

Appendices

Site at Westwood, Mosstowie, Elgin - Mr R Fleming

November 2010

Grounds for Review of Refusal of Planning Permission

Planning Application Ref No 10/00746/APP



Prepared by
grant and geoghegan
enquiries@ggmail.co.uk
01343-556644

Appendices

Appendix 1 - Copy of Planning Application

Appendix 2 - Case officers Report of Handling for planning application

Appendix 3 - Circular 4/2009 - Development Management Procedures - Extracts

Appendix 4 - Moray Structure Plan 2007 - Extracts

Appendix 5 - Moray Local Plan 2008 - Extracts

Appendix 6 - Scottish Planning Policy - Extracts

Appendix 7 - Planning Advice Note 72 (PAN 72) - Housing in the Countryside – Extracts

Appendix 8 – Approval for new house within CAT nearby to South of site

Appendix 1

Copy of planning application and refusal documents



the **moray** council

Planning Department

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000008821-001

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

Type of Application

What is this application for? Please select one of the following:

We strongly recommend that you refer to the help text before you complete this section *

- ☒ Application for Planning Permission (including changes of use but excluding mineral working)
- ☐ Application for Planning Permission in Principle
- ☐ Further Application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions
- ☐ Application for Mineral Working

Note. If you select 'Application for Mineral Working' before you complete this form, please check with the planning authority if they have an alternative form to be submitted or if they require additional information over and above the questions asked in this form.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Erect House

Is this a temporary permission? *

☐ Yes ☒ No

Please state how long permission is required for and why: * (Max 500 characters)

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

☐ Yes ☒ No

Have the works already been started or completed? *

☒ No ☐ Yes - Started ☐ Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

Please explain why work has taken place in advance of making this application: * (Max 500 characters)

Applicant or Agent Details

Are you an applicant, or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Agent Company Name: grant and geoghegan

You must enter a Building Name or Number, or both:*

Agent's Ref. Number:

Building Name:

Agent First Name: *

Joe

Building Number:

46

Agent Last Name: *

Geoghegan

Address 1 (Street): *

Glenlossie Road

Telephone Number: *

01343556644

Address 2:

Thomshill

Extension Number:

Town/City: *

Elgin

Mobile Number:

Country: *

UK

Fax Number:

Postcode: *

IV30 8GY

Email Address: * joe@gmail.co.uk

Applicant Details

Applicant's Title: *

Mr

You must enter a Building Name or Number, or both:*

Other Title:

Building Name:

Applicant's First Name: *

R

Building Number:

Applicant's Last Name: *

Fleming

Address 1 (Street):

Company Name:

Address 2:

Telephone Number:

Town/City:

Extension Number:

Country:

Mobile Number:

Postcode:

Fax Number:

Email Address:

Site Address Details

Full postal address of the site (including postcode where available):

Address 1:

Address 5:

Address 2:

Town/City/Settlement:

Address 3:

Post Code:

Address 4:

Please identify/describe the location of the site or sites.

Northing

862593

Easting

317030

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Pre-Application Discussion Details

In what format was the feedback given? *

☐ Meeting ☐ Telephone ☐ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (Max 500 characters)

Title:

Please Select One

Other title:

First Name:

Last Name:

Correspondence Reference
Number:

Date (dd/mm/yyyy):

Note 1. A processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

3091.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: (Max 500 characters)

Vacant

Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? *

☒ Yes ☐ No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? *

☐ Yes ☒ No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? *

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the total of existing and any new spaces or a reduced number of spaces)? *

3

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycle spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

☒ Yes ☐ No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

- ☐ Yes – connecting to public drainage network
- ☒ No – proposing to make private drainage arrangements
- ☐ Not Applicable – only arrangements for water supply required

What private arrangements are you proposing? *

- ☒ New/Altered septic tank.
- ☐ Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).
- ☐ Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? *

- ☒ Discharge to land via soakaway.
- ☐ Discharge to watercourse(s) (including partial soakaway).
- ☐ Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: * (Max 500 characters)

septic tank and soakaway

Do your proposals make provision for sustainable drainage of surface water? (e.g. SUDS arrangements) *

☒ Yes ☐ No

Note: -

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

☒ Yes

☐ No, using a private water supply

☐ No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

☐ Yes ☒ No ☐ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

☐ Yes ☒ No ☐ Don't Know

Briefly describe how the risk of flooding might be increased elsewhere. In addition you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact SEPA or your Planning Authority for advice on what information may be required: * (Max 500 characters)

Trees

Are there any trees on or adjacent to the application site? *

☒ Yes ☐ No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

☒ Yes ☐ No

If Yes or No, please provide further details:(Max 500 characters)

To Local Authority requirements

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

☒ Yes ☐ No

How many units do you propose in total? *

1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

All Types of Non Housing Development - Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

☐ Yes ☒ No

All Types of Non Housing Development - Proposed New Floorspace Details

Please state the use type and proposed floorspace (or number of rooms if you are proposing a hotel or residential institution): *

Gross (proposed) floorspace (In square metres, sq.m) or number of new (additional) rooms (if class 7 or 8): *

If Class 1, please give details of internal floorspace:

Net trading space:

Non-trading space:

Total:

If Class 'Not in a use class' or 'Don't know' is selected, please give more details: (Max 500 characters)

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2008 *

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Are you or is the applicant, or the applicant's spouse/partner, a member of staff within the planning service or an elected member of the planning authority?

Or are you/the applicant/the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? *

☐ Yes ☒ No

Please provide further details: * (Max 500 characters)

Certificates and Notices

Certificate and Notice under regulation 15 8 – Town and Country planning (General Development Management Procedure) (Scotland) Order 1992 (GDPO 1992) Regulations 2008

One Certificate must be completed and submitted along with this application form. This is most usually Certificate A ,Form 1 or Certificate Form B or Certificate C, but if this is a Minerals application, you will need Certificate Form D.

Are you/the applicant the sole owner of ALL the land ? *

☒ Yes ☐ No

Is any of the land part of an agricultural holding? *

☐ Yes ☒ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding.

Signed: Joe Geoghegan

On behalf of: Mr R Fleming

Date: 11/05/2010

☒ Please tick here to certify this Certificate

Checklist - Application for Planning Permission

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major developments, have you provided a Pre-Application Consultation Report? *

☐ Yes ☐ No ☒ Not applicable to this application

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

c) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, have you provided a Design and Access Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

d) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2008) have you provided a Design Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

e) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

☐ Yes ☐ No ☒ Not applicable to this application

f) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

☒ Site Layout Plan or Block plan.

☒ Elevations.

☒ Floor plans.

☒ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☒ Photographs and/or photomontages.

☐ Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. *

☐ Yes ☒ N/A

A Flood Risk Assessment. *

☐ Yes ☒ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

☐ Yes ☒ N/A

Drainage/SUDS layout. *

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan. *

☐ Yes ☒ N/A

Contaminated Land Assessment. *

☐ Yes ☒ N/A

Habitat Survey. *

☐ Yes ☒ N/A

A Processing Agreement *

☐ Yes ☒ N/A

Other Statements (please specify). (Max 500 characters)

Declare - For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying plans/drawings and additional information are provided as a part of this application .

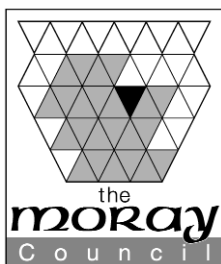
Declaration Name: Joe Geoghegan

Declaration Date: 11/05/2010

Payment Details

Cheque: roy j fleming, 000747

Created: 11/05/2010 20:19



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

REFUSAL OF PLANNING PERMISSION

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

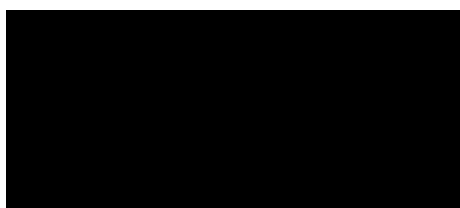
TO Mr R Fleming
c/o Grant And Geoghegan
46 Glenlossie Road
Thomshill
Elgin
Moray
IV30 8GY

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

Erect dwellinghouse on Site At Westwood Mosstowie Elgin Moray

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

Date of Notice: **23rd September 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: -

1. The proposal is contrary to policy 2(e) in the Moray Structure Plan and to policy E10 in the Moray Local Plan for the following reasons:-
 - (i) new residential development is involved in an attractive undeveloped location which would erode the distinction between the built-up area (of Elgin) and the countryside which Countryside Around Towns (CAT) policy seeks to protect. In relation to CAT policy the proposal does not involve rehabilitation conversion limited extension or change in use.
 - (ii) further such proposals would be encouraged

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
010/021/01		Elevations
010/021/02		Floor plans
010/020/06		Site and location plan
010/021/05		Site plan
010/021/03		Site section 2

