

## PLANNING APPLICATION: 07/01466/OUT

*In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications*

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### **The Proposal**

- Proposal for the erection of single dwellinghouse and associated works at Birchgrove, Fogwatt.
- Connect to public mains system and existing septic tank.
- Proposed use of existing access point onto the A941 at Neil Millers Garage.

### **The Site**

- The site is approx. 585sqm and irregular in shape.
- Situated in the garden ground of Birchgrove.

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

### **History**

No relevant site history.

### **Advertisement**

Advertised as a departure from the development plan.

### **Observations**

The main determining issues are:

Outline planning application to erect a single dwellinghouse at Birchgrove, Fogwatt. Proposal seeks to subdivide the existing garden ground of Birchgrove and form access onto a single-track road leading to the A941 Elgin-Rothes road.

Fogwatt is characterised as a distillery/industrial village, with a number of dwellings of varying styles and sizes. The settlement as a whole has seen substantial development since the 1990s.

The proposal is being considered and assessed against policy L/H5 Sub-Division for House Plots together with associated implementation policies covering new development in built up areas. This provision seeks to ensure that such forms of development neither impair the amenities of neighbouring properties nor lead to over development of the area.

The proposal is acceptable and complies with policy L/H5: Sub-Division for House Plots for the following reasons:

The site has its own road frontage and would not have a detrimental impact on the character of the area.

The site, at approx. 583m<sup>2</sup>, is more than capable of supporting a dwellinghouse and associated works and exceeds the 400m<sup>2</sup> minimum for sub-division of house plots, as required by policy, and would be of a similar size to surrounding plots in the area.

Surrounding land use is predominantly residential and as such the proposal is considered to accord with Structure and Local Plan implementation policies in relation to new residential development in built-up areas.

The settlement statement for Fogwatt states that for road safety reasons, no further housing developments shall be permitted which propose to use the access point onto the A941 at Neil Millers Garage. As this is the case with this development, the application was advertised as a departure.

However, this statement was written over 5years ago before the introduction of the 50mph speed limit and street lighting was introduced to the village. Under current legislation, the Transportation Manager no longer considers this to be a reason to refuse the application. He has not objected to the proposal and has commented accordingly. The development is considered to be an acceptable departure from the development plan and is recommended for approval.

In terms of the drainage issues, it should be noted that there is no public drainage system available in Fogwatt but previous developments have been approved with septic tanks and soakaway systems. The adequacy of ground conditions for septic tanks and soakaways is now dealt with under Building Standards (Scotland) Regulations (2004) as amended, at the Building Warrant stage and any system used on the site would have to comply with current legislation. In support of this proposal, an assessment has been undertaken of the suitability of ground conditions on the site. It should be noted that the applicant has carried out a porosity test of the site and found it is suitable for septic tanks and soakaways.

As the application is in outline details of design will be addressed at the detailed application stage.

No other consultees have objected to the proposed development.

**Author/Contact Officer:** Craig Wilson  
Planning Officer

**Ext:** 01343 563565

*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:

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

##### **Policy 2: Environment and Resources**

The Moray Structure Plan Strategy will be supported by: -

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

##### **Policy L/H5: Sub-Division for House Plots**

A new house should be a suitable distance away from the nearest building, to allow it to fit comfortably with the character of the area. Plots must not be subdivided by more than 50% and must provide for a site of, at minimum, 400 sq. m, excluding access. (In certain circumstances such as for example, a proposal to extend a terrace or where an existing house is to be subdivided internally, this may be relaxed). The built-up area of the application site should not exceed one third of the total area of the plot and, to avoid overlooking and to maintain privacy, main windows (i.e. kitchen, living room, bedroom) must be at least 4m from the boundary they face, unless that boundary fronts onto a road or public pavement or follows an established building line. The house style must complement both the character of the area, and the scale and architecture of the parent property.

The Council will not normally approve applications for backland sites (e.g. those in back gardens which do not have a road frontage) on the grounds of character and amenity.

This policy is subservient to a number of settlement specific policies dealing with localised sub-division and backland development issues, contained in the village statements for Craigellachie, Dallas, Kingston, Newmill, Tomintoul and Urquhart.

## FOGWATT

Due to the uncertainty of local ground conditions and fear of ground water pollution from domestic septic tanks, the Council require a full British Standard test to be carried out on all sites proposed for development. For road safety reasons, no further housing development shall be permitted which proposes to use the access point onto the A941 at Neil Millers Garage.

**Character Description:** 5 Distillery/Industrial Village.

### Specific Character Features

- Group 'A' and Group 'B' buildings dominant.

### Policy L/IMP1: Development in Built-up Areas

In areas covered by this policy, (i.e. all land within settlement boundaries and rural communities), the Council will, in considering applications for planning permission, try to ensure that proposals for development do not harm the general character of the surrounding area. Applications will therefore take account of the main uses of land and buildings in the vicinity, the mix of such uses and the architectural quality of the area. The main concern of the Council is to ensure that development proposals should neither conflict with nor detract from the character, amenity and design of an area. This policy will not preclude appropriate new development and is not intended solely to maintain the status quo.

In interpreting and clarifying this policy, the Council will take into account the guidelines on Character, Amenity and Design.

