

PLANNING APPLICATION: 07/00681/FUL

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

- Detailed application to erect a single-storey dwellinghouse (with lower ground floor accommodation) on sloping ground adjacent to 'Ben Mhor', Church Street, Dufftown (previously approved under application reference 06/01486/FUL in November 2006).
- Dwellinghouse - 2 bedrooms, materials - wet dash 'oatmeal' harl, stained timber and grey concrete tiled roof.
- Foul drainage and water supply connections to public sewage network and mains.
- Vehicular access to be formed onto private lane, which joins onto Church Street to the west.
- The site currently forms an area of rough ground, located within the settlement boundary at southern end of Cowie Avenue, to the east of 'Ben Mhor'. It measures 2527 sqm in area and slopes steeply downhill from west to east.

Policy / Objections-Representations / Consultations - See Appendix

History

- 06/01486/FUL** - Permission granted November 2006 to erect a dwellinghouse on the southern half of the current application site. This involves taking access off the private roadway to the west, which joins onto Church Street.
- 04/00934/FUL** - Detailed planning application to erect single-storey dwellinghouse on the southern half of the current application site withdrawn June 2006.
- 04/00935/FUL** - Permission granted November 2006 to erect single-storey dwellinghouse with access off Cowie Avenue on the northern half of the current application site.
- 02/01213/OUT** - Outline planning application granted to erect dwellinghouse on the southern half of the current application site.

Advertisement

None.

Observations

Impact of New Residential Development in the Built-up Area (Policies L/IMP1, L/IMP3 and L/IMP7)

The principle of a house on the southern half of this site has already been established with the granting of detailed planning permission on 3rd November 2006 under application 06/01486/FUL. Permission also exists for a second dwelling on the northern half of the plot under application reference 04/00935/FUL with separate access being taken off Cowie Avenue.

The main issues in the determination of this application therefore relate to the design and siting of the proposed amended dwellinghouse within the plot and whether it is acceptable in terms of its impact upon the character of the surrounding area and amenity of neighbouring occupiers.

The dwellings within the immediate vicinity comprise a mix of single, 1 ½ and 2 storey houses set within a range of plot sizes. Within this context the proposed dwelling of the proportions, design and materials shown set into the slope would be compatible with these other houses and would relate satisfactorily to its surroundings. On this basis, the proposal satisfies relevant implementation policies L/IMP1 and L/IMP3 and is acceptable in design terms.

In relation to residential amenity, the dwelling would be sufficiently distant from existing neighbouring properties such as to ensure that amenity levels (i.e. privacy or light levels) would not be significantly affected.

The application includes a proposal for a 1.5 metre wide footpath along its northeastern boundary. This is to allow for the re-instatement of a "claimed" right of way, between Cowie Avenue and the private roadway to the northwest that was grubbed out some years ago. This route was identified after consultation with the Rights of Way Officer (Legal and Committee Services) and the Moray Access Officer in relation to previous applications. In order to ensure its provision, a condition will be attached to the decision notice.

Access and Parking (L/T4 and L/T7)

The proposed plot would take access off a private lane, which joins onto Church Street 100 metres to the west. The traffic generated by the proposed house would not adversely affect road safety to such an extent as to warrant refusal. In this regard the Transportation Section has raised no objection to the granting of permission.

Recommendation

Approval.

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Planning Officer

Ext: 01343 563256

Signature (Alan Short, Development Control Manager)

R A STEWART
DIRECTOR OF ENVIRONMENTAL SERVICES

APPENDIX

POLICY

Moray Structure Plan 2007 and/or Moray Local Plan 2000

Policy L/IMP3: New Building Design

(i) Design Principles

All building development must be designed to respond adequately to the locality. Applications must meet the following requirements:-

- a) appropriate location in landscape or townscape
- b) careful placement on a site, particularly in relation to character, amenity and energy conservation
- c) appropriate size and form in relation to existing buildings, sky line and landform
- d) appropriate density, layout and orientation in relation to character, amenity, privacy of neighbouring properties and energy conservation
- e) sensitive use of materials and colours in relation to existing setting and environmental impact

Standardised solutions to building design are not encouraged and will not be acceptable unless existing context (the design and character of the existing surroundings) suggests otherwise. Design solutions which seriously compromise the amenity and character of the area will not be permitted.

Highly innovative, experimental solutions will be encouraged but may not be suitable in every situation. In certain circumstances, the Council may request written design statements explaining various aspects of design solution e.g. explaining why a particular approach has been taken, and expect applications to show new buildings in their wider relationship with surrounding properties and the site (plans and elevations/perspective/ photomontages showing adjacent buildings, trees, landform etc)

(iv) Materials

The Council will particularly encourage the use of materials which are sustainable. The use of salvaged or recycled material is encouraged in most circumstances subject to local situation and there is a strong expectation that traditional materials will be used on heritage structures. The Council will discourage the over use of high energy materials (i.e. those which require high energy levels to make and dispose) where alternatives can be used and is also concerned about the potential long term affects of using Tropical Hardwoods, from non-managed sources.

