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Grounds of Appeal

Site adjacent to Birkenbank, Birnie, Moray

Issue Date:
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1.0 Introduction

These grounds for review relate to the refusal of planning permission for a dwellinghouse at Longmorn, Moray and 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 7th of October 2020.

This statement responds to the reasons for refusal and addresses the proposal in relation to Development Plan Policies and relevant material planning considerations.

2.0 The Proposal

The application sought to obtain planning permission, in principle, for a single dwelling. As Member's will be aware, the extent of information required to support an in principle application is minimal however an indicative site layout is provided in the suite of plans to illustrate the maximum extent of development on this site.

In respect of detailed site matters, we can confirm the development would be served by the public water supply and private drainage (septic tank/soakaway and SUDS). Access will be from an existing track which extends from the A941.

The principle of development was established on this site under reference 11/01549/PPP, however detailed permission was not sought within the specified period nor was the application renewed so the permission lapsed and the application falls to be assessed against current planning policy.

3.0 Reasons for Refusal

The application under reference 20/00879/PPP was refused under delegated powers by the case officer on the 7th of October 2020. The reasons for refusal state that;

The proposed extension is contrary to Moray Local Development Plan 2020 for the following reasons:-

The application proposes a new dwellinghouse on a site which would result in ribbon development, by joining up two other existing plots which would be contrary to the traditional dispersed settlement pattern in this area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.

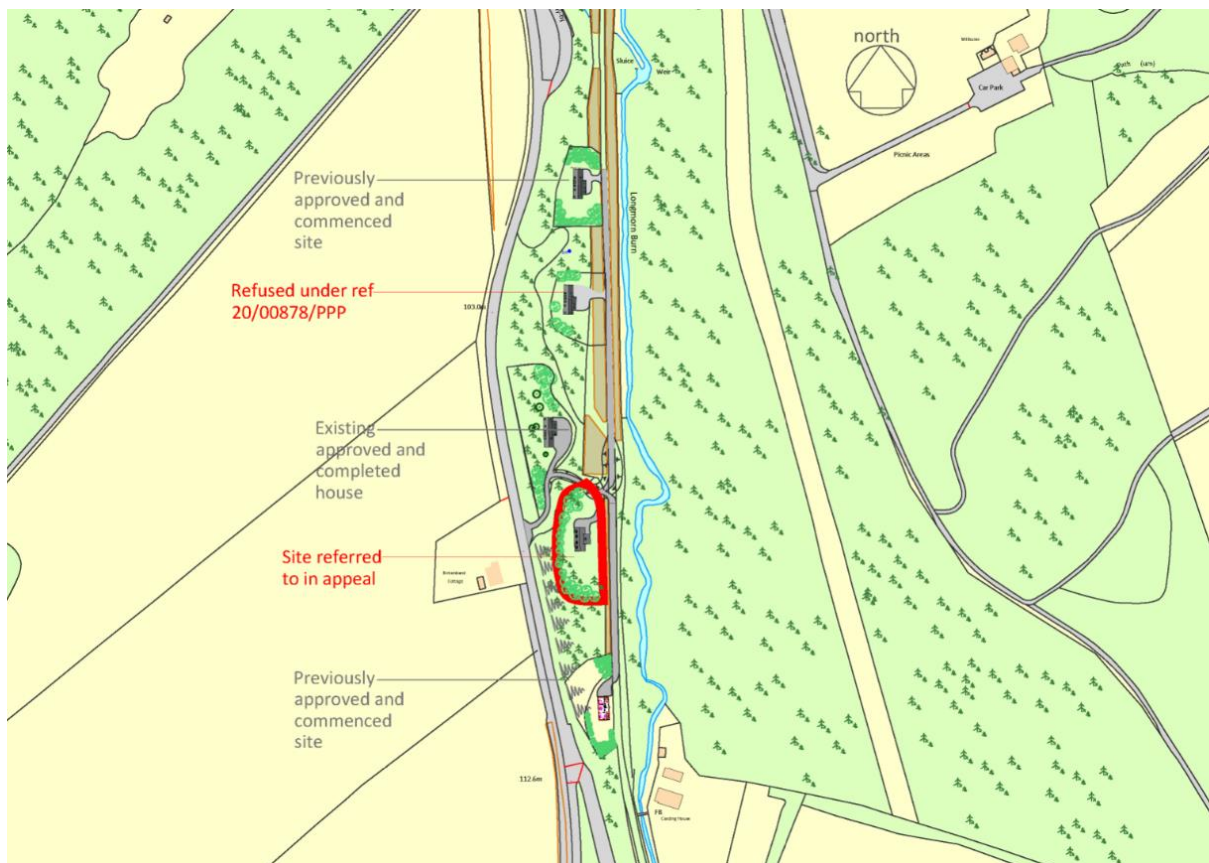
The addition of a new dwellinghouse on this site would contribute to unacceptable build-up of new housing which would detract from the rural landscape character of the area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.

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 the proposal is fully in accordance with relevant planning policy and guidance.

4.0 Grounds of Appeal

Refusal Reason 1 – Ribbon Development

As the Officer correctly alludes to in this reason for refusal, this part of the Moray countryside is made up of small groups of houses and buildings dispersed throughout the rural area. However, the Officer recommends refusal citing that the approval of this application would result in ribbon development by joining up two other existing plots.



