

## PLANNING APPLICATION: 08/00930/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

- Change of use of agricultural land to garden ground (retrospective).
- Erect detached garage and (artists) studio, approx. 9.08 x 4.93/6.55 x 2.53 (to eaves)/5.6 m (to ridge) with slate grey metal roof and white wet dash render walls.

### The Site

- 0.112 ha of ground located to south of to the existing dwelling, Woodside Farmhouse. The area was former used for agriculture but this grass area is now part of the garden used by the farmhouse. The applicant's septic tank/soakaway drainage arrangement is located within this area.
- The eastern, southern and western boundaries are defined by existing walls and fencing, with a road along the latter. Except for a short section of (overgrown) hedgerow at its western end, the boundary between the house and former agricultural ground is undefined.
- The garage/studio to be located to the north-east of the existing house. Existing trees to the east and south of the garage are to be retained. The building is set 1.2 m off an existing 1.8 m high timber fence located along the northern site boundary, beyond which is the Ark Childcare nursery premises, formerly Woodside Steading.

### Policy / Objections-Representations / Consultations - See Appendix

### History

*For the site:*

- 08/00003/ENF** - Following investigation by Council's Enforcement Officer, planning permission required for use of agricultural land as garden ground.
- 01/00223/FUL** - Proposed alterations and renovations, Woodside Farm, Mosstowie - proposals considered to be 'permitted development'. (Note: Proposals relate to house only and does not include any garage facility).

*For steading to north:*

- 06/01353/FUL** - Erect detached dwelling and garage, Woodside Steading - approved 13th December 2006 (contrary to recommendation).

- 04/01522/OUT** - Outline planning permission to build proposed dwelling house and associated works on ground adjoining Woodside Steading - refused 6th December 2004 and dismissed at appeal by letter dated 17th October 2005, the proposal being contrary to the development plan, in particular CAT policy, the proposed design would not be in keeping with its surroundings and there was nothing to demonstrate that a house was essential to the running of the nursery.
- 04/001422/FUL** - Change of use from dwelling to The Ark nursery day care centre and associated works - approved 7th July 2004.
- 03/00821/FUL** - Build garage/summer house and associated works - approved 16th May 2003.
- 01/00793/FUL** - Change use of steading to dwelling house and associated works - approved 25th July 2001.

### **Advertisement**

Advertised as a departure from the development plan.

### **Observations**

The application includes two elements - the retrospective change of use of the agricultural to garden ground and the erection of a building to contain a garage and artists studio. According to the objector and based on its form and function, the building should be considered as a residential dwelling. However, the applicant considers the garage/studio use to be incidental to the use of the existing house. For the application as submitted, the description includes reference to a garage and studio and the proposal is being determined on this basis.

### **Departure from the development plan (L/ENV11 + emerging policy E10)**

The proposal is located within the Countryside around Towns (CAT) designation surrounding Elgin. Policy L/ENV11 presumes against development within the CAT unless it involved certain specified types of development. In this case, neither the change of use of agricultural to garden ground nor the erection of a detached garage/studio building involve the “rehabilitation, conversion, limited extension or change of use of existing buildings”.

The proposal would not accord with emerging policy E10 regarding development within the CAT because it does not meet any of the criteria specified in that policy, which indicate the circumstances under which development would be acceptable.

Although not meeting the strict terms of CAT policy, a departure can be supported taking into account the proposal and the objectives or intentions of CAT policy to limit development sprawl, protect the CAT’s special character and preserve the distinction with the built-up area where,

- In relation to the change of use to form the extended garden area, a relatively small area of ground is involved, the proposal retains the existing boundaries, no buildings are proposed on it and the area will be retained in grass albeit used for domestic rather than agricultural purposes. Given these characteristics, and notwithstanding the retrospective nature of this

element of the proposal, the change of use is not considered to prejudice the CAT objectives nor have a significant adverse impact on the appearance and character of the CAT.

