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LOCAL REVIEW BOARD

STATEMENT OF APPEAL

Erection of New House

At Wagtail Lodge, Whiteinch, Kinloss, IV36 3TS



Existing Wagtail Lodge

CONTENTS

Our Reference:	230085.FORBES
Local Authority:	Moray Council
Planning Application Ref:	24/01254/APP
Application Proposal:	Erection of 1.5 storey detached house
Site Address:	Wagtail Lodge, Whiteinch, Kinloss, IV36 3TS
Appellants:	██████████
Date Application Validated:	20 August 2024
Council Decision Notice Date:	13 November 2024
Reason for Refusal:	<p><i>The development would result in an intensification of use of the access junction onto the public road(U62E Sea Park Roak), would be likely to give rise to conditions detrimental to the road safety of road users contrary to NPF policy 13 (b. vi) and MLDP policy DP1 (ii a and c) given the applicants have failed to demonstrate that the required visibility splay and upgrade to the access can be provided.</i></p> <p><i>The proposed introduction of a further house in this location alongside existing housing is considered to constitute an unacceptable cumulative build-up of housing which will negatively impact the landscape character of this area of countryside contrary to the siting requirements of policies NPF 17 and MDLP DP4</i></p>
Application Drawings & Supporting Documents:	DOC001 - CMD Drawing – 230085.FORBES.03 PP E DOC002 - CMD Drawing – 230085.FORBES.04 PP E DOC003 - CMD Drawing – 230085.FORBES.05 PP B DOC004 – Mabbett Drainage Report – 313827 DOC005 – Decision Notice
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1-INTRODUCTION

The following Statement of Case, submitted by CM Design, Town Planning & Architectural Consultants, has been prepared to support a Local Review Board submission relating to an:

Erect a new 1.5 storey house to be used in conjunction with, and ancillary to, the existing holiday accommodation, Wagtail Lodge.

The proposals do not seek to introduce a 'further house' but an annex to an already existing property. The annex will be well screened and will not negatively impact the established residential area in which it would sit.

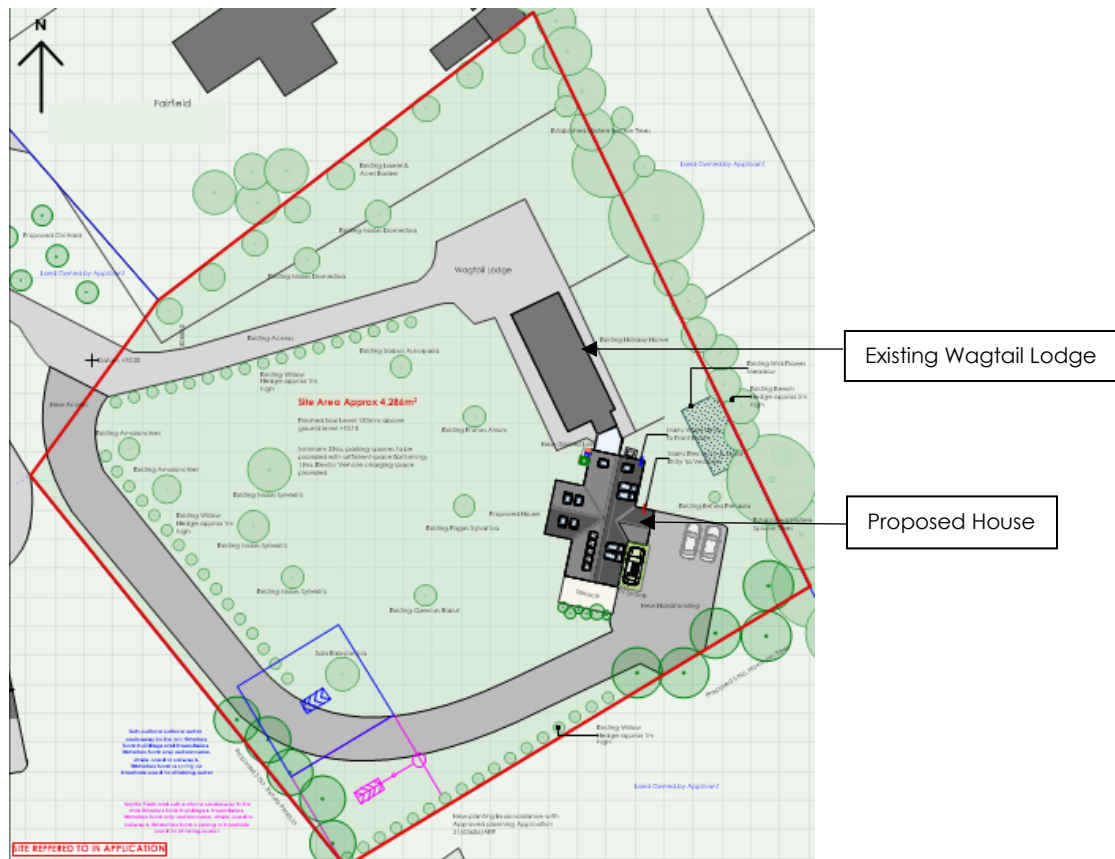
The appellants are committed to biodiversity and intend to plant further trees thereby further minimizing any impact of the annex as the trees achieve maturity.

