

**Notice of Review of Planning Application 20/00647/PPP
Statement of Reasons for Seeking Review**

**Erection of dwellinghouse on Plot 2, Bowie Croft,
Grange Crossroads, Keith**

Mr A Anderson

October 2020



Image capture: Aug 2011 © 2020 Google



Arthur Stone Planning
& Architectural Design



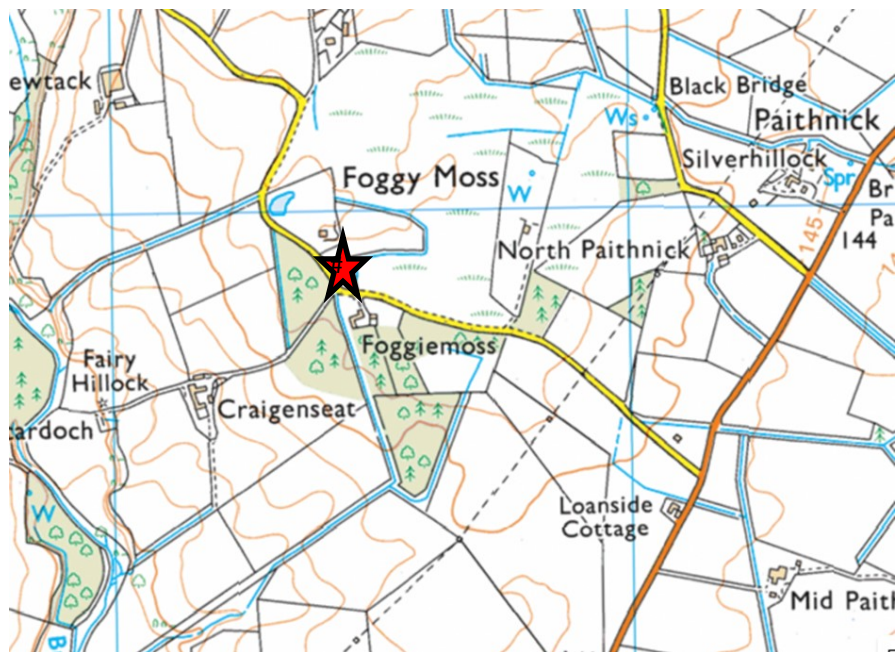
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Statement of Reasons for Seeking Review

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1.0 Introduction

1.1 The applicant, Mr Anderson, submitted a planning application in principle (20/00647/PPP) in May 2020 for the erection of a dwellinghouse on land at Bowie Croft, Grange Crossroads, Keith.

1.2 The application was refused under delegated powers by the Council's appointed officer on 10th September 2020.

1.3 This statement provides a response to the reasons for refusal and aims to demonstrate that it is reasonable to conclude that the proposal meets with the terms of Moray Council's land use planning policies and guidance and that the approval of the application is justified.

1.4 In support of this proposal we make the following points:

- ◆ The characteristics of this application site make it a suitable location for a single dwellinghouse, gaining support from the Moray Local Development Plan 2020.
- ◆ The site has received various planning consents in recent years for a single house, both in principle and detailed.
- ◆ The site has previously been assessed by the Council as not detracting from the character of the surrounding rural area. Notably, this assessment was made subsequent to the consents for other new houses on Foggy Moss Road.
- ◆ There will be no conflict with surrounding land uses or the residential amenity of the nearby properties.
- ◆ There will be no adverse impact on the landscape or environmental capacity of the site, with significant opportunity for biodiversity and landscape enhancements through planting of native species.
- ◆ The proposal will generate minimal traffic with no impact on road capacity or road safety.
- ◆ There are no infrastructure constraints to the development of the site, including no issues of flooding, and contributions will be made towards healthcare and affordable housing.

2.0 Site Description and Proposal

2.1 This proposal relates to an area of rough pastureland, lying adjacent to Foggy Moss Road (U26H) an unclassified single track (no through) road leading from the B9018 approx. 6km north east of Keith. The site lies within a small cluster of properties, with Bowie Croft to the north of the site and directly adjacent, across Foggy Moss Road are two houses, Tillymoss and Foggimoss.

