

grant & geoghegan ltd.

Chartered Planning Development and Architectural Consultants

Grant Lodge, Birnie, Elgin IV30 8SW

T: 01343 556644

E: enquiries@ggmail.co.uk

Grounds of Appeal

25/00134/APP – Site at Station Road, Burghead

Issue Date: 10th December 2025

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1.0 Introduction

- 1.1 This appeal statement constitutes the grounds for review of a decision to refuse planning permission for a revised house design on land at Station Road, Burghead, which has the benefit of extant planning permission for a dwellinghouse and associated works, granted under reference 23/01668/APP.
- 1.2 This statement is submitted under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) and lodged within the prescribed three-month period from the refusal of permission dated 7th October 2025.
- 1.3 It specifically responds to the Council's Reason for Refusal and assesses the proposal against the relevant Development Plan Policies articulated by NPF4 and the adopted Moray Local Development Plan 2020 as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended).



View of disused building and yard from the south west

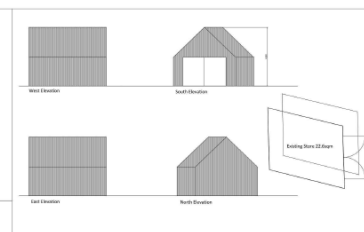
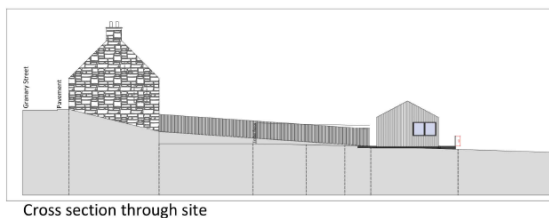
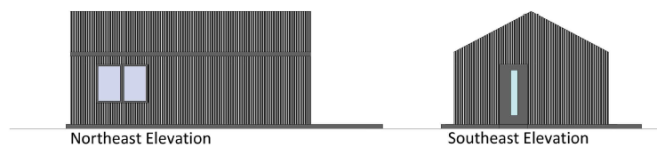
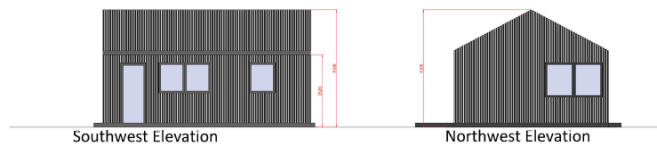
- 2.3 As illustrated below, the proposed material finish is identical to the approved design. The general arrangement of windows and doors is the same, apart from two windows to the south-west (front facing) elevation. The main difference is an increase of 1674mm to the ridge height, to a maximum height of 5.774m from finished ground level, compared to 4.1m in the approved.

EXTERNAL FINISHES

ROOF
Black metal cladding
WALLS
Black timber cladding
Windows
Black

Site at Station Road, Burghead

AMENDED PLANS



Town & Country Planning
(Scotland) Act, 1997
as amended

APPROVED

14 February 2024

Development Management
Environmental Services
The Moray Council

grant and
geoghegan

planning, development and
architectural consultants

T:01343 556644
E:enquiries@ggmail.co.uk

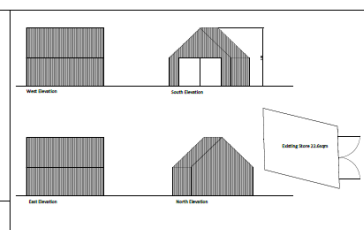
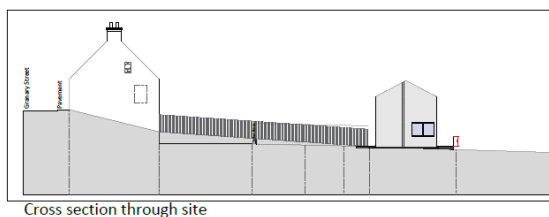
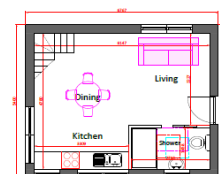
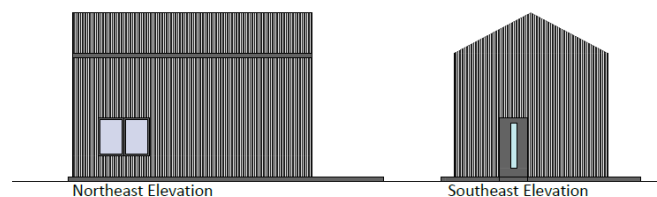
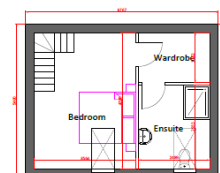
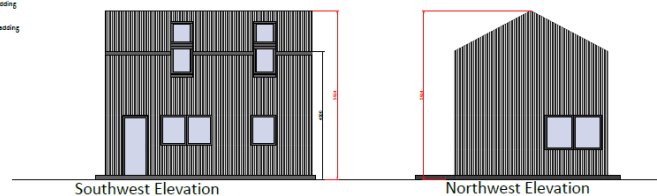
Drawing Title: proposed house
Scale at A3: 1:100
Date: 11.12.23
Drawing No.: 025/00613/04

Elevations approved under reference 23/01668/APP (above)

Site at Station Road, Burghead

EXTERNAL FINISHES

ROOF
Black metal cladding
WALLS
Black timber cladding
Windows
Black



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T:01343 556644
E:enquiries@ggmail.co.uk

Drawing Title: proposed house
Scale at A3: 1:100
Date: January 25
Drawing No.: 025/00613/04

Proposed Elevations under consideration (above)

3.0 Reason for Refusal

- 3.1 The application, Reference No. 25/00134/APP, was refused under the Council's Scheme of Delegation by the Case Officer on the 7th of October 2025 (Appendix 1). The Reasons for Refusal state that:

The proposals to increase the height of the previously approved dwellinghouse (to a height of 5.9, with the provision of a first floor) would be considered out of keeping with the traditional settlement character of the surrounding area, in particular the historical boatyard and harbour area to the east and the Burghead to Culbin Special Landscape Area. The proposed increased height dwelling would also be considered to impact on the setting of the B listed building to the north-west of the site due it's unacceptable scale and bulky design which is considered unacceptable for this location. As such the application is considered to fail to comply with NPF4 Policies 4, 7, 14 and MLDP 2020 Policies DP1, EP3 and EP10.

