



## SCOTTISH EXECUTIVE

Development Department  
Inquiry Reporters Unit

4 The Courtyard, Callendar Business Park  
Callendar Road, FALKIRK FK1 1XR

DX 557005 FALKIRK

Telephone: 01324 696 451

Fax: 01324 696 444

[http://www.scotland.gov.uk/planning\\_appeals/seiru](http://www.scotland.gov.uk/planning_appeals/seiru)

Your ref: CTK/CK/04-24

Our ref: P/PPA/300/222

29 January 2007

Mr C T Keir  
PLANS PLUS  
Main Street  
Urquhart  
Elgin  
Moray  
IV30 8LG

Dear Sir,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4  
PLANNING APPEAL BY MISS B JEFFERIS: ERECTION OF A DWELLING HOUSE ON PLOT A AT CLACHBRAKE, CRAIGELLACHIE, ABERLOUR**

1. I refer to your client's appeal, which I have been appointed to determine, against the refusal of outline planning permission by the Moray Council for the erection of a dwelling house on Plot A, Clachbrake, Craigellachie, Aberlour. I have considered the written submissions and made an accompanied inspection of the appeal site and the surrounding area on 12 December 2006. For the reasons explained in this letter, I have decided to allow the appeal and grant outline planning permission.

2. **The appeal site** (0.138ha) is part of an agricultural holding in open countryside. It is located on the southeast corner of a junction of a minor road leading northwest to Allachrow and southeast to join the B9102, and unclassified roads leading northeast to Clachbrake and west to Whitehillock. The landscape comprises undulating hills and valleys rising to the 200m contour at the site from 150m at the B9102 road junction; to the north of the site the land continues to rise beyond the 300m contour. The dispersed settlement pattern in the locality consists of a mix of traditional farms and new houses.

3. **The outline planning application** proposed the erection of a dwelling house. Water would be taken from the public mains and drainage would be to a septic tank and soakaway. A 2m high earth embankment on the south and east boundaries would be grassed and planted with deciduous trees. Access would be taken off the road leading to Clachbrake.



4. **In response to the outline planning application**, there were no objections. Transportation and Environmental Protection Services of the council recommended standard conditions relating to road safety and potential ground contamination. Scottish Water recommended compliance with regard to connection to the public water main and that the location of a septic tank should allow easy access for emptying by tanker.

5. **Planning permission was refused** for the following reason:

“1. The proposal is contrary to Moray Structure Plan policies S/H1, S/H4 & S/IMP1 and Moray Local Plan policies L/HC3, L/IMP2 & L/IMP3 because:

- The proposal would involve random and sporadic development which is out of keeping with, and detrimental to, the character and amenity of the area.
- The proposal would significantly contribute to the undesirable precedent for further residential developments in the locality.
- The site fails to blend in obtrusively with the surrounding area and would be a visually prominent feature in the landscape.”

6. **The development plan** comprises the Moray Structure Plan (MSP), approved in 1999 and the Moray Local Plan (MLP), adopted in 2000. MSP policy S/H1 ‘Approach to Housing Development’ generally directs new housing to existing settlements and communities and MSP policy S/H4 ‘House Building in the Countryside’ presumes in favour of house building in south and east Moray within rural communities and on well located and designed sites in the countryside. MSP policy S/IMP1 ‘Development Siting Layout and Design’ sets out the criteria for new development. The most relevant in this appeal case relates to the scale, density and character of a development being appropriate to the surrounding area and its integration into the landscape. MLP policy L/HC3 ‘New Houses in the Open Countryside’ provides detailed guidance for development to respect the traditional pattern of settlement. The guidance includes position (along or with a group of buildings), and the avoidance of a build up of residential development, which might lead to suburban style groupings or ribbon development. Within a dispersed settlement, development should integrate with existing landforms utilising natural features to provide a backdrop. In south and east Moray 50% of a site boundary must be established on the ground and the remaining boundaries should be formed by natural stone dykes, planting schemes and mounding of site material to enclose the site. MLP policy L/IMP2 ‘Development in Rural Areas’ sets out the guidelines for development to be compatible in terms of character, amenity and design. MLP policy L/IMP3 ‘New Building Design’ requires consideration of appropriate location; placement on a site; size and form in relation to the skyline and landform; density, layout and orientation; and the use of materials and colours in relation to setting and environmental impact.