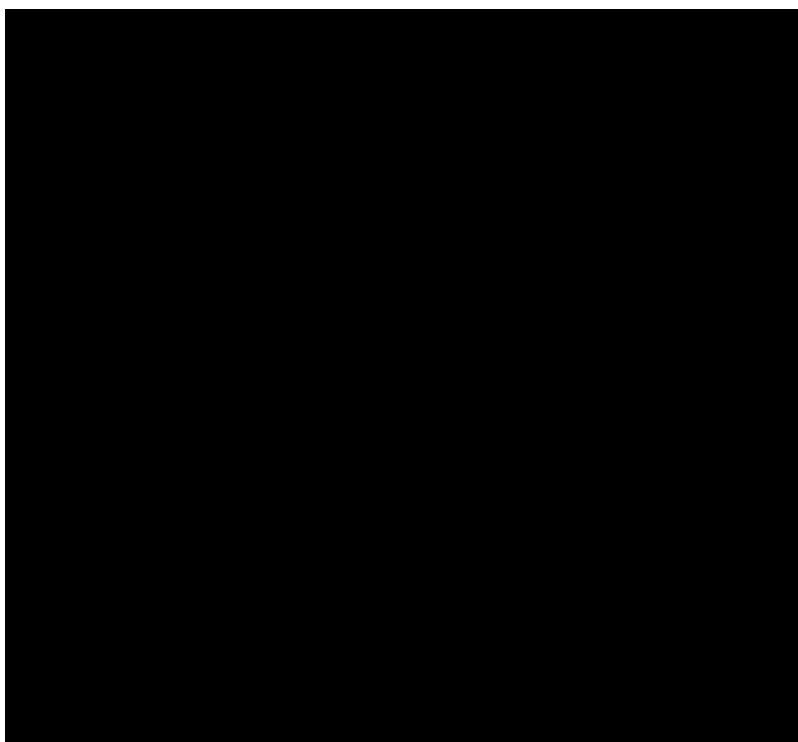
2.2 The site is a relatively flat area of land, with scrubby trees and bushes, part of an isolated area at Foggy Moss with low capability for agriculture (5.3) in contrast to the higher quality surrounding agricultural land.

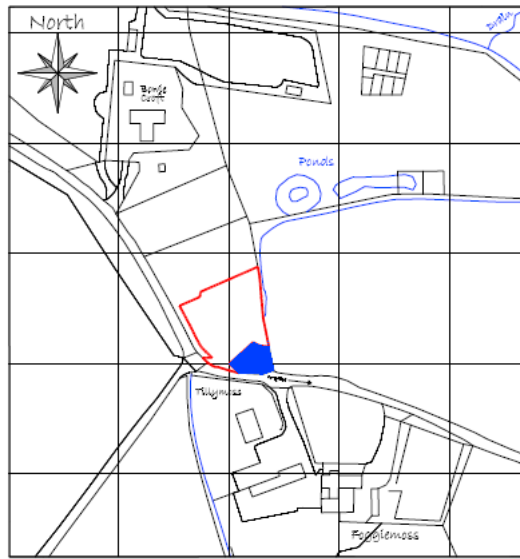
2.3 This planning application seeks permission in principle for a single dwellinghouse on the site. A similar site layout is proposed to that which had previously been approved, with the most recent consent lapsing at the end of 2017.

2.4 The applicant (landowner), was not able to develop the site within the approved timescale and now seeks renewed planning approval for a dwellinghouse on the site.

