

**APPEAL REFUSAL NOTICE OF
PLANNING CASE REF – 24/01055/APP**

for the

**PROPOSED DWELLINGHOUSE WITHIN GROUNDS OF
33 GOLF CRESCENT, HOPEMAN, ELGIN**



APPEAL STATEMENT

ISSUE:	NOVEMBER 2024
REVISIONS:	

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Appellant Details

Name	Mr & Mrs A. Ralph
Address	33 Golf Crescent, Hopeman, Elgin, IV30 5TL

Agent Details

Name	Alex Sanderson CM Design, Town Planning & Architecture St. Brendans 69 South Guildry Street Elgin IV30 1QN
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Reason for Refusal

- 1.The proposed sub divided site lacks its own active roadside frontage and can only be accessed via an access drive to be created through the parent property's garden. These characteristics are symptomatic of backland development, leading to the inappropriate subdivision of garden ground to form an additional building plot
- 2.The presence of an additional dwelling at this existing cul-de-sac location is considered to increase the density of housing development to the extent that the proposal is considered to be detrimental to the pleasant character and appearance of the site and the surrounding area. The proposal would therefore be detrimental to the character of the site and its surrounds which is part of the Burghead to Lossiemouth Coast Special Landscape Area which requires high quality siting characteristics for all development

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1.0 INTRODUCTION

1.1 This appeal statement relates to a –

Proposed new house site which is accessed and positioned in a manner matching new developments throughout Moray and also existing neighbour settlement patterns in Hopeman

1.2 – A previous appeal was heard by LRB Members on 26th August 2021 and was generally supported by members at the hearing but only marginally missing the vote at 5 versus 4. This new application addresses all the concerns raised in that Appeal hearing and most importantly contains much more detail on design and placemaking than the previous Outline Planning application.

1.3 - This application represents a **rare and unique** opportunity to provide a residential dwelling within the established settlement boundary of Hopeman, reducing constant impact on housing within the open countryside or the loss of prime agricultural land locally.

1.4 - The proposed dwelling would be located within a well-established residential neighbourhood and would connect to local amenities, active travel networks.

1.5 - The addition of this site in the Hopeman settlement pattern would all be in compliance with the aspirations and aims of National Planning Framework 4 (**NPF4**) and Moray Local Development Plan 2020 (**MLDP 2020**)



Proposed Site Plan of existing dwelling & new dwelling

1.6 - The reasons for the refusal of this application relate to concerns that the siting of the house represents “Backland Development”. The appellant contends this is not the case and that

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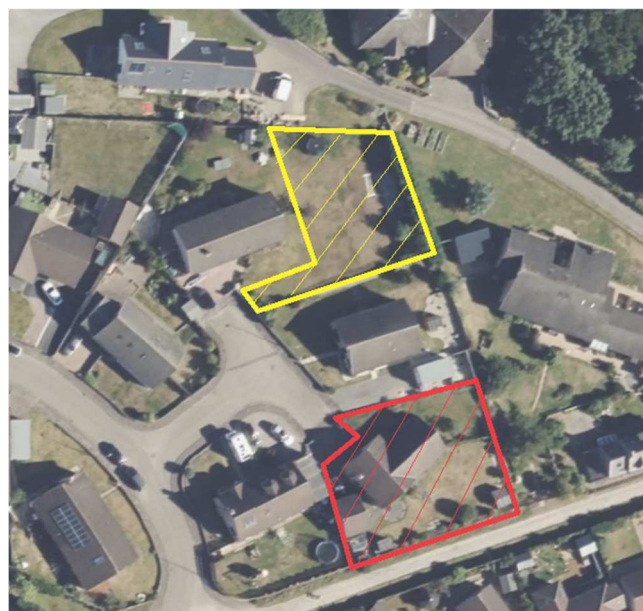
- The host property and the new house enjoy the same level “road frontage” in this location and matching several other cul-de-sac developments across Moray
- The sub-divided site is larger than many surrounding properties
- This proposed layout is not the type of “backland” development that this policy seeks to prevent

1.7 - The appellant contends that this DETAILED PLANNING APPLICATION demonstrates cohesion with neighbouring houses, good use of space and design and vehicular access which is in-keeping with the properties around it and elsewhere in Moray.

