

Application: 16/01627/PPP – Land Adjacent to Hillside House, Rothes

Applicant: Mrs A E Jackson

Grounds for Planning Appeal

History

Planning Permission for a single house was approved on 20th July 2009. The consent expired on 20th July 2014 under condition 1(b)(i) of the consent.

Unknown to the applicant, proposals to extend the settlement boundary of Rothes hard to their land were being proposed by the Council. These proposals were included within the Proposed Plan approved by the Council on 29th January 2014, subject to consultation between 7th March 2014 to 2nd May 2014. There was no notification of the proposals to Mrs Jackson during this period.

The proposals to extend the settlement boundary adjacent to their approved site only became apparent when the applicant consulted with Planning at the stage of renewing their application.

As the applicants consent was still valid when the Proposed Plan was approved, this suggested that either a) extending the settlement boundary hard to their approved site was not thought to be a concern in relation to planning policy or b) the existence of the life consent was overlooked.

The application 16/00263/PPP was re-submitted in February 2016 and refused in April 2016 due to the changes in the settlement boundary.

Proposals

The proposals within the revised application 16/01627/APP submitted in October 2016 have taken account of the reasons for refusal within the earlier application 16/00263/PPP, and have also provided a design statement. The proposed house has been relocated away from the boundary to allow significant additional tree planting between the dwelling and the mutual boundary. The design statement also highlights the extent of the existing mature tree belt to the other side of the mutual boundary. A combined tree belt width greater than 30m is shown which would provide visual screening when viewed from the A941.

Addressing the Reasons for Refusal

- 1 **Overtly prominent house:** When approaching along A941 towards Rothes, the proposed house would only be seen after passing the existing new build development of three houses referred to. It should still be seen to comply with planning policy under H7. Being lower than the road and having a large natural backdrop of mature trees, it would be far less prominent compared to the three houses already approved. It is also now intended to provide additional tree screening to the A941 which was not proposed when previously approved.
- 2 **Located immediately out-with settlement boundary:** There is sufficient existing tree screening and additional planting proposed over a significant width to visually separate the new proposed dwelling from any new development which may or may not be proceeded with. Siting could be controlled in the development and further landscaping proposals could be incorporated.

It is also difficult to understand that the settlement boundary was proposed to be extended immediately adjacent to a site which had been approved for a house within the countryside when this is now the basis for refusal.

- 3 **Unwarranted expansion of Rothes in conjunction with other development:** Planning Permission was approved for the proposed site and the other three houses when the extension of the settlement boundary was approved in the Proposed Plan. This would therefore have been seen as being acceptable at that stage in relation to the existing rural character and appearance of the locality. The current proposals now offer greater visual separation between the grouping of the four houses and the settlement boundary, and visual impact could be controlled by Development Control within any subsequent application in OPP2. It is also unlikely that development within OPP2 could extend toward the settlement boundary adjacent to the proposed site due to the slope of the site and the need to achieve minimum gradients within Transportation Design Standards.

For these reasons therefore it is considerable to be both unreasonable and unjustified that permission has been refused.



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 01343 563 501 Fax: 01343 563 263 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100028482-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Erect new dwelling on ground adjacent to Hillside House, Rothes

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?

Yes No

(Answer 'No' if there is no change of use.) *

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Wittets Ltd"/>	
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *
First Name: *	<input type="text" value="Cynthia"/>	Building Name: <input type="text"/>
Last Name: *	<input type="text" value="McKay"/>	Building Number: <input type="text" value="26"/>
Telephone Number: *	<input type="text" value="01343 543237"/>	Address 1 (Street): * <input type="text" value="Hay Street"/>
Extension Number:	<input type="text"/>	Address 2: <input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: * <input type="text" value="Elgin"/>
Fax Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
		Postcode: * <input type="text" value="IV30 1NQ"/>
Email Address: *	<input type="text" value="cm@wittets.co.uk"/>	

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value="████████"/>
First Name: *	<input type="text" value="Alison"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Jackson"/>	Address 1 (Street): * <input type="text" value="████████"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="████████"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="████████"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="████████"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text"/>	

Site Address Details

Planning Authority:

Moray Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

850069

Easting

327576

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

7257.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Former curtilage to Hillside House

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * Yes No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

- Yes – connecting to public drainage network
 No – proposing to make private drainage arrangements
 Not Applicable – only arrangements for water supply required

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? *

- New/Altered septic tank.
 Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).
 Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? *

- Discharge to land via soakaway.
 Discharge to watercourse(s) (including partial soakaway).
 Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *

Septic tank with ground soakaway.

Do your proposals make provision for sustainable drainage of surface water?? * Yes No
(e.g. SUDS arrangements) *

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- Yes
 No, using a private water supply
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Cynthia McKay

On behalf of: Mrs Alison Jackson

Date: 18/10/2016

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

- | | | |
|--|---|---|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mrs Cynthia McKay

Declaration Date: 24/10/2016

DESIGN STATEMENT

Land Adjacent to Hillside House, Rothes

Background

Planning Permission for a single dwelling on the proposed site was granted on 20th July 2009. The consent had an expiry of five years from this date.

Subsequent to consent being granted, the Proposed Plan for replacement of the Local Plan 2008 was prepared and approved by the Council on 29th January 2014 (subject to consultation), which included a new land designation OPP2 North Street that extended the settlement boundary of Rothes to abut the proposed house site. No consideration would appear to have been given to the proximity of the approved site when the new designation was proposed. The designation within the Proposed Plan was incorporated into the adopted Development Plan in 2015, impacting upon the refusal of the proposals when resubmitted by the applicant Mrs Jackson on 17th February 2016 (Ref 16/00263/PPP).

