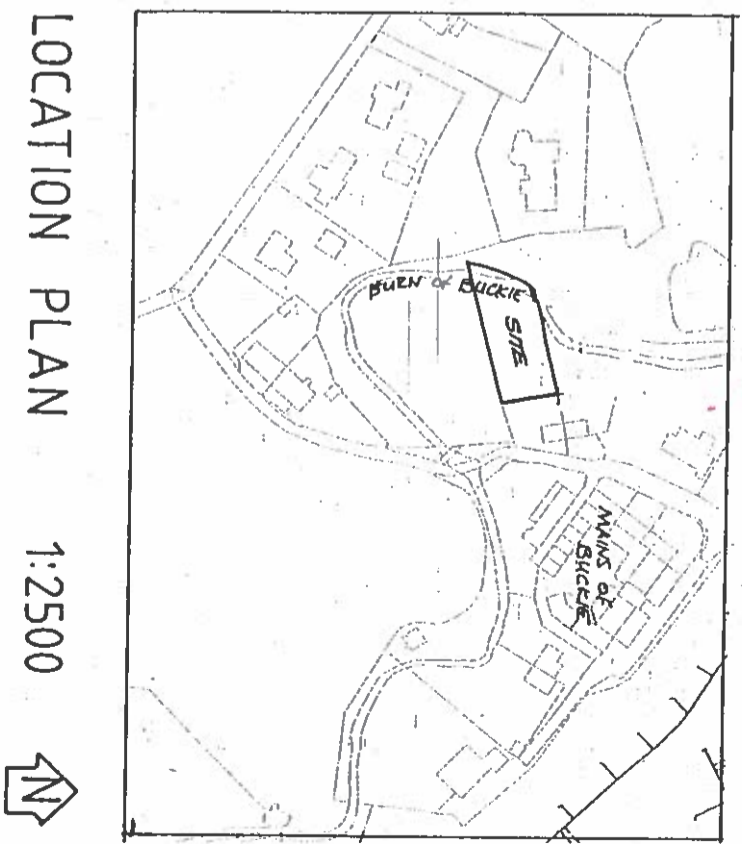
Signature:

Name:

Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

----- / STATED FENCE 1.8 HIGH WITH 6MCH GAP AT GROUND LEVEL
 oooooo / LEYLANDII HEDGE



**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@dsmith.co

Consultation Request Notification

Planning Authority Name	The Moray Council
Response Date	21st March 2018
Planning Authority Reference	18/00227/APP
Nature of Proposal (Description)	Change of use of amenity land to garden ground at
Site	Ferndale Mains Of Buckie Buckie Moray AB56 4AA
Site Postcode	N/A
Site Gazetteer UPRN	000133049710
Proposal Location Easting	342651
Proposal Location Northing	864575
Area of application site (Ha)	m²
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=P48M5QBG0CQ00
Previous Application	03/01967/ID
Date of Consultation	7th March 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Ronald Mair
Applicant Organisation Name	
Applicant Address	Ferndale Mains Of Buckie Buckie Moray AB56 4AA
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Shona Strachan
Case Officer Phone number	01343 563303
Case Officer email address	shona.strachan@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

If you do not respond by the response date, it will be assumed that you have no comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Contaminated Land

Planning Application Ref. No: 18/00227/APP

Change of use of amenity land to garden ground at Ferndale Mains Of Buckie Buckie Moray for Mr Ronald Mair

I have the following comments to make on the application:-

- | | Please |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | x
<input type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | x |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Reason(s) for objection

Condition(s)

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: Adrian Muscutt
email address:
Consultee:

Date: 7 March 2018
Phone No

Return response to	consultation.planning@moray.gov.uk
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Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://public.moray.gov.uk/eplanning/> (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.