2.0 SITE DESCRIPTION

2.1 - The proposed site is fully contained within the garden grounds of 33 Golf Crescent, Hopeman, IV30 5TL. The site is located fully within the settlement boundary of Hopeman as defined within the Moray Local Development Plan 2020 (**MLDP 2020**) and further to this the site is located within a Special Landscape Area (**SLA**) covering the coastline between Bургhead and Lossiemouth.

2.2 - The appeal site equates to **688m² (or 0.17 acres)** and is a relatively level piece of garden land with little to no undulations. The existing property, **33 Golf Crescent**, is bounded in all directions by a mixture of timber fencing and blockwork boundary walls. Golf Crescent bounds the parent site to the South, while the properties “Daisy Rock” to the North and “Lodgeside” to the East bound the site respectively. 29 & 31 Golf Crescent border the property to the West, along with 35 Golf Crescent to the Southeast of the appeal site.



*Aerial image of Appeal Site (yellow)
& existing mirrored plot (red)*

2.3 - Golf Crescent is a relatively quiet cul-de-sac in an existing established, modern, residential development to the East side of Hopeman, where there is a mixture of property designs and scales within close vicinity of the site. The appeal site is located a 10-minute walk away from the village centre where local amenities are offered as well as being close to active travel networks within the area.

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2.4 - Hopeman has seen very little new build residential development over the last 10-15 years with new development being replacement dwellings generally.

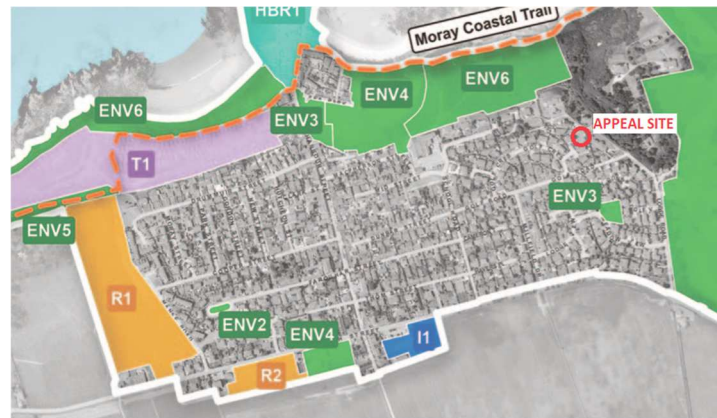
2.5 - Sites within the settlement of Boundary of Hopeman are extremely limited and it appears new single dwellings has generally been directed to the ridgeline to the south of the village which has been consented for several dwellings all of which are within the open countryside.



Aerial Image showing village creep into the open countryside

2.6 - The local plan prior to 2015 had no designated sites for residential development within the settlement boundary of Hopeman, while the 2015 local plan introduced the designated site **R1 & Long** to the West of Hopeman for residential development.

2.7 - Subsequently the 2020 local plan introduced a further site, **R2**, which is located South of the existing settlement. It should be noted that **R2** was fully developed around 2020 for affordable housing only, while **R1** has only recently begun construction.



Extract from MLDP 2020 showing designated development sites

2.8 - This proposed dwelling would provide opportunity for growth of a scale appropriate to the existing setting and surrounding locality and provide a development opportunity within the existing settlement boundary which will reduce demand on housing in the open countryside which is a key policy objective of the existing MLDP 2020.

3.0 PLANNING HISTORY

3.1 - Previous Planning history for the parent property “33 Golf Crescent” refers to an OUTLINE application in 2021 (**App. Ref. 21/00044/PPP**) and in which no detailed design of the house was presented by the agent. It can be seen from this previous refusal, that the house was not well positioned nor thoughtfully presented within the context of the surrounding development

3.2 - This application was submitted during particularly difficult COVID-19 restrictions and in which site investigations, council inspections and Appeal Board inspections were difficult. Ultimately the application **21/0044/PPP** was refused by planning officers on similar grounds to the most recent application, **24/01055/APP**.

