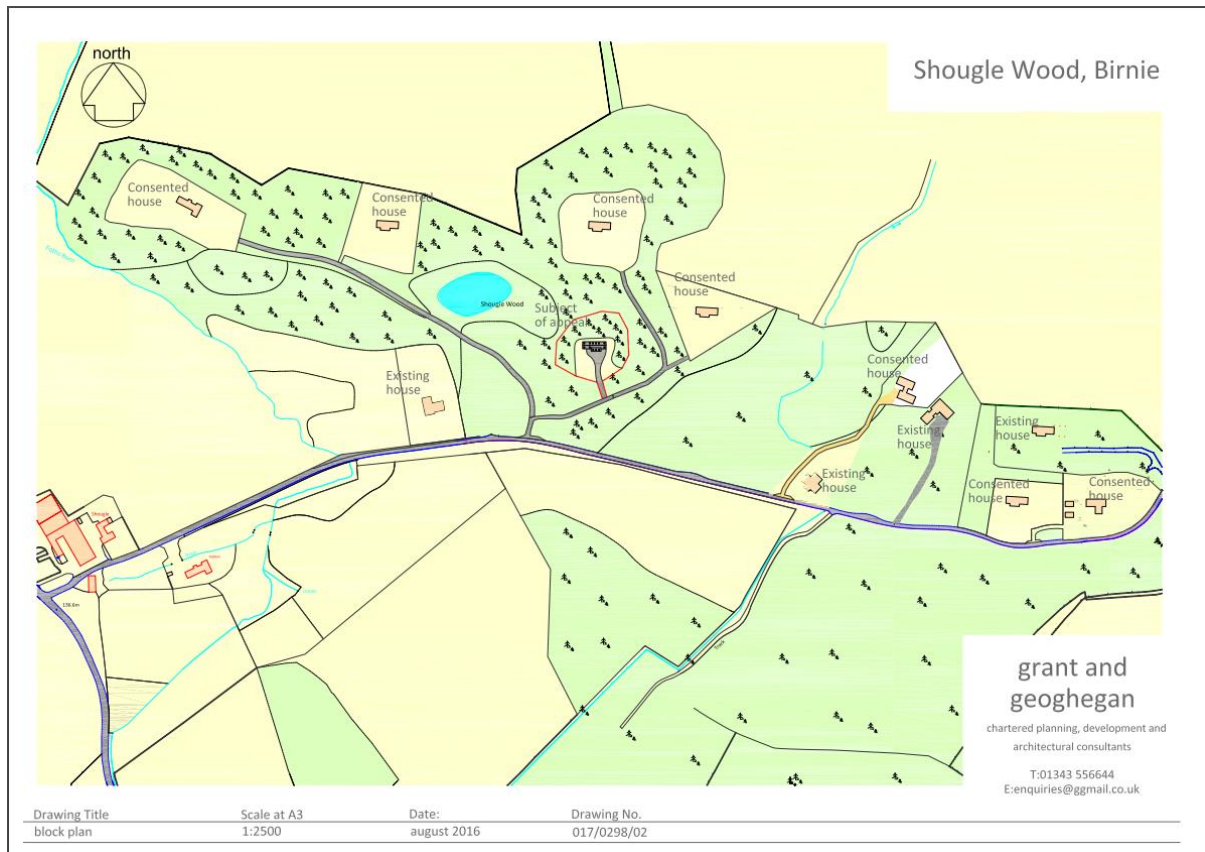


Erect dwellinghouse on site 150 metres east of Breannach, Birnie, Elgin, Moray

August 2016

Ground of Review of Refusal of Planning Permission

Planning application reference 16/00382/APP



Prepared by Grant and Geoghegan

Contents

Summary.....	3
Introduction.....	4
Background.....	4
The Proposal.....	4
The Site.....	4
Development Plan Policy.....	5
Moray Local Development Plan 2015.....	5
• Siting.....	6
• Design.....	6
• Infrastructure and servicing.....	6
National Planning Policy and Guidance.....	7
• Scottish Planning Policy 2014.....	7
• Planning Advice Note 72 (PAN72) – Housing in the Countryside (2005).....	7
Main Issues.....	7
• Siting.....	7
• Design.....	8
• Infrastructure and servicing.....	8
Reason for refusal.....	9
Conclusion.....	10
Appendices:	
Appendix 1: Decision Notice 16/00382/APP	
Appendix 2: Circular 4/2009 – Development Management Procedure (Annex A)	
Appendix 3: Moray Local Development Plan- Extracts	
Appendix 4: Scottish Planning Policy 2014- Extract	
Appendix 5: PAN 72 Housing in the Countryside- Extracts	
Appendix 6: Report on Handling 16/00382/APP	

