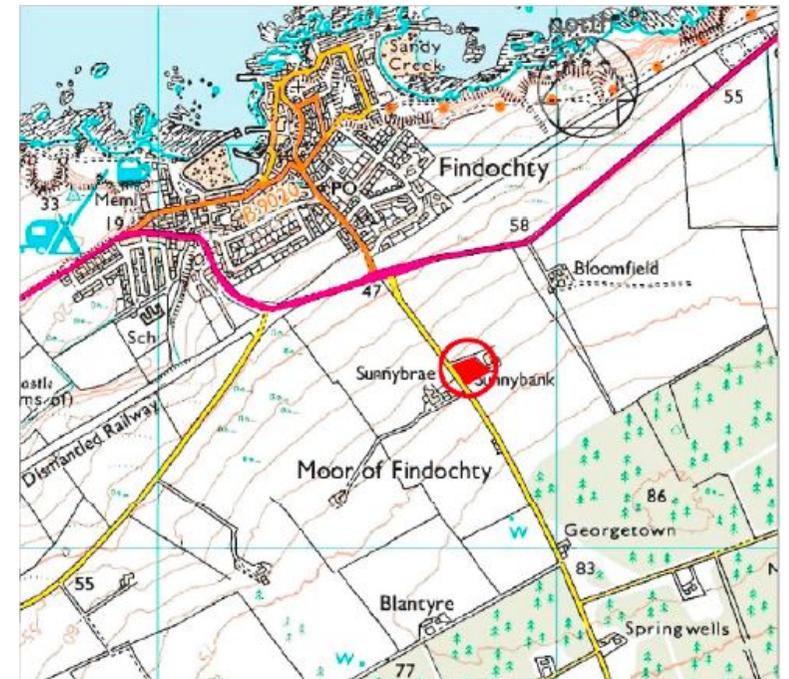


Erect House at Site Adjacent to Sunnybank Findochty

August 2013

Grounds for Review of Refusal of Planning Permission

Planning Application Ref No 13/00592/APP



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1.0 Introduction

1.1 These grounds for review of a decision to refuse planning permission for a house on a site adjacent to Sunnybank Findochty are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three month period from the refusal of permission dated 16th May 2013.

1.2 The grounds for review respond to the reasons for the refusal of planning permission and address the proposal in relation to Development Plan Policies and relevant material planning considerations as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2.0 Background to Handling of Application

2.1 The applicant has lived and worked in the fishing industry in the area for over 35 years. He and his wife now wish to move to a more rural location but still be within easy reach of Findochty with an outlook over the Moray Firth which was an important part of the applicants working life. Prior to the submission of the planning application the applicant looked at a number of alternative sites in the vicinity but they were not pursued because they would have presented issues in terms of Development Plan policy. As the site under review is part of an existing and established group of buildings the applicant considered that it would be preferable under policy than a standalone site in some of the more exposed locations which he had looked at in the area.

2.2 The application (Appendix 1) was dated 4th April 2013 and was refused under the Councils Delegation scheme by the case officer on 16th May 2013.

2.3 The reasons for refusal states that;

1 - The site when viewed from the southern edge of the settlement of Findochty and from the public roads to the north and south will appear in an overtly prominent, skyline location to the detriment of the rural character of the surrounding countryside.

2 – The proposal would result in a grouping of houses along this prominent ridge by infilling the existing gap between Sunnybank Farm and Sunnybrae Farm, eroding the rural undeveloped character of the countryside area which is in close proximity to and highly visible from the settlement of Findochty.

3 – The design of the dwellinghouse by virtue of its large footprint and scale is not in keeping with the neighbouring properties or this open countryside location and acts to exacerbate the prominence and intrusion of the development to the detriment of the surrounding countryside.

