

PLANNING APPLICATION: 06/00631/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

Application previously deferred from Committee.

The above planning application was considered by Members before the Environmental Services Committee on 17th January 2007. At that Committee, Members deferred consideration of the application in order that further information regarding the applicants' intention to infill the site, the impact this proposal may have on water runoff, visual impact and for the submission of a Contaminated Land assessment.

Discussions with the agent regarding levels upon this site were in relation to their intention to raise ground levels sufficient to address contaminated land requirements and also to ensure that any house upon this site would be sufficiently high to avoid ponding or a build up of water. Following the submission of a Contaminated Land Assessment further discussion was carried out with the applicant's agents regarding these additional outstanding matters. It has now been agreed that the ground levels could be addressed through attaching conditions to any outline planning permission granted if Committee are minded to approve to ensure that the exact height of any dwelling and levels upon the site were submitted for detailed consideration.

In relation to contaminated land a risk assessment and remediation scheme have now been agreed with Moray Council Environmental Health (Contaminated Land) Section and again if the application were to be approved, conditions should be imposed on any consent ensuring that development was in accordance with the agreed remediation scheme.

Since this application was previously considered by Members, both the Moray Structure Plan 2007 and the Emerging Moray Local Plan 2008 have become material considerations. The application has now been assessed against the new Moray Structure Plan, Moray Local Plan 2000 and relevant policies of the Emerging Moray Local Plan 2008 and as such the recommendation has remained unchanged with the exception of contaminated land which through the submission of additional information has been resolved.

On the basis that the issues within the reason for refusal 1 contained within the report previously considered by Members are still a concern, the recommendation for refusal is sustained.

Signature.....Alan Short (Development Control Manager)

RA STEWART
DIRECTOR OF ENVIRONMENTAL SERVICES

PREVIOUS REPORT

REPORT TO ENVIRONMENTAL SERVICES COMMITTEE DATED 17 JANUARY 2007

The Proposal

- Outline planning application to erect a single dwellinghouse.
- Site is to utilise connection to the public water main and private septic tank and soakaway.
- The site will link to an existing access track, which takes access onto the Huntly/Portsoy Road.
- It is proposed to create bunds adjacent to the new boundaries to be formed on the west and south west sides of the site.

The Site

- The site area is approximately 1390 sqm.
- The site is bound to the north east by a long established field boundary, to the south east by a long established full boundary and access track and on the remaining sides by open agricultural land.
- An area of mature trees and existing property lie immediately to the south of the access which will serve the site.
- The land slopes gradually upward from the south east boundary of the site towards the north west.

Policy / Objections-Representations / Consultations - See Appendix

History

No specific history for the site, but in the same locality:

- | | |
|---------------------|--|
| 03/02536/FUL | Proposed new chalet development at Mill of Millegan, Grange, Keith. Approved under delegated powers in March 2004. This site is located approximately 130m south west of current site. |
| 04/00391/OUT | Outline application to erect dwellinghouse and garage at Millegan, Grange, Keith. Approved under delegated powers in April 2004. This site is located 190m to the south west of the current site. |
| 04/01749/OUT | Outline to erect dwellinghouse and garage on Plot 2, Millegan, Grange, Keith, Banffshire. This application was refused as recommended following consultation with the Local Member in August 2005. This site is located 300m south west of the current site. |
| 06/00775/FUL | Erect dwelling on site adjacent to Mill of Millegan, Tarryblake, Rothiemay. Yet to be determined, this site occupies the same site as 03/02536/FUL. |

- 06/01342/FUL** Detailed planning application to erect house and garage on site opposite to Mill of Millegan, Tarryblake, Rothiemay. Yet to be determined, this site occupies the same site as outline application 04/00391/OUT.
- 06/02217/OUT** Outline to erect a single dwellinghouse on plot B, the Old Railway site, Millegan, Grange, Moray. Located 430m south west of the current site, this application has yet to be determined.
- 06/02221/OUT** Outline to erect new dwellinghouse on site at Mill of Millegan, Grange, by Keith, Moray. Located 115m east of the current site, this application has yet to be determined.

Advertisement

Advertised as a departure from the Moray Development Plan.

Observations

Determining issues:

Impact of the proposed house plot upon landscape (S/ENV1, S/H4, S/IMP1, L/HC3 and L/IMP2)

Moray Local Plan policy L/IMP2 seeks to encourage development which amongst other things will integrate sensitively into the environment in which it is located. Also Local Plan policy L/HC3 seeks to approve only sites which blend unobtrusively with their surroundings. One of the essential criteria for achieving this is the means by which a site is defined and separated from the adjoining ground. In the case of sites which involve the formation of boundaries, such boundaries must separate the sites naturally from the surrounding ground.

