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## Grounds of Appeal

Rockside, 8 Jubilee terrace, Findochty, Buckie

**Issue Date:**

22<sup>nd</sup> December 2022

## Executive Summary

These grounds for review relate to the modest extension of an existing residential curtilage at Rockside, 8 Jubilee Terrace, Findochty. It is the appellants position that: -

- The site is not subject to specific protection under Policy EP5 Open Space in respect of its contribution to the overall resource.
- It is a logical extension to an existing, domestic curtilage.
- When the quantity, quality, community value, accessibility and use of this land is considered in respect of the aims and objectives of open space provision, it is clear the land has no significant functional value.
- The close relationship of the land to the host property and the sensitive design of the proposals is such that is not considered to have a significantly detrimental impact on the overall character of the conservation area, the surrounding landscape or the integrity of the settlement boundary.
- There have been no objections to the proposals from local residents.

Through the submission of these Grounds of Appeal, the appellants seek to demonstrate that insufficient weight was placed on the above in the decision-making process.

In this context, it is respectfully requested that the Local Review Body reconsider the decision to refuse planning permission.

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## 1.0 Introduction

These grounds for review of a decision to refuse planning permission for a change of use of amenity land to garden ground at Rockside, 8 Jubilee Terrace, Findochty 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 3-month period from the refusal of permission dated the 26<sup>th</sup> of September 2022.

This appeal statement responds to the updated reasons for 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 development proposal involves the change of use of a small area of grassy foreshore (depicted in red below) to garden ground and the erection of a 1m high wall around the proposed site boundary.

The proposals have been designed to respect the open appearance of the site as much as possible. To this end, the proposed boundary treatment would be a wall constructed to a height of 1 metre and finished to match the existing 1-metre-high wall which bounds the host property.

The proposed development also includes the diversion of an existing informal footpath to a more suitable point of connection into the existing path/ road network of Findochty, to the other side of the public convenience building, a short distance to the east (shown in cyan below).