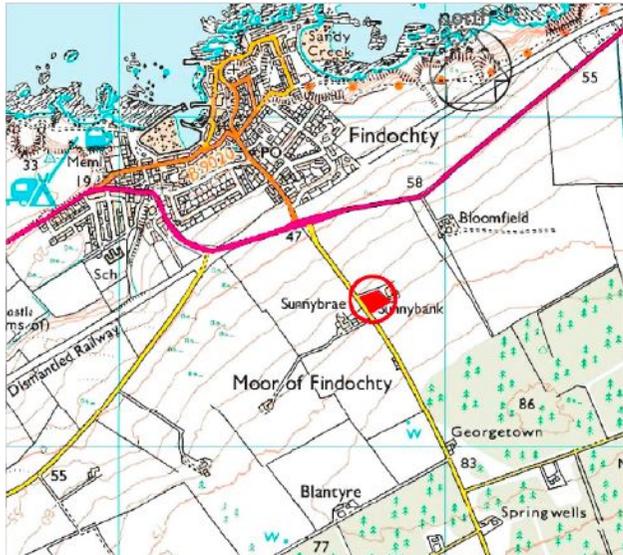
- 2.4 The case officer's report of handling for the planning application (Appendix 2) was dated 16th May 2013.
- 2.5 The report confirms that there were no objections from statutory consultees which included the Councils Environmental Health Manager, Contaminated Land Team, Transportation Manager, and Scottish Water.



elevations – NTS (full plans in Appendix 1)

3.0 The Proposal

- 3.1 The proposal is for a single dwelling served by a public water supply and private drainage (septic tank/soakaway and SUDS). Access will be from a minor public road running along the West boundary of the site.
- 3.2 The design of the proposed house is 1½ storey incorporating features and finishes reflecting traditional forms and details including the use of natural slate on the roof. The overall design is tied around a pair of projecting gables at either end of the main spine of the house reflecting the traditional approach to the design and layout of “U” shaped steadings which are a common feature of rural Moray. The gables facing North are glazed which will visually lighten their impact.
- 3.3 Extensive planting of native tree and shrub species is proposed around the boundaries of the site whilst still allowing for a view Northwards.
- 3.4 The proposed house will be cut into the site by between 0.8m and 1.3m along its Southern elevation to integrate with the contours of the land and allow the house to sit into the site rather than have any unnatural looking underbuilding.



Location – NTS (full plans in Appendix 1)

4.0 The Site

4.1 The site is located to the South of Findochty. It is within an existing group of three houses which includes farm steading buildings beside the house at Sunnybank to the East and houses at Sunnybrae and The Byres to the West. There is evidence of previous caravan site usage at Sunnybrae. This group of houses is a long established and accepted feature in the landscape.

4.2 The site is a very well defined and enclosed area of ground extending to approximately 3924 sqm (0.39ha or 0.96ac). It is defined and enclosed to the West by an existing road with the two houses at Sunnybrae and The Byres just beyond. To the North the site is defined by the access to Sunnybank Farm with the house and steading buildings at Sunnybank providing strong definition and enclosure to the East. The boundary definition will be added to by landscape planting of native trees and shrubs.

4.3 Planning consent has also been granted, under current policies, for two sites at nearby Bloomfield to the North East (Appendices 8 and 9)

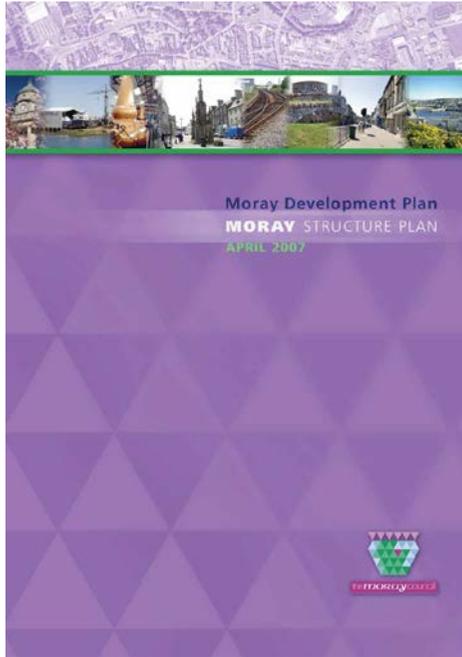
5.0 Development Plan Policy

5.1 The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

5.2 The Development Plan for Moray comprises the Moray Structure Plan 2007 approved in April 2007 and the Moray Local Plan adopted in December 2008.