7. **On behalf of your client**, you draw attention to examples of recently constructed houses and further housing approvals in the locality, all of which you state have been permitted under current local plan policy. The boundaries of the site would comprise the existing minor road to the west and the unclassified road to the north; and newly formed natural boundaries to the south and east, which would separate the site from the surrounding agricultural land. You consider that these boundaries and the setting of the site with the rising hills to the northeast would integrate the proposal into the open countryside, and into the dispersed pattern of settlement in the locality.

8. You state that there is a demand for housing in south and east Moray and that the proposed house would provide accommodation for an elderly relative. The site would be accessible to the

minor road and 500m from bus transport. The proposal would not set a precedent, as further development would need to comply with council policy.

9. **The council** acknowledges that the proposal complies with MLP policy L/HC3 as the site has established boundaries of post and wire fencing and public roadways along the north and west sides. However, the site is not located in a designated settlement and is considered to represent unplanned sporadic development in the open countryside, which fails to reflect the established dispersed pattern of the locality.

10. The council's view is that approval of an additional dwelling would significantly increase the undesirable precedent for further residential development in this rural location. Planning permissions have already been granted for eleven dwellings at distances ranging from 200m to 880m from the appeal site.

11. The site is located on elevated land and a dwelling at this location would occupy a prominent position. The proposed earth embankment, which would do little to shield the development, would be an alien feature in the landscape. Therefore, the council considers that the development would fail to integrate sensitively with the landscape.

## CONCLUSIONS

12. Section 25 of the Act requires my determination in this case to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. I consider, based on my inspection of the appeal site and the written submissions, that the issues to be determined are whether the proposal is consistent with the relevant provisions of the MSP and the MLP, and whether an exception to these provisions is justified by other material considerations.

13. **With regard to the development plan**, the proposal is located in open countryside where the original dispersed settlement pattern of traditional dwellings has been extended and intensified with the construction of new houses, which will be augmented with the implementation of extant planning permissions. The proposal would accord with the strategic direction for housing development in the countryside set by MSP policies S/H1 and S/H4 in this part of rural Moray.

14. The location and site for the proposed house would not be adjacent to any other property or group of properties and would not therefore result in either a suburban style grouping or ribbon development. Its accessibility to the local road network and public transport connections would facilitate its integration into the dispersed settlement pattern. For these reasons, I do not consider that the proposal would be out of character with the dispersed pattern of settlement nor that it can be described as random or sporadic.

15. The appeal site occupies a prominent position on the roadside from which there are extensive views across the landscape. The rising hills to the north are in the background. Its setting within an expansive landscape would counterbalance its visibility from the roadside. In compliance with MSP policy S/IMP1, MLP policies L/HC3, L/IMP2 and L/IMP3, 50% of the boundaries are established and the proposal includes earth mounding and planting on the south and east boundaries to provide separation from the surrounding agricultural land. Landscaping would soften the boundaries of the site and reduce the visibility of the proposed house.

16. For the reasons given in paragraphs 13, 14 and 15 above, I conclude that the principle of the erection of a dwelling house on this appeal site would be in accordance with the development plan.

