

Grounds for Appeal

Response to Moray Council Refusal of Application for the change of use of woodland to garden ground and erection of a domestic garage/workshop at Beulah, Garmouth, Fochabers, Moray, IV32 7LE

Please read all Supporting Statements, in particular the Additional Supporting Statement dated 27 November 2024, in conjunction with the following:

1. Refusal Reason No 1. Ancient Woodland.

The ground on which the proposed garage would sit is contained within a 681.19 ha area called Sleepieshill which is designated Ancient Woodland,. This area is delineated by a perimeter within which there is no differentiation between varying sections of ground or whether trees are present or not. For example it does not distinguish between roads, garden, hedgerows, fields, buildings or genuine Ancient Woodland. It is true to say therefore that just because ground sits within an area designated as Ancient Woodland this does not automatically mean it is such.

Nature Scotland state that *'in Scotland, ancient woodland is defined as land that is currently wooded and has been continually wooded since at least 1750'*. According to the Tree Survey and Tree Protection Plan created by consultant arborist Mr Angus Dixon, BSc, Groves Forestry Co, the land in question was formally part of a Scots pine plantation planted around 1970. The Scots pines were felled four years ago and after a period of time the land was replanted with saplings. **This piece of land cannot therefore be designated as Ancient Woodland for two reasons.** First, the trees that were present prior to Storm Arwen were only planted in 1970. Secondly, it has not been continually wooded since 1970 since there were no trees standing on the site after Storm Arwen in 2021.

Moray Council have acknowledged the absence of mature trees on the site but claim that Ancient Woodland comprises not only trees but the ground vegetation and soils in which trees sit. This assertion is not reflected in Nature Scotland's definition. In addition, according to Mr Dixon there is nothing irreplaceable or worthy of special preservation that would be irrevocably lost on the proposed site; the associated vegetation and soil does not contain any unique features.

Given these facts it is technically incorrect to refuse this Application on the basis of the ground being deemed to be Ancient Woodland.

2. Refusal Reason No 2. Removal of Healthy Trees.

Mr Angus Dixon states in the Tree Survey and Tree Protection Plan that all saplings would be transplanted to a new woodland creation site before building work begins. **There will be no loss of trees.** On the contrary, a greater area of woodland will be created through compensatory replanting should this appeal be accepted. To further support this information Mr Dixon liaised with Scottish Forestry with respect to the change of use of this land to ascertain whether there was any opposition to the proposed site being used as described. **Scottish Forestry has no objection to the proposal.**

3. Refusal Reason No 3. Garage Scale, Design and Location.

Moray Council required a plan of the proposed garage to be submitted with the original Application. This had initially been omitted since it was not considered to be relevant to the Application at that stage. However, it was made very clear in the Supporting Statement that the plan was purely representative and that the building's scale and design would fit in with the surrounds to the Council's satisfaction. Notwithstanding this, a minimum size would clearly be necessary to provide adequate storage and work areas.

The location of the proposed garage is the most advantageous and viable option for the following reasons:

- i. The proposed location of the garage lies **on the outer edge** of Moray Council's designated Special Landscape Area (SLA) Lower Spey and Gordon Castle. This site minimises any perceived impact on the SLA since it would be situated **on the western boundary** which is defined by the minor Garmouth to Mosstodloch road immediately outside the driveway. The building would be invisible from the River Spey given the cover provided by both the house and the trees on the east side of the proposed site. It is worth noting that planning permission for two separate domestic dwellings have been granted within half a mile of the proposed site, one of which adjoins it. A refusal of the Application based on this criterion would be unreasonably punitive and inconsistent.
- ii. Neighbours have supported the site of the garage since it would be as far removed as possible from adjoining houses. Please refer to a letter from neighbours [REDACTED] dated 27 January 2024. The proposed location is therefore to the benefit of the local community compared to a garage located close to neighbouring dwellings.
- iii. Being remotely located from the house, the site offers the flexibility of being retainable should the need to downsize arise in the future.

Given the above I believe the Council's refusal of the Application is technically incorrect (Ancient Woodland) and an overly rigid application of policy. It is hoped that the Local Review Body will take into account the circumstances I faced when buying this property, my reasons for doing so and to put themselves in my position. I would like to think a decision will be made based on the outcome individual members would hope for if they faced similar circumstances rather than dogmatically apply policy as if it were a law that cannot be broken.



Applicant

18 January 2025