

Site at Westcroft, Pluscarden, Elgin - Mr and Mrs P Oliver

June 2010

Grounds for Review of Refusal of Planning Permission

Planning Application Ref No 10/00115/APP



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1.0 Introduction

- 1.1 These grounds for review of a decision to refuse planning permission for a house at Westcroft are being submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three month period from the refusal of permission dated 4th May 2010.
- 1.2 The grounds for review respond to the reasons for the refusal of planning permission and address the proposal in relation to Development Plan Policies and relevant material planning considerations as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2.0 Summary

- 2.1 The proposal under review is for a single house incorporating traditional features and finishes. The site is part of a small cluster of houses and the proposed house has been sited and designed to relate to the appearance and character of this grouping as required by Moray Council Local Plan policies.
- 2.2 Local Plan policy H8 (the lead policy for assessing new houses in the Countryside) allows for single new houses provided they are on sites with a specific level of boundary definition, are not overtly prominent and, when added to an existing grouping, do not detract from the appearance and character of existing buildings or their surrounding area.
- 2.3 The site has the required boundary definition, it is not one of the examples of an overtly prominent site referred to in the policy and is extremely well assimilated into the existing grouping, and screened from view, by both the adjacent existing houses and adjacent woodland. This is in stark contrast to a recently approved site a short distance to the South which is not well related to the existing grouping and which will result in a house open and exposed to view, unlike the proposal under review.
- 2.4 National planning policy and guidance promotes proposal such as this which make use of sites well integrated with existing small clusters of buildings and which have trees as a backdrop.

- 2.5 The reasons for refusal claim the proposal would be intrusive when added to the existing housing and would be detrimental to the rural character of the area. The existing new housing beside the site has been approved as being acceptable under Local Plan policies. In addition it is the existence of this housing that will contribute to the assimilation of the site into the landscape by helping to screen the house from view.
- 2.6 There have been no objections to the proposal from neighbours, the public or statutory consultees.
- 2.7 The Planning Act requires planning applications to be dealt with in accordance with policy unless there are material considerations to justify doing otherwise. As this proposal complies with policy and there are no material considerations to the contrary the planning application should be approved.

3.0 Background to Handling of Application

3.1 The application (Appendix 1) was dated 21st January 2010 and was refused under the Councils Delegation scheme by the case officer on 4th May 2010.

3.2 The reasons for refusal state that;

The proposal is contrary to policies H8, E7 (Areas of Great Landscape Value) and IMP1 in the Moray Local Plan for the following reasons.

1. Both in itself and in combination with the neighbouring consents for housing granted the proposal is an intrusive suburban type of development that would form roadside ribbon development and would have a detrimental impact on the attractive rural character of the area.

2. Further such cumulative development would be encouraged both in the vicinity and elsewhere, to the visual detriment of the wider area.

3.3 The case officers report of handling for the planning application (Appendix 2) was dated 19th April 2010.

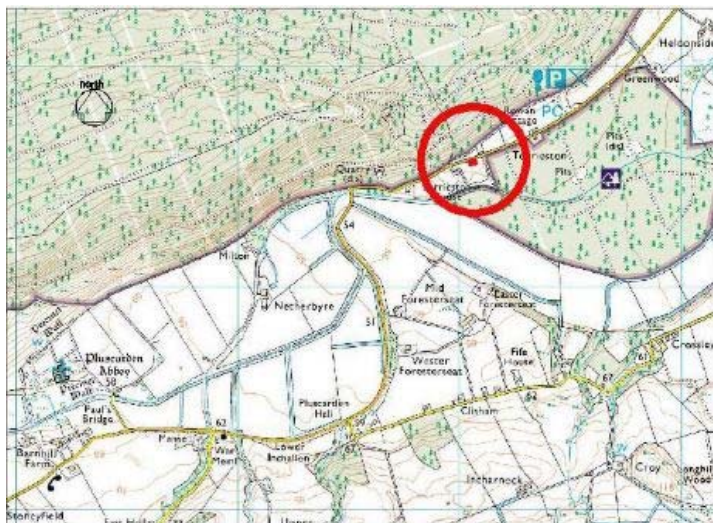
3.4 The report confirms that despite the planning application being advertised in the local press there were no objections from neighbours or the public. It also confirms that there were no objections from statutory consultees which included the Councils Environmental Health Manager, Contaminated Land Team, Transportation Manager, and Scottish Water.



