

REPORT OF HANDLING

Ref No:	09/01812/PPP	Officer:	Neal MacPherson
Proposal Description/ Address	Planning Permission in Principle to erect dwellinghouse and detached garage at Site Adjacent To Upper Forgie Farm Newmill Keith Moray		
Date:	12/4/10	Typist Initials:	LH

RECOMMENDATION

Approve, without or with condition(s) listed below	
Refuse, subject to reason(s) listed below	y
Legal Agreement required e.g. S,75	
Notification to Scottish Ministers/Historic Scotland	
Hearing requirements	Departure
	Pre-determination

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Environmental Health Manager	02/11/09	No objection
Contaminated Land		Informative note only
Transportation Manager	07/04/10	Refusal or contribution/conditions
Environmental Protection Manager		No objection received
Scottish Water	29/10/09	No objection

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
IMP3: Developer Contributions	n	
Policy 1(e)	n	
Policy 2(a) & Policy 2(b)	n	
Policy 2(k)	Y	
H8: New Housing in Open Countryside	Y	Contribution towards local roads network required.
T2: Provision of Road Access	n	
T5: Parking Standards	n	
E3: TPOs and Control of Trees	n	
EP9: Contaminated Land	n	
EP10: Foul Drainage	Y	
IMP1: Development Requirements	n	

REPRESENTATIONS

Representations Received YES

Total number of representations received

Names/Addresses of parties submitting representations

Name	Address
Ian F, Margaret J And Ian A Riddel	Rosebank Aultmore By Keith Moray AB55 6QU

Summary and Assessment of main issues raised by representations

Issue: Concerns that the neighbours water supply runs through the site and would be affected and also "the land of 'Oxgate' is still in question, and an ongoing concern:

Comments (PO): Any damage carried out to a private water supply passing across the site would be a private matter to be resolved by the parties involved. Co-incidentally the potential approval of planning permission does not negate any separate legal permission required by a developer to affect a 3rd parties' water supply. It is unclear what the issue referred to at Oxgate nearby relates to, but is likely to relate to some private dispute unrelated to the planning merits of this application.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

The main planning issues are

Impact of proposed house upon locality (H8 and IMP1)

The site whilst achieving the 50% established site boundaries required by policy H8 New Housing in the Open Countryside has little in the way of backdrop to ensure the site is not overtly prominent. The field rises very gradually to the north-east offering no real backdrop to the dwelling that would be located on site. Even with the planting scheme proposed on the amended plan, this would not compensate or mitigate for the houses' appearance until the tree planting was well established in future years. Whilst additional landscaping is an aspect of the policy and would in time help mitigate against the appearance of a prominent house, there has to some backdrop for the site at the time the application is determined.

There being no land features, buildings or trees within close proximity of the site and it would feel very open and exposed when approached from the various minor public roads. On this basis, the house would also fail to comply with local plan policy IMP1 Development Requirements, as it would fail to integrate with the surrounding landscape, as the policy requires.

Access (T2, IMP1 and IMP3)

The access issues are best summarised by the below consultation response from the Transportation Section below, which were received prior to the amended plan being received showing a passing place. The Transportation response also sought a general contribution towards improving the road junction onto the B9016 further west towards Aultmore, but this was not offered up by the applicants. This may well be on account of the other planning constraints affecting the application, but as the full requirements could not be met the proposal still departs from policy T2. The Transportation Section has also offered up potential conditions that could have been attached to any positive decision, but these have not been re-iterated in the report.

The Transportation response is as follows:-

This application is for the construction of a single dwellinghouse accessed via the U41H from the B9016/C74H junction which forms part of the primary route to this plot

There is a concern that incremental increases in traffic on roads, associated with applications for single dwellinghouses in terms of both residents and visiting/servicing vehicle movements to/from additional properties, will have a detrimental impact on the local road network and junctions thereby increasing the potential for vehicle conflicts. It is therefore imperative that improvements to the road network are provided to address the impact of such development.

In line with Policy T2 of the adopted Moray Local Plan 2008, "The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians".

The necessary modifications identified in relation to this development whose primary access will be from the B9016/C74H junction are:

Improvement works at the junction of B9016/C74H
Passing place on the C74H/U41H

There is no evidence that the applicant has control over any land that will enable him to deliver part or all of these requirements.

Whilst it is possible to consider using Grampian style planning conditions for both of the above modifications the considered way forward is to recommend refusal of this application on the grounds of Policy T2.

However, there is an alternative way forward that would involve Policy IMP3 of the adopted Moray Local Plan 2008, " contributions will be sought from developers in cases where, in the council's view, a development would have a measurable adverse or negative impact on existing infrastructure, community facilities or amenity, and those contributions would have to be appropriate to reduce, eliminate or compensate for that impact."

The B9016/C74H junction 'Traffic Impact Zone' (as shown on the plan attached to the main email response) has been developed with the aim to form the basis for assessing developer contributions to improvement works from this and further development proposals which may come forward within the area, for which this would also be the primary route, and which would therefore also derive benefit from the identified improvements.

Therefore, in respect of this application the following developer contribution would be sought:

	Description	Value
1	Future improvement of the junction of the B9016/C74H.	£1250

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

HISTORY			
Reference No.	Description		
	Decision		Date Of Decision

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Banffshire Herald	Departure from development plan	19/11/09
Banffshire Herald	No Premises	19/11/09

DOCUMENTS, ASSESSMENTS etc. *		
<i>* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc</i>		
Supporting information submitted with application?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

S.75 AGREEMENT		
Application subject to S.75 Agreement		NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)

Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			