And: -

The proposed dwelling is to be located to the south of an existing dwellinghouse and the proposed increased ridge height to approx. 5.9m would be considered to give rise to an unacceptable physical impact and an overbearing loss of amenity to that neighbour. As such the proposals are considered to fail to comply with NPF4 Policy 14 and DP1 in terms of an unacceptable amenity impact.

- 3.2 Members should note that the proposed ridge height is 5.774m from finished ground level, which is what the height of 4.1m is also based on. The height of 5.9m is from the existing road level. For clarity, the ridge height of the approved house design would be 4.226m from the existing road level.

4.0 Key Determining Policies

- 4.1 The Planning Officer presents a comprehensive list of relevant planning policies on pages 1 and 2 of the handling report (Appendix 2).

- 4.2 The key determining policies in this appeal are: -

- NPF4 policy 4 - Natural Places (Appendix 3);
- NPF policy 7 - Historic assets and places (Appendix 4);
- NPF policy 14 - Design, quality and place Appendix 5);
- MLDP policy EP3 - Special landscape Areas and Landscape Character (Appendix 6);
- MLDP policy DP1 - Development Principles (Appendix 7);
- MLDP policy EP10 - Listed Buildings (Appendix 8);

5.0 Grounds of Appeal

5.1 Given that the principle of developing a dwelling house on the appeal site is not in dispute and there are no technical or environmental objections to the proposal, the principal issues to be addressed in assessing the merits or otherwise of this appeal can be summarised as follows:

- Would the revised design lead to ‘significant adverse effects’ (the policy test) to the established character and form of development in the surrounding area, the Burghead to Culbin Special Landscape Area and/ or nearby B Listed Building and Conservation Area?
- Does increasing the ridge height of the dwelling to 5.774m lead to ‘an overbearing loss of amenity’ (the policy test) on the privacy and residential amenity of 68/70 Granary Street?

Response to Reason for Refusal 1: Height, Character, Design & Setting

Settlement Character Compatibility

5.2 A 5.774m ridge height, which is the lowest it can be with compliant accommodation (under the Building Regulations) within the first floor, is not alien in this location. On the contrary, it aligns with many of the best examples of traditional building forms in Burghead.

5.3 The proposed design adopts appropriate materials, window patterns, and proportions, which Members will note, are almost identical to the approved house design. The mixed character of Station Road means the proposal does not conflict with any part of the historic or contemporary streetscape.

Landscape Impact

5.4 The development does not intrude on key vistas or, in any way, harm the Burghead to Culbin Special Landscape Area. This modest dwelling sits within an existing, mixed, built-up area, not an open landscape. Further, the muted materials and compact form minimise the buildings presence when viewed from the harbour area or any other short distance views.

5.5 It cannot reasonably be maintained that a proposal for a dwelling with a ridge height of 5.774m in the middle of a residential area has an unacceptable impact on the landscape in which it is situated where there are numerous examples of buildings which exceed that throughout the Burghead settlement area.

Historic Environment

5.6 There is no question the statutory requirement prescribed within Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997—to preserve or enhance the character and setting of the conservation area/ listed building—is met.

5.7 First, Members will note the subject site is not within the Conservation Area. Secondly, due to the separation distance with the B Listed Building, lack of direct visual relationship and the restrained massing of the proposal, it cannot reasonably be concluded that an increase

of 1674mm mm on the approved ridge height has such an additional adverse impact on the setting of a nearby B Listed Building that it would attract a refusal recommendation, especially given the mixed height of homes and buildings in the same vicinity.

- 5.8 The subjective nature of design in this case is fully recognised, but the appellant is steadfast in the view that the high quality of design proposed in this application will meet the policy test to ‘*enhance*’ the setting of the nearby Conservation Area and B Listed Building, as prescribed within NPF4 Policy 7 Historic Assets and Places.

Response to Reason for Refusal 2: Neighbouring Amenity & Overbearing Impact

- 5.9 As evidenced within page 2 of the Case Officer’s Report of Handling (appendix 8, page 2), the matter of residential amenity is summarised, as follows: -