Copy of site plan submitted with application - NTS

4.0 The Proposal

- 4.1 The proposal is for a single dwelling served by a public water supply and private drainage (septic tank/soakaway and SUDS). Access will be from the minor public road running along the North boundary of the site.
- 4.2 The design of the proposed house is 1.5 storey incorporating features and finishes to give it a traditional appearance. The reasons for refusal do not reject the design of the house which can therefore be considered acceptable in relation to the Councils planning policies.
- 4.3 The plans for the site also incorporate additional landscape planting along the site frontage as well as between the house and the existing property to the West.



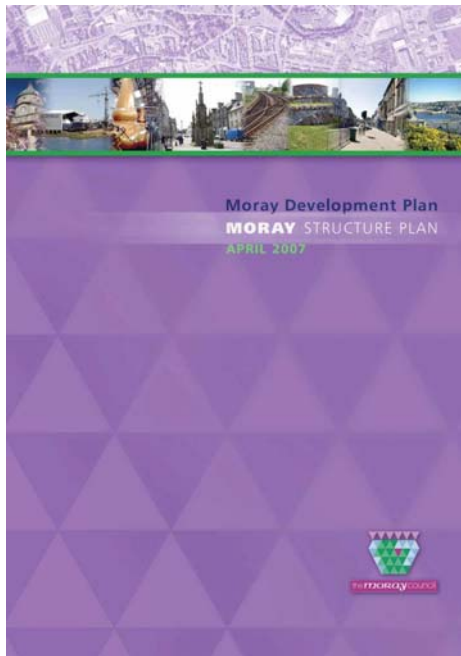
5.0 The Site

- 5.1 The site is located within a small cluster of existing houses approximately 3.5 miles South West of Elgin on the South side of the minor road from Elgin to Pluscarden. There are two newly built houses immediately to the West of the site with an established cottage to the East on the North side of the minor road serving the site. This cluster of houses is very well contained within the landscape by large areas of forestry to the North , East and West with rising land beyond the River Lossie to the South. Planning consent has recently been granted for a new house site to the South of the two new houses West of the site (consent ref 09/00133/OUT - granted 3rd December 2009). There is also a planning application for another site pending consideration to the East of the new plot recently approved. Although a house was previously refused on the present site this was under previous Local Plan policies which were significantly different to policies in the current Local Plan.
- 5.2 The site itself is a very well defined area of ground extending to approximately 1215 sqm (0.12ha or 0.3ac). It is bounded to the North by a fence and the minor public road from which access will be taken, to the West by a new house and to the East by a fence with woodland beyond and to the South by a fence.
- 5.3 Because the site is sandwiched between the new houses to the West and substantial woodland to the East it is only visible for a very short distance on either side when travelling East or West along the Elgin/Pluscarden Road. The proposed house will effectively be hidden by the existing houses when approaching from the West and by existing woodland when approaching from the East.

- 5.4 The substantial screening provided to the site by the existing houses to the West and woodland to the East is in stark contrast to the lack of similar screening for the site recently approved a short distance to the South.