- The proposed detached garage/studio is not prominently sited, being set back from the western (road) boundary and located to the rear and north-east of the existing house. It would be seen as forming part of an existing group of buildings (the existing house and the adjoining steading) which provide backdrop. Although an additional structure, the building is located within the grounds of the house and ‘infills’ between the existing buildings. Being contained within the existing group the addition of this new building would not have a significant adverse impact on the character and appearance of the CAT.
- The design of the garage/studio building is acceptable. Although the roof materials are different from the existing house, the location size and siting of the building alongside other buildings of similar height is such that the proposal would not adversely detract from the appearance and character of the area. The building would function as an outbuilding located within the curtilage of Woodside House. Elsewhere in the locality, outbuildings in the grounds of property may be externally finished in different materials.

**Impact on the surrounding locality (L/ENV12, L/ENV22, L/ENV26, L/T4, L/T7, L/IMP2, L/IMP3, L/IMP6, L/IMP7 + emerging policy BE1, EP5, EP8, EP7, EP9 (cannot use), EP10, T2, T5, IMP1)**

The proposal is not considered to have a significant adverse affect on the character and amenity of the surrounding area, including the adjoining nursery premises to the north taking into account its design and siting of the proposed garage/studio and the intervening distance (approx. 8.8 m apart) and boundary treatment between the proposed and existing buildings.

Following consultation, there are no objections to the proposal in terms of water supply, drainage, flooding, transport, contaminated land and archaeological interests (see Consultations).

**Recommendation**

Approval.

**Author/Contact Officer:** Angus Burnie  
Principal Planning Officer

**Ext:** 01343 563242

*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 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:

- a) the identification within the local plan of the business and industrial land allowances set out in Schedule 1 and the provision of strategic business locations at Elgin and Forres Enterprise Park and business park opportunities at Buckie, Keith and Lossiemouth;
- b) the encouragement of tourism development opportunities;
- c) the identification within the Local Plan of the housing allowances set out within Schedule 2;
- d) the provision of affordable housing in association with new housing development where a demand is identified in the Local Housing Strategy;
- e) the encouragement of low impact, well-designed development in the countryside to support local communities and rural businesses;
- f) sustaining the vitality and viability of town centres through the support of opportunities and proposals for retail and commercial development in accordance with the sequential approach;
- g) promotion of the strategic transport links as set out in Proposal 2;
- h) the protection and enhancement and new provision of facilities for community use, healthcare, sport and recreation;
- i) the inclusion within Local Plans of a policy requiring appropriate developer contributions towards healthcare and other community facilities.

##### **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;

- c) working in partnership with the Cairngorms National Park Authority and other interested parties to implement the objectives of the National Park;
- d) restricting development within coastal areas outwith settlements to only that in which social and economic benefits outweigh environmental impact;
- e) providing protection from development to the countryside around the towns of Elgin, Buckie, Keith, Forres and Lossiemouth;
- f) conserving and enhancing the areas built heritage resources and their settings;
- g) supporting proposals aimed at regenerating the area's natural and built environment including good design;
- h) providing waste management facilities to deliver Area Waste Plan and National Waste Plan objectives and ensuring that new development is designed to facilitate waste management practices and promotes the minimisation of waste;
- i) promoting sustainable urban drainage systems (SUDS) in all new developments;
- j) promoting schemes to alleviate flooding in a sustainable and sensitive way using natural ecosystems and features where possible and also restricting development within flood risk areas following the guidance set out in the Risk Framework in SPP7: 'Planning and Flooding' and promoting flood risk management schemes to tackle flooding that threatens existing development and considering development proposals against the Flood Risk Framework set out in Table 5;
- k) safeguarding the area from pollution and contamination;
- l) promoting opportunities for the sensitive development of renewable energy and promoting renewable energy in new development;
- m) safeguarding resources for the production of minerals, preferred forestry areas, and prime agricultural land.

