



PLANNING APPEAL

Our Reference: DBC946-12-APP
 Local Authority: The Moray Council
 Planning Application Ref: 12/01409/PPP
 Application proposal: Proposed Residential Development on Land Adjacent to Meadowlark Care Home, Mannachie Road, Forres
 Appellant: Renaissance Care (No 1) Limited
 Date Application Validated: 09th August 2012
 Council Decision Notice Date: 11th December 2012

(Appendix DBC946-001)

Reason for Refusal: The proposal would be contrary to policies IMP1 and H3 In the Moray Council Local Plan for the following reason:

(1) The openness of the area makes a valuable contribution To the setting of the nursing home and to the character of the Area,
 (2) And the development would have an adverse impact on The surrounding environment.

Application Drawings & Supporting Documentation: DBC946-12-PL001 : Location Plan
 DBC946-12-PL002 : Topographic Site Survey Plan
 DBC946-12-PL003 (D) : Proposed Site Plan
 DBC946-12-PL004 : House Type Proposals
 DBC946-12-PL004 (A) : Proposed Site Sections
 Design Statement
 Site Photographs

Primary Development Plan Policies: IMP1: Development Requirements



LIST OF DOCUMENTS

APPENDICES CODED 01 - 13

- 01 - Moray Council Letter of Acknowledgment of Application dated the 15th August 2012
- 02 - Architect's drawings and supporting information including Design Statement
- 03 - Application Form
- 04 - Moray Council Decision Notice dated the 11th December 2012
- 05 - Memorandum from Abertdeenshire Council – legal & Governance Dept
Planning Gain Dept based in Banchory - dated the 15th August 2012
- 06 - Response to Planning Gain submission from DBP Ltd dated the 23 August 2012
- 07 - Response from Planning Gain Office dated the 28 August 2012
- 08 - Email from Planning Office dated the 06 September 2012 dealing with Transportation
Matters associated with the application
- 09 - Email dated the 08 October 2012 received from Moray Council Planning Office –
Confirmation of receipt of amended Transportation plans requested, containing comments
in respect of the application.
- 10 - Response from Planning Gain Office dated the 10 October 2012
- 11 - Letter from the Agent to the Planning Department dated the 03 December 2012.
The letter confirmed lodgment of supplementary design information requested by
Planning, and dealt with the objections logged on-line as part of the planning process.
- 12 - Email dated the 21 December 2012 issued by the Agent on behalf of the Appellants
Responding to the decision notification
- 13 - Site Service Information (water and Drainage Installations)

1. The Appeal statement of case has been prepared by Davidson Baxter partnership Ltd on behalf of the Appellants Renaissance care (No 1) Ltd. The case has been structured to support a local review submission for the above noted planning application which was regrettably refused by the appointed officer on the 11th December 2012.

2. The appellant's primary reason for seeking consent to develop the site for housing was to secure consent for the development of the site which is both unused and surplus to the appellant's needs and is therefore surplus to the use of the care home. The funds obtained from the sale of the land would be reinvested in the company to implement upgrading works for the benefit of the Care Home and the residents. The strategy following on from a favorable planning decision was to sell on the development with a Planning permission in principle consent allowing developer to design and agree the detailed elements of the site's design as part of a full planning submission.

3. The application was carefully prepared after due consideration of the site and its location and suitability for use given the site lies within an established residential area. Please refer to **Appendix 01** (Planning Acknowledgement). A full topographic survey was undertaken of the site to establish site boundaries and site levels to allow the preliminary design work to be undertaken. As part of the "in principle application" the existing boundary lines presently used by the Care Home were being extended creating additional useable open space to the West of the building. The boundary line has been established which leaves the remaining section of the site which presently is unused vacant for the proposed development use. The design drawings contained within **Appendix 02** illustrate this on the site plan information. The land is presently private land and has for some years been maintained by the Home at their own expense. The topography of the site means that the section of land being considered as part of this submission due to the excessive gradients which effectively render the site unusable for the elderly. The section of site is not used by the Care Home or their residents. The level access to the rear and central courtyard within the Home has served the Home well over the years.