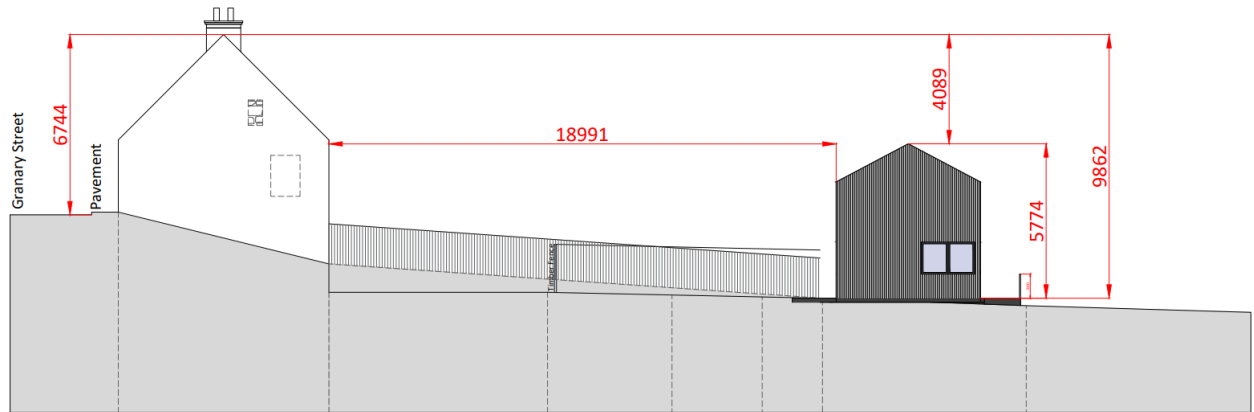
*‘It is noted that only a single ground floor opening is proposed on the rear elevation and that given the level difference between the plots and proposed 1.8m boundary fence, **the proposals would not be considered to give rise to any unacceptable loss of privacy or overlooking to any neighbouring property.**’*

And: -

*‘Given the separation distance and level difference between the site and neighbouring properties, **the development is unlikely to give rise to any unacceptable loss of light or overshadowing.**’*

- 5.10 In the Officer’s own assessment, there is no tangible loss of residential amenity in terms of prejudice to sunlight/ daylight or any undue impact in the form of overlooking or loss of privacy.
- 5.11 The only matter left relating to residential amenity is summarised (page 5 of appendix 8) as an ‘*unacceptable physical impact on the neighbouring properties to the rear and has the potential to give rise to an overbearing loss of amenity to the neighbour immediately to the rear*’ caused by the increase in ridge height.
- 5.12 Members will be aware that there is no automatic ‘right to a view’ from a private property in planning law and whilst the applicants understand visual amenity is a material planning consideration, equally they would contend that little or no weight should be given to it in these circumstances.
- 5.13 As illustrated in the cross section below, the finished floor level (FFL) of the proposed property is 3.118m below the FFL of 68/70 Granary Street. This means the ridge height of the proposed dwelling is lower than the eaves height of the Granary Street properties.
- 5.14 The distance between the proposed dwellinghouse and the adjoining neighbouring property at 68/70 Granary Street is 18.991m and there are no 1st floor windows proposed to the northeast elevation, thereby completely eradicating potential overlooking and associated adverse impacts on the privacy of the adjoining neighbour.

- 5.15 Despite there being no additional window-to-window views, the Council applies a minimum standard of 18m between residential properties to maintain privacy, which Members should note is achieved.
- 5.16 It is therefore concluded that any impact on residential amenity in respect of visual amenity is well within acceptable residential parameters which cannot possibly meet the definition of an 'overbearing impact'.



Cross section of the proposal showing distances between properties and ridge heights

6.0 Conclusions

- 6.1 The physical land use principle of housing on the appeal site is firmly established as evidenced by the site's planning history.
- 6.2 There are no technical or environmental objections to the proposal.
- 6.3 The subjective nature of design in this case and the interpretation of the relevant policy tests that assess the merits or otherwise of the proposal, is fully recognised. However, in any reasonable and balanced interpretation, the appeal proposals provide for an acceptable form of development which compliments the prevailing form and pattern of development, all without '*significant adverse impacts*' to the special qualities of the Special Landscape Area.
- 6.4 Further, the modest increase in building height '*preserves*' the character of the nearby conservation area and B listed building and through the high quality of proposed design, will '*enhance*' its setting, once established.
- 6.5 The proposal also clearly cannot accurately be described as having an '*overbearing impact*' on the privacy and residential amenity of 68/70 Granary Street. The appellant agrees with the case officer that there are no tangible adverse impacts in respect of privacy, overlooking or prejudice to sunlight/ daylight caused by the proposed increase in ridge height. Any impact on visual amenity is minimal and well within expected residential parameters.
- 6.6 In conclusion, the revised design is contextually appropriate, landscape sensitive, and respectful of heritage and neighbouring amenity. The reasons for refusal overstate impacts that have demonstrably been mitigated.
- 6.7 The proposal accords with all relevant policies, and planning permission should be granted.
- 6.8 It is therefore respectfully suggested that in the absence of any other material considerations that outweigh the strong presumption in favour of development, Members uphold the appeal and grant planning permission.

Appendix 1: - Decision Notice



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

REFUSAL OF PLANNING PERMISSION

**[Heldon And Laich]
Application for Planning Permission**

TO

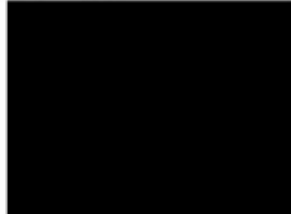


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Revise house design approved under planning consent ref: 23/01668/APP at
Site At Station Road Burghead Elgin Moray**

and for the reason(s) set out in the attached schedule.

Date of Notice: **7 October 2025**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Finance
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, Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposals are contrary to National Planning Framework 4 (NPF4) and Moray Local Development Plan (MLDP 2020) for the following reasons:

1. The proposals to increase the height of the previously approved dwellinghouse (to a height of 5.9, with the provision of a first floor) would be considered out of keeping with the traditional settlement character of the surrounding area, in particular the historical boatyard and harbour area to the east and the Burghead to Culbin Special Landscape Area. The proposed increased height dwelling would also be considered to impact on the setting of the B listed building to the north-west of the site due to its unacceptable scale and bulky design which is considered unacceptable for this location. As such the application is considered to fail to comply with NPF4 Policies 4, 7, 14 and MLDP 2020 Policies DP1, EP3 and EP10.
2. The proposed dwelling is to be located to the south of an existing dwellinghouse and the proposed increased ridge height to approx. 5.9m would be considered to give rise to an unacceptable physical impact and an overbearing loss of amenity to that neighbour. As such the proposals are considered to fail to comply with NPF4 Policy 14 and DP1 in terms of an unacceptable amenity impact.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
		Location Plan
		Proposed Site Plan
		Proposed Elevations Sections Floor Plans

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, 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.