3.3 - That historical application was also considered by the Local Review Board in 2021 and found considerable favour but was eventually rejected after a vote of 5 votes 4 in favour of upholding the Planning Officers Decision.

Appendix 5 & 6 contains the LRB committee minutes and the site plan considered by panel members.

3.4 - This new application IN DETAIL under **24/01055/APP** represents a completely different design and application regime to that of the 2021 application and allows neighbours, consultees and Local Authority to see clearly how the new house would integrate into the locale.

3.5 - During the course of the **24/01055/APP** application, letters of objection were received in relation to impact upon privacy from the proposed dwelling. To mitigate these concerns, the window fenestration on the approach elevation was altered to show high level letterbox windows in lieu of full height window as originally proposed.



Original window fenestration



Revised window fenestration

3.6 - This demonstrates the value of a detailed Planning Application in this instance and the care the appellant has taken to ensure that all concerns are understood and resolved.

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4.0 DEVELOPMENT PROPOSAL

4.1 - The proposed development is seeking approval for sub-division of the existing garden grounds at 33 Golf Crescent and the erection of a new 2No. bed dwelling.

4.2 - The front entrance of the new dwelling will be positioned approximately 25m from the pavement of Golf Crescent and a separation distance of approximately 19m from the neighboring property, 35 Golf Crescent located to the south of the appeal site. The new dwelling will be accessed via a new Lock Block driveway from Golf Crescent.

4.3 - The dwelling has been positioned to match the building line of the parent property and would reflect the building pattern currently established. The finished floor level of the new dwelling will sit 150mm above the finished ground level, which is consistent with the parent dwelling. Adjacent properties to the South have an elevated position in relation to the proposed dwelling with the floor levels of the house immediately south being around 1200mm higher than the new dwelling floor level. The proposed dwelling would be single storey and of a similar scale and design to adjacent neighbouring properties.



35 Golf Crescent (south of proposed plot) current elevated position above proposed plot

4.4 - The size of the sub-division will ensure that the new site is subordinate to that of the parent site of the existing, a 51-49% split. The total site area of the parent property currently amounts to 1,398m² (or 0.35 Acres). Once the site has been sub-divided, the parent site will be left with a total area of 710m² (or 0.18 Acres) and the new dwelling will have a total area of 688m² (or 0.17 Acres) – **exceeding the minimum 400m²** as stated in MLPD 2020 Policy DP1 (i) Part F.

The new site is significantly larger than the minimum site size prescribed by Moray Council in terms of garden sub-division

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4.5 - The proposed material finishes for this application have been carefully selected to be similar to that of the surrounding properties to maintain continuity throughout. These material finishes will consist of stained timber soffit and fascias, a mix of off-white coloured drydash concrete blockwork and Fyfestone (or similar) decorative external wall finishes complemented with concrete cills and a smooth cement base course finish. Openings are to be infilled with high performance timber windows and doors. The roof formed will be a 30° gabled roof and will be finished with concrete roofing tiles and ridge tiles all of which will make the development sympathetic to the surrounding area.