The proposed site utilises established boundaries along its north east and south east boundaries but relies upon the formation of bunding and new boundaries to be formed on the west and south west sides of the site. The proposed new boundaries to the west and south west are arbitrarily located within an open field and utilise no existing features in their formation. The resultant site gives the appearance of the house within the corner of a large open field and would appear quite unnatural when viewed from the public road to the south west.

To approve a site in this position would also set an undesirable precedent for other houses in the corner of field which happen to be served by an access track. There are many other similar such sites in this locality which makes such precedence all the more significant and in need of refusal.

Contaminated Land

At the time of determining the application, sufficient investigation had not been carried out to determine whether contaminated land was a risk to the proposed development or even if remediation was required.

On the basis of the above refusal is recommended.

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Planning Officer

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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 1: Development and Community

The policy set out below identifies the strategic community development requirements for the delivery of the structure plan strategy-

The Moray Structure Plan Strategy will be supported by:

- e) the encouragement of low impact, well-designed development in the countryside to support local communities and rural businesses.

Policy 2: Environment and Resources

The Moray Structure Plan Strategy will be supported by: -

- a) protecting international, national and local nature conservation and scenic designations from inappropriate development;
- b) protecting the wider natural environment and local biodiversity from inappropriate development and promote opportunities for environmental enhancement and restoration where possible.

Policy L/ED12: Developments on Agricultural Land

In line with National Planning advice (SDD Circular 18/87) and Structure Plan Policy S/ED5 there will be a presumption against "irreversible" development on prime agricultural land (Classes 1, 2 and 3.1). Proposals involving over 10 hectares of prime land, or 20 hectares of non prime land will require to be notified to the Scottish Office Environment, Agriculture and Fisheries Department.

In light of the current surpluses in agricultural output, the Council will support the principle of farm diversification and generally look favourably on business proposals which provide additional income/employment on farms (this will not include housing sites).

The Council will ensure that in common with other agricultural activities, agricultural developments are assessed against visual impact and amenity concerns, and will be subject to the environmental policies as contained elsewhere in the Plan.

Policy L/ENV21: Private Waste Water Treatment and Drainage

The applicant must satisfy the Council in consultation with, SEPA and NOSWA that proposals for private sewage treatment can be implemented without adverse impacts on groundwater, and watercourses and provide for the efficient treatment of effluent.

Consideration will be given to advanced biological systems and new technology solutions as well as the more traditional septic tank and soakaway system. Disposal must satisfy testing procedures as required by the Council in consultation with SEPA and NOSWA and as outlined in appendix 3.

L/HC3: New Houses in the Open Countryside

The Council will require applications to respect the traditional pattern of settlement in the countryside.

The settlement pattern is defined as 'the disposition, function, and visual appearance of land and buildings in the general locality of the proposed development'. The Council shall make an assessment of each individual application and a new house shall be judged to respect the traditional settlement pattern if:-

- i) it is positioned sensitively along with a group of buildings such as a farm steading, or;
- ii) it adopts the spacing of a dispersed pattern of settlement and has integrated sensitively with the existing land forms so as to blend unobtrusively with its surroundings, and;
- iii) it avoids contributing to a build-up of residential development in any particular locality so as to cause a change in the character of that area from one of an existing rural cluster to one of a suburban style grouping of buildings, or a ribbon development clearly unrelated to the traditional pattern of settlement in that area.

Some locations will not be appropriate for new houses because of their prominent impact on the landscape and the inability to achieve appropriate landscaping. The Council will not normally approve houses which are located in the centre of a field, on a prominent hillside overlooking a main road or tourist route (i.e. the main A class and Trunk Roads and recognised tourist trails) or occupying skyline, top of slope/ridge locations.

For a new house to be acceptable in the open countryside, it must use existing trees, buildings, slopes or other natural features to provide a back drop.

In North and West Moray, all proposed boundaries must be long established features on the ground (e.g. such as an old fence line, dry stone dyke, a roadway, a hedgerow at minimum height of one metre, watercourse, a mature woodland or group of mature trees or neighbouring buildings), and it must enclose an area not exceeding 1400m² (i.e. a third of an acre). Recently created fencelines will not normally be accepted as established boundaries. The proposed site must also have a minimum 25% of its area retained in an existing tree, shrub or hedgerow cover.

In South and East Moray, only 50% of the site boundaries must be established on the ground, so long as the site is capable of establishing additional boundaries which separate the site naturally from the surrounding ground. The remaining boundaries of the site can be formed by natural stone dykes, planting of indigenous hedgerows or groups of trees, by careful mounding of site material to enclose the site. New boundaries should follow the natural form of the land and be designed so as to integrate the proposal within its rural setting (straight lines may not always be appropriate for new boundaries).

