

Notice of Review – Ref. 09/01618/PPP – Refusal of Planning Permission in Principle to erect a house at site at Upper Thorn, Drybridge, Buckie

Additional Note regarding “New Material”

In the interests of clarity the following additional information is submitted: -

Re Para. 38 of Circular 7/2009 Scheme of Delegation and Local Review, the new material supplied re visibility relates to a material consideration namely, road access, which is governed by Local Planning Policy T2, and because the applicant owns the land in front of the adjoining farm building over which access to the public road is proposed to be taken.

The application drawings indicate the route of the intended driveway within the site that opens out onto the forecourt of the farm building over which access was and is intended to be made onto the public road.

The material submitted regarding visibility, if it is considered to be new, should be permitted for the above reasons.

GROUNDS FOR REVIEW

Planning Application 09/01618/PPP - Planning Permission in Principle to erect house at Site at Upper Thorn, Drybridge, Buckie, Moray

INTRODUCTION

The Review Site was previously occupied by a rural house which is now gone (see Appendix 3). Our client, Mr. Donald Mackenzie, has been rearing livestock locally since the early 1970s, and has been operating a livestock smallholding from this location for 16 years. He was granted planning permission on September 30th 2009 to extend the existing farm building by the erection of a dutch barn. (see Appendix 4). He also wishes to build a house on the Review Site in order to be closer to his livestock and improve the overall efficiency of his business. He does not fully understand or agree with the interpretation of planning policy contained in the reasons for refusal, and he has also found a way of overcoming the technical difficulties raised by the Council regarding vehicular access.

SUMMARY OF REASON FOR REVIEW

Despite claims to the contrary contained in the Council's Reasons for Refusal, we have put forward arguments and evidence to demonstrate that: –

- The site is not artificially elevated land
- The site has backdrop from various significant directions
- A house on the site will not break the skyline in a material way
- This rural locality is not open but secluded and is itself largely away from public view
- The site would not be overtly prominent
- The rural character of this locality has not been defined by the Council despite the Council's reliance upon this aspect of policy
- As Chartered Town Planners we have analysed and defined the rural character of the surrounding countryside and demonstrated that the proposed house would not detract from it.

Policy H8 is therefore satisfied.

- We have established that access and visibility can in fact be achieved, within the context of the original application, to the satisfaction of The Transport Manager.

Policy T2 is therefore satisfied

- As a result of all the above we have demonstrated that this proposal has a very low impact on the character of the surrounding rural area.

Policy 1(e) of the Moray Structure Plan 2007 is therefore satisfied.

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- As a result of the above we have also demonstrated that this proposal meets the Council's development requirements.

Policy IMP1 is therefore satisfied

DETAILED EXPLANATION OF GROUNDS FOR SEEKING REVIEW

Our analysis and detailed comment on the Council's Reasons for Refusal (see Appendix 1) is as follows: -

Comment on Reason 1

A refusal of planning permission requires to be based on an accurate interpretation of policy. Quotes from Reason 1 and Reason 2 are shown below in italics and our comments are set out alongside.

Reason 1 is flawed for the following reasons: -

"The house site involves the formation of a house plot on elevated open ground."

The review site, while on land slightly above road level, cannot be described as particularly elevated in policy terms. Furthermore Policy H8 refers to "artificially" elevated ground such as artificially created platforms upon which to build a house. This site does not fall into that category. Conditions attached at the principle or detail stage can ensure that no artificially elevated ground will be created.

The site is described as *"open ground."* This is not strictly true. It will be bounded on one side by a substantial farm building to which the Council has recently approved an extension (see Appendix 4). This is therefore not a completely open site nor is it in the middle of a field. It is in fact a site that is partly required for the efficient running of an existing livestock smallholding.

This reason refers to *"natural enclosure."* Policy H8 (see Appendix 5) does not contain a specific requirement for "natural" enclosure. Acceptable boundary enclosure under policy H8 refers to examples, which are not exhaustive, but include artificial dykes, tracks and roadways, all of which are not natural. By measurement 50% of the site boundaries are comprised of the adjoining road/ditch/fence and longstanding fencing (evident on the Ordnance Survey – see OS extract in Appendix 5) along the northern boundary, all of which distinguish the site from adjoining land. The site therefore complies with policy. In a broader sense the site will also be enclosed by the existing farm building and the public road.

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This reason refers to the site "*largely occupying the skyline when viewed from the adjacent highway.*" This will be the case of course for most roadside houses in the countryside whether traditional or compliant with policy when they are viewed at very close quarters from an adjacent road road. This site will not be skyline when viewed from the public road to the south west of the site (Slack of Bait to Farnachty - see photographs in Appendix 6).

This reason refers to the site being "*located within an open rural setting.*" This is not the case. The site is in fact in a fairly secluded rural setting that cannot be seen from very far away. It is screened to the east by trees which also provide backdrop when viewing the site from the west. The road in front of the site culminates in a dead end or loops off back to the west and north. The road only serves nearby properties, it is not a thoroughfare used by volumes of tourist or other traffic. The locality, though close to Buckie, may be described as being out of the way. The locality is therefore not an open rural setting.

This reason states that "*the site would lack sufficient backdrop when viewed from the adjacent highway.*" This site will have a backdrop of trees when viewed from south west (see photos in Appendix 6). The existing farm building will also serve as a backdrop when the site is viewed from the south (see Appendix 6). The site therefore does not lack backdrop when viewed from nearby public roads.

The arguments and evidence above demonstrate that this site will not be "overtly prominent." On the contrary it will be associated with a farm building on a very minor road in a secluded part of the Moray countryside. The proposed house will not stick out in the landscape.

This reason states that the site is not "*well located.*" On the contrary it is very well located. It is required in relation to the agricultural use of the land. It will be close to a farm building and it will allow for a more efficient running of the smallholding.

This reason states that the site would "*detract from the rural character of this part of the countryside.*" The Council has not however defined the character of the countryside in this locality so that our client can understand what the Council means when it says this. As Chartered Town and Country Planners we have analysed the locality and would define its character as follows. This is a secluded area of farms and smallholdings and houses set in land that is largely hidden in the broader landscape to the south of Buckie. It is served by minor roads. The pattern of settlement is one of dispersed farmsteads, smallholdings and individual houses. In the immediate vicinity there are 6 houses, almost all of which are of modern design and construction and recently approved by the Council (see photos in Appendix 7). All of these houses are easily visible in the locality and they largely define its current character. In other words the rural character surrounding Upper Thorn is one of farmland and woodland with prominent roadside housing. The proposed site fits into this character very well and would not detract from

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Planning Application 09/01618/PPP - Planning Permission in Principle to erect house at Site at Upper Thorn, Drybridge, Buckie, Moray

it. The Policy requirement to plant 25% of the site with trees will be more than enough to maintain a sensitive setting for the proposed house and the adjoining farm building.

Reason 1 concentrates on visual issues. The required low impact referred to in reason 1 is related to visual issues. Our arguments demonstrate that the visual impact will in fact be low. The proposed house will not stand out from surrounding development. We would go as far as to say that the addition of this small farmhouse in this locality will make no material visual impact at all whether on residents or passers by.

Comment on Reason 2

We did not represent the applicant at the time this application was submitted but have been asked to represent him in the submission of a Request for a Review of the Refusal.

In so doing it became apparent to us that an option for resolving the issue of access visibility had not been explored by the Council, or indeed by the applicant's agent at that time. This option is based on the fact that the applicant owns the land around the site that comprises his smallholding. Because of this he can achieve access via the existing entrance to the forecourt of his farm building, provided he can meet the Council visibility requirements and requirements for laying out a safe access point and lay-by for visiting vehicles. The proper layout of the access can be legitimately made a condition of the planning permission because the applicant owns and controls the land involved (see Appendix 8).

We have therefore set up a visibility splay on site to establish the fact that proper visibility can be achieved. We have consulted the Transportation Manager and we have drawn up an access and lay-by arrangement that meets his requirement. This lay-by also will be of considerable benefit to other road users in the immediate surrounding rural area.

The Transport Manager has confirmed that this is an acceptable arrangement (see Appendix 9).

We therefore submit that adequate visibility can now be provided to serve the proposed house, and that the arrangement will in fact result in a betterment for surrounding users of this rural road.

Policy T2 can therefore be met.

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The Council also claims that the application is contrary to Policy IMP1 and Structure Plan Policy 1 (e).

We have assessed the application under Policy IMP1 and our comment is as follows: -

In terms of paras a) – n) of Policy IMP1 (see Appendix 11): -

- a) The scale density and character is appropriate to the surrounding area for all the reasons we have set out above.
- b) Again, for all the reasons already set out above, the development will be integrated into the surrounding landscape. It is also needed in connection with agriculture. It is set close to an agricultural building. It has backdrop. It will be substantially screened by the policy requirement to provide 25% planting on site. The immediate surrounding landscape already contains approved visible roadside rural housing.
- c) The site is very close to the A98 for public transport. The adjacent road system is quiet and suitable for cycling to Buckie, etc.
- d) There are no objections on grounds of water supply or drainage. Power is available nearby.
- e) The site will use a septic tank and soakaway drainage, both of which are sustainable.
- f) Community facilities are available approx 2 miles away at Arradoul Community Hall. Schools, shops, and healthcare facilities are easily accessible in Buckie, which is approx 3miles away.
- g) Sustainable design and construction will be covered by Building Standards at the appropriate stage.
- h) A service lay-by will be provided and maintained.
- i) The natural environment will be conserved by 25% planting on site.
- j) The site is not at risk of flooding.
- k) There is no objection from the Contaminated Land Officer.
- l) The proposal does not sterilise mineral, agricultural, or forestry resources.
- m) Domestic waste will be taken to the lay-by or such other location as may be stipulated by the Council

- The application therefore complies with policy IMP1

We have assessed the proposal under Structure Plan Policy 1(e) (see Appendix 12) and our comments are as follows: -

Policy 1 (e) states The Moray Structure Plan will be supported by: -

“the encouragement of low impact, well designed development in the countryside to support local communities and rural businesses.”

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The proposed house is modest. We have demonstrated elsewhere that its impact by any standards is low. It is required in connection with an existing rural business (ie the livestock holding)

- The proposal therefore complies with Structure Plan Policy 1(e)

CONSULTATIONS

The Report of Handling (see Appendix 13) for the application under review clearly indicates that only one technical objection was received. The Environmental Health Manager has no objection; Scottish Water has no objection; the Environmental Protection Manager has no objection; the Contaminated Land Officer has no objection; Private water supplies have no objection.. The Transportation Manager objected on the basis of lack of adequate visibility at the access point originally proposed. As stated elsewhere we have investigated options for achieving visibility within the context of this application and have now provided details of an access and lay-by arrangement that satisfies the Transportation Manager. This is confirmed by the Transport Manager (see Appendix 9)

OBJECTIONS

No objections were received in respect of this application

CONCLUSIONS

- We have demonstrated that the reasons for refusal are flawed.
- The rural character of the location, which is the main policy test in this case, has not been defined by the Council.
- The rural character of the surrounding countryside is one of farmland and woodland with prominent roadside housing.
- There was previously a rural house in this location.
- The site is not significantly elevated or prominent in terms of Policy H8.
- The site has backdrop in several directions.
- 50% of the site boundaries are long established.

