

PLANNING APPLICATION: 09/01790/APP

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 planning application to attach a 2-storey dwelling to the west side of a previously approved row of three terraced houses.
- Existing access to be utilised with two parking spaces to be provided within the curtilage of the proposed house adjacent to previously approved parking.
- Fencing will extend round the side and rear of the proposed unit in line with the previously approved fencing (900mm high timber fencing).

The Site

- Located within the Cullen settlement statement opportunity site OPP2 Former Filling Station.
- Bound to the east and south by residential development (currently under construction), to the west by Glebe Park Crescent and to the north by the footpath known as part of Judy's Lane.

Policy / Objections-Representations / Consultations - See Appendix

History

07/01650/FUL - Build 12 terraced houses at former filling station and Land at Seafield Road, Cullen. Approval only granted for a total of 8 units following amendment during the consideration of the application. Approved as an acceptable departure following consideration at a departure hearing. The grounds of departure being that the number of units exceeded 2 house units as suggested within the OPP designation. Application notable for the large number of objections received (in excess of 70 households objected).

Advertisement

Advertised as a departure from the Moray Local Plan 2008

Observations

The main planning issues are:

Impact of proposed dwelling upon locality (Cullen OPP2, ED6, and IMP1)

The previous application for this site involving the erection of a group of terraced houses was subject of much debate about whether the indicative density stated within the designation should be adhered to strictly. Unlike industrial or housing designations opportunity sites (according to local plan policy ED6) present the opportunity for appropriate alternative uses. This means neither the density or type of use are prescribed and will be assessed on their individual merits.

The number of housing units approved on this site, which included an additional piece of land beyond the OPP2 site, was much higher than that suggested in the local plan. It is for this reason that the previous application which was being considered for approval had to be decided at a Departure Hearing as it was clearly exceeding (and therefore departing) from the local plan. The previous application did however establish what was the maximum acceptable number of units acceptable for this site, which has a bearing upon the current application for an additional unit.

The current application would increase the number of new houses at this locality to nine, which would resurrect many of the concerns previously raised by local residents. These concerns have also been repeated by the dozen objectors to the current application. Irrespective of content, a large body of objection to an application is in itself a material consideration, which has to be weighed against the other considerations. Whilst many of the objections relate to the handling and determination of the previous application there are some concerns which are pertinent to the determination of the current application.

This application being located at the very edge of the site, will lie closer to the road than any house on Judy's Lane and Glebe Park Crescent where a clear building line exists with all houses set back at a uniform distance. This will bring the new scheme so close to Glebe Park Crescent that it would bear down upon any pedestrians or traffic approaching the site from either street to the south or west. While the redevelopment of the filling station site is diverse in its appearance compared to the surrounding houses, it did provide sufficient separation between the buildings and Glebe Park Crescent to ensure the open character of the surrounding locality was maintained. The addition of a house in the position applied for would impact upon the open space at this side of the site and as a result this would close the gap and view south of Glebe Park Crescent for pedestrians heading west past the new house.

It is for these reasons the proposal fails to comply with local plan policies, as it would result in a development of a density and character inappropriate to the surrounding area.


Traffic and road safety (T2 and T7)

The Transportation Section has objected to the application on the grounds that the proposed housing plot will have an impact on the pedestrian/cycle network in the area. The house would be very close to an existing narrow (1.3 metres) footway and would have an adverse impact on Judy's Lane which is part of the Safer Routes to School network. The visibility of those passing the north west corner of the application site would be needlessly impaired by the construction of a house so close to the pavements to the west.

On the basis of the above refusal is recommended.

Author/Contact Officer: Neal MacPherson
Planning Officer

Ext: 01343 563266

A handwritten signature in black ink, reading "Donald J. Lunan". The signature is written in a cursive style with a large initial 'D'.

DONALD LUNAN
PLANNING & DEVELOPMENT MANAGER

APPENDIX

POLICY

Moray Structure Plan 2007 and/or Moray Local Plan 2008

Policy 2: Environment and Resources

The Moray Structure Plan Strategy will be supported by: -

- k) safeguarding the area from pollution and contamination.

ED6: Opportunity Sites

The town and village statements will identify 'opportunity sites' which present the opportunity for appropriate alternative uses in the event of a proposal to redevelop. These are often vacant or derelict sites that are no longer required for their original or previous uses. Vacant or derelict sites are usually brownfield and therefore will require to be assessed with regard to contaminated land.

Any suggested uses that are given should be viewed as illustrative examples only, and not taken as a definitive list of acceptable activities.

H3: New Housing in Built-Up Areas

New housing within settlement boundaries will be acceptable if:

- a. it does not adversely impact on the surrounding environment, and
- b. adequate servicing and infrastructure is available, or can be made available.

Policy 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 will be a presumption against new accesses onto a trunk road, and that the Scottish Executive will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

T5: Parking Standards

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

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.

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.

OPP2 Former Filling Station

The disused petrol filling station in Seafield Road would make an appropriate site for 2 houses. There may be a need for some remedial works to the ground, as a result of its previous use.

T7: Cycling, Walking and Equestrian Networks

The Council will promote the improvement of the cycling, walking, equestrian and motorised sport path networks within Moray. It will give priority to the path networks and to long distance routes including the Aberdeen to Inverness National Cycle Route and the Speyside Way. Development proposals that adversely impact on the routes and cannot be adequately mitigated will not be acceptable.

Dependant on funding the Council will examine the possibility of an extension of the Elgin to Lhanbryde footpath network.