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Previous Application	03/01967/ID
Date of Consultation	7th March 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Ronald Mair
Applicant Organisation Name	
Applicant Address	Ferndale Mains Of Buckie Buckie Moray AB56 4AA
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Shona Strachan
Case Officer Phone number	01343 563303
Case Officer email address	shona.strachan@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

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two month determination period to be exceeded.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Environmental Health Manager

Planning Application Ref. No: 18/00227/APP

Change of use of amenity land to garden ground at Ferndale Mains Of Buckie Buckie Moray for Mr Ronald Mair

I have the following comments to make on the application:-

- | | Please |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | x
<input type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal |
x |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below |
<input type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below |
<input type="checkbox"/> |

Reason(s) for objection

Condition(s)

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: James McLennan
email address:
Consultee:

Date: 7 March 2018
Phone No

Return response to	consultation.planning@moray.gov.uk
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**MORAY COUNCIL
PLANNING CONSULTATION RESPONSE**

From: The Moray Council, Flood Risk Management
Planning Application Ref. No: 18/00227/APP

I have the following comments to make on the application:-

- | | Please
x |
|---|-------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | <input type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | <input type="checkbox"/> |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input checked="" type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Reason(s) for objection

Conditions(s)

Lower section of boundary fencing to be removed, up to first set of screws. This is to ensure there is no restriction in water flow during a flood event.

Further comments(s) to be passed to applicant

Further information required to consider the application

Contact: Leigh Moreton Date 29/03/2018
email address: Leigh.moreton@moray.gov.uk Phone No 01343563773 (3773)
Consultee: The Moray Council, Flood Risk Management

Our ref: PCS/158135
Your ref: 18/00227/APP

If telephoning ask for:
Jessica Fraser

27 March 2018

Shona Strachan
The Moray Council
Development Services
Environmental Services Dept.
Council Office, High Street
Elgin
IV30 1BX

By email only to: consultation.planning@moray.gov.uk

Dear Ms Strachan

Town and Country Planning (Scotland) Acts
Planning application: 18/00227/APP
Change of use of amenity land to garden ground at
Ferndale Mains Of Buckie Buckie Moray AB56 4AA

Thank you for your email which SEPA received on 21 March 2018 enclosing photographs of the boundary treatments at the site. We have also received additional photographs directly from the applicant in their email of 23 March 2018 and further additional information in their email of 27 March 2018. We note that this follows the comments made within our previous response PCS/157875 (21 March 2018).

We have considered the additional information that has been received and we wish to provide the following amended comments on flood risk:

We ask that the **requirements** set out in section 1.5 below are secured by planning **condition** or other mechanism as deemed appropriate by the planning authority. If any of these will not be applied, then please consider this representation as an **objection**. Please note, if the Planning Authority considers that the requirements set out in section 1.5 cannot be controlled or enforced, please **re-consult** us for further advice.

In addition, we also request that permitted development rights be removed from the garden ground that is proposed within this planning application.

In the event that the planning authority proposes to grant planning permission contrary to this advice on flood risk, the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 provides criteria for the referral to the Scottish Ministers of such cases. You may therefore wish to consider if this proposal falls within the scope of this Direction.

Notwithstanding our position we would expect Moray Council to undertake their responsibilities as



Chairman
Bob Downes

Chief Executive
Terry A'Hearn

SEPA Aberdeen Office
Inverdee House, Baxter Street
Torry, Aberdeen AB11 9QA

tel 01224 266600 fax 01224 896657

www.sepa.org.uk • customer enquiries 03000 99 66 99

the Flood Risk Management Authority.