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- The proposed house will be physically and functionally associated with a substantial farm building.
- Acceptable access, visibility and a lay-by can all be provided and controlled under this planning application on land owned and controlled by the applicant.
- The Transport Manager has confirmed that visibility can be achieved.
- There are no objections from the public.
- There are now no technical objections to this application from Consultees.
- The proposal complies with Policy 1(e) of the Moray Structure Plan and policies H8, IMP1 and T2 of the adopted Moray Local Plan 2008

For all the reasons set out above The Review Board is requested to agree that this proposal does not depart from the Moray Structure Plan 2007 or the Moray Local Plan 2008 and approve this application.

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APPENDICES –

Appendix 1 – Application Forms

Appendix 2 – Reasons for Refusal and Refused Plans

Appendix 3 – Historical Map showing site of previous house

Appendix 4 – Recent Permission for Dutch barn

Appendix 5 – Policy H8 – New Housing in the Open Countryside

Appendix 6 – Backdrop

Appendix 7 – Rural Character

Appendix 8 – Land owned or controlled by the applicant outwith the planning application site

Appendix 9 – Visibility

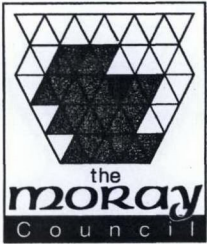
Appendix 10 – Policy T2 – Provision of Road Access

Appendix 11 – Policy IMP1 – Development Requirements

Appendix 12 – Structure Plan Policy 1(e) – Development and Community

Appendix 13 – Handling Report for application Ref O9/00649/OUT

Appendix 1 – Application Forms



Environmental Services
 Development Control, Development Services,
 High Street, Elgin.
 Moray IV30 1BX
 Telephone: (01343) 543451 Fax: (01343) 563263



HAPPY TO TRANSLATE



FORM D.1.

Town and Country Planning (Scotland) Act, 1997

FOR OFFICIAL USE ONLY

Ref No. 09/01618/PPP Date of Receipt of Valid Application 25/08/09

SECTION A

OUTLINE
 Application for Planning Permission/~~Listed Building Consent~~ under the Town and Country Planning (Scotland) Act, 1997

We DONALD MACKENZIE

OUTLINE
 hereby making application to the Council for Planning Permission/~~Listed Building consent~~ to

ERECT HOUSE

at UPPER THORN DRYBRIDGE BUCKIE

in accordance with the particulars given in Section B of this Form and with the plans which accompany it.

Signature of Applicant or Agent

Date 17.08.09

Note: State date and reference numbers of any previous applications if relating to the proposed development.

Here state the nature of the proposed development (e.g. erection, rebuilding, enlargement of house, shop, change of use, etc.), the address or location of site and where permission is desired only for a limited period, the extent of that period.

1. Particulars of Applicant (In Block Letters)	2. Particulars of Agent (if any) acting on Applicant's behalf
Surname <u>MACKENZIE</u>	Name
Other Names <u>DONALD</u>	Postal Address
Postal Address <u>B CRAIGMIN COTTAGES</u>	
<u>DRYBRIDGE BUCKIE</u>	
<u>AB56 5JL</u>	Telephone No.
Telephone No.	Profession

State whether Mr, Mrs or Miss

SECTION B

3. What is the estimated cost of any works to be carried out?

.....

4. If new or proposed access to a road is proposed state:

(a) The name of highway

(b) Whether pedestrian or vehicle access

.....

5. If building operations are proposed, give description of materials, including colour, to be used in the construction of:

(a) Outside walls

(b) Roof covering.....

(c) Boundary walls or fences.....

6. In the case of the proposed rebuilding, enlargement, improvement or other alteration of an existing or former building:

(a) Was the existing or former building

(1) erected before 1st July, 1948

(2) erected after 1st July, 1948

(3) demolished or destroyed since 7th January, 1937

(b) If the plans submitted do not incorporate a plan of the existing building, what is its present cubic content

(c) Has the existing building been enlarged since 1st July, 1948

7. State whether the water supply will be obtained from public mains or other source, and provide details:

..... PRIVATE MAINS SUPPLY

..... SCOTTISH WATER

8. State whether the drainage will be to a public sewer or by other means of disposal, and provide details:

..... BIOPURE SEPTIC TANK

9. In the case where a change of use of land or a building is proposed:

(a) State the present use (or uses) of the land or building, or the last use in the case of a building destroyed since 7th January, 1937. If more than one use indicate the part allocated to each use.

(a) AGRICULTURAL LAND

(b) State the proposed new use, or where more than one use is proposed state the new uses and indicate the part allocated to each use.

(b) DWELLING HOUSE

(c) State any previous Change of Use since 1st July, 1948.

(c)

(d) If the land or building was on occasions before 1st July, 1948, put to uses other than the normal uses, state these occasional uses.

(d)

10. In the case where development is situated within 50 feet of an overhead electric line carried by wooden poles, or 200 feet of overhead electric line carried by steel pylon, state:

(a) distance from appropriate overhead line

(b) Whether Scottish Hydro-Electric PLC have been consulted.

..... 50 FEET

..... YES

SECTION C

Section 35 of the 1997 Act requires that ONE of the following Certificates be completed including Item 2(i) or (ii).

CERTIFICATE A

I hereby certify that:

1. No person other than myself/the applicant/the appellant was an owner (a) of any part of the land to which the application/appeal relates at the beginning of the period of 21 days ending with the date of the accompanying application/appeal

or:-

"owner" in relation to any land means any person who-
 (a) under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and includes any person entitled to possession of the land as lessee under a lease the unexpired period of which is not less than 7 years, or
 (b) in the case of such applications as may be prescribed by regulations or by a development order, is entitled to an interest in any mineral so prescribed.

CERTIFICATE B

I hereby certify that:

1. I have/the applicant has/the appellant has given the requisite notice to all the persons other than myself/the applicant/the appellant who, at the beginning of the period of 21 days ending with the date of the accompanying application/appeal were owners* of any part of the land to which the application/appeal relates, viz.-

Name of Owner	Address	Date of Service of Notice

or:-

CERTIFICATE C

I hereby certify that:-

1. (i) I am/the applicant is/the appellant is unable to issue a certificate in accordance with either paragraph (a) or paragraph (b) of section 35(i) of the Act in respect of the accompanying *application/appeal dated (a)
- (ii) I have/*the applicant has/the appellant has given the requisite notice to the following persons other than myself/*the applicant/the appellant who, at the beginning of the period of 21 days ending with the date of the *application/appeal were owners of any part of the land to which the application/appeal relates, viz.-

(a) Insert date of application or appeal.

*See Note (a) to Certificate A.

Name of Owner	Address	Date of Service of Notice

- (iii) I have/*the applicant has/the appellant has taken steps listed below, being steps reasonably open to *me/him to ascertain the names and addresses of the owners of the land or part thereof and *have/has been unable to do so:

(b).....

(b) Insert description of steps taken.

- (iv) Notice of the *application/appeal as set out below has been published in the c).....

(c) Insert name of local newspaper circulating in the locality in which the land is situated.

on (d).....

(d) Insert date of publication (which must not be earlier than the beginning of the period of 21 days ending with the date of application or appeal).

Copy of notice as published
 *Delete whichever is inappropriate.

CERTIFICATE D

or:-

I hereby certify that:

1. (i) I am/*the applicant/the appellant is unable to issue a certificate in accordance with section 35(1) (a) of the Act in respect of the accompanying *application/appeal dated (a)

(a) Insert date of application or appeal.

.....
and *have/has taken the steps listed below, being steps reasonably open to *me/him to ascertain the names and addresses of all the persons, other than myself/himself who, at the beginning of the period of 21 days ending with the date of the *application/appeal were owners* of any part of the land to which the application/appeal relates and *have been unable to do so:

*See Note (a) of Certificate A.

(b)

(b) Insert description of steps taken.

(ii) Notice of the *application/appeal as set out below has been published in

(c)

(c) Insert name of local newspaper circulating in the locality in which the land is situated.

on (d)

(d) Insert date of publication (which must not be earlier than the beginning of the period of 21 days ending with the date of the application or appeal).

Copy of notice as published

I further certify that:

*2. (i) None of the land to which the *applicant/appeal relates constitutes or forms part of an agricultural holding:


OR

*2 (ii) I have/*the applicant has/the appellant has given the requisite notice to every person other than *myself/himself who, at the beginning of the period of 21 days ending with the date of the *application/appeal was a tenant of any agricultural holding any part of which was comprised in the land to which the application/appeal relates, viz:-

Item 2 (i) or 2(ii) MUST be completed.

Name of Owner	Address	Date of Service of Notice

If you are the sole agricultural tenant enter "None."

Signed  is inappropriate.

On behalf of

Date 17 05 09

IMPORTANT NOTES

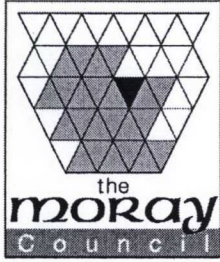
- Any person who knowingly or recklessly issues a Certificate which contains any statement which is false or misleading, in a material particular is liable on conviction to a fine not exceeding level 5 on the standard scale.
- All applicants must complete Sections A, B & C. Signatures are required on both pages 1 and 4.
- A separate application must be made for any necessary warrant under the Building (Scotland) Acts.

DATA PROTECTION

I agree to the information contained in this form being held by Moray Council and that this information will be held in a public register and available to the public.

Moray Council is committed to ensuring that all personal information is relevant, up-to-date, and processed in accordance with the principles of the Data Protection Act 1998.

Appendix 2 – Reasons for Refusal and Refused Plans



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

REFUSAL OF PLANNING PERMISSION

**[Fochabers Lhanbryde]
Planning Permission in Principle**

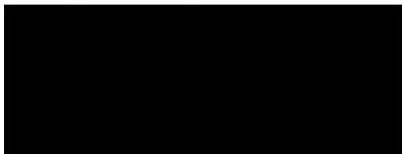
TO Mr Donald Mackenzie
8 Craigmin Cottages
Drybridge
Buckie
AB56 5JL

With reference to your application for planning permission in principle 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:-

**Planning permission in principle to erect house at Site At Upper Thorn
Drybridge Buckie Moray**

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

Date of Notice: **26th January 2010**



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, IMP1 and T2 of the adopted Moray Local Plan 2008 for the following reasons:

1. The proposal involves the formation of a house plot on elevated open ground, which rises away from the adjacent highway. It would have no backdrop or natural enclosure. These factors combined would give rise to a situation where any prospective dwelling or associated outbuildings on the site would largely occupy the skyline when viewed from the adjacent highway. On this basis, the proposal would fail to satisfy the siting criteria of the above provisions because it would be located within an open rural setting, which would lack sufficient backdrop to offset its prominence when viewed from the adjoining public road. Any development on the site would therefore 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.