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

N/A

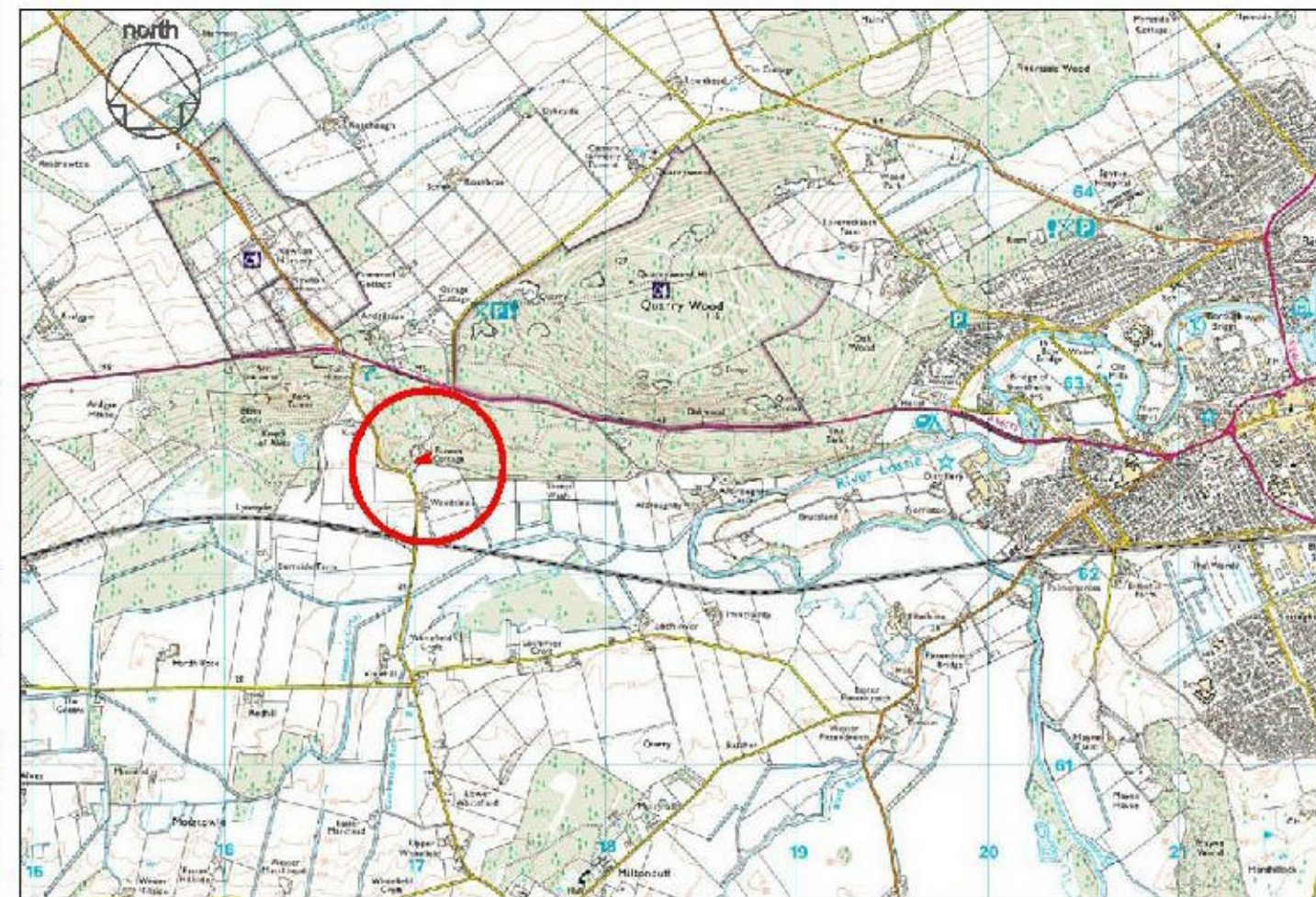
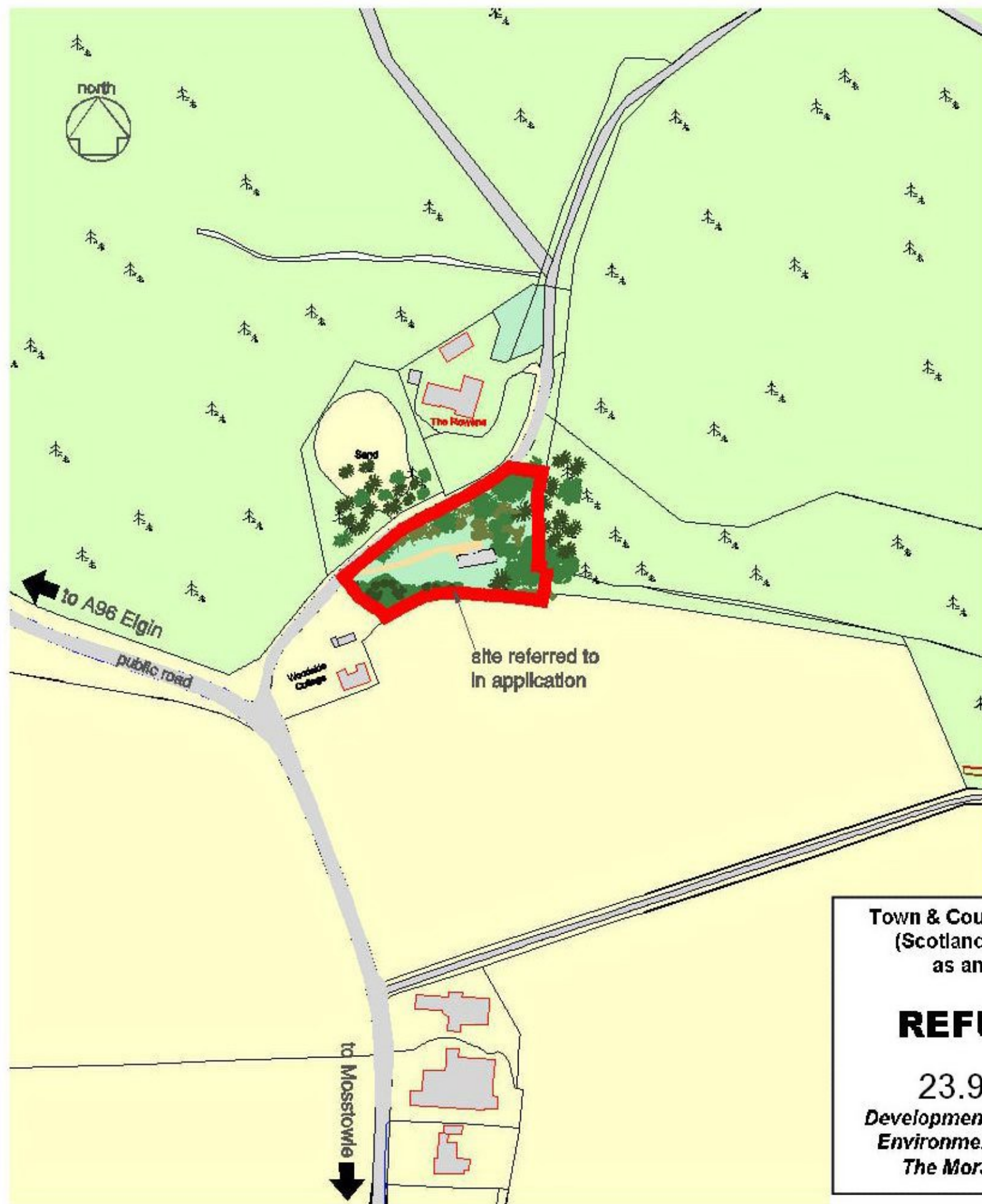
NOTICE OF APPEAL

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.

Site at Westwood, Mosstowie, Elgin



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

REFUSED

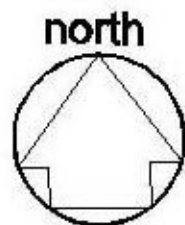
23.9.10

Development Management
Environmental Services
The Moray Council

grant and
geoghegan

chartered planning, development and
architectural consultants

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



Site at Westwood, Mosstowie, Elgin



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

REFUSED

23.9.10

Development Management
Environmental Services
The Moray Council

grant and
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architectural consultants