1. Flood risk

- 1.1 Within our previous response which highlighted that, based on the information currently available to us (our Flood Map and information submitted in regard to a previous planning application in the area referenced 10/01916/PP), it is likely that at least some of the ground within this current planning application lies within the functional floodplain and there is a possible east-west flow path crossing within or adjacent to this land. Therefore, it is important that any application at the site complies with the flood risk principles of Scottish Planning Policy (SPP), that the flood storage and conveyance capacity provided by the site is preserved and protected and that the proposals do not result in an increase in flood risk on or offsite.
- 1.2 Unfortunately, the additional information and photographs that have been submitted does not alter the above advice. We note that the applicant has submitted some information on another previous planning application referenced 900693 which was granted planning permission on 24 October 1991 and which we understand expired 24 October 1996. The exact site location of that application site is not completely clear to us. However, no flood risk information has been provided and, in any case, flood risk understanding and policy has significantly changed since that time.
- 1.3 In regard to the photographs that have been submitted, we note that there is currently a tall fence which we understand is erected on the northern and southern boundaries of the site. We note that the applicant, in his "supporting document," considers that this would allow water flow from the burn if flooding occurred and would not increase the probability of flooding elsewhere. However, unfortunately it appears to us that this boundary treatment, in its current form, does have the potential to impact on the flood storage and conveyance capacity of the area. The spacing between and under the fence is small and it would take minimal debris to create blockages which would result in the creation of an obstruction to flow. This may also increase the flood risk to Ferndale and properties elsewhere. Therefore, we do not consider that the current boundary treatments meet the requirements set out within our previous response. This fence should therefore be removed or amended to ensure that it does not negatively impact on flood risk.
- 1.4 In light of all of the above, our position on this planning application is as follows:
- 1.5 Ideally, in line with the precautionary principle, garden ground should be located outwith the functional floodplain wherever possible. However, we **do not object** to the use of the ground as garden ground for the associated house of Ferndale provided that, to preserve the flood storage and conveyance capacity of the floodplain and to ensure no increase in flood risk, the following requirements are secured by planning **condition** or other mechanism as deemed appropriate by the planning authority:
 - There is no change (increase or decrease) in present ground levels
 - Details of all boundary treatments are submitted to demonstrate that they do not negatively impact on the flood storage and conveyance capacity of the floodplain and that flood risk is not increased. This should be for approval by the Planning Authority in consultation with SEPA.
- 1.6 In regards to the boundary treatments, it needs to be ensured that the design and construction is such that floodplain flow and storage is not impeded. Ideally boundaries should be left open. However, if boundary treatments are required, they should be designed

to allow the free flow of floodwater. As some fencing has already been constructed, if the applicant wishes to maintain these, the fencing would need to be amended. For example, a significant gap could be formed along the entire length, between the present ground level and the bottom of the fence. This gap should enable the easy conveyance of flood water without interference from possible debris blockage. As no specific information is available from previous Flood Risk Assessments to define the necessary gap size along the full length of the boundaries, a conservative approach should be taken which we have discussed with Moray Council Flood Risk Management team, for example, as a minimum the lower part of the fence up to the first layer of screws should be removed. We would comment that the required gap at the bottom of the fence will depend on the amount of water which is likely to flow under the fence during a flood event and ideally this height should be where there is no restriction on water flow.

- 1.7 We would be happy to provide further advice to the applicant on any proposals that are submitted. In this respect, we note that the applicant has confirmed they will work with SEPA and Moray Council with regards to the boundary treatments, which we very much welcome.
- 1.8 As highlighted above, we also request that permitted development rights be removed from the garden ground that is proposed within this planning application.
- 1.9 If the above requirements are not acceptable to the Planning Authority or applicant, the applicant has the option of carrying out an up-to-date Flood Risk Assessment to try to demonstrate that the site is not at risk from flooding (We refer the applicant to the document entitled: "[Technical Flood Risk Guidance for Stakeholders](#)". This document provides generic requirements for undertaking Flood Risk Assessments. Please note that this document should be read in conjunction [Policy 41](#) (Part 2)). However, we would caution that this may only confirm that the site is at flood risk and therefore the requirements set out above would still apply.
- 1.10 We would also take this opportunity to highlight that, based on the information we currently have available to us, if built development for example housing or land raising were to be proposed at the site in the future, we would likely object to this on flood risk grounds in line with the flood risk principles of Scottish Planning Policy.

If you have any queries relating to this letter, please contact me by telephone on 01224 266698 or e-mail at planning.aberdeen@sepa.org.uk.