It should also be noted that there were no neighbour objections to the proposals.

The existing holiday home, Wagtail Lodge, obtained Planning consent on the 9th of June, 2021. Originally, the appellants had intended to use the Holiday home infrequently in-line with the Planning Conditions, however, their circumstances have since altered and they wish to spend more than three months of the year, at Wagtail Lodge, next door to the appellant's sister.

The appellants seek to erect a new 1.5 storey Annex within the grounds of the existing Holiday Home to allow them to reside, near family, at Wagtail Lodge for more than three months of the year.

The proposed property would be associated with the existing Holiday Home which would then be used by the appellants' children & friends when visiting.
Wagtail Lodge



The use of the existing, and well used, access road half a mile from the proposals will not be intensified by the proposals, and the appellant will upgrade the existing access in accordance with Moray Council Standards.

The proposals are not for a 'further house' in 'open countryside', but an annex to an existing property within an established development of residential properties.

2 – BACKGROUND

The existing site extends to around 4,286m² with the existing Holiday Home located toward the Eastern boundary of the site.

Despite being classed as 'open countryside', Whiteinch more closely resembles the settlement patterns seen in nearby rural groupings and currently includes in excess of **ten residential dwellings** of various ages and styles.

The site is located **outwith** any designated Significant Landscape Area and is not within any area considered to be "Highly Pressurised or Sensitive" in accordance with MLDP 2020 DP4.

The Site is well bounded by mature trees, neighbouring properties, and the Main Aberdeen to Inverness train line to the South.



Previous Planning history for the parent property "Wagtail Lodge" and land associated includes the following -

21/00606/APP – Erect 1 No. Holiday Chalet at land by Copperfield, Kinloss, Forres Application **Approved** 09.06.21

22/01140/APP – Reduce size of site approved under ref: 21/01505/APP to erect dwelling house at Copperfield, Kinloss, Forres Application **Approved** 02.12.22

23/02065/APP – Erect Dwellinghouse and associated infrastructure linked to existing holiday home at Wagtail Lodge, Whiteinch. Application *Withdrawn* to seek *Visibility Splay* Resolution 27.02.24

23/0101254/APP – Erect Dwellinghouse attached to existing holiday home at Wagtail Lodge, Whiteinch. Application *Refused* 13.11.24

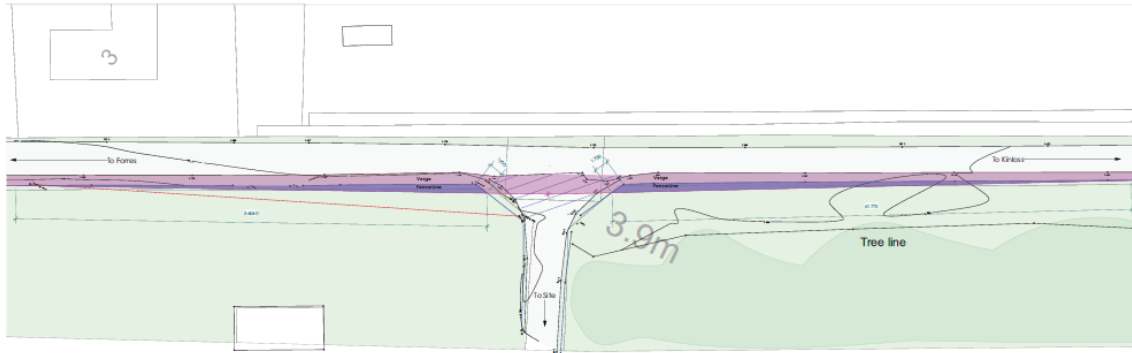
25/00361/APP – Erect Dwellinghouse attached to existing holiday home at Wagtail Lodge, Whiteinch. Application *Refused* 15.05.25

Application **23/02065/APP** was *withdrawn* in response to the consultation process with the Transport department, as the appellant was keen to seek either:

- consent from the Landowners to relocate their boundary fences outwith the proposed visibility splay,
- or to purchase the land in question and move the fences himself in order to accommodate the required visibility splays.

