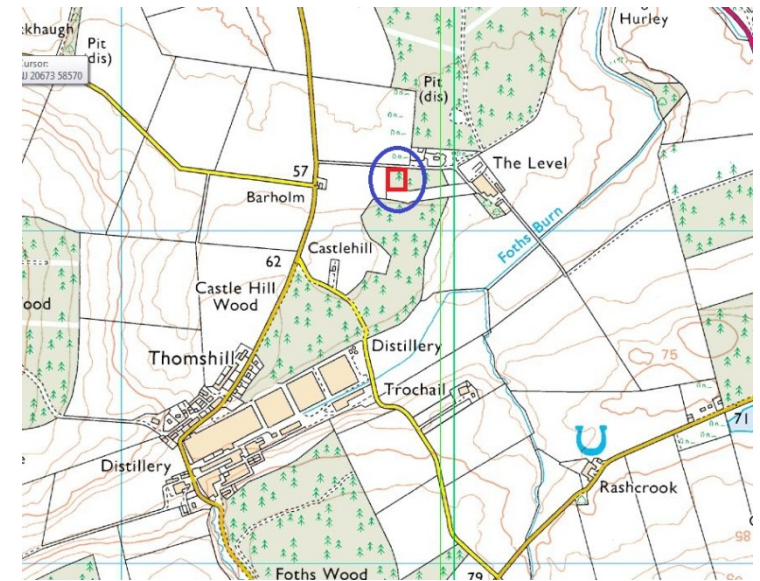


## Erect House at Site Adjacent to The Level Farm Birnie

December 2013

### Grounds for Review of Refusal of Planning Permission

Planning Application Ref No 13/01281/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 The Level Farm Birnie 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 12<sup>th</sup> September 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 application (Appendix 1) was dated 5<sup>th</sup> July 2013 and was refused under the Councils Delegation scheme by the case officer on 12<sup>th</sup> September 2013.

2.2 The reasons for refusal state that;

*The proposal would be contrary to policies H8 (and Supplementary Guidance) and IMP1 for the following reasons :*

*(i) The site is in an area of open landscape and as an addition to the existing consents for two other houses and an archery centre together with the new and established housing nearby would begin a significant build up of development in the vicinity such that there would be a detrimental impact on the open rural characteristics of the landscape. The proposal would also establish a linear, ribbon form of development along the access road that would result in development that was contrary to the dispersed rural settlement pattern in the area and which would contribute to an urbanisation of the setting.*

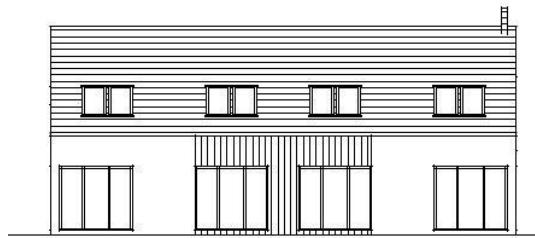
*(ii) Further such development would be encouraged.*

2.3 The case officer's report of handling for the planning application (Appendix 2) was dated 11<sup>th</sup> September 2013.

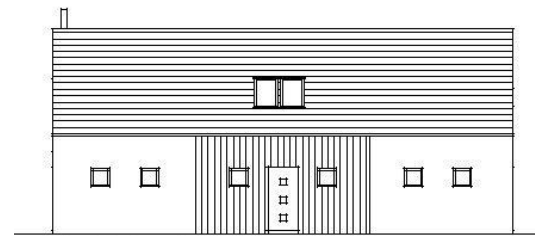
2.4 The report confirms that there were no objections from statutory consultees which

included the Councils Contaminated Land Team, Environmental Health Manager, Transportation Manager, Scottish Water, Environmental Protection Manager, Planning Gain Unit and Archaeologist.

- 2.5 The report also confirms that there were no objections from third parties or neighbours.



South Elevation



North Elevation

elevations – NTS (full plans in Appendix 1)

### 3.0 The Proposal

- 3.1 The proposal is for a simple modest single storey dwelling served by a public water supply and private drainage (septic tank/soakaway) and SUDS. Access will be from a tarred surfaced road running along the North boundary of the site from the Elgin/Thomshill road to the West to The Level to the East.
- 3.2 The design of the proposed house is single storey with traditional proportions and finishes including natural slate on the roof, with wet dash render and sections of vertically panelled timber linings on the walls.



