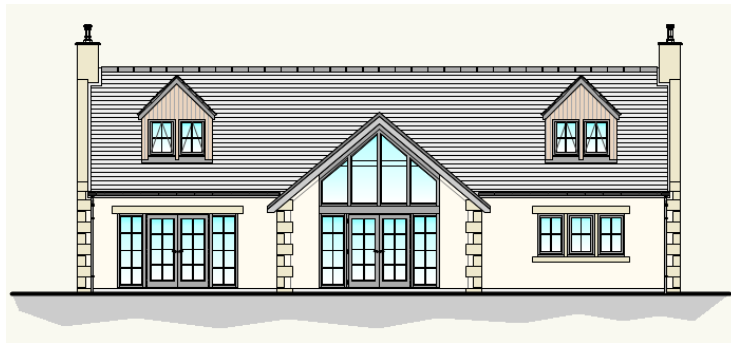


# STATEMENT OF APPEAL

New dwellinghouse on Land adjacent to Easter Covesea  
Cottage, Duffus, Moray



**Sept 2022**

**St. Brendans  
South Guildry Street  
Elgin  
Moray  
IV30 1QN**

**t. 01343 540020  
w. cmdesign.biz**

**4 Bridge Street  
Nairn  
Highland  
IV12 4EJ**

**t. 01667 300230  
w. cmdesign.biz**



planningconsultancy • architecturaldesign • projectmanagement

St. Brendans  
South Guildry Street  
Elgin  
Moray  
IV30 1QN

t. 01343 540020 f. 01343 556470  
e. office@cmdesign.biz

|                                      |  |
|--------------------------------------|--|
| <b>Our Reference:</b>                | 22022.STEWART  |
| <b>Local Authority:</b>              | Moray Council  |
| <b>Planning Application Ref:</b>     | 22/00215/APP   |
| <b>Application Proposal:</b>         | Erect Dwellinghouse on Land Adjacent to Easter Covesea Cottage, Duffus, Moray  |
| <b>Site Address:</b>                 | as above   |
| <b>Appellants:</b>                   | Mr Ronald Stewart  |
| <b>Date Application Validated:</b>   | 17 <sup>th</sup> February 2022   |
| <b>Council Decision Notice Date:</b> | 27 <sup>th</sup> June 2022   |
| <b>Reason for Refusal:1</b>          | <p><b>Reason 1</b> – “The application proposes a new dwellinghouse on a site within an identified pressurised and sensitive area where no new housing will be permitted due to the landscape and visual impacts associated with build-up and is therefore contrary to policy DP4 – Rural Housing”</p> <p><b>Reason 2</b> - “A new house on this site would detract from the rural landscape character of the wider area as the site would not contain sufficient backdrop and containment and would create ribbon development with the neighbouring plot (with extant permission for a new house) contrary to the siting criteria as set by Policy DP4 Rural Housing as well as DP1 Development Principles”</p> <p><b>Reason 3</b> – “The site is located within the Burghead to Lossiemouth SLA. The proposal for a house would not fall within any of the development categories permitted under EP3 for a rural location within the SLA and no new housing is permitted in the open countryside in this SLA therefore the proposal would be contrary to Policy EP3 – Special Landscape Areas”</p> |

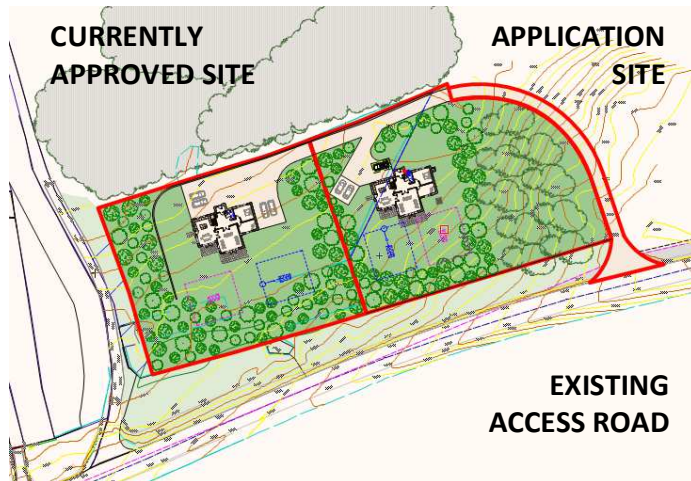
|   |   |
|---|---|
| <b>Application Drawings &amp; Supporting Documents:</b> | <p>DOC001 - CMD Drawing – 220022.STEWART.01PP(B) Site &amp; Location Plan</p> <p>DOC002 - CMD Drawing – 220022.STEWART.02PP(A) Floor plans and elevations</p> <p>DOC003 – CMD Drawing – 220022.STEWART.03PP Visibility Splay</p> <p>DOC004 – Phase II Site Investigation report ERS Ref no 1219-001</p> <p>DOC005 – Handling Report</p> <p>DOC006 – Decision Notice</p> |
| <b>Contents:</b>  | <ol style="list-style-type: none"> <li>1. Introduction – Page 3</li> <li>2. Background – Page 4</li> <li>3. Statement of Case – Page 5</li> <li>4. Reasons for Refusal – Page 6</li> <li>5. Conclusion – Page 8</li> </ol>  |