I have taken account of all the other matters raised but find none that outweigh the considerations on which my decision is based. In exercise of the powers delegated to me I therefore allow your client's appeal and, in response to your client's outline planning application dated 21 April 2006 (ref. 06/00932/OUT), grant outline planning permission subject to the following conditions:

1. The development hereby permitted shall commence within 5 years from the date of this permission, or within 2 years from the date on which the last of reserved matters is approved, whichever is the later.  
*Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997.*
2. Before the expiration of 3 years from the date of this outline planning permission, and before development commences, a written application and plans in respect of the following reserved matters shall be submitted to and approved by the council:
  - (1) The layout of the site showing the position of site boundaries, buildings, means of access, vehicle parking areas, and arrangements for the disposal of foul and surface water.
  - (2) Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes.
  - (3) Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening.
  - (4) Sections through the site showing the development on its finished levels in relation to the existing levels.
  - (5) Landscaping proposals showing the details of the type, position and number of planting to be undertaken and details of all surfacing materials.*Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997.*
3. The design of the property shall comply with the requirements of policy L/HC5 of the Moray Local Plan, including the interpretation of policy regarding proportions of gable width and roof pitches.  
*Reason: In order to ensure that the proposed development harmonises with the appearance and character of the surrounding properties and area.*
4. The further application required under Condition 2 above shall include:
  - (1) No boundary fences, hedges, walls or any obstruction over 1m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.
  - (2) Two private car parking spaces for up to a three bed-roomed dwelling and three private car parking spaces for a four or more bed-roomed dwelling shall be provided.
  - (3) Access must be taken from the existing unclassified road to Clachbrake.*Reason: In the interests of road safety.*
5. If significant unsuspected contamination is found then all work shall cease until an appropriate investigation to determine the nature, extent and potential impacts of the contamination has been undertaken and a remediation method statement agreed with the council.



*Reason: In order to safeguard the health and safety of the occupants of the property from the effects of harmful ground contamination.*

6. No development shall commence until details of a gas proof membrane to be installed under the house, or any extension, garage, shed, greenhouse, outbuilding or summerhouse not requiring planning permission, have been submitted to and approved in writing by the council.

*Reason: In order to safeguard the health and safety of the occupants of the property from the effects of harmful ground gases.*

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any such order revoking or re-enacting that order), no development shall take place within the curtilage of the application site other than that expressly authorised by this permission without the prior written consent of the council.

*Reason: In the interest of amenity and in order to retain effective planning control.*

17. This decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

18. A copy of this letter has been sent to the Moray Council and to Scottish Water.

Yours faithfully,

This was the version issued to parties on 29 January 2007.

Krystyna Robinson  
Reporter

## Appeal Decision Notice

T: 01324 696 400  
F: 01324 696 444  
E: [dpea@scotland.gsi.gov.uk](mailto:dpea@scotland.gsi.gov.uk)



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Decision by Don Rankin, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/300/307
- Site address: site at Moss Side, Newmill, by Keith, Moray, AB55 6UD
- Appeal by Mr Stanley Geddes against the decision by The Moray Council
- Application for outline planning permission 08/00251/OUT dated 5 February 2008 refused by notice dated 20 March 2008
- The development proposed: erect a new dwelling house
- Application drawings: location plan
- Date of site visit by Reporter: 13 November 2008

Date of appeal decision: 30 December 2008

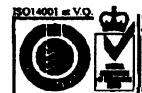
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### Decision

I allow the appeal and grant outline planning permission, subject to the 8 conditions in the attached schedule.

### Reasoning

1. The determining issues in this appeal are: (1) whether the proposal would accord with policy 1(e) of the Moray Structure Plan (MSP) and policies L/HC3, L/IMP2 and L/IMP3 of the Moray Local Plan 2000 (MLP) with respect to development in the countryside; (2) whether the proposal would set a precedent for such development and notwithstanding, (3) whether approval or refusal is justified by other material considerations, including the policies of the emerging Moray Local Plan 2008 (EMLP).
2. The main thrust of the policies of the development plan with respect to development in the countryside is the need to reflect the local settlement pattern and to blend sensitively into the surrounding landscape. Nearby housing is dispersed with individual houses at Moss Side and Glenview, and what appears to be a terrace of farm buildings at Wellside. Moss Side lies in a hollow, and Wellside is relatively well screened by mature trees along the roadside. Glenview, a more recent development, is noticeable for its prominence in the landscape, standing alone on the skyline. The appeal site is part of a gently sloping open field adjoining an exposed stretch of road in open countryside.
3. The proposed dwelling, access and the attendant paraphernalia of a domestic garden would be a prominent development in this open field, though in my view, no more so than other nearby development. Although delineated by existing roads on two sides, the other boundary, a curving line through the existing relatively flat field could be separated from the adjoining field by the planting of hedgerows or trees in a manner similar to existing nearby development and with less prominence in the landscape than Glenview on the