### Guidelines on Character, Amenity and Design (L/IMP1)

#### a. Character

The character of an area is assessed by the;

- main uses;
- appropriateness of a diversity of uses; and
- desirability of introducing a development which may detrimentally alter the existing balance of usage
- architectural style of the area.

#### b. Amenity

The amenity of an area is assessed in terms of both the people who will occupy the development site, and the adjoining occupiers. In short, new developments should be "good neighbours". Where there is an inherent incompatibility of neighbouring developments, or where remedial action cannot be made effective, applications are likely to be refused.

The important aspects of amenity which the Council considers are worth protecting are:-

- Privacy** - for both the occupants of a proposed development and surrounding neighbours. Loss of privacy can be minimised by re-orientation, reducing the densities of development reducing the size of buildings, and attention to building levels or by design modifications, for example, window proportion and size.

- (ii) **Traffic** - the introduction of increased traffic movement and resulting noise, can significantly detract from the amenities of an area.
- (iii) **General Disturbance** - protection from activities which create unreasonable levels of noise, smells and other discomforts including wheeled bin locations.
- (iv) **Sunlight/Daylight** - adequate levels of sunlight and daylight, and to a lesser extent, outlook, should be safeguarded for surrounding properties and afforded to new developments.

**c. Design**

Design of new development should not only relate to the type of development in the immediate vicinity but also to the wider issues of context and setting. This need not be restrictive to new or innovative architectural expression.

Applicants should, therefore, avoid design proposals which compromise the appearance of design characteristics of the surrounding area.

In considering the appropriateness of a design the Council will have regard to:

- (i) The scale of adjoining development.
- (ii) The materials, finishes and colours used in nearby development.
- (iii) Any features on or near the site worthy of reproduction, protection or enhancement, e.g. trees, hedges, views and other features of public importance.
- (iv) Principles of site sensitive design e.g. that pitched roofs are preferred to flat roofs, piended dormers to box dormers, vertical windows to horizontal picture windows etc., where these features predominate in an area.

**Policy L/IMP3: New Building Design**

**(i) Design Principles**

All building development must be designed to respond adequately to the locality. Applications must meet the following requirements:-

- a) appropriate location in landscape or townscape
- b) careful placement on a site, particularly in relation to character, amenity and energy conservation
- c) appropriate size and form in relation to existing buildings, sky line and landform
- d) appropriate density, layout and orientation in relation to character, amenity, privacy of neighbouring properties and energy conservation
- e) sensitive use of materials and colours in relation to existing setting and environmental impact

Standardised solutions to building design are not encouraged and will not be acceptable unless existing context (the design and character of the existing surroundings) suggests otherwise. Design solutions which seriously compromise the amenity and character of the area will not be permitted.

Highly innovative, experimental solutions will be encouraged but may not be suitable in every situation. In certain circumstances, the Council may request written design statements explaining various aspects of design solution e.g. explaining why a particular approach has been taken, and expect applications to show new buildings in their wider relationship with surrounding properties and the site (plans and elevations/perspective/ photomontages showing adjacent buildings, trees, landform etc)

#### **(iv) Materials**

The Council will particularly encourage the use of materials which are sustainable. The use of salvaged or recycled material is encouraged in most circumstances subject to local situation and there is a strong expectation that traditional materials will be used on heritage structures. The Council will discourage the over use of high energy materials (i.e. those which require high energy levels to make and dispose) where alternatives can be used and is also concerned about the potential long term affects of using Tropical Hardwoods, from non-managed sources.

#### **Policy L/T7: Parking Standards**

Proposals for different forms of development must comply with the Council's 'Car Parking Standards' (available from the Council's Roads Service).

Where development (including housing) within the defined town centre cannot reasonably supply parking on site, (or where it is appropriate not to include parking), the developer will require to comply with the Council's system for 'commuted payments' for parking. Housing development in town centres which need not provide residential parking on site, must make provision for vehicular access for deliveries and emergencies.

In housing developments of over 30 houses, provision must be made for communal off-street parking, in addition to in-curtilage in order to permit the parking of large commercial vehicles away from road frontages.

#### **Policy L/T4: Provision of Road Access**

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

#### **Policy L/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/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.

### **OBJECTIONS-REPRESENTATIONS**

Three letters of objection have been received for this application from:

- Pete Woollett, Byways, Bracany Gardens, Fogwatt, Elgin, Moray, IV30 8SL
- C M Smith, Rowan Lodge, 5 Bracany Gardens, Fogwatt, Elgin, Moray, IV30 8SY (objected twice)

The main points of concern are:

- The access onto the A941 contradicts policy.
- Uncertainty of ground conditions.
- Additional vehicular movement affecting safety.
- Impact on the road surface with additional vehicles using it.
- Impact on privacy of surrounding properties.

The Transportation Manager has not objected to the proposed development and has commented accordingly. The issue over the basis and relevance of the policy has been covered in the observation section above.

An assessment of the site has indicated that a septic tank and soakaway could be accommodated on the site.

As the application is in outline, details of the position within the site and the layout of the house will be dealt with at the detailed application stage. However, because of the separation distance between each property and the landscaping that separates them the privacy of surrounding properties would be able to be protected.

### **CONSULTATIONS**

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

**Transportation Manager, Direct Services** - No objection subject to condition.

**Scottish Water** - No objection subject to informative.

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

**Contaminated Land, Development Services** - No objection subject to condition and informative.