Reason for Refusal

The Council's reason for the decision was as follows:-

The proposal is contrary to the provision of the adopted Moray Local Development Plan 2015 (Policies E9, H7 and IMP1) and, as a material consideration, the associated Supplementary Planning Guidance 'Housing in the Countryside' where, because of its siting/location, it would result in an unacceptable form of development. In being located immediately outwith the settlement boundary of Rothes, development on this site would no longer maintain the distinction between that settlement and the countryside and, in leading to an unwarranted expansion of Rothes and in conjunction with other existing (new build) development to the north west, the proposal would result in the further, additional, build-up and extension of the existing ribbon form of development located off a layby off the A941. As a result, the proposal would detract from the existing rural character and appearance of the surrounding locality.

Revised Proposals

The re-submitted proposals are revised from the application refused, and take account of the reason for refusal advised. The changes address in particular the new designation of the land to the south within the Development Plan.

The proposed house is shown relocated further from OPP2, allowing the 25% additional semi-mature planting required under policy H7 to supplement the existing mature tree belt along the north boundary of OPP2, to maintain a visual separation and distinction between the designated settlement and the open countryside. Further semi-mature tree planting is also proposed to the west of the proposed dwelling to screen the visual impact of the house from the road. The existing bank which currently divides the proposed site would also be removed to reduce ground levels and enable the building to be set into the sloping site rather than be built up as previously proposed, see site sections.

The house design anticipated is shown within the site sections, reduced from the previously approved design to further minimise visual impact from the road and if viewed together with the OPP2 designation. Access arrangements would be retained as previously proposed with the road culverted where crossing the existing ditch.

Justification for Compliance

Policy H7: The site was previously approved as being compliant with this policy. This is a material consideration in determining the new application. The changes to location have retained the siting requirements under the policy, adhering to the pattern of settlement in the locality relating to a linear grouping. The site has a natural backdrop to the east due to the existing mature trees, and this would now be supplemented by the new tree planting to the south, possible due to the house being relocated. The revised proposals do not detract any differently from the character or setting of the existing grouping compared to the proposals accepted. Site boundaries remain as being established.

The only change affecting siting is the OPP2 designation. This has been addressed by distancing the proposed house further to the north to relate more to the countryside grouping. It is not known if the established tree belt extending 20-30m into OPP2 has been taken into account when assessing application 16/00263/PPP as it was not shown within the application drawings ref. 16/00263/PPP. This landscaped feature is however a significant element when combined with the proposed tree planting within the site, in maintaining the distinction between settlement and countryside, and is now indicated within the application drawings.

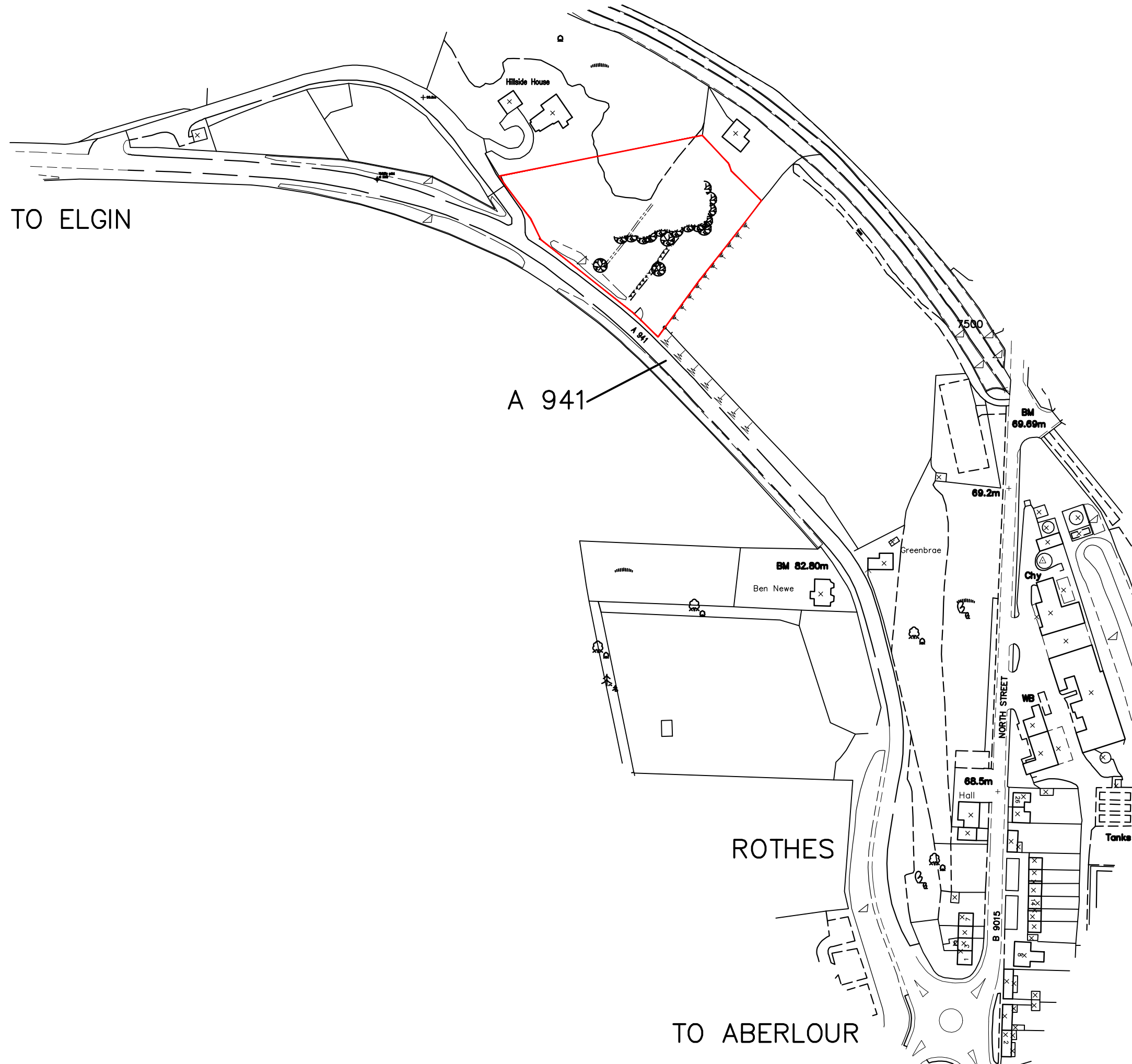
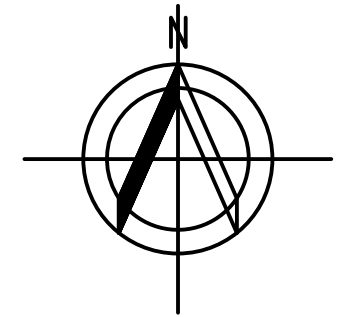
Justification under Policy H7 refers to “*development that added to **existing** suburban layout should be avoided*”. There is no existing development within OPP2 and feasibility of development on this steeply sloping site has still to be shown to be viable, particularly in relation to satisfying road access criteria.