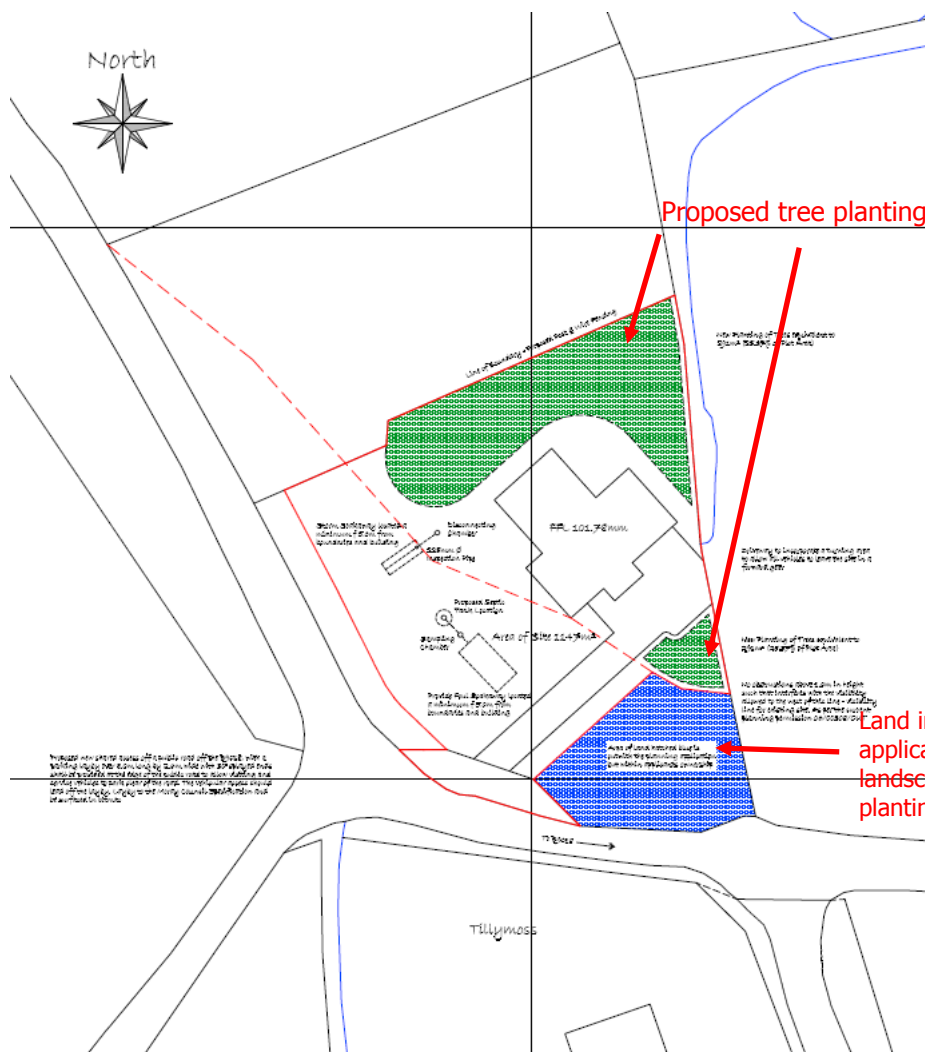
2.5 The notional plan submitted with the application illustrates a layout which we believe meets with the Council's policies. In this case the proposal is for a planning application in principle and the design approved by the lapsed consent (14/01967/APP) and illustrated in the Supporting Statement for this current application is only indicative. However, the applicant would intend to propose a traditional single storey or one-and-a-half storey property of well proportioned design in the future using materials such as natural stone, natural slate and traditional fenestration, having full regard to the Council's Design Criteria as set out in the Moray Local Development Plan.

2.6 The site will be attractively landscaped with native planting, enhancing the biodiversity and woodland cover of the Foggy Moss area, and making a positive contribution to the characteristics of this landscape.