hillside above. There are no other residential properties adjoining the site. The backdrop to the west would be formed by both the rising ground, the mass of Glenview itself, and to the north west by the mature trees at Wellside. I conclude therefore that the proposed dwelling would blend with the existing, dispersed pattern of settlement; it would have 50% existing natural boundaries and could be landscaped to integrate the dwelling into its rural setting. I conclude that the proposal would not therefore be contrary to with policy 1(e) of the MSP and policies L/HC3, L/IMP2 and L/IMP3 of the MLP with respect to development in the countryside.

4. The emerging Moray Local Plan 2008 (EMLP) is at an advanced stage in its preparation and I therefore give significant weight to its policies. With respect to the development of individual houses in the countryside the policy thrust is essentially the same as the extant local plan in that there is support for housing development in appropriate locations which will assist the retention of population and services in this predominantly rural area. Such houses must be of a scale and character appropriate to the surrounding area and be capable of integration into the surrounding landscape, (EMLP policies H8 and IMP1). For the reasons given above I consider the proposal to meet these requirements.

5. With respect to the issue of precedent, raised by the council, each case is considered on its merits. I have been conscious of the effect of the recent development of Glenview in extending the pattern of settlement in the area. The proposed house however, would be on a relatively isolated site and would not therefore significantly alter the existing dispersed pattern of development. Additional houses adjoining or near to that proposed might be regarded as having an adverse effect on that dispersed settlement pattern, but that would not be as a direct result of the current proposal. I do not therefore consider that the appeal proposal would set an adverse precedent for future development.

6. For the foregoing reasons, and having regard to all other matters raised, I conclude that the proposal is in accord with the policies of the structure and local plans already referred to and that in consequence the appeal should be allowed, subject to the conditions in the attached schedule.

[REDACTED]  
Don Rankin  
Reporter

#### **Schedule of conditions**

- 1) (a) Application for the approval of any reserved matter must be made before:-
  - i. expiration of 3 years from the date of the grant of outline planning permission; or
  - ii. expiration of 6 months from the date on which an earlier application for such approval was refused; or
  - iii. expiration of 6 months from the date on which an appeal against such refusal was dismissed; whichever is the latest: provided that only one such

application may be made in the case after the expiration of the 3 year period noted in sub-paragraph (i) above.

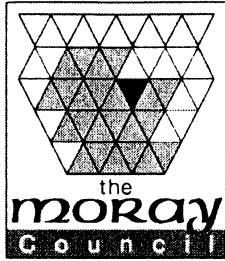
(b) The development to which the permission relates must be begun not later than whichever is the later of the following dates:-

- i expiration of 5 years from the date of the grant of outline planning permission; or
- ii expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates the final approval of the last of such matters to be approved.

(Reason: to comply with section 59 of the act.)

- 2) The permission hereby granted is in outline and prior to the commencement of the development approval of details, including the siting, design and external appearances of the building(s) and the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority. (Reason: outline permission requires detailed consideration of the matters specified.)
- 3) The proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved in writing by the local planning authority. These drawings shall show the reserved matters numbered 4-8 below. (Reason: outline permission requires detailed consideration of the matters specified.)
- 4) Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition no.3 above. (Reason: outline permission requires detailed consideration of the matters specified.)
- 5) The proposed layout of the site showing the exact position of the site boundaries, the position of all buildings, the means of access, areas for vehicle parking, and the arrangements for the disposal of foul and surface water shall be submitted in accordance with condition no.3 above. (Reason: outline permission requires detailed consideration of the matters specified.)
- 6) Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no.3 above. (Reason: outline permission requires detailed consideration of the matters specified.)
- 7) Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no.3 above. (Reason: outline permission requires detailed consideration of the matters specified.)
- 8) Landscaping proposals showing any existing trees/hedges/shrubs to be retained or removed together with details of the type, position and number of all planting to be undertaken and details of all surfacing materials shall be submitted in accordance with condition no.3 above. (Reason: outline permission requires detailed consideration of the matters specified.)