Policy E9: This relates to the extended settlement boundary of the new OPP2 designation which now identifies the proposed development unidentifiably out with the boundaries. Rothes does not have a CAT designation. It is not understood why the OPP2 designation was proposed by the Council to abut a house site with planning permission contrary to this policy but it is our strong view that the revised proposals should be an acceptable departure from this policy due to the visual separation achieved by the extent of existing/proposed tree belt which would achieve visual separation between any future settlement and the intended single dwelling.

Policy IMP1: The proposed site will be deemed to have been compliant with the previously approved application and is still considered to be sensitively sited.

Conclusions

The proposals refused under application 16/00263/PPP have been revised to address the reason for refusal and taken with the material consideration of the previous approval for the site should be taken as an acceptable departure from policy E9. Policies H7 and IMP1 are thought to be compliant.



New house adjacent to Hillside House, Rothies for Mr+Mrs R Jackson

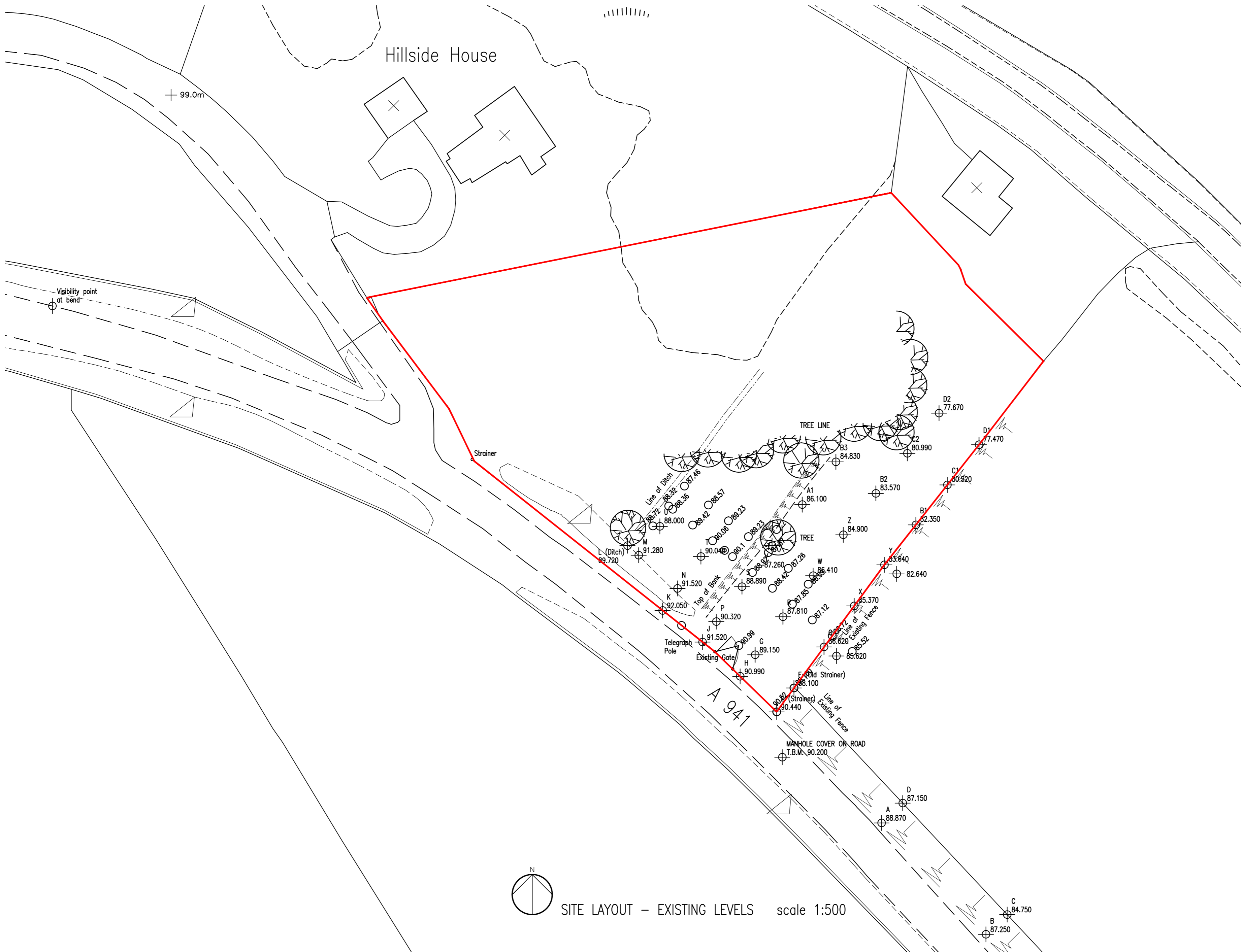
LOCATION PLAN

WITTETS
ARCHITECTS

26 Hay St, Elgin, Moray IV30 1NQ
T 01343 543237 F 01343 540542
e info@wittets.co.uk www.wittets.co.uk

1:2000 at A3
Oct 2016

16:25:04



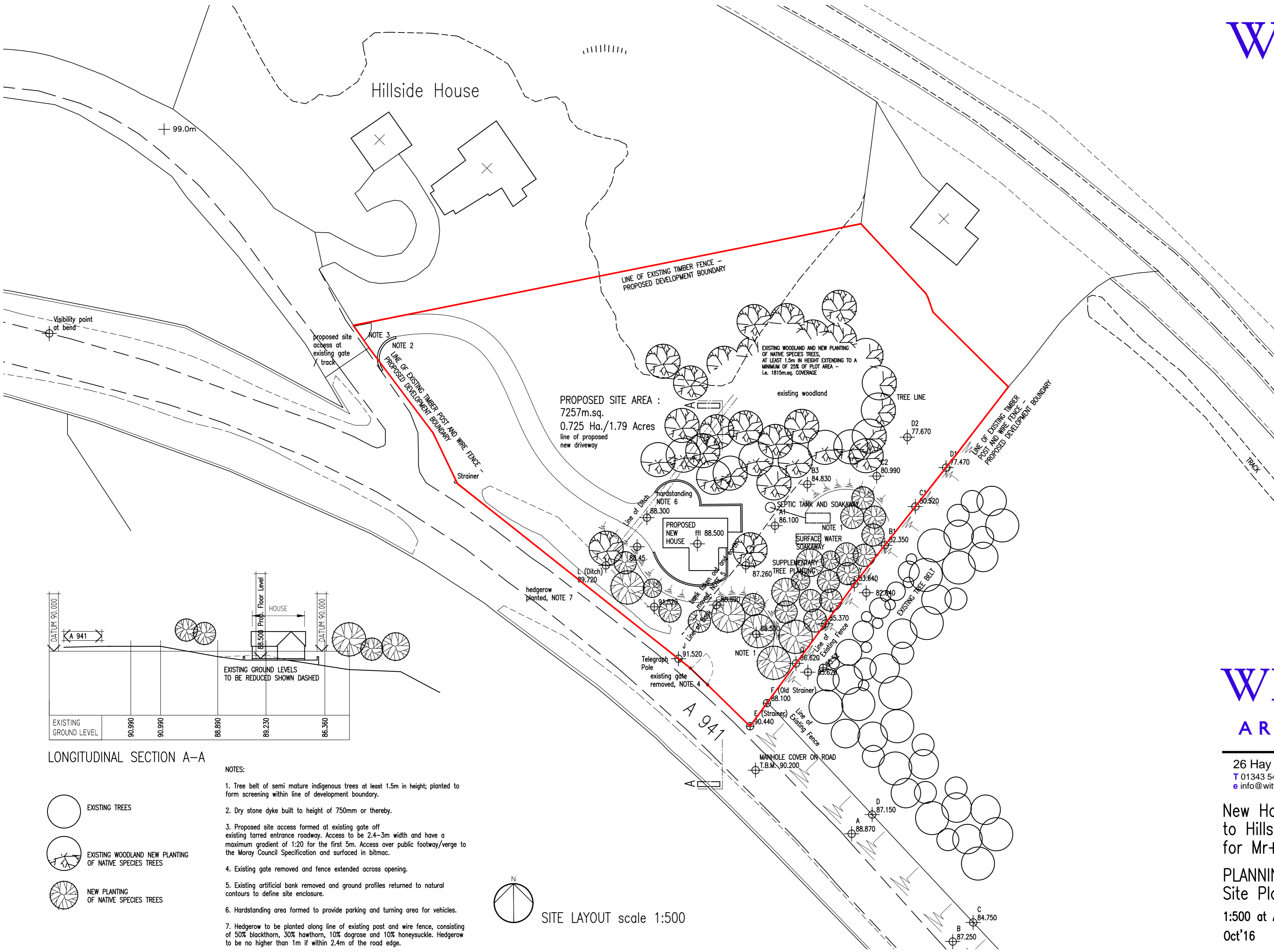
N
SITE LAYOUT – EXISTING LEVELS scale 1:500