Timber windows



Cream drydash render



*Redland Tudor
Brown Roof Tiles*



Fyfestone

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5.0 STATEMENT OF CASE

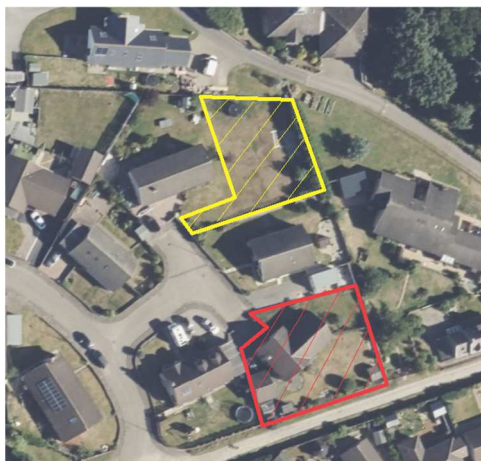
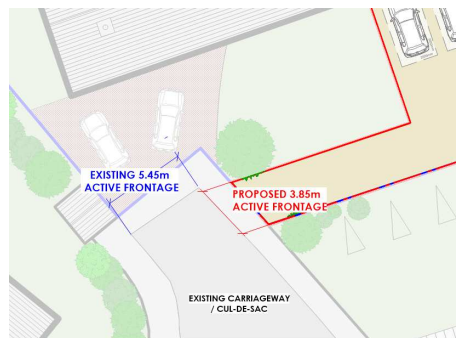
This Appeal Statement seeks to respond to each of the two reasons for refusal as follows -

DECISION ITEM 1 –

5.2 - The planning officer states the proposed site would lack any active roadside frontage. This would be an issue in a standard terraced street pattern but is not an appropriate deciding principle in this case and particularly in a road end of a cul-de-sac.

5.3 - It should be noted that the existing dwelling only has an active roadside frontage of **5.45m** due to the orientation of the dwelling and the location of the plot relative to the existing cul-de-sac carriageway arrangement.

5.4 - The site layout proposed for the new dwelling would give an active frontage of around **3.85m** as shown in the adjacent image which is comparable to the existing frontage currently provided.



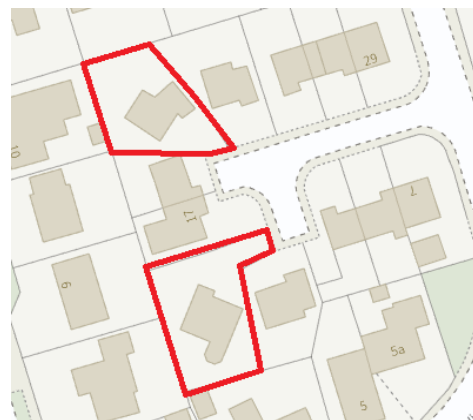
*Aerial image of Appeal Site (yellow)
& existing mirrored plot (red)*

5.5 - Within this housing estate, and others throughout Moray, there are numerous examples where 2 plots are accessed from the end of a cul-de-sac as proposed in this case, and is a typical feature of new build site layouts and similar existing examples local to the proposed development are **shown below**.

5.6 – The access arrangement and length of driveway proposed is similar to that of the neighbouring property, No35 (south of appeal site), which again is reflective of typical new build site layouts



Weddershill Court, Hopeman



Lodge View, Hopeman

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5.7 - Recent planning approvals for new build residential developments within the wider Moray area also reflect similar access arrangements to that shown within the appeal site, where a private access driveway serves 1 or more properties and lack active roadside frontages.

5.8 - This site should NOT be considered as being “backland development in the normal sense of the term and this is more adequately demonstrated by some real examples of nearby housing in Hopeman and elsewhere.



A - 23/00983/APP, Inchbroom, Lossiemouth – Plots 54 & 55 accessed via private driveway arrangement, no active roadside frontage



B - 21/01163/APP, Elgin South, Glassgreen Phase 2 – Plots 1 & 2 accessed via private driveway arrangement, limited active roadside frontage



C - 21/00739/APP, South Glassgreen, Elgin – Plots 435 & 436 accessed via private driveway arrangement, limited active roadside frontage



D - 17/00538/APP, Hamilton Gardens, Spynie, Elgin – Plots accessed via private driveway arrangement with no active roadside frontage

5.9 - The arrangements shown above demonstrate that the use of a private driveway with no active frontage is an acceptable design for new build residential development within existing settlement boundaries.

