

PLANNING APPLICATION: 07/02173/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 for a very large single storey house.
- The house would be of a contemporary design with bedroom wings extending off an extensive central hexagonal living area and a large linking balcony and conservatory feature.
- The site would cover some 4400m² of grazing land and would extend 150 metres across from the access track on the eastern side of Cummington leading to the coast.

The Site

- Immediately to the north of the former railway line, north of the Coastal Way path.
- Public mains water and septic tank drainage proposed. The site is an exposed foreland area at the northern end of a sloping grazing field between the sea and eastern end of Cummington.

Policy / Objections-Representations / Consultations - See Appendix

History

None relevant to application.

Advertisement

Advertised as a departure from the development plan.

Observations

Determining Issues: -

Coastal Protection Zone and Area of Great Landscape Value Designations (Moray Structure Plan 2008 policies 2(a) and 2(b), Moray Local Plan 2000 policies L/ENV7, L/ENV9 and L/IMP1, Emerging Local Plan 2008 policies E7 and E8)

The area proposed for the residential development is an extensive area of the lower part of grazing land providing an important asset to the seascape setting of the nearby Cummington settlement. There are extensive panoramic views across the proposed development areas to the Moray Firth and reflecting this, the site is subject to both Coastal Protection Zone and Area of Great Landscape Value designations. These designations extend right along the coastal area of Moray and have particular importance to the landscape settings of settlements such as Cummington. The proposed residential development would be a significant breach of these special designations and would encourage further such development.

Ancillary development (such as driveways, surfacing and garden structures) together with the impact of lighting during darkness hours would further increase a significant impact of the development proposed.

For this reason refusal is recommended.

Housing in the Countryside and Settlement (Moray Structure Plan 2007 policy 1(e) and Moray Local Plan 2000 policies L/ENV10, L/HC3 and L/IMP2)

The proposed development would be visually intrusive in a prominent landscape setting across which there are extensive public views of the Moray Firth. It would not be positioned sensitively along with the existing buildings and would represent unplanned sprawl beyond established compact settlement boundary of Cummingston. As such it would represent a breach in the established settlement pattern and fail to meet the policy requirements for new housing in the countryside.

Additionally the proposals would serve to encourage further such development in the vicinity.

It is noted that policy H8 in the Emerging Local Plan is not being used by the Authority as a material consideration.

For these reasons refusal is also recommended.

Design (Moray Structure Plan 2008 policy 1(e), Moray Local Plan 2000 policies L/H5 and L/IMP2)

Although low, the house proposed is in a sprawling modern design some 23 metres in length and with an extensive conservatory/balcony feature. The horizontal scale and shallow pitched modern roof form would result in a design unsympathetic to the traditional design in the nearby settlement.

Access Safety (Moray Local Plan 2000 policy L/T4, Emerging Local Plan 2008 policy T2)

Visibility from the access track onto the public highway is inadequate and this would result in hazards to road users.

The Transportation Manager recommends refusal on these grounds.

Contaminated Land

There have been significant issues with methane migration from a nearby tip. Although a contaminated land consultant acting on behalf of the applicant has advised that the house would be raised on stilts and by implication that this would protect against methane build-up, the drawings provided with the application do not provide any details of 'stilts'.

It is noted that policy EP9 in the Emerging Local Plan is not being used by the Authority as a material consideration.

Due to other substantial planning policy objections to the proposals, this matter has not been pursued with the applicant and is therefore recommended as an additional reason for refusal.

Septic Tank and Drainage (Moray Local Plan 2000 policy L/IMP2 and Emerging Local Plan policy EP8)

This issue can be properly considered under separate Building Standards and Environmental Protection legislation.

Recommendation

Refusal.

Author/Contact Officer: Maurice Booth
Planning Officer

Ext: 01343 563274

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: -

- 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.
- d) restricting development within coastal areas outwith settlements to only that in which social and economic benefits outweigh environmental impact.

Policy L/ENV7: Areas of Great Landscape Value (AGLV)

Development proposals within AGLV's will only be permitted where they incorporate high standards of siting and design for rural areas and where they will not have a significant adverse effect on the landscape character of the area (see policies L/IMP2 and L/IMP3 in chapter 8). The Council will require detailed proposals covering site layout, landscaping, boundary treatment, building design and material finishes to be provided with planning applications.

The Council will seek a Direction from the Scottish Ministers to restrict the formation of vehicle tracks above the 150m level within AGLV's.

Policy L/ENV9: Coastal Protection Zone (CPZ)

The Council has designated a Coastal Protection Zone (CPZ) within which development will not be permitted except:-

- i) where there is an existing use, an extension or change of use of existing buildings which does not prejudice the objective of the CPZ, or
- ii) for low intensity recreational or tourist use, (i.e. golf courses, driving ranges, sports field etc.) which does not adversely effect the ecological or landscape importance of the area, or
- iii) for uses directly related to agriculture, forestry, fishing and renewable energy and where proposals do not significantly affect the ecological, geomorphological or landscape significance of the area.