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

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

REFUSED

23.9.10

Development Management
Environmental Services
The Moray Council

Site at Westwood, Mosstowie, Elgin



**grant and
geoghegan**

chartered planning, development and
architectural consultants

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

Drawing Title
site section

Scale at A3
1:100

Date:
february 10

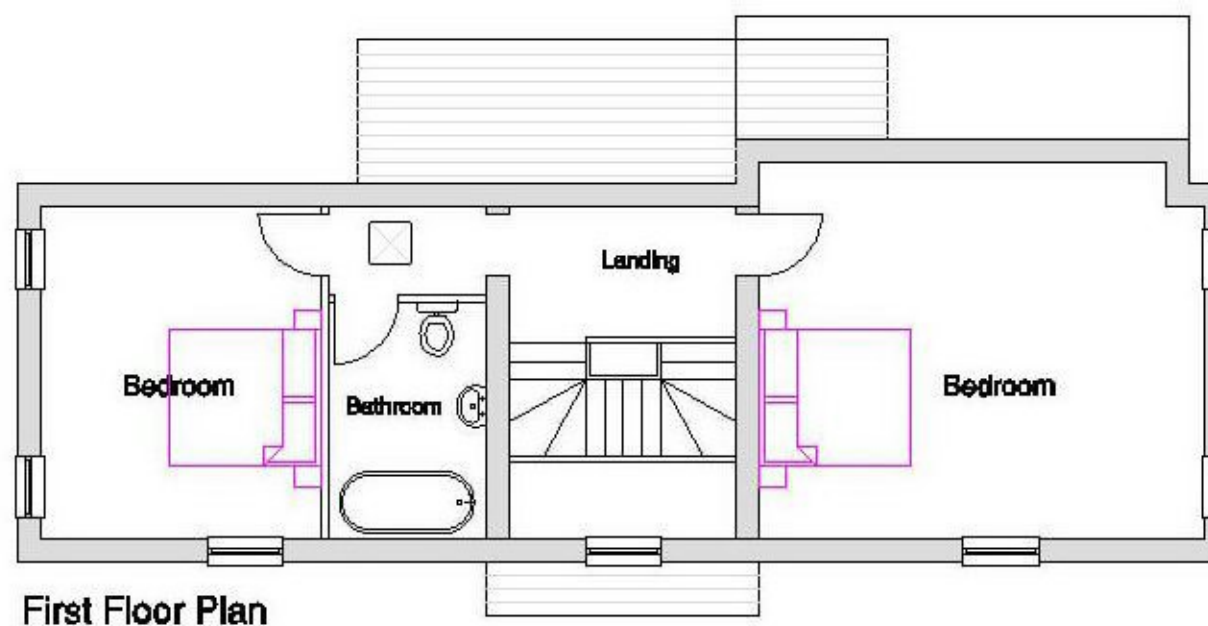
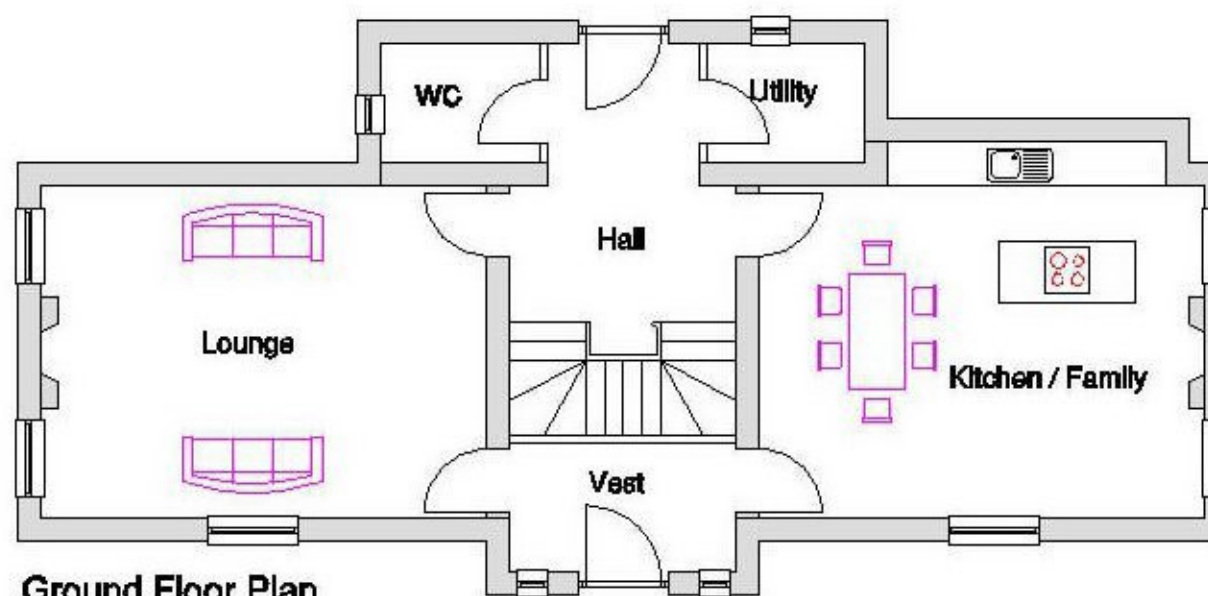
Drawing No.
010/021/03

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

REFUSED

23.9.10

Development Management
Environmental Services
The Moray Council

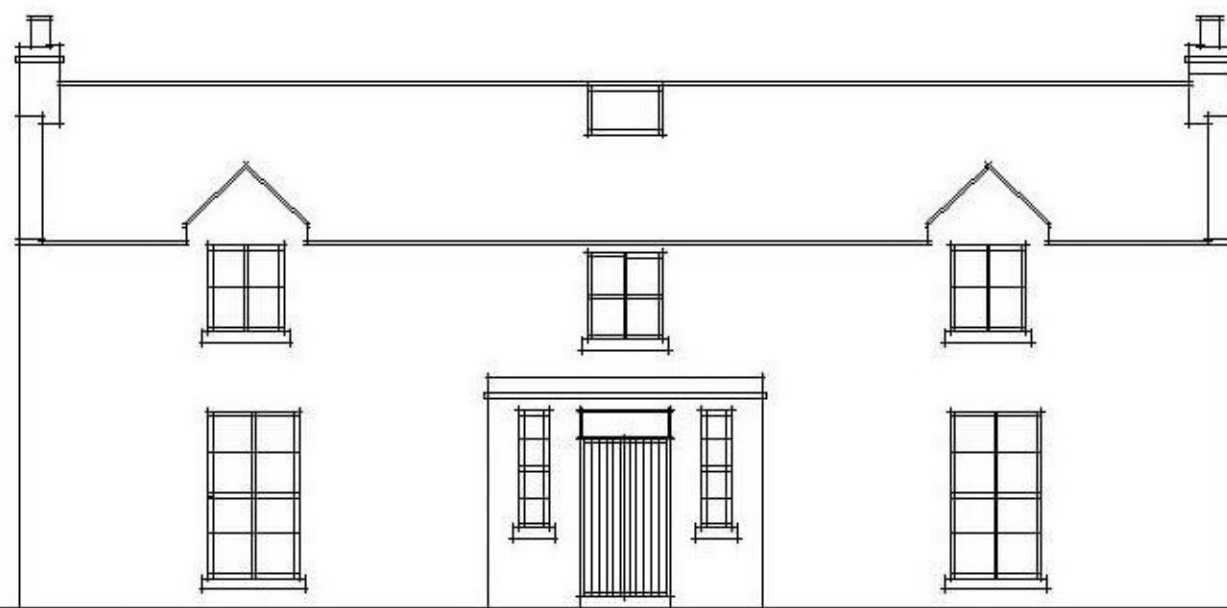


**grant and
geoghegan**

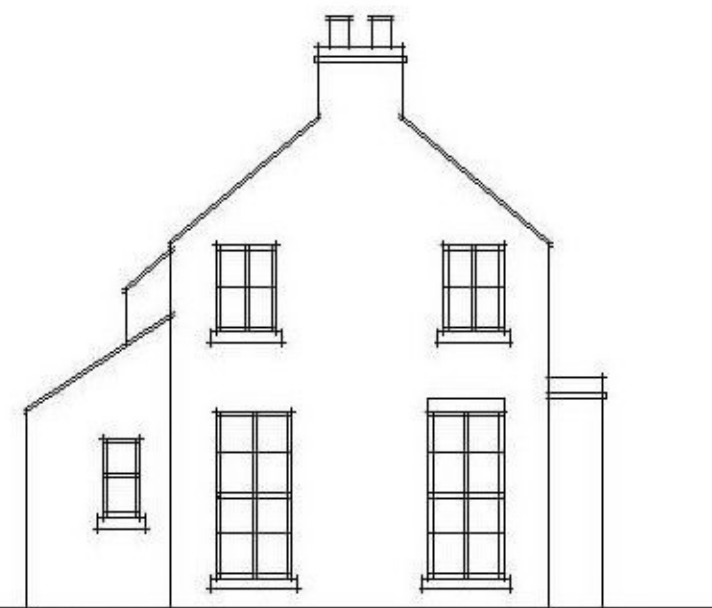
chartered planning, development and
architectural consultants