5.10 - Previous guidance on this matter across Moray suggested that backland development is defined as “development on land that lies to the rear of an existing property”

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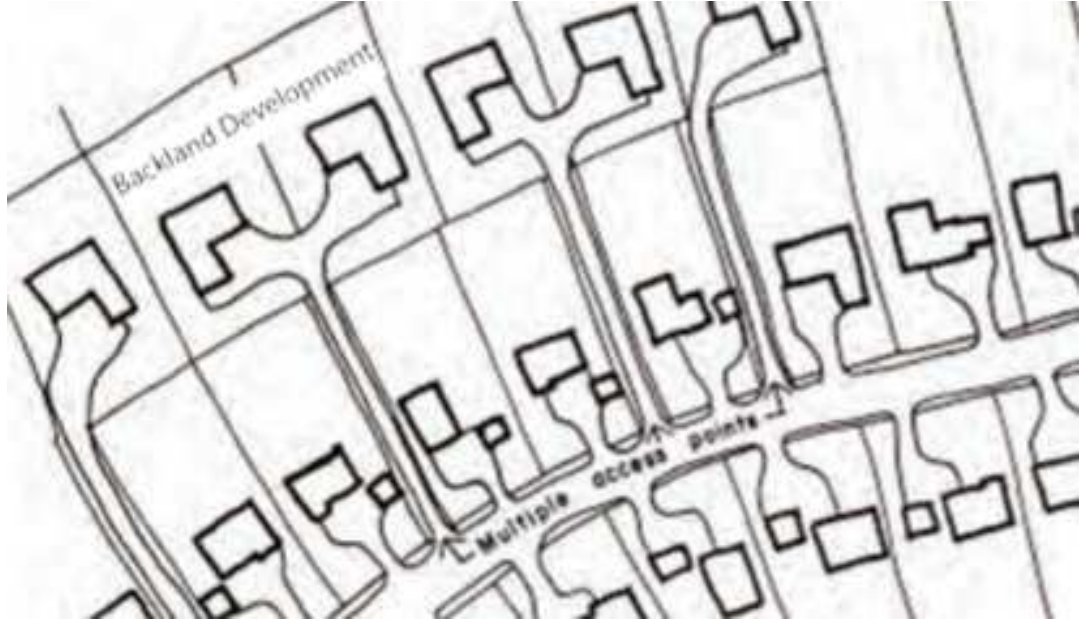
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5.11 - In this case it can be considered that the appeal site does not form backland development but does instead adopt a recognized layout that has been approved elsewhere in Moray evidenced in the examples A-D provided above.



Extract from MLDP 2015 policy H3 demonstrating what is considered backland development

DECISION ITEM 2 –

5.12 - The site is within the Burghead to Lossiemouth Coast Special Landscape Area (SLA) as identified in the MLDP 2020. MLDP policy EP3 requires development within urban parts of the SLA, such as the application site, must reflect the traditional settlement character in terms of siting and design.

5.13 - The planning officer considered the proposal for an additional dwelling would increase the density of the housing development to the extent that the proposal is considered to be detrimental to the character and appearance of the site and the surrounding area which would therefore be detrimental to the character of Burghead to Lossiemouth Coast Special Landscape Area which covers the application site and wider setting beyond.



Extract of MLDP 2020 showing Burghead to Lossiemouth Coast SLA covering Hopeman and the wider landscape

5.14 - The existing garden ground of 33 Golf Crescent extends to **1398m²** which is one of the largest plots found within the existing local residential area.

- As stated previously, the sub-divided plot will extend to around 688m², which is 49% of the total area of the land owned by the appellant and exceeds the minimum area of 400m² stated in MLDP 2020 Policy DP1 (i) Part F.
- The plot size proposed would be comparable to existing properties surrounding the application site - which all have plot areas ranging from 577m² to 999m².
(Refer to Block Plan 240040-RALPH-04PP rev B)

5.15 - While a new dwelling within this location would increase the housing density, it can be considered that the plot size and dwelling proposed are of a comparable size and scale to the surrounding existing properties and would therefore complement the existing setting without creating an overbearing impact or loss of amenities to the existing surrounding properties or the wider Burghead to Lossiemouth Coastline Special Coastline landscape Area.