2. The proposed access would require a visibility splay of 2.4m x 120m. At present the applicant has indicated works to clear vegetation from the road verge and his land to provide the visibility splay. However the visibility splay to the north crosses land which is outside the control of the applicant and there is no guarantee that the splay can be provided and maintained for the lifetime of the development. The proposals do not demonstrate control over the required visibility splay at the proposed access junction and does not conform to Local Plan Policy T2. Furthermore any additional traffic using the U63bL Minduff Road, without improvements to this road, is not acceptable.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
		Site plan
		Visibility Splay details

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

None.

**NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

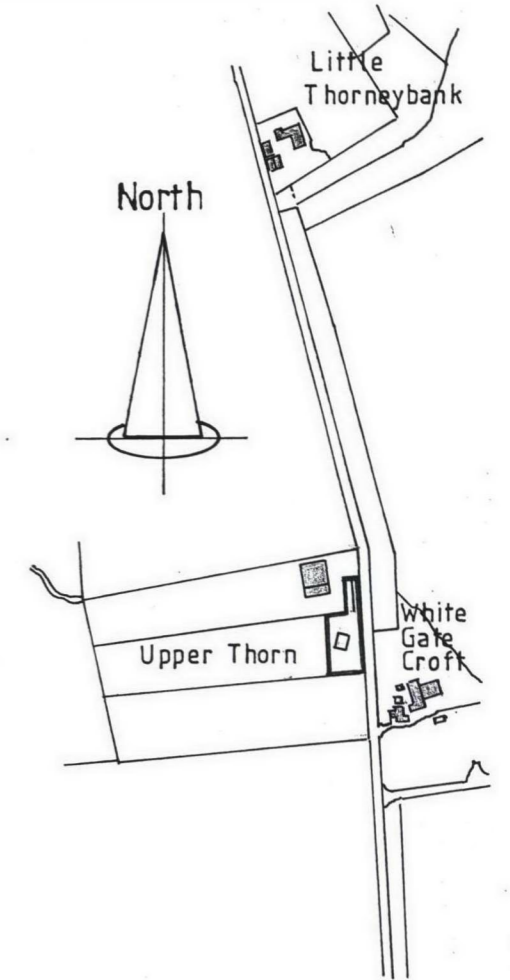
If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town 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, The 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.

AMENDED PLANS

NOTES

Proposed House type
 Scotframe Timber Frame Homes -
~~Acet G.M. TIMBER SYSTEMS~~
 GLENS HEE

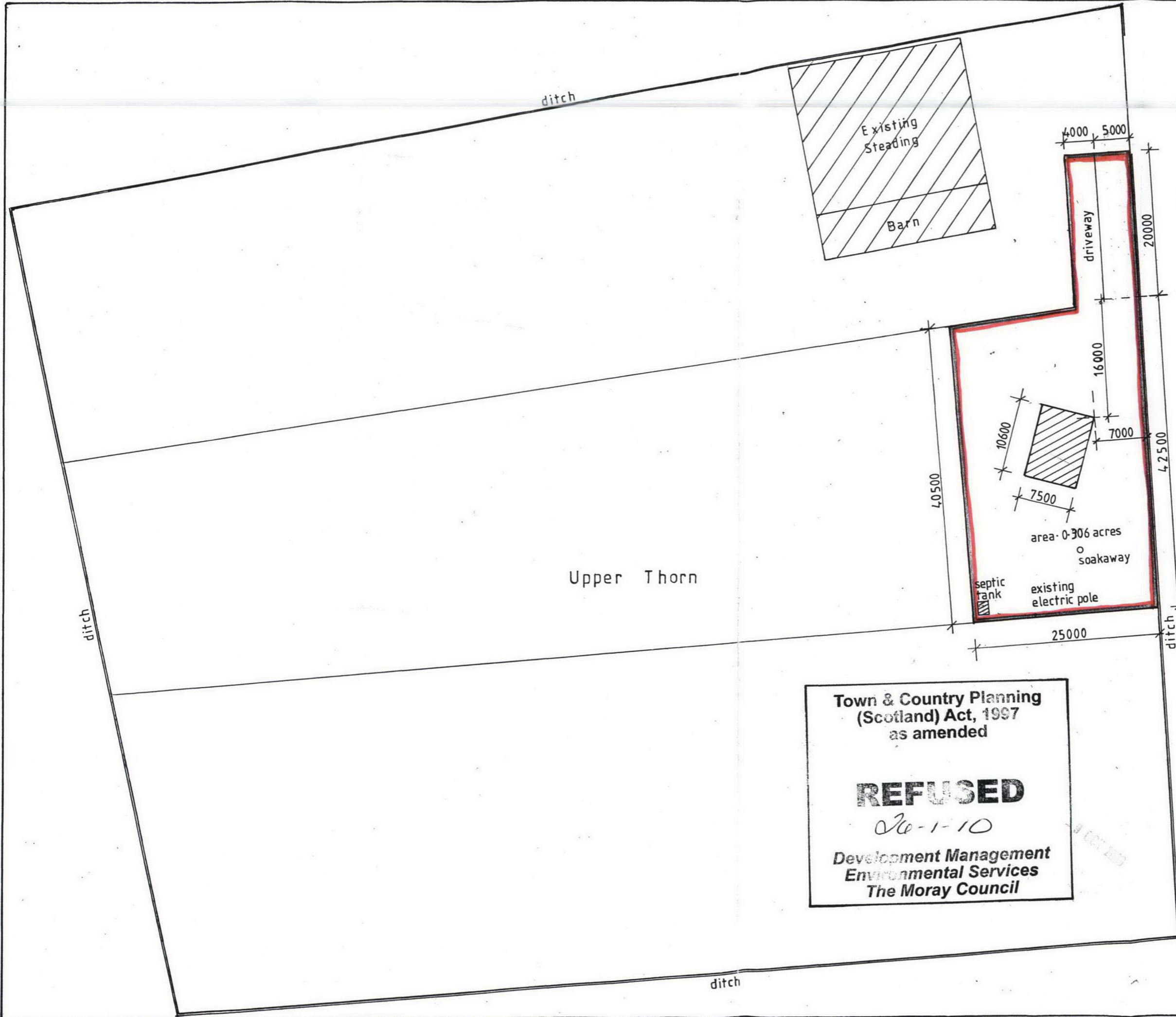


Location Plan
 Scale 1:5000

Outline permission
 to build house at
 Upper Thorn
 Drybridge Buckie
 for
 Mr Donald Mackenzie
 8 Craigmint Cottages
 Drybridge Buckie

SCALE
 1:500

DATE
 August 2009



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

REFUSED

20-1-10

Development Management
 Environmental Services
 The Moray Council

**Appendix 3 – Historical map showing site of
previous house**

1444

RECEIVED
25 AUG 1989

1437

1435

1434

Woodsid Croft

1442

B.M. 362.2

Wainybank Croft

Donald Mackay

374

1436

Linnhouse
Wood

383

1492

1493

UPPER THOAN
DAY BRIDGE

SITE OF
OLD HOUSE

391

Whitegate

1491

1484

1485

390

1486

Newtonrae

Linnhouse

1496

B.M. 407.5

1495

Core Linn

Corelinn Bridge

220

Slack of Ait

1490

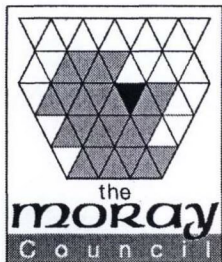
412

1489

Ford

a i t

Appendix 4 – Recent Permission for Dutch barn



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

PERMISSION FOR DEVELOPMENT

**[Fochabers Lhanbryde]
Application for Planning Permission**

TO Mr Donald MacKenzie
8 Craigmin Cottages
Drybridge
Buckie
Moray
AB56 2JL

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

Erect dutch barn at Upper Thorn Drybridge Buckie Moray

in accordance with the plan(s) docquetted as relative hereto and the particulars given in the application, subject however to the following condition(s) and reason(s) as set out in the attached schedule.

This permission does not carry with it any necessary consent or approval to the proposed development under the building regulations or other statutory enactments and the development should be commenced until all consents have been obtained.

Date of Notice: **30th September 2009**



p.p HEAD OF DEVELOPMENT SERVICES

Environmental Services Department
The Moray Council
Council Office
High Street
ELGIN
Moray IV30 1BX

IMPORTANT NOTE

YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

SCHEDULE OF CONDITIONS

By this Notice the Moray Council has **APPROVED** this proposal subject to conditions considered necessary to ensure implementation of the proposal, including conditions imposed under S.58/59 of the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

Permission is granted subject to the following conditions: -

- 1 The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
- 2 Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.

The Council's reason(s) for imposing the above condition(s) are: -

- 1 The time limit condition is imposed in order to comply with the requirements of Section 58(i) of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
- 2 In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.

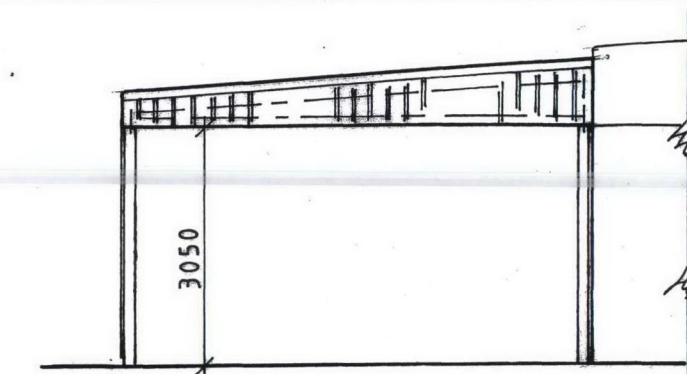
ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

The following notes are provided for your information including comments received from consultees: -

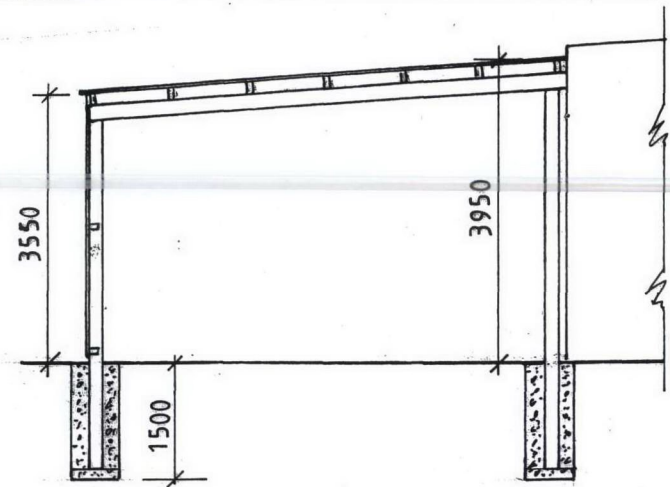
THE CONTAMINATED LAND SECTION has commented that: -

Due to the past agricultural use of the site, there is always a potential for contamination to have arisen from, for example, farm tips, chemical storage or animal burial sites.