Yours sincerely

Jessica Fraser, Planning Officer, Planning Service

ECopy to: Applicant, Ronald Mair: scottishmannie@hotmail.com
Moray Planning Officer, Shona Strachan: Shona.Strachan@moray.gov.uk
Moray Flood Risk Management, Leigh Moreton: Leigh.moreton@moray.gov.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).

Manager
(Development Management)
Development Services
Moray Council
Council HQ
Elgin

Development at Ferndale Mains of Buckie Buckie
Ref: 18/00227/APP
(Change of use has already taken place)

This is the third time I have had occasion to contact your department regarding this piece of ground, the issue being the raising of ground level causing changes to the environment lower down the burn. This area of ground at its original level has always been the natural flood plain for the Buckie Burn.

Now one just needs to view the area at the first bend on the burn at the downside of the area of ground in question. The burn at this point has at least quadrupled in width. The soil of the banks are showing cracking and parts are hanging ready to fall with the next heavy rains. Further down where there is no rock banks there are signs of erosion with ground missing being washed away and where there is rock the ground above has also been washed away. Evidence of bank erosion is now evident for quite a distance downstream.

Also Highfield Gardens Development Buckie Plots numbered 21 & 22

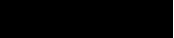
To add to the change in the surrounding area and part of the change to the environment in this area, the part of our land adjacent to Morlich Homes Highfield Gardens development which was always a dry area is now becoming a wet area with loss of vegetation because the site numbered 22 on this development and where an current application has been submitted with your department to build a house has been flooded. this are of ground always floods with normal rainfall and there has been no excess water run off in the past months. (there has been very little snow or rain in the Buckie area) The boundary fence between us at this point has been demolished with a mechanical digger bucket. I contacted Mr John Main of Morlich Homes requesting an answer as to the vandalised fence. (it was a wire mesh fence with concrete slab base, this has been removed and a trench dug to allow the flood water from plot 22 to exit.) Mr Main's answer was that the site foreman had instructed the above to take place.

Serious consideration is required as to how all this additional water is being allowed into the burn from the area at the Tesco store down to the bottom of Highfield Road. Moray Council has and is spending millions of pounds to prevent flooding in different places, yet in this area, development is being given planning approval which is having an adverse effect on the environment.

I request that you look into the above matters and that the ground at Ferndale been returned to its original level and that any flooding on the two sites mentioned be contained within the said development.

I look forward to your reply

Yours Sincerely



REPORT OF HANDLING

Ref No:	18/00227/APP	Officer:	Shona Strachan
Proposal Description/ Address	Change of use of amenity land to garden ground at Ferndale Mains Of Buckie Buckie Moray		
Date:	03/05/18	Typist Initials:	FJA

RECOMMENDATION

Approve, without or with condition(s) listed below	
Refuse, subject to reason(s) listed below	Y
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
Contaminated Land	08/03/18	No objection
Environmental Health Manager	08/03/18	No objection
Moray Flood Risk Management	29/03/18	No objection subject to a condition that the lower section of the boundary fence be removed up to the first set of screws.
Scottish Environment Protection Agency	09/04/18	<p>Object unless a number of conditions are applied to any consent, in short these include:</p> <ul style="list-style-type: none"> - No change (increase or decrease) in present ground levels, - Details of all boundary treatments are submitted to demonstrate that they do not negatively impact on the flood storage and conveyance capacity of the floodplain and that flood risk is not increased. This should be for approval by the Planning Authority in consultation with SEPA. It is noted that as a minimum the lower part of the fence up to the first layer of screws should be removed. - Permitted Development rights are to be removed.