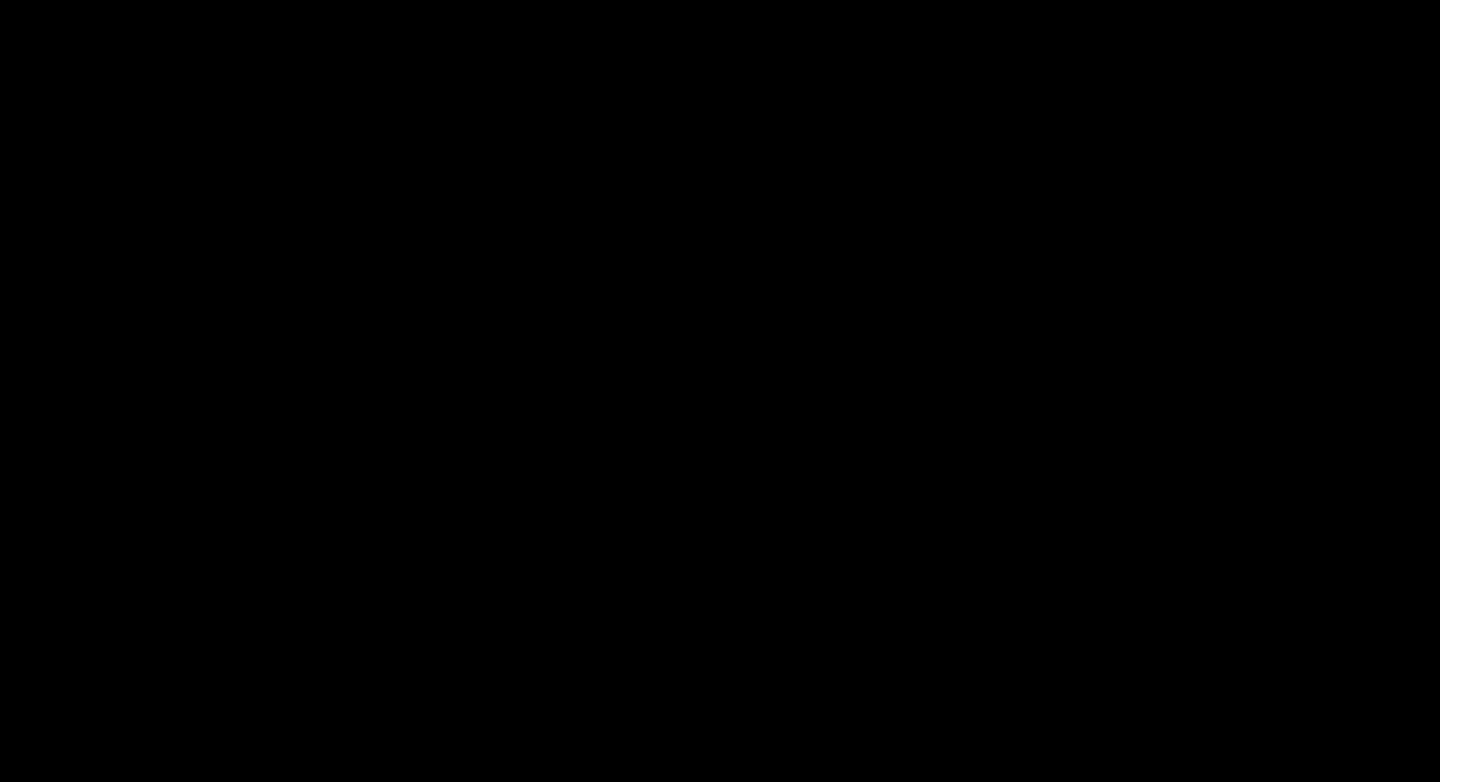
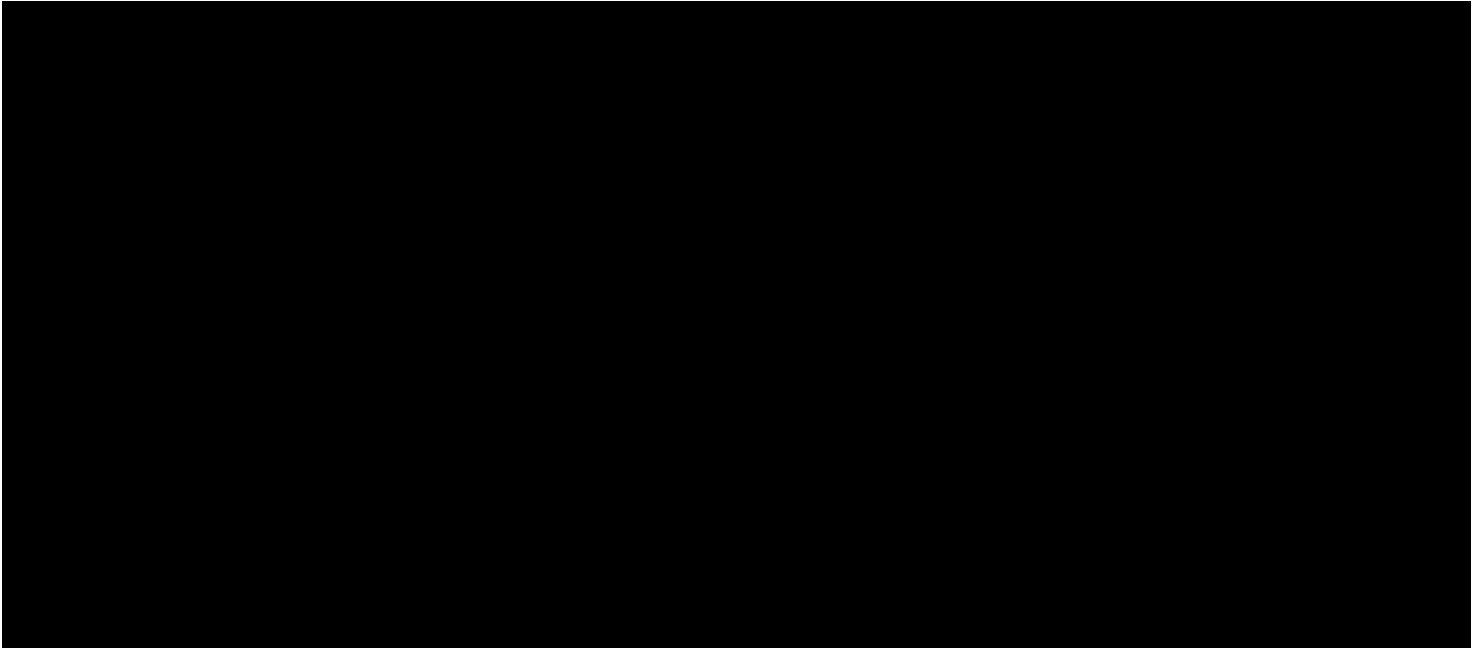




Location Plan
not to scale



INDICATIVE Site Plan not to scale



3.0 Planning History

3.1 There are several planning consents for a dwellinghouse on this site, dating back to 2006:

- Application 06/00308/OUT established the principle of residential use on this site and was approved in April of 2006.
- A further application, 11/00011/APP, in 2011 followed the expiration of the previous 2006 consent and was approved in October 2011.
- In December 2014 the current owner received further planning consent (14/01967/APP) to extend the date of the consent notice for a further 3 years. Unfortunately, the site was not developed before the consent lapsed at the end of 2017.