WITTETS
ARCHITECTS

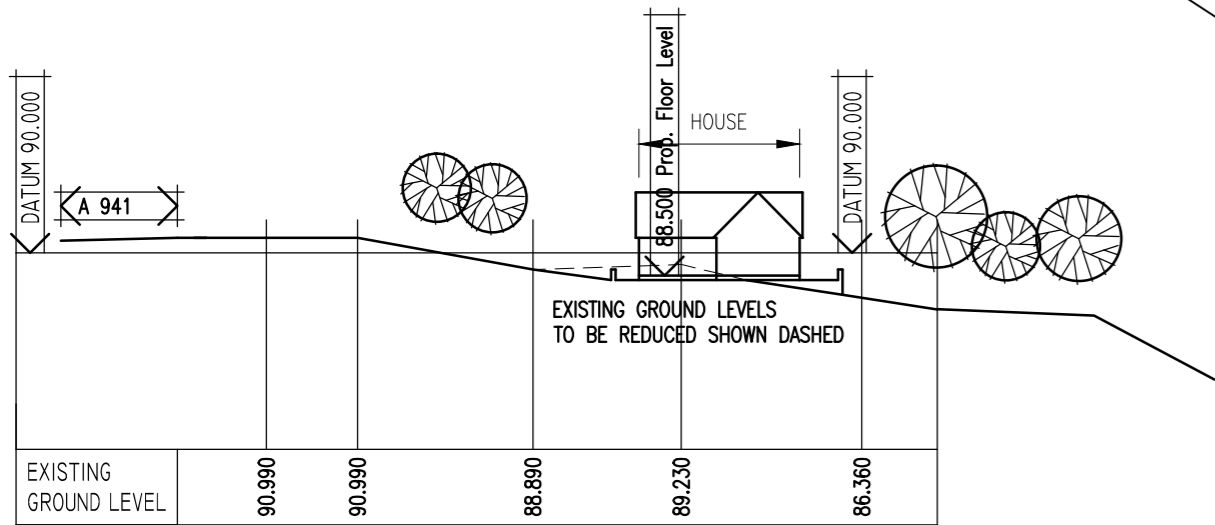
26 Hay St, Elgin, Moray IV30 1NQ
 T 01343 543237 F 01343 540542
 e info@wittets.co.uk www.wittets.co.uk

New House adjacent to Hillside House, Rothess for Mr+Mrs R JACKSON

EXISTING Site Plan
 1:500 at A2
 Oct 2016
 16 25 02



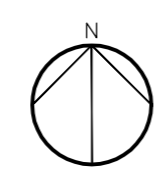
PROPOSED SITE AREA :
7257m.sq.
0.725 Ha./1.79 Acres
line of proposed
new driveway






LONGITUDINAL SECTION A-A

NOTES:

1. Tree belt of semi mature indigenous trees at least 1.5m in height; planted to form screening within line of development boundary.
2. Dry stone dyke built to height of 750mm or thereby.
3. Proposed site access formed at existing gate off existing tarred entrance roadway. Access to be 2.4-3m width and have a maximum gradient of 1:20 for the first 5m. Access over public footway/verge to the Moray Council Specification and surfaced in bitmac.
4. Existing gate removed and fence extended across opening.
5. Existing artificial bank removed and ground profiles returned to natural contours to define site enclosure.
6. Hardstanding area formed to provide parking and turning area for vehicles.
7. Hedgerow to be planted along line of existing post and wire fence, consisting of 50% blackthorn, 30% hawthorn, 10% dogrose and 10% honeysuckle. Hedgerow to be no higher than 1m if within 2.4m of the road edge.



SITE LAYOUT scale 1:500

-  EXISTING TREES
-  EXISTING WOODLAND NEW PLANTING OF NATIVE SPECIES TREES
-  NEW PLANTING OF NATIVE SPECIES TREES

WITTETS

ARCHITECTS

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New House adjacent to Hillside House, Rothies for Mr+Mrs R JACKSON

PLANNING Site Plan

1:500 at A2
Oct'16

16:25:03

REPORT OF HANDLING

Ref No:	16/01627/PPP	Officer:	Shona Strachan
Proposal Description/ Address	Erect dwellinghouse on Land Adjacent To Hillside House Rothes Moray		
Date:	14.12.2016	Typist Initials:	LMC

RECOMMENDATION		
Approve, without or with condition(s) listed below		N
Refuse, subject to reason(s) listed below		Y
Legal Agreement required e.g. S,75		N
Notification to Scottish Ministers/Historic Scotland		N
Hearing requirements	Departure	N
	Pre-determination	N

CONSULTATIONS		
Consultee	Date Returned	Summary of Response
Environmental Health Manager	09/11/16	No objection
Contaminated Land	09/11/16	No objection
Transportation Manager	11/11/16	No objection subject to conditions and informatives
Scottish Water		No response at time of report
Developer Obligations Unit	07/12/16	Obligation sought

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
PP1: Sustainable Economic Growth		
PP3: Placemaking		
H7: New Housing in the Open Countryside	Y	
E9: Settlement Boundaries	Y	
EP5: Sustainable Urban Drainage Systems		
EP9: Contaminated Land		
EP10: Foul Drainage		
T2: Provision of Access		
T5: Parking Standards		
IMP1: Developer Requirements	Y	
IMP3: Developer Obligations		

REPRESENTATIONS

Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan (MDLP) 2015 unless material considerations indicate otherwise. In this case the main planning issues are considered below.

Proposal

This application seeks planning permission in principle for the erection of a dwellinghouse and associated servicing arrangements which include an access off a lay-by off the A941 road, on-site septic tank and (surface water) soakaway arrangements and a connection to the public water supply. The proposal would also entail the removal of an existing artificial bank and re-contouring within the site.

The site layout plan shows the proposed location for the house together with information about the location of the access, septic tank and drainage soakaways, existing boundary treatment and (existing and proposed) planting within the site but given the "in principle" nature of this application, details of the proposed actual surface water and foul drainage and house design arrangements are not included.