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
PP1: Sustainable Economic Growth	Y	
PP3: Placemaking	Y	
E5: Open Spaces	Y	The application will be refused on the basis of this policy.
EP7: Control of Develop in FloodRiskArea	N	Subject to the application of specified conditions from MFRM and SEPA the application is not a departure from this policy.
IMP1: Developer Requirements	Y	

REPRESENTATIONS		
Representations Received	YES	
Total number of representations received ONE		
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		
<p>Issue: Concern that the raising of the ground level at the site is causing changes to the environment lower down the burn. It is further advised that this area of ground at its original level has always been the natural flood plain for the Buckie Burn. The contributor also advises that this representation is the 3rd time that they have contacted the Council about this matter.</p> <p>Comments (PO): SEPA has confirmed in its consultation response that at least some of the ground within this current planning application lies within the functional floodplain. However, the retrospective nature of this application means that Officers do not have the benefit of seeing the land in its original state and whilst from the site inspection the land has been cleared, there are no obvious signs of land raising. It is noted from historic photographs that levels at this locality have changed over the years, with previous overgrown mounds of earth having been subsequently levelled at some point. It is also noted that the applicant has confirmed in the Supporting Statement that there has been no alteration to the ground height or any change to the burn embankment. It is reasonable to conclude that whilst there has been some regrading of the land, its levels have not increased, or increased substantially.</p> <p>Issue: Concerns are raised that the alterations to the site including the bank walls. The soil of the banks are showing cracking and parts are hanging ready to fall with the next heavy rains. Further down where there are no rock banks, there are signs of erosion with ground missing being washed away and where there is rock the ground above has also been washed away. Evidence of bank erosion is now evident for quite a distance downstream.</p> <p>Comments (PO): There was no evidence on site, that the earth banks on the west side of the burn had been altered. The applicant has confirmed in the Supporting Statement that there has been no alteration to the ground height or any change to the burn embankment.</p> <p>SEPA has confirmed that a should planning permission be granted a condition ensuring that there would be no change (increase or decrease) in ground levels of the site must be applied, this would be to ensure there is no further increase of flood risk as a result of this proposal.</p>		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2015 (MLDP 2015) unless material considerations indicate otherwise. In this case the main planning issues are considered below.

Proposal

Retrospective planning permission is sought for the change of use of amenity land to garden ground at Ferndale Mains of Buckie, Buckie.

The application seeks the change of use of the amenity land to private garden ground for the property Ferndale, the land is to be used to provide parking and private garden space.

The land has been cleared and much of the land has been surfaced with loose stones. A wooden slatted fence has been erected to the north and south boundaries of the site. The western boundary is formed by the steep sided land embankment to the Burn of Buckie, the eastern boundary of the site adjoins the residential property Ferndale.

Site Characteristics

Extending to 682 sq m the land is located to the rear of the property Ferndale.

The site is part of the Burn of Buckie Environmental Designation "ENV6" which is characterised by green corridors, natural coastal braes/slopes; valleys semi natural greenspaces.

As identified by the SEPA flood maps and confirmed by SEPA in their consultation response at least some of the ground within the site lies within the functional floodplain.

Planning History

The site and adjoining land to the north and south was part of a larger site area under application reference 10/01916/PPP which sought Planning Permission in Principle for a housing development for 5 houses. This application was refused because the proposal would have a detrimental impact upon ENV6 and related Open Space Policy because this policy presumes against development of green spaces in towns where there would be a loss of amenity and landscape benefit and because of flood risk concerns.

The site and adjoining land to the north and south was also part of a larger site area under application reference 05/00263/OUT which sought Outline Planning Permission for 9 houses, this application was refused because the proposal would have a detrimental impact upon ENV6 and related Open Space Policy which as noted above policy presumes against development of green spaces in towns where there would be a loss of amenity and landscape benefit.

The site was also part of an application site for two dwellings under planning application reference 900693. This application was granted following an appeal to Scottish Ministers. The flood history in the area, and availability of flood data for the locality has occurred since this lapsed approval.

Policy Assessment

Impact of the development (E5 and IMP1)

As noted previously, the site is part of an "ENV6" which is characterised by green corridors, natural coastal braes/slopes; valleys semi natural greenspaces. The overarching policy for this designation is Policy E5 Open Space which seeks to safeguard open spaces.