The subject site in the context of existing houses and approved plots

The above graphic illustrates how the addition of a new house in the manner proposed would fit into a dispersed cluster of houses and approved plots within a well contained area of land. As can be seen above, the proposal does not involve joining up any of the existing plots with the subject site- there remains significant separation and screening between plots.

In respect of ribbon development i.e. an accumulation of houses along a road, the appellant would point out that the site and neighbouring houses/ plots would not be visually linked in a manner consistent with the widely recognised definition of ribbon development. The plots all benefit from substantial screening from the A941 and clear views of the sites are restricted by the mature trees which dominate the visual experience of road users.



Plot not visible in northern view of the site from the A941.



Plot not visible in southern view of the site from the A941

It is acknowledged that the term ribbon development can be applied to buildings which are positioned back from the road, staggered, set at different angles and/ or left with gaps between them. However, the above photographs illustrate that there are no clear views of the plot from the road due to a combination of level difference, distance to the road and mature planting. The proposed development would have no impact upon the experience of road users and there are no clear views of the site from any other public vantage points.

In the circumstances, where none of the characteristics or negative impacts associated with ribbon development are in evidence, it can only be concluded that the proposal at hand does not meet with the definition of unacceptable ribbon development and that it would more accurately be described as unobtrusive infill development.

Refusal Reason 2 – Build-up

In respect of the tests in current lead policy DP4, the site is not within a “Pressured and Sensitive Area” and is in full accordance with the siting criteria prescribed in part d) of that policy:-

- The subject site benefits from a substantial backdrop of woodland and landform;
- The addition of a house on this site would not result in ribbon development, contribute to an unacceptable build-up of housing or detrimentally alter the rural character of the area due to its prominent roadside location;
- Artificial mounding, cut and fill and/ or clear felling of woodland are not proposed;
- The applicant wishes to meet and exceed the planting requirements set out in policy.

On the issue of build-up specifically, following the grant of planning on this site under reference 11/01549/PPP, the Officer appointed to determine the application submitted under reference 12/00244/PPP made the following assessment on the matter:-

“In this case the site is bounded by the dismantled railway to the east with mature woodland beyond, to the south and west by a steep wooded slope and to the north by further proposed house plot with mature woodland beyond therefore the development meets the boundary enclosure aspect of policy H8. The A941 road lies to the east beyond the steep slope and woodland. A further two approved house plots lie to the south of this site (11/01548/PPP and 11/01549/PPP).

Given the site location in what is a wooded valley area the proposed house will not be prominent in the surrounding landscape, however, given the presence of the two existing house plot approvals to the south and the additional proposed plot to the north careful consideration needs to be given to the potential build-up of new development in the area and the impact that this has on the character and appearance of the wider landscape.

Although the proposed house site is in relatively close proximity to the existing house plot approvals, there will only be a very limited level of build up or visual intrusion as a result of this development, this is on the basis that the house plots will be visually separated by the existing slope and woodland between them and therefore when driving past on the A941 which is the main public viewpoint of the development the houses will not be viewed together and therefore there will not be an unacceptable build-up of development or visual intrusion as a result of this development.”

Whilst we understand there has been a change in planning policy since the nearby site gained the grant of planning permission in 2012, there has not been a material change in circumstance in the vicinity of the site from what was before the appointed officer at that time. As Member’s can see here, the issue of build-up is addressed thoroughly in that report and it concludes that the addition of a further house to the north of the subject site would not lead to an unacceptable build-up of development given the separation between properties and sites.

Although planning policy has changed, the criteria by which build-up of development is assessed by Planning Officer’s has not changed and the Officer makes a robust assessment of the site and its surrounds in this context. The introduction of new guidance does not on its own mean the matter was given insufficient weight in the decision making process beforehand. The above paragraphs demonstrate that beyond any reasonable

doubt. In the absence of any further development in this location, it is clear that the appointed Officer's conclusions in 2012 remain as valid today as they were then.

5.0 Other determining issues

The steep banks surrounding these sites are prone to landslip and the appellant has already expended considerable resource in stabilising ground to make sure the area is safe. However, there is still considerable further work to do and although the appellant is happy to do the work as planned, it should be noted by Member's that it was on the premise of 5 plots and not 3.

Given the high upfront costs associated with suitably servicing these sites, we can confirm that the quantum of development required to undertake these works requires 5 planning approvals or the viability of the project is threatened. As these works are in the wider public interest, it should be noted that if planning permission is not forthcoming for this site then it is likely that the Council will have to fund all or part of the further groundworks required to ensure the wider area is safe.

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.

We acknowledge that planning permission lapsed on this site and that it falls to be assessed in light of the new development plan. However, as has been shown in the body of this statement, the proposal can be supported under current planning policy and coupled with the fact that there has been no material change in circumstance at the site; we would respectfully contend that the principle of development in this location is acceptable.

National Planning Policy and the Moray Local Development Plan all encourage well sited and designed houses in the countryside. The proposal at hand essentially seeks to renew a historic permission which has been viewed positively before on account of its sensitivity and low environmental impact with wider benefits which are in the public interest.

As the proposal can be accepted under Development Plan policy 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.