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Grounds of Appeal

Land adjacent to Crannoch Lodge, Grange, Keith

Issue Date:

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1.0 Introduction

These grounds for review of a decision to refuse planning permission for a house on land adjacent to Crannoch Lodge, Grange Crossroads, Keith are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three month period from the refusal of permission dated the 30th of July 2018.

The grounds for review respond to the reasons for the refusal of planning permission and address the proposal in relation to Development Plan Policies and relevant material planning considerations as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2.0 Background

The application was made valid on the 5th of June 2018 and was refused under the Councils Delegation scheme by the case officer on the 30th of July 2018. The reasons for refusal (Appendix 1) state that;

The proposal would be contrary to policies PP1, H7 and IMP1 of the Moray Local Development Plan 2015 and Supplementary Guidance 'Housing in the Countryside' (2015) for the following reasons:

- 1. The existing row of 5 houses immediately adjacent to the proposed site, is at odds with the established traditional development pattern of the surrounding countryside. The row of houses is not included as part of a rural grouping as defined by the Moray Local Development Plan 2015 and is classed a ribbon development along the roadside. The proposed house would act to extend this ribbon development further along the roadside and as such is not compliant with criteria (b) of the policy H7, which aims to restrict ribbon development due to the detrimental impact that it has on the character of the countryside.*
- 2. The proposed site is very open within the surrounding landscape and any house on this site, will on occasion appear above the ridgeline on which it is sited especially when traveling on the main road through the valley (B9018), in turn resulting in a very prominent and obtrusive development within the surrounding landscape. The site has no mature features or planting that would act to settle the development into the landscape and although the applicants have carried out planting along the northern boundary of the site, this is immature at present and would take a substantial amount of time to mature and assist with the integration of the house and as such does not justify the erection of a house on this site.*

3.0 The Proposal

The proposal is for a single dwelling served by a public water supply and private drainage (septic tank/soakaway and SUDS). Access will be from the Unclassified Road that bounds the site to the south west, which extends from the B9018 approximately 600 metres to the west.

The design of the proposed house is 1½ storeys incorporating features and finishes that result in a traditional appearance. Existing trees around the boundaries of the site will be retained and supplemented with new planting as required.

4.0 The Site

The site is located immediately to the north of an established cluster of five houses which form part of Crannoch- these buildings are a long established and accepted feature in the landscape. The site is very well defined being an enclosed area of ground surrounded on three sides by field boundaries, an access track and the public road.

In addition, there are no environmental designations (National or International) covering the site and no archaeological/ historic interest has been identified. There is not considered to be any flood risk at the site.

5.0 Development Plan Context

The Development Plan for Moray comprises the Moray Local Development Plan 2015 and its associated Supplementary Guidance. The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

Scottish Government Circular 4/2009 (Appendix 2) describes how planning applications should be determined when balancing the Development Plan and material considerations. It sets out the following approach;

- Identify the provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well detailed wording of policies;
- Consider whether or not the proposal accords with the Development Plan,
- Identify and consider relevant material considerations for and against the proposal, and
- Assess whether these considerations warrant a departure from the Development Plan.

The provisions of the circular are important in the context of this application because the appellants consider the proposal to be in full accordance with the Development Plan and that there are no material considerations that would warrant the refusal of this application.

Moray Local Development Plan 2015

Policy H7 Housing in the Countryside (Appendix 3, page 8) contains a general presumption in favour of small scale housing developments in the countryside provided the prescribed siting and design of the proposal are in accordance with the following criteria;

Siting

- It reflects the traditional pattern of settlement in the locality and is sensitively integrated with the surrounding landform using natural backdrops, particularly where the site is clearly visible in the landscape. Obtrusive development (i.e. on a skyline, artificially elevated ground or in open settings such as the central area of a field) will not be acceptable;
- It does not detract from the character or setting of existing buildings or their surrounding area when added to an existing grouping or create inappropriate ribbon development;
- It does not contribute to a build-up of development where the number of houses has the effect of changing the rural character of the area. Particular attention will be given to proposals in the open countryside where there has been a significant growth in the number of new house applications; and;
- At least 50% of the site boundaries are long established and are capable of distinguishing the site from surrounding land (e.g. dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways).