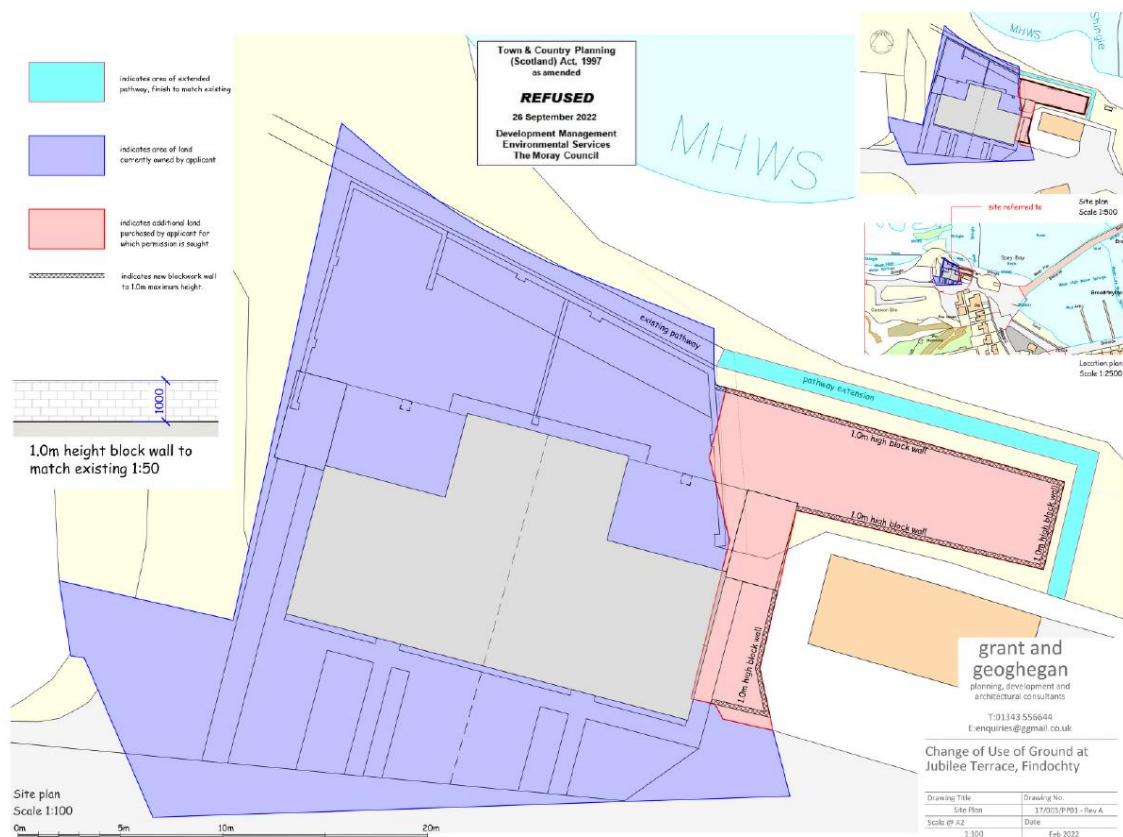


Fig: 1 - Site Layout Plan, refused by the Moray Council on the 26<sup>th</sup> of September 2022 under reference 22/00327/APP

### 3.0 Reasons for Refusal

The reasons for refusal state that: -

*'The proposal would be contrary to policies EP9, EP3, EP6 and DP1 of the Moray Local Development Plan 2020 for the following reasons:*

- 1. This proposed change of use would result in the loss of a portion of distinctive grassland, which acts as an attractive transition between the built-up area of the village and the beach beyond and also acts as a useful amenity area and as such its loss would have an adverse impact on the amenity, character and appearance of the conservation area in which it lies and the qualities of the wider Special Landscape Area.*
- 2. The proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary, where policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts on the character and amenity of the area which would result from the development, there is not considered to be any material planning considerations which would merit departing from policy.'*

### 4.0 Grounds of Appeal

The first reason for refusal describes the area as *'distinctive grassland, which acts as an attractive transition between the built-up area of the village and the beach beyond and also acts as a useful amenity area'*. On this basis, the appointed Officer concludes that *'it's loss would have an adverse impact on the amenity, character and appearance of the conservation area....and the qualities of the wider landscape area'*.

The main issue in terms of the assessment of the proposed scheme is not necessarily the appearance of the wall or the use of the land as garden ground (which is a relatively inoffensive form of development in this context), but rather the potential impact that such a proposal would have in terms of altering the use, function and appearance of the land in its current form.

An attempt has therefore been made to assess the significance of the proposed land in terms of its value as a community resource and its contribution to the visual appearance of its locality and the wider area to establish the potential impact of the proposed development on the community and the character of the area as a whole.

Members will note that the residential area in this part of Findochty is well connected to and served by a variety of formal and informal open spaces and areas in the form of public parks, playspace and sports areas, a considerable portion of which are located within a 250-metre radius of the development site. These areas are covered by an ENV4 (Sports Areas) and ENV 6 (Natural/ Semi-Natural Greenspace) designation, which are both protected in guidance contained within parent policy EP5 Open Space. In assessing the principle of development, it is important to note that the subject site and its immediate surrounds are not covered by any specific protection through this policy.

When assessing the proposed site in association with the existing network of informal and formal public open space specifically, it is apparent that the subject site is not inextricably linked to this network. The land appears isolated in this context as a result of its physical and visual disconnection with existing designated open space provision.

The disconnection of the land from designated open space diminishes its value as a useable, functional and accessible resource in terms of promoting opportunities for formal and informal recreation and physical activity as well as its contribution towards nature conservation and environmental enhancement. It should be