## **5.0 Development Plan Policy**

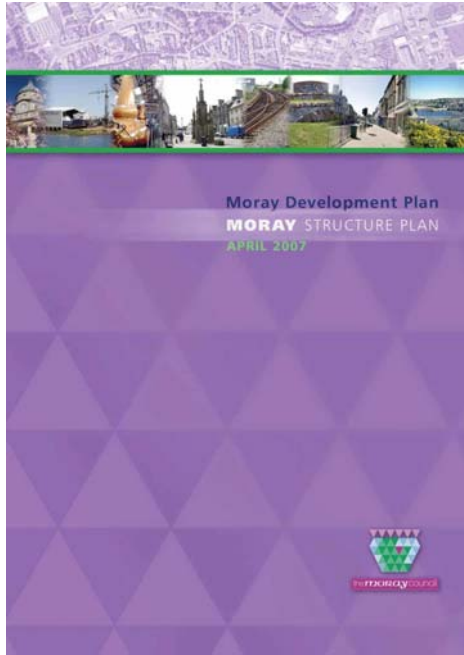
5.1 The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

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

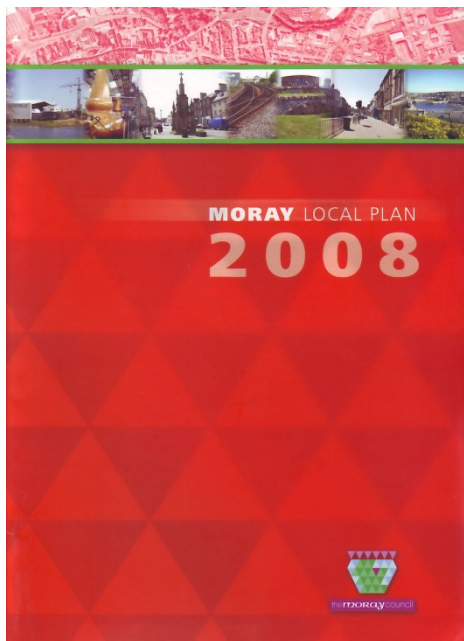




Moray Structure Plan 2007

## **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 inc Supplementary Guidance on Housing in the Countryside (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).

7.9 The Council also has Supplementary Guidance on Housing in the Countryside which states that an application for one or two houses situated within or adjacent to an existing group of recently constructed or approved dwellings may be considered favourably subject to compliance with the provisions of policy H8 and IMP1. Site characteristics and the character of the surrounding area will be taken into account when looking at the issue of whether or not a build up of development will be detrimental to the rural character of the open 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 it is in accordance with the general thrust of the policy in terms of the number of houses being applied for.

- 9.7 Policy H8 sets 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 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 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; a surfaced road to the North and woodland to the West, South and East. The boundary definition of the site is not identified as an issue in the reasons for refusal.
- 9.9 The second of the siting criteria within Policy H8 is that the dwelling must not be overtly prominent. Examples of overtly prominent locations identified in 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 the skyline, on artificially elevated ground or in the centre of a field. Once again this element of the policy is not identified as an issue in the reasons for refusal.
- 9.10 The third element of the siting criteria under Policy H8 states 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 six existing houses and a steading which has been converted to a joinery workshop and yard. Planning consent has been granted for another house immediately to the North of the site along with consent for a house and archery centre beside another existing dwelling to the West. The plot is well within this established group which has been approved for expansion around and beyond the site. The position and extent of the site is entirely consistent with the layout of this grouping. It will not enlarge the group or increase its overall footprint as a "linear extension" (ribbon development)



because it is contained within it. The size of the site, at 0.35ha (0.9ac), allows the house to be sited sympathetically with the position of the existing properties. This is reflected in there being no objections from the surrounding neighbours.

9.11 The site also has the benefit of existing trees on the plot allowing the house to be set within them. This will further reduce the impact of the proposal on the setting of the existing grouping at The Level and the wider landscape. Indeed the proposed house, surrounded by trees to be retained, will be far less open to view than the site approved to the North and the house/archery centre approved to the West, both of which were considered acceptable under current Development Plan policies in relation to the existing grouping of properties at The Level.

9.12 As the site is so well defined and enclosed and reflects the settlement pattern of the existing and approved group of properties at The Level it will not detract from the character and setting of these properties; quite the opposite, it will compliment and integrate with the settlement pattern of this existing grouping as required by policy.