## Introduction

- 1.1. The following Statement of Case, submitted by **CM Design, Town Planning & Architectural Consultants**, has been prepared to support a Local Review Board submission relating to -

**Developing a new home on an “infill” site, adjacent to an existing approved new house**

- 1.2. This proposal seeks to infill an existing enclosed area of land next to an existing approved new-house site (Planning Ref 18/01477/APP refers) and to take further advantage of the same site and design merits that allowed the initial house proposal to be approved.
- 1.3. Several **material considerations exist** in this case that provide justification for positive consideration, under Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997
- 1.4. The house design has been deemed to acceptable and compliant in terms of Policy
- 1.5. The nature of development would be considered an **acceptable departure** in terms of the impacts of Policy DP4 and the requirements of the Pressurized and Sensitive Designation upon the wider area.
- 1.6. There is sufficient screening of the property from public vantage points
- 1.7. There is a sufficient backdrop to the site
- 1.8. The arrangement of the existing access road allows for an orthodox and acceptable “infill” without contradicting the existing settlement pattern nearby or representing a risk of ribbon development.
- 1.9. The extract below the left shows the originally approved house site and the remaining land.



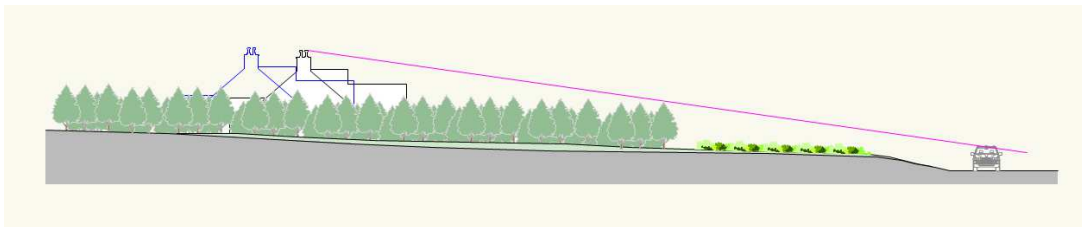
- 1.10. It should be noted that this land is **perfectly developable** under current Policies and a small house such as the one proposed could feasibly be constructed as an annexe to the existing house without any significant challenge in terms of Policy

## 2. THE SITE

- 2.1. The proposed site would be considered brownfield as it was a former sheep shearing pen which has undergone examination and approval by contaminated land specialists (See **DOC 004** – Specialist Report by ERS)
- 2.2. The site is accessed via an existing track approved previously by Moray Council Transport Department and this access has been established and awaits the final wearing course.



- 2.3. The site enjoys a significant backdrop and foreground of established high gorse and shrubbery.
- 2.4. Whilst the existing **approved house** might be seen momentarily by vehicles passing from the west, the proposed house enjoys a much higher level of screening due to its lower topography and its situation behind existing landscaping.
- 2.5. The general topography at this location slopes from north to south and overlooks the runways and associated buildings of RAF Lossiemouth. There are **no domestic properties** to the north, south or east of this site that would be impacted by this development.



- 2.6. The site can be developed without exacerbating the cumulative issues and impacts that are prevalent elsewhere and which formed the basis for current Policy for development in this particular area of Moray.

### 3. Statement of Case

- 3.1. Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires applications to be determined in accordance with the Development Plan unless **material considerations** indicate otherwise.
- 3.2. As stated earlier in this Statement there are significant **material considerations** to be aware of in this case and are repeated here for the sake of clarity.
- A house or a building of this scale or nature COULD be formed on this site as an ancillary building to the existing approved house next door. The principal of there being a building on this site sometime in the future is completely feasible under policies relating to ancillary expansion existing house
  - The site represents an orthodox and acceptable departure to Policy by virtue of its sunken location, screening and its nature of “infill”
  - The proposed house cannot be readily seen from the road or public vantage point.
  - The nature of the proposed side by side house site is in-keeping with many of the traditional sporadic house groupings that can be seen along the B9040
- 3.3. The policies that guide development at the site address, are intended to limit isolated, cumulative housing in the countryside. Given that a house could be formed on this site as an ancillary building to the existing house, it is requested that this proposal for a new site be considered to be an acceptable departure from Policy.
- 3.4. The protected nature of the Coastline of Moray, currently designated as a Special Landscape Area and a Highly Pressurized and Sensitive Area, is understood but the particular nature of the proposed site is worthy of close consideration and would not be considered to be the heart or intention of these new Policies.
- 3.5. An opportunity exists to “round off” and existing “cluster” of houses by “infilling” a secluded and screened area of land that is naturally formed by existing features, roadways and landform