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

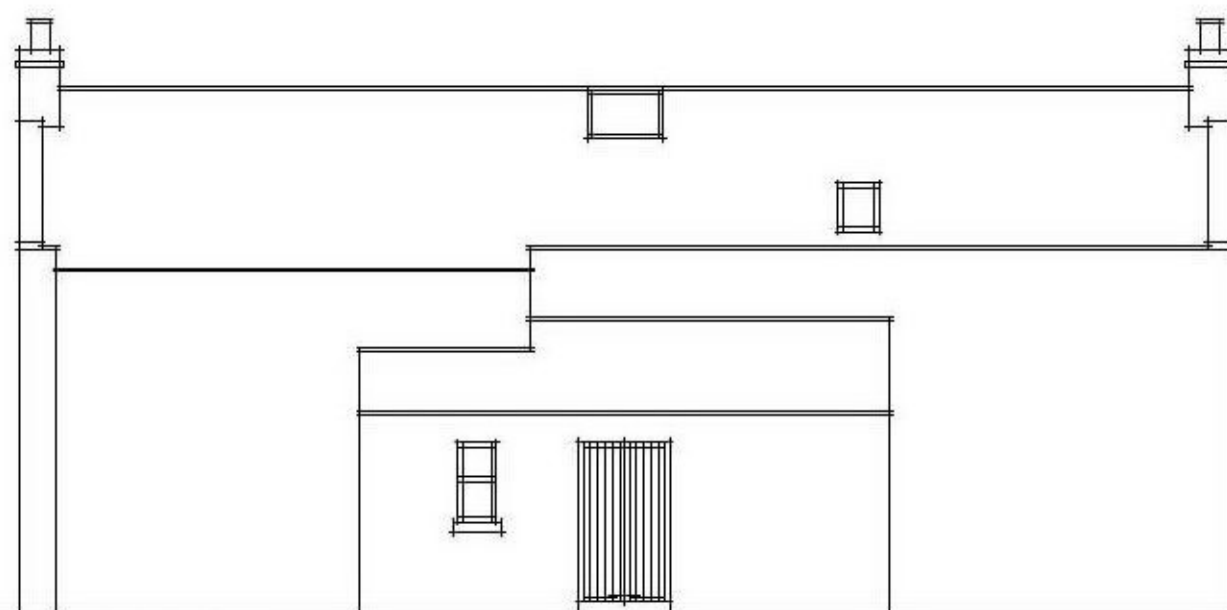
Site at Westwood, Mosstowie, Elgin



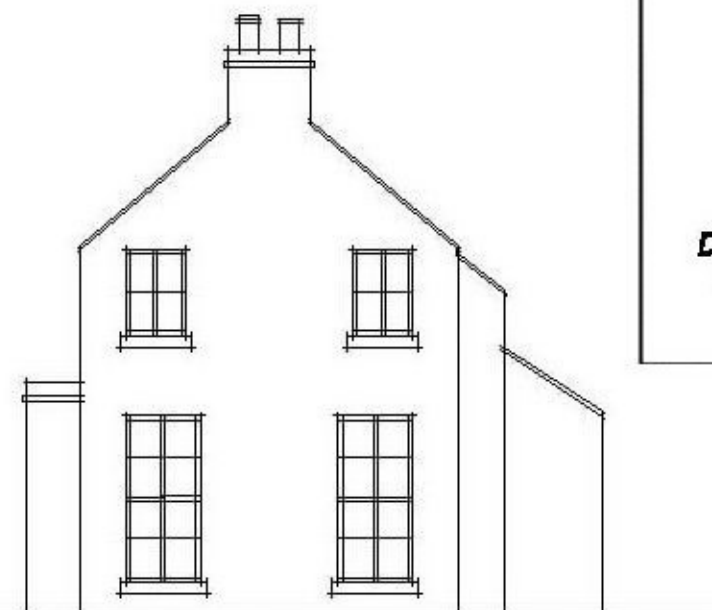
Front Elevation



Side Elevation



Rear Elevation



Side Elevation

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

REFUSED

23.9.10

Development Management
Environmental Services
The Moray Council

EXTERNAL FINISHES

ROOF
Natural Slate

WALLS
Lime render finish

grant and
geoghegan

chartered planning, development and
architectural consultants

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

Appendix 2

Case officers Report of Handling for planning application

REPORT OF HANDLING

Ref No:	10/00746/APP	Officer:	Maurice Booth
Proposal Description/ Address	Erect dwellinghouse on Site At Westwood Mosstowie Elgin Moray		
Date:	27.08.10	Typist Initials:	NW

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 Health Manager	02/06/10	No objection
Contaminated Land	31/05/10	No objection
Transportation Manager	10/06/10	No objection
Scottish Water	08/06/10	No objection
Environmental Protection Manager		

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
E10: CATs		See Observations
Policy 2(e)		
Policy 1(e)		
H8: New Housing in Open Countryside		
EP9: Contaminated Land		
IMP1: Development Requirements		
EP10: Foul Drainage		
T5: Parking Standards		
T2: Provision of Road Access		

REPRESENTATIONS

Representations Received		NO
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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/representations received.	

OBSERVATIONS – ASSESSMENT OF PROPOSAL

There have been 2 previous refusals for a house on the same site under the previous local plan. Although one of the reasons for the previous refusals included housing in the countryside policy which under the current local plan is not considered an issue, the same substantial concerns remain with the proposals in relation to Countryside Around Town (CAT) policy.

The new residential development proposed is in an attractive undeveloped location which would erode the distinction between the built-up area (of Elgin) and the countryside which Countryside Around Towns (CAT) policy specifically seeks to protect.

Not applying this policy consistently would result in other similar proposals elsewhere being encouraged.

None of the exceptions for allowing new development in terms of rehabilitation, conversion, extension or change of use detailed by the Countryside Around Towns policy applies and consistent with the CAT reason given in the 2 previous refusals on the site, the decision is again to refuse the proposals.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

There are no other material considerations that would alter this assessment.

HISTORY

Reference No.	Description			
06/02982/FUL	Detailed planning permission for a one and a half storey dwellinghouse on Land At West Wood Woodside Farm Elgin			
	Decision	Refuse	Date Of Decision	29/03/07
06/01126/OUT	Outline planning permission for dwelling house on Land At West Wood Woodside Farm Elgin			
	Decision	Refuse	Date Of Decision	23/11/06

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	No Premises	24/06/10

DEVELOPER CONTRIBUTIONS (PGU)	
Status	

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)			

Appendix 3

Circular 4/2009 - Development Management Procedures - Extracts



ANNEX A

DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A(5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision,
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
 - Consider whether or not the proposal accords with the development plan,
 - Identify and consider relevant material considerations for and against the proposal, and
 - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
 - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.

5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
- Scottish Government policy, and UK Government policy on reserved matters
 - The National Planning Framework
 - Scottish planning policy, advice and circulars
 - European policy
 - a proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance
 - Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
 - a National Park Plan
 - the National Waste Management Plan
 - community plans
 - the environmental impact of the proposal
 - the design of the proposed development and its relationship to its surroundings
 - access, provision of infrastructure and planning history of the site
 - views of statutory and other consultees
 - legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

Appendix 4

Moray Structure Plan 2007 - Extracts

- ii) The second option to bring forward new settlements within Moray is not likely to be justified in terms of likely levels of demand with new facilities and services unlikely to be provided timeously. A new settlement would have a substantial impact on Moray's environment. This option is not considered realistic.
- iii) The third option to promote extensive new development in the countryside outwith settlements is inefficient in terms of service provision and in the use of transport energy. It is clear however that there is a demand for new housing in the countryside and this could help to sustain rural services and facilities where provision is also made for the growth of rural businesses. There is therefore a case to allow some development, of low impact, in the open countryside.

The preferred strategic option for development is therefore Option 1, to focus new development on existing settlements. Development should be related to the settlement hierarchy with Elgin as the primary centre supported by the secondary centres of Buckie, Keith, Lossiemouth and Forres. This is the most sustainable option as these towns contain the majority of the population and are the focus of economic activity, services and the transport network. Outwith the primary and secondary centres opportunities will be provided for more local provision of development land to meet local need and support services at an appropriate scale for the settlement.

This option will also be supported by the scope to allow rural businesses and low impact housing in the wider countryside.

Strategic Aims

To achieve the preferred strategic option the Plan must set the framework for development in the light of the following aims:

- i) maintain and grow the population.
- ii) promote economic opportunities and diversify the local economy.
- iii) spread the benefits of economic growth across the community.
- iv) safeguard and enhance the environment and mitigate any impacts caused by new development.
- v) seek improved accessibility within and external to the area.
- vi) allow sensitive small scale development in rural areas.

The Development Strategy

The aims can be translated into a single strategy that brings together the broad manner of its implementation. The central pillar of the strategy is to promote economic growth whilst safeguarding and enhancing the natural and built environment, and promoting overall sustainability. The Strategy seeks to stem outmigration, attract in-migrants, build on a revised and expanded business development portfolio, support local services and to offer improved housing choice to stabilise population levels.

New housing developments in built-up areas must take account of sustainable flood management issues and not impact on the floodplain's capacity to hold water or make flooding worse elsewhere. They must also take account of sustainable urban drainage systems and energy conservation principles.

SPP3 on 'Planning for Housing' acknowledges the role of development plans in maintaining the viability of rural communities through supportive policies for new housing in the countryside. The Structure Plan strategy recognises that in rural Moray the development of small scale housing is essential in order to sustain communities both socially and economically. In much of the rural area, communities require opportunities for employment and housing if they are to survive. Those who are disadvantaged are particularly affected by the loss of community services and facilities. A positive planning approach to sustain their viability is required.

The more disadvantaged parts of the rural area often coincide with the most scenic. Within these areas a dispersed pattern of development is also a characteristic of their rurality. Siting and design aimed at low impact should ensure that there is minimal conflict between development and landscape quality.

Throughout the countryside it is essential that new development remains particularly sensitive to areas of scenic and special scientific and nature conservation value.

