

REPORT OF HANDLING

Ref No:	08/02487/FUL	Officer:	Neal MacPherson
Proposal Description/ Address	Renovate and reuse remains of existing lime kiln to create dwellinghouse at Braehead Quarry Keith Moray AB55 5NU		
Date:	22.04.2010	Typist Initials:	JC

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
Contaminated Land	24/03/09	Refuse, see observations section.
Environmental Health Manager	06/01/09	No objection.
Transportation Manager	16/01/09	Approve subject to conditions/informatives.
Scottish Water	17/12/08	No objection.
Environmental Protection Manager	03/12/08	No objection.

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
Policy 1(e)	N	
Policy 2(a) & Policy 2(b)	N	
Policy 2(e)	N	
Policy 2(k)	N	
H8: New Housing in Open Countryside	Y	
T2: Provision of Road Access	N	
T5: Parking Standards	N	
E10: CATs	Y	
EP9: Contaminated Land	Y	
EP10: Foul Drainage	N	
IMP1: Development Requirements	Y	
Keith - CAT	N	

REPRESENTATIONS

Representations Received YES

Total number of representations received

Names/Addresses of parties submitting representations

Name	Address
Alistair Watt	Coldhome Farm Keith Moray AB55 5NX

Summary and Assessment of main issues raised by representations

Issue:

There is concern that during construction of any dwelling on part of the former industrial and landfill site, and the objector is concerned about soil disturbance polluting nearby water courses.

It was the objectors understanding that the Moray Council sold this site for agricultural and not development.

Comments (PO):

It is concerns over disturbance to potentially contaminated land without a full investigation of the implications that has partially led to the refusal.

The applicant is entitled to make a planning application on land under their ownership, although the recommendation reflects the concerns over the unsuitability of the site for the type of development applied for.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

The main planning issues are as follows

Development of house within the Keith 'Countryside Around Towns' (CAT) (E10, H8 and IMP1)

The proposal is unacceptable because it involves development located within the Keith Countryside around Towns designation (CAT), the function of which is to maintain a clear distinction between the built-up area and the countryside. The new build the proposal is contrary to policy E10 because it does not involve any of the prescribed forms of development permissible within the CAT i.e. it does not comprise the rehabilitation, conversion, replacement, limited extension or change of use of an existing building. While the current proposal seeks to integrate the remaining walls of the kiln structure into the proposed dwelling, its re-use is difficult to achieve in the spirit of the policy as the kiln was never a 'building' in the sense that it was free standing with 4 walls, and a conventional roof. The proposal still relates to a new dwelling hidden within the remaining walls of the structure, which was likely have always been recessed into this hillside. The presence of a dwelling here, however obscured would be evident, where no freestanding building has existed before. This proposal will also set the precedence for other similar sites within the Keith CAT designation where partially obscured sites might be sought on the same basis as the current proposal (all to the detriment and weakening of the policies aims).

In terms of policy H8 New Housing in the Open Countryside, the application must be assessed in this context (rather than replacement/re-use of H7) as it involves a new house behind the retaining walls of a former lime kiln. Whilst the proposed house would be neither prominent or obtrusive as H8 requires, its introduction into an area where open countryside is to be maintained (see CAT policy above) would bring it into conflict with aims of H8 also. H8 states that proposals must not detract from the character of setting of an area, so given the objectives of E10 the proposal would detract from what has been a successful CAT designation. Keith CAT has seen few if any new houses permitted within its boundary, which has ensured its visual integrity and identity have been maintained.

Contaminated land issues (EP9 and IMP1)

Given the proximity of the disused landfill nearby, and industrial history of the site, contaminated land is a significant issue for this site.

PAN 33 requires sites that are suspected of being contaminated, to undertake a contaminated land study and remediation method statement (if necessary) prior to the determination of any planning application. Such an assessment may also determine that the site is not suitable for the use applied for. In this particular case while some investigation has been done, the applicant had not demonstrated at the time of determining the application that the site was suitable or capable of accommodating the residential use applied for. On this basis, the application is contrary to local plan policy EP9 Contaminated Land, which requires appropriate investigation to ensure past pollution does not conflict with new development.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

HISTORY

Reference No.	Description		
06/02751/FUL	Erect an earth shelter dwellinghouse at The Old Lime Kiln Braehead Quarry Keith Moray AB55 5NU		
	Decision	Refuse	Date Of Decision

ADVERT

Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Banffshire Herald	Departure	12/02/09
Banffshire Herald	Departure	12/01/09

DOCUMENTS, ASSESSMENTS etc. *
** Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

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)			