

Appeal against the decision of Moray Council in respect of planning application ref 11/00009/APP

“Erection of dwelling house including access road and garage on Plot 2 Berryhillock, Keith, Moray”

Genesis Properties 2 Ltd.

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1. Introduction

These grounds for review of a decision to refuse planning consent for a house at Berryhillock, Keith, Moray are being 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 three month period from the refusal of permission dated 8th March 2011.

The subject application, reference 11/00009/APP, was submitted and formally registered on 7th January 2011, and was refused under Moray Councils Delegation scheme by the case officer on 8th March 2011. The reasons for refusal are stated, in the decision notice, as follows;

“1. The proposal is contrary to Moray Local Plan policies H8 and IMP1.

2. The proposed house, when added to the number of approved houses and existing properties in this immediate vicinity, would detrimentally change the character from that of open countryside to a small settlement where none is designated.”

A copy of the decision notice is provided in appendix A

Scottish Planning Policy (SPP) paragraph 25 advises that

“The Town and Country Planning (Scotland) Act 1997 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The interpretation of this provision was clarified in a House of Lords' decision in City of Edinburgh Council v the Secretary of State for Scotland (1998). If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. Conversely, if the application does not accord with the plan, it should be refused unless there are material considerations indicating that it should be granted. Although priority must initially be given to the development plan in determining a planning application, there is a built in flexibility depending on the facts and circumstances of each case.”

The House of Lords' judgement, referred to above, sets out the following approach to deciding an application:

- identify any provisions of the development plan which are relevant to the decision;
- interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- consider whether or not the proposal accords with the development plan;
- identify and consider relevant material considerations, for and against the proposal; and
- assess whether these considerations warrant a departure from the development plan.

The weight to be attached to any relevant material consideration is for the judgement of the decision-maker.

Material considerations should be related to the development and use of land. Where a proposal is in accordance with the development plan, the principle of development should be taken as established and the process of assessment should not be used by the planning authority or key agencies to revisit that.

This document seeks to follow this approach in its consideration of the proposed residential development.

Contents of the document in summary

Section two of this document provides a description of the site, section three provides a description of the proposed development, section four provides details of the planning history of the site, section five considers the development plan policies which are considered to be applicable to the consideration of the proposed development, section six identifies material considerations. Finally it is concluded that the proposed development is considered to be in accordance with the development plan and that there are no material considerations that justify the refusal of planning permission.

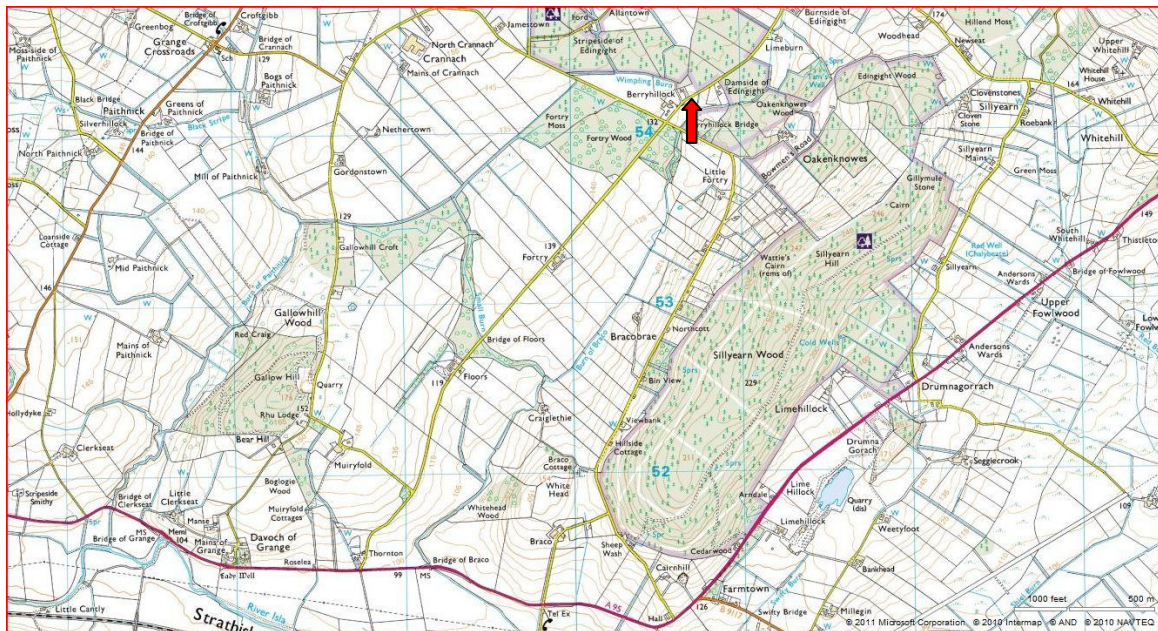
Appendices

A number of appendices are provided and should be considered as part of the submission in respect of the consideration of this appeal.

2. Site description