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

**REFUSAL OF PLANNING PERMISSION**

**[Keith And Cullen]  
Outline Application**

TO Mr Stephen Moir  
c/o Plans Plus  
Main Street  
URQUHART  
By Elgin  
Moray  
IV30 8LG

**Outline to erect new dwellinghouse at Clayland Auchairn Aultmore By  
Keith Moray**

With reference to your application for outline planning permission in conditions 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: -

**Outline to erect new dwellinghouse at Clayland Auchairn Aultmore By  
Keith**

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

Date of Notice: **21st September 2009**

**HEAD OF DEVELOPMENT SERVICES**

Environmental Services Department  
The 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, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposal is contrary to policy 1(e) of the Moray Structure Plan 2007 and policies H8 and IMP1 of the adopted Moray Local Plan 2008 for the following reasons:

The proposal would be located within an open rural setting of largely uniform landform character, which would lack sufficient backdrop to offset its prominence when viewed from the adjoining public road network. The resultant development would represent inappropriate 'overtly prominent' development in the countryside, that would neither be low-impact nor well located and which would detract from the rural character of this part of the countryside. No material considerations exist to warrant a departure from policy and if approved the proposal would set an undesirable precedent for further applications to be submitted in the locality.

**LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

The following plans and drawings form part of the decision:

Reference	Title
07-157	Site and location plan

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,  
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

None.

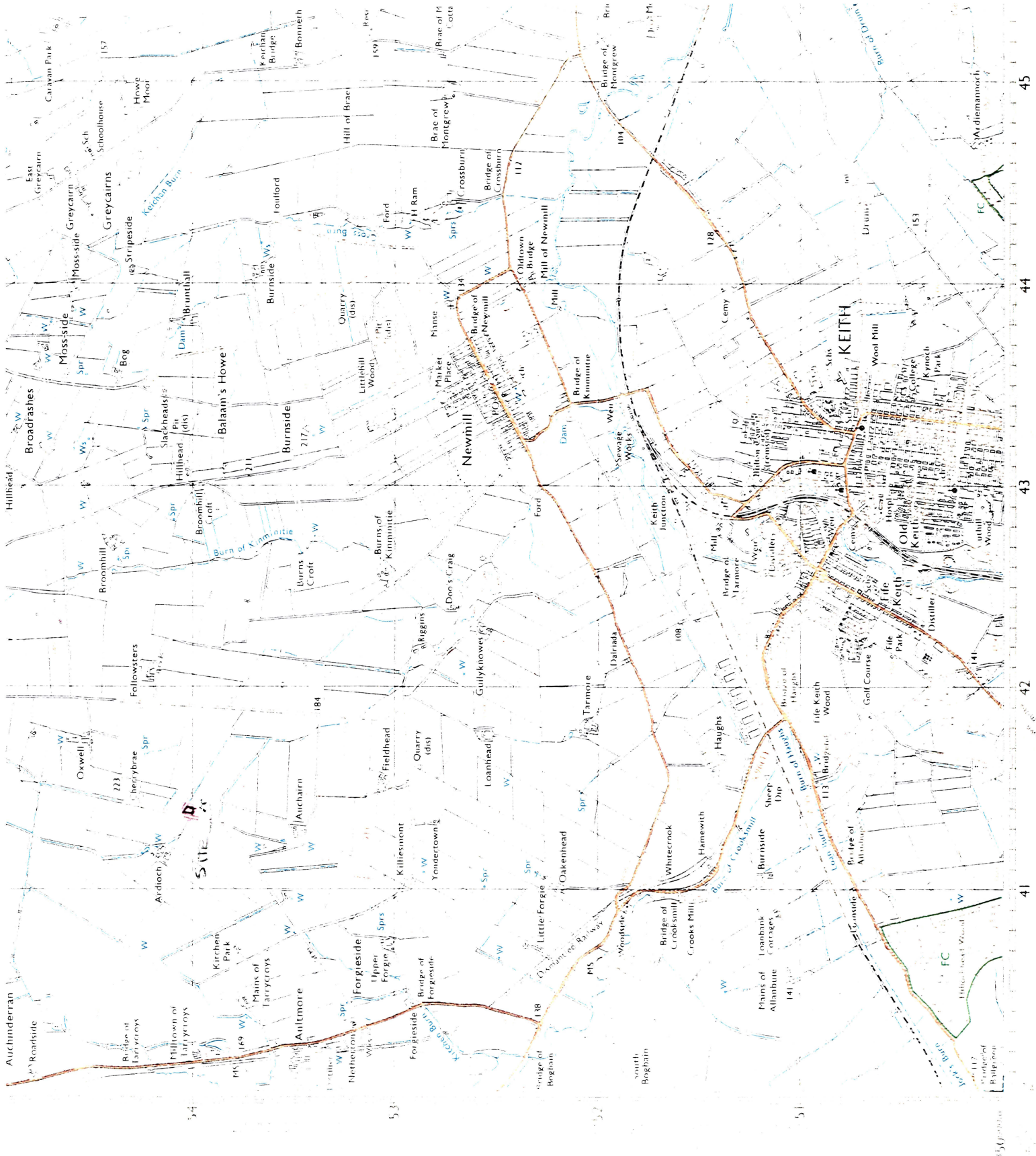
**DETAILS OF MATTERS SPECIFIED IN CONDITIONS**