Site Characteristics

The site, which was formerly part of the curtilage of the neighbouring property to the north west, Hillside House, covers an area of 7257.00 sq m of rough, undulating, sloping ground with a small area of woodland located on the site (to be retained). The site also accommodates a ditch/watercourse which receives water from the A941 road and runs across the site towards the B9015.

With reference to the surrounding land uses and as defined, the settlement boundary of Rothes abuts and lies immediately to the south and east of the site. The adjoining land within the settlement boundary is designated as Rothes OPP2, an "Opportunity Site" which is considered to be suitable for business or residential uses (MDLP 2015 refers). The A941 road runs to the south and west of the site and as a result the site is visible from the public road.

The closest neighbouring residential properties are identified as follows (and all lie to the north west of the site):

- 02//01714/FUL, Hillside House, approved on 13 November 2002 (new build house)
- 05/02599/FUL, Assaye, approved on 27 April 2006 (new build house)
- 09/00277/OUT and 10/01410/AMC - Site adjacent to Assaye, approved on 17 November 2010 (new build house)
- 12/00506/APP, Site at Drumbain Farm Cottage, approved on 7 June 2012 (a new house replacing existing building on site)

For information, these neighbouring properties are identified on a supporting plan which accompanies this report.

Planning History

There have been two previous outline planning permissions granted for a new build house on this site: firstly, in 2007, on a smaller site compared with that now proposed and accessed direct from the A941 to the south-east (07/00993/OUT) and secondly, in 2009, for the same site as that now defined but taking access off the north-western corner of the site off a lay-by off the A941 (09/00545/OUT). Both of these consents have lapsed and were not implemented.

Application 09/00545/OUT was approved in accordance with the provisions of the former development plan because the site/proposal was considered acceptable as having the requisite established boundaries and because the site/proposal would not be overtly prominent. Subsequent to that earlier approval, an additional house to the west of Assaye has since been approved/built and local planning policy has changed to the now adopted MLDP 2015.

Using the same plans as those approved for application 09/00545/OUT, a subsequent application (15/01113/PPP) seeking an "in principle" decision for a dwelling on the current application site was withdrawn prior to its determination. This followed a discussion which, according to the applicant, explained "*the reasons why the application is unlikely to succeed following recent changes to the planning guidelines which now more rigidly influence applications that are outwith settlement boundaries*". The applicant also advised that they appreciated "*why an approved but lapsed application can stand the risk of rejection under such circumstances*".

Application 16/00263/PPP used the same plans as 15/01113/APP but this proposal was refused on 25 April 2016 because the proposal was considered contrary to Policies E9, H7 and IMP1 of the Moray Local Development Plan 2015 and, as a material consideration, the associated Supplementary Planning Guidance 'Housing in the Countryside' where because of its siting/location, "*it would result in an unacceptable form of development. In being located immediately outwith the settlement boundary of Rothes, development on this site would no longer maintain the distinction between that settlement and the countryside and, in leading to an unwarranted expansion of Rothes and in conjunction with other existing (new build) development to the north west, the proposal would result in the further, additional, build-up and extension of the existing ribbon form of development located off a layby off the A941. As a result, the proposal would detract from the existing rural character and appearance of the surrounding locality.*"

This proposal seeks to address the reason for refusal of application 16/00263/PPP (as refused on 25 April 2016). The applicant's agent's Statement highlights the changes made to move the house further northward within the site and away from the Rothes OPP2 designation with additional semi mature planting also shown to the west of the house to help minimise the visual impact of the dwelling from the public road. The size and scale of the indicative house shown on the site plan has been reduced and the proposal no longer includes provision for a detached garage. The site plan also shows the existing tree belt which lies to the south of the site but outwith the site boundary on the Rothes OPP 2 designation.

Policy Assessment

Siting and Impact on the Rural Character of the Surrounding Area Policy E9 Settlement Boundaries

Policy E9 seeks to restrict development immediately outwith the settlement boundary, in order to maintain a clear distinction between defined settlements and the countryside. This policy states that development proposals which lie immediately outwith the settlement boundary will be refused, unless the proposal is located in a site which has been designated as a "LONG" site.

As with the previous application, this latest proposal is located immediately outwith the settlement boundary of Rothes: the south western boundary of the site forms both the western boundary of the Rothes, OPP2 and the settlement boundary of Rothes. The application site is not designated as, nor located within, any LONG designation. The proposal is therefore contrary to policy E9 of the MLDP 2015. The settlement boundary represents the limit to which Rothes can expand during the MLDP 2015 plan period. As with the previous application, no supporting information is provided to support or justify why it is necessary to warrant the expansion of Rothes at this time, or why the proposal would not prejudice the justification for, and the objectives of, a settlement boundary as set out in Policy E9.

Whilst the Design Statement seeks to support proposal, the location/siting of this development on this site and in its immediate proximity to the Rothes settlement boundary would erode and no longer maintain the distinction between the settlement boundary and the countryside, leading to an unwarranted outward expansion of the Rothes settlement beyond that expected in the Plan period. Furthermore, in conjunction with other existing (new build) development to the north west, the proposal would result in further, additional, ribbon development which no longer maintains the distinction between the built up area and the countryside: if developed, the proposal would act to 'link' or 'connect' i.e. 'fill the gap' between the Rothes settlement boundary, including the OPP2 designation, and the existing ribbon of properties immediately to the north-west. As a result, any existing separation or distinction between settlement and countryside would no longer occur: the proposal would serve only to reinforce the ribbon form of development extending immediately out from, and beyond, the settlement boundary of Rothes. This resultant build-up would be contrary not just to policy E9 but also Policy H7 as it would detract from the existing rural character of the area.