## 4. Reasons for Refusal – Policy Compliance

4.1. The detail of the reason for refusal are examined as follows.

4.2. **Reason 1** - *“The application proposes a new dwellinghouse on a site within an identified pressurised and sensitive area where no new housing will be permitted due to the landscape and visual impacts associated with build-up and is therefore contrary to policy DP4 – Rural Housing”*

4.2.1. The designation of certain areas of Moray as “pressurized and sensitive” was introduced to tackle the increase in **highly visible development** of new housing in the countryside where there was already a high concentration of approved housing.

4.2.2. This proposal does not represent the manner of development that this designation was designed to limit. This development is screened, it has context.

4.2.3. This particular area of the designation is not highly developed with new housing due to the proximity of RAF Lossiemouth and the SSI nature of adjoining lands.

4.2.4. Section 25 and 37 of the Town and Country Planning (Scotland) Act requires that each case be considered on their own merit and this particular site is worthy such close attention.

4.2.5. The following extract from the MLDP 2020 demonstrates the manner of cumulative build up that the Policy and the designation was implemented to avoid.



*Figure 5 - MDLP extract showing common problem with cumulative build-up across Moray – This is NOT the application site*

4.2.6. This application does not represent this manner of development in any way

4.3. **Reason 2** - *“A new house on this site would detract from the rural character of the wider area as the site would not contain sufficient backdrop and containment and would create ribbon development with the neighbouring plot (with extant permission for a new house) contrary to the siting criteria as set by Policy DP4 Rural Housing as well as DP1 Development principles”*

- 4.3.1. This proposal is more akin to “infill development” than ribbon development as it utilises the landform left by the existing vehicular access from the B9040.
- 4.3.2. The matter of “containment” might be considered somewhat subjective as the coastal nature of this area of Moray is more commonly suited to intense gorse land rather than exposed tree-lines and, as such, the native screening should be considered to be acceptable within the meaning and intentions of this Policy
- 4.4. **Reason 3** - *“The site is located within the Burghead to Lossiemouth SLA. The proposal for a house would not fall within any of the development categories permitted under EP3 for a rural location within the SLA and no new housing is permitted in the open countryside in this SLA therefore the proposal would be contrary to Policy EP3 – Special Landscape Areas”*
- 4.4.1. Policy EP3 does NOT preclude or prohibit development within an SLA (Special Landscape Area) instead paragraph i) states – ***“..proposals will only be permitted where they do not prejudice the special qualities of the designated area..”***
- 4.4.2. Given that each application should be considered on its own merits, this development could be considered to be an acceptable departure from Policy given its location, screening, access and context.
- 4.4.3. This is not an application for an isolated house within the SLA and without context. The site takes the form of an “infill site” and within an existing cluster of housing which can be developed without any impact on the principles of the SLA
- 4.4.4. The design of the building has been accepted in terms of Policy.



- 4.4.5. The picture above demonstrates the settlement pattern in this particular area, and the scattered nature of 2 or 3 closely knit houses between Hopeman and Lossiemouth.
- 4.4.6. This proposal represents that settlement pattern perfectly and does not conflict with Policy EP3 of the needs of the SLA



## 5. Conclusion

5.1. This Statement of case has established the following:

- That **material considerations** exist that can assist in a positive consideration of this case.
- That this particular proposal **does not represent** the manner of development that current Policies on limiting rural development are targeting.
- That this site can represent an **acceptable departure** from Policy in terms of the aspirations of the SLA designation and the pressurised and sensitive designation.
- That the development represents an “**infill**” proposal rather than any measure of ribbon development. There is a cluster of houses that merit being consolidated and limited by current road access, landform and land features.
- That a house or annexe of this nature could be formed on this site under policies that allow for **ancillary buildings** to the existing house site.
- Current Policies on limiting cumulative build-up of new housing are more directed at isolated, randomly located and highly visible developments and not perhaps applicable in this case.

**5.2. The appellant respectfully requests that detail of this case be fully considered and the Appeal to approve this application be upheld.**