3.2 The applicant reasonably assumed that given the history of consents on this site and the immediate surrounding area that gaining a renewed consent would not be troublesome in this case.

4.0 Planning Considerations

4.1 In assessing the application, the Council's officer was content with the proposal in terms of layout and design, residential amenity, access and parking, water supply and drainage, developer obligations and affordable housing. Only the siting of the proposal required further consideration. The Development Plan for consideration in determining the application was the Moray Local Development Plan 2020 (MLDP 2020)

4.2 The Report of Handling includes that:

- Transportation Section has no objection to the proposal.
- A condition attached to a consent will be sufficient to address drainage details at a detailed stage, meeting with Moray Flood Risk Management's requirements.
- The applicant is agreeable to contribute towards healthcare and affordable housing, as identified by the Council.
- The proposal is potentially capable of satisfying policy criteria in relation to boundary treatment, tree planting and house design.

4.3 There were no representations to the proposal and therefore no concerns voiced regarding an additional house in this rural community or any specific concern in relation to any issue.

4.4 The Council officer's assessment of siting and impact on landscape character was the basis for the refusal of the application, despite the satisfactory assessment of other aspects of the proposal.

4.5 The Council's officer notes that the site has had consents in the past, but that the recently adopted MLDP 2020 is 'more restrictive' in relation to housing in the countryside. The characteristics **of this case** continue to provide a good landscape context for development of a dwellinghouse, in line with the up to date policy. The noted 'restrictions' of the policy do not automatically reject this proposal. We believe that assessment **of this case** in terms of the relevant policy criteria provides support for the proposal and the application can be assessed as 'well sited'. Indeed, the Report of Handling highlights this, stating that '*Proposals for single houses must be well-sited and designed to fit with the local landscape character and will be assessed on a case by case basis...*'

5.0 Response to Reasons for Refusal – Grounds for Appeal

The Reasons for Refusal state:

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 would be contrary to policies DP1 and DP4 of the Moray Local Development Plan 2020 and associated guidance on build up of housing in the countryside for the following reasons:

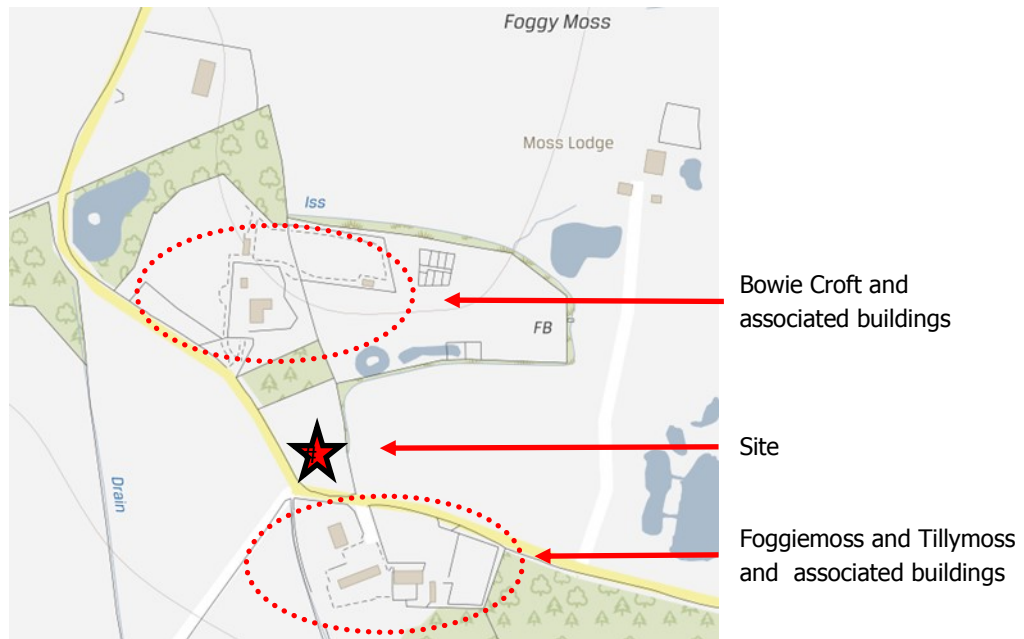
The traditional rural settlement pattern in this area is characterised by single house plots, farmsteads and small clusters of housing dispersed across the countryside, with ample separation between them. In this case the significant build-up of new housing along this short stretch of road within the last 15 years, has led to an erosion of the traditional character of the landscape in this locality. The approval of a further house plot in this locality would exacerbate this issue. Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of Local Development Plan policy.