**Policy L/ENV11: Countryside Around Towns (CAT)**

There is a presumption against development within the CAT areas identified around Elgin, Forres, Buckie, Keith and Lossiemouth, unless it involves the rehabilitation, conversion, limited extension or change of use of existing buildings.

New business enterprises, unless directly related to low intensity recreational uses or specifically allowed under the terms of other Local Plan policies within these areas (e.g. for mineral extraction), will not normally be appropriate.

**Policy L/ENV12: Archaeological Sites**

The Council shall seek to protect and preserve, and where appropriate, enhance all important sites of Archaeological interest and their settings. The Council will not permit development which will adversely effect significant Archaeological Sites and when determining applications

on or near such sites, the Regional Archaeologist, and other relevant bodies (e.g. The Moray Society) will be consulted to establish a site's significance in national, regional and local terms.

Where, in exceptional circumstances, the preservation of Archaeological features does not prove feasible, the Council shall require the excavation and the recording of a site where the primary aim of preservation has not been achieved.

Where new development is proposed which will effect national or regionally important archaeological sites, developers will be required to carry out an Archaeological assessment prior to commencement of works and fund subsequent intervention.

### **Policy L/ENV22: Pollution Conditions**

Where there is a risk of pollution from a proposed development, which is the subject of a planning application, the council will apply conditions to a consent, or enter into an agreement with a developer, to ensure a specified reduction or removal of the pollution element and will require subsequent independent monitoring of pollution levels.

### **Policy L/ENV26: Control of Development in Flood Risk Areas**

#### **(i) High Risk Exclusions**

The Council (advised by SEPA, NOSWA and the Council's Roads Service) will direct developments considered of 'high risk' away from areas, known to be at risk from flooding and will presume to refuse applications for such proposals that fall within such areas. Proposals will be considered a high risk if they fall within areas considered by the Council to be liable to flooding and;

- a) represent an unacceptable threat to public safety, or
- b) are likely to cause unacceptable levels of pollution or contamination of flood waters if inundated, or
- c) may give rise to high levels of public expenditure on flood protection works.

Examples of developments considered as 'high risk' would include; hospital, medical and the emergency services; special care residential developments for the physically impaired or elderly; commercial developments that involve polluting or contaminating processes such as sawmills, furniture restoration, unsecured chemical or fuel storage and distribution etc.

#### **(ii) Managed Risk Proposals**

The Council will seek to manage the threat from flooding for developments not considered as 'high risk'. Within this approach there is an acceptance of risk on the basis that developments must adopt appropriate mitigation measures and have the potential to make a contribution to the improvement of flood water management within the area at risk. Applications will only be approved where they can demonstrate that the development;

- a) has been designed to minimise risk of inundation and will not contribute to or increase the risk of flooding elsewhere.
- b) has adopted all reasonable measures to improve the management of flood waters on and adjacent to the site and to assist the protection of properties within the vicinity of the site.

- c) does not impede the flow of flood water or the ability of the floodplain to store water and to flood naturally and takes account of the impact on riparian habitat and wetland.
- d) incorporates building design measures and materials to assist evacuation and minimise damage from inundation.
- e) employs, where possible, the use of Sustainable Urban Drainage Systems in the disposal of surface water run-off to the satisfaction of SEPA and the Council, and provides for their maintenance.
- f) can provide for the maintenance of any approved privately funded flood defence measures, to the satisfaction of the Council, (river engineering works associated with flood protection must also meet the requirements of policy L/ENV25).

The Council will be advised on the acceptability of risk/mitigation measures by its Planning, Roads and Building Standards Services together with SEPA and NOSWA on the basis of the precautionary principle as defined in NPPG7.

Applicants may be required to submit hydrological survey and assessment information in support of their proposals and may be required to make a contribution to flood defences under the terms of policy L/F1.

