

PLANNING APPLICATION: 04/02427/OUT

In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications

The Proposal

- Outline planning application to sub-divide the curtilage of 17 Burnside Street to form an additional house plot.
- The proposed site would take access directly onto Burnside Street.
- Connect to the public sewers and public water supply system.

The Site

- The site is bound to the north and east by land retained under the ownership of the parent property. An access is being retained along the north western boundary of the site to allow access into the rear of the parent property. The site is bound to the west by an existing access track/path and to the south by Burnside Street itself.
- The site is approximately 300 sqm in area.

Policy / Objections-Representations / Consultations - See Appendix

History

- 06/01201/FUL** - Change of use of part residential part office to residential at 17 Burnside Street, Rothes, Aberlour - Approved under Delegated powers.
- 96/02298/FUL** - Change of use from residential to part residential part office at 17 Burnside Street, Rothes, Aberlour - permitted in March 1997.
- 95/00649/FUL** - Erect dwellinghouse and garages at 17 Burnside Street, Rothes, Aberlour - Approved in August 1995 but now expired. Similar to the site now under consideration but addressed under previous Local Plan where the sub-division policy allowed for smaller sites.

Advertisement

Advertised as a departure from the development plan.

Observations

Determining issues:

Impact of sub-division for house plot (S/ENV1, S/H3, S/IMP1, L/H5 and L/IMP1)

Moray Local Plan 2000 policy L/H5 seeks to approve only those house plots with an area of minimum 400 sqm excluding access. This is to ensure that adequate space is available to accommodate a modern dwelling, off street parking, garden ground in addition to ensuring there is adequate space between any house and neighbouring properties. The proposed site whilst complying with other aspects of the policy such as having its own frontage onto the street, fails to provide an adequate size of site to comply with policy. At 300 sqm the site falls short of the required 400 sqm and is therefore contrary to the above policy.

In failing to satisfy the minimum site size required under the sub-division policy the proposal can therefore be considered to depart from other related policies which seek to ensure that only those sites which would not be detrimental to the appearance and character of an area or result in an inadequate level of amenity will be developed.

Flood issues (S/ENV9 and L/ENV26)

SEPA's indicative flood maps suggest that a portion of the south side of the site may be subject to flooding. Discussions between the applicant and Moray Flood Alleviation have confirmed that historically flooding has occurred only upon Burnside Street itself due to the nearby burn bursting its banks further upstream to the west. From discussions the applicant's have stated they would be willing to agree a finished floor level of any new house proposed to ensure that development above a level where flooding may be an issue. On this basis through consultation no objection on flooding grounds is being added to the recommendation for refusal. As this application is in outline only details of any proposed house and its finished level would be assessed if a future detailed application were to be received.

Recommendation

Refusal.

Author/Contact Officer: Neal MacPherson
Planning Officer

Ext: 01343 563266

Signature (Alan Short, Development Control Manager)

R A STEWART
DIRECTOR OF ENVIRONMENTAL SERVICES

APPENDIX

POLICY

Moray Structure Plan and/or Moray Local Plan 2000

Policy S/ENV1: Approach to the Environment

The approach to Environmental Policy is to conserve and enhance Moray's environmental assets, and require that new development is sensitive to siting, location, and design considerations, whether in town or country.

Policy S/ENV 9: Flood Management

The Council will work closely with the Scottish Environmental Protection Agency and North of Scotland Water Authority in the appraisal of areas liable to coastal or river flooding and will be guided by the precautionary principle. The Local Plan will:-

- i) direct development considered of high risk to public safety away from vulnerable locations;
- ii) specify the criteria against which new development will be managed within areas of risk;
- iii) safeguard floodplains and low lying land in settlement plans from inappropriate development and ensure, where possible, that they can flood naturally;
- iv) identify proposals for new flood protection schemes;
- v) embrace a preference for the use of soft engineering solutions to flood prevention where appropriate;
- vi) encourage the use of Sustainable Urban Drainage Systems in the management of run off water in all new development;
- (vii) promote an integrated management approach to flood risk throughout the Moray area.

Policy L/ENV26: Control of Development in Flood Risk Areas

(i) High Risk Exclusions

The Council (advised by SEPA, NOSWA and the Council's Roads Service) will direct developments considered of 'high risk' away from areas, known to be at risk from flooding and will presume to refuse applications for such proposals that fall within such areas. Proposals will be considered a high risk if they fall within areas considered by the Council to be liable to flooding and;

- a) represent an unacceptable threat to public safety, or
- b) are likely to cause unacceptable levels of pollution or contamination of flood waters if inundated, or

- c) may give rise to high levels of public expenditure on flood protection works.