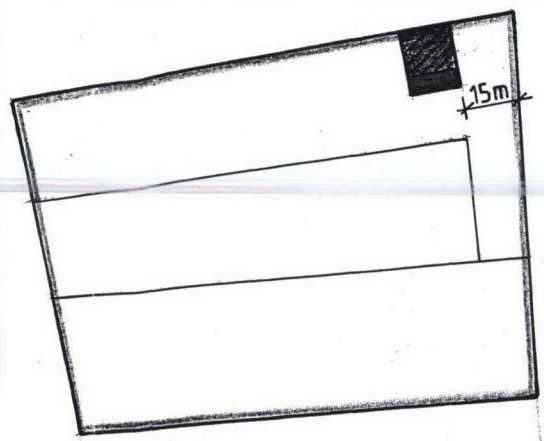
The/



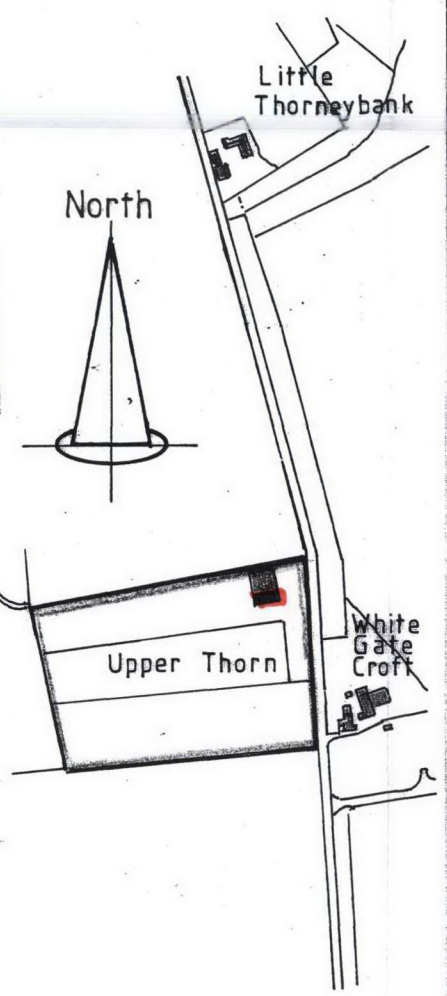
East Elevation



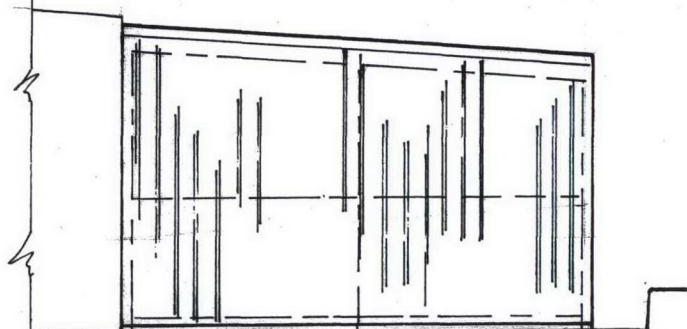
Section



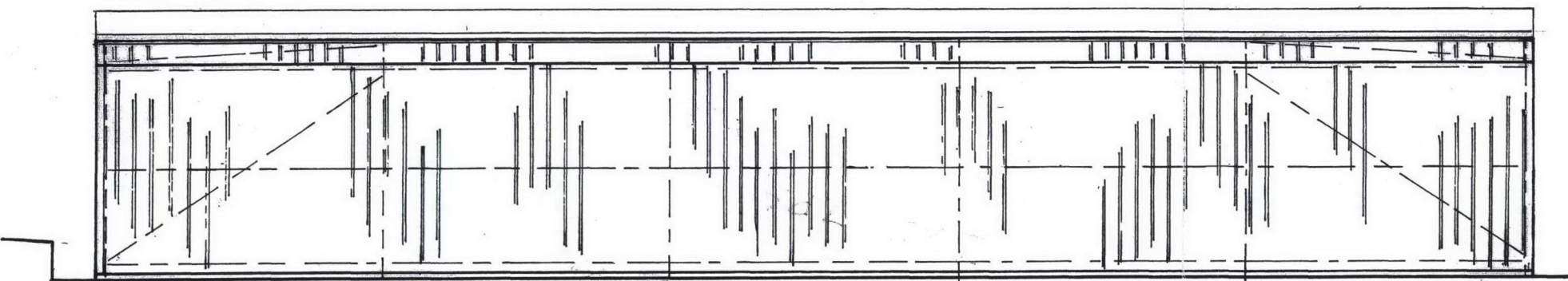
Site Plan Scale 1:2500



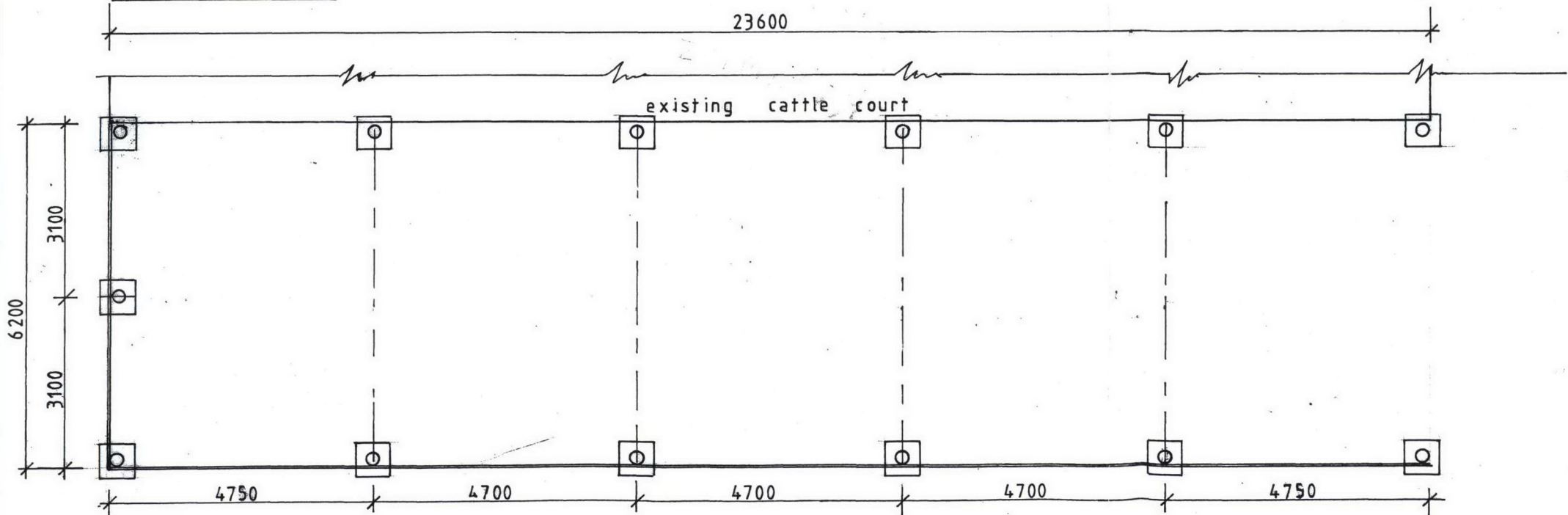
Location Plan Scale 1:5000



West Elevation



South Elevation



Plan

NOTES

- 200 mm ϕ timber columns set into 600mm x 600mm x 1500mm deep concrete foundations
- Timber rafters 250 x 50
- Timber purlins 150 x 50 at 1000mm crs
- Timber side rails 150 x 50
- Profiled steel roof and wall cladding colour - Moorland Green
- Metal Z flashing to be fitted where new roof meets existing roof.

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

APPROVED

30.9.09

Development Management
Environmental Services
The Moray Council

Proposed replacement of Lean-to at Agricultural Shed at Upper Thorn Drybridge Buckie for Mr Donald Mackenzie 8 Craigmim Cottages Drybridge Buckie

SCALE 1:100

DATE August 2009

**Appendix 5 – Policy H8
New Housing in the Open Countryside**

POLICY H8: NEW HOUSING IN THE OPEN COUNTRYSIDE

This policy assumes against multiple house applications (more than 2) on the basis that these are more appropriately directed to Rural Communities (H6) and applied to the Re-use and Replacement of Existing Buildings (H7).

New dwellings in the open countryside will be acceptable subject to meeting the requirements below:

a) Siting

- It does not detract from the character or setting of existing buildings, or their surrounding area, when added to an existing grouping, or linear extension
- It is not overtly prominent (such as on a skyline or on artificially elevated ground; or in open settings such as central areas of fields). Where an otherwise prominent site is offset by natural backdrops, these will normally be acceptable in terms of this criterion.
- At least 50% of the site boundaries are long established and are capable of distinguishing the site from surrounding land (for example, dykes, hedgerows, watercourses, woodlands, tracks and roadways).

If the above criteria for the setting of the new house are met, the following design requirements then apply:-

b) Design

- A roof pitch of between 40-55 degrees.
- A gable width of no more than 2.5 times the height of the wall from ground to eaves level (see diagram 2);
- Uniform external finishes and materials including slate or dark "slate effect" roof tiles;
- A vertical emphasis and uniformity to all windows;
- Proposals must be accompanied by a plan showing 25% of the plot area to be planted with native species trees, at least 1.5m in height;
- Where there is an established character, or style, of boundary demarcation in the locality (e.g. beech hedges, dry stone dykes) new boundaries must be sympathetic.