5.3 Material considerations are not defined statutorily. Examples of possible material considerations are set out in an Annex to Scottish Government Circular 4/2009 (Appendix 3) and they include;

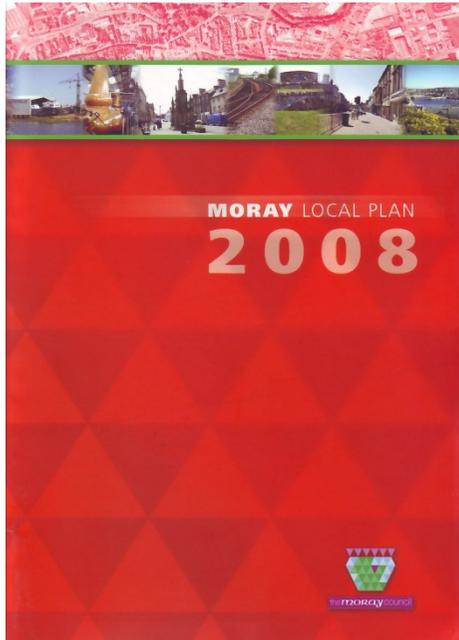
- National Scottish Planning Policy
- The environmental impact of a proposal
- The design of a development and its relationship to its surroundings
- Access, provision of infrastructure and planning history of the site
- Views of statutory consultees
- Legitimate public concern, or support, expressed on relevant planning matters



Moray Structure Plan 2007

6.0 Moray Structure Plan 2007 (Appendix 4)

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



Moray Local Plan 2008

7.0 Moray Local Plan 2008 (Appendix 5)

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

7.2 The site is located in the countryside. It is not within any of the designated sensitive areas identified in the Local Plan e.g. Countryside Around Towns, National Scenic Areas, Coastal Protection Zones and Areas of Great Landscape Value. It is not within any designated sensitive habitats identified in the Plan e.g. Sites of Interest to Natural Science, Sites of Special Scientific Interest, RAMSAR sites, SWT Wildlife Sites, National Nature Reserves and Special Areas of Conservation.

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

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

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

hedgerows, watercourses, woodlands, tracks and roadways).

7.5 As regards design policy H8 also requires;

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

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

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

7.7 In addition to the siting and design requirements of Policies H8 and IMP1 there are a range of other Local Plan policies relating to infrastructure, servicing, and tree requirements as follows;

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

- Policy EP9 – Contaminated Land
- Policy EP10 – Foul Drainage

7.8 In general terms these policies seek to ensure that new development is provided with adequate infrastructure including a suitable and safe access, adequate car parking and adequate foul drainage (private systems are accepted for small developments in the countryside).



Scottish Planning Policy (SPP)

8.0 National Planning Policy and Guidance

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

8.2 Scottish Planning Policy -SPP - (Appendix 6)

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

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

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

8.6 PAN72 starts by recognising changing circumstances and points out that one of the most significant changes in rural areas has been a rise in the number of people wishing to live in accessible parts of the countryside while continuing to work in towns and cities within commuting distance. It contains guidance in some detail on how to achieve a successful development in the countryside. The PAN acknowledges that there will continue to be a demand for single houses, often individually designed, but these have to be planned, with location carefully selected and design appropriate to locality (P7).

8.7 The PAN gives advice on location within the landscape and specifically states that housing related to existing groups will usually be preferable to new isolated



Planning Advice Note 72 - Housing in the Countryside

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

8.8 It also states that the purpose of new planting is not to screen or hide new development, but to help integration with the surrounding landscape (P11).