5.1 With respect, we believe that the reasons for refusal are not adequately justified in the Council officer's assessment of the proposal and conclusion. We make the following points in support of the applicant's request for review and approval of this planning application and in response to the Reasons for Refusal.

5.2 We believe that a generalisation has been made in assessing the application, contrary to the need to consider the case 'on its own merits'. The reasons for refusal refer to '*In this case the significant build-up of new housing along this short stretch of road within the last 15 years, has led to an erosion of the traditional character of the landscape in this locality. The approval of a further house plot in this locality would exacerbate this issue.*'

5.3 The conclusion reached, that there has been an unacceptable build-up of new houses along Foggy Moss Road, does not automatically mean that this additional house would worsen the situation. The reason for refusal does not specify what aspects of the proposal '*would exacerbate this issue*' and there is no assessment in the Report of Handling as to why **this proposal** would worsen the situation. The site for this proposal does not share the same characteristics as the other new house developments and will not add to what is considered to be the unacceptable situation. This proposal is for a site which meets with the Council's siting criteria in MLDP 2020 Policy DP4: Rural Housing and lies within an existing small cluster of housing and other buildings. All, but one, of the other consents for new houses on Foggy Moss Road have been for single **isolated** houses.

5.4 Assessment of **this case** and its potential impact on the character of the area suggests that there can be an alternative and positive interpretation of the proposal, enabling it to be supported by the Council's policies and guidance.



Map illustrating location of the site within a surrounding cluster of houses and buildings.

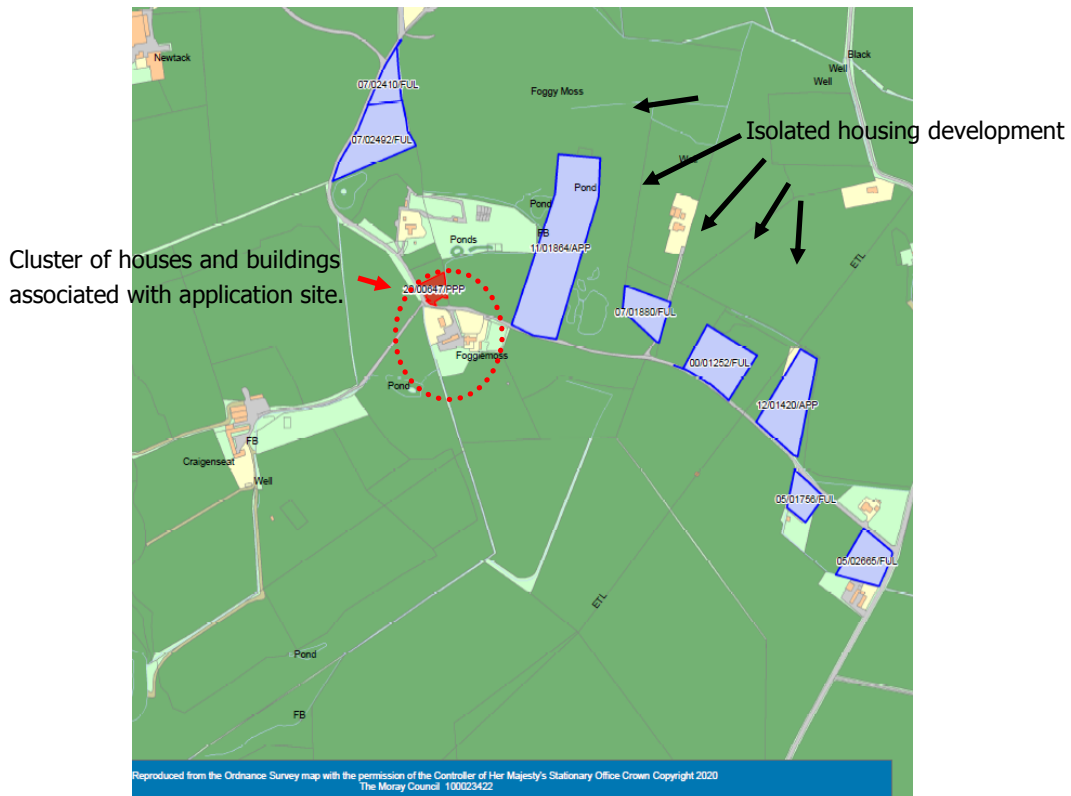
5.5 The site lies within a small cluster of houses and associated buildings formed with Foggiemoss and Tillymoss, with Bowie Croft to the north. The existing setting of the site and the potential to further enhance this through further new planting provides an appropriate location for an additional house, as indicated by an assessment in terms of the Council's siting criteria.