Summary

This application has been refused citing unacceptable build-up which would change the rural character of the area and the absence of the required 50% established boundary treatments.

Planning permission is sought to add another house to an existing, well screened group. The locality is characterised by single and small groups of buildings dispersed throughout the rural area so as the site does not extend this group and respects the spacing between existing plots, the appellant would contend that the proposal relates well to the established settlement pattern and is therefore compliant with the development plan.

The separation and screening between the subject site and neighbouring plots removes any amenity concerns in terms of privacy, overlooking or prejudice to sunlight/ daylight.

In the second reason for refusal the appointed officer has concluded that there are no long established boundary treatments, which is not strictly accurate. Once the site is cleared it will be defined by a mature woodland backdrop which defines and encloses the site. The appellant would therefore contend that this aspect of the policy is fulfilled.

If the Local Review Body were minded to agree with the Officer's interpretation that the site needs to be clearly defined prior to development to meet the terms of the policy, it should be noted that the appellants intention is to retain as many of the existing trees on the site as possible and implement a long term landscaping scheme which will integrate the site into its surroundings.

In this context, the appellant would consider this to be an acceptable departure in that the proposed site would meet the intended objectives of the policy by providing substantial enclosure for the site. The likelihood is that the site will never be clearly defined in the appointed officer's interpretation; rather settle easily into its surroundings with substantial screening.

The design of the proposed house is 1½ storey incorporating features and finishes providing a traditional appearance. The reasons for refusal do not reject the design of the house which can therefore be considered acceptable in relation to the Councils planning policies. In addition, it has also been shown that the proposal is acceptable in relation to other relevant Local Plan policies regarding the provision of access, parking and drainage.

The Moray Council's Housing in the Countryside policy offers a flexible approach to ensure appropriate opportunities are enabled and supported and inappropriate development guarded against. The case under review is an example of a small scale housing development which is in full accordance with National and Local Planning Policy.

It is respectfully requested that the Local Review Body reconsider the decision to refuse the proposed development and grant planning permission.

Introduction

These grounds for review of a decision to refuse planning permission for a house at Breannach, Birnie are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three month period from the refusal of permission dated 13th of May 2016.

The grounds for review respond to the reasons for the refusal of planning permission and address the proposal in relation to Development Plan Policies and relevant material planning considerations as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Background

The application was dated the 16th of March 2016 and was refused under the Councils Delegation scheme by the case officer on the 13th of May 2016. The reason for refusal (Appendix 1) states that;

The proposal is contrary to the provisions of the Moray Local Development Plan 2015 (Policies H7 and IMP1) where:

- 1. Because of its siting/ location the proposal would result in an additional dwelling contributing to an unacceptable build-up of housing changing the rural character of the area;*
- 2. The boundaries are not long established by dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways, but will be created by arbitrary woodland clearance.*

The report confirms that there were no objections from statutory consultees which included the Councils Environmental Health Manager, Contaminated Land Team, Transportation Manager, and Private Water Supplies.

The Proposal

The proposal is for a single dwelling served by a private water supply and private drainage arrangements by way of septic tank/ soakaway and SUDs. There is an existing access which extends from the minor public road to the south which will serve this development.

The design of the proposed house is 1½ storey incorporating features and finishes providing a traditional appearance. The reasons for refusal do not reject the design of the house which can therefore be considered acceptable in relation to the Councils planning policies.

The site is surrounded by mature woodland which will be retained and supplemented by new planting as required.

The Site

The site is located centrally within a cluster of 5 houses and approved plots in Shougle Wood. Once cleared, it will be defined, surrounded and enclosed by substantial mature planting and vegetation- the appellant's intention is to use the resultant wood for fuel in the proposed wood fired range system.