8.9 The PAN cautions against skyline development (P11) to ensure that it does not interrupt and conflict with the flow of the landform or appear out of scale.

8.10 As regards design the PAN points out (P15) that there is considerable scope for creative and innovative solutions whilst relating a new home to the established character of the area.

9.0 Main Issues

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

- principle of the site
- design
- infrastructure and servicing

9.2 Principle of the Site

9.3 There is a clear commitment in National Planning Policy and Guidance and the Moray Structure Plan Strategy to the principle of well sited and designed new housing in the countryside. There is particular support for houses related to existing groups as is the case with the site under appeal.

9.4 Structure Plan policy 1 (e) encourages low impact well designed development in the countryside.

9.5 The Moray Local Plan 2008 reflects Structure Plan policy. The lead policy for testing the acceptability of a new site in the countryside is Policy H8 (New Housing in the Open Countryside).

9.6 Policy H8 starts off by saying that it assumes against multiple house applications (more than 2) on the basis that these are more appropriately directed to Rural Communities (policy H6) and the replacement of Existing Buildings (policy H7). The application is for a single house and as such is in accordance with the general thrust of the policy in terms of the number of houses being applied for.

- 9.7 Policy H8 goes on to set out three specific criteria under the heading "siting" which have to be met for the principle of a site to be acceptable.
- 9.8 Firstly the house must not detract from the character and setting of existing buildings, or their surrounding area, when added to an existing grouping or linear extension. The site is within a group of three existing houses with steading buildings beside Sunnybank to the East. It is a natural gap within this long established group in the landscape. The position and extent of the site is entirely consistent with the layout of this grouping. The site will not extend the group. The size of the site, at 0.39ha (nearly an acre), allows the house to be sited sympathetically with the position of the existing houses. This is reflected in there being no objections from the surrounding properties.
- 9.9 As the site is so well defined and enclosed and reflects the settlement pattern of the existing group of houses it will not detract from the character and setting of these properties; quite the opposite, it will complement the settlement pattern of this existing grouping.
- 9.10 The second of the siting criteria within Policy H8 is that the dwelling must not be overtly prominent. Examples of overtly prominent locations given within the policy are sites on a skyline, on artificially elevated ground, or in open settings such as the central areas of fields. The site is not on artificially elevated ground and it is not in the centre of a field. National planning advice (PAN72) discourages skyline sites to ensure that they do not interrupt and conflict with the flow of the landform. It is accepted that from a limited range of positions on the South side of Findochty the site may have a skyline location. However it is critical to consider the site in the context of its setting rather than in isolation. As part of a long established group in the landscape, and as a natural site within the group, it will not have the

“overtly prominent” impact which Policy H8 seeks to avoid. Also as a site within an established grouping the proposed house will not interrupt, or conflict with, the flow of the landform in terms of the advice in PAN72.

9.11 The third and final part of the siting criteria under Policy H8 is that the site should have at least 50% of its boundaries as long established features capable of distinguishing it from the surrounding land. Examples of acceptable boundaries described in the policy are woodlands, dykes, hedgerows, watercourses, tracks and roadways. The site meets and exceeds the boundary requirements of the policy as it has the required boundary definition on three sides.

9.12 Design

9.13 There are a series of specific design requirements within policy H8. They are all met by the proposals as follows, (something which is acknowledged by the case officer in his Report of Handling);

- a roof pitch of between 40-55 degrees.
- Gable width of no more than 2.5 times the height of the wall from ground to eaves level.
- Uniform external finishes including natural slate on the roof
- Vertical emphasis and uniformity to the windows
- Additional planting within the plot
- Boundaries sympathetic to the area, they are defined by existing established features and will be added to by landscape planting of native tree and shrub species.