Approval, consent or agreement has been GRANTED for the following matter(s): -

None.

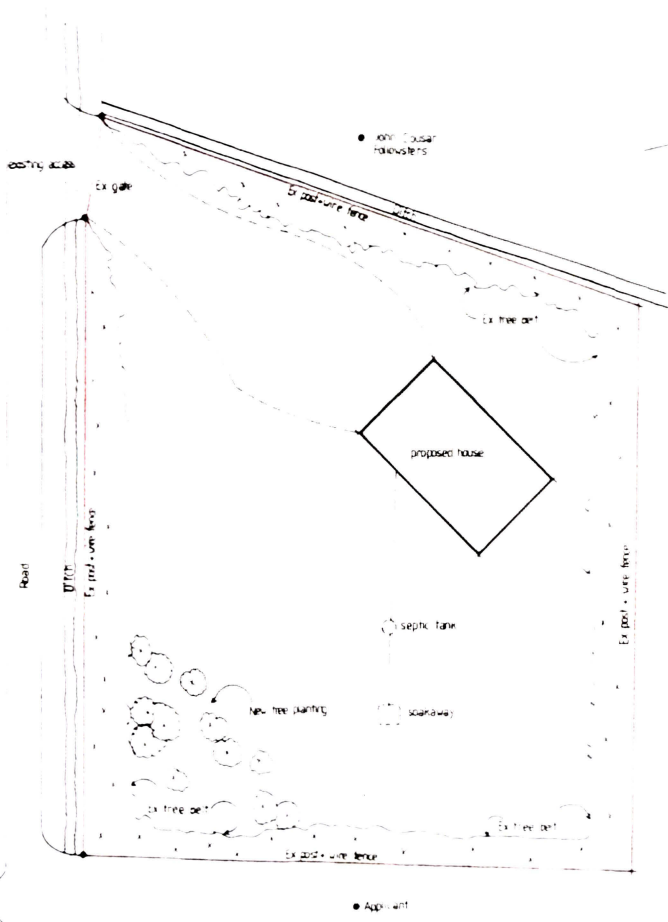
The matter(s) was/were specified in conditions imposed on the earlier grant of planning permission: -

None.