### **9.13 Design**

9.14 There are a series of specific design requirements within policy H8. They are all met by the proposals as follows, (the design of the proposed house is not identified as an issue in the reasons for refusal);

- 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

9.15 Overall it is considered that the proposal meets the requirements of Policy H8 and the related Supplementary Guidance on Housing In The Countryside. 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.

**9.16 Infrastructure and Servicing**

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

9.18 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.

9.19 The access will be from the tarred road along the North 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 which can be achieved.

9.20 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.

9.21 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.

9.22 The water supply will be from the public mains.

## **10.0 Reasons for Refusal**

- 10.1 The reasons for refusal focus on one issue only, the “build up of development”. Policy H8 does not preclude additional houses being added to existing groupings. The test in the policy is whether or not the proposal detracts from the character or setting of existing buildings, or the surrounding area, when added to the grouping. It has already been shown that the proposal meets the tests in policy H8. Having said this the following comments relate to the reasons for refusal as set out in the decision notice.
- 10.2 The reasons for refusal start off by saying that the site is in an area of “open landscape”. The site itself is within an area of mature trees and it is proposed to retain trees around the site to screen the proposed house. It will not be seen as in the “open landscape”. The group of houses in the immediate vicinity of the site at The Level is also well contained and screened by trees and does not feature as a grouping in the “open landscape”. Planning consent has been granted, under current development plan policies, for an additional plot to the North of the site and for a house and archery centre to the West. Both of these consents relate to sites that are much more open to view than the proposed plot and these additional developments will themselves further contain and enclose the proposal.
- 10.3 The reasons for refusal go on to say that the proposal will “begin a significant build up of development in the vicinity” when added to the existing properties and the approved plot to the North and house/archery centre to the West. The proposal is for a single house added to the existing and approved proposals at The Level. The test under policy is whether or not this detracts from the character or setting of existing buildings or their surrounding area when added to the existing grouping. It has already

been shown that this is not the case. The proposal will have less impact on the grouping than the approved plot to the North and house/archery centre to the West, which are more open to view. These proposals will also reduce any impact the plot may have as it will be further contained and enclosed within the existing grouping by these additional proposals. It is simply incorrect to say that the proposal will “begin a significant build up of development in the vicinity”.

10.4 The reasons for refusal go on to say that the proposal would have a “detrimental impact on the open rural characteristics of the landscape”, when added to the existing and approved development. It has already been shown that the site is not in an open position in the landscape. It is part of an established grouping which has been approved for expansion. The properties in the immediate vicinity of the site at The Level are themselves well contained within the landscape with their impact screened and enclosed by existing trees. This has been added to by two approved houses and an archery centre in more open locations to the North and West of the site. Taken as a whole the landscape impact of the existing and approved development at The Level will not be altered or exacerbated in any significant way by the proposed house. As such it will not have “detrimental impact on the open rural characteristics of the landscape”.