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

9.15 Infrastructure and Servicing

- 9.16 Local Plan policy requirements for infrastructure and servicing relevant to this proposal relate to access, parking and drainage.
- 9.17 Policies T2 (Provision of Road Access) and T5 (Parking Standards) require a suitable and safe access to be provided from the public road along with car parking in accordance with the Councils parking standards.
- 9.18 The access will be from the minor public road along the West boundary of the site. The case officer's report of handling (Appendix 2) confirms that the Councils Transportation Manager has no objections to the proposal subject to planning conditions.
- 9.19 Policy EP10 (Foul Drainage) allows for private drainage systems (septic tanks/soakaways) for small scale development in the countryside with a preference for discharges to land rather than surface waters. A septic tank/soakaway system with a discharge to land is proposed.
- 9.20 The use of Sustainable Urban Drainage Systems (SUDS) is promoted by Policy EP5 (Surface Water Drainage: Sustainable Urban Drainage Systems). SUDS will be provided and the detail can be controlled through planning conditions.
- 9.21 The water supply will be from the public mains.

10.0 Reasons for Refusal

- 10.1 It is very important to note that the reasons for refusal do not identify any Development Plan policies as being contravened. There are three reasons given for the refusal of the planning application but none of them mention any specific Development Plan policies. On the face of it if the proposal does not contravene any policies it is difficult to see why it should have been refused planning permission especially as it has been demonstrated above that the proposal is acceptable in relation to Development Plan policies. Having said this, the following sections of these grounds of appeal comment on the reasons for refusal as set out in the decision notice.
- 10.2 The first reason for refusal concentrates on the site being overtly prominent from the southern edge of Findochty and from roads to the North and South because it is said to be in a skyline location detrimental to the rural character of the surrounding countryside. It is critical to consider the site in its context. It does not sit in isolation in a skyline location. It is part of a long established group of buildings at Sunnybank/Sunnybrae which are part of the rural character of the area. When viewed from either the North or South the site is within this group and is a natural part of it. The proposal will not enlarge the group beyond its existing footprint as the site is contained within the group. From the South neither the site nor the group it is within can be said to be on the skyline. The approach from the South looks down towards the site with substantial banks of gorse hedging, over 2m in height, on either side of the road. This roadside hedging also acts a very effective screen.
- 10.3 Planning consents have also been granted, under current policies, for two separate sites at nearby Bloomfield Farm which is closer to the Southern edge of Findochty than

the site under review (Appendices 8 and 9). The site nearest the farm at Bloomfield was approved despite being described as “skyline” and “prominent” in the case officer’s report of handling on application ref 11/00049/APP. Detailed plans have subsequently been approved for a substantial multi level house of a contemporary design on the site (ref 13/00517/AMC). It is difficult to understand how the proposals at Bloomfield have been accepted on an acknowledged “skyline” and “prominent” site yet the site under review, within an established group of buildings and with a design in accordance with policy, has been refused.

10.4 The second site recently approved at Bloomfield (ref 13/00478/PPP – Appendix 9) was also described as “prominent” in the case officers Report of Handling but was approved with the conditions limiting the house to 1½ storeys and a height not exceeding 7m to the ridge. The house under review incorporates both of these requirements.