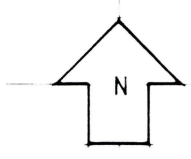
RECEIVED  
18 MAY 2009





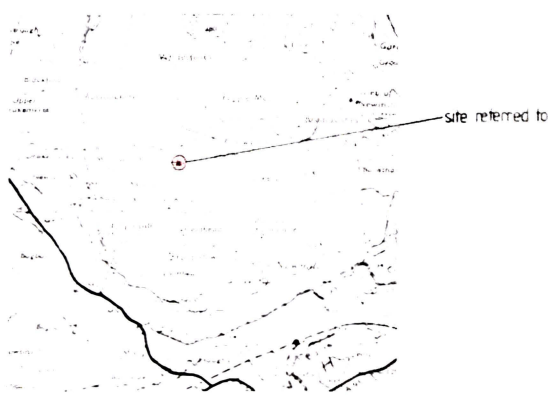
Paterson & Son  
Architects  
Aulmore

Site plan 1:250



Town & Country Planning  
(Scotland) Act, 1957  
as amended

**REFUSED**  
21.9.09  
Joint Management  
Planning



Location plan 1:50,000

PLANNING REF. No.		
BUILDING WARRANT No.		
ENGINEERS REF. No.		
CROWN COPYRIGHT ALL RIGHTS RESERVED LICENSE NUMBER 100041145		
REVISIONS & DISTRIBUTIONS	DATE	IMPORTANT NOTES FOR CLIENTS/CONTRACTORS
		NO WORKS TO COMMENCE ON SITE UNTIL THE RELEVANT PLANNING, BUILDING WARRANT OR GRANT APPROVAL HAS BEEN OBTAINED.
		CONTRACTORS WILL HAVE DEEMED TO HAVE VISITED THE SITE TO FAMILIARIZE THEMSELVES WITH THE PROJECT PRIOR TO SUBMITTING AN ESTIMATE FOR BUILDING WORKS.
		ANY DEVIATIONS TO THE APPROVED PLANS MUST BE REPORTED TO THIS OFFICE.
		CONTRACTORS TO CHECK ALL DIMENSIONS ON SITE PRIOR TO COMMENCING BUILDING WORKS.
		GIVEN DIMENSIONS ONLY TO BE USED ON NOT SCALE PLANS.
		ANY WORK TRANSFERRED INTO AN EXISTING BUILDING MUST BE CHECKED ON SITE BY CONTRACTOR TO ENSURE HEIGHT MEET REQUIREMENTS.
CLIENT	SCALE	DRAWN BY
Mr S Blair	1:250	S McIntosh
PROJECT		DATE
OPA to erect new dwelling house at Clayland, Auchairn, Aulmore, Keth		Apr 06
		PROJECT No.
		07-57



**ARCHITECTURAL  
DESIGN CONSULTANTS**

TELEPHONE No. 01343 842635  
 FAX No. 01343 842785  
 MOBILE No. 07766 315501  
 WEB: www.plans-plus.co.uk  
 PARTNERS: COLIN & CATRIONA KEIR

MAIN STREET OFFICES: URQUHART, BY ELGIN, IV30 8LG



THE VENTN / SANUF ROAD IS DOWN  
IN THE HOLLOW. THE ROAD CANNOT BE  
SEEN FROM THE SITE AND VICE VERSA.



12 16 2009



Site Showed Ground Above to the Left.  
The House Behind is Almost Always One  
to the Side of the Road.