Despite multiple attempts, all efforts to either negotiate relocation of the fences, or sale of the land, were strongly rebuffed by the landowners of the land adjacent to the existing access.

As a result, the appellant then prepared the reapplication 23/0101254/APP offering to upgrade the existing access road but explaining that the visibility splays themselves could not be fully created due to the Landowners resistance. The appellant also instructed a GPS survey to accurately identify the areas of encroachment on the visibility splays. The area of encroachment was found to be extremely minimal, and not for the full distance of the required splay:



Visibility Splays



Street View to Kinloss



Street View to Forres

The appellants' need of a home at Whiteinch is pressing, and they are keen to establish a permanent, compliant home next door to Mrs. Forbes' sister. Mrs. Forbes Brother-in-law now requires full time care, and Mrs. Forbes has been key in supporting her sister during this time. The Forbes have horses on neighbouring ground at Whiteinch and require close proximity to oversee the horses care. The Forbes have lived at Whiteinch for over 40 years and have had family at Whiteinch since the 1930s when property N^o. 14. of 9.5 acres was acquired from the Department of Agriculture.

3 – STATEMENT OF CASE

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development plan policies outline that extensions to dwellinghouses will be acceptable, where proposals respect the character and amenity of the surrounding area and can be adequately served in terms of infrastructure. Rather than erect a new detached dwelling, the proposals seek to provide a 2 bed annex to the existing 2 bed Holiday Home in order to increase its utility, allowing friends and family to more comfortably visit.

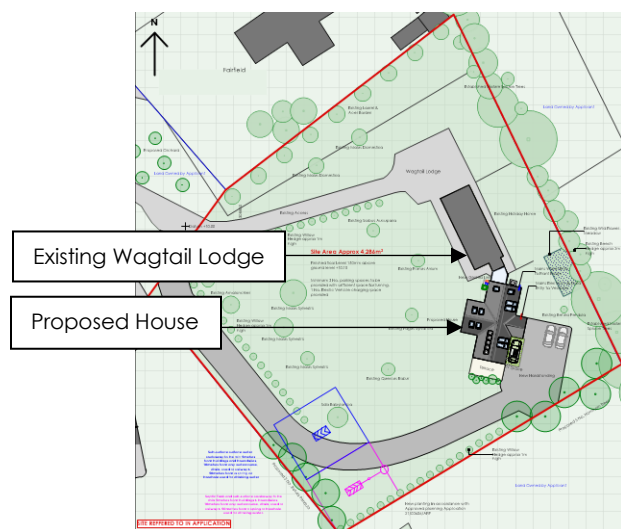
NPF4 policy 14 & 16 seeks to encourage, promote, and facilitate well designed development that makes successful places by taking a design-led approach and applying the 6 qualities of successful places, healthy, pleasant, distinctive, connected, sustainable and adaptable qualities to the proposed development.

The site is located within an existing rural group of dwellings. Although the site is within an area officially classed as open countryside, the proposed house site is surrounded by both long established and newly built residential properties.



In accordance with DP4 the Proposed House would sit comfortably amongst the existing rural grouping of properties in the area, and reflects the housing pattern of the wider area. The rural character of the area would continue to be prevalent.

The proposals have been sited for minimum impact, and the already well-bounded site will be further Landscaped to increase natural screening and biodiversity within the site.



It is proposed to further increase the wooded areas within the site, providing additional screening as the existing and proposed planting reach maturity. Increased screening and biodiversity is proposed by planting 5 new Hawthorn trees to the Southern boundary of the site, and 5 new Silver Birch Trees to the Western Boundary.

To enhance bio-diversity values associated with the development, a portion of the landscaping associated with the new building 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 of the site.



Existing Wagtail Lodge

The proposals do not seek to erect a new independent home, but a two-bedroom main residence associated with the already existing two-bedroom Holiday Home. The appellants wish to live for more than three months of the year at Whiteinch, and due to the conditions in place on the existing Holiday home, they must erect a new home to do so.

To avoid increased use of the existing access junction onto the Public road, the appellants are happy to restrict use of the existing holiday home to family & friends only.