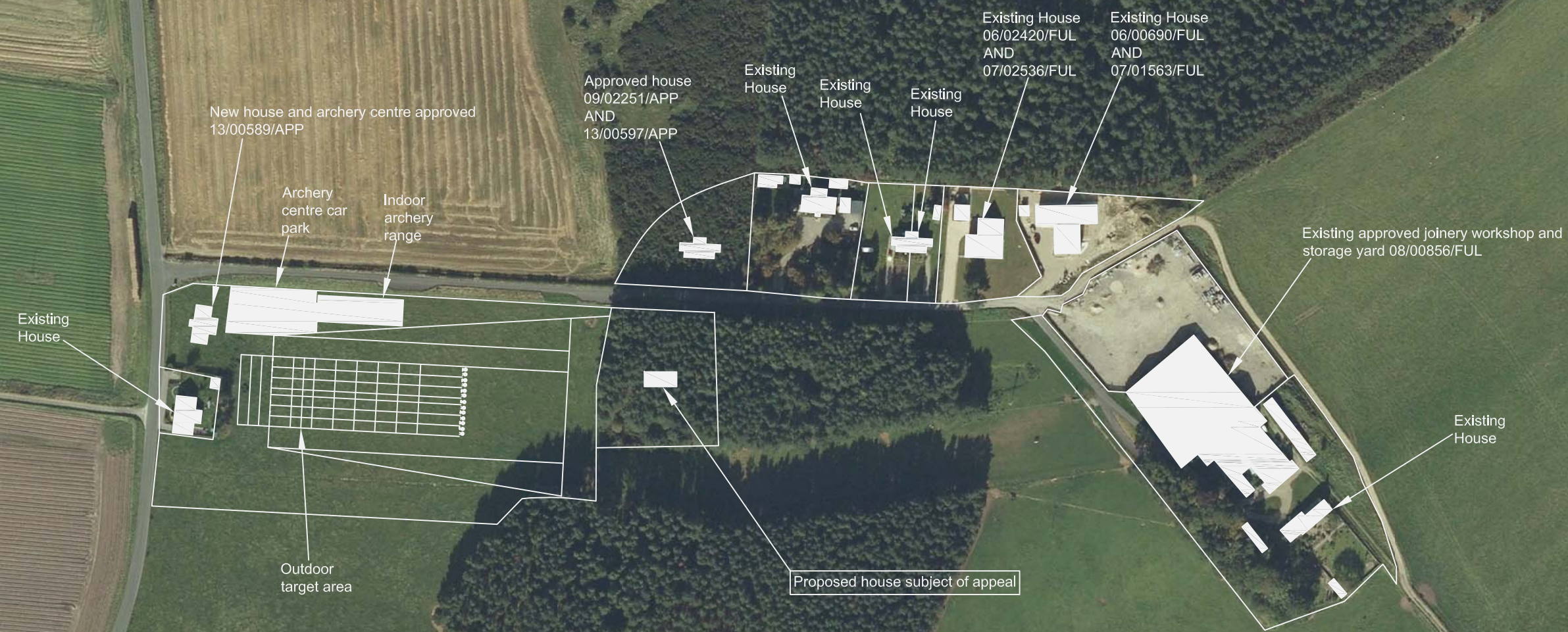
10.5 It is claimed that the proposal would “establish a linear, ribbon form of development along the access road that would result in development that was contrary to the dispersed rural settlement pattern in the area and which would contribute to an urbanisation of the setting”. The proposal is not ribbon development; it does not extend the footprint of development at The Level in a linear form. It sits well within

the overall existing and approved grouping of development. The reference to the dispersed settlement pattern is unclear and misleading. The site needs to be seen in its context of the existing and approved grouping at The Level. Development Plan policy allows for additions to this grouping subject to the relevant criteria being met. The proposal will not be at odds with the settlement pattern because it will be an acceptable addition to an existing grouping in accordance with Development Plan policies. The phrase “urbanisation of the setting” is also unclear and misleading and it has no relationship back to the tests that need to be met under policy. As a proposal considered to be acceptable under policy it will not change the character or impact of the existing grouping in an unacceptable manner and will continue to be a site in the rural area as part of this established grouping. Fundamentally the overall character of the surrounding area will be rural and this will not be changed to “urban” because of the proposal.

- 10.6 Finally the reasons for refusal say that “further such development would be encouraged”. This is not a basis for the refusal of the proposal. Applications need to be determined on their merits in relation to the specific tests under relevant Development Plan policies. The approval of a proposal considered to be acceptable under policy will not set the scene for any unacceptable development. If any subsequent development is considered to be unacceptable under policy the planning authority can refuse it as appropriate.



# The Level - Existing Development and Approved Proposals





## **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 and there is a preference for the siting of new houses with existing groupings.
- 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 take issue with the proposed site boundaries as required by policy or the design of the house under policy and they do not identify the site as overtly prominent in terms of policy. They suggest that the proposal would lead to a



build up of development that would detract from the open rural characteristics of the landscape. The site is part of an established group of buildings at The Level which is part of the established settlement pattern of the landscape in the area. Planning consent has been granted to expand this group further with additional houses and an archery centre. The proposed house will be on a wooded site with existing mature trees retained which will screen the house and absorb it into the existing group at The Level and the wider landscape. Furthermore the two additional houses and archery centre approved to the North and West (in much more open positions than the appeal site) will help to further enclose and absorb the site into the established and approved grouping of buildings at The Level and the wider landscape.

- 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.

Open site approved for house and archery centre to West of site under appeal, work has started recently.

**Photograph 1**



View of approved site to North in more open position that proposed plot in wooded area.

**Photograph 2**



Joiners workshop and yard at The Level to East of appeal site.

**Photograph 3**



**Photograph 4**

New house at The Level to East of site.





New house at The Level to East of site.

**Photograph 4**