#### **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.

### **Policy L/IMP6: Transport Impact**

Developers shall provide transport impact assessments for developments which may have a significant impact on traffic flows, pedestrians and cyclists and contributions shall be sought towards any mitigating transport measures shown to be necessary. All proposals must meet the requirements of policies L/T4 (Access), L/T7 (Parking), L/T9 (Mitigation) and L/T10 (Cycling) in Chapter 4 if relevant.

## **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.

## **Policy E10: Countryside Around Towns**

Development proposals within the Countryside Around Towns (CATs) areas identified around Elgin, Forres, Buckie, Keith and Lossiemouth will be refused unless it:

- a. involves the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or

- b. is necessary for the purposes of agriculture, forestry, low intensity recreational use or specifically allowed under the terms of other Local Plan policies within these areas, or
- c. is a designated "LONG" term housing allocation, released for development under the terms of policy H2.

### **BE1: Scheduled Ancient Monuments and National Designations**

#### National Designations

Development proposals will be refused where they will adversely affect Scheduled Ancient Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

#### Local Designations

Development proposals which will adversely affect sites of local archaeological importance, or their settings, will be refused unless it can be demonstrated that;

- a. local public benefits clearly outweigh the archaeological value of the site, and
- b. there is no suitable alternative site for the development, and
- c. any adverse effects can be satisfactorily mitigated at the developers expense.

Where, in exceptional circumstances, the primary aim of preservation of archaeological features in situ does not prove feasible, the Council shall require the excavation and researching of a site at the developers expense.

The Council will consult Historic Scotland and the Regional Archaeologist on development proposals which may affect Scheduled Ancient Monuments and archaeological sites.

### **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.

### **EP7: Control of Development in Flood Risk Areas**

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to be satisfactory to both SEPA and the Council is provided by the applicant. The assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when

reviewing any application for an area at risk from inundation by floodwater. The following limitations on development will also be applied to take into account the degree of flooding as detailed in National Guidance;

- a. in areas of little or no risk (less than 0.1%) there will be no general constraint to development.
- b. areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. However, these areas will generally not be suitable for essential civil infrastructure such as hospitals, fire stations, emergency depots etc. Where such infrastructure has to be located in these areas or is being substantially extended, they must be capable of remaining operational and accessible during extreme flooding events.
- c. in areas of medium to high risk (0.5% or above)
  - i. in built up areas most development may be acceptable if flood prevention measures exist, are under construction, or are planned.
  - ii. essential civil infrastructure will generally not be permitted.
  - iii. undeveloped and sparsely developed areas are generally not suitable for additional development. Exceptions may arise if a location is essential for operational reasons.

#### **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.

## **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**

Letter received from: -

- J Maunder, Ark Childcare Ltd, Head Office, Woodside Steading Mosstowie Elgin IV30 8UW

The main points of the letter are: -

#### **Proposal contrary to policies 1(e), 2(e) and 2 (f) of Moray Structure Plan and policies L/ENV11, L/HC2, L/HC3 of the Moray Local Plan 2000 and policies H5, H6, H8, EP6 and IMP1 of emerging Moray Local Plan 2008**

- Located within Countryside Around Towns (CAT), protected from development and does not involve rehabilitation, conversion, limited extension or change of use of any buildings. There is no justification for material considerations.
- Not sensitively sited, designed or serviced appropriate to the amenity of the area and has high impact on the local environment within surrounding buildings.
- Large size of building coupled with height of roof will adversely impact the natural light to users of nursery to north, particularly in winter and no assessment made of effect of proposal on natural light impact.
- Scale, density and character of proposal not appropriate to the surrounding area.
- Development not appropriately integrated into the surrounding landscape.
- Does not adequately address flood-related issues as site is within area designated by SEPA as at risk of flooding.
- Proposal is clearly residential in use yet no provision for toilet facilities or disposal of foul wastewater.

- Site was used for storage of agricultural machinery and no assessment of risk of contamination has been made.