6.0 Development Plan Policy

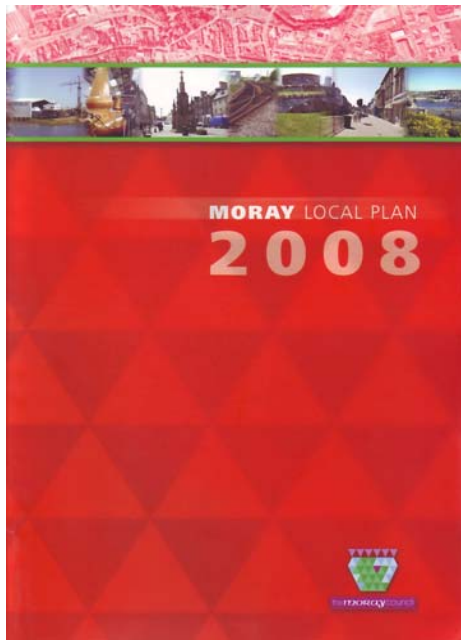
- 6.1 The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.
- 6.2 The Development Plan for Moray comprises the Moray Structure Plan 2007 approved in April 2007 and the Moray Local Plan adopted in December 2008.
- 6.3 Material considerations are not defined statutorily. Examples of possible material considerations are set out in an Annex to Scottish Government Circular 4/2009 (Appendix 3) and they include;
- National Scottish Planning Policy
 - The environmental impact of a proposal
 - The design of a development and its relationship to its surroundings
 - Access, provision of infrastructure and planning history of the site
 - Views of statutory consultees
 - Legitimate public concern, or support, expressed on relevant planning matters



Moray Structure Plan 2007

7.0 Moray Structure Plan 2007 (Appendix 4)

- 7.1 The development strategy in the Structure Plan promotes growth and its strategic aims (p8) include a commitment to maintain and grow the population and to allow sensitive small scale development in rural areas.
- 7.2 Whilst the Structure Plan directs the majority of new growth to the established settlement hierarchy it also recognises that in rural Moray the development of small scale housing is essential to sustain communities (p17)
- 7.3 The Structure Plan has an explicit presumption in favour of housebuilding in rural areas on well located and designed sites that have a low environmental impact (p17). It also recognises that new development should be sensitive to areas of scenic, special scientific and nature conservation value (p17).
- 7.4 Policy 1 (Development and Community) part (e) of the Structure Plan (p24) encourages low impact and well designed development in the countryside.



Moray Local Plan 2008

8.0 Moray Local Plan 2008 (Appendix 5)

8.1 The Local Plan reflects the Structure Plan strategy and allows for housing in the countryside subject to certain criteria being met.

8.2 The site is located in the countryside. Apart from being on the North East fringe of the Pluscarden Area of Great Landscape Value (AGLV) it is not within any of the other designated sensitive areas defined in the Local Plan e.g. Countryside Around Towns, National Scenic Areas, Coastal Protection Zones and Gardens and Designed Landscapes. It is also not within any designated sensitive habitat defined in the Local Plan e.g. Sites of Interest to Natural Science, Sites of Special Scientific Interest, RAMSAR sites, SWT Wildlife Sites, National Nature Reserves and Special Areas of Conservation.

8.3 As a proposal for a house on a greenfield site in the countryside the lead policy to consider is Policy H8 – New Housing In The Open Countryside.

8.4 Policy H8 sets out requirements on the siting and design of new houses in the countryside. It presumes against applications for more than two houses and allows for two or less houses on sites which;

- do not detract from the character and setting of existing buildings, or their surrounding area, when added to an existing grouping or linear extension,
- are not overtly prominent (such as on a skyline, on artificially elevated ground, or in open settings such as the central areas of fields). Where an otherwise prominent site is offset by natural backdrops, these will be acceptable in terms of this criterion,

- have at least 50% of the site boundaries as long established features capable of distinguishing the site from the surrounding land (for example dykes, hedgerows, watercourses, woodlands, tracks and roadways).

8.5 As regards design policy H8 also requires;

- a roof pitch of between 40-55 degrees.
- Gable width of no more than 2.5 times the height of the wall from ground to eaves level.
- Uniform external finishes including slate or slate effect roof tiles
- Vertical emphasis and uniformity to windows
- Additional planting within the plot
- Boundaries sympathetic to the area.

8.6 The site is within the North East fringe of an Area of Great Landscape Value (AGLV) where policy E7 - AGLV applies. This policy allows for development within the AGLV provided it does not have a significant adverse effect on the landscape character of the area.