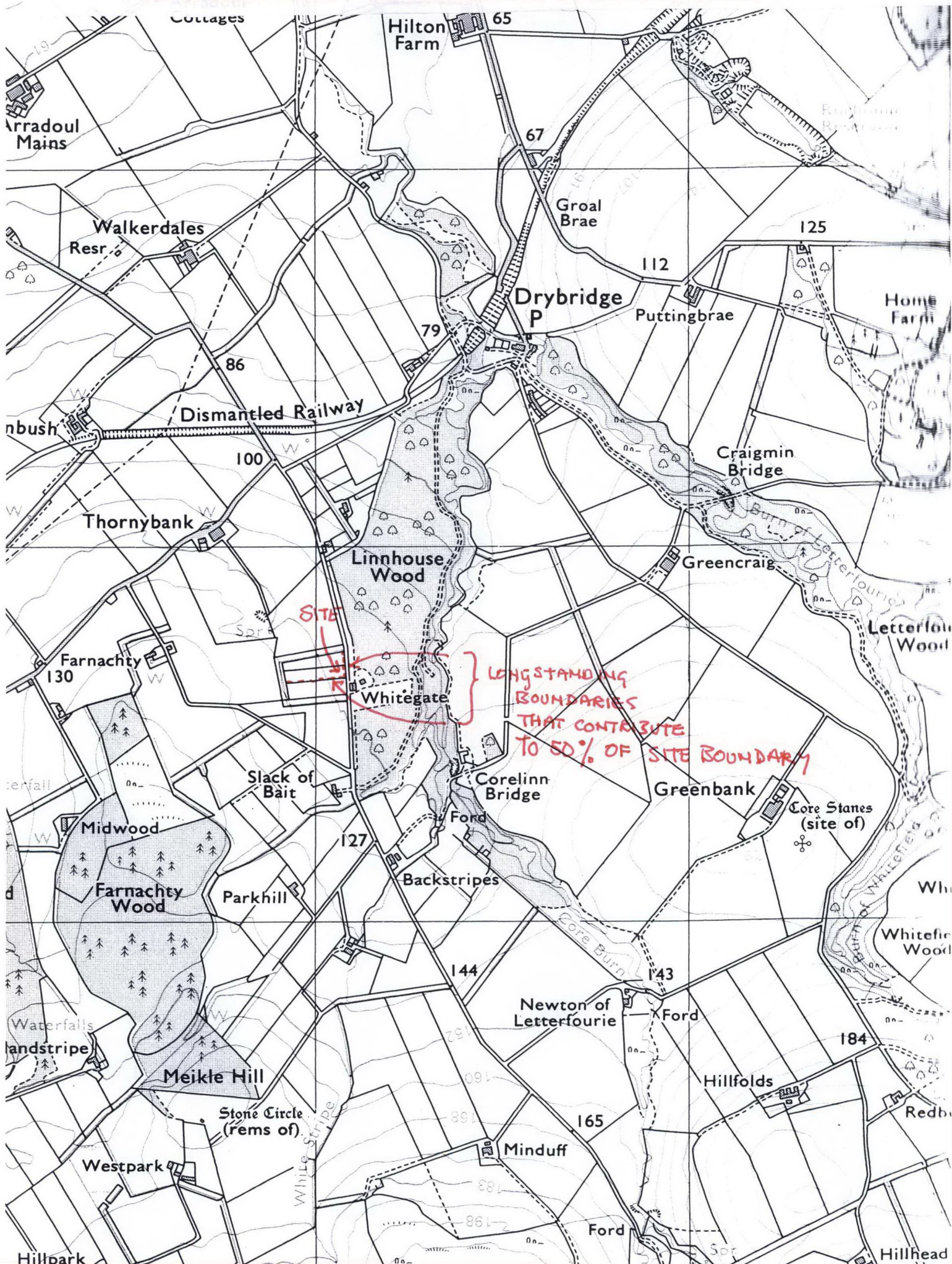
Exceptions to the above design requirements will only be justified on the basis of innovative designs that respond to the setting of the house.

This policy will be supplemented by Guidance, which will be the subject of separate further consultation, prior to incorporation of the Guidance into the process of determining planning applications.

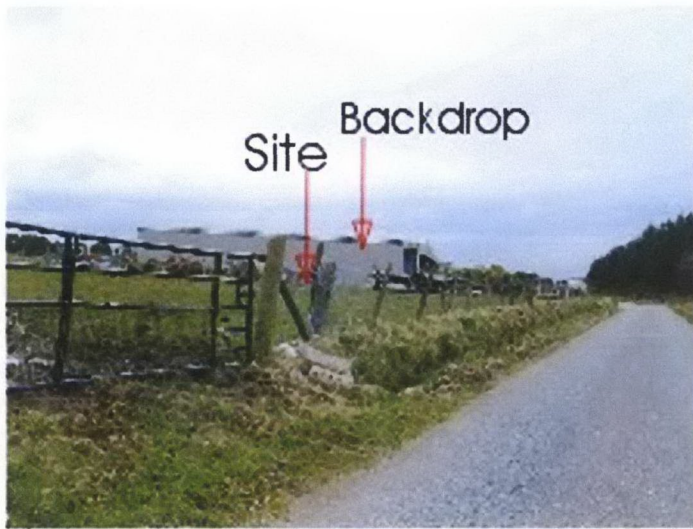
The Guidance will include advice on maximising energy efficiency.

Proposals falling within the aircraft noise contours, as published by the Ministry of Defence, will be subject to consultations with MOD and consideration against policy EP7 regarding noise pollution.

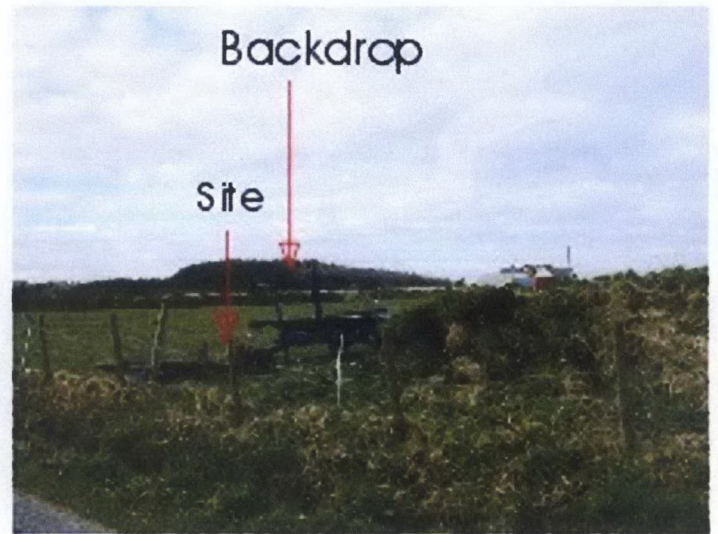
OS EXTRACT - H8 POLICY BOUNDARIES



Appendix 6 – Backdrop



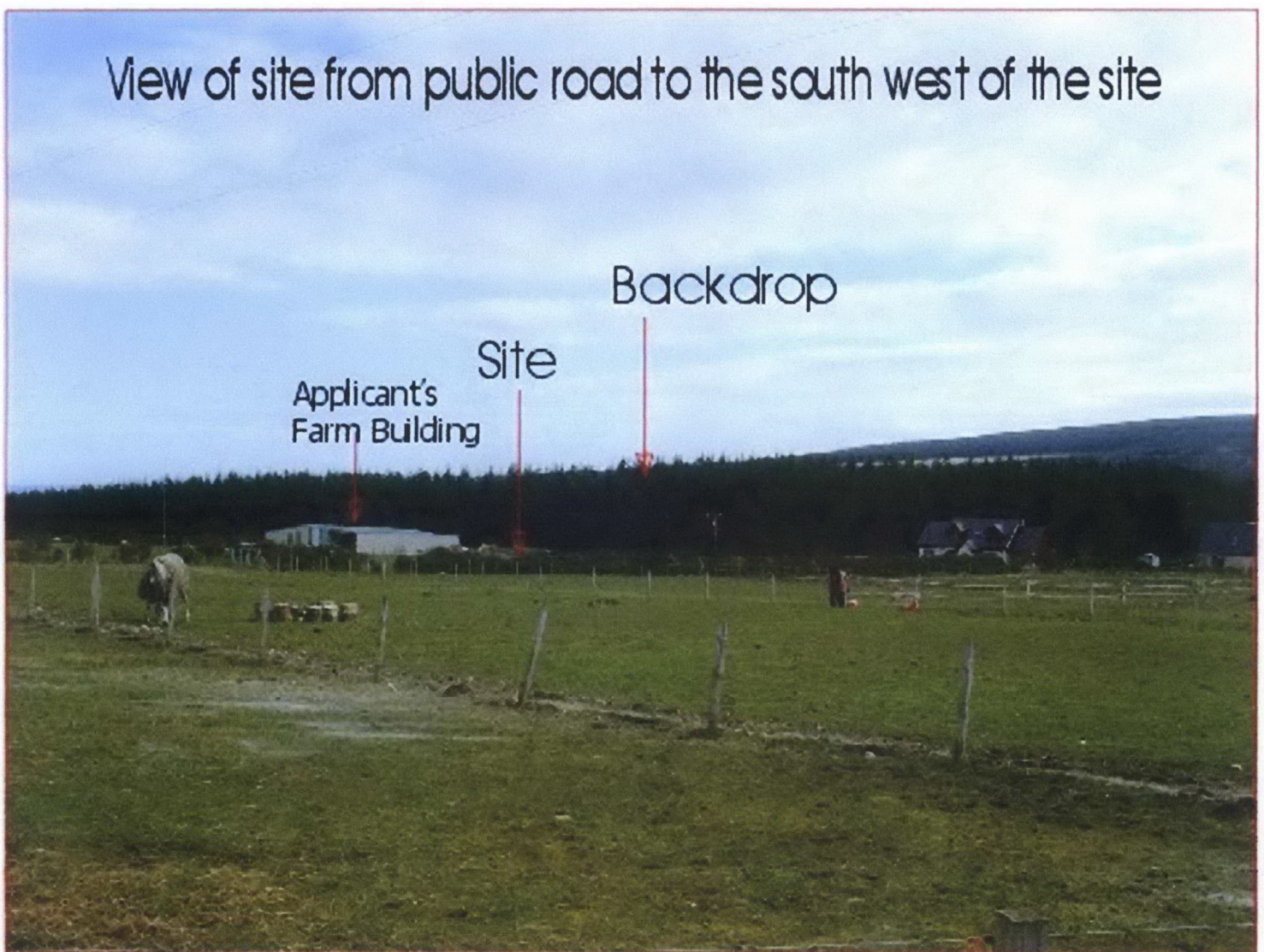
View of site from north



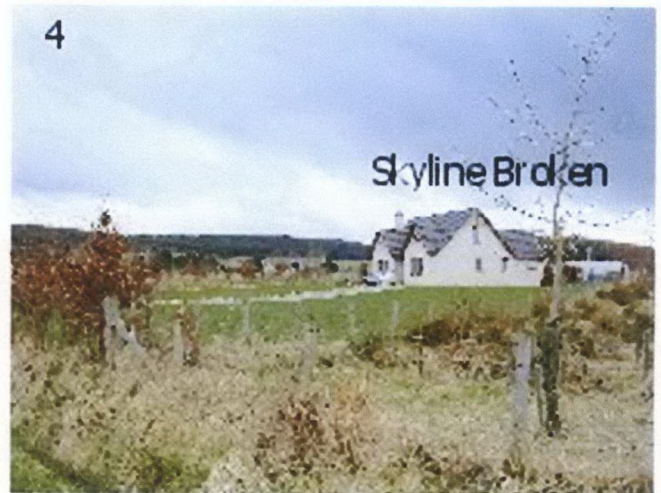
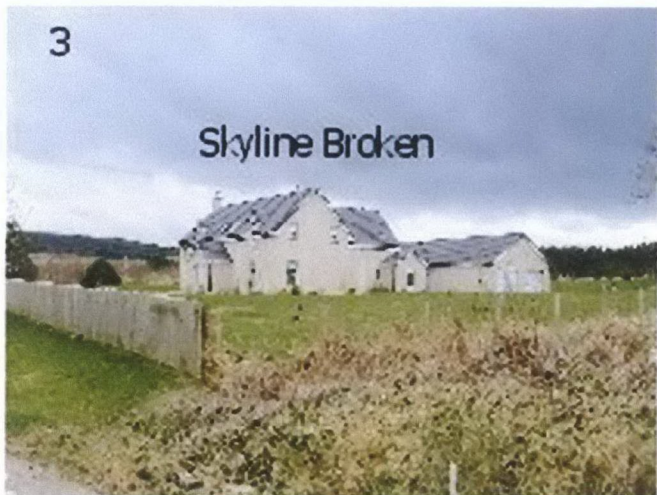
View of site from north