If the above criteria for the setting of the new house are met, the following design requirements then apply:

Design

- A roof pitch between 40-55 degrees;
- A gable width of no more than 2.5 times the height of the wall from ground to eaves level (see diagram 2);
- Uniform external finishes and materials including slate or dark ‘slate effect’ roof tiles;
- A vertical emphasis and uniformity to all windows and doors;
- Boundary demarcation that reflects the established character or style (e.g. dry stone dykes, hedges) in the locality;

- Proposals must be accompanied by a landscaping plan showing an appropriate proportion of the plot, generally 25%, to be planted with native tree species at least 1.5 metres in height.

The siting and design criteria in Policy H7 are supplemented by the general criteria based Policy IMP1 – Development Requirements (Appendix 3, page 10). This policy has a range of requirements applicable to all new development including that;

- scale, density and character must be appropriate to the surrounding area;
- development must be integrated into the surrounding landscape.

In addition, there are a range of other policies relating to infrastructure and servicing which seek to ensure that new development is provided with a safe and suitable access, adequate car parking and adequate surface and foul drainage, namely;

- T2: Provision of Access (Appendix 3, page 11);
- T5: Parking Standards (Appendix 3, page 12);
- EP5: Surface Water Drainage (Appendix 3, page 13);
- EP10: Foul Drainage (Appendix 3, page 14);

National Planning Policy and Guidance

National Planning Policy and Guidance is a material planning consideration to be taken into account in the consideration of planning applications. It is set out in Scottish Planning Policy (SPP) and Planning Advice Notes (PAN's).

Scottish Planning Policy 2014 (Appendix 4)

Scottish Planning Policy (SPP) sets out the Scottish Governments overarching policy on land use planning. SPP advises that Planning should take a positive approach to enabling high quality development and making efficient use of land to deliver long term benefits for the public, while protecting and enhancing natural and cultural resources.

With respect to rural development, SPP states that the planning system should promote a pattern of development that is appropriate to the character of the particular rural area.

Planning Advice Note 72 (PAN72) – Housing in the Countryside (2005) (Appendix 5)

PAN72 starts by recognising the changing circumstances in the countryside and points out that one of the most significant changes in rural areas has been a rise in the number of people wishing to live in accessible parts of the countryside while continuing to work in towns and cities within commuting distance. It contains guidance in some detail on how to achieve a successful development in the countryside. The PAN acknowledges that there will continue to be a demand for single houses, often individually designed, but these have to be planned, with location carefully selected and design appropriate to locality.

The PAN gives advice on location within the landscape and specifically states that housing related to existing groups will usually be preferable to new isolated development. It requires new housing in small groups to avoid a suburban appearance, by being sympathetic in terms of orientation, topography, scale, proportion and materials to other buildings in the locality (Appendix 5, page 18).

Setting a building against a backdrop of trees is identified in the PAN as one of the most successful means by which new development can blend with the landscape. However it also states that the purpose of new planting is not to screen or hide new development, but to help integration with the surrounding landscape. The PAN also cautions against skyline development and heavily engineered platforms (Appendix 5, page 19).

6.0 Main Issues

There is a clear commitment in National Planning Policy and Guidance and the Moray Local Development Plan to the principle of well sited and designed new housing in the countryside. There is particular support for houses related to existing groups as is the case with the site under appeal.

Policy H7 is the lead local policy in the consideration of this proposal; its stated aim being to allow housing in the open countryside that can be easily absorbed into the landscape. It sets out four specific criteria under the heading of 'siting' which have to be met to secure the principle of development.

Firstly, the proposed site should reflect the traditional pattern of development in the locality and does not constitute obtrusive development. The settlement pattern in this area of Moray is characterised by single and small groups of houses and outbuildings dispersed throughout the rural area, as such the introduction of a dwelling which consolidates an established housing group set in this wider scattering of houses and agricultural buildings can be seen to reflect the established settlement pattern.

In addition, the site does not meet with the Council's definition of obtrusive development i.e. on a skyline, artificially elevated ground or in open settings such as the central area of a field. Once built, it will not be possible to view this modest structure on the skyline from the surrounding countryside, and it is not the appellants' intention to build the house on artificially elevated ground (conditions relating to finished floor levels can be imposed to ensure control is retained over this matter).