8.7 The siting and design criteria in Policy H8 are supplemented by the general criteria based Policy IMP1 – Development Requirements. This policy has a range of requirements applicable to all new development including that;

- scale, density and character must be appropriate to the surrounding area,
- development must be integrated into the surrounding landscape,

8.8 In addition to the siting and design requirements of Policies H8 and IMP1 there are a

range of other Local Plan policies relating to infrastructure, servicing, and tree requirements as follows;

- Policy T2 – Provision of Road Access
- Policy T5 – Parking Standards
- Policy EP5 – Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)
- Policy EP10 – Foul Drainage
- Policy IMP1 – Development Requirements

8.9 In general terms these policies seek to ensure that new development is provided with a suitable and safe access, adequate car parking and adequate foul drainage (private systems are accepted for small developments in the countryside). They also seek to ensure the successful integration of new development with existing trees.



Scottish Planning Policy (SPP)

9.0 National Planning Policy and Guidance

9.1 National Planning Policy and Guidance is a material planning consideration to be taken into account in the consideration of planning applications. It is set out in Scottish Planning Policy (SPP) and Planning Advice Notes (PAN's).

9.2 Scottish Planning Policy -SPP - (Appendix 6)

9.3 Scottish Planning Policy sets out the Scottish Governments overarching policy on land use planning.

9.4 The section of the SPP on Rural Development supports small scale housing in "all rural areas" (para 94), including new clusters and groups, extensions to existing groups and plots on which to build individually designed houses.

9.5 Planning Advice Note 72 (PAN72) – Housing in the Countryside (2005) (Appendix 7)

9.6 PAN72 starts by recognising changing circumstances and points out that one of the most significant changes in rural areas has been a rise in the number of people wishing to live in accessible parts of the countryside while continuing to work in towns and cities within commuting distance. It contains guidance in some detail on how to achieve a successful development in the countryside. The PAN acknowledges that there will continue to be a demand for single houses, often individually designed, but these have to be planned, with location carefully selected and design appropriate to locality (Page 7).

9.7 The PAN gives advice on location within the landscape and specifically states that



Planning Advice Note 72 - Housing in the Countryside

housing related to existing groups will usually be preferable to new isolated development (page 7). It requires new housing in small groups to avoid a suburban appearance , by being sympathetic in terms of orientation, topography, scale, proportion and materials to other buildings in the locality.

- 9.8 Setting a building against a backdrop of trees is identified in the PAN as one of the most successful means by which new development can blend with the landscape. However it also states that the purpose of new planting is not to screen or hide new development, but to help integration with the surrounding landscape (Page 11).
- 9.9 The PAN also cautions against skyline development and heavily engineered platforms (P11).

10.0 Main Issues

10.1 Having set out the policy background it is now necessary to consider the main issues that arise from the proposal in relation to this policy context. The main issues are considered to be;

- principle of the site and design
- infrastructure and servicing

10.2 Principle of the Development

10.3 There is a clear commitment in National Planning Policy and Guidance and the Moray Structure Plan Strategy to the principle of well sited and designed new housing in the countryside.

10.4 The Moray Local Plan 2008 recognises this and allows for new housing subject to siting and design criteria being met.

10.5 The principle of the acceptability of the site itself requires to be tested primarily against Local Plan Policy H8 – New Housing in the Countryside. This is the lead policy for housing in the countryside. Policy H8 starts off by saying that it assumes against multiple house applications (more than 2) on the basis that these are more appropriately directed to Rural Communities (policy H6) and the replacement of Existing Buildings (policy H7). The application is for a single house and as such is in accordance with the general thrust of the policy in terms of the number of houses being applied for. The case officers report of handling appears to suggest, in a confusing way, that the application under appeal breaches this part of the policy because other sites



Location of site, existing houses and new site approved December 2009 - ref 09/00133/OUT

have already been approved. This is simply incorrect as the policy precludes applications for more than 2 houses and as a matter of fact the application under appeal is for a single house. Policy H8 goes on to set out three specific criteria under the heading "siting" which have to be met for the principle of a site to be acceptable.