Appendix 2 – Report of Handling

REPORT OF HANDLING

Ref No:	25/00134/APP	Officer:	Fiona Olsen
Proposal Description/ Address	Revise house design approved under planning consent ref: 23/01668/APP at Site At Station Road Burghead Elgin Moray		
Date:	03.10.2025	Typist Initials:	LMC

RECOMMENDATION

RECOMMENDATION		
Approve, without or with condition(s) listed below		N
Refuse, subject to reason(s) listed below		Y
Legal Agreement required e.g. S,75		N
Notification to Scottish Ministers/Historic Scotland		N
Hearing requirements	Departure	N
	Pre-determination	N

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Planning And Development Obligations	05/03/25	None Sought
Environmental Health Manager	05/03/25	No Objections
Contaminated Land	05/03/25	No Objections subject to a condition
Transportation Manager	21/03/25	No Objections subject to conditions and informatives
Scottish Water	10/03/25	No Objections
Aberdeenshire Council Archaeology Service	06/03/25	No Objections
Moray Flood Risk Management	05/03/25	No Objections

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
NPF1 - Tackling the Climate	N	
NPF2 - Climate mitigation and adaptation	N	
NPF3 - Biodiversity	N	
NPF4 - Natural Places	Y	See below
NPF5 - Soils	N	
NPF7 - Historic assets and places	Y	See below
NPF9 - Brownfield, vacant, derelict land	N	
NPF12 - Zero waste	N	
NPF13 - Sustainable transport	N	
NPF14 - Design, quality and place	Y	See below

NPF15 - Local living	N	
NPF22 - Flood risk	N	
NPF23 - Health and safety	N	
PP1 Placemaking	N	
PP2 Sustainable Economic Growth	N	
PP3 Infrastructure and Services	N	
DP1 Development Principles	Y	See below
EP1 Natural Heritage Designation	N	
EP2 Biodiversity	N	
EP7 Forestry Woodland and Trees	N	
EP10 Listed Buildings	Y	See below
EP12 Management and Enhancement Water	N	
EP13 Foul Drainage	N	
EP14 Pollution Contamination Hazards	N	

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 General Data Protection Regulations.		
Summary and Assessment of main issues raised by representations		
<p>Issue: Unacceptable subdivision as the site is under 500m2.</p> <p>Comments (PO): The application is not assessed under MLDP 2020 Policy DP1 (f) which refers to subdivision of existing properties as it does not form part of the garden ground of the houses to the north and has been historically separated in this manner. The site is therefore assessed as an existing brownfield site within the settlement.</p>		
<p>Issue: Unacceptable amenity impact on neighbouring properties.</p> <p>Comments (PO): The rear elevation of the dwelling faces north-east onto the rear gardens of the neighbouring properties. It is noted that only a single ground floor opening is proposed on the rear elevation and that given the level difference between the plots and proposed 1.8m boundary fence, the proposals would not be considered to give rise to any unacceptable loss of privacy or overlooking to any neighbouring property.</p> <p>Given the separation distance and level difference between the site and neighbouring properties, the development is unlikely to give rise to any unacceptable loss of light or overshadowing.</p> <p>It is noted however that the height of the dwelling, in comparison to the existing building, to be replaced, is considered to have an unacceptable physical impact on the neighbouring properties to the rear and has the potential to give rise to an overbearing loss of amenity to the neighbour immediately to the rear.</p>		

Issue: Out of keeping with character of open aspect to south of plots on Granary Street.

Comments (PO): It is noted that there is an established character of open aspect rear plots in this area and that the existing store building has an established traditional character and scale in this setting. To replace this building with a larger, taller building would have an unacceptable negative impact the character of the surrounding area, including the Special Landscape Area and the existing subservient relationship with the neighbouring property.

Issue: Road safety concerns including issues regarding pavement, boundary walls, visibility splays and increase in traffic.

Comments (PO): Moray Council Transportation Section have been consulted and no objections have been raised subject to conditions requiring surfacing of the access onto the public road, provision of one parking spaces, a condition to ensure no boundaries are over 0.9m within 2.4m of the carriageway, a condition to ensure no water or loose material is carried onto the public road and finally a condition to ensure that any new access gate is contained fully within the site.

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 National Planning Framework 4 (NPF4) and Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

Proposal

The application seeks planning permission for the demolition of an existing store and the erection of a one-and-a-half storey house of approx. 5.9m in height.

The dwelling is proposed to finished in black metal cladding and the walls in black timber cladding.

A 1.8m fence and hedge proposed are proposed on the northern, eastern and western boundaries of the side, and a 0.9m fence on the southern boundary onto Station Road. Mixed hawthorn and blackthorn hedging are also proposed within the garden ground.

Site & Site History

The site sits on the end of a block of development on Station Road, Burghead. It is currently occupied by a store building. It was previously part of a boatyard site and was associated with the buildings immediately to the north which have been converted to houses. The application site is a discrete plot of land and does not form part of the garden ground of the houses to the north. The road runs to the south and west of the site. There is garden ground immediately to the north and east of the site. The harbour is to the southwest of the site. The building immediately to the northeast is a listed building. The Burghead Harbour Conservation area is immediately to the west and south of the site but does not include the application site. The site is within the Culbin to Burghead Coast Special Landscape Area.

