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Grounds of Appeal

Site at Convalley, Dufftown, Moray

Issue Date:
31st July 2020

CONTENTS

1.0. Introduction

2.0. The Proposal

3.0. Reason for Refusal

4.0. Grounds of Appeal

5.0. Moray Local Development Plan 2020

6.0. Conclusion

1.0 Introduction

These grounds for review of a decision to refuse planning permission for a dwellinghouse at Convalley, Dufftown 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 6th of May 2020.

In this context, the appeal statement responds to the reasons for the refusal and addresses 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 for a single dwelling served by a private water supply and private drainage (septic tank/soakaway and SUDS). Access will be from an existing track which extends from the B9009 some 200 metres to the north.

The proposed 2 bedroom dwelling is of modest single storey construction, in a rectangular shaped plan form with 45 degree pitched roof and traditional gables. External finishes include natural slate to the roof and a combination of white K rend and locally sourced larch cladding to the walls.

3.0 Reasons for Refusal

The application under reference 20/00311/APP was refused under the Council's Scheme of Delegation by the case officer on the 6th of May 2020. The reasons for refusal state that;

The proposed development is contrary to Policy IMP 1: Developer Requirements, Policy H7; New Housing in the Open Countryside and Policy E7: Areas of Great Landscape Value (AGLV) and Impacts upon the Wider Landscape of the adopted Moray Local Development Plan 2015 and, as a material consideration, associated Supplementary Guidance on Housing in the Countryside and Guidance Note on the Landscape and Visual Impacts of Cumulative Build-Up of Houses in the Countryside, for the following reasons:

- (a) It does not reflect the traditional pattern of settlement in the locality and will be viewed as part of a grouping together with adjacent constructed and consented houses at Convalleys, detracting from the character of the surrounding area*
- (b) It will contribute to a build- up of development where the number of houses will have the effect of changing the rural character of the area*
- (c) It will contribute to a sequential visual effect of cumulative build-up of new housing experienced when travelling along roads in the vicinity of the site in terms of its siting particularly in relation to existing and consented houses at Convalleys and the designated rural grouping at Lettoch*
- (d) It will have a significant adverse effect upon an Area of Great Landscape Value and the landscape character of the area as a result of this siting and build-up of development.*

There does not appear to be any reasonable justification in planning policy terms for the refusal of this application. The appellant does not consider this application to have been assessed on its own individual merits in light of the prevailing circumstances surrounding the site and respectfully contends that unfortunately, the case officer did not interpret relevant planning policy and guidance correctly.

4.0 Grounds of Appeal

Refusal Reason 1 – It does not reflect the traditional pattern of settlement in the locality and will be viewed as part of a grouping together with adjacent constructed and consented houses at Convalleys, detracting from the character of the surrounding area

This is a contradiction in terms. One of the main characteristics in this part of the Moray countryside is small groups of houses and buildings dispersed throughout the rural area. The Officer's assertion is that refusal is recommended on the basis that the site forms part of a group. In response, we would contend that the addition of a dwelling to an existing, dispersed group of houses would accurately reflect the traditional pattern of settlement in this area.

The test in policy is whether a new house can be accommodated without any undue detrimental impact upon the rural character of the area. In our assessment, it can. The subject site shares a close relationship with "Brae Conval" and although they are in relative close proximity to Convalleys Farmhouse etc and Lettoch Brae, a combination of woodland, landform and the public road provide a natural break to development and separate the site from the surrounding area so they are not, and will not (if approved), be read together, even in long distance views from the south.

In the circumstances, it is clear that the addition of a modest, sensitively sited development in the manner proposed would not have a significant detrimental impact upon the character or setting of existing buildings or the surrounding area. The proposals would respect and reflect the prevailing dispersed settlement pattern, made up of small groups of houses and buildings, whilst maintaining adequate separation so as not to detract from the character of the surrounding area or give rise to any undue impact in terms of neighbouring amenity (privacy, prejudice to sunlight/ daylight etc). It should be noted that no objections were received from neighbouring residents in relation to the proposals.

Further, the implementation of a long terms landscaping scheme made up of native species trees will ensure that this separation is reinforced and that the proposed development integrates quickly and successfully into its surrounds. This aspect of the development can be transposed into an appropriately worded condition if Member's were minded to do so.

Refusal Reason 2 – It will contribute to a build- up of development where the number of houses will have the effect of changing the rural character of the area

The subject site does not form part of a "hotspot" as defined by the recently published *Guidance Note on Landscape and Visual Impact of Cumulative Build-up of Houses in the Countryside*. It should also be noted that the subject site is a significant enough distance away from the nearest hotspots at Archiestown and Craigellachie to ensure the proposed development would not contribute to the build-up of development in the vicinity of these "hotspots".