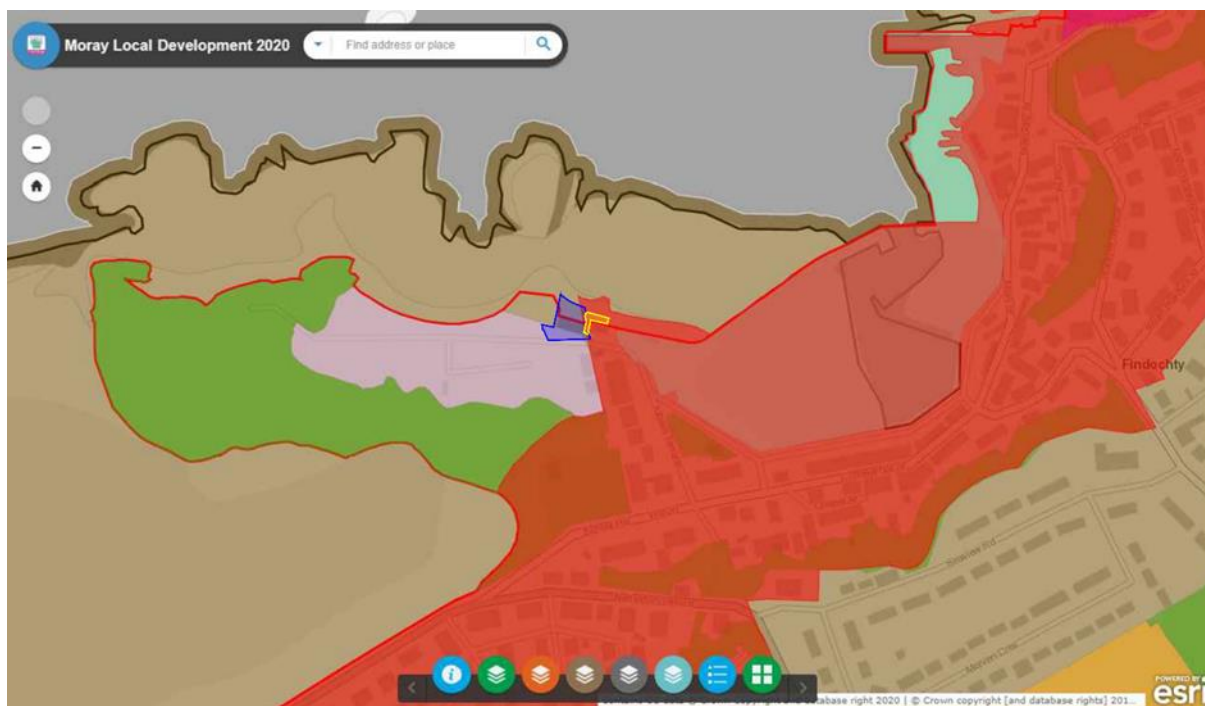
noted that the approval of this application would not affect the function of the Coastal Trail in any way nor does it preclude the use of the remaining resource in its immediate surrounds as informal open space or preclude access to nearby open space provision.

Moreover, given the significant provision of public open space within close proximity to the site and the accessibility of these areas from Jubilee Terrace and the Coastal Trail, it is questionable how much value and emphasis is placed on the proposed site as a community resource for informal purposes. With this in mind, it is reasonable to suggest that the intrinsic value of the site is mainly in the form of its visual merits and aesthetic quality.

Whilst the visual appearance is much improved since the host property was built, due in part to the appellants programme of maintenance, the contribution the land makes to the overall character and appearance of the area is questionable. Such is the location of the land and its association with the surrounding area that it is not considered fundamental to the overall character of the street or the visual/ landscape characteristics of the wider area, emphasised by the sites position at the end of a residential street, behind a public convenience, on the approach to the caravan park.