The second element of the siting criteria states that the proposed development should not detract from the character or setting of existing buildings or their surrounding area or create inappropriate ribbon development. The proposed plot is very well related to the size and characteristics of existing and approved plots to the East. In this position, it effectively rounds off this small group of houses, the private access track which bounds the site to the North West providing a natural break to development. The established plots to the East are set within mature gardens and the proposed site has the benefit of similar landscaped surroundings within which the proposed house is to be contained which will soon mature.

The proposed house has been positioned within the plot to keep it well apart from existing properties to ensure that the relationship between the size of the house and the plot is consistent with that of the relationship between the size of the houses and plots. As a result, the proposal will relate very well to the character and setting of the existing small grouping of houses. In the proposed position, there is little or no impact on the character or setting of these properties or upon neighbouring amenity (privacy, prejudice to sunlight/ daylight etc). Furthermore, for these reasons the proposed development does not result in inappropriate ribbon development.

The third of the siting criteria states that new housing in the countryside should not contribute to a build-up of development where the number of houses has the effect of changing the rural character of the area. The submitted plans clearly demonstrate that the addition of one dwellinghouse in this location, with the proposed separation between buildings, and natural break to any further development, will not have this effect nor will it contribute to this effect in the future.

Finally, the site should have at least 50% of its boundaries as long established features capable of distinguishing it from the surrounding land. Examples of acceptable boundaries are listed as dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways. The proposed development meets and exceeds the boundary requirements prescribed through a combination of long established boundary treatments and the substantial stand of semi-mature trees that surround the site.

Although the proposed design of the property is not identified as an issue in the reasons for refusal, there are a series of specific design requirements within policy H7 which are all met by the proposal;

- A roof pitch between 40-55degrees;
- A gable width of no more than 2.5 times the height of the wall from ground to eaves level
- Uniform external finishes and materials including slate or dark 'slate effect' roof tiles;
- A vertical emphasis and uniformity to all windows and doors;
- Boundary demarcation that reflects the established character or style (e.g. dry stone dykes, hedges) in the locality;
- Proposals must be accompanied by a landscaping plan showing an appropriate proportion of the plot, generally 25%, to be planted with native tree species at least 1.5 metres in height.

Overall it is considered that the proposal is exemplary in this regard and therefore meets the requirements of Policy H7 and the related Supplementary Guidance on Housing in the Countryside. In doing so it also satisfies the requirements of Policy IMP1 which requires development to be integrated into the landscape and of a character appropriate to the surrounding area.

7.0 Reasons for Refusal

The first reason for refusal states that the existing row of 5 houses immediately adjacent to the proposed site is at odds with the established traditional development pattern of the surrounding countryside, that is not included as part of a rural grouping as defined by the LDP and that it amounts to ribbon development along the roadside. On this basis the appointed officer concludes the proposed development is not compliant with criteria (b) of policy H7.

However, we contend that the appointed officer has misinterpreted the criteria within this policy and that on account of that, this reason for refusal is flawed. Criteria (b) of policy H7 states "*it does not detract from the character or setting of existing buildings or their surrounding area when added to an existing grouping or create inappropriate ribbon development*". In this context, whether or not the appointed officer considers an existing group of houses in the countryside to be at odds with the established settlement pattern is irrelevant.

The test in policy relates to whether the addition of a house to an existing group detracts from the character or setting of existing buildings or the surrounding area- not whether the existing group meets with the aforementioned assessment criteria.

In this case then, the site is located in a relatively well settled part of the Moray countryside. As previously stated the locality is characterised by single and small groups of buildings dispersed throughout the rural area, with many groups being concentrated along roadsides to varying extents. Consequently, it is clear that the addition of a sensitively sited and designed development in the manner proposed in this application would not have a significant detrimental impact upon character or setting of existing buildings or the surrounding area, so as to warrant refusal of the planning application.