4. The Appellant disputes the use of policy H3 as a reason for refusal of the application given the site lies within an established residential area and is also private land. Policy H3 allows development within built up area where the guidelines for this type and form of development can be satisfied. There are two sections within this guidance which we would wish to address on the appellant's behalf, namely:-
- a. **it does not adversely impact on the surrounding environment, and**
 - b. **Adequate servicing and infrastructure is available, or can be made available.**

In respect of guidance note (a) - The site lies within this established residential area, and has been maintained as a grassed area by the Care Home over a number of years. There are no public rights of access, and the section of the site in question is surplus to the appellant's requirements. The layout proposed does not impact on the surrounding housing, or impact on the environment. The scheme proposed incorporates open space provision and complies fully with all the local authority design guidance for housing developments within a gap site.

In respect of guidance note (b) – Servicing of the site and infrastructure have all been proven as part of the submission and neither poses any difficulty given the site lies in close proximity to all services and road access is immediately adjacent to the site. Transportation has approved the layout as part of the PPP submission. The policies conform to SPP3 on the development of urban areas.

5. A design statement was submitted in support of the application which set out the appellant's reasons & strategic plan for the care Home and the application site. Please refer to **Appendix 02**. The statement set out our client's strategy in relation to the development of the vacant unused site. The scale and character of the proposals which were lodged with the application were by their nature "indicative". However the proposals do reflect the character of the surrounding area and the density is comparable with the houses which lie to the south and also to the south-west of the site.

6. The transportation Department of Moray Council was consulted in detail regarding the development proposal. The site access was found to be acceptable subject to conditions which the Appellant has accepted and can implement without any difficulty. The layout of the houses proposed whilst indicative in nature does reflect the character of the area. The design maintains an open aspect towards the access road (Mannachie Road) and the landscape areas have been designed to alleviate any concerns regarding overlooking enhancing the visual amenity in the process. The relevant correspondence with the Transportation Dept is attached within **Appendix 08**.

7. The Planning Gain officer submitted a report in respect of the application which was dated the 15 August 2012 – **Appendix 05**. Dialogue continued on this issue evidenced by the email correspondence between the appellant's agent and the Planning gain office – Refer to **Appendices 06 & 07**. The recommendations were then discussed in detail and a formal response was provided to Adam Sime the Planning Gain officer – **Appendix 09** with a further response appended within **Appendix 10**. An agreement was reached in respect of a contribution level which was acceptable to both parties. The contribution level took into account the re-investment strategy being employed by the appellant in relation to the site proposals.

8. The refusal of the application is particularly disappointing given the content of ongoing discussions regarding the application with the Planning officer. On the 8th October 2012 whilst requesting clarification on the transportation referral which was outstanding at that stage. The Planning office confirmed without commitment that " **the principle of some residential development on the site may be considered acceptable**" That said the submission and proposals put forward clearly illustrate compliance with all the relevant planning technical considerations which would normally be requested. Garden areas overlooking and transportation design issues have all been fully considered and have been found to be acceptable.

9. Supplementary site sectional information was requested by the Planning officer as part of the same email, we understood to assist in illustrating the level changes within the site, and how the design dealt with the access levels and the house setting out issues. This information was prepared and submitted to the Planning office for their due consideration. We further understand this information was helpful and assisted in illustrating that any perceived overlooking or space relationships were fully considered and found to be compliant with the relevant planning guidance.
10. As part of the planning submission additional screen landscaping was proposed between the housing site and the Care Home, all to the benefit of both land uses. The setting of the Care home would not be compromised by the introduction of the housing. Quite the opposite the scheme integrates well with the surrounding housing given the additional planting being proposed as part of the development proposals added value to the general landscaping creating visually attractive spaces between both the Housing, the care Home and the views to and from Mannachie Road.
11. The perceived loss of open space has been cited within letters of objection as a possible concern. We would assert that the land which forms the basis of the submission is surplus to the requirements of the home, and indeed has been a financial incumbency for a number of years given the upkeep costs associated with grass cutting and tree pruning. The gradients associated with the land in relation to the floor levels of the care home again mean the land has / cannot be integrated with the care Home or used for recreational purposes by the residents. The land is also private and has no public value. The site is linear in its nature with a relatively narrow street frontage. The scheme being proposed creates and maintains open space both between the care home and the proposed housing, and also maintains open space to the street scene. The design proposed has been designed in a way to ensure that the site is "open" in terms of visual amenity. Maintaining spaces between the housing to the rear of the site whilst maintaining open aspects to the Home and the roadway were all integrated into the design. The refusal therefore on the grounds