Policies H7 and IMP1

Policy H7 contains the location/siting and design criteria for assessing the acceptability of applications for new houses in the open countryside. In terms of siting, this policy requires proposals not to detract from the character or setting of existing buildings, or their surrounding area when added to an existing grouping, or create inappropriate ribbon development. Proposals should also reflect the existing traditional pattern of settlement in the locality, be sensitively integrated and not be obtrusive in the landscape, and not contribute to a build-up of development that detracts from the rural character of the area. The development plan also notes that 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. Policy H7 also requires that at least 50% of the boundaries are long established and capable of distinguishing the site from the surrounding landscape. Thereafter, the policy requires any development to be acceptable in design terms.

With specific reference to the issue of build-up, the Council's Supplementary Planning Guidance on Housing in the Countryside (SPG) advises that "*A proposal that contributes to a build-up of development that is considered to undermine the rural character of the locality will not be acceptable*". Guidance is also given on 'obtrusive development' wherein development located adjacent to a main route will be prominent in the landscape by virtue of its high visibility to a significant number of people and that proposals need to sensitively designed, sited and integrated with the landscape to ensure they are not obtrusive and do not irreversibly harm the rural character of the area.

Policy IMP1 seeks compatibility in terms of scale, density and character, requiring new development to integrate into the surrounding landscape and be sensitively sited, designed and serviced appropriate to the amenity and character of the area.

In this case, as "in principle" permission is sought, no detailed design information is included. Based upon other applications of a similar nature, design details would normally be reserved for further consideration in any subsequent application.

In relation to the location/siting requirements, the site is not within an area considered to be experiencing significant growth but it would be located alongside three other new build developments to the north west and as it immediately abuts the settlement boundary of Rothes, it would be contrary to policy E9 (see above).

The site has established boundaries (on all sides) and uses on-site woodland planting, to be supplemented by additional semi mature planting located along the south and west boundary of the site and together with the sloping landform, the site will be afforded a degree of backdrop and enclosure. Based on the site layout drawing, the house will be sited approximately 1.76m below the level of the A941 road: when compared with application 16/00263/APP the house as now proposed in this latest application is not only now set at a higher level within the site but it is also closer to the road. Although it will be afforded an element of soft landscape screening by the proposed supplementary semi-mature planting, the siting arrangements for this latest proposal for a new build house suggest that the proposed house (even if now smaller in size and scale) may make for the house to become more visible from the A941 and thereby have the potential to be more overtly prominent than before. (In each of the previous applications 16/00263/APP and 09/00545/OUT the proposed house would be at a lower finished level, thus making for it to be less likely to be overtly prominent from the road).

Furthermore and as noted above, this proposal will result in a new build dwelling. When considered in conjunction with other adjoining new build plots as identified, it will result in an additional dwelling in this location leading to the further additional build-up of property adjacent to the A941 road on the outskirts of Rothes. This build-up does not necessarily reflect the traditional settlement pattern of the surrounding rural area and the development will extend (and exaggerate) the existing ribbon form of development already accessed off the layby off the A941. In this regard, the location of the proposal and it's resultant build up and expansion of ribbon development would detract from the rural character of the surrounding area. The proposal would not therefore be sensitively sited and it would be unacceptable and contrary to policy H7 and IMP1.

Without prejudice and whilst the proposal may be able to satisfy other policy requirements, for example in relation to boundary treatment, landscaping, design requirements for rural housing and servicing (access and drainage (see below)), these aspects do not over-ride the main policy objection to the proposal in terms of it's inappropriate siting/location.

Water and Drainage (EP5 and EP10)

Scottish Water was consulted although at the time of this assessment, no response has been received. Consideration of available capacity within the network and the proposed/required connection arrangements to the public water supply will require to be subject to separate liaison between the applicant and Scottish Water direct.

The acceptability of the proposed arrangements for on-site disposal of foul and surface water drainage, to include a private septic tank with soakaway and separate surface water soakaway will require to be determined as part of any Building Standards application but generally, and in principle, the proposed arrangements are likely to satisfy the requirements of Policies EP10 and EP5.

Access and Parking (T2 and T2)

The Transportation Service has raised no objection to the proposal subject to conditions including matters about ensuring that the flow of water across the site from the A941 remains unimpeded and that there is unhindered access to maintain the existing drainage assets located within the site as well as other specific requirements relating to the height of any boundary treatment and provision for on-site parking, etc. Based on these requirements, the proposal would satisfy the provisions of Policies T2 and T5.

Developer Obligations (IMP3)

An assessment has been carried out in relation to Policy IMP3 Developer Obligations and associated

Supplementary Guidance on Developer Obligations as adopted on 14 October 2016. The assessment identified that developer obligations are required towards the Council's demand responsive transport service (to mitigate the impact in terms of increased usage in this service as the development is located within a rural area with no access to bus services) and the reconfiguration of existing health centre. The agent has confirmed acceptance of the identified obligations adding that this would be settled up-front before the issue of any planning consent. This acceptance of the obligation does not over-ride the unacceptable nature of the proposal based upon its location/siting characteristics.