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/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 L/T4: Provision of Road Access

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

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.

OBJECTIONS-REPRESENTATIONS

11 letters of objection have been received from 6 households:

- Margaret Anne Smith, Ben Mhor Church Street Dufftown AB55 4AO
- Mr James Murray, Lippen Church Street Dufftown Banffshire AB55 4AR
- Mr Norman Anderson, The Cedars Church Street Dufftown AB55 4AR
- Jean Oliver, Strathdullan Cowie Avenue Dufftown Banffshire AB55 4EH
- Mr Arthur M Brown, Ashville Church Street Dufftown AB55 4AR
- David Duncombe, Laurelbank Church Street Dufftown Keith Moray AB55 4AR

Objections summarised as follows:

- **Access Concerns**

Access via Church Street, which is a narrow private road and has a maximum load restriction, is unsuitable for construction traffic and denied by the householders who maintain the road. Additional traffic along this route will adversely affect pedestrian safety and that of other road users. Under what authority can the LPA approve access via this route? Access via Cowie Avenue would be better and safer.

Applicant's Response: The principle of constructing a house on this site is already firmly established, as is my right to use the lane from Church Street to the site. I retain ownership of the drive running through the site and the owners of the adjoining property, 'The Cedars' retain a right of passage over it.

Comment: As previously stated, vehicular access to the site via the private lane is a matter for the applicant and owners of the road concerned. Any repair/maintenance work to the road as a result of construction traffic would therefore be a private matter and is not the responsibility of the Council. The additional traffic generated by the proposed house in this location would not adversely affect road safety to such an extent as to warrant refusal, the Transportation Section has been consulted and has raised no objection to the granting of permission. In granting permission, the Council as LPA and relevant Roads Authority has discharged its statutory duties in determining the application. Church Street is a private road and as such the restriction of access to construction or other vehicles is a private matter for resolution between the applicant and the relevant landowners concerned.

- **Height and position comments**

Height and position of building differ from previous approved houses and are not in keeping with the others in the locality. Building is taller than previously approved house.

Comment: The proposed dwelling, in terms of its position and form is not significantly different from the previously approved house. The proposal is considered to represent an acceptable form of development for the reasons detailed in the observations section above.

- **Landscaping**

Objection to the planting of trees, but not to shrubs.

Comment: Approval of a landscape scheme shall be covered by planning condition.

- **Querying intentions for the northern half of the site**
Plans do not show what use will be made of the site (i.e. northern half) other than for the house.
Comment: The application requires to be determined on the basis of the plans submitted. The northern half of the site, as referred to, has the benefit of extant permission 04/00935/FUL and as such the principle of a house on this parcel of ground has already been established, subject to conditions. Relevant conditions, where appropriate, shall be re-imposed on this consent. There is no specific requirement to show the approved plot on the northern half of the site.
- **Re-instatement of right of way**
Original plans do not show the replacement of the right of way that was the subject of a planning condition attached to the previous permission for the house on the northern half of the current site.
Comment: The path in question is a former "claimed" right of way (that was grubbed out in early 2002) and which linked Cowie Avenue with the private lane from Church Street to the northwest. An amended site plan has been submitted, which shows the provision of the replacement footpath along the northern site boundary in line with the relevant previous consent. As before path construction details this shall be the subject of a planning condition.
- **Site is white land**
The site has no specific designation in the local plan and is 'white land'.
Comment: The fact that the site is 'white land' does not preclude development on the site. Any application submitted would be assessed on its individual merits, taking account of current planning policies and any other material considerations.
- **Miscellaneous**
Site plan is inaccurate and boundaries do not reflect those of previous applications. Plan showing neighbour notification, specifically the woodland to the southeast, is incorrect as this is owned by the Moray Council and not the distillery. There are also badger setts within this area. Proposed woodburning stove would not be environmentally friendly on this enclosed site.
Comment: The applicant has certified that he owns all the site edged red and that neighbour notification has been carried out correctly in accordance with GPDO regulations. He has also confirmed that he has right of access and that there are no badger setts within the woodland adjoining the site. In line with previous advice from SNH, an informative shall be attached to the consent reminding the applicant of his legal responsibilities regarding badgers and providing further guidance. The issue of the woodburning stove is not a planning matter.

CONSULTATIONS

Environmental Protection Manager, Direct Services - No objection.

Environmental Health Manager, Development Services - No objection.

Contaminated Land, Development Services - No objection subject to standard condition and informative advice.

Transportation Manager, Direct Services - No objection.

Scottish Water - No objection. Provides informal comments for applicant's information.

Scottish Hydro Electric Power Distribution Plc - No comments received.