In particular Policy E5, advises: Development which would cause the loss of, or adversely impact on, areas identified under the ENV designation in settlement statements and the amenity land designation in rural groupings will be refused unless;

- The proposal is for a public use that clearly outweighs the value of the open space or the proposed development is ancillary to the principal use and will enhance use of the site for sport and recreation; and
- The development is sited and designed to minimise adverse impacts on the recreational, amenity and biodiversity value of the site; and
- There is a clear excess of the type of ENV designation within easy access in the wider area and loss of the open space will not negatively impact upon the overall quality and quantity of open space provision, or
- Alternative provision of equal or greater benefit will be made available and is easily accessible for users of the developed space.

The Moray Open Space Strategy Supplementary Guidance 2018 sets out a strategic vision for protecting, enhancing and managing publicly usable open space in Moray. The Open Space Strategy was informed by an Open Space Audit which sought to review the ENV Designations, based on the findings of this Audit the Burn of Buckie ENV6 Designation was identified as a steep sided gorge like landscape feature which runs through the town. It further identifies that development opportunities are restricted to brownfield sites, and, within the curtilage of existing buildings only. The findings of the Audit also conclude that the designation is of "good quality" and should be retained (page 45). This document is a material consideration in the determination of planning applications.

Policy IMP1 seeks compatibility in terms of scale, density and character, requiring new development to integrate into the surrounding landscape and be sensitively sited, designed and serviced appropriate to the amenity and character of the area.

In this instance, the proposal to change the land from amenity ground into private garden ground does not meet any of policy objectives (or qualifying exceptions in E5) identified and would lead to the loss of part of the designation which would have a detrimental impact upon the ENV6 Designation resulting in the reduction of the amenity and landscape value of the designation. In these terms, the proposal would fail to integrate sensitively to the surrounding area including the ENV6 Designation within which it is located, therefore; on these grounds the proposal would be contrary to Policies E5 and IMP1 as well as the Moray Open Space Strategy Supplementary Guidance 2018.

Control of Development in Flood Risk Area's (EP7)

As noted previously, part of the site lies within the functional floodplain for the Burn of Buckie. As such SEPA has been consulted on the proposal. SEPA has advised in their consultation response that they would maintain their objection unless a number of conditions are applied to any planning permission granted. The conditions identified are as detailed:

- I. There is to be no change (increase or decrease) in present ground levels;
- II. Details of all boundary treatments are submitted to demonstrate that they do not negatively impact on the flood storage and conveyance capacity of the floodplain and that flood risk is not increased. This should be for approval by the Planning Authority in consultation with SEPA. It is noted that as a minimum the lower part of the fence up to the first layer of screws should be removed; and,
- III. Permitted Development rights are to be removed.

Moray Flood Risk Management has also been consulted on the proposal and they have similarly recommended that the Lower section of boundary fence be removed, up to first set of screws on the horizontal board supporting the vertical slats. This is to ensure there is no restriction in water flow during a flood event.

During the course of the application, the applicant has agreed to these conditions and these would need to be adhered to in order for the development to be acceptable in relation to flood risk. However, addressing the flood risk concerns does not negate the main policy objection to the proposal in relation to the loss of Open Space. Flood risk has therefore not been cited in the grounds

for refusal and had the application been approved the above requirements from SEPA and Moray Flood Risk would have been attached as conditions.

Conclusion and Recommendation

The proposal to change the use of this amenity land to garden ground is unacceptable at this location and would result in the loss of land from an ENV 6 designation which does comply with the provisions of the MLDP 2015, including Policies E5 and IMP1 as well as the Moray Open Space Strategy Supplementary Guidance 2018. Therefore this application is therefore recommended for refusal.