The neighbouring dwelling to the north, Burghead harbour and the historic settlement of Burghead are identified on the Historic Environment Record (HER) as sites of archaeological interest.

An application was approved in January 2024 to demolish the existing store building and replace with dwelling (23/01668/APP refers) and that application remains live but yet not commenced. The final dwellinghouse design approved under the earlier application was for a small-scale single storey dwelling of no more than 4.1m in height and therefore no higher than the existing store building it

sought to replace. It is noted that the design originally proposed as part of that earlier application was for a one-and-three-quarter storey dwelling with a larger footprint and ridge height of approx. 7.4m. Amended plans were sought and the principle of a house on the site were accepted, albeit with a scale of little more than the existing building.

Principle of Development (NPF4 Policy 9)

NPF4 policy 9 seeks to reduce the need for greenfield development and supports development that will result in the sustainable reuse of brownfield land including buildings.

As noted, there is a live consent on the site for a new dwelling which would replace the existing historical store and therefore the principle of a dwelling is established. The application seeks to alter scale and design of the previously approved dwelling and this is discussed further below.

Design and Impact on Special Landscape Area and Listed Building (NPF4 Policies 7, 14, MLDP 2020 Policies DP1, EP9 and EP10)

NPF4 Policy 14 and DP1 together set out the need for the scale, density and character to be appropriate to the surrounding area to create a sense of place, integrated into the surrounding landscape with no adverse impact upon neighbouring properties in terms of privacy, daylighting, or overbearing loss of amenity.

NPF4 policy 14 requires development in local landscape designations to not have a significant adverse impact effect on the integrity or qualities of that area while Policy EP3 requires development within urban SLAs to reflect the traditional settlement character in terms of siting and design

Policy EP10 and NPF4 Policy 7 require that development proposals be refused where they would have a detrimental effect on the character, integrity or setting of a listed building.

As outlined, the principle of a new dwellinghouse on this site has been established by the earlier consent. The application seeks to alter the previously approved design by increasing the height to approx. 5.9m (an increase of 1.8m from the previously approved height of 4.1m). The footprint area of the house and previously approved external materials remain unaltered. The extended height would provide a one-and-a-half storey dwelling with a bedroom, wardrobe and ensuite on the first floor.

It is noted that the designs originally proposed under the previous consent (23/01668/APP refers) sought a one-and-a-half storey dwelling of the same footprint but with a ridge height of approx. 7.4m. This was altered during the course of that application to a single storey dwelling with a ridge height no higher than the existing outbuilding it sought to replace.

The surrounding area is characterised by traditional and historical buildings previously part of a boatyard site which have been historically converted to dwellings. There is a traditional settlement pattern which includes an open aspect to the rear gardens of the plots to the north and west. The existing outbuilding is also read as a subservient building to the neighbouring properties to the north. The proposal to place a building on this site, which exceeds the height of the existing outbuilding would therefore be considered out of keeping with the traditional settlement character of the surrounding area, in particular the historical boatyard and harbour area to the east and the Burghead to Culbin Special Landscape Area. The proposed increased height dwelling would also be considered to impact on the setting of the B listed building to the north-west of the site due to its unacceptable scale and bulky design which is considered unacceptable for this location.

Therefore, there remains an objection to an increased ridge height and subsequent one-and-a-half storey design dwellinghouse and therefore the proposals to increase the height of the previously approved dwelling by 1.8m to 5.9m are deemed unacceptable and would fail to comply NPF4 Policies 4, 7, 14 and MLDP 2020 Policies DP1, EP3 and EP10.

It is noted that the agent has informally provided draft sketches of further revised proposals. These included an option to slightly decrease the height (to approx. 5.7m to the roof ridge) and a further option to reduce the height to approx. 4.1m (to match the existing consent and outbuilding) but to add an extension to the ground floor footprint of the building to the north to provide a bedroom. Both of these options were considered by the case officer informally but have not been taken forward as part of this proposal due to the continued concern with regard to the impact on the character of the surrounding area.

In summary, the proposals to increase the height of the previously approved dwellinghouse (with a height of 5.9m and provision of a first floor) would be considered out of keeping with the traditional settlement character of the surrounding area, in particular the historical boatyard and harbour area to the east and the Burghhead to Culbin Special Landscape Area. The proposed increased height dwelling would also be considered to impact on the setting of the B listed building to the north-west of the site due to its unacceptable scale and bulky design which is considered unacceptable for this location. As such, the proposals are considered to fail to comply with NPF4 Policies 4, 7, 14 and MLDP 2020 Policies DP1, EP3 and EP10.

Impact on Amenity (NPF4 Policy 14, DP1)

The proposed dwelling is to be located to the south and south-west of existing dwellinghouses. The proposed increased ridge height to approx. 5.9m, if allowed, would be expected to give rise to an unacceptable physical impact and an overbearing loss of amenity to the neighbour immediately to the north. As such, the proposals are considered to fail to comply with NPF4 Policy 14 and DP1 in terms of an unacceptable amenity impact.

Given the separation distance and level difference between the dwelling and neighbouring property to the north, the increased height would not be considered to give rise to an unacceptable loss of light when the 25-degree approach is used.

In terms of any loss of privacy or overlooking, upper floor openings are only proposed on the south-west elevation which do not face onto any neighbouring properties. Any ground floor openings are limited on the north-west and north-east elevations and would be screened by proposed fencing and hedging.

These considerations however would not override the aforementioned objections with regard to the unacceptable scale and design of the building which would give rise to an unacceptable physical impact to the neighbouring property to the north and impact on the character and setting of the surrounding historical area and listed building and as such the application will be refused.