The site has backdrop from various aspects

View of site from public road to the south west of the site



Appendix 7 – Rural Character

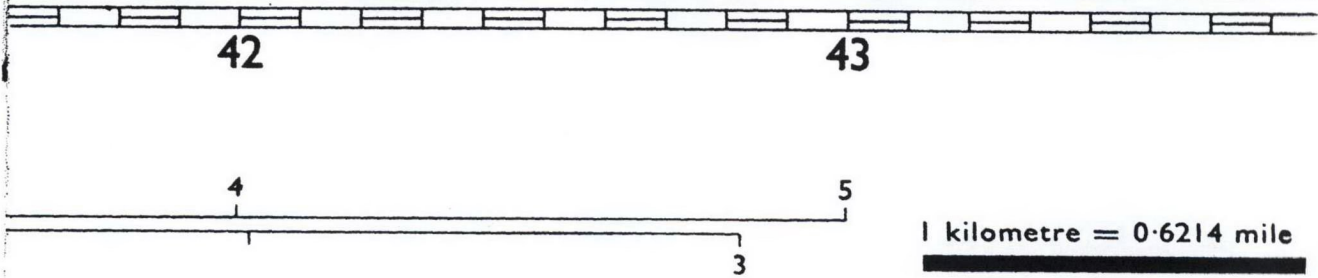
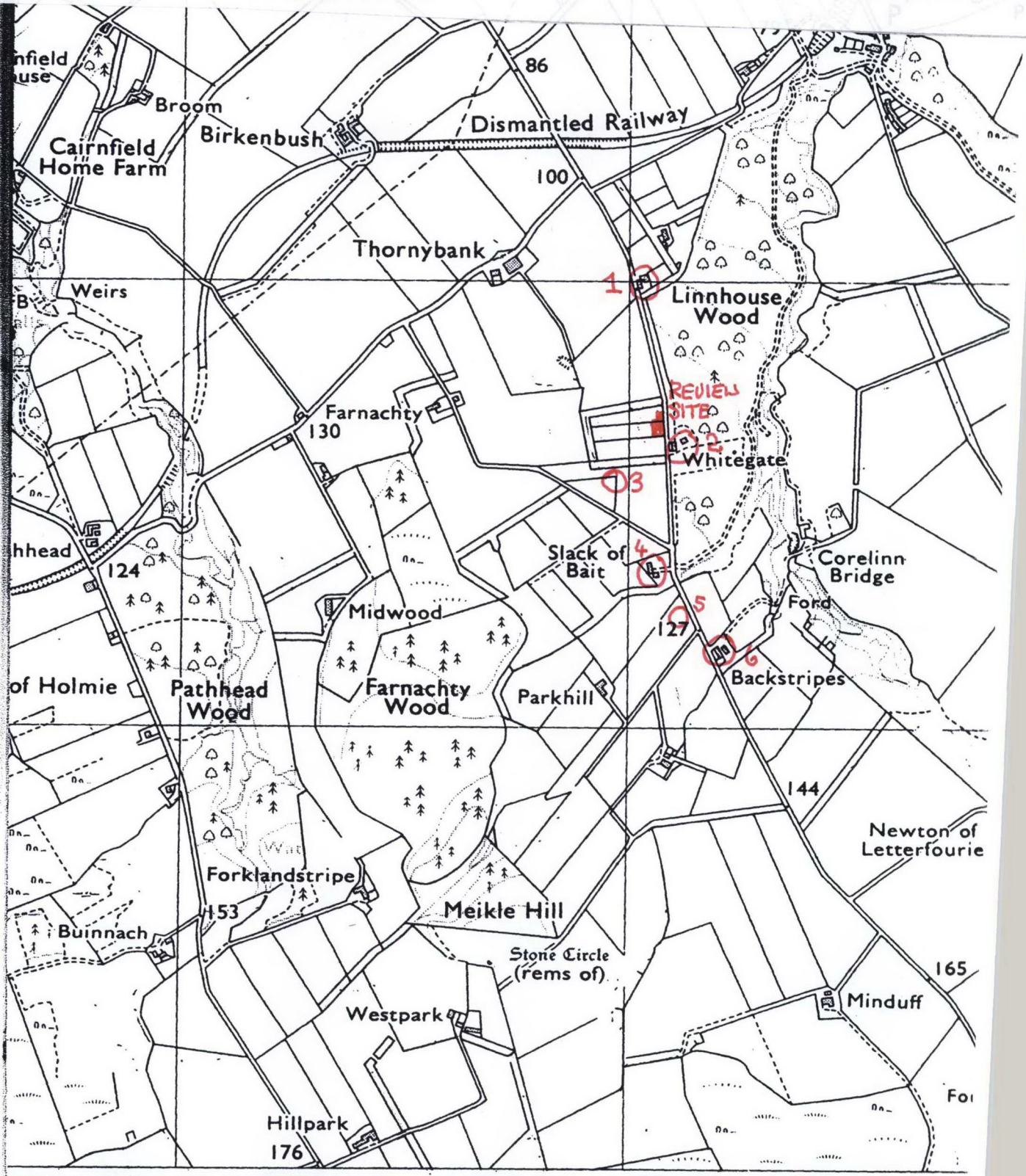


CHARACTER OF THE SURROUNDING COUNTRYSIDE

House locations are numbered on accompanying plan.
These houses are all recently approved and fairly prominent.
All are openly visible and close to the public road.
Many break the skyline

CHARACTER OF SURROUNDING COUNTRYSIDE

HOUSE LOCATIONS



**Appendix 8 - Land owned or controlled by
the applicant outwith the planning application site**

Appendix 8 – Land owned or controlled by the applicant outwith the planning application site

The following extract from Circular 4/1998 demonstrates that the Planning Authority is in a position to control the proposed access because the applicant owns and controls all the land required to provide adequate access, visibility and a service lay-by

Extract from Circular 4/1998

Annex A THE USE OF CONDITIONS IN PLANNING PERMISSIONS

Powers for Conditions on Land Outside Application Site and Temporary Permissions

3. Section 41 (1) amplifies the general power in section 37(1) in two ways. It makes clear that the planning authority may impose conditions regulating the development or use of land under the control of the applicant even if it is outside the site which is the subject of the application. (The Courts have held that the question whether land is under the control of an applicant is a matter to be determined according to the facts of the particular case. It is only necessary to have such control over the land as is required to enable the developer to comply with the condition.) The section also makes clear that the planning authority may grant planning permission for a specified period only.

Appendix 9 - Visibility

VISIBILITY



Car at extremity of required visibility splay as seen from 2.4m back from highway edge on line of revised proposed access point.
Visibility to the south can be achieved

Malcolm Leiper

From: "Diane Anderson" <diane.anderson@moray.gov.uk>
To: "Malcolm Leiper" <malcolm.leiper@futureplans.co.uk>
Sent: 20 April 2010 14:59
Subject: RE: 09/01618/PPP Refusal of Planning Permission in Principle to erect a house at Upper Thom Drybidge Buckie Moray

Malcolm

I can confirm that as long as the centreline of the access is provided in the location approximately 6.8 metres from the northern boundary of the site, the required visibility splays of 2.4m x 120m can be provided without the requirement for third party land.

This is the only point where the visibility can be achieved without the requirement for third party land.

Kind Regards

Diane Anderson

Engineer - Development Control

The Moray Council

Direct Services

Council Office

Academy Street

Elgin IV30 1LL

Tel: 01343 562557

Fax: 01343 520666

HEAD OF DIRECT SERVICES - A. RITCHIE

From: Malcolm Leiper [mailto:malcolm.leiper@futureplans.co.uk]
Sent: 15 April 2010 17:09
To: Diane Anderson
Subject: Fw: 09/01618/PPP Refusal of Planning Permission in Principle to erect a house at Upper Thom Drybidge Buckie Moray
Importance: High

Diane

Re my earlier email I now attach the layout with the access extended northward . The new centre line is shown green (the centre line of the 3m access is shown red Visibility is still achieved and an access of 4.9 could be provided which would be better for our client

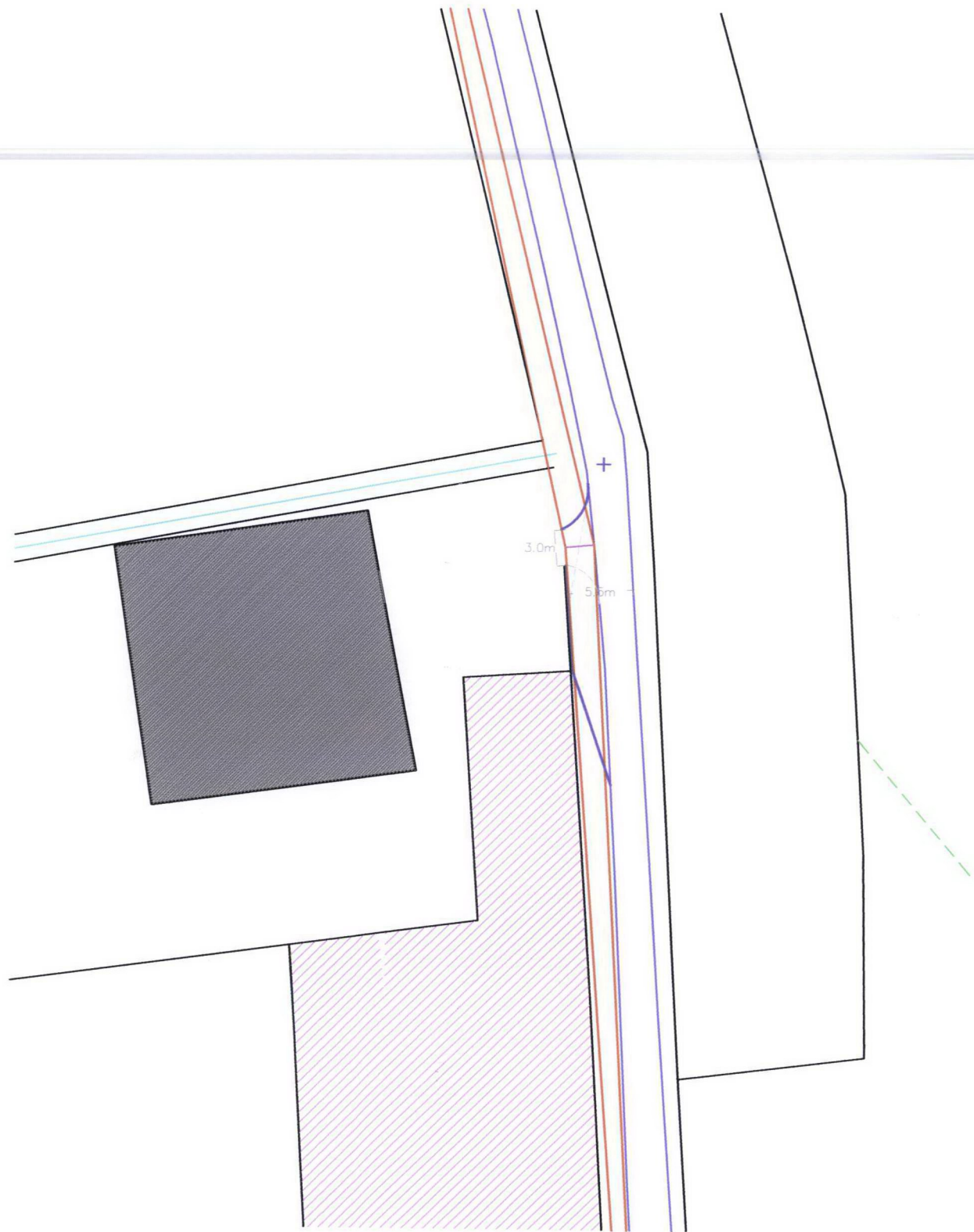
Again it would be helpful if you can you confirm that you now have no objection in principle to the application if such an arrangement is provided