In the rural areas there will be a presumption in favour of housebuilding:

- i) within rural communities; or
- ii) where it involves the re-use, replacement or rehabilitation of existing buildings; both of which comply with the Council's sustainable objectives; and
- iii) only on well located and designed sites that have low environmental impact.

The main thrust of Government policy is to encourage the private sector to play the principal role in satisfying housing requirements. It is important, however, that Councils and Communities Scotland have sufficient resources to tackle the provision of houses for the special needs and "affordable" sectors. Local authorities, housing associations, and private developers, provide a range of tenures including rental, sale, shared ownership and self-build.

In SPP3 a high priority is given to measures designed to provide an appropriate supply of affordable housing through both Structure and Local Plans. It promotes mechanisms, such as Section 75 Agreements.

The Council has set out its approach to affordable housing through the publication of supplementary planning guidance.

The broad strategies for special needs housing are set out in the Moray Community Health and Social Care Partnership Plan agreed between the Moray Council and Grampian Health Board. The effects of the Community Care Legislation and the hospital closure programme have increased the pressure on special needs housing, and the demand for private residential homes.

The Council will seek to secure affordable and/or special needs housing within new housing developments by agreement with private developers and housing agencies in areas of need identified by the Community Services Department.

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.

There will be a presumption against development which is likely to sterilise significant workable reserves of mineral resources, prime quality farmland and preferred areas for forestry planting.

POLICY 2: ENVIRONMENT AND RESOURCES

The Moray Structure Plan Strategy will be supported by: -

- a) protecting international, national and local nature conservation and scenic designations from inappropriate development;
- b) protecting the wider natural environment and local biodiversity from inappropriate development and promote opportunities for environmental enhancement and restoration where possible;
- c) Working in partnership with the Cairngorms National Park Authority and other interested parties to implement the objectives of the National Park.
- d) restricting development within coastal areas outwith settlements to only that in which social and economic benefits outweigh environmental impact;
- e) providing protection from development to the countryside around the towns of Elgin, Buckie, Keith, Forres and Lossiemouth;
- f) conserving and enhancing the areas built heritage resources and their settings.
- g) supporting proposals aimed at regenerating the area's natural and built environment including good design;
- h) providing waste management facilities to deliver Area Waste Plan and National Waste Plan objectives and ensuring that new development is designed to facilitate sustainable waste management practices and promotes the minimisation of waste;
- i) promoting sustainable urban drainage systems(SUDS) in all new developments;
- j) promoting schemes to alleviate flooding in a sustainable and sensitive way using natural ecosystems and features where possible and also restricting development within flood risk areas following the guidance set out in the Risk Framework in SPP7: 'Planning and Flooding' and promoting flood risk management schemes to tackle flooding that threatens existing development and considering development proposals against the Flood Risk Framework set out in Table 5.
- k) safeguarding the area from pollution and contamination,
- l) promoting opportunities for the sensitive development of renewable energy and promoting renewable energy in new development.
- m) safeguarding resources for the production of minerals, preferred forestry areas, and prime quality agricultural land.

The coast is a valuable resource in Moray in terms of its landscape, nature conservation, recreation and tourism benefits. It is also a fragile resource that faces a range of development pressures. National Guidance (NPPG13 'Coastal Planning') requires general protection policies to be set out within Structure Plans on isolated, undeveloped and developed areas of the coastline. Within Moray there are no areas which fit the definition of isolated coastline. Therefore, the coastal area should be safeguarded from inappropriate development through the identification of a Coastal Protection Zone.

The towns and villages of Moray have grown significantly. The use of settlement boundaries maintains a clear distinction between the built up area and the countryside beyond. Inevitably the primary and secondary centres of Elgin, Forres, Lossiemouth, Buckie and Keith are subject to the highest development pressures and around each of these towns, it is appropriate to exercise control to limit development sprawl. "Countryside Around Towns" (CAT's) will be identified in the Moray Local Plan to prevent development sprawl into the countryside.

Built Environment

Moray has a rich and varied history of human habitation. The area's built heritage includes 2681 archaeological sites, 79 scheduled monuments, 1665 listed buildings, 17 conservation areas, 7 Historic Gardens and Designed Landscapes, townscapes and vernacular (local) buildings. Collectively, this heritage contributes greatly to the Moray character and provides a sense of place. The educational, tourist and recreational value of this heritage is undoubted and the quality of life is greatly enhanced by it.

The conservation, enhancement and promotion of Moray's built heritage is therefore important. In particular, this will mean safeguarding listed buildings, ancient monuments, archaeology and designed landscapes and to retaining buildings, townscapes and artefacts which are part of Moray's character and identity.

As part of this process it will be important to maintain a programme of improvement schemes in partnership with other funding bodies to tackle the worst areas in Moray's built environment which are subject to dereliction, vandalism or contamination, giving particular attention to community regeneration.

Environmental Protection

NPPG10 on "Planning and Waste Management" states that Plans should include land use policies for waste management within a strategic planning framework. The Environmental Protection Act 1990 established three separate waste management functions – waste collection, waste disposal and waste regulation. Under the provisions of the Environment Act 1995 the Scottish Environment Protection Agency was vested with the preparation of a National Waste Strategy for Scotland which was published in December 1999, and the National Waste Plan, published in February 2003, forms the keystone in the implementation of the National Waste Strategy. The subsequent Area Waste Plan, published in March 2003, forms part of the National Waste Strategy and sets out the proposals for providing a framework for sustainable waste management.

Appendix 5

Moray Local Plan 2008 - Extracts

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.

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.

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.

POLICY T4: BUS, RAIL AND HARBOUR FACILITIES

The Council will promote the improvement of the bus, rail and harbour facilities within Moray. Development proposals that may compromise the viability of these facilities will not be acceptable.

JUSTIFICATION:

It is a Plan aim to optimise the contribution to transport that can be made by enhancing bus, rail and harbour facilities. Therefore, it is appropriate to safeguard existing railway and bus stations, railfreight facilities and harbours from development that may compromise their viability. Notwithstanding the above there are likely to be opportunities, particularly related to the area's commercial and leisure harbours, where more diversified development would be acceptable.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements, Policy IMP4: Action Plan.

POLICY T5: PARKING STANDARDS

Proposals for development must conform with the Council's policy on parking standards.

JUSTIFICATION:

The application of parking standards related to development assists in the implementation of appropriate traffic management, and in the availability of on-street car parking provision. The standards specify where there is scope to provide commuted payments as an alternative to parking on site, as well as the need for parking for commercial vehicles.

CONFORMS TO:

The policy conforms to SPP17 on 'Transport and Planning: Maximum Car Parking Standards (2003)'.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

None.

POLICY T6: TRAFFIC MANAGEMENT

The road hierarchy will be used to assist the assessment of planning applications, in particular for the consideration of the appropriate road design and traffic management requirements. The road hierarchy will be used when considering appropriate traffic management options/schemes to optimise the performance of specific roads.

JUSTIFICATION:

A strategic road hierarchy (Trunk Road; Principal Local Roads; and Non-Principal Local Roads) already exists that enable efficient management of the road network within Moray. There are road hierarchy categories in the Road Guidelines for new developments. The road hierarchy categories will be reviewed and extended to cover roads within Elgin.

CONFORMS TO:

The policy conforms to guidance set out in SPP17 on 'Transport and Planning'.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP4: Action Plan.

POLICY EP5: SURFACE WATER DRAINAGE: SUSTAINABLE URBAN DRAINAGE SYSTEMS (SUDS)

Surface water from development should be dealt with in a sustainable manner that avoids flooding and pollution and promotes habitat enhancement and amenity. All sites should be drained by a SUDS system or equivalent. A Drainage Assessment will be required for developments of 10 houses, or greater than 100 sq metres for non residential proposals. Applicants must agree provisions for long term maintenance to the satisfaction of the Council, SEPA and Scottish Water.

JUSTIFICATION:

The aim of the policy is to encourage the use of SUDS to deal with surface water run-off. SUDS must be implemented to the satisfaction of the regulatory authorities to ensure that they do not adversely impact on the wider environment.

SUDS also provide an opportunity to encourage the creation of new habitats for wildlife.

CONFORMS TO:

The policy conforms to PAN61 on Planning and Sustainable Urban Drainage Systems

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements; SUDS Design Manual for Scotland and Northern Ireland.

POLICY EP6: WATERBODIES

The Council will approve proposals affecting waterbodies where the applicant provides a satisfactory report that demonstrates that any impact (including cumulative) on river hydrology, sediment transport and erosion, nature conservation, ecological status or ecological potential, fisheries, water quality, quantity and flow rate, recreational, landscape, amenity, and economic and social impact can be adequately mitigated. The report should consider potential impacts up and downstream of the works particularly in respect of potential flooding. Opportunities for the enhancement of biodiversity and nature conservation should be considered. SNH and SEPA will be consulted on proposals

JUSTIFICATION:

There are a number of works to watercourses and land drainage which fall outwith the General Permitted Development Order including fisheries management, erosion control or flood prevention which can have a significant impact on the management or ecology of watercourses.