OBJECTIONS-REPRESENTATIONS

Letters of objection/representation were received from the following

- Zillah Jamieson, Cullen & Deskford Community Council, Norwood, 11 Seafield Place, Cullen, Banffshire, AB56 4TE
- Ronald & Jennifer Ewen, Aberfeldy, 7 Judy's Lane, Cullen, Buckie, Moray, AB56 4UG
- Jessie W Mowat, Kenmore, 1 Glebe Park Crescent, Cullen, Ab56 4YF
- William Mowat, Kenmore, 1 Glebe Park Crescent, Cullen, AB56 4YF
- Anthony & Jane Denley, Kernow, 2 York Place, Cullen, Moray, AB56 4UW
- Louise Mackay, 32 Glebe Park Crescent, Cullen, Moray, AB56 4YF
- A J Mackay, 32 Glebe Park Crescent, Cullen, Moray, AB56 4YF
- Rory Mackay, 32 Glebe Park Crescent, Cullen, Moray, AB56 4YF
- J & M Mowet, Selangor, 5 Judys Lane, Cullen, Buckie, Moray, AB56 4UG
- Leigh & Shelia Brown, Clova, Judys Land, Cullen, Buckie, AB56 4UG
- Mrs M MacDonald, 2 Judys Lane, Cullen, Buckie, Moray, AB56 4UG
- Mrs Frances Robertson, 6 Cathay Terrace, Cullen, Buckie, Moray, AB56 4RX

The grounds for objection are as follows

- The previous application 07/01650/FUL which was subject of a Departure Hearing was very controversial in itself with house density and road safety of particular concern. To add further to this site would compound the concerns previously raised in the first application.
- Given the original number of houses was reduced under application 07/01650/FUL, this application is clearly an attempt by the developer to regain their original intention.
- The original approval had an agreed number of parking spaces per unit. This application will adversely impact upon the already tight parking arrangement.
- Neighbour notification should have been circulated to more than just a couple of neighbours.
- In addition to the houses already approved the likely presence of a medical centre, new bus stop (and possibly 30 houses in the future) on the opposite side of Seafield Road will make it dangerous for children coming and going to school at a point where a lollipop lady already operates.
- Several objectors refer to policies L/IMP1 and L/IMP3 of the previous Local Plan (Moray Local Plan 2000) stating that it requires development to harmonise with the general character and architectural quality of an area. Development should also neither detract from, nor conflict with, the character, amenity and design of an area.
- A site visit by Committee to the current site would bear out the previous concerns of the community when they see the houses built so far.

- That the council breached its own policies under the previous application should not legitimise further breaches.
- The realignment of the pavement at Judy's Lane is unacceptable as it is used by cyclists as well as pedestrians.
- Aspects of the current development under construction have been raised with the enforcement officer.
- The current application would be a clear breach of the conditions of the previous application 07/01650/FUL, which required development to be built in strict accordance with the plans.
- In response to a previous complaint to the Transportation Manager regarding the original development reassurances to an objector that the number of units being reduced to a total of 8 meant that the scheme was more acceptable thus allowing the change to the proposed access to come from the A98.
- One objector (as a low-lying resident) objects to any further two-storey development upon the site.
- the houses previously approved were supposed to be one and a half storey, those currently built are 2 storey and the objectors should be listened to this time before a blot on the landscape becomes a ghetto.
- The houses already built restrict visibility onto York Place.
- Many objectors, including the community council wished to repeat their concerns expressed at the Departure Hearing regarding the last development, which are still relevant to the current application.

Officers response to objections

- The concerns over road safety are reflected in the recommendation.
- Neighbour notification was carried out in accordance with the relevant legislation and it would be inappropriate to have notified beyond the immediate neighbours, as this could be perceived as prejudicial against the applicant. The application was also advertised in the local press.
- Some comments were made by objectors about other aspects of the development previously approved, such as the alignment of the Pavement at Judy's Lane and visibility onto York Place. However these matters are not subject of the current application which is solely for the addition of one housing unit and car parking.
- Regarding enforcement concerns at the time of writing this report no breach of planning control has been established.

CONSULTATIONS

Environmental Health Manager, Development Services - No objections

Scottish Water - No objections

Contaminated Land, Development Services - Informative required

Transportation Manager, Direct Services - The proposed housing plot is an additional plot to be served by the southern access onto Seafield Road which is to be provided as part of planning consent 07/01650/FUL. The proposed housing plot is located in close proximity, some 0.2 metres to the existing narrow footway alongside Glebe Park Crescent. The footway alongside Glebe Park Crescent is narrow at only 1.3 metres.

To the north-east of the housing plot lies Judy's Lane, which is part of the Safer Routes to School network in Cullen. The proposed house would block the visibility of and for pedestrians and cyclists coming from Judy's Lane onto Glebe Park Crescent.

Policy T7 of the Local Plan states that: The Council will promote the improvement of cycling, walking, equestrian and motorised sport path networks within Moray. It will give priority to the path networks and to long distance routes including the Aberdeen to Inverness National cycle Route and the Speyside Way. Development proposals that adversely impact on the routes and cannot be adequately mitigated will not be acceptable. The proposed housing plot will have an impact on the pedestrian/cycle network in the area. The house would be very close to an existing narrow (1.3 metres) footway and would have an adverse impact on Judy's Lane which is part of the Safer Routes to School network.

Transportation therefore recommend refusal for this housing plot.