Drainage (NPF4 Policy 22, DP1, EP12 and EP13)

The site is not within any areas identified to be at risk of flooding. A Drainage Statement has been provided which outlines that any additional surface water will be directed to a new soakaway within the site. Moray Flood Risk Management have been consulted and have raised no objections therefore the drainage proposals would comply with policy DP1. Should the application be approved the installation of the surface water drainage would be a matter to be controlled by condition on any final consent.

The development is proposed to be connected to the existing foul sewer and public water supply. Scottish Water have been consulted and no objections have been raised.

Climate Change, Biodiversity and Soils (NPF4 Policies 1, 2, 3 and 5, EP2)

The proposal seeks to make design alterations to a previously approved development for a single house. The proposals will result in minimal impact in terms of climate change and soil disturbance. Native hedging is proposed to be planted within the site to aid to screen the development and this is considered suitable biodiversity enhancement for a proposal of this nature and scale. Therefore the proposal is deemed to comply with NPF4 Policies 1, 2, 3 and 5 and EP2.

Protected Species (NPF4 Policy 4, EP1)

As bats are a European Protected Species, the impact of the proposal on the species must be considered prior to determining the application and in line with the current Habitat Regulations 1994 as amended.

The existing outbuilding to be dismantled is small scale and a bat survey was not previously sought as part of the earlier application approved in 2024. Should the application be approved, an informative would be added to any final consent to remind the developer of their duties should any evidence of bats be uncovered during construction works and this would ensure compliance with NPF4 Policy 4 and EP1.

Parking and Access (NPF4 Policy 18, DP1)

The site is to be accessed via an existing access onto the adopted road to the south of the site. Parking for a single vehicle is shown on the plans. The Council's Transportation Section have been consulted and have provided no objections, subject to compliance with conditions requiring surfacing of the access, provision of a car parking space and conditions to ensure no boundary enclosures exceed 0.9m within 2.4m of the carriageway, no loose material is carried onto the carriageway and finally that the opening path of any new access gate is fully contained within the site and does not encroach onto the carriageway.

As outlined the application will be subsequently refused however should any application be approved, these matters would require to be controlled by condition.

A Core Path runs along the south of the site. The Moray Access Manager was consulted as part of the previous application (23/01668/APP refers) and no objections were raised. It is not considered that the design alterations would impact on the core path as the site boundaries are unaltered from the previous consent which remains live. The Moray Access Manager again has no objections.

Developer Obligations and Affordable Housing (PP3, NPF4 Policy 16)

Developer Obligations and Affordable Housing Contributions were sought and paid as part of the earlier application which remains live. Whilst the application will be refused, should the application have been recommended for approval, no further contributions would be sought.

Conclusion

The proposals to increase the height of the previously approved dwellinghouse (to a height of approx. 5.9m, with the provision of a first floor) would be considered out of keeping with the traditional settlement character of the surrounding area, in particular the historical boatyard and harbour area to the east and the Burghead to Culbin Special Landscape Area. The proposed increased height dwelling would also be considered to impact on the setting of the B listed building to the north-west of the site due to its unacceptable scale and bulky design which is considered unacceptable for this location. As such the application is considered to fail to comply with NPF4 Policies 4, 7, 14 and MLDP 2020 Policies DP1, EP3 and EP10.

Furthermore, the proposed dwelling is to be located to the south of an existing dwellinghouse and the proposed increased ridge height to approx. 5.9m would be considered to give rise to an unacceptable physical impact and an overbearing loss of amenity to that neighbour. As such the proposals are considered to fail to comply with NPF4 Policy 14 and DP1 in terms of an unacceptable amenity impact.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description		
23/01668/APP	Demolish shed and erect dwellinghouse (as amended) on Site At Station Road Burghead Moray		
	Decision	Permitted	Date Of Decision 14/02/24

ADVERT		
Advert Fee paid?	N/A	
Local Newspaper	Reason for Advert	Date of expiry

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?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

S.75 AGREEMENT		
Application subject to S.75 Agreement		NO
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)			

Natural places

Policy Principles

Policy Intent:

To protect, restore and enhance natural assets making best use of nature-based solutions.

Policy Outcomes:

- Natural places are protected and restored.
- Natural assets are managed in a sustainable way that maintains and grows their essential benefits and services.

Local Development Plans:

LDPs will identify and protect locally, regionally, nationally and internationally important natural assets, on land and along coasts. The spatial strategy should safeguard them and take into account the objectives and level of their protected status in allocating land for development. Spatial strategies should also better connect nature rich areas by establishing and growing nature networks to help protect and restore the biodiversity, ecosystems and natural processes in their area.

Policy 4

- Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.
- Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an "appropriate assessment" of the implications for the conservation objectives.
- Development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:
 - The objectives of designation and the overall integrity of the areas will not be compromised; or
 - Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

All Ramsar sites are also European sites and/or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.
- Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:
 - Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or
 - Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.
- The precautionary principle will be applied in accordance with relevant legislation and Scottish Government guidance.
- Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application.

g) Development proposals in areas identified as wild land in the Nature Scot Wild Land Areas map will only be supported where the proposal:

- i. will support meeting renewable energy targets; or,
- ii. is for small scale development directly linked to a rural business or croft, or is required to support a fragile community in a rural area.

All such proposals must be accompanied by a wild land impact assessment which sets out how design, siting, or other mitigation measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements where appropriate. Buffer zones around wild land will not be applied, and effects of development outwith wild land areas will not be a significant consideration.