Policy L/ENV10: Settlement Boundaries

Settlement boundaries are drawn around each of the towns, villages and rural communities representing the limit to which these settlements can expand during the Local Plan period. Development proposals immediately outwith the boundaries of these settlements will not normally be acceptable.

Countryside Around Towns (CAT's) have been designated within undeveloped countryside areas around Elgin, Forres, Buckie, Lossiemouth and Keith to preserve the distinction with the built up environment and to protect their special character.

Development in the countryside policies will be applied with greater restrictions within the CAT's. These are shown on the Proposals Map.

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.

APPENDIX 3 PLANNING POLICY GUIDANCE SEPTIC TANK AND SOAKAWAY SYSTEMS TECHNICAL REQUIREMENTS

POLICY L/ENV21 Private Sewage Treatment and Drainage - Requirements for Septic Tank and Soakaway Systems

(i) Septic Tanks and Soakaway Systems: Testing Procedure

The applicant must satisfy the Moray Council, through its Department of Technical and Leisure Services and SEPA that the ground conditions are suitable for accepting a septic tank and soakaway discharge.

Applicants will require to carry out a test as to the sustainability for the proposed location for the septic tank and soakaway. If considered necessary by the above authorities, prior to any decision on the application. If such a test is not carried out, or proved not to be to the satisfaction of the Authority, the application for planning permission will be refused, unless SEPA agree to a discharge to a water course. SEPA will not agree to a discharge to a water course unless there is adequate dilution available and ground conditions have been shown to be unsuitable for a soakaway.

In proposals involving a development of more than one house, the scale of the development may require a BS test, subject to investigations by the Director of Technical and Leisure Services in conjunction with SEPA.

In certain circumstances, where for example the size of site, layout or existing contours of the site give reason to question the long term suitability of the site for acceptance of septic tank effluent, the Council, in consultation with SEPA, may require the provision of alternative locations for soakaways to serve a single tank for use in the event of the preferred soakaway failure. Where this is judged to be the case the applicant will be required to successfully test both soakaway locations in the manner provided for above.

Planning Policy Requirements

(ii) Applicants Control

Septic tanks and soakaways must be located within the application site and within the applicant's control, in order that they remain within the control of the applicant and can be subject to planning conditions pertaining to the development of the site.

(iii) Application Details

Applications involving the use of septic tanks must show accurately the proposed location of such installations and of drainage ditches and water courses in the vicinity. The requirements of NOSWA and SEPA will be incorporated as conditions of any planning consents granted.

(iv) Public Connection

Where a site falls within a settlement or rural community boundary which is already served by a public sewerage system, drainage should be effected by connection to that system, if sufficient capacity exists. Alternative arrangements will only be considered in exceptional cases where they meet with the full approval of SEPA, the Department of Technical and Leisure Services and NOSWA.

(v) Individual Tanks

For applications involving more than one house the Council will require each individual house to be served by a separate septic tank. Alternative arrangements will only be considered where they meet with the full approval of SEPA, the Department of Technical and Leisure services and NOSWA.

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.

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/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.

L/HC5: Gable/ Roof Pitch Parameters

For purposes of clarification the Council has adopted the following parameters as definitive guidance on the shape and proportions of gables and roof pitches on conventional new houses to be approved under policy L/IMP2 for the countryside and rural communities. The design of

new houses will be assessed under the terms of policy L/IMP3 'New Building Design' in Chapter 8.

The overall width of the gable should not be less than the height of wall from ground to eaves level.

The overall width of a gable shall not be more than 2.5 times the height of wall from ground to eaves level.

The pitch of a roof shall be no less than 40° and no greater than 55°.

Definitions:

Ground - "A fixed external point measured 100 mm below the finished floor level of a house with a solid ground floor or 300 mm below the finished floor level of a house with a suspended ground floor."

Eaves - "The point at which the front face of the external wall and the uppermost point of the roofline intersect."

Exceptions to the above will only be considered where designs as assessed under L/IMP3

- i) clearly exhibit architectural innovation (such as those illustrated in the planning policy guidance book),
- ii) do not adopt the conventional gable form (e.g. those designs based on circular or curved forms), or;
- iii) adopt advanced design elements, which maximise energy efficiency.

This policy applies only to new dwellings. It does not apply to other buildings and may not be applicable in Rural Communities where the dominant character is identified as Group 'C' buildings (see Guidance).

Emerging Moray Local Plan 2008 - Material Consideration

E7: Areas of Great Landscape Value (AGLV)

Development proposals which would have an adverse effect on an Area of Great Landscape Value will be refused unless:

- a. they incorporate the highest standards of siting and design for rural areas,
- b. they will not have a significant adverse effect on the landscape character of the area,
- c. they are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

The Council will require full detailed planning applications covering site layout, landscaping, boundary treatment, building design and material finishes for all proposals within AGLVs.