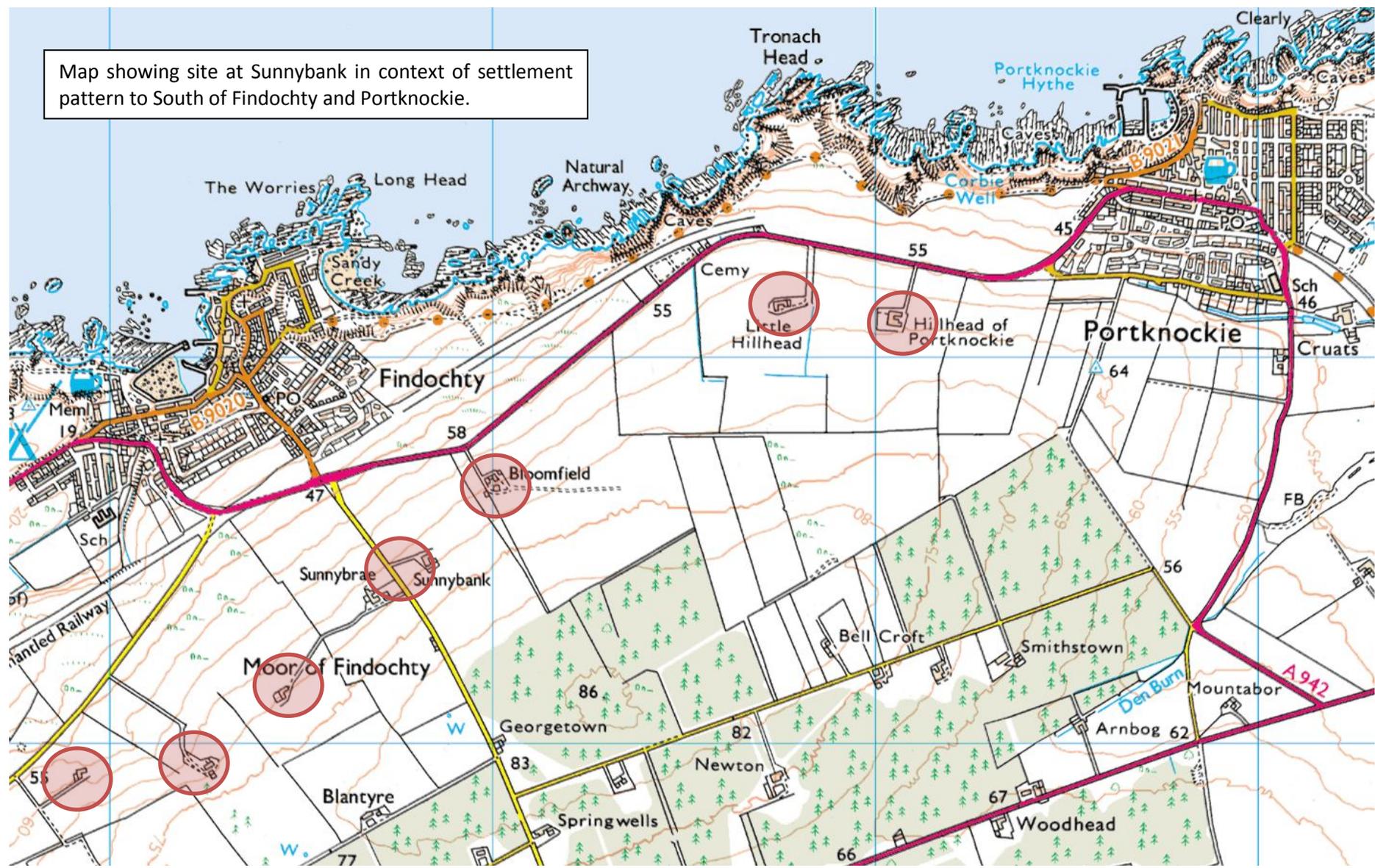
10.5 The second reason for refusal argues that the proposal will erode the undeveloped rural character of this countryside area which is close to, and highly visible from, Findochty. Once again the context of the site has been overlooked. The site is within an existing developed grouping in this part of the countryside. It is also misleading to suggest that the countryside to the South of Findochty is entirely undeveloped. The established farms, steadings and houses on an East/West axis to the South of Portknockie and Findochty, with outlooks over the Moray Firth to the North, are a characteristic and very distinctive feature of the settlement pattern in the countryside between these villages. The existing grouping at Sunnybank/Sunnybrae is part of this settlement pattern and the site is an integral part of this grouping. The proposal will

not compromise this established settlement pattern or change the character of the countryside in this area because the site is part of the established settlement pattern and entirely consistent with it.