Policy L/T4: Provision of Road Access

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

(i) Design of Road Access

Since the formation of a new access by unmade track or surfaced private road (particularly in rural areas) can often result in a scar on the landscape (e.g. if it dissects an agricultural field, involves extensive tree felling or traverses a hillside), then unless a proposed new access is carefully designed within the landscape the proposal will be unacceptable.

(ii) Road Access Standards

Where access to the site is by unmade/private track the Council may require it to be surfaced to a specified standard. If the access is of significant length and may serve more than one development site, some widening and the provision of passing places may additionally be imposed as a condition of any consent.

(iii) Unmade Private Tracks

Where a site takes access from an existing unmade private track which is outwith the ownership of the applicant and is considered to be of such a poor standard as to be unsuitable for additional vehicular traffic, the Council may consider the proposal unacceptable, unless the applicant can either:-

- a) secure ownership of the track to allow for improvements to be made to the satisfaction of the Council, or
- b) demonstrate that an appropriate agreement has been concluded with the existing owner to allow for improvements to be made to the satisfaction of the Council.

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/IMP2: Development in Rural Areas

The Council will seek to ensure that all proposals for development in the rural area (i.e. all areas in Moray outwith town settlement and rural community boundaries) are compatible in terms of character, amenity and design, integrate sensitively into the environment and, where possible, located within easy walking range of public transport (this latter requirement will particularly apply to large scale developments). The Council will, therefore, pay special regard to matters such as traffic and landscape impact, accessibility, loss of productive or biodiverse land, siting, scale, colour and energy conservation. The Council will consult relevant organisations such as

Scottish Natural Heritage, the Scottish Environmental Protection Agency etc. on significant development proposals and 'The Moray Landscape Character Assessment' report as prepared by Scottish Natural Heritage will be utilised to inform decisions on siting and locating within the landscape.

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.

Emerging Moray Local Plan 2008 - Material Consideration

T2: Provision of Road Access

The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians. Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

SPP17 details that there is a presumption against new accesses onto a trunk road and that the Scottish Executive will consider the case for such justifications, where nationally significant growth or regeneration benefits can be demonstrated.

T5: Parking Standards

Proposals for development must conform with the Council's policy on parking standards.

EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)

Surface water from development should be dealt with in a sustainable manner that avoids flooding and pollution and promotes habitat enhancement and amenity. All sites should be drained by a SUDS system or equivalent. A Drainage Assessment will be required for

developments of 10 houses, or greater than 100 sq metres for non residential proposals. Applicants must agree provisions for long term maintenance to the satisfaction of the Council, SEPA and Scottish Water.

EP10: Foul Drainage

All development within or close to settlements (as defined in the Local Plan) of more than 2,000 population equivalent will require to connect to the public sewerage system unless connection to the public sewer is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has confirmed that investment to address this constraint has been specifically allocated within its current Quality and Standards Investment programme and the following requirements apply:

- i. systems shall not have an adverse impact on the water environment;
- ii. systems must be designed and built to a standard which will allow adoption by Scottish Water;
- iii. systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

All development within or close to settlements (as identified in the Local Plan) of less than 2,000 population equivalent will require to connect to the public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include the size and dispersal of the settlement, the size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add to a risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or the amenity of the general area. Consultation with SEPA will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small-scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with the Technical Handbooks (which set out guidance on how proposals may meet the Building Standards set out in the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

ER6: Agriculture

The Council will support the agricultural sector by

- a. presuming against irreversible development on prime agricultural land (Classes 1, 2 and 3.1).
- b. supporting farm diversification proposals in principle, and generally looking favourably on business proposals which are intended to provide additional income/employment on farms.

Proposals for agricultural buildings, despite having a locational requirement, will still be subject to visual impact and amenity considerations, and will be subject to relevant environmental policies.

IMP1: Development Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It must meet the following criteria:

- a. the scale, density and character must be appropriate to the surrounding area,
- b. the development must be integrated into the surrounding landscape,
- c. adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development,
- d. adequate water, drainage and power provision must be made,
- e. sustainable urban drainage systems should be used where appropriate, in all new developments
- f. there must be adequate availability of social, educational, healthcare and community facilities,
- 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,
- h. provision for the long term maintenance of public landscape and amenity areas must be made,
- i. conservation of natural and built environment resources must be demonstrated,
- 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,
- k. pollution, including ground water must be avoided,
- l. appropriate provision to deal with contamination issues must be made, and
- m. the development must not sterilise significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.
- n. where appropriate, arrangements for waste management should be provided.

OBJECTIONS-REPRESENTATIONS

None.

CONSULTATIONS

Transportation Manager, Direct Services - Approve subject to various conditions and informatives. These conditions include a need for improvements to the track serving the site.

Contaminated Land, Development Services - Requests for contaminated land assessment not met by applicants.

Environmental Protection Manager, Direct Services - No objections.

Scottish Water - Approve subject to various comments.