- 10.6 Firstly the house must not detract from the character and setting of existing buildings, or their surrounding area, when added to an existing grouping or linear extension. The site is within a small group of three existing houses with consent granted for a fourth nearby to the South. It is extremely well screened from view by both the existing houses and adjacent woodland. The house has been designed to relate to the scale, form and finishes of the two closest houses immediately to the West. If anything it has a more traditional appearance and character than these houses which have already been approved by the Council. The size and shape of the plot is also consistent with the adjoining properties. Because of the standard of screening which exists the house will only be visible for a very short distance, more or less the length of the site frontage, when approached from the East or West along the minor public road between Elgin and Pluscarden. A house on this plot will not extend the existing group and the house has been sited to reflect the linear layout of the group in what is effectively a gap between the two new houses to the West and existing cottage to the East. The sensitive siting of the plot in relation to the layout of the group is in sharp contrast to the position of the plot recently approved a short distance to the South which is much more open, exposed, and unrelated to the settlement pattern of the existing houses.
- 10.7 The second of the siting criteria within Policy H8 is that the dwelling must not be overtly prominent. Examples of overtly prominent locations given within the policy are sites on

a skyline, on artificially elevated ground, or in open settings such as the central areas of fields. Where an otherwise prominent site is offset by natural backdrops the policy states that these will be acceptable in terms of this criterion. The site cannot be said to represent any of the forms of “overtly prominent” location precluded by the policy. It is not on the skyline, it does not occupy artificially elevated ground and it is not in an open setting such as the central area of a field.

- 10.8 The second leg of policy H8 also allows for prominent sites provided they are offset by natural backdrops. Even if it could be described as prominent, which it is not, it would none the less comply with this leg of the policy because it has a strong wooded backdrop when approaching from the West and houses with trees beyond when approaching from the East.
- 10.9 The third and final part of the siting criteria under Policy H8 is that the site should have at least 50% of its boundaries as long established features capable of distinguishing it from the surrounding land. Examples of acceptable boundaries described in the policy are woodlands, dykes, hedgerows, watercourses, tracks and roadways. The site has been carefully chosen to fit the house into a pocket of land which is defined and enclosed by the existing public road to the North, existing houses to the West with a small part of a field and woodland to the East. It meets and exceeds the boundary requirements of the policy.
- 10.10 There are a series of specific design requirements within policy H8. They are all met by the proposals and in any event the design of the house has not been highlighted in the reasons for refusal.

10.11 It is considered that the proposed site exceeds the requirements of Policy H8. In doing so it also satisfies the requirements of Policy IMP1 which requires development to be integrated into the landscape and of a scale, density and character appropriate to the surrounding area.

10.12 As the site is within an AGLV it is a requirement of policy E7 that it must not have an adverse effect on the landscape character of the area. The landscape character of the immediate area is dominated by large tracts of enclosing woodland to the North and East with the River Lossie and rising land to the South and more trees and woodland to the West. The existing small group of houses containing the is an integral part of the character of the landscape. It has already been shown that the proposal will integrate well with the existing cluster of houses and certainly better than the recently approved site a short distance to the South which is in a much more open and exposed position. As the site is an integral, and well screened, part of an established small cluster of houses contained by strong and dominant landscape features the proposal will not have an adverse impact on the landscape character of the area.

10.13 Infrastructure and Servicing

10.14 Local Plan policy requirements for infrastructure and servicing relevant to this proposal relate to access, parking and drainage.

10.15 Policies T2 (Provision of Road Access) and T5 (Parking Standards) require a suitable and safe access to be provided from the public road along with car parking in accordance with the Councils parking standards.