- 10.6 The third reason for refusal argues that the design of the proposed house is unacceptable because of its footprint and scale. It has already been shown above that Local Plan Policy H8 has very specific criteria regarding the design of a house in the countryside and the proposal meets the criteria. This is accepted by the case officer in his Report of Handling on the application.
- 10.7 The footprint of the house is subservient to the size of the plot and sits well within it. It is certainly more in keeping with the overall size of the plot than the existing newer house at the Byres to the West. The house is 7m metres to the ridge and the impact will be reduced by the house being set down into the site by between 0.8m to 1.3m to integrate the proposal naturally with the existing contours of the site.
- 10.8 The height of the house is also consistent with what was considered to be acceptable on a plot approved under current policies at nearby at Bloomfield Farm to the North East under planning application ref 11/00049/PPP. The case officer's report of handling for the planning application (Appendix 8) identified the site as "skyline" but limited the proposed house to 1½ storeys and a height of 7 metres to ensure that it "integrates sensitively with its surroundings". The proposed house subject of this review is 1½ storeys and 7 metres in height. It is difficult to understand why this is unacceptable on the site under appeal when it was considered acceptable at nearby Bloomfield Farm. Detailed plans have recently been approved (ref 13/00517/AMC –

Appendix 8) for the site at Bloomfield Farm. The approved plans show a substantial multi level house of a modern design which further emphasises the inconsistency between the handling of the site at Bloomfield and the site under review.

Map showing site at Sunnybank in context of settlement pattern to South of Findochty and Portknockie.





Existing house and steading - Sunnybank

Proposed house

Existing house - Sunnybrae

Existing house - The Byres



Approved house site ref
11/00049/PPP &
13/00517/AMC

Bloomfield Farm

Approved house site
ref 13/00478/PPP

Existing house
and steading -
Sunnybank

Proposed house

Existing house -
Sunnybrae

Existing house - The
Byres

11.0 Conclusions

- 11.1 The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.
- 11.2 National Planning Policy and Moray Councils Structure and Local Plan policies all encourage well sited and designed houses in the countryside.
- 11.3 The lead policy in the Local Plan for testing the acceptability of the site as a suitable location for a house in the countryside is Policy H8 – New Housing In The Open Countryside. This policy contains specific criteria about the siting of new dwellings and it has been shown that the proposal is acceptable under the criteria set out in the policy.
- 11.4 It has also been shown that the proposal is acceptable in relation to other relevant Local Plan policies regarding design, provision of access, parking and drainage.
- 11.5 There were no objections to the proposals from any of the statutory consultees or from any neighbouring properties or third parties.
- 11.6 The reasons for refusal do not identify any Development Plan policies as being breached.
- 11.7 The reasons for refusal suggest that the proposal would lead to a development that

would detract from the character of this part of the countryside. They do not reflect the impact of the proposal in the context of the site or the settlement pattern of the area. The site is part of an established group of buildings which are themselves part of the established settlement pattern of the countryside in the area to the South of Findochty and Portknockie. The site is a natural part of the group allowing the proposed house to be a natural part of the existing settlement pattern of the area. It will certainly relate to the settlement pattern of the area as well, if not better, than the site and design approved, under current policies, for a new house near Bloomfield Farm to the North East.

- 11.8 The design of the house meets the specific design requirements of the relevant Local Plan Policy H8. It is also consistent with the criteria for an acceptable scale of house in this area set by planning conditions for two recently approved sites at nearby Bloomfield.
- 11.7 As the proposal can be accepted under Development Plan policies and there are no known material considerations to the contrary it is requested that the application be approved.

View to site from North on South side of Findochty showing location within existing group.

Photograph 1



Existing houses at Sunnybrae and The Byres to
the West

Photograph 2



Existing house and steading buildings at
Sunnybank to East

Photograph 3



Photograph 4

View to site from South showing that the approach is from a higher level and the screening effect of the roadside gorse (over 2m).