Examples of developments considered as 'high risk' would include; hospital, medical and the emergency services; special care residential developments for the physically impaired or elderly; commercial developments that involve polluting or contaminating processes such as sawmills, furniture restoration, unsecured chemical or fuel storage and distribution etc.

(ii) Managed Risk Proposals

The Council will seek to manage the threat from flooding for developments not considered as 'high risk'. Within this approach there is an acceptance of risk on the basis that developments must adopt appropriate mitigation measures and have the potential to make a contribution to the improvement of flood water management within the area at risk. Applications will only be approved where they can demonstrate that the development;

- a) has been designed to minimise risk of inundation and will not contribute to or increase the risk of flooding elsewhere.
- b) has adopted all reasonable measures to improve the management of flood waters on and adjacent to the site and to assist the protection of properties within the vicinity of the site.
- c) does not impede the flow of flood water or the ability of the floodplain to store water and to flood naturally and takes account of the impact on riparian habitat and wetland.
- d) incorporates building design measures and materials to assist evacuation and minimise damage from inundation.
- e) employs, where possible, the use of Sustainable Urban Drainage Systems in the disposal of surface water run-off to the satisfaction of SEPA and the Council, and provides for their maintenance.
- f) can provide for the maintenance of any approved privately funded flood defence measures, to the satisfaction of the Council, (river engineering works associated with flood protection must also meet the requirements of policy L/ENV25).

The Council will be advised on the acceptability of risk/mitigation measures by its Planning, Roads and Building Standards Services together with SEPA and NOSWA on the basis of the precautionary principle as defined in NPPG7.

Applicants may be required to submit hydrological survey and assessment information in support of their proposals and may be required to make a contribution to flood defences under the terms of policy L/F1.

Policy S/H3: New Housing in Built-up Areas

New housing will generally be directed to the settlements. Housing fitted in to built-up areas must be acceptable in terms of impact on infrastructure, open space and community facilities, as well as its impact on the surrounding built environment.

New housing developments in built-up areas must take account of flood management issues (Policy S/ENV9), sustainable urban drainage systems and energy conservation principles.

In order to encourage new housing development in built-up areas, 'brownfield' development will not be constrained by Structure Plan allowances.

Policy L/H5: Sub-Division for House Plots

A new house should be a suitable distance away from the nearest building, to allow it to fit comfortably with the character of the area. Plots must not be subdivided by more than 50% and must provide for a site of, at minimum, 400 sq. m, excluding access. (In certain circumstances such as for example, a proposal to extend a terrace or where an existing house is to be subdivided internally, this may be relaxed). The built-up area of the application site should not exceed one third of the total area of the plot and, to avoid overlooking and to maintain privacy, main windows (i.e. kitchen, living room, bedroom) must be at least 4m from the boundary they face, unless that boundary fronts onto a road or public pavement or follows an established building line. The house style must complement both the character of the area, and the scale and architecture of the parent property.

The Council will not normally approve applications for backland sites (e.g. those in back gardens which do not have a road frontage) on the grounds of character and amenity.

This policy is subservient to a number of settlement specific policies dealing with localised subdivision and backland development issues, contained in the village statements for Craigellachie, Dallas, Kingston, Newmill, Tomintoul and Urquhart.

Policy L/T4: Provision of Road Access

The Council will require that a suitable and safe access from the public highway is provided.

Policy L/T7: Parking Standards

Proposals for different forms of development must comply with the Council's 'Car Parking Standards' (available from the Council's Roads Service).

Where development (including housing) within the defined town centre cannot reasonably supply parking on site, (or where it is appropriate not to include parking), the developer will require to comply with the Council's system for 'commuted payments' for parking. Housing development in town centres which need not provide residential parking on site, must make provision for vehicular access for deliveries and emergencies.

In housing developments of over 30 houses, provision must be made for communal off-street parking, in addition to in-curtilage in order to permit the parking of large commercial vehicles away from road frontages.

Policy S/IMP1: Development Siting, Layout and Design

New development will require to be sensitively sited, designed and serviced. It should meet the following criteria:-

- i) its, scale, density and character is appropriate to the surrounding area;
- ii) it can be successfully integrated into the surrounding landscape;

- iii) it meets wider transportation and local site energy efficiency objectives;
- iv) adequate infrastructure is available or could be made available in conjunction with the development;
- v) consideration is given to the provision of infrastructure which meets sustainable urban drainage principles using appropriate Sustainable Urban Drainage Systems;
- vi) adequate social and community facilities are available or could be provided in conjunction with the development;
- vii) it does not adversely affect nature, urban or historic conservation resources;
- viii) it seeks to manage flood related issues;
- ix) pollution is avoided, including pollution of ground water.