- 10.16 The access will be from the minor public road along the North boundary of the site and the site is large enough to accommodate parking as required by the Councils Car Parking Standards. The case officers report of handling (Appendix 1) also confirms that the Councils Transportation Manager has no objections to the proposal.
- 10.17 Policy EP10 (Foul Drainage) allows for private drainage systems (septic tanks/soakaways) for small scale development in the countryside with a preference for discharges to land rather than surface waters. A septic tank/soakaway system with a discharge to land is proposed.
- 10.18 The use of Sustainable Urban Drainage Systems (SUDS) is promoted by Policy EP5 (Surface Water Drainage: Sustainable Urban Drainage Systems). SUDS will be provided and the detail can be controlled through planning conditions.

11.0 Reasons for Refusal

- 11.1 The reasons for refusal in the decision notice dated 4th May 2010 start off by saying that the proposal both in itself and in combination with the neighbouring consents for housing would be an intrusive sub urban type of development. The Council approved the newly built houses to the West of the site as being in accordance with Local Plan policy of the time, a policy which precluded the type of development being referred to in the reasons for refusal. In addition another site has been recently been approved a short distance to the South as being in accordance with current Local Plan policy. This site is more open and exposed and far less integrated with the existing group of houses and settlement pattern than the proposed site. It is completely inconsistent, and indeed illogical, to now argue that the present site would be unacceptable when added to the sites already granted, especially as these sites were approved as being in accordance with policy.
- 11.2 The refusal goes on to state that the proposal would lead to ribbon development. Ribbon development is usually regarded as the linear elongation of a group of houses by a roadside. This is not actually the case with the site as there are existing houses immediately to the East and West. The site is within this small cluster of houses. It will not elongate the group. In any event the potential existence of ribbon development, even if was involved, is not a reason to declare the proposal as being contrary to Local Plan policy.
- 11.3 The test within the policy is whether or not when added to an existing grouping, "or linear extension" the proposed house would "detract from the character or setting of

existing buildings, or their surrounding area". It has already been show that this will not be the case.

- 11.4 Finally the refusal notice states that further cumulative development would be encouraged both in the vicinity and elsewhere to the visual detriment of the wider area. Whether or not further development is "encouraged" is irrelevant as the planning authority have the power to refuse any development that it considers unacceptable. Local Plan policy does not prohibit additional development in any particular location. The test under policy is not whether it is additional or "cumulative" development but whether or not when added to existing properties it "detracts from the appearance or setting of existing buildings, or their surrounding area, when added to an existing grouping or linear extension". It has been shown that this is not the case with this proposal.

12.0 Conclusion

- 12.1 The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.
- 12.2 National Planning Policy and Moray Councils Structure and Local Plan policies all encourage well sited houses in the countryside.
- 12.3 The lead policy in the Local Plan for testing the acceptability of the site as a suitable location for a house in the countryside is Policy H8 – New Housing In The Open Countryside. This policy contains specific criteria about the siting of new dwellings and it has been shown that the proposal meets the criteria set out in the policy.
- 12.4 It has also been shown that the proposal is acceptable in relation to other relevant Local Plan policies regarding design, provision of access, parking and drainage.
- 12.5 Despite being advertised in the local press there were no objections from third parties. There were also no objections to the proposals from any of the statutory consultees.
- 12.6 The reasons for refusal suggest that the proposal would lead to a development that would detract from the character of this part of the countryside. However it has been shown that the proposal complies with policy so this cannot be the case especially when the site is seen in the context of the character of the area which includes the small cluster of existing houses within which the site is located.

12.7 As the proposal is in accordance with the Development Plan and there are no known material considerations to the contrary it is considered that the application should be approved.

Photograph 1

Proposed site - set between existing houses to West and trees to East. Defined by existing fencing, road, houses to East and trees beyond to West.



Photograph 2

Site viewed on approach from West.
Proposed house will be between existing
new houses and wood beyond and screened
by existing houses.



Photograph 3

Site viewed on approach from East.

Proposed house will be screened by trees to East of site.



Photograph 4

Location of new site to South of existing houses, approved Dec 2009. Open position detached from existing houses without the screening and integration with settlement pattern of plot under review.