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6.0 RELEVANT PLANNING POLICY

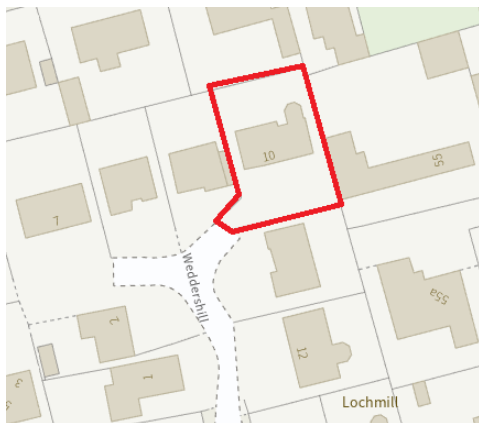
6.1 - Principle of Development -MLDP 2020 Policy DP1 & EP3 / NPF4 Policy 14 & 16 - Policy DP1(i) requires development to be of a scale, density and character which is appropriate to the surrounding area, contributing to the sense of place of the locality.

6.2 - Policy EP3 (i) b) requires development in urban areas to reflect the traditional settlement character in terms of siting and design and conform with Policy DP1 (and all other relevant policy requirements).

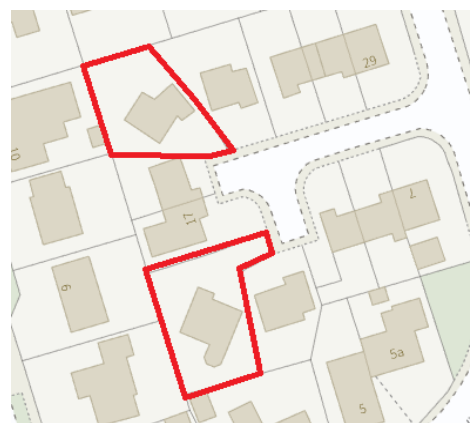
6.3 - NPF4 policy 14 & 16 seeks to encourage, promote, and facilitate well designed development that makes successful places by taking a design-led approach and applying the 6 qualities of successful places, healthy, pleasant, distinctive, connected, sustainable and adaptable qualities to the proposed development.

6.4 RESPONSE TO POLICIES - The new dwelling has been designed in such a way that it would appear as it was part of the proposed site plan layout when development of the site was originally conceived.

6.5 - The siting and design are considered to be appropriate to the location and in keeping with the traditional character of the area. The proposals would therefore comply with MLDP 2020 Policy EP3 and NPF4 Policies 14 & 16. The new dwelling is positioned with the front elevation aligned with the parent dwelling, keeping in with the established pattern of the surrounding neighbouring properties. Though the proposed dwelling has no immediate frontage to the roadside, the plot arrangement proposed, whereby 2 plots are accessed from the end of a cul-de-sac, is typically a feature of new build site layouts and similar layouts at Weddershill Court & Lodge View as shown below.



Weddershill Court, Hopeman



Lodge View, Hopeman

6.6 - As stated previously,

- the sub-divided plot will consist of 688m², which is 49% of the total area of the land owned by the applicant and exceeds the minimum area of 400m² stated in MLDP 2020 Policy DP1 (i) Part F.
- The built-up area of the application site amounts to 129m², less than one quarter of the total area of the proposed sub-divided area.
- In comparison to the neighbouring properties in the surrounding development – which all have site areas ranging from 577m² to 999m² and an average area of

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714m² - the new dwelling would be a welcome addition to the existing development.

- The surrounding dwellings also have an average built-up area of 148m², the size and massing of the new dwelling would complement the surrounding existing properties and would not create an overbearing impact or loss of amenities to the existing surround properties.

6.7 - In compliance with Policy EP3 (i) Part B of the MLDP 2020, the new dwelling is in keeping with the traditional settlement character of the surrounding neighbouring dwellings in terms of siting and design, in particularly with its scale, sizing, positioning. The use of external finishes would allow the dwelling to blend into the surrounding properties.