I look forward to hearing from you

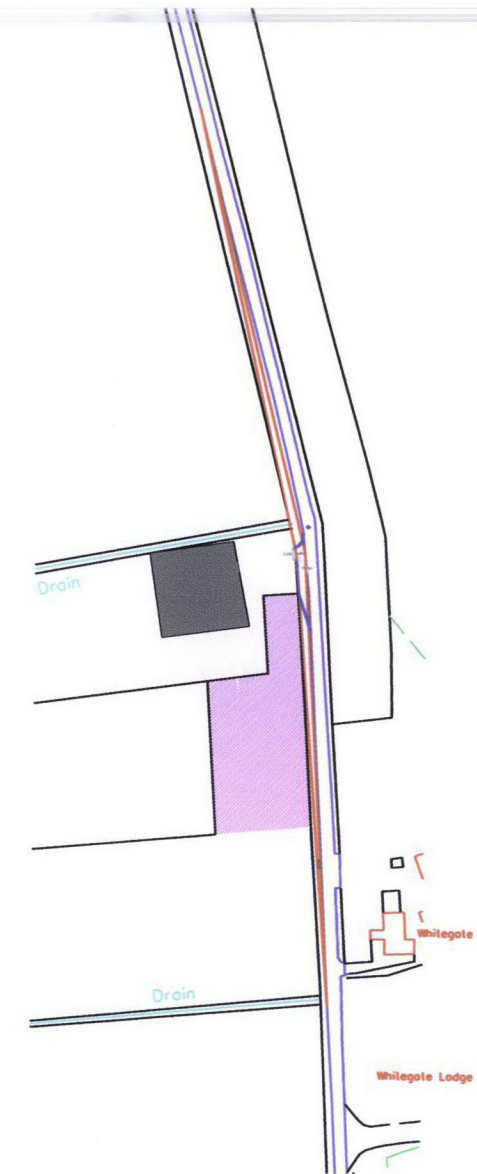
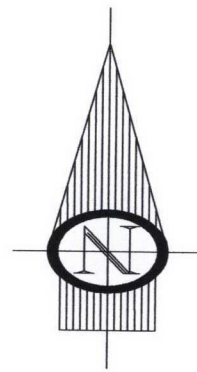
Regards

Malcolm

20/04/2010



Scale 1: 500



Scale 1: 2000



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futureplans
architects & planners

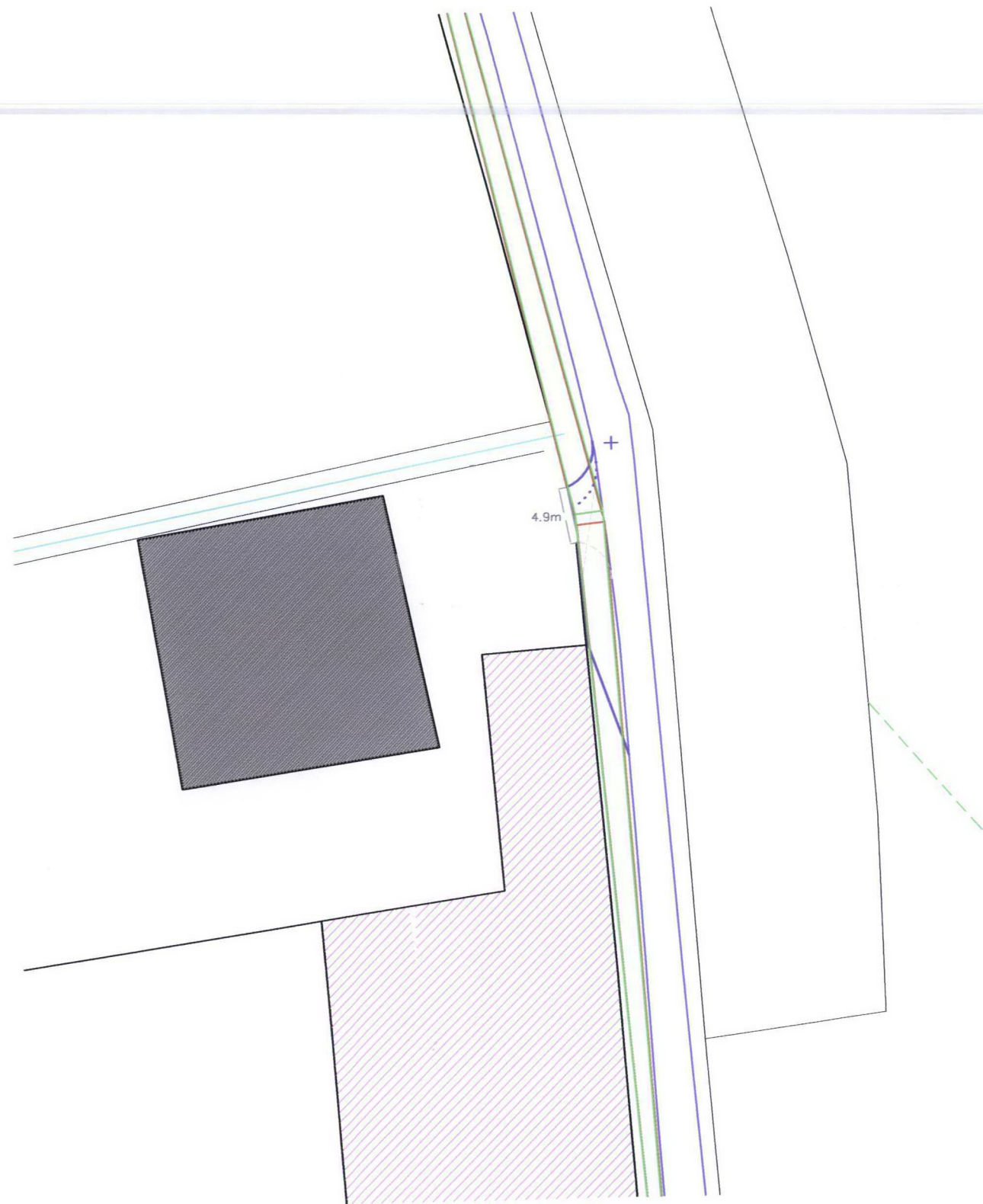
Visibility Option 1 + Lay-By

The Barnyard Studios
Garmouth, Moray
01343 870007

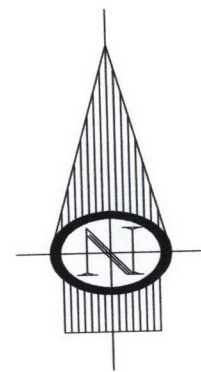
The Redhouse Studios
Tain, Ross-shire
01862 894894

Scale:
Date: April 2010

Drng No: 01
Rev:



Scale 1: 500



Scale 1: 2000



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futureplans

Visibility Option 2 + Lay-By

The Barnyard Studios
Garmouth, Moray
01343 870007

The Redhouse Studios
Tain, Ross-shire
01862 894894

Scale:
Date: April 2010

Drg No: 02
Rev:

Appendix 10 - Policy T2
Provision of Road Access

POLICY T2: PROVISION OF ROAD ACCESS

The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians. Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

SPP17 details that there will be a presumption against new accesses onto a trunk road, and that the Scottish Executive will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

JUSTIFICATION:

It is important to ensure that new development is served by appropriate infrastructure. The road access arrangements should be suitable to the proposed development and ensure that there are adequate safety provisions and provision for public transport, cycling and pedestrians. Road access design should be carefully designed to fit in with the surrounding landscape and environment. Where the access to a site is unmade or a private track it may require to be surfaced to a suitable standard and require the provision of passing places or be widened accordingly.

CONFORMS TO:

The policy conforms to the Council's guidance on technical standards for the provision of roads infrastructure.

ADDITIONAL GUIDANCE

Policy IMP1: Development Requirements;
PAN76: New Residential Streets.

POLICY T3: ROADSIDE SERVICE STATIONS

The Council will approve applications for roadside service stations if there is a specific locational need; no adverse impact on the built and natural environment that cannot be satisfactorily mitigated; and where appropriate access, parking and safety standards can be met.

JUSTIFICATION:

Roadside service stations provide an important safety feature particularly for long distance travellers. They can also provide an input into the local economy. Therefore where environmental and access, parking and safety issues can be satisfactorily resolved there should be a positive approach to their provision.

CONFORMS TO:

The policy conforms to SPP17 Planning for Transport

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements.

**Appendix 11 - Policy IMP1
Development Requirements**

POLICY IMP1: DEVELOPMENT REQUIREMENTS

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It must meet the following criteria:

- a. the scale, density and character must be appropriate to the surrounding area,
- b. the development must be integrated into the surrounding landscape,
- c. adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development,
- d. adequate water, drainage and power provision must be made,
- e. sustainable urban drainage systems should be used where appropriate, in all new developments
- f. there must be adequate availability of social, educational, healthcare and community facilities,
- g. the development should, where appropriate, demonstrate how it will incorporate renewable energy systems and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria,
- h. provision for the long term maintenance of public landscape and amenity areas must be made,
- i. conservation of natural and built environment resources must be demonstrated,
- j. appropriate provision to deal with flood related issues must be made, including the possibility of coastal flooding from rising sea levels and coastal erosion,
- k. pollution, including ground water must be avoided,
- l. appropriate provision to deal with contamination issues must be made, and
- m. the development must not sterilise significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.
- n. where appropriate, arrangements for waste management should be provided.