5.6 The Refusal concludes that, '*Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of Local Development Plan policy*'. We believe an assumption has been made that the impacts considered to arise from the other housing along Foggy Moss Road would also apply to this proposal. There is no assessment in the Report of Handling which supports this conclusion.

5.7 In the assessment and approval of the 2011 application (extended in 2014, lapsing in December 2017) for detailed permission for a house on this site, the Report of Handling included:

*'The settlement pattern of this part of Moray is typified by single and small clusters of houses dispersed throughout the rural area. The **introduction of the single proposed house into this area would not detract from this character or lead to an unacceptable build up of houses***'. (11/00011/APP) approved October 2011.

5.8 **Importantly**, at the time of this consent, all but one of the planning applications (12/01420/APP) for housing on Foggy Moss Road had been approved and would have been a consideration in the assessment of that application. (shown on the Council's map on p10)



Moray Council Plan referred to in Report of Handling illustrating planning consent for new houses over last 15 years. All the sites, with the exception of the most easterly is isolated from any other development. This application site, in red, is part of a small cluster.

Policy DP4: Rural Housing

5.9 The MLDP 2020, Policy DP4: Rural Housing develops a spatial strategy to direct new housing to the least sensitive locations. The policy includes that no new housing will be permitted in pressurised and sensitive areas. This site is **not** within either of these restricted areas. The Justification for the policy includes that *'Siting criteria have been devised to direct development to appropriate sites that have adequate enclosure, containment and backdrop to allow them to integrate sensitively into the landscape'*.

5.10 This application site is within an area where the MLDP 2020 policy DP4: Rural Housing **promotes opportunity for single houses**, subject to meeting with four criteria.

5.11 We have responded to the Council's 'siting' criteria, as set out in Policy DP4: Rural Housing, below. We believe that the proposal complies with Criteria 1, 3 and 4 and these appear to be accepted by the Council's officer in the Report of Handling, i.e.

1. *There must be existing landform, mature trees, established woodland or buildings of a sufficient scale to provide acceptable enclosure, containment and backdrop for the proposed new house (the site is suitably enclosed with a wooded backdrop).*
3. *Artificial mounding, cut and fill and/or clear felling woodland to create plots will not be permitted. (none proposed, therefore complies with criterion)*
4. *15% of the plot must be landscaped with native tree species.....to assist the development to integrate sensitively... (substantial planting proposed on the ample land available, enhancing the existing planting in the area)*

5.12 MLDP 2020 Policy DP4: Rural Housing, Criterion 2 appears to be the basis for the reason for refusal of the application:

'2. The new house must not create ribbon development, contribute to an unacceptable build-up of housing or detrimentally alter the rural character of an area due to its prominent or roadside location.'

We have responded to the Council's assessment of the proposal in terms of this criterion, below.

Create Ribbon Development

5.13 The proposal will not create ribbon development, with the site forming part of a cluster of adjacent houses and other buildings. It will not alter the rural character or experience of this area, appearing in the wider landscape as part of a cluster of existing properties.

Contribute to an unacceptable build-up of housing

5.14 The MLDP 2020 contains a Policy Guidance Note on Cumulative Build Up to assist in the assessment of the above point 2. of the Siting Criteria. The Note is introduced as being *'To help identify where build up is becoming an issue and having unacceptable landscape and visual impacts a number of build up indicators have been developed'*.

5.15 The assessment made in the Report of Handling refers to three of the six Siting Indicators, as applying *'in this case'*:

- *The number of new houses overwhelms the presence of older buildings, such that new houses are the predominant components of the landscape and the traditional settlement pattern is not easy to perceive*
- *The incidence and inter-visibility of new houses whereby these are a major characteristic of the landscape.*
- *There are sequential visual effects of cumulative build-up of new housing experienced when travelling along roads in the vicinity of the site.*

5.16 The only assessment made in the Report of Handling of the site in terms of these indicators is that *'The proposed site does not lie within any specific build up hot spot, however, whilst visiting the area and based on the number of house consents in recent years within a kilometre of the site it is clear that the build up of new housing in this area is eroding the character of the countryside in this locality'*.

5.17 The key test of policy DP4: Rural Housing is whether **this application** will **'contribute'** to any identified build up of housing which the Council officer has assessed as existing on Foggy Moss Road and that it is eroding the character of the countryside. Although there have been several consents in the area, over a number of years, it is our belief that a reasonable assessment of **this application** allows for the conclusion that this single house is acceptable in terms of Policy DP4. It will **not contribute** to the impacts referred to on Foggy Moss Road as it does not have the same characteristics as the other housing which have been considered to lead to an 'unacceptable' build-up of housing. This proposal forms part of an existing cluster of buildings, with the site providing an appropriate setting, and is not similar to the several isolated developments along Foggy Moss Road.