Policy L/IMP1: Development in Built-up Areas

In areas covered by this policy, (i.e. all land within settlement boundaries and rural communities), the Council will, in considering applications for planning permission, try to ensure that proposals for development do not harm the general character of the surrounding area. Applications will therefore take account of the main uses of land and buildings in the vicinity, the mix of such uses and the architectural quality of the area. The main concern of the Council is to ensure that development proposals should neither conflict with nor detract from the character, amenity and design of an area. This policy will not preclude appropriate new development and is not intended solely to maintain the status quo.

In interpreting and clarifying this policy, the Council will take into account the guidelines on Character, Amenity and Design.

Guidelines on Character, Amenity and Design (L/IMP1)

a. Character

The character of an area is assessed by the;

- (i) main uses;
- (ii) appropriateness of a diversity of uses; and
- (iii) desirability of introducing a development which may detrimentally alter the existing balance of usage
- (iv) architectural style of the area.

b. Amenity

The amenity of an area is assessed in terms of both the people who will occupy the development site, and the adjoining occupiers. In short, new developments should be "good neighbours". Where there is an inherent incompatibility of neighbouring developments, or where remedial action cannot be made effective, applications are likely to be refused.

The important aspects of amenity which the Council considers are worth protecting are:-

- (i) **Privacy** - for both the occupants of a proposed development and surrounding neighbours. Loss of privacy can be minimised by re-orientation, reducing the densities of development reducing the size of buildings, and attention to building levels or by design modifications, for example, window proportion and size.
- (ii) **Traffic** - the introduction of increased traffic movement and resulting noise, can significantly detract from the amenities of an area.
- (iii) **General Disturbance** - protection from activities which create unreasonable levels of noise, smells and other discomforts including wheeled bin locations.
- (iv) **Sunlight/Daylight** - adequate levels of sunlight and daylight, and to a lesser extent, outlook, should be safeguarded for surrounding properties and afforded to new developments.

c. Design

Design of new development should not only relate to the type of development in the immediate vicinity but also to the wider issues of context and setting. This need not be restrictive to new or innovative architectural expression.

Applicants should, therefore, avoid design proposals which compromise the appearance of design characteristics of the surrounding area.

In considering the appropriateness of a design the Council will have regard to:

- (i) The scale of adjoining development.
- (ii) The materials, finishes and colours used in nearby development.
- (iii) Any features on or near the site worthy of reproduction, protection or enhancement, e.g. trees, hedges, views and other features of public importance.
- (iv) Principles of site sensitive design e.g. that pitched roofs are preferred to flat roofs, piended dormers to box dormers, vertical windows to horizontal picture windows etc., where these features predominate in an area.

Policy L/IMP7: Drainage Impact

New development must connect to a public sewer for the disposal of foul drainage if one is available within a Town, Village or Rural Community. If it is not available alternative forms of treatment may be considered and must meet with the approval of NOSWA and SEPA. The Council will promote the employment of Sustainable Urban Drainage Systems (Sustainable Urban Drainage Systems) in the disposal of surface water run-off, and unless otherwise advised by SEPA, will operate a presumption against the disposal of surface water directly to a watercourse. Proposals must meet the requirements of policies L/ENV21 (Private Waste Water Treatment and Drainage), L/ENV22 (Pollution Conditions), L/ENV23 (Private Water Supplies), L/ENV24 (Surface Water Drainage) and L/ENV26 (Control of Development in Flood Risk Areas) in Chapter 2, if relevant.

Policy L/IMP8: Departures From The Local Plan

Departures from the local plan will be managed in accordance with advice as laid down in Planning Advice Note 41: Development Plan Departures (The Scottish Executive). Proposals which involve substantive or significant policy changes or which are judged to involve major social, environmental or economic impacts, will be the subject of formal alteration procedures to amend the local plan. Such procedures will allow for a structural community participation input and may include a Public Local Enquiry.

OBJECTIONS-REPRESENTATIONS

None.

CONSULTATIONS

Transportation Manager, Direct Services - Approve subject to various conditions and informatives.

Environmental Health Manager, Development Services - No objections.

Contaminated Land, Development Services - No objections.

Environmental Protection Manager, Direct Services - No objections.

Scottish Water - No objections.

SEPA - Would be willing to comment on a flood risk assessment if one is made available.

Moray Flood Alleviation - No objection subject to finished floor levels well above street level.