The Water Environment and Water Services (Scotland) Act 2003 implements the EC Water Framework Directive (2000/60/EC) which aims to maintain and improve the quality of aquatic ecosystems and requires that any ecological risks associated with development in rivers, tidal and coastal waters be identified and controlled.

CONFORMS TO:

The policy conforms to the Spey Catchment Management Plan.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements; River Works on the Spey and its Tributaries – who to contact and how to proceed.

POLICY EP10: FOUL DRAINAGE

All development within or close to settlements (as defined in the Local Plan) of more than 2,000 population equivalent will require to connect to the public sewerage system unless connection to the public sewer is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has confirmed that investment to address this constraint has been specifically allocated within its current Quality and Standards Investment programme and the following requirements apply:

- i) systems shall not have an adverse impact on the water environment;
- ii) systems must be designed and built to a standard which will allow adoption by Scottish Water;
- iii) systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

All development within or close to settlements (as identified in the Local Plan) of less than 2,000 population equivalent will require to connect to the public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include the size and dispersal of the settlement, the size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add to a risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or the amenity of the general area. Consultation with SEPA will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small-scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with the Technical Handbooks (which set out guidance on how proposals may meet the Building Standards set out in the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

JUSTIFICATION

This policy aims to achieve satisfactory disposal of sewage. The policy encourages new development to connect to the mains system wherever possible but recognises that in some settlements this will not be possible. The policy seeks to ensure that drainage systems can be designed to a standard which can be adopted by Scottish Water and which could be connected to a public system in the future.

CONFORMS TO:

This policy conforms to SPP10 Planning for Waste Management.
PAN79 Water and Drainage.

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

None.

POLICY E9: SETTLEMENT BOUNDARIES

Settlement Boundaries are drawn around each of the towns, villages and rural communities representing the limit to which these settlements can expand during the Local Plan period. Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released for development under the terms of policy H2.

JUSTIFICATION:

Settlement boundaries are defined on the Proposals Maps for the purpose of guiding development to the towns and villages preventing ribbon development and maintaining a clear distinction between the built up area and the countryside.

CONFORMS TO:

N/A

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy H2: Indicative Long Term Housing Allocations.

POLICY E10: COUNTRYSIDE AROUND TOWNS

Development proposals within the Countryside Around Towns (CATs) areas identified around Elgin, Forres, Buckie, Keith and Lossiemouth will be refused unless it:

- a. involves the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or
- b. is necessary for the purposes of agriculture, forestry, low intensity recreational use or specifically allowed under the terms of other Local Plan policies within these areas, or
- c. is a designated "LONG" term housing allocation, released for development under the terms of policy H2.

JUSTIFICATION:

The five main towns of Elgin, Forres, Buckie, Keith and Lossiemouth are subject to the highest development pressures and CAT's have been designated to prevent development sprawl into the countryside. Only certain types of developments are appropriate within CAT's to protect their special character and preserve the distinction with the built up area.

CONFORMS TO:

N/A

POLICY CROSS REFERENCE/ADDITIONAL GUIDANCE:

Policy IMP1: Development Requirements.

Policy ER6 on Agriculture and Policy ER4 on Forestry Consultations.

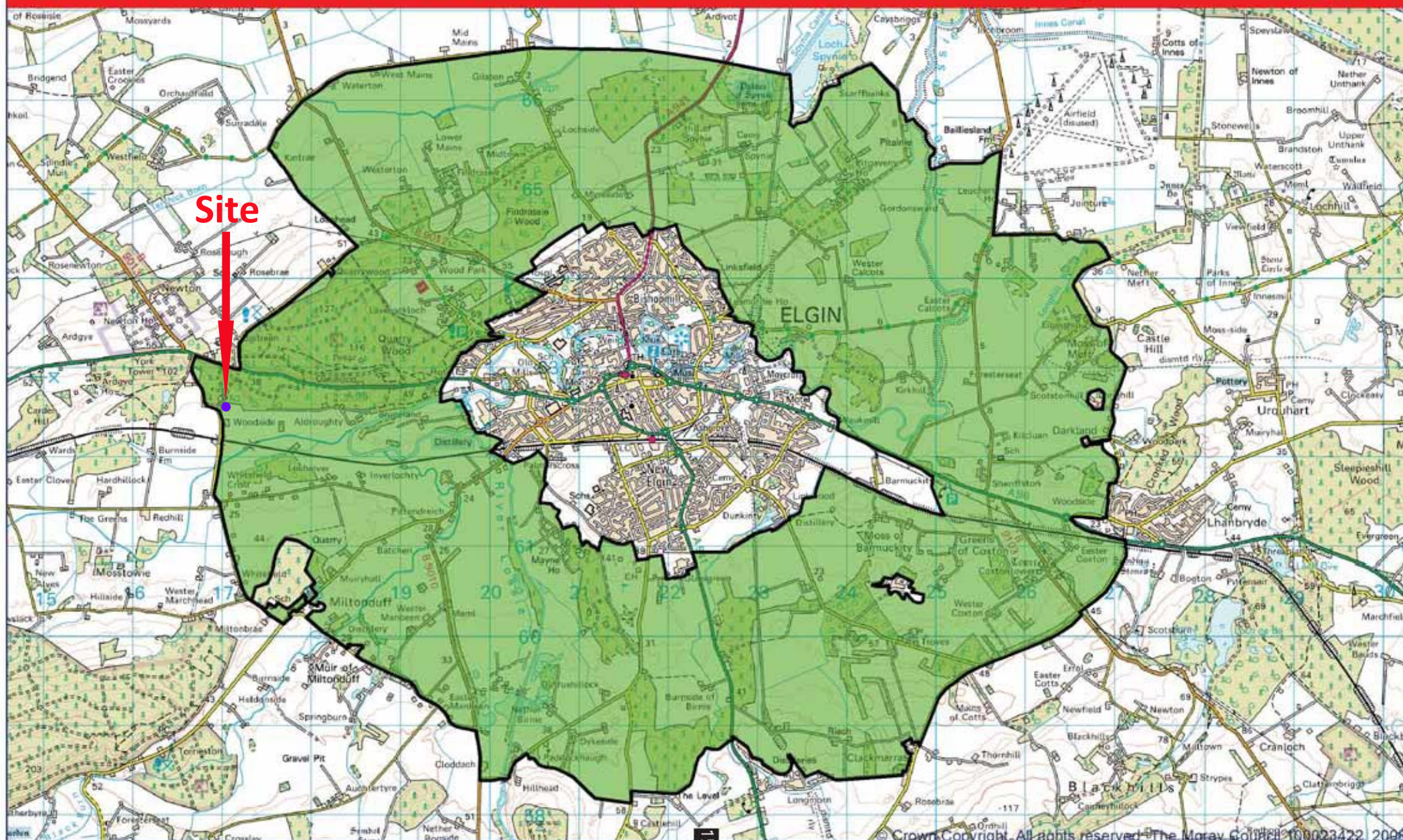
Policy H2: Indicative Long Term Housing Allocations.

ELGIN COUNTRYSIDE AROUND TOWNS (CAT)



1:55,000

Site



Appendix 6

Scottish Planning Policy - Extracts

RURAL DEVELOPMENT

92. The planning system has a significant role in supporting sustainable economic growth in rural areas. By taking a positive approach to new development, planning authorities can help to create the right conditions for rural businesses and communities to flourish. The aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.
93. The character of rural areas and the challenges they face vary greatly across the country, from remote and sparsely populated regions to pressurised areas of countryside around towns and cities. The strategy for rural development set out in the development plan should respond to the specific circumstances in an area whilst reflecting the overarching aim of supporting diversification and growth of the rural economy. Development plans should promote economic activity and diversification in all small towns and rural areas, including development linked to tourism and farm diversification, whilst ensuring that the distinctiveness of rural areas, the service function of small towns and the natural and cultural heritage are protected and enhanced. Developments which provide employment or community benefits should be encouraged, particularly where they involve the imaginative and sensitive re-use of previously used land and buildings. Planning authorities should also support and promote opportunities for environmental enhancement and regeneration in rural areas, particularly areas of previous mining and industrial activity.
94. The requirement for development plans to allocate a generous supply of land to meet housing requirements, including for affordable housing, applies equally to rural and urban areas. Development plans should support more opportunities for small scale housing development in all rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing, plots on which to build individually designed houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding. Opportunities to replace rundown housing and steadings, and to provide limited new housing along with converted rehabilitated buildings, should be supported where the new development is designed to fit in the landscape setting and will result a cohesive grouping. Modernisation and steadying conversion should not be constrained within the original footprint or height limit unless there are compelling design or conservation reasons for doing so.
95. The aim is not to see small settlements lose their identity nor to suburbanise the Scottish countryside but to maintain and improve the viability of communities and to support rural businesses. In more accessible and densely populated rural areas most new development should be in or adjacent to settlements. In less populated areas, small scale housing and other development which supports diversification and other opportunities for sustainable economic growth whilst respecting and protecting the natural and cultural heritage should be supported in a range of locations. In these areas, new housing outwith existing settlements may have a part to play in economic regeneration and environmental renewal. All new development should respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards, particularly in relation to energy efficiency. Planning authorities should apply proportionate standards to access roads to enable small developments to remain viable.
96. It is essential that rural communities have reasonable access to good quality services. Major facilities are usually concentrated in larger settlements, and wherever possible they should be accessible by a range of transport modes including public transport. However, planning authorities should be realistic about the availability or likely availability of alternatives to access by car as not all locations, particularly in remoter areas, can be served by public transport.