There remains a clear commitment in National Planning Policy and Guidance and in the Moray Local Development Plan to the principle of well sited and designed new housing in the countryside. The introduction of a dwelling into an area of ground surrounded by woodland, with an existing access, set in this wider scattering of houses and agricultural buildings can be seen to reflect the established settlement pattern and respect the rural character of the area.

In terms of the various other tests in policy, 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).

On the basis of the above, it cannot reasonably be concluded that the introduction of a single dwelling in the manner proposed will change the rural character of the area. Overall it is considered that the proposal is an example of high quality siting, completely in accordance with the rural character of the area and therefore meets the requirements of relevant Policy and 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 – It will contribute to a sequential visual effect of cumulative build-up of new housing experienced when travelling along roads in the vicinity of the site in terms of its siting particularly in relation to existing and consented houses at Convalleys and the designated rural grouping at Lettoch

In our view, there is no reasonable assessment of visual impact in this case that would conclude the introduction of a single dwellinghouse in this location would have an overbearing visual impact on the experience of road users travelling in the vicinity of the site, such as to warrant refusal of the application.

Any views of this site from the surrounding roads would be fleeting and/ or at such a distance that they would be significantly diminished. In the circumstances, we consider the view taken by the appointed officer on this matter to be an unsustainable position to maintain and certainly not a suitable reason to use as justification for the refusal of a planning application in these circumstances.

During the course of the application, we did provide viewpoints which demonstrate the impact of the development from key views but we would also respectfully suggest Member's visit the area and experience the negligible visual impact the proposed dwelling would have on the experience of road users for themselves.

Refusal Reason 4 – It will have a significant adverse effect upon an Area of Great Landscape Value and the landscape character of the area as a result of this siting and build-up of development.

Unfortunately, this reason does not correlate very well with the test set out in policy. Policy E7 Areas of Great Landscape Value states that development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- (a) They incorporate the highest standards of siting and design for rural areas;
- (b) They will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study;
- (c) They are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

Although we do not consider the proposals to give rise to a significant effect upon an Area of Great Landscape Value, we can affirm that the highest standards of siting and design have been incorporated into the proposed development i.e. the scale of the development is compatible with the site and surrounding structures. PAN 72 recognises that there is a sturdy quality to much of the scale and shape of Scotland's domestic rural architecture which is derived largely from the simplicity of the form and proportion of buildings as well as in the arrangement of windows and doors.

In this case, through its rectangular shaped plan form and pitched roof design, the proposal successfully re-interprets traditional Scottish architecture in a modern context. The proposed design includes features such as a 45 degree roof pitch, suitably proportioned gable ends with locally sourced timber external cladding and natural slate to the roof. In this context, the proposed design meets and exceeds the requirements set out in policy.

In terms of the SNH National Landscape Character Assessment (the Moray and Nairn Landscape Character Assessment was superseded in 2019), the site forms part of the “Upland Valleys – Moray and Nairn” landscape character type (type 294). The key characteristics of this landscape character type consist of narrow, incised glens with winding sinuous river channels and an undulating valley floor.

The land use is described as mainly agriculture, predominantly for grazing but with improved pasture and a dispersed settlement of traditional farmsteads and houses which are well integrated into the lower valley landscapes.

Overall, the guidance identifies that housing is most successfully located throughout the foothills and strath floor edges, enclosed by stands of mixed deciduous woodland. The proposal at hand is in full accordance with the guidance in these regards.

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 and backdrop made up of woodland, the public road and landform in line with policy requirements;
- 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 include substantial planting, meeting and exceeding policy requirements.

Design Criteria

- The house would be less than 6.75m high;
- The form of the house is of an appropriate scale and massing and is composed from simple well-proportioned symmetrical elements, avoiding any element of sub-urban architecture;
- No artificial decorative stone is proposed. The house would be finished in a combination of natural slate to the roof with white K-rend and larch to the walls.
- The proposed roof would have a pitch of 45 degrees.
- Fenestration is provided with a strong vertical emphasis;
- The property would be bounded by native species tree planting;
- The property would be served by existing, safe and sensitive access arrangements;
- The applicant would not have any issue with the removal of permitted rights to ensure Members are comfortable appropriate boundaries are safeguarded and to limit the curtilage associated with the house.

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 policies for testing the acceptability of the site as a suitable location for a house in the countryside are Policy H7 (as per the reasons for refusal) and new policy DP4 which both contain (similar) 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 either of these policies, including all relevant 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.