JUSTIFICATION

The quality of development in terms of its siting, design and servicing is a priority consideration within the Plan. In the first instance development needs to be suitable to the surrounding built and natural environment. Development should be adequately serviced in terms of transport, water, drainage, power, facilities. Particular emphasis is placed on providing pedestrian, cycle and public transport access to the development, and the use of sustainable urban drainage systems and the incorporation of renewable energy equipment and systems, and sustainable design and construction into the development in order to promote sustainability within Moray. Flooding is an important consideration particularly within the Laich of Moray and needs to be adequately addressed. Similarly, pollution issues in relation to air, noise, ground water and ground contamination must be adequately addressed to provide proper development standards.

CONFORMS TO:

The policy conforms to SPP1 on the Planning System and to national planning guidance and advice generally

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Other policy requirements generally.

**Appendix 12 - Structure Plan Policy 1(e)
Development and Community**

POLICY 1: DEVELOPMENT AND COMMUNITY

The policy set out below identifies the strategic community development requirements for the delivery of the structure plan strategy-

The Moray Structure Plan Strategy will be supported by:

- a) the identification within the local plan of the business and industrial land allowances set out in Schedule 1 and the provision of strategic business locations at Elgin and Forres Enterprise Park and business park opportunities at Buckie, Keith and Lossiemouth;
- b) the encouragement of tourism development opportunities;
- c) the identification within the local plan of the housing allowances set out within Schedule 2;
- d) the provision of affordable housing in association with new housing development where a demand is identified in the Local Housing Strategy;
- e) the encouragement of low impact, well-designed development in the countryside to support local communities and rural businesses;
- f) sustaining the vitality and viability of town centres through the support of opportunities and proposals for retail and commercial development in accordance with the sequential approach;
- g) promotion of the strategic transport links as set out in Proposal 2.
- h) the protection and enhancement and new provision of facilities for community use, healthcare, sport and recreation.
- i) the inclusion within Local Plans of a policy requiring appropriate developer contributions towards healthcare and other community facilities.

**Appendix 13- Handling Report for
Application Ref: O9/00649/OUT**

Appendix 10 - Policy T2
Provision of Road Access

POLICY T2: PROVISION OF ROAD ACCESS

The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians. Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

SPP17 details that there will be a presumption against new accesses onto a trunk road, and that the Scottish Executive will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

JUSTIFICATION:

It is important to ensure that new development is served by appropriate infrastructure. The road access arrangements should be suitable to the proposed development and ensure that there are adequate safety provisions and provision for public transport, cycling and pedestrians. Road access design should be carefully designed to fit in with the surrounding landscape and environment. Where the access to a site is unmade or a private track it may require to be surfaced to a suitable standard and require the provision of passing places or be widened accordingly.

CONFORMS TO:

The policy conforms to the Council's guidance on technical standards for the provision of roads infrastructure.

ADDITIONAL GUIDANCE

Policy IMP1: Development Requirements;
PAN76: New Residential Streets.

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The Council will approve applications for roadside service stations if there is a specific locational need; no adverse impact on the built and natural environment that cannot be satisfactorily mitigated; and where appropriate access, parking and safety standards can be met.

JUSTIFICATION:

Roadside service stations provide an important safety feature particularly for long distance travellers. They can also provide an input into the local economy. Therefore where environmental and access, parking and safety issues can be satisfactorily resolved there should be a positive approach to their provision.

CONFORMS TO:

The policy conforms to SPP17 Planning for Transport

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements.

**Appendix 11 - Policy IMP1
Development Requirements**

POLICY IMP1: DEVELOPMENT REQUIREMENTS

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- b. the development must be integrated into the surrounding landscape,
- c. adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development,
- d. adequate water, drainage and power provision must be made,
- e. sustainable urban drainage systems should be used where appropriate, in all new developments
- f. there must be adequate availability of social, educational, healthcare and community facilities,
- g. the development should, where appropriate, demonstrate how it will incorporate renewable energy systems and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria,
- h. provision for the long term maintenance of public landscape and amenity areas must be made,
- i. conservation of natural and built environment resources must be demonstrated,
- j. appropriate provision to deal with flood related issues must be made, including the possibility of coastal flooding from rising sea levels and coastal erosion,
- k. pollution, including ground water must be avoided,
- l. appropriate provision to deal with contamination issues must be made, and
- m. the development must not sterilise significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.
- n. where appropriate, arrangements for waste management should be provided.

JUSTIFICATION

The quality of development in terms of its siting, design and servicing is a priority consideration within the Plan. In the first instance development needs to be suitable to the surrounding built and natural environment. Development should be adequately serviced in terms of transport, water, drainage, power, facilities. Particular emphasis is placed on providing pedestrian, cycle and public transport access to the development, and the use of sustainable urban drainage systems and the incorporation of renewable energy equipment and systems, and sustainable design and construction into the development in order to promote sustainability within Moray. Flooding is an important consideration particularly within the Laich of Moray and needs to be adequately addressed. Similarly, pollution issues in relation to air, noise, ground water and ground contamination must be adequately addressed to provide proper development standards.

CONFORMS TO:

The policy conforms to SPP1 on the Planning System and to national planning guidance and advice generally

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Other policy requirements generally.

**Appendix 12 - Structure Plan Policy 1(e)
Development and Community**

POLICY 1: DEVELOPMENT AND COMMUNITY

The policy set out below identifies the strategic community development requirements for the delivery of the structure plan strategy-

The Moray Structure Plan Strategy will be supported by:

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- b) the encouragement of tourism development opportunities;
- c) the identification within the local plan of the housing allowances set out within Schedule 2;
- d) the provision of affordable housing in association with new housing development where a demand is identified in the Local Housing Strategy;
- e) the encouragement of low impact, well-designed development in the countryside to support local communities and rural businesses;
- f) sustaining the vitality and viability of town centres through the support of opportunities and proposals for retail and commercial development in accordance with the sequential approach;
- g) promotion of the strategic transport links as set out in Proposal 2.
- h) the protection and enhancement and new provision of facilities for community use, healthcare, sport and recreation.
- i) the inclusion within Local Plans of a policy requiring appropriate developer contributions towards healthcare and other community facilities.

**Appendix 13- Handling Report for
Application Ref: O9/00649/OUT**

REPORT OF HANDLING

Ref No:	09/01618/PPP	Officer:	Richard Smith
Proposal Description/ Address	Planning permission in principle to erect house at Site At Upper Thorn Drybridge Buckie Moray		
Date:	26.01.2010	Typist Initials:	JC

RECOMMENDATION

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

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Environmental Protection Manager		No comment.
Environmental Health Manager	01/09/09	No objection.
Contaminated Land	08/09/09	No objection.
Private Water Supplies	09/09/09	Public water supply proposed.
Transportation Manager	23/10/09	Objection. Recommends refusal.
Scottish Water	13/10/09	No objection.

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
H8: New Housing in Open Countryside	Y	
IMP1: Development Requirements	Y	
E3: TPOs and Control of Trees	N	
T5: Parking Standards	N	
T2: Provision of Road Access	Y	
EP5: SUDS	N	
EP10: Foul Drainage	N	
EP9: Contaminated Land	N	
EP4: Private Water Supplies	N	

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Banffshire Advertiser	No Premises	28/09/09
Banffshire Advertiser	Departure from development plan	28/09/09

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)			

REPRESENTATIONS

Representations Received

NO

Total number of representations received

Names/Addresses of parties submitting representations

Name

Address

Summary and Assessment of main issues raised by representations

Issue:

Comments (PO):

No objections/representation received.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

The Proposal

- Application for PPP to erect dwellinghouse on part of a field at Upper Thorn, Drybridge.
- The site comprises the front portion of a large field, which rises away from the adjoining public road to the east. Approx. 0.105 ha (0.26 acres) in area, it is rectangular in shape and has 2/3rds of its boundaries defined by post and wire fencing and the adjacent road verge.
- The general locality of the site includes a farm building to the north and a couple of dwellings to the southeast.
- Access to be formed onto adjacent minor road.
- Foul drainage – private septic tank and soakaway system. Water supply – public.

Relevant History

Various permissions for dwellings (some of which have been implemented) in the Drybridge area. These have been approved under delegated powers, in consultation with the local member and at committee.

Determining Issues

New Residential Development in the Open Countryside

Moray Structure Plan 2007 – policy 1 (e)

Moray Local Plan 2008 – policies H8 and IMP1

Policy 1 (e) of the Moray Structure Plan 2007 seeks to encourage well located and designed houses in the countryside that have low environmental impact. Policy H8 of the EMLP 2008 sets out various criteria against which new house sites require to be assessed. These include the requirement that new sites 1). should not detract from the character or setting of existing buildings, or their surrounding area, 2). are not overtly prominent in the landscape i.e. located within an open setting such as a central area of a field or on a skyline etc and where otherwise prominent are offset by a natural backdrop and 3). have at least 50% established boundaries. The policy also contains site-specific criteria requiring at least 25% of plot areas to be planted with trees and house designs to reflect traditional proportions and include traditional features. Policy IMP1 of the EMLP 2008 seeks compatibility in terms of scale, density and character and requires new development to integrate into the surrounding landscape.

The proposal involves the formation of a house plot on elevated open ground, which rises away from the adjacent highway. It would have no backdrop or natural enclosure. These factors combined would give rise to a situation where any prospective dwelling or associated outbuildings on the site would largely occupy the skyline when viewed from the adjacent highway.

In light of the above, the proposal would fail to satisfy the siting criteria of the above provisions because it would be located within an open rural setting, which would lack sufficient backdrop to offset its prominence when viewed from the adjoining public road. Any development on the site would therefore 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 in light of the above the application is recommended for refusal.

Although the proposal would satisfy siting criterion in relation to the need to safeguard the setting of existing buildings in the area, established boundary treatment and is large enough to accommodate 25% tree planting, these aspects would not override the main objection which is relation to its siting and prominence.

There are no amenity or drainage issues.

Access/parking (Policies MLP - T2, T5) – Following consultation The Transportation Engineer has commented as follows:

The proposed development is for 1 house at Upper Thorn, near Drybridge. The development would be accessed via the U63bL Minduff Road, which is a single track road with passing places.

The proposed development would be served by the existing farm building access. The applicant proposes to upgrade the access and provide a lay-by to the Moray Council specification.

The proposed access would require a visibility splay of 2.4m x 120m. At present the applicant has indicated works to clear vegetation from the road verge and his land to provide the visibility splay. However the visibility splay to the north crosses land which is outside the control of the applicant and there is no guarantee that the splay can be provided and maintained for the lifetime of the development.

The proposals do not demonstrate control over the required visibility splay at the proposed access junction and does not conform to Local Plan Policy T2. Furthermore any additional traffic using the U63bL Minduff Road, without improvements to this road, is not acceptable. Transportation therefore recommend refusal for this application.

The above comments shall be included as a further reason for refusal.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

HISTORY

Reference No.	Description		
	Decision		Date Of Decision