**Applicant's comment:** The site lies within the CAT, a designation which presumes against new development causing urban sprawl but allows 'limited extension of existing buildings/uses', hence the detached garage/artist studio behind a long-established dwelling is considered incidental to the use of the dwelling and therefore allowed for under the 'limited extension' exception to CAT policy. Given its siting, the development will not be 'urban sprawl' and will appear as a small ancillary domestic garage (its primary purpose) which are evident and accepted across rural Moray.

Policies L/H6 and L/IMP1, and emerging policy H5 and IMP1 allow for development to proceed on the provision that the proposal does not have a detrimental impact on the locality in terms of design, amenity and privacy. The only neighbouring property remotely affected by this development is the childcare facility to the north. The development as proposed will create no significant disturbance or additional vehicular movements to warrant refusal. There are no windows or door openings, thus no detrimental loss of privacy and/or amenity to the neighbouring use.

The applicant recently purchased the area of ground from the local farmer. This area includes the property's septic tank/soakaway and was purchased to ensure long-term access for maintenance, after the farmer proposed tree planting. No work has been undertaken other than to fence it off as per the Title Deeds. CAT policy specifically allows for change of use providing the development does not erode the distinction between built-up areas and the countryside. The change of use of this small parcel of ground is not considered to erode this distinction and is acceptable.

**Comment:** The applicant's interpretation of CAT policy is not accepted. Incorporating agricultural ground and/or providing a detached building does not involve the 'limited extension or change of use of existing buildings', (as actually stated/required by policy), nor does it meet any other criteria identified in current and emerging policy. The proposal has been advertised as a departure from current policy and a departure can be considered (see Observations). The objector has also applied for developments on the neighbouring Steading site, also within the CAT. These proposals have been accepted either as being in accordance with CAT policy or more recently as a departure from the development plan (application 06/01353/FUL refers).

Whilst addressing amenity issues regarding the neighbouring childcare facility, the applicant makes no mention of the objector's concerns on natural day-lighting. In this case, the proposal is not considered to have a significant adverse impact, having regard the size, height or scale and finished levels of the proposed building and the intervening distance, boundary treatment between the proposed and existing buildings. (The approx. 7.5 m wide area of ground between the boundary fence and the Steading is currently used as a parking area for the nursery).

The objector considers the proposal to be a residential dwelling and refers to policies regarding the provision of new housing in the countryside, including L/HC2 and L/HC3 and emerging policy H8. (The latter is not used pending the outcome of the Council's consideration of the Reporter's recommendations on the local plan). Consideration of the proposal against housing in the countryside policies is not appropriate because as submitted and described, the current application includes a garage and studio, not a house. According to the applicant's submissions, the garage/studio would be used for purposes incidental to the dwelling, Woodside Farmhouse. See Policy for relevant policies.

Contrary to the objector's view, the proposals have been assessed for contamination and flood risk. Following consultation and consideration of information, the relevant consultees have not objected to the proposal. Although the site is shown on SEPA's indicative flood maps as being at risk from a 1 in 200 year event, information (from MFA) demonstrates that the site is outwith the estimated 1 in 200 year event area. SEPA has accepted this position, has not objected to the application and has agreed that no flood risk assessment is required.

Planning policy does not prescribe that proposals must have drainage. In this case, no foul drainage from the garage is required or proposed by the applicant and the application is being determined on this basis. If drainage were proposed/required, policies such as L/IMP7, or EP10 and IMP1 indicate the circumstances and requirements that any development would have to meet to be acceptable. The absence of drainage facilities reinforces the link and dependency between this outbuilding and the existing house, in particular its use for purposes incidental to the enjoyment of the dwelling.