Appendix 7

Planning Advice Note 72 (PAN 72) - Housing in the Countryside - Extracts

Rural development

Problems to solve

For over 10 years, *PAN 36* has had some positive impact on new housing development but, nevertheless, concerns remain:

- ▶ an inability to understand designs particular to local areas;
- ▶ development plans and supporting guidance not always sufficiently clear about the standards required;
- ▶ a lack of confidence in articulating and holding out for quality design, and following through to appeal, if necessary;
- ▶ an over reliance on houses not designed specifically for the site; and
- ▶ roads and drainage engineers using urban solutions rather than having greater flexibility to reflect local circumstances.

It is therefore appropriate to restate the importance of quality development in the countryside by expanding on the messages in *PAN 36*.

Changing circumstances

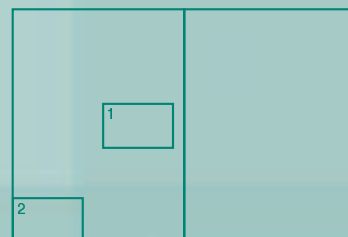
One of the most significant changes in rural areas has been a rise in the number of people wishing to live in the accessible parts of the countryside while continuing to work in towns and cities within commuting distance. Others wish to live and work in the countryside. These trends derive from lifestyle choices and technological changes which allow working from home. More people are now also buying second or holiday homes. In addition, leisure and tourism businesses have been increasingly active, for example through timeshare and chalet developments. It is for planning authorities to assess these demands and decide how, and where, to accommodate them.



a rise in the number of people wishing to

live

in the countryside



1: Self catering units, near Auchterarder, Perth & Kinross
2: Contemporary artist's studio and home, Perth & Kinross

Opportunities

Some landscapes will probably have to accommodate considerable change in the coming years. This change needs to be planned and managed so that the effects are positive. Buildings in rural areas can often be seen over long distances and they are there for a long time. Careful design is essential. Traditional buildings can be an inspiration but new or imaginative re-interpretation of traditional features should not be excluded. Where possible, the aim should be to develop high quality modern designs which maintain a sense of place and support local identity.

Examples of the main opportunities include:

conversion or rehabilitation

The revival of rural buildings to provide comfortable modern homes has become increasingly popular. It not only brings a building back to life but it may provide opportunities to sensitively conserve our built heritage, including buildings of merit which are not listed. The sympathetic restoration of buildings which are structurally sound, largely intact, safely accessible and linked to water and other services maintains the character and distinctiveness of places.



7

small-scale infill

Small-scale infill in existing small communities can bring economic and social benefits by supporting existing services such as schools and shops. Planning authorities should generally seek to reinforce the building pattern of the existing settlement and ensure that new buildings respect and contribute to the area's architectural and cultural heritage.



new groups of houses

Housing related to existing groupings will usually be preferable to new isolated developments. The groupings should not be suburban. They should be small in size, and sympathetic in terms of orientation, topography, scale, proportion and materials to other buildings in the locality. They should take account of sustainable development criteria in location and infrastructure needs.



single houses

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.



Some landscape considerations

Location within the landscape – Location concerns site selection within the wider landscape. Some areas are so prominent that it is accepted that any development at these locations would be detrimental to the surrounding landscape. Most new developments should try to fit into or nestle within the landscape. Skyline development should normally be avoided, as should heavily engineered platforms. This is to ensure that the building does not interrupt and conflict with the flow of the landform or appear out of scale. Even where sites are less visible they will still require a significant level of skill to assimilate buildings into the landscape. Sites which are least visible can often be suitable for more adventurous or individual designs. Occasionally, where a landmark development is considered to be appropriate, its design needs to be of the highest quality and considered very carefully. Likewise, where there are groupings of new buildings, their location within the landscape and relationship to each other is important.



Woodlands – Setting a building against a backdrop of trees is one of the most successful means by which new development can blend with the landscape. Where trees exist they should be retained. Care should be taken to ensure an appropriate distance between tree root systems and building foundations, so that neither is compromised. In some parts of Scotland, where there is little existing planting and limited scope for landscaping, particular care should be taken in the selection of sites and design of houses.



New planting – The purpose of new planting is not to screen or hide new development, but to help integration with the surrounding landscape. New trees and shrubs which are locally native will usually be easier to establish than non-native plants, and will be more in keeping with the character of the area. Planting with locally native species has the additional benefits of creating habitats for wildlife and potentially contributing to Local Biodiversity Action Plans.



Boundary treatments – The open space associated with a house or houses should be considered as an integral part of the development, not as an afterthought, and again be treated in relation to the surrounding environment. Suburban ranch-type fences, concrete block walls and the regimented use of non-native fast-growing conifers should be avoided. Although the use of dry-stone walling in some areas can help the integration of new development with the landscape, the costs involved may mean that this can only be justified in exceptional circumstances. Such circumstances are most likely to arise in designated areas, e.g. National Parks, National Scenic Areas, Conservation Areas and local landscape designations.



Appendix 8

Approval for New House Within CAT to South of Site Beside Nursery

THE MORAY COUNCIL

MINUTE OF SPECIAL MEETING OF THE ENVIRONMENTAL SERVICES COMMITTEE

MONDAY 11 DECEMBER 2006

COUNCIL OFFICE, ELGIN

PRESENT

Councillors A.R. Wilson (Chairman), R.F. McIntosh (Vice-Chairman), A. Bisset, R.J. Burns, A.E. Coutts, J.A. Divers, J. Hamilton, J.C. Hogg, R. Hossack, S.D.I Longmore, E. McGillivray, G. McIntyre, J. MacKay, R.H. Shepherd, R. Sim, W.P. Watt and I.R. Young

APOLOGIES

Apologies for absence were intimated on behalf of Councillors T.M. Bothwell, A.R. Burgess, L. Gorn, A. Keith, J.A. Leslie, P.B. Paul, J. Stewart, A.M.C. Taylor and A. Urquhart.

ALSO PRESENT BY INVITATION IN RESPECT OF ITEM 3

Mr J Geoghegan, Planning Consultant representing the applicants Mr & Mrs C N J Maunder, who were also present. Also present were Miss E Cooper who had submitted representations on the application and Mr K Milne, representing Heldon Community Council, which had also submitted representations on the application.

IN ATTENDANCE

A Burnie, Principal Planning Officer (Development Control), A McEachan Senior Solicitor (Commercial and Conveyancing) and the Senior Committee Services Officer, Clerk to the Meeting.

1. GET WELL MESSAGE : COUNCILLOR URQUHART

Members joined the Convener in expressing their best wishes to the Vice-Convener, Councillor Urquhart who had been involved in a serious accident at his home at the weekend and wished him a speedy recovery.

2. DECLARATION OF GROUP DECISIONS

In terms of the relevant Standing Order 20 and the Councillor's Code of Conduct the meeting noted that there were no declarations from Group Leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the agenda.

**3. PUBLIC HEARING RE. PLANNING APPLICATION 06/01353/FUL – ERECT
DETACHED DWELLING AND GARAGE AT WOODSIDE STEADING MOSSTOWIE
FOR MR & MRS C N J MAUNDER**

Under reference to Paragraph 4 (f) of the Minute of the Committee dated 25 October 2006 there were submitted reports by the Chief Legal Officer and the Director of Environmental Services regarding an application to erect a detached dwellinghouse and garage at Woodside Steading, Mosstowie for Mr & Mrs C N J Maunder.

The report by the Chief Legal Officer advised that, at the meeting of this Committee held on 25 October 2006, it was agreed that the application be referred direct to a Hearing to which those submitting representations on the application and applicant be invited to attend and be afforded the opportunity of being heard. The report also set out the proposed procedures for the Hearing and advised that members of the Committee visited the site of the application on Monday 23 October 2006. An extract from the meeting of the Committee on 25 October 2006 was appended to the report as Appendix 1.

The report by the Director of Environmental Services (Appendix 2 to the report) gave details of the application and the consultations, which had been undertaken regarding it and the relevant planning criteria in terms of the Moray Development Plan. The report also recommended that, for reasons detailed in the report, the application be refused.

The Chairman welcomed those present to the meeting and reminded them that the Special Meeting had been arranged to allow those submitting representations on the application to speak to their representations and the applicant to be heard before the Committee reached its decision on the application. He also advised those present that submissions must be restricted to those already submitted and that the Hearing would be confined to examining the planning merits of the application and therefore discussion on irrelevant non-planning related issues would not be considered.

The meeting noted that the applicants were represented by Mr J Geoghegan, JG Planning Consultants.