6.8 In the previous Appeal Committee Report – dated 10/09/2021 – the Planning Permission in Principle application had been refused on the grounds that the dwelling was to be built on “backland”. Further comments within the appeal minutes suggested the previous sub-division layout does not allow for the construction of a new dwelling to the rear of the parent dwelling, but off to the side of and aligned with the front of the parent dwelling.

6.9 The proposal submitted for the sub-division shows the new dwelling fully aligned with the frontage building line of the parent property and allows for the new dwelling to be sit more centrally on the site compared to the previous version and allows for the development to have a more completed and well-rounded appearance matching that of the surrounding properties. The footprint and site area which are both very similar to the neighbouring properties again allows the proposed development to complement the existing streetscape.

6.10 - MLDP 2020 PP3 & DP1 / NPF4 Policy 14 & 16 - Siting, Design & Materials - Development plan policies outline that proposed dwellinghouses **will be acceptable**, where proposals respect the character and amenity of the surrounding area and can be adequately served in terms of infrastructure.

6.11 - NPF4 policy 14 & 16 seeks to encourage, promote, and facilitate well designed development that makes successful places by taking a design-led approach and applying the 6 qualities of successful places, healthy, pleasant, distinctive, connected, sustainable and adaptable qualities to the proposed development.

6.12 - RESPONSE TO POLICIES - The proposed dwellinghouse occupies a portion of land within the garden grounds associated with the existing house – which will be sub-divided – and would likely only be seen from the new driveway to the Southeast of the development. Whilst not applicable to this application, we have considered the design criteria within Policy DP4-Urban Housing to ensure the new development promotes traditional urban design.

6.13 - The height of the dwelling would be no higher than 5.21m and would be of an appropriate scale and massing to surrounding properties and composed of simple well-proportioned symmetrical elements. The gabled roof is traditional in appearance and in keeping with the character of the area while the proposed external materials consisting primarily of drydash concrete walls and concrete tile roofs are acceptable and appropriate

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to the urban setting allowing the dwelling to integrate into the existing established character of the surrounding area.

6.14 - The properties immediately surrounding the new dwelling – namely, 33 Golf Crescent to the West, 35 Golf Crescent to the South, “Lodgeside” to the East and “Daisy Rock” to the North – will have their privacy maintained by means of a mixture of new hedging to the North and South and existing hedging to the West, as well as 1.8m height timber fencing.

6.15 - The previous application for the site details implies that the new dwelling proposed would have been built to a height of 1.5 to 1.75 storeys. This new application however proposes a new single storey dwelling, being no higher than that of the parent property at 33 Golf Crescent.

6.16 NPF4 Policies 1 & 2 - Climate Change -

In addressing NPF Policies 1 & 2, which are to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.

6.17 - RESPONSE TO POLICIES - The proposal is for a new development on part of an already-developed site and would have minimal impacts on the climate crisis. As such, the NPF4 Policies 1 Tackling the Climate and Nature Crisis and 2 Climate Mitigation and Adaptation do not hold significant consideration for this application.

6.18 - The new dwellinghouse has been carefully considered with the front of the dwelling orientated Southeast, and the bulk of the glazed openings being proposed on this elevation or the opposite Northwest Elevation. The dwelling construction of the new dwelling will be of sustainable timber frame construction which reduces embodied carbon emissions within the proposed build.

6.19 - The proposal will also utilise a zero-emission air source heat pump to provide heating and cooling for this building and solar PV panels to aid with generation and storage of electric for use within the dwelling.

6.20 - MLDP 2020 EP12 and EP13 / NPF4 Policy 14 - Climate Change -

NPF4 Policy 22, MLDP 2020 DP1, EP12 and EP13 together seek to ensure that acceptable water and drainage provision is made, including the use of sustainable urban drainage (SUDS).

6.21 - Policy EP13 requires new development to connect to the main system whenever possible. A new foul water connection serving the new dwelling will be connected to the public sewer within Golf Crescent.