12 16 2009

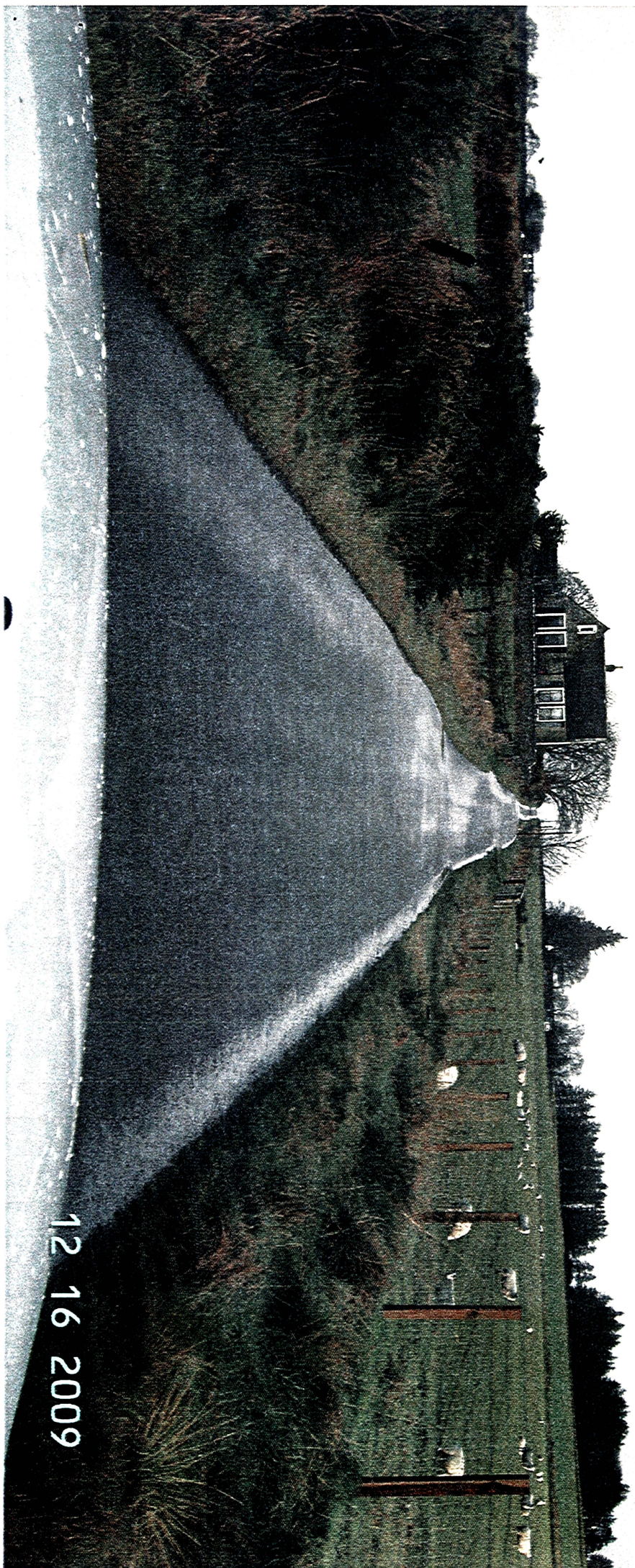


THIS IS THE SITE IN THE DIP IN THE LAND  
LEADING TO THE BEAR DEMONSTRATES THAT A  
HOUSE WOULD LOOK WITH THE EXISTING FACILITY.  
LAND STILL BELONGS TO THE BEAR AND OTHER THINGS  
THIS TRAIL - NO LAND CAN BE SEEN FROM SITE.

12 16 2009



Photograph taken looking W Hill Farms  
Site. Site is not visible at all.



12 16 2009



ADDRESS 6340 W HILL TO STATE. SITE NOT  
VISIBLE FROM SUBJECT AT ADDRESS



12 16 2009



SITE LIES BEYOND THIS FARM BUT  
CAN'T BE SEEN. HISTORICAL  
TAXED FROM 1916 JUNCTION TO SHELLE.

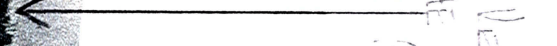


12 16 2009



This farm building cannot be seen from the air, would have had the guests site.

The Vermont Karaoke Road is Down in the Hudson. The Road cannot be seen from the site and vice versa.



12 16 2009