4-REASONS FOR REFUSAL

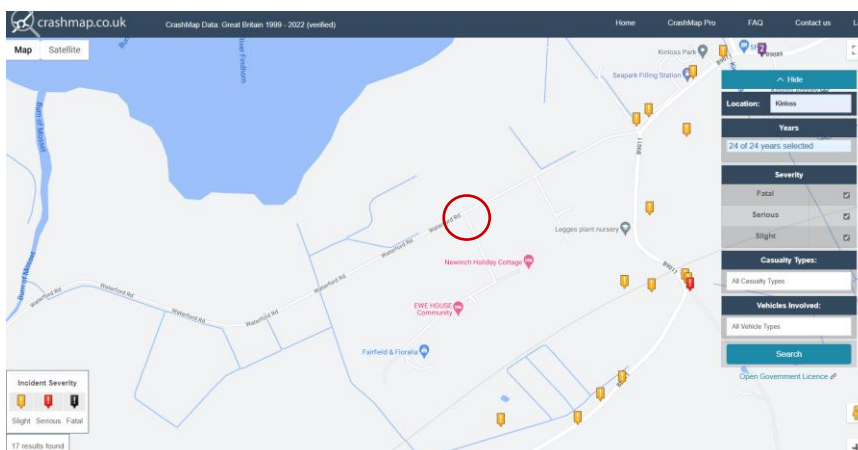
Reason 1. *The development would result in an intensification of use of the access junction onto the public road (U62E Sea Park Road), where there is presently restricted visibility and which would be likely to give rise to conditions detrimental to the road safety of road users contrary to NPF Policy 13 (b. vi) and MLDP DP1 (ii a and c).*

These proposals would represent **NO** increased burden on the existing junction, or traffic flow.

The Appellants' chief goal is to occupy their site at Wagtail Lodge for more than three months of the year, in a compliant fashion. To prevent any intensification of use of the existing access road, the appellants are happy to restrict use of the Holiday home to friends and family only, who would visit the existing site regardless.

The junction in question is almost half a mile from the appellants' existing house, and is used by more than ten existing properties, without incident.

A review of CrashMap, (see attached image), confirms no incidents in the last 24 years in the vicinity of the existing access or stretch of road each side of the existing access.



The entrance to the existing access is worn and potholed. The appellant offers to upgrade the first 5 meters of the existing access, to Moray Council specification, and maintain the visibility splays outwith the Landowners property.

Although the access road has been used, without incident, by more than ten properties shared maintenance issues have been a barrier to upgrading the road in the past, and the willingness of the appellant to upgrade the access road entrance, at his own cost, would significantly improve the existing access road condition for all properties it currently serves.

As the access in question is almost half a mile from the appellant's home, his influence can do no more, despite lengthy attempts on his part.

Reason 2. The proposed introduction of a further house in this location alongside existing housing is considered to constitute an unacceptable cumulative build-up of housing which will negatively impact the landscape character of this area of open countryside contrary to the siting requirements of policies NPF 17 and MLDP DP4.

The application of MDLP DP4 policy in this location fails to accurately consider the nuances of the area. Although Whiteinch falls into an area officially classified as 'Open Countryside', Whiteinch itself is in reality demonstrably not 'Open Countryside'. There is significant existing development in the area, much of which has stood for decades. The landscape character of this area is not that of 'Open Countryside', it is that of a rural grouping. In accordance with DP4 the proposed Annex would sit comfortably amongst the existing rural grouping of properties in the area, and reflects the housing pattern of the wider Whiteinch area. The existing character of the area would remain intact.

The proposals do not seek to introduce a 'further house' but an annex to an already existing property. The annex will be well screened and will not negatively impact the established residential area in which it would sit.

The appellants are committed to biodiversity and intend to plant further trees thereby further minimizing any impact of the annex as the trees achieve maturity.

It should also be noted that there were no neighbour objections to the proposals.

5 – CONCLUSION

This Statement of Case has established the following:

The use of the existing, and well used, access road half a mile from the proposals will not be intensified by the proposals, and the appellant will upgrade the existing access in accordance with Moray Council Standards.

The proposals are not for a 'further house' in 'open countryside', but an annex to an existing property within an established development of residential properties.

In conclusion, based on the proposals submitted, the appellant would assert that the proposals provide a development with character, identity and a sense of place which is complementary and functional to the existing dwelling and garden grounds.

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.

The appellant respectfully requests that detail of this case be fully considered and the Appeal to approve this application be upheld.

**M Ellerby
Architectural Designer
CM Design**