6.22 - RESPONSE TO POLICIES - GMC Surveys has completed a Site Investigation and Drainage Assessment for the proposed development in 2024. Based on the site investigations the ground conditions are suitable for the use of infiltration as a method of surface water management.

6.23 - To address the surface water run-off post development, The SW has been designed for a 1 in 30-year event with a 42% additional allowance in rainfall intensity for climate

change. Therefore, a 6.0m long x 2.5m wide x 1.2m deep below pipe invert stone filled trench will be utilised as the soakaway for the proposed dwellinghouse.

6.24 - The foul water would discharge into the existing public sewer located within Golf Crescent.

6.25 - A new public water connection and supply will be required to serve the new development.

6.26 - MLDP 2020 policy EP2 / NPF4 policy 3 & 6 - Climate Change -

NPF4 Policy 3 Biodiversity and MLDP 2020 Policy EP2 both seek to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.

6.27 - RESPONSE TO POLICIES - The proposal is for a new development on an already-developed portion of land associated with the existing dwelling and would have minimal impact to existing biodiversity. The existing site offers biodiversity value by means of existing mature trees and well-maintained landscaped garden ground. To enhance biodiversity values associated with the development, a portion of the landscaping associated with the new dwellinghouse will be seeded with wildflower seeds providing a variance of colour over all 4 seasons as well as also being an important nectar source, all of which will further enhance the biodiversity.

6.28 - To enhance the wildlife of the surrounding development, the fenceline dividing the site in two is to have a Hedgehog Highway opening at the Northwest corner of the new dwelling, allowing the safe passage of hedgehogs between the gardens of the parent and proposed dwellings. A new birdbox will be installed to the dividing fenceline between the two dwellings on site, maintaining the biodiversity of the area.

6.29 - The Southern flowerbeds of 33 Golf Crescent will have to be uplifted and relocated to allow the formation of the new access driveway for the dwelling, and an existing tree will have to be removed and replaced within a similar species within the site boundary in place of a new fenceline that will divide the plot from the parent property.

6.30 - Access and Parking - MLDP 2020 Policy DP1 / NPF4 Policy 3

Policy 13 Sustainable Transport and policy DP1 require that proposals provide a safe entry and exit from the development and conform with the Council's current policy on Parking Standards. Policy 13 also aims to encourage, promote, and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

6.31 - RESPONSE TO POLICIES - Access to the new dwellinghouse will generally be provided by 3m wide vehicular and pedestrian access from Golf Crescent to the South of the proposed site. Parking for 2 No. cars and a turning area have been indicated within the site area, allowing vehicles to enter and exit in forward gear.

6.32 - The public transport links are available within 400m of the development site by means of a bus stop located on East Road and is provided by Stagecoach which operates the 32-service connecting Forres to Elgin.

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6.33 MLDP 2020 PP3 / NPF4 Policy 24 - Infrastructure and & Services -

Policy PP3 Infrastructure & Services requires development proposals be planned and coordinated with infrastructure to ensure that development functions properly and proposals are adequately served by infrastructure and services.

6.34 - RESPONSE TO POLICIES -

- **Communication** – It is expected following widespread upgrades to the wider network that a Fibre Connection can be provided to the new dwellinghouse.
- **SSE** – SSE have existing electric underground infrastructure within the carriageway adjacent. Subject to approval from SSE, a new connection would be installed to serve the development proposal.

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7.0 CONCLUSION

7.1 - This application represents a long journey of responding to the concern of the appointed planner and neighbouring property in terms of compliance & amenity items whilst matching the settlement pattern of housing around them and across Moray

7.2 - This dwelling, if supported by the Review Board would be a welcome positive contribution to the existing setting in Hopeman

7.3 - The appellant would contend that the proposals provide a development with character, identity and a sense of place which is complementary and functional to the surrounding dwellings and wider landscape setting.

7.4 - The proposal demonstrates the qualities of Placemaking and Successful Places as required within MLDP 2020, delivering a development which is of a scale and density suitable to the wider setting and protects existing amenity levels currently afforded.

7.5 - The appellant respectfully requests that this application be approved.

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