5.18 We refer again to para 5.7 relating to the previous consent for the site (made in the context of all but one of other consents on Foggy Moss Road) when the Council's assessment was ***'the introduction of the single proposed house into this area would not detract from this character or lead to an unacceptable build up of houses'***.

Detrimentially alter the rural character of an area due to its prominent or roadside location

5.17 The Report of Handling does not assess the application site in the context of this statement. Although it refers to the 'traditional character of the landscape' in several places the components or qualities which typify this landscape are not highlighted. It is unclear therefore how this proposal will be detrimental to the traditional character of the landscape. The only reference to the settlement characteristics of the landscape is in the reason for refusal which states that '*The traditional rural settlement pattern in this area is characterised by single house plots, farmsteads and small clusters of housing dispersed across the countryside with ample separation between them.*' Contrary to this statement being included in the reason for refusal, we contend that it provides support for this application.

5.18 Foggy Moss Road is a 2km length of unclassified (no through) single track road and it is likely that road usage will be low, other than for access to properties. The visual effect of any new housing will have an extremely limited number of receptors, likely to be no more than local residents. The site will not be viewed in the wider landscape.

5.19 We have referred to the relevant Landscape Character Assessment identifying that the application site lies within Landscape Character Type 288 Upland Farmland (SNH National Landscape Character Assessment 2019) a single area of mid elevation, coastal uplands, to the north-east of the Spey. Key characteristics in this up to date LCA review include '*Relatively well settled farmland area, with an even distribution of farms accessed by a network of rural roads*' and '*Small farmsteads often partially enclosed by isolated woodland pockets.* The description of the settlement pattern is that '*the area is reasonably well settled, with small scale, frequent farms ...often partially enclosed by woodland pockets.*' The perception of the landscape includes that '*the eye is drawn to the large scale, undulating form of the skyline to the north....*'

5.20 The application site is not designated in the MLDP 2020 as a Special Landscape Area, with the landscape unit receiving a low score for its scenic qualities, largely consisting of open farmland with limited diversity both scenically and in terms of its naturalness in the Local Landscape Designation Review 2018 process.

5.21 The nature of the site and its situation, particularly in relation to Tillymoss and Foggymoss to its south and the number of buildings associated with these properties will have the characteristics of a farm cluster and will reflect the above settlement pattern characterising the area.

5.22 The surrounding wooded areas and shrub land, including considerable recent planting in the area, will provide a strong enclosed setting and backdrop for the proposal. In addition there is considerable opportunity within the site and on land out with, but in the ownership of the applicant, to enhance the landscape setting with additional planting. The proposed notional site layout is considered to allow for further planting to be achieved. A house in this location would not adversely impact on the distinctiveness of the rural qualities of this area.

Summary of Policy DP4: Rural Housing—Siting Criteria

Overall, we contend that this proposal can be considered to meet with the Siting Criteria of Policy DP4: Rural Housing and that this proposal can complement the traditional settlement pattern of the area. Its characteristics differ from other recent housing on Foggy Moss Road and therefore it will not add to any considered build up of housing.

MLDP 2020 Policy DP1: Development Principles

Policy DP1: Development Principles applies to all development and is an overarching policy setting out detailed criteria to be met in ensuring the siting, design and servicing requirements of development is met. The Report of Handling indicates that this proposal *'fails to satisfy the siting criteria of policies DP1 and DP4'* but it is not clear on what aspect of policy DP1 it fails to meet in terms of siting criteria. We contend that the proposal meets with the 'design' criteria in policy DP1 in terms of the location of the proposal. In terms of the relevant criteria:

- a) The proposal is of appropriate scale and character in terms of the surrounding area
- b) The proposal has the potential to integrate well into the surrounding landscape through its location, design and also the safeguarding of existing trees and new planting.
- c) A detailed landscape plan will be submitted with a further application to ensure the setting of the proposal enhances the surrounding area.
- e) The proposal will not adversely impact on neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- i) and j) The detailed house design will ensure maximum solar gain and will include low and zero carbon generating technologies.



6.0 Conclusion

6.1 The applicant, Mr Anderson, seeks the support of the Local Review Body in approving this application, enabling him to support and contribute to this rural community through the development of this house.

6.2 We contend that this site is an appropriate location for a rural house and can be considered to comply with the siting criteria of the Moray Local Development Plan 2020 Policies DP1: General Principles and DP4: Rural House and the associated Guidance Note on Cumulative Build-up of housing.