Policy impact:

- ✔ Just Transition
- ✔ Conserving and recycling assets
- ✔ Rebalanced development
- ✔ Rural revitalisation

Key policy connections:

[Tackling the climate and nature crises](#)

[Climate mitigation and adaptation](#)

[Biodiversity](#)

[Soils](#)

[Forestry, woodland and trees](#)

[Historic assets and places](#)

[Green belts](#)

[Coastal development](#)

[Energy](#)

[Design, quality and place](#)

[Blue and green infrastructure](#)

[Play, recreation and sport](#)

[Flood risk and water management](#)

[Rural development](#)

[Tourism](#)

Historic assets and places

Policy Principles

Policy Intent:

To protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.

Policy Outcomes:

- The historic environment is valued, protected, and enhanced, supporting the transition to net zero and ensuring assets are resilient to current and future impacts of climate change.
- Redundant or neglected historic buildings are brought back into sustainable and productive uses.
- Recognise the social, environmental and economic value of the historic environment, to our economy and cultural identity.

Local Development Plans:

LDPs, including through their spatial strategies, should support the sustainable management of the historic environment. They should identify, protect and enhance valued historic assets and places.

Policy 7

- a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.

Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.

- b) Development proposals for the demolition of listed buildings will not be supported unless it has been demonstrated that there are exceptional circumstances and that all reasonable efforts have been made to retain, reuse and/or adapt the listed building. Considerations include whether the:
- i. building is no longer of special interest;
 - ii. building is incapable of physical repair and re-use as verified through a detailed structural condition survey report;
 - iii. repair of the building is not economically viable and there has been adequate marketing for existing and/or new uses at a price reflecting its location and condition for a reasonable period to attract interest from potential restoring purchasers; or
 - iv. demolition of the building is essential to delivering significant benefits to economic growth or the wider community.
- c) Development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.
- d) Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the:
- i. architectural and historic character of the area;
 - ii. existing density, built form and layout; and
 - iii. context and siting, quality of design and suitable materials.
- e) Development proposals in conservation areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting, including structures, boundary walls, railings, trees and hedges, are retained.

- f) Demolition of buildings in a conservation area which make a positive contribution to its character will only be supported where it has been demonstrated that:
 - i. reasonable efforts have been made to retain, repair and reuse the building;
 - ii. the building is of little townscape value;
 - iii. the structural condition of the building prevents its retention at a reasonable cost; or
 - iv. the form or location of the building makes its reuse extremely difficult.
- g) Where demolition within a conservation area is to be followed by redevelopment, consent to demolish will only be supported when an acceptable design, layout and materials are being used for the replacement development.
- h) Development proposals affecting scheduled monuments will only be supported where:
 - i. direct impacts on the scheduled monument are avoided;
 - ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or
 - iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.
- i) Development proposals affecting nationally important Gardens and Designed Landscapes will be supported where they protect, preserve or enhance their cultural significance, character and integrity and where proposals will not significantly impact on important views to, from and within the site, or its setting.
- j) Development proposals affecting nationally important Historic Battlefields will only be supported where they protect and, where appropriate, enhance their cultural significance, key landscape characteristics, physical remains and special qualities.
- k) Development proposals at the coast edge or that extend offshore will only be supported where proposals do not significantly hinder the preservation objectives of Historic Marine Protected Areas.
- l) Development proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved.
- m) Development proposals which sensitively repair, enhance and bring historic buildings, as identified as being at risk locally or on the national Buildings at Risk Register, back into beneficial use will be supported.
- n) Enabling development for historic environment assets or places that would otherwise be unacceptable in planning terms, will only be supported when it has been demonstrated that the enabling development proposed is:
 - i. essential to secure the future of an historic environment asset or place which is at risk of serious deterioration or loss; and
 - ii. the minimum necessary to secure the restoration, adaptation and long-term future of the historic environment asset or place.

The beneficial outcomes for the historic environment asset or place should be secured early in the phasing of the development, and will be ensured through the use of conditions and/or legal agreements.
- o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Where impacts cannot be avoided they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority to enable agreement on appropriate inspection, recording and mitigation measures.

Policy impact:

- ✓ Just Transition
- ✓ Conserving and recycling assets
- ✓ Local living
- ✓ Compact urban growth
- ✓ Rebalanced development
- ✓ Rural revitalisation

Key policy connections:

[Tackling the climate and nature crises](#)
[Climate mitigation and adaptation](#)
[Natural places](#)
[Forestry, woodland and trees](#)
[Green belts](#)
[Brownfield, vacant and derelict land and empty buildings](#)
[Coastal development](#)
[Energy](#)
[Design, quality and place](#)
[Local Living and 20 minute neighbourhoods](#)
[Infrastructure first](#)
[Quality homes](#)
[Rural homes](#)
[Blue and green infrastructure](#)
[Flood risk and water management](#)
[Digital infrastructure](#)
[Community wealth building](#)
[City, town, local and commercial centres](#)
[Rural development](#)
[Tourism](#)
[Culture and creativity](#)



Liveable Places

Design, quality and place

Policy Principles

Policy Intent:

To encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.

Policy Outcomes:

- Quality places, spaces and environments.
- Places that consistently deliver healthy, pleasant, distinctive, connected, sustainable and adaptable qualities.

Local Development Plans:

LDPs should be place-based and created in line with the Place Principle. The spatial strategy should be underpinned by the [six qualities of successful places](#). LDPs should provide clear expectations for design, quality and place taking account of the local context, characteristics and connectivity of the area. They should also identify where more detailed design guidance is expected, for example, by way of design frameworks, briefs, masterplans and design codes.

Planning authorities should use the Place Standard tool in the preparation of LDPs and design guidance to engage with communities and other stakeholders. They should also where relevant promote its use in early design discussions on planning applications.