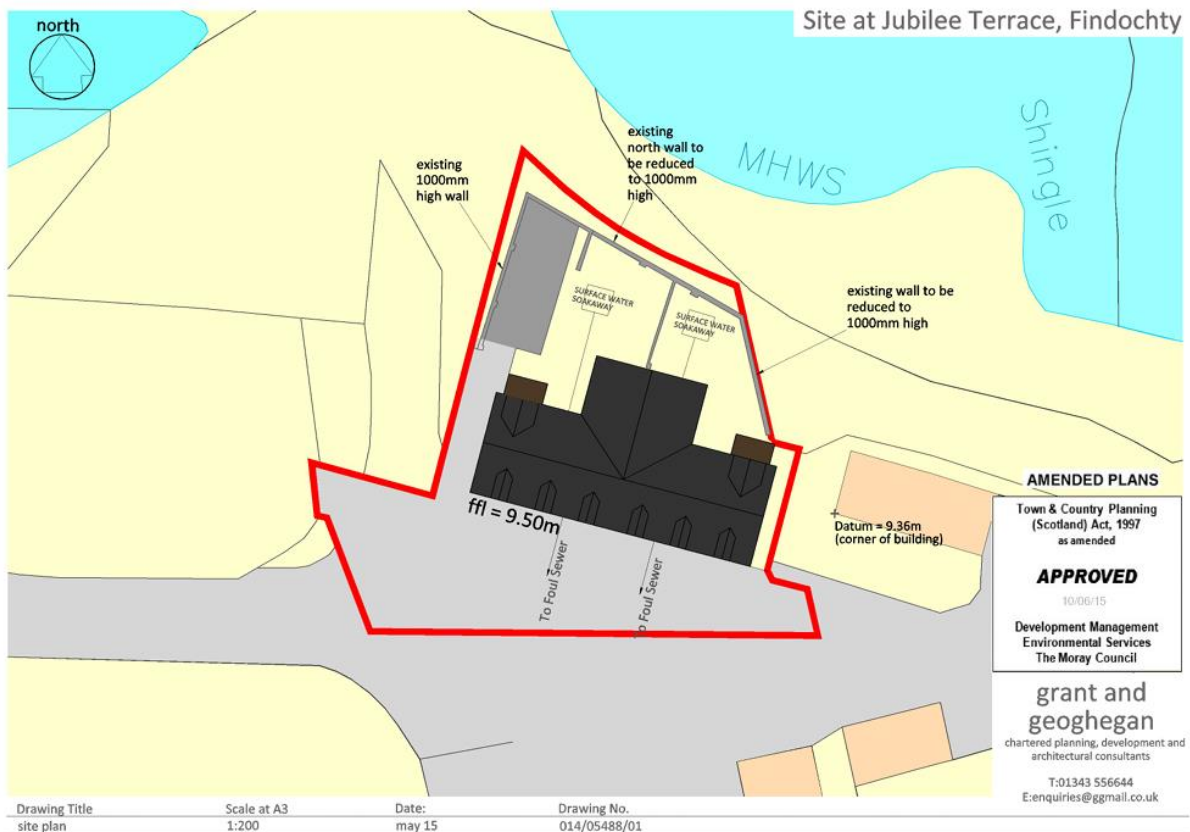
Taking into account the quantity, quality, community value, accessibility and use of existing open space it is considered that the land has no significant functional value. Furthermore, the form and relationship of the land in association with the existing street scene along Jubilee Terrace is such that is not considered to have a significantly detrimental impact on the overall character of the conservation area.

In respect of the second reason for refusal, the appointed officer correctly points out that the proposed site straddles the settlement boundary. However, the same is also true of a large portion of the curtilage of the host building, as shown in fig. 2 below.



**Fig. 2 - Appellants current curtilage (blue), appeal site (yellow), settlement boundary (solid red line), conservation area (red shade), designated green space (green) and special landscape area (brown).**

The subjects originally gained the grant of planning permission under reference 12/01286/APP for the formation of two first floor flats over the (at that time) existing lockup garages before gaining the grant of planning permission under reference 15/00697/APP for the erection of 2 semi-detached dwellings.



Site Plan approved as part of 15/00697/APP with identical boundary to the appeal subjects

The appellants propose that during the plan making process of the MLDP 2020 that the settlement boundary of Findochty was not accurately updated to reflect the extent of an existing, approved domestic curtilage. In this context, the appellants would respectfully propose to Members that the extent of the settlement is blurred in this location, a fact emphasised by a portion of the conservation area also extending out with the settlement boundary for no apparent reason. On this basis, we would contend policy EP6 should carry limited weight in the planning balance.

## 5.0 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.

In this case, when all matter are considered in the round, the appellants would contend that:-

- the proposals do not have a significant impact on open space provision in this part of Findochty, such as to warrant refusal of the planning application;
- do not significantly impact on people’s enjoyment of the Coastal Trail, and;
- due to the scale and location of the proposals, do not have a significantly detrimental impact on the special qualities of the conservation area, the special landscape area or upon the integrity of the settlement boundary.

The appellants respectfully submit that the above constitutes significant material weight in favour of the proposals, sufficient to attract a recommendation of approval. For these reasons, it is respectfully requested that the Local Review Body reconsider the decision to refuse the proposed development and grant planning permission.