that open space is being lost is inappropriate, and cannot be supported by the policies being cited for reasons for refusal.

- Therefore the only remaining material consideration that requires to be considered relates to the Local Plan Policy IMP1 (Development Requirements). The policy sets out a series of criteria which must be met for any development to be found acceptable. We propose to address each of these criteria individually to confirm that in the Appellant's opinion the criteria of Policy IMP1 have been met by the design proposals.

A. The scale, density and character must be appropriate to the surrounding area.

The proposal being reviewed seeks to develop a vacant and unused open site which lies within the ownership of the appellants. The housing being proposed is relatively small in scale with massing restricted to single and one and a half storey in height. The proportions are compliant with the surrounding developments. The density is also comparable with the adjacent houses as evidenced on the locator plan which supports the submission. Therefore, the appellant contends that the erection of 6 number small detached houses which maintain the visual amenity and integrate well into the residential area whilst maintaining their distance from the care home are acceptable within the location. The scheme being proposed whilst subject to a further detailed design submission, will not detrimentally affect the character or impact on the setting.

B. The Development must be integrated into the surrounding landscape.

In considering the development in relation to the surrounding landscaping. The site lies within an established residential street and area identified as such within the local plan. The site is easily accessible from the adjacent public road and access can be achieved in full compliance with the Transportation Departments requirements. The development will maintain an open aspect to the street with a "buffer zone" maintained between the proposed housing and the care home which lies at a much lower level to the North. The drawings lodged in support of the application indicate

extensive planting and landscaping between the sites along the revised site boundaries, which the appellant asserts is adequate to integrate the development into the streetscape.

C. Adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development.

The review site sits immediately adjacent to Mannachie Road which is a local distributor road which is also a bus route. The development provides a safe and suitable access to the road into an adopted hammerhead access, which leads to a category 6 grade private road access all designed to be fully compliant with Transportation policy guidance. (The response from the Transportation Department who support the submission subject to conditions is appended within **Appendix 08**.)

D. Adequate water, drainage and power provision must be made.

The statutory services serving the site have been investigated in detail, and all statutory services are available for the site. The exact location of water and drainage are identified on the service drawings which are appended in support of the submission – **Appendix 13**. Please note - There has been no objections submitted by any of the statutory authorities in respect of site servicing.

E. Sustainable urban drainage systems should be used where appropriate, in all new developments

Sustainable drainage design standards will be integrated into the scheme being proposed as is standard practice in developing a site of this type within an established residential area. Full compliance with this guidance is accepted and will be implemented at the detailed design stage developing the principles established to this point.

F. There must be adequate availability of social, educational, healthcare and community facilities

The social, educational and community facilities have all been assessed as part of the Appellant's agreement with the Planning Gain officer. Contributions have been agreed for the development in compliance with Moray Council's policy on developer contributions. All material consideration(s) have therefore been discussed and agreed and integrated into the scheme design proposal. The healthcare provision has of course been taken care of by meadowlark Home which serves the local community and the surrounding areas. As alluded to in previous statements – The funds from the sale of the land will be used to implement improvements to the care home onsite as part of the appellant's continuing policy to upgrade and improve their care homes.

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.

As part of all new developments the increased standards required to comply with the Scottish Building Standards will be complied with in full. Sustainable approaches to design can be integrated into the scheme, and where appropriate renewable sources of energy can be implemented. Increased insulation standards and eco friendly heating solutions will all form part of a developer's design methodology.