Conclusion and Recommendation

Notwithstanding the changes introduced within this application when compared with the previous application (16/00263/PPP), which may provide for a more overtly prominent house located in proximity to the A941 road, the application is considered to continue to result in an unacceptable build up and ribbon form of development located immediately outwith the settlement boundary of Rothes. As such, the proposal does not comply with the provisions of the development plan and is therefore recommended for refusal.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY				
Reference No.	Description			
16/00263/PPP	Erect dwellinghouse on Land Adjacent To Hillside House Rothes Moray			
	Decision	Refuse	Date Of Decision	25/04/16
15/01113/PPP	Erect dwellinghouse on Ground Adjacent To Hillside House Rothes Aberlour Moray			
	Decision	Withdrawn	Date Of Decision	04/08/15
09/00545/OUT	Outline to erect a new private dwellinghouse on Ground Adjacent To Hillside House Rothes Moray			
	Decision	Permitted	Date Of Decision	20/07/09
07/00993/OUT	Outline to erect a new dwellinghouse on Land Adjacent To Hillside House Rothes Moray			
	Decision	Refuse	Date Of Decision	18/08/08

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	No Premises Departure from development plan	01/12/16
PINS	No Premises Departure from development plan	01/12/16

DEVELOPER CONTRIBUTIONS (PGU)	
Status	CONT SOUGHT

DOCUMENTS, ASSESSMENTS etc. *
** Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

Supporting information submitted with application?	YES	
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Summary of main issues raised in each statement/assessment/report

Document Name:	Design Statement
Main Issues:	<p>This Statement outlines the planning history of the site, highlighting that the site was granted planning permission on 20 July 2009 with an expiry date of five years from that date. During the lifetime of that consent, the Rothes OPP2 North Street designation was introduced by the Moray Local Development Plan 2015.</p> <p>The Statement highlights how the revised proposal, as now submitted, seeks to address the reason for refusal in the previous application 16/00263/PPP. In particular, the house has been relocated further north within the application site and away from the Rothes OPP 2 designation with additional semi mature planting shown to the west of the house, to help minimise the visual impact of the dwelling from the public road; the existing bank which currently divides the site would be removed to reduce ground levels and enable the house to be set into the sloping ground of the site; an existing tree belt is shown (which lies out without the southern boundary of the site within the Rothes OPP 2 designation); the size and scale of the indicative house has been reduced when compared with the earlier proposal; and the access arrangements would be retained as previously proposed with the road culverted where it crosses a ditch.</p> <p>Thereafter, the Statement seeks to show how the proposal complies with planning policy including Policies H7, Policy E9 and IMP1. In relation to Policy H7 it is noted that the proposal was considered to previously apply with this policy and that the now proposed re-siting of the house within the plot means that the proposal now relates more to the existing linear group of houses to the north and west.</p>

S.75 AGREEMENT

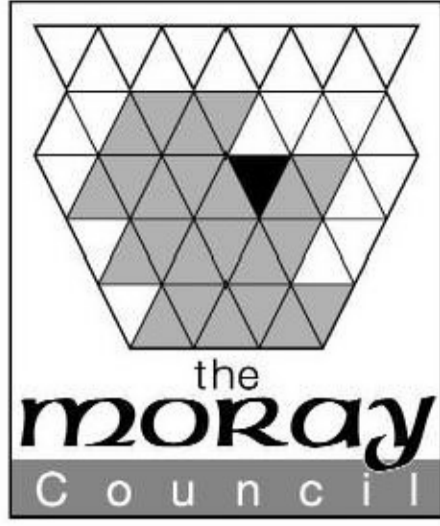
Application subject to S.75 Agreement		NO
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Summary of terms of agreement:

Location where terms or summary of terms can be inspected:

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)

Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			



**THE MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Speyside Glenlivet]
Planning Permission in Principle**

TO

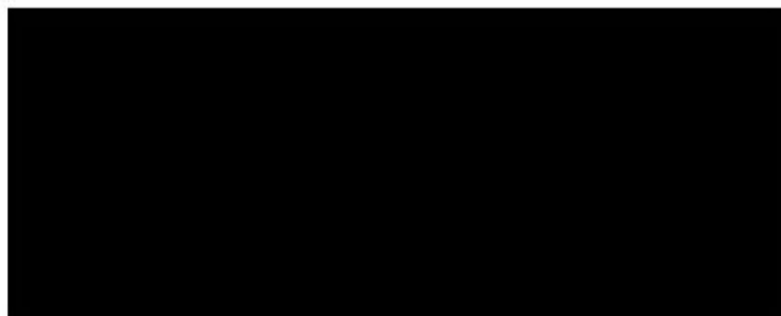


With reference to your application for planning permission in principle under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

Erect dwellinghouse on Land Adjacent To Hillside House Rothes Moray

and for the reason(s) set out in the attached schedule.

Date of Notice: **15 December 2016**



HEAD OF DEVELOPMENT SERVICES

Environmental Services Department
The Moray Council
Council Office
High Street
ELGIN
Moray
IV30 1BX

**IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW**

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposal is contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies E9, H7 and IMP1) and, as a material consideration, the associated Supplementary Planning Guidance 'Housing in the Countryside' where, because of its siting/location, it may make for a more overtly prominent house located in proximity to the A941 road (when compared with an earlier application (16/00263/PPP) on this site) and it would result in an unacceptable form of development. In being located immediately outwith the settlement boundary of Rothes, development on this site would no longer maintain the distinction between settlement and countryside, and in leading to an unwarranted expansion of Rothes the proposal, in conjunction with other existing (new build) development to the north west, would result in the further, additional, build-up and extension of the existing ribbon form of development already located off a layby off the A941. As a result, the proposal would detract from the existing rural character and appearance of the locality.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
16:25:04		Location plan
16:25:03		Proposed site plan

**NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, The Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scot/eplanningClient

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably

beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.