Policy 14

- Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
- Development proposals will be supported where they are consistent with the six qualities of successful places:

Healthy: Supporting the prioritisation of women's safety and improving physical and mental health.

Pleasant: Supporting attractive natural and built spaces.

Connected: Supporting well connected networks that make moving around easy and reduce car dependency

Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.

Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.

Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.

Further details on delivering the [six qualities of successful places](#) are set out in Annex D.

- Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

Policy impact:

- ✓ Just Transition
- ✓ Conserving and recycling assets
- ✓ Local living
- ✓ Compact urban growth
- ✓ Rebalanced development
- ✓ Rural revitalisation

Key policy connections:

[All other policies.](#)

Appendix 6 – MLDP Policy EP3 Special Character Areas and Landscape Character

ENVIRONMENTAL POLICIES



EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER

i) Special Landscape Areas (SLA's)

Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation Review, adopt the highest standards of design in accordance with Policy DP1 and other relevant policies, minimises adverse impacts on the landscape and visual qualities the area is important for, and are for one of the following uses;

- a) In rural areas (outwith defined settlement and rural grouping boundaries);
 - i) Where the proposal involves an appropriate extension or change of use to existing buildings, or
 - ii) For uses directly related to distilling, agriculture, forestry and fishing which have a clear locational need and demonstrate that there is no alternative location, or
 - iii) For nationally significant infrastructure developments identified in the National Planning Framework,
- b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);
 - i) Where proposals conform with the requirements of the settlement statements, Policies PP1, DP1 and DP3 as appropriate and all other policy requirements, and
 - ii) Proposals reflect the traditional settlement character in terms of siting and design.
- c) The Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen Coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's are classed as "sensitive" in terms of Policy DP4 and no new housing in the open countryside will be permitted within these SLA's.



Proposals for new housing within other SLA's not specified in the preceding para will be considered against the criteria set out above and the criteria of Policy DP4.

- d) Where a proposal is covered by both a SLA and CAT or ENV policy/designation, the CAT policy or ENV policy/designation will take precedence.

ii) Landscape Character

New developments must be designed to reflect the landscape characteristics identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon the local hydrology and takes account of recreational use of the track and links to the wider network.

Justification/ Notes

The aim of this policy is to protect landscapes from inappropriate development. The SLA's are identified on the Proposals Map and supported by special qualities set out in the Moray Local Landscape Designation Review 2018 . Moray enjoys a very high quality and diversity of landscapes and proposals which are likely to result in a significant adverse impact on the landscape will not be supported.

The policy also aims to ensure that all new development reflects the landscape quality of Moray and developments should be designed in accordance with the Landscape Character Assessment for Moray and Nairn 2019 which will be a material consideration. Hill tracks formed in association with rural development can have a significant adverse impact upon the landscape and need to be sensitively designed.

EP4 COUNTRYSIDE AROUND TOWNS

Development proposals within the Countryside Around Towns (CAT's) areas identified around Elgin, Forres, Buckie, Keith and Lossiemouth will be refused unless they;

- Involve the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or
- Are necessary for the purposes of agriculture, forestry, low intensity recreational or tourism use or specifically allowed under the terms of other Local Development Plan policies or settlement statements within these areas (excluding houses in all these cases), or
- Are a designated "LONG" term housing allocation released for development under the terms of Policy DP3.

Countryside Around Town areas are classed as "sensitive" areas in terms of Policy DP4 Rural Housing and no new rural housing will be permitted within them unless the above criteria is met.

Justification/Notes

The five main towns of Elgin, Forres, Buckie, Keith and Lossiemouth are subject to the highest development pressures and CAT's have been designated to prevent development sprawl into the countryside. Only certain types of development are appropriate within CAT's to protect their special character. New housing development (other than under criteria a) and any LONG designations released through Policy DP3) is specifically excluded from the types of acceptable development, to maintain and preserve the distinction with the built up area.



Appendix 7 – MLDP Policy DP1 Development Principles

DEVELOPMENT POLICIES

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.



(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviers, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.



(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

Justification/ Notes

The policy sets out detailed criteria to ensure that proposals meet siting, design and servicing requirements, provide sustainable drainage arrangements and avoid any adverse effects on environmental interests.



Appendix 8 – MLDP Policy EP10 Listed Buildings

ENVIRONMENTAL POLICIES

EP10 LISTED BUILDINGS

Development proposals will be refused where they would have a detrimental effect on the character, integrity or setting of a listed building. Alterations and extensions to listed buildings or new developments within their curtilage must be of the highest quality, and respect the original structure in terms of setting, scale materials and design.

No listed building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Where the demolition of a listed building is proposed it must be shown that;

- The building is not of special interest or
- The building is incapable of repair.
- The demolition of the building is essential to delivering significant benefits to economic growth or the wider community.
- The repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable price.



New development must be of a comparable quality and design to retain and enhance special interest, character and setting of the listed building (s).

Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building (s). The resulting development should be of a high design quality protecting the listed building (s) and their setting and be the minimum necessary to enable its conversion and re-use.

Justification/ Notes

Listed buildings are an important part of Moray's heritage and contribute to its sense of place. The aim of this policy is to protect listed buildings from inappropriate development so that it is safeguarded for future generations.

Proposals to extend or convert listed buildings must retain their existing character as must proposals within the curtilage of listed buildings and demolition will only be considered as a last resort. Applications for the demolition of listed buildings must be supported by sufficient information to evidence that every effort has been made to safeguard it.

Enabling development to assist the retention of listed buildings is supported in principle. It should be noted however that the new development is to address the conservation deficit as opposed to funding the restoration and the preservation of the setting of the listed building will remain a key consideration.