The Clerk to the Committee advised the meeting that of those who had submitted representations on the application Ms Cooper had accepted the invitation to be heard. Mr Petrie was unable to attend the Hearing and had submitted a statement, which would be read out at the appropriate juncture in the proceedings. Heldon Community Council had accepted the invitation to attend and was represented by Mr Milne.

Thereafter the Chairman outlined the procedure to be followed for the Hearing, which was accepted by the Committee, Mr Geoghegan, Ms Cooper and Mr Milne.

REPRESENTATIONS ON BEHALF OF THE APPLICANT

Mr **Geoghegan** addressed the meeting, on behalf of the applicant. He advised the meeting in regard to the background to the application relating to the erection of a house and garage on a site, which formed part of a farm steading area, which, in his opinion, was brownfield land. The meeting also noted that the applicants had previously converted the steading into a house and latterly to a nursery and had subsequently obtained planning consent for a garage and summerhouse on the current application site, which was partially constructed. Mr Geoghegan then referred to the proposal which was a detailed application for one house of individual design, which, if approved, would appear to be part of the converted steading, on a well defined site, serviced by a connection to the public water main and the installation of individual private septic tanks and associated soakaways. Access was off a public road and there were no objections from consultees. He then referred to the previous refusal of consent, upheld on appeal, and expressed the view that there were a number of changes which required to be taken into consideration. In this regard Mr Geoghegan advised the meeting that this was a detailed application which was completely different in design and site layout which now reflects and compliments the traditional character and finish of the converted steading and, in his opinion, responds to the appeal Reporter's concerns regarding design being in keeping with the neighbouring properties.

Mr Geoghegan then referred to the reasons for recommending refusal, as set out in the Planning Officer's report, and expressed the view that the Planning Act allows for departures from Development Plan policies where there are material considerations of sufficient weight to justify it and that SPP1 identifies design of a proposal, its relationship to its surroundings and environmental impact as material considerations. He also expressed the view that the purpose of policy L/ENV11, Countryside Around Towns (CAT) was to limit development sprawl, maintain a distinction between the built up area and the countryside and prevent ribbon development. In this respect he expressed the view that, in regard to sprawl the site was no in Elgin and policy L/HC3 allows for site to be sensitively positioned with a group of buildings such as a farm steading. He was also of the view that the proposed site was not one of the prominent sites precluded by policy L/HC3 and that the proposed design and layout avoids a suburban style grouping.

Through the use of a number of illustrative drawings and photographs, Mr Geoghegan gave an visualisation of how, in his opinion, proposed site was well enclosed and contained with the existing converted steading providing a backdrop in terms of policy L/HC3, and that the

design and layout integrated sensitively into the landscape. In regard to precedent, he was of the view that approval of acceptable development.

In regard to the Appeal decision Mr Geoghegan was of the opinion that the Reporter acknowledged that material considerations could allow approval and had identified design as a material consideration. The previous design was not considered acceptable to justify approval and that the need to avoid the appearance of houses on either side of the converted steading is achieved by the proposed design.

Mr Geoghegan then referred to national policy and guidance and in particular to Scottish Planning Policy 3 (SPP3) "Planning for Housing", SPP15 "Planning for Rural Development" and Planning Advice Note 72 (PAN72) relating to Housing in the Countryside. In his opinion this guidance gave considerable scope for allowing the re-use of previously developed land, the acceptability in rural areas for limited new housing sited along with converted and rehabilitated buildings, considerable scope for allowing more small scale rural housing in clusters and groups close to settlements and that houses related to existing groupings are one of the main opportunities for new housing in the countryside.

In regard to the objections to the application Mr Geoghegan expressed the view that in regard to impact on the infrastructure there were no objections from the consultees and that in regard to precedent the individual proposal is tailored to the site. He was also of the view that the proposed development represented major changes from that previously refused and that the Reporter's concerns on design have been addressed.

In conclusion Mr Geoghegan expressed the view that, in his opinion, the application is an acceptable departure from policy, acceptable to consultees, the objections did not justify refusal and that the proposed development represented major changes from that previously refused. For these reasons Mr Geoghegan requested approval of the application.

REPRESENTATIONS TO THE APPLICATION

Ms Cooper addressed the meeting in regard to her representations on the application. She referred to the previous history of the converted steading, which was originally to be the applicant's family home prior to it be converted into a nursery and that prior to the partial construction of a garage and summerhouse the current application site was occupied by a 'Dutch' barn and not a living building. Miss Cooper also indicated that she supported the Planning Officer's recommendation and that, in her opinion, the cosmetic changes to the previous application, which was refused and upheld on appeal, did not justify approval. She referred to the proposed site, located off the single track road, which is currently utilised as car parking provision associated with the nursery and expressed her concerns that were the application to be approved the dispersed vehicles would become a road safety hazard and that the site would be better utilised as a car park for the expanding nursery business. Miss Cooper also advised the meeting that she had not received any notification of the application and that approval of the application would set a precedent for other developments in the area. For these reasons she requested that the Committee refuse the application as recommended.

Mr Milne addressed the meeting in regard to the representations on the proposed development submitted by Heldon Community Council. The meeting noted that the Community Council wished to withdraw its concern of the application and now give its support towards it, as they have been encouraged with the proposed plans. He also advised the meeting that the Community Council's concerns regarding the type of finish of the walls and roof finishing have now been met with the plans and that the design of the proposed development will, in their opinion, compliment the existing Ark Childcare Centre which they consider is one of the best steading conversions carried out by the applicant. The Community Council was also of the view that the proposed development will replace a current eyesore and that the applicant has put a lot of time and consideration into the proposed development to ensure it is in keeping with the adjacent Ark Childcare Centre.

Thereafter the Clerk read out a statement on behalf of **Mr Petrie** on his representation on the application. The meeting noted that Mr Petrie was of the opinion that the area to be built over would increase the already high pressure on the water table and drainage problems in the

neighbouring fields, not including the soakaway, which presumably would also put an increase of pressure on the drainage. Mr Petrie was also of the opinion that the infrastructure is already under pressure in that the single-track road has no passing place between the bridge and Rowan Cottage on the hillside. He advised that at the present time the proposed site acts as a daily parking space for the teachers and some of the parents of the adjacent Childcare Nursery and if not available the road would become strained and access with children, dangerous.

RESPONSES TO MEMBERS QUESTIONS

In response to Members questions in regard to the use of the proposed development site for car parking associated with the nursery the meeting noted that, at present, the site was used informally for the parking of vehicles. Mr Geoghegan also advised the meeting that the nursery had car parking provision for up to 16 vehicles with two spaces at the front of the building and, if required, another space could be provided at the front of the proposed development, if approved.

SUMMARIES OF SUBMISSIONS

The Chairman then invited Mr Geoghegan, Miss Cooper and Mr Milne to summarise their respective submissions. On the conclusion of their summaries and in response to a question from the Chair, they intimated that they were satisfied with the conduct of the proceedings of the hearing.

COMMITTEE CONSIDERATION OF THE APPLICATION

Prior to considering the application A Burnie, Principal Planning Officer advised the meeting that Miss Cooper was not a notifiable neighbour, in terms of procedures, albeit that details of the application was advertised as a departure and available through the Council's public access system and that it was in response to this that Miss Cooper submitted her representation. He also advised the meeting that car parking was not an issue in respect of this application and that although the current application is in detail as opposed to the previous outline application the principle of new residential development on the site remains the same in that it does not comply with policies S/ENV4A, L/ENV11 and L/HC3. In regard to precedent he reminded the meeting that at the Committee on 24 November 2006 an application sited approximately 100 metres north of the proposed site was refused for reasons similar to those outlined in the report in respect of the current application.

Thereafter Councillor Hogg expressed the view that, having listened carefully to the submissions, he was of the opinion that the proposed development is located on a well defined brownfield site on land which previously housed a hay barn associated with the former farm steading and would integrate sensitively with the surrounding landscape and was not inconsistent with what already existed in the area. He was also of the opinion that the proposed development would be sensitively sited and when viewed from the north, the existing converted steading provided a backdrop. For these reasons Councillor Hogg considered that the proposed development would be an asset to the area and moved approval of the application as an acceptable departure from policy. The motion was seconded by Councillor McGillivray.

As an Amendment Councillor Wilson moved refusal of the application, as recommended. Failing to find a seconder however the Amendment fell.

Accordingly the motion became the finding of the meeting and it was agreed that the application be approved as an acceptable departure from policy, subject to standard conditions.

Woodside
Cottage

+ 28.2m

NOTIFIABLE NEIGHBOURS

A : Ark Childcare Ltd, Woodside Steading, Mosstowie, By Elgin

B : Mr C. Petrie, Easter Marchead Mosstowie, Elgin IV30 8TX



B

B

B

EXISTING TRACK

B

A

PROJECT		
Proposed House & Double Garage		
LOCATION		
Woodside Steading, Mosstowie, By Elgin		
DESCRIPTION		
Location Plan		
CLIENT		
Mr & Mrs N. Maunder		
DATE	February 2006	SCALE 1:1000 SHEET 2 OF 2