There is another group of houses and approved plots to the east but the proposed site is well separated from these properties by mature woodland, an access and a watercourse.

The site rises gently away from the public road to the south so earthworks will be minimised and it is served by an existing access which will be upgraded as necessary.

There are no National or International environmental designations covering the site, it does not appear on SEPA's flood maps nor is there any historic or archaeological interest in the site. The appellant will discharge his responsibilities under the Conservation (Natural Habitats, &c.) Regulations 1994.

Development Plan Policy

The Development Plan for Moray comprises the Moray Local Development Plan 2015 and its associated Supplementary Guidance. The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are "material considerations" to justify doing otherwise.

Scottish Government Circular 4/2009 (Appendix 2) describes how planning applications should be determined when balancing the Development Plan and material considerations. It sets out the following approach;

- Identify the provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- Consider whether or not the proposal accords with the Development Plan,
- Identify and consider relevant material considerations for and against the proposal, and
- Assess whether these considerations warrant a departure from the Development Plan.

The provisions of the circular are important in the context of this application because the appellants consider there to be material considerations that warrant the approval of this application.

Material considerations are not defined statutorily. Examples of possible material considerations are set out in an Annex to Scottish Government Circular 4/2009 and they include;

- National Scottish Planning Policy
- The environmental impact of a proposal
- The design of a development and its relationship to its surroundings
- Access, provision of infrastructure and planning history of the site
- Views of statutory consultees
- Legitimate public concern, or support, expressed on relevant planning matters

Moray Local Development Plan 2015

Policy H7 Housing in the Countryside (Appendix 3, page 8) contains a general presumption in favour of small scale housing developments in the countryside provided the prescribed siting and design of the proposal are in accordance with the following criteria;

Siting

- It reflects the traditional pattern of settlement in the locality and is sensitively integrated with the surrounding landform using natural backdrops, particularly where the site is clearly visible in the landscape. Obtrusive development (i.e. on a skyline, artificially elevated ground or in open settings such as the central area of a field) will not be acceptable;
- It does not detract from the character or setting of existing buildings or their surrounding area when added to an existing grouping or create inappropriate ribbon development;
- It does not contribute to a build-up of development where the number of houses has the effect of changing the rural character of the area. Particular attention will be given to proposals in the open countryside where there has been a significant growth in the number of new house applications; and;
- At least 50% of the site boundaries are long established and are capable of distinguishing the site from surrounding land (e.g. dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways).

If the above criteria for the setting of the new house are met, the following design requirements then apply:

Design

- A roof pitch between 40-55 degrees;
- A gable width of no more than 2.5 times the height of the wall from ground to eaves level;
- Uniform external finishes and materials including slate or dark 'slate effect' roof tiles;
- A vertical emphasis and uniformity to all windows and doors;
- Boundary demarcation that reflects the established character or style (e.g. dry stone dykes, hedges) in the locality;
- Proposals must be accompanied by a landscaping plan showing an appropriate proportion of the plot, generally 25%, to be planted with native tree species at least 1.5 metres in height.

The siting and design criteria in Policy H7 are supplemented by the general criteria based Policy IMP1 – Development Requirements (Appendix 3, page 10). This policy has a range of requirements applicable to all new development including that;

- scale, density and character must be appropriate to the surrounding area;
- development must be integrated into the surrounding landscape.

Infrastructure and servicing

In addition, there are a range of other policies relating to infrastructure and servicing which seek to ensure that new development is provided with a safe and suitable access, adequate car parking and adequate surface and foul drainage, namely;

- T2: Provision of Access (Appendix 3, page 11);
- T5: Parking Standards (Appendix 3, page 12);
- EP4: Private Water Supplies (Appendix 3, page 13)

- EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) (Appendix 3, page 14);
- EP10: Foul Drainage (Appendix 3, page 15);

National Planning Policy and Guidance

National Planning Policy and Guidance is a material planning consideration to be taken into account in the consideration of planning applications. It is set out in Scottish Planning Policy (SPP) and Planning Advice Notes (PAN's).

