

Grounds of Appeal

Plot 3 Minduff, Drybridge, Buckie

21/01560/APP

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1.0 Introduction

The following Statement is submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) and constitutes Grounds of Appeal against a decision to refuse planning permission for the erection of a dwelling house at Plot 3 Minduff, Drybridge, Buckie.

2.0 The Proposal

Planning permission is sought for a single dwelling house served by a private water supply and private drainage (septic tank/soakaway and SUDS to soakaway).

The site is served by an existing access track and turning head serving Plots 1-3.

The proposed 6 bedroom dwelling is of 1 3/4 storey construction (7.6m to the ridge) construction, with a T-shaped plan form similar to the existing consent, 43 degree pitched roof and traditional gables. External finishes include Slate style tiles to match Plot 2 and a combination of Buff Roughcast and Natural stone to the walls.

3.0 Reason for Refusal

“The proposed house fails to comply with policy DP4 – Rural Housing of the Moray Local Development Plan 2020 because its height at 7.7 meters exceeds the maximum height specified in policy DP4’s design criteria, requiring rural houses to be no more than 6.75 meters in height.”

Having reviewed the reason for refusal (Decision Notice in Appendix 2, page 10), the Appellants strongly contend the proposals constitute an acceptable departure from policy as the proposed ridge height will be 0.3m lower than the existing consent and 0.74m lower than that of the completed house on immediately adjacent Plot 2.

4.0 The Principle of Development

This application was refused solely on the height of the proposed dwelling house. In this respect, as detailed in the description of planning history provided in the Report of Handling report (page 4), the appointed officer confirms the site has a history of single house permissions dating back to 2009.

For the avoidance of doubt, we have also included the ‘Notification of initiation of development’ form which was submitted to and accepted by Moray Council. The previously approved plans has also been included with these Grounds of Appeal.

5.0 Main Issues

The appeal site has the benefit of an extant planning permission for a house which is **6.92** metres high, with a Finished floor level of **173.600m**.

These Grounds of Appeal are submitted in support of a proposal which seeks planning permission to erect a house with a maximum ridge height of **7.70** meters in height but with a Finished floor level **0.94m** lower than the previous consent.

6.75m is the maximum building height prescribed in policy DP4 Rural Housing to prevent houses dominating the landscape however this proposed house ridge would be 0.74m lower than the existing house built on the immediately adjacent plot 2.

As Member's will be aware, Sections 25(1)a and 37(2) of the Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are "material considerations" to justify doing otherwise. In this context, the appellants recognize the proposed dwelling is 0.95m higher than what is prescribed in the relevant policy test, however would strongly contend that the existence of planning permission in perpetuity on the appeal site to be a significant material consideration in the determination of this case, such that would warrant a positive recommendation.

In coming to the opposite view in respect of the proposals at hand, the appointed officer states the:-

"In this case the proposed design is considered to comply with all design requirements with the exception of the proposed height of the house and the use of concrete tiles on the roof. Having highlighted these issues to the applicants they have outlined that they would be happy to finish the house in natural slate, however, only if they are able to retain the proposed ridge height of the house at 7.8m high. The applicants have outlined that the proposed ridge height of 7.8m should be accepted as the proposed house will still sit 0.3m lower than the extant house consent on site and this is illustrated in site sections supplied in support of the application."

In coming to a recommendation of refusal, the appellants could understand the appointed Officer's position if the permission had expired (or could expire) but in a situation where development has commenced lawfully, and the originally approved arrangements could be built out without any further permission, it is apparent that this permission carries the same material weight in the decision making process as any other permission of the same status.

When all matters are considered, the proposed lowering of the house finished floor level on site which would result in a proposed ridge height 0.74m lower than the completed house on immediately adjacent Plot 2 should be considered to be acceptable.

5.0 Conclusion

The physical land use principle of housing on the appeal site is firmly established. There are no technical or environmental objections to the proposal and no objections were made by the general public.

The time that has elapsed since the original grant of planning permission is irrelevant because the approved arrangements can be built out without any further permission from the Planning Authority. In this context, it is as relevant now as it was the day the permission was granted.

We would submit that the existence of planning permission in perpetuity for a dwelling house that is a higher than the dwelling proposed in these Grounds of Appeal carries substantial weight in the decision making process. Although the proposals under consideration are 95cm higher than the relevant policy test, the updated proposals clearly align more closely with the Council's overall aim to reduce domestic building height in rural areas.

Further, we would point to the Officer's assessment which confirms the proposals comply with all the other design requirements set out in Policy DP4.

On the whole, the appellants contend that insufficient weight was given to the site's history of planning permission and the surrounding properties in the decision making process and Members are respectfully requested to reconsider the decision to refuse the proposed development in this context.

Planning consent for 09/01922/APP was issued 11th March 2011



Side Elevation



Front Elevation 1:100



Side Elevation

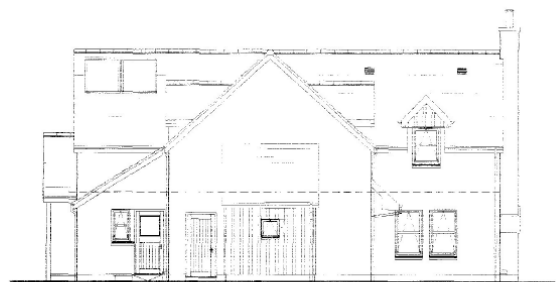


Rear Elevation

Planning application approved on 24th May 2013 to change the house design on plot 3 to the design below with a height of 7.475m:



East Elevation



South Elevation



- EXTERNAL FINISHES:-
- 1 Plain grey - Concrete Roof Tiles
 - 2 Drydash Wall Finish
 - 3 Larch Timber cladding where indicated
 - 4 UPVC Woodgrain Windows And Doors
 - 5 Timber Fascia And Soffit



West Elevation



North Elevation

Proposed design 21/01560/APP

Finished Floor Level =172.460 (0.94m lower than the live consent.)

Ridge Height = 180.060 (0.3m lower than the live consent)