E9: Settlement Boundaries

Settlement Boundaries are drawn around each of the towns, villages and rural communities representing the limit to which these settlements can expand during the Local Plan period. Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released for development under the terms of policy H2.

EP8: Pollution

Planning applications that are subject to significant pollution including noise, air, water and light will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant to show how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

EP9: Contaminated Land

Development proposals on potentially contaminated land will be approved if:

- a. site specific risk assessments are undertaken by the applicant to identify any actual or possible significant risk to human health or safety, or to the environment and that any previous historic uses are not continuing to cause significant pollution to the water environment, and
- b. effective remediation measures are agreed to ensure the site is made suitable for any new use granted consent, and
- c. appropriate measures for the disposal of any contaminated material is agreed with the Council.

The Council will consult SEPA in respect of pollution of controlled waters and licensing issues arising from remediation works.

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.

E8: Coastal Protection Zone

Development proposals within the Coastal Protection Zone (CPZ) as identified on the proposals map will be refused except:

- a. where there is an existing use,
- b. it is an appropriate extension or change of use to existing buildings, or replacement of existing buildings,
- c. for low intensity recreational or tourist use e.g. golf courses, driving ranges, sports fields,
- d. for uses directly related to agriculture, forestry and fishing.

Proposals that are appropriate within the policy must not prejudice the objectives of the CPZ or adversely affect the ecological, geomorphological or landscape importance of the area.

Development will not be permitted on any parts of the coast that are identified as being at risk from flooding or erosion.

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.

OBJECTIONS-REPRESENTATIONS

7 letters of objection/representation have been received from: -

- Raymond A Marshall, Cladach House, Cummington, Moray, IV30 5XY
 - J D E Dean, 8 Seaview Road, Cummington, Moray, IV30 5YU
 - Mrs J Hellyer, Morven, Cummington, Moray, IV30 5XY
 - Mr G G Swain Ba BSc (Hons), Ancora, Cummigston, Moray, IV30 5XY
 - Mr W Forrest and Dr K Philip, Rowanbank, Cummington, Moray, IV30 5XY
 - Professor JH and Mrs K R Wyllie, 10 Seaview Road, Cummington, Moray, IV30 5YU
 - Marilyn A Finlayson, No address details
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- Damaging impact on natural beauty of area and on coastal paths.
Cummington Settlement Statement states that housing capacity has now been reached and the site is outwith settlement boundary and would therefore be contrary to policy L/ENV10 designed to stop unplanned settlement expansion. The proposed development will change the entire linear character to the village, contrary to the specific aims stated for the Cummington settlement. Loss of valuable grazing land. Damaging impact on foreshore area and coastal path.
Comment: See Observations.
 - Precedent for further total development of the remainder of the field.
Comment: See Observations.
 - The site is in an area defined as an 'Area of Great Landscape Value' and a development would have a damaging impact on the actual beauty of the setting and undermine its designation. Similarly the development would be a serious breach of the Coastal Protection Zone designation for the area.
Comment: See Observations.
 - Re-routing query over the overhead powerline, and problems with having the proposed septic tank near to a settlement.
Comment: Any diversion required due to separate requirements in respect of the overhead line would be the developers' responsibility. Septic tank drainage would be properly dealt with under separate Building Standards and Environmental legislation.
 - Damage impact on ecology of the site including birds and mammal life.
Comment: These issues are not considered sufficiently significant to warrant as a basis for recommending the proposals for refusal.
 - The access to the site is by a means of a narrow unmade beach track, clearly too narrow for further vehicular use. The entrance to the track on to the busy coastal road is in a dangerous position as very poor visibility both ways. Vehicular use of the track to serve the new development would conflict with the important recreation use of the track by walkers.
Comment: The danger of the access onto the public highway due to the lack of adequate visibility splays is one of the reasons for refusal being recommended.

- The site is near a deep trench dug to divert methane gas away from Seaview Road and could suffer from methane gas ingress.
Comment: See Contaminated Land comments below.

CONSULTATIONS

Transportation Manager, Direct Services - Refusal recommended on grounds of hazards to road users arising from the lack of adequate visibility at the access track junction with the public road.

Contaminated Land, Development Services - There have been significant issues with methane migration from a nearby tip. Although a contaminated land consultant acting on behalf of the applicant has advised that the house would be raised on stilts and by implication that this would protect against methane build-up, the drawings provided with the application do not provide any details of 'stilts'.

Due to other substantial planning policy objections to the proposals, this matter has not been pursued with the applicant and is therefore recommended as an additional reason for refusal.

Environmental Health Manager, Development Services - No objections.

Environmental Protection Manager, Direct Services - No objections.

Scottish Water - No objections subject to standard comments.