Scottish Planning Policy 2014 (Appendix 4)

Scottish Planning Policy (SPP) sets out the Scottish Governments overarching policy on land use planning. SPP advises that Planning should take a positive approach to enabling high quality development and making efficient use of land to deliver long term benefits for the public, while protecting and enhancing natural and cultural resources.

With respect to rural development, SPP states that the planning system should promote a pattern of development that is appropriate to the character of the particular rural area.

Planning Advice Note 72 (PAN72) – Housing in the Countryside (2005) (Appendix 5)

PAN72 starts by recognising changing circumstances and points out that one of the most significant changes in rural areas has been a rise in the number of people wishing to live in accessible parts of the countryside while continuing to work in towns and cities within commuting distance. It contains guidance in some detail on how to achieve a successful development in the countryside.

The PAN acknowledges that there will continue to be a demand for single houses, often individually designed, but these have to be planned, with location carefully selected and design appropriate to locality.

Setting a building against a backdrop of trees is identified in the PAN as one of the most successful means by which new development can blend with the landscape. However it also states that the purpose of new planting is not to screen or hide new development, but to help integration with the surrounding landscape. The PAN also cautions against skyline development and heavily engineered platforms.

Main Issues

Siting

Having set out the National policy background it is now necessary to consider the principle of the site in relation to its policy context. As previously stated, there is a clear commitment in National Planning Policy to encourage well sited and designed housing in the countryside.

Policy H7 of the Moray Local Development Plan 2015 carries this through locally; its stated aim being *to allow housing in the open countryside that can be easily absorbed into the landscape*. It sets out four specific criteria under the heading of 'siting' which have to be met to secure the principle of development.

Firstly, the proposed site should reflect the traditional pattern of development in the locality and should not constitute obtrusive development. The settlement pattern in this area of Moray is characterised by single and small groups of houses and outbuildings dispersed throughout the rural area, as such the introduction of a dwelling beside an existing residential property set in a wider scattering of houses and agricultural buildings can be seen to reflect the established settlement pattern.

In addition, the site does not meet with the Council's definition of obtrusive development i.e. on a skyline, artificially elevated ground or in open settings such as the central area of a field. The proposed dwelling is located in the lower portion of the site. Once built, it will not be possible to view this modest structure on the skyline from the surrounding countryside, and it is not the appellant's intention to build the house on artificially elevated ground (conditions relating to finished floor levels can be imposed to ensure control is retained over this matter).

The second element of the siting criteria states that the proposed development should not detract from the character or setting of existing buildings or their surrounding area or create inappropriate ribbon development. The proposed site forms part of an existing cluster of houses but views of the dwelling will be restricted by the mature planting which surrounds it. As a result, there is little or no impact on the character or setting of neighbouring properties or upon neighbouring amenity (privacy, prejudice to sunlight/ daylight etc). Furthermore, the proposed development does not result in ribbon development.

The third of the siting criteria states that new housing in the countryside should not contribute to a build up of development where the number of houses has the effect of changing the rural character of the area. The submitted plans clearly demonstrate that the addition of one dwellinghouse, with the proposed separation between buildings, in this location will not have this effect nor are there any approved plots in the vicinity that would contribute to this effect in the future.

Finally, the site should have at least 50% of its boundaries as long established features capable of distinguishing it from the surrounding land. Examples of acceptable boundaries are listed as dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways. Contrary to the appointed officer's comments, the proposed development meets and exceeds the boundary requirements prescribed. The removal of the existing scrub and vegetation on the site will create an extremely well defined and enclosed site due to the mature woodland which surrounds it and the implementation of a long term landscaping scheme will reinforce this boundary and integrate the site with its surroundings.

Design

Although the proposed design of the property is not identified as an issue in the reasons for refusal, there are a series of specific design requirements within policy H7 which are all met by the proposal;

- A roof pitch between 40-55degrees;
- A gable width of no more than 2.5 times the height of the wall from ground to eaves level
- Uniform external finishes and materials including slate or dark 'slate effect' roof tiles;
- A vertical emphasis and uniformity to all windows and doors;

- Boundary demarcation that reflects the established character or style (e.g. dry stone dykes, hedges) in the locality;
- Proposals must be accompanied by a landscaping plan showing an appropriate proportion of the plot, generally 25%, to be planted with native tree species at least 1.5 metres in height.