As the application is retrospective, the decision will be referred to the Development Management Enforcement Officer.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY				
Reference No.	Description			
03/01967/ID	Form opening from house to garage Ferndale Mains Of Buckie Buckie Banffshire AB56 2AA			
	Decision	Planning Permission NOT Required	Date Of Decision	10/09/03
10/01916/PPP	Planning Permission in Principle for housing development of 5 house sites at Mill Of Buckie Buckie Moray			
	Decision	Refuse	Date Of Decision	14/02/13
05/00263/OUT	Outline for housing development for nine sites at Mill Of Buckie Buckie Banffshire AB56 2AA			
	Decision	Refuse	Date Of Decision	30/04/10

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Banffshire Advertiser	No PremisesDeparture from development plan	09/04/18
PINS	No PremisesDeparture from development plan	09/04/18

DEVELOPER CONTRIBUTIONS (PGU)	
Status	None sought

DOCUMENTS, ASSESSMENTS etc. *
 * Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc

Supporting information submitted with application?	YES	
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Summary of main issues raised in each statement/assessment/report

Document Name: Supporting Statement

Main Issues: This Statement supports the application and seeks to address some of the planning considerations raised during the course of the application. In particular, the Statement advises that there has been no alteration to ground height or any change to the burn embankment.

The applicant also advises that he would be willing to work with SEPA and Moray Council to make alterations to the fence if required. It is also advised that the garden would be used for garden ground and parking. Reference is also made to a historical consent for 2 dwellings encompassing the site which was granted following an appeal to Scottish Ministers.

Document Name: A planning application reference 900693

Main Issues: The applicant has submitted a copy of a historical consent for 2 dwellings encompassing the site which was granted following an appeal to Scottish Ministers.

Document Name: The application is supported by some photos of the site/fence.

S.75 AGREEMENT

Application subject to S.75 Agreement		NO
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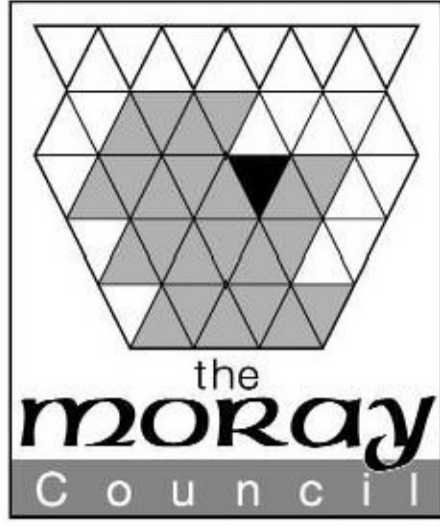
Summary of terms of agreement:

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)



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

REFUSAL OF PLANNING PERMISSION

**[Buckie]
Application for Planning Permission**

TO

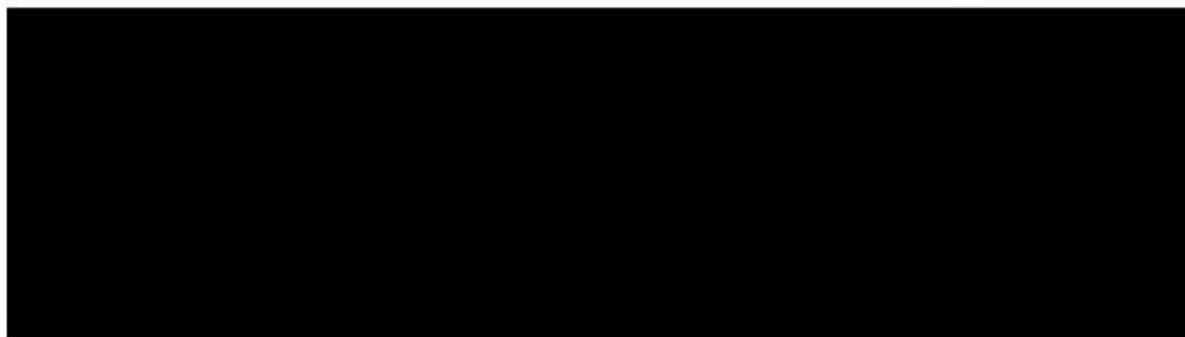


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**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

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.