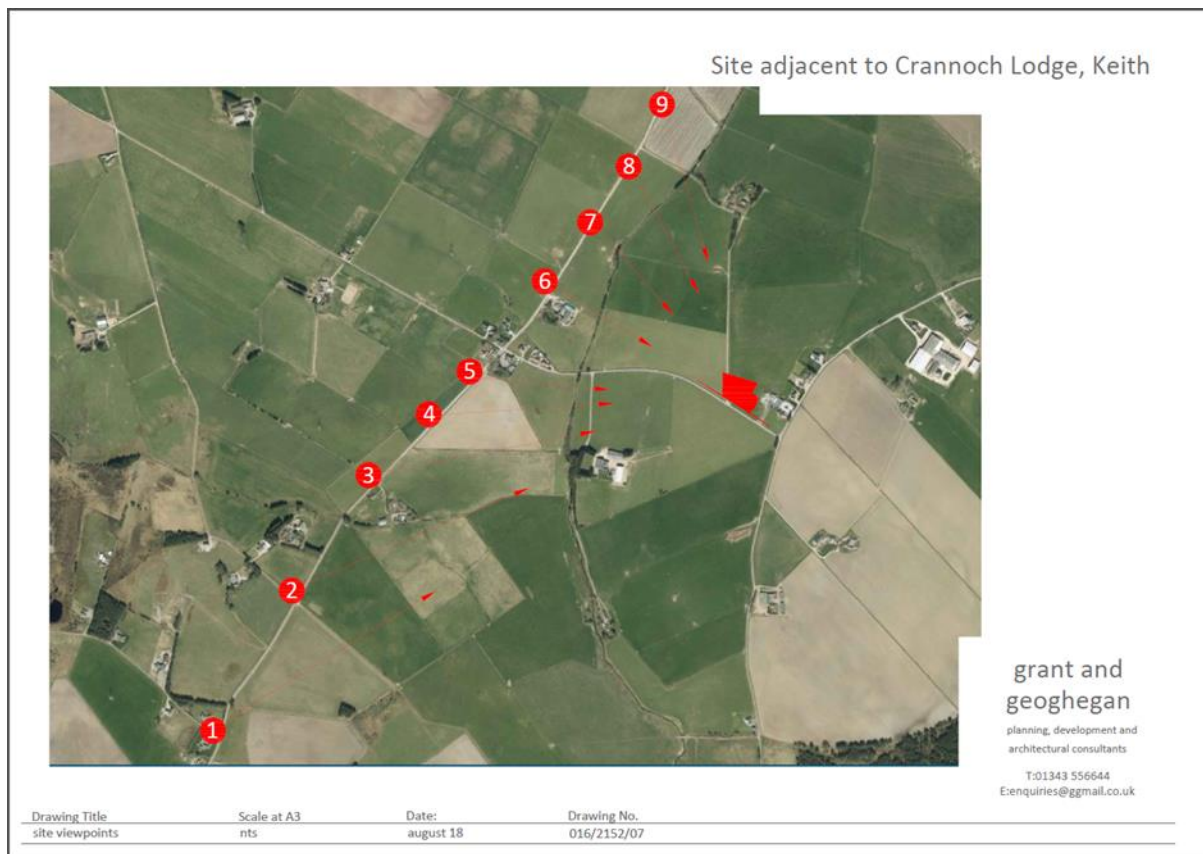
Furthermore, the reason for refusal states that "*the proposed house would act to extend this ribbon development further along the roadside and as such is not compliant with criteria (b) of the policy H7, which aims to restrict ribbon development due to the detrimental impact that it has on the character of the countryside*".

Crucially, the fact that a proposal constitutes ribbon development is not, in itself, a reason to reject the proposal in terms of policy- the test under development plan policy is whether the proposal constitutes "*inappropriate ribbon development*". In this context then, having established that the addition of one house in this location would not detract from existing buildings or the surrounding countryside, the central issue in the reason for refusal is whether the introduction of a house on to this site would lead to the further build-up of development which would be detrimental to the character of the existing groups of houses and surrounding countryside.

In this case, although all applications are assessed on their own individual merits, Member's should take comfort that the access track to the North West and the public road provides a natural break to development which will preclude the extension of this group further into the countryside. The appellants have sought planning permission on this site so that they can be located near to their existing business enterprise- although this is not prescribed in the criteria enabling housing in the countryside in Moray, Member's should be aware that the approval of this application will support an existing well established rural business. On account of all these factors, there is clearly significant material weight in favour of siting the development in this location in the manner proposed.

