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## Grounds of Appeal

Site 500m South East of Wester Hillside, Mosstowie

**Issue Date:**  
26<sup>th</sup> July 2020

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## 1.0 Introduction

These grounds for review of a decision to refuse planning permission in principle for a dwellinghouse on land 500 metres south east of Wester Hillside, Mosstowie 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 the 5<sup>th</sup> of May 2020.

This appeal statement responds to the reasons for the refusal 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).

## 2.0 The Proposal

The proposal seeks planning permission in principle for a single dwelling served by the public water supply and private drainage (septic tank/soakaway and SUDS). Access will be from the Unclassified Road some 420 metres to the north.

The extent of information required to support applications for planning permission in principle is minimal however, we would note that appropriately worded conditions can be imposed which clearly define design criteria and that the scale of the proposals can be controlled by the Council through the assessment of a Full or Matters Specified in Conditions application.

## 3.0 Reasons for Refusal

The application under reference 20/00195/PPP was refused under the Council's Scheme of Delegation by the case officer on the 5<sup>th</sup> of May 2020. The reasons for refusal state that;

*The proposal is contrary to policies H7 and IMP1 of the Moray Local Plan 2015, the Housing in the Countryside Supplementary Guidance and the Guidance Note on Cumulative Build Up of New Houses in the Countryside for the following reasons:*

- 1) *The proposal will further exacerbate already identified sequential visual effects of cumulative build up experienced when travelling along the minor roads in this location.*
- 2) *A new house in this location will contribute to further eroding the rural character of the area by adding to the prevalence of new housing and undermining the traditional settlement pattern.*
- 3) *The impact of new access roads, visibility splays and bin storage associated with new development will also further diminish the rural character of this area.*

As part of this appeal, we wish to highlight inconsistency in the application of policy and guidance. The subjects of these grounds of review were assessed at the same time as another application for a house, under reference 20/00193/PPP, which was approved on the 6<sup>th</sup> of May 2020. In coming to this decision, the appointed officer sets out the following justification:-

*Mosstowie is identified as a cumulative build up hotspot in the Guidance Note on the Landscape and Visual Impacts of Cumulative Build Up of Houses in the Countryside. Despite the site not being located within Area A, B or C, the guidance makes clear that the hotspot area boundaries are indicative and do not represent the extent of cumulative build up but instead provide a visual aid to identify areas where undesirable build-up is prevalent. The location of the site is on the periphery of an identified hot spot area and it is important to note*

*the guidance is a snap shot in time and any assessment must also be informed by conditions presenting themselves on site and within the surrounding area.*

*The guidance note makes reference to there being limited scope for a small number of compact 1.5 storey buildings within this area. Furthermore it is stated that new development should only be consented in less open areas where existing trees/woodlands and the rolling land provide a degree of containment to avoid contributing to existing build up issues. The proposed house plot was advertised as departure from policy however on visiting the site it was deemed that the proposal is sensitively located in that it benefits from being enclosed on all sides by existing woodland. This helps mitigate any landscape and visual impact and restricts longer views of the site from the existing local road network. On this basis the proposal is not considered to constitute an inappropriately located site which contributes to build-up of development nor does it have the effect of changing the rural character of the area.*

The proposal at hand benefits from all of the attributes referred to by the appointed officer in making a positive decision on 20/00193/PPP and in the absence of any other matter that would lead to the refusal of this application, it is abundantly clear that any reasonable interpretation of planning policy/ guidance results in a recommendation of approval of this application. The following sections set out the appellant's case in relation to each of the reasons for refusal.

## 4.0 Grounds of Appeal

### **Refusal Reason 1 – sequential visual effects and cumulative build up when travelling along minor roads**

This reason for refusal focuses on the visual impact of this proposal and other existing houses in the area, as experienced by road users on the nearby minor roads. We would strongly contend however that the visual impact of the proposal, by virtue of the surrounding undulating landform and woodland, would be largely confined to a short section of minor road 400m to the north.

In considering the acceptability of any visual impact, it should be noted that the proposed site would be set over 400 metres to the south of the road, have a substantial backdrop of landform and trees and would be set in an agricultural scene that is attractive but not identified as being of any particular landscape value. When these factors and landscape features are taken into account, it is considered that the landscape has ample capacity to absorb this modest development proposal and that the level of visual impact would be acceptable.

In our view, there is no reasonable assessment of visual impact in this case that would conclude the proposals would have such an overbearing visual impact on the experience of road users from the infrequently used minor road to the north, such as to warrant refusal of the application.

### **Refusal Reason 2 – erosion of rural character by adding to the prevalence of new housing and undermining the traditional settlement pattern**

There is a clear commitment in National Planning Policy and Guidance and the Moray Local Development Plan to the principle of well sited and designed new housing in the countryside. 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 in an existing woodland clearing set in this 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. Once built, it will not be possible to view this modest structure on the skyline from the surrounding countryside, and the house will not be built on artificially elevated ground (conditions relating to finished floor levels can be imposed to ensure control is retained over this matter).

In the proposed position, there is little or no impact on the character or setting of existing properties nor will it give rise to detriment upon neighbouring amenity (privacy, prejudice to sunlight/ daylight etc). On the basis of the above, it cannot reasonably be concluded that the proposed development detracts from the character or setting of existing buildings or the surrounding area.

Overall it is considered that the proposal is exemplary in this regard and therefore 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.

### **Refusal Reason 3 – impact of new access roads visibility splays and bin storage**

The site is served by an existing access and although we understand it will need to be upgraded, it is clearly already a feature in the landscape. It should also be noted that this access track could be upgraded without the express consent of the Local Authority.

However, sections 37 and 41 of the Town and Country Planning (Scotland) Act 1997 give the planning authority great scope to impose conditions. In this case, appropriately worded conditions could be imposed to ensure control is retained over the surfacing material of this access track, how the visibility splays are achieved and minimising the impact of bin storage with a high quality solution at the roadside.

In the circumstances, we consider the view taken by the appointed officer on these matters to an unsustainable position to maintain.

## **5.0 Moray Local Development Plan 2020**

The preceding paragraphs relate specifically to the Officer's assessment of the proposals in relation to the Moray Local Development Plan 2015. We understand Members will also be minded to assess the proposals against the requirements of policy DP4 Rural Housing in the Moray Local Development Plan 2020. In this policy context, we would set out the following:-

### **Siting Criteria**

- The proposed development would benefit from substantial enclosure, screening and backdrop made up of existing mature woodland in line with policy requirements (Reporter's recommendations);
- The addition of this new house would not result in ribbon development, contribute to an unacceptable build-up of housing nor would it detrimentally alter the rural character of the area due to its prominence or roadside location;
- The proposal would not be on artificially elevated ground, it would not require cut and fill and the clear felling of woodland would not be required to accommodate it.
- The site already benefits from an established woodland setting and the proposals will include substantial planting, meeting and exceeding policy requirements.

The design criteria set out in this policy would be addressed in any subsequent detailed planning application. As can be seen above and in the preceding paragraphs, there is an overwhelmingly positive case for the development whichever development plan policies are applied.

## 6.0 Conclusion

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. 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 of new dwellings.

These Grounds of Appeal and the submitted plans clearly show that the reasons for refusal do not sit comfortably with the criteria set out in policy H7, including all its supplementary guidance. During the course of the application, the proposal has been shown to have been acceptable in relation to other relevant Local Development Plan policies and guidance and there are no outstanding objections from consultees.

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.