

PLANNING APPLICATION: 07/01932/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

- The proposal is for the subdivision of the garden to form a dwelling site for a one and a half storey 4-bedroom dwelling house at The Clover, Sheriffbrae, Forres. The ground floor of the dwelling house has a floor space of approx. 182.6m² and the first floor has a floor space of approx. 57m².
- The water supply is from the public mains and the drainage is to the public sewer.
- Access to the site is from the existing Sheriffbrae Road.
- The external cladding is buff wet harl and hopeman stone with smooth red concrete tiles.
- Amended plans were received in May 2008.

The Site

- The site is situated at Sheriffbrae in Forres.
- The site is 651m² in size.
- The site is currently garden area.

Policy / Objections-Representations / Consultations - See Appendix

History

- 04/02880/OUT -** Outline for the sub-division of garden to form dwelling site at The Clover, Sheriffbrae, Forres. Approved April 2005 in consultation with a Local Member.

Advertisement

Not advertised.

Observations

Impact of the New Residential Development on the Surrounding Area (Moray Local Plan 2000 policies L/H5 and L/IMP1, Emerging Moray Local Plan 2008 policies H4 and IMP1)

The proposal would satisfy the requirements of policy L/H5 Subdivision for House Plots and L/IMP1 Development in Built up Areas from the Moray Local Plan 2000, and policy H4 Housing Plot Subdivision and IMP1 Development Requirements from the Emerging Moray Local Plan 2008, for the following reasons: -

The plot is over 400m² and 50% of the overall plot remains with the parent property. The plot has its own access. The size and layout of the plot is such that it will be accommodate a reasonably sized house sympathetically in relation to the character of the surrounding area. The house that is proposed on the site is in scale and in keeping with the character of the area. The dwelling house proposed is not detrimental to the privacy or the general amenity of the neighbouring properties. No main windows are within 4 metres of the boundary.

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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 2: Environment and Resources

The Moray Structure Plan Strategy will be supported by: -

- f) conserving and enhancing the areas built heritage resources and their settings.

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, pitched dormers to box dormers, vertical windows to horizontal picture windows etc., where these features predominate in an area.

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/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.

Emerging Moray Local Plan 2008 - Material Consideration

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.

T5: Parking Standards

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

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.

H4: Sub Division for House Plots

Proposals for the subdivision of housing plots in those settlements where there is no specific embargo, will be acceptable if the plot subdivision is less than 50% of the original plot; if the plot is not a backland site; and, if the site provided is at least 400 square metres excluding access. The house style must complement the character of the area as well as the scale and architecture of the parent property.

OBJECTIONS-REPRESENTATIONS

Letters of objection/representation have been received from 15 separate households or other premises: -

- Sheriffbrae Residents Association, Per Murchison Law Solicitors, 5 Ardross Terrace, Inverness, IV3 5NQ
- Mrs S Beattie, Rannoch Lodge, Nelson Road, Forres, Moray, IV36 1DR
- K R Hopkins, Edgewood, Sheriffbrae, Forres, Moray, IV36 1DP