Overall it is considered that the proposal meets the requirements of Policy H7 and the related Supplementary Guidance on Housing in the Countryside. In doing so it also satisfies the requirements of Policy IMP1 which requires development to be integrated into the landscape and of a character appropriate to the surrounding area.

Infrastructure and Servicing

The proposal is in accordance with policies T2 Provision of Access and T5 Parking Standards; the Transportation Section has confirmed that a safe and suitable access and adequate parking provision can be provided.

Policy EP10 Foul Drainage allows for private drainage systems and the proposed septic tank/soakaway system with a discharge to land is deemed to be acceptable at this stage. It should be noted that this will be dealt with in detail under the Building Regulations, if approved.

SUDS (Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems) will be provided and this can be controlled through planning conditions. As stated previously, the water supply will be from the public mains.

Reason for refusal

The first reason for refusal states that because of its siting/ location, the proposal dwelling would contribute to an unacceptable build-up of housing that would change the rural character of the area.

Consequently, the test in policy is whether or not the proposal detracts from the established settlement pattern, and whether the introduction of a dwellinghouse onto this site could not be integrated within its landscape setting.

The site is located in a relatively well settled part of the Moray countryside; as previously stated the locality is characterised by single and small groups of buildings dispersed throughout the rural area, so the addition of a sensitively sited and designed single dwelling which reflects the separation between properties in this existing group cannot reasonably be seen as unacceptable build-up of development or to detract from the rural character of the area.

The appellant contends that the existing layout of this group lends itself to an additional site in this position and contrary to the comments of the appointed officer (Appendix 6, page 24), that it consolidates and reinforces this housing group. It is considered that this site has all the characteristics of an acceptable infill site.

The Moray Council's Housing in the Countryside policy offers a flexible approach to ensure appropriate opportunities are enabled and supported and inappropriate development guarded against. It is submitted that the proposal in hand to add another house to an existing, well screened group is reasonable and compliant with the development plan because it relates well to the established settlement pattern. The modest scale and appearance of the proposed dwelling coupled

with the implementation of a long term landscaping plan will protect and enhance the important amenity value of the area

It is also important to note that the introduction of a house onto this site is in full accordance with PAN72 because it adds to an existing grouping without extending it and owing to its woodland setting and separation from existing and approved plots does not detract from its rural character. The guidance reiterates the importance of locating new houses in existing groups in relation to sustainable development criteria such as location and infrastructure needs.

The second reason for refusal relates to a lack of the prescribed 50% boundary treatment. Through substantial mature planting surrounding the site it is considered that once the subject site is cleared it will meet and exceed aspect of the prescribed siting criteria and taken together with the modest scale and design of the house and outbuilding, this will ensure that the finished development is neither visually intrusive nor unsympathetic to its surroundings.

The appellant would contend that it is very well defined and enclosed in comparison to other houses in the area which gained the grant of planning permission by meeting the minimum requirements of this aspect of policy. The appellant intends to retain as many of the existing trees on site as possible and the implementation of a long term landscaping scheme will consolidate the existing stand and further integrate the site into its surroundings. It should be noted that this is in full accordance with policy E4 Trees and Development and the appellant is agreeable to the imposition of appropriate conditions to give the Local Review Body confidence in this regard.

Members are respectfully invited to visit the site to decide for themselves if this is sufficient to define and enclose the site in terms of policy H7.

Conclusion

As stated, the Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

National Planning Policy and the Moray Local Development Plan all encourage well sited and designed houses in the countryside and there is a preference for the siting of new houses within existing groupings; recent decisions demonstrate accordance with these aims and objectives so the applicants simply ask that this application be determined in the same manner.

The lead policy in the Local Plan for testing the acceptability of the site as a suitable location for a house in the countryside is Policy H7 and it contains specific criteria about the siting and design of new dwellings. These grounds of appeal and the submitted plans clearly show that the proposal is acceptable under the criteria set out in the policy. It has also been shown that the proposal is acceptable in relation to other relevant Local Plan policies regarding design, provision of access, parking and drainage.

As the proposal can be accepted under Development Plan policies and there are no known material considerations to the contrary, it is respectfully requested that the Local Review Body reconsider the decision to refuse the proposed development and grant planning permission.