H. Provision of long term maintenance of public landscape and amenity areas must be made

As all the land associated with this proposed development will be within the appellant's control, the above noted criteria are not considered to be relevant to this proposal.

I. Conservation of natural and built environment resources must be demonstrated

Given the location of the proposed development. The potential developer for this scale of development is likely to be a local contractor / developer with knowledge of the local economy. The selling agents acting on behalf of the appellant have also confirmed levels of interest in the site are from local developers. The scheme would also seek to use local grown and sourced timber and construction materials, compliant with the principles of the "green guide for construction". This will assist with the conservation of environmental resources, and ensure employment within the local community is maintained.

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.

The review site is not prone to any flood risk.

K. Pollution, including ground water must be avoided

The development proposed will be constructed in such a way which will avoid any ground pollution and or water contamination. As such there will be no conflict with this requirement.

L. Appropriate provision to deal with contamination issues must be made.

The site is Greenfield and as such it is not envisaged that the site should pose any contamination risk.

M. The development must not sterilize significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.

The site lies within an established residential area, and is considered to be a suitable development site for a small scale housing use. The site sits comfortably within the residential sector. The land is not therefore prime quality land and or known for minerals.

N. Where appropriate, arrangements for waste management should be provided.

Appropriate areas will be designed within the curtilage of each of the housing plots for storage of waste suitable for eco friendly disposal.

Conclusions & Report Summary

12. Concluding the appellant contends that this statement of case clearly demonstrates that in this instance the proposed residential development conforms to the Moray Council Local Plan policy IMP1 (Development Requirements).

13. Policy H3 (New Housing in Built up areas) which was cited as a further reason for refusal is also a policy which the application seeks to comply with. Advice provided in connection with the development was largely in support of the application, and the client was encouraged with the general level of support provided up to the point whereby the decision to refuse the application was provided. The objections received and posted on-line were lodged largely from a small number of neighbours some of whom reside remotely from the application site. The objections were addressed separately by way of a response letter which we would refer you to per **Appendix 11**. Following receipt of the decision notice per Appendix 04, an email response to the decision was issued by the Agent on behalf of the appellant directly to the Planning officer for further consideration. The appellant's disappointment with the decision was set out within the response and we would refer the review panel to the appendix – namely **Appendix 12**.

14. The form, design, and scope of the proposed scheme are rural in its design philosophy. The appellant's commitment to provide inward investment to the community and care for the elderly is to the benefit of the community as a whole. The release of this small site which is surplus to the requirements of the care Home, and also provides no added value to the

Home is essential. The design addresses the massing required to comply with the surrounding environment. The layout provides adequate visual open space within the layout to achieve a balance between the proposed development whilst maintaining a feeling of open space provision. The juxtaposition of the proposed housing in relation to the adjacent houses has been well designed and consideration has been given to all the necessary design guidance set out within the Moray Council planning policies.

Landscaping adds to the layout and provides the care home with additional screening with an increased external area capable of use. The upper slope and site area provides no opportunity for the Care Home to expand or utilize the area given the restriction in level(s).

15. The application was an "in principle" application and the appellant is satisfied that the design considerations debated and consulted on have been addressed. There has been no technical objection lodged only those from a number of neighbors some of whom do not reside immediately adjacent to the application site.
16. The objections lodged on-line were fully considered and responded to. These included massing and positioning concerns which have been addressed and found to be satisfactory. The Planning officer has accepted that the layout has complied with the required garden area requirements and the layout is not considered to be dense by nature.
17. The appellant is happy to accept conditions which would address any specific concerns the council may have in relation to landscaping to ensure the development is perceived as a high quality design solution which sits well within the locality.
18. The appellant therefore respectfully requests that this review submission is considered fully, and duly upheld to allow the appellant to progress the strategic plans for the development of the site, combined with the added advantages to the Care Home and its residents. We look forward to receiving a favorable decision in respect of the review in due course.