- Mrs J S White, Birkhill, Sheriffbrae, Forres, Moray, IV36 1DP
 - William J Bremner, The Larig, Sheriffbrae, Forres, Moray, IV36 1DP
 - Mr and Mrs R Strachan, Lorna Doone, Sheriffbrae, Forres, Moray, IV36 1DP
 - S and L Gill, Duncryne, Sheriffbrae, Forres, Moray, IV36 1DP
 - A Fraser, Hillcrest, Sheriffbrae, Forres, Moray, IV36 1DP
 - Mike Adkin, The Gables, Sheriffbrae, Forres, Moray, IV36 1DP
 - Mr and Mrs John F Mackenzie, Per Murchison Law Solicitors, 5 Ardross Terrace, Inverness, IV3 5NQ
 - Sheriffbrae Residents Association, Mr M Adkin (Chairman), The Gables, Sheriffbrae, Forres, Moray, IV36 1DP
 - Yvonne M Leathborough, Sheiling Tor, Sheriffbrae, Forres, Moray, IV36 1DP
 - C L Adkin, The Gables, Sheriffbrae, Forres, Moray, IV36 1DP
 - Susan Conti, 22 Adam Drive, Forres, Moray, IV36 2JN
 - John F Mackenzie, Braeback, Sheriffbrae, Forres, Moray, IV36 1DP
- **Application fails to comply with conditions of outline planning permission windows**
Five main windows are located within 2.0 metres of boundary. Windows within the proposed development look directly into neighbouring property.
Comment: Amended plans were received and no main windows are within 4 metres of the boundary. No windows look directly into neighbouring properties due to their being a 1.8 metre high fence.
- **Sympathetic to the setting**
The proposal is not sympathetic. It is an over-development of the site.
Comment: The proposal is sympathetic to the setting of Sheriffbrae.
- **Access Road**
Sheriffbrae residents own the access road, therefore the development site has no legal access from Nelson Road. The road has not been adopted or maintained by Moray Council. The residents of Sheriffbrae are responsible for its upkeep and maintenance. Construction traffic will not be allowed to use the road as it is already in a poor state and it could be further damaged. The access to the new site is directly opposite 'The Gables' which could be a potential hazard if vehicles are existing the two premises simultaneously. There will be increased traffic therefore there is a higher risk of an accident occurring.
Comment: Separate from any planning consent granted the relevant owners consent has to be given in relation to the site itself and any neighbouring land involved in the proposals. These are private matters to be agreed between the relevant private interests, which do not impinge on the planning merits of the proposal. The Transportation Manager has recommended approval subject to certain conditions.
- **Sewage system is already working to full capacity**
The system is currently at maximum flow and load and cannot sustain further flow and loads.
Upgrade will be very costly. A survey of the drainage system should be carried out.
Comment: Scottish Water has raised no objections and confirm public water and sewerage provision is available.

- Removal of hedge will effect bats and nesting birds**
 Bats are a common site roosting in several locations around Sheriffbrae. Removal of hedge will deter winter migratory birds and nesting birds during the breeding season. To build on the existing garden of 'The Clover' would detrimental to the surrounding wildlife.
Comment: A reasonable garden area would remain around the parent property 'The Clover' and a relatively large garden area is proposed for the new house site. The standard bat informative will be applied if planning consent is granted.
- Risk of ground failure**
 Embankment to the west of the proposed development site has previously failed. The proposed development will increase the risk of ground failure, potentially causing failure to nearby properties.
Comment: It would be for the developer to ensure that damage to adjoining properties was avoided and this would need to be resolved between the private interests concerned.
- Loss of views**
 One of the features of Sheriffbrae is the fantastic view over Forres and far beyond that can be enjoyed from many of the houses. The proposed development would seriously impinge on these views.
Comment: This is not a material planning consideration.
- Loss of privacy**
 There would be loss of privacy for neighbouring properties.
Comment: There would be no issues in terms of loss of amenity.
- Loss of light**
 Rannoch Lodge would experience loss of light.
Comment: There would be no issues in terms of loss of amenity.
- Loss of rural character to area**
 A unique feature of Sheriffbrae is its rural character. This can be attributed by the long grass verges and the spaciousness between the houses, giving it a hamlet effect. The proposed development would detract from this.
Comment: There would be no issues in terms of loss of amenity.
- Breaches 'Fire (Scotland) Act 2005'**
 Fire risk for neighbouring garage and dwelling house
Comment: This issue will be covered by the Building Standards section.
- Breaches Scottish Planning Policy 7**
 Neighbouring property already suffer from flooding issues. Surface water and ground water flows from the 'Sheriffbrae Catchment' have been a major issue for neighbouring properties.
Comment: Scottish Water have not objected to the proposal and a condition will be attached if planning consent is granted asking for details on surface water drainage before development is allowed to commence.
- Neighbour Notification**
 The neighbour notification was not carried out correctly.
Comment: Neighbours were re-notified.

Applicant's Response: Response by Stuart, Wilson, Dickson & Co Solicitors & Estate Agents - The title deeds of The Clover include one half of the width of Sheriffbrae ex adverso The Clover and we understand that the other houses in the Sheriffbrae perhaps have the same provision. The titles also contain a specific right of access from The Clover to Nelson Road. We are therefore satisfied that the rights of access exist.

CONSULTATIONS

Contaminated Land, Development Services - No objections.

Scottish Water - No objections.

Environmental Protection Manager, Direct Services - No objections.

Transportation Manager, Direct Services - Approve with conditions and informative.