The thrust of the second reason for refusal is that the proposed house would appear above the ridgeline, upon which it is sited, from key views along the B9018, and consequently constitutes obtrusive and overly prominent development. It goes on to state that there is a lack of mature features or planting within the site to integrate the development into its surroundings.

We recognise that there are views of the site from the B9018 however, we strongly disagree with the appointed officers conclusions that the proposed development constitutes obtrusive development. The proposed dwellinghouse has been positioned in the lower part of the site, which in reality will result in no clear views of the building on the sky line, as inferred. To demonstrate this we have provided a series of photographs taken from key viewpoints along the B9018, as shown below;





Viewpoint 1 – long distance view of the site with backdrop of trees and planting. The site appears as part of an existing cluster of buildings.



Viewpoint 2 – the distance diminishes clear views of the site from this section of the road. It does not appear on the skyline and is read as part of an existing group of buildings.



Viewpoint 3 – the site has a backdrop of buildings, mature planting and landform from this view.



Viewpoint 4 – the site is clearly not on the ridge and does not appear on the skyline. As such, it cannot constitute obtrusive development.



Viewpoint 5 – built form in the backdrop of the subject site.



Viewpoint 6 – Although the site can be seen in this view, there are long sections of the road where views of the site are restricted by mature planting.



Viewpoint 7 – view of the site with backdrop of mature planting.



Viewpoint 8 – there is a perceptible relationship between the subject site and neighbouring properties. It is read as a natural addition to this group in all views.



Viewpoint 9 – the site has a substantial backdrop in all clear views of the site from the B9018. The intention is to further integrate the site into its surroundings with the implementation of a long term landscaping plan using native species trees.

In reality, the proposal benefits from substantial backdrop in all views and the coherent visual relationship between the proposal and existing development mean that a recommendation of refusal based on an adverse impact on the character and appearance of the area is highly questionable

The appellants would contend quite the opposite; that a domestic structure on this site can be accommodated sensitively and the proposed development can be seen to compliment the wider dispersed settlement pattern, respect and reflect the separation and amenity of existing houses and once established will integrate successfully with its surroundings.

The Moray Council's Housing in the Countryside policy offers a flexible approach to ensure appropriate opportunities are enabled and supported and inappropriate development guarded against. It is submitted that the proposal in hand to add another house to an existing, well screened group is reasonable and compliant with the development plan because it relates well to the established settlement pattern. The modest scale and appearance of the proposed dwelling coupled with the implementation of a long term landscaping plan will protect and enhance the important amenity value of the area.

It is important to note that the introduction of a house onto this site is in full accordance with PAN72 because it adds to an existing grouping and owing to its coherent relationship with existing properties does not detract from its rural character. The guidance reiterates the importance of locating new houses in existing groups in relation to sustainable development criteria such as location and infrastructure needs.

Through policy PP1 Sustainable Economic Growth (Appendix 3, page 15), the Council recognises the importance of diversifying the rural economy and new small scale housing developments in the Moray countryside undoubtedly contribute directly and indirectly to that over-arching aim but this proposal, which seeks planning permission for a house in connection with an established rural business, is particularly important in this regard.

The consolidation of an existing housing group in the way proposed, with all the servicing benefits associated with such a project, point to a well-balanced development that deserves the support of the Local Authority.

8.0 Conclusion

As stated, the Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

National Planning Policy and the Moray Local Development Plan all encourage well sited and designed houses in the countryside and there is a preference for the siting of new houses within existing groupings; recent decisions demonstrate accordance with these aims and objectives so the applicants simply ask that this application be determined in the same manner.

The lead policy in the Local Plan for testing the acceptability of the site as a suitable location for a house in the countryside is Policy H7 and it contains specific criteria about the siting and design of new dwellings. These Grounds of Appeal and the submitted plans clearly show that the proposal is acceptable under the criteria set out in the policy. It has also been shown that the proposal is acceptable in relation to other relevant Local Plan policies regarding design, provision of access, parking and drainage.

As the proposal can be accepted under Development Plan policies and there are no known material considerations to the contrary, it is respectfully requested that the Local Review Body reconsider the decision to refuse the proposed development and grant planning permission.