### **Design**

- Structure not directly attached to house yet function is clearly residential in form and should be considered as a residential dwelling.
- Building is not sensitively positioned within group of buildings and departs from the vernacular form of the surrounding farmhouse and steading.
- Addition of structure would be unrelated to traditional settlement pattern of area as it does not adopt the spacing of a dispersed pattern of settlement and forms a crowded cluster of buildings, causing a change in character of the area to a suburban grouping.
- Height of roof line matches the existing house and converted steading. The scale means the proposed structure would dominate rather than fit the character of the surrounding buildings.
- Materials for roof are not appropriate for the surrounding buildings and contrary to policy H8 which specifies slate or dark grey slate effect roof tiles.
- Roof pitch meets range of angles but other buildings have 45° pitch. The pitch of the roof is not appropriate to the surrounding buildings.
- No evidence that design justified on energy efficiency or architectural innovation.
- Site lacks 25% tree/shrub cover and no plan showing 25% of plot to be planted with native species trees or shrub cover.
- Proposal will adversely impact the living environment within the existing cluster of buildings and no assessment made of impact.

**Applicant's comments:** The garage is subservient in scale when compared to the existing dwelling, is of a traditional pitched roof design finished to compliment the existing house and thus respect the traditional appearance of the locality.

The proposal only requires permission as the ridge height of the garage is over 4 m high. If reduced to 4 m, the development would be acceptable as 'permitted development' and not require a formal application. To develop a proposal more sympathetic to a rural locale, a steeper roof pitch is used, similar to the existing house, thus ensuring that the development blends sensitively into the rural landscape.

The proposed garage is located on the site of an already approved garage and if permission were not forthcoming, the applicant will revert back to the previously approved proposal.

**Comment:** From discussion with the applicant, the reference to the 'already approved garage' is understood to relate to the details of application 01/00223/FUL. However, the details retained by the Council do not include a garage.

The objector's view is that this proposal is a residential dwelling. The majority of the objections are based on this premise and reflect the requirements contained in housing in the countryside

policies, including emerging policy H8 which is not in use. As noted above consideration of this proposal (and the objections thereto) as a dwelling is not appropriate. The application being determined on the basis of the description as submitted.

The proposed building is detached from, and located to the rear of, the existing house, on a site where former buildings once stood previously (according to details included in application 03/00821/FUL). The garage/studio building is partly screened/set against a backdrop of trees and existing buildings. Visually and physically, it would be seen to be located alongside the adjoining existing buildings. Being of comparable height as the existing house it would be neither overly dominant nor sub-servient. The pitch roof is not at the same angle as the adjoining buildings and the roof materials are different. Regardless of actual differences, and when seen in context with the other adjacent buildings and the limited views afforded to the building, it is not considered that the roof/building would significantly detract from the appearance and character of the surrounding locality.

The applicant's comments about permitted development are noted but this is a separate consideration which is not before the Council: planning permission is required for this development not just in terms of the proposed building but also because of the change of use from agricultural to garden ground.

### **Infrastructure**

- Building is residential yet lacks basic requirements with no provision for WC or for foul water disposal. It is not realistic that occupants travel to existing house to use ablutions.

**Comment:** The proposal is for a building to be used for purposes incidental to the existing house. The absence of facilities is likely to maintain that relationship and dependence of this outbuilding upon the existing property rather than for it to function independently. As already noted the application as submitted does not propose, nor indicate that it actually requires foul drainage and the application is being determined on the basis of the plans as submitted.

### **CONSULTATIONS**

**Building Standards Manager, Development Services** - Building Warrant required.

**Environmental Health Manager, Development Services** - No objections.

**Contaminated Land, Development Services** - Standard informative recommended regarding potential contamination from past agricultural practices.

**Environmental Protection Manager, Direct Services** - No objections.

**Scottish Water** - Will not object but approval does not guarantee connection to infrastructure until satisfactory solution is identified. There are no known public sewers in the vicinity and although sufficient water capacity to serve development there are possible pressure issues which may require pumping arrangements. Developer should contact Scottish Water for further information.

**Transportation Manager, Direct Services** - No objections.

**SEPA** - No objections. Flood Risk Assessment not required.

**Moray Flood Alleviation** - No objections. The site lies outwith the 1 in 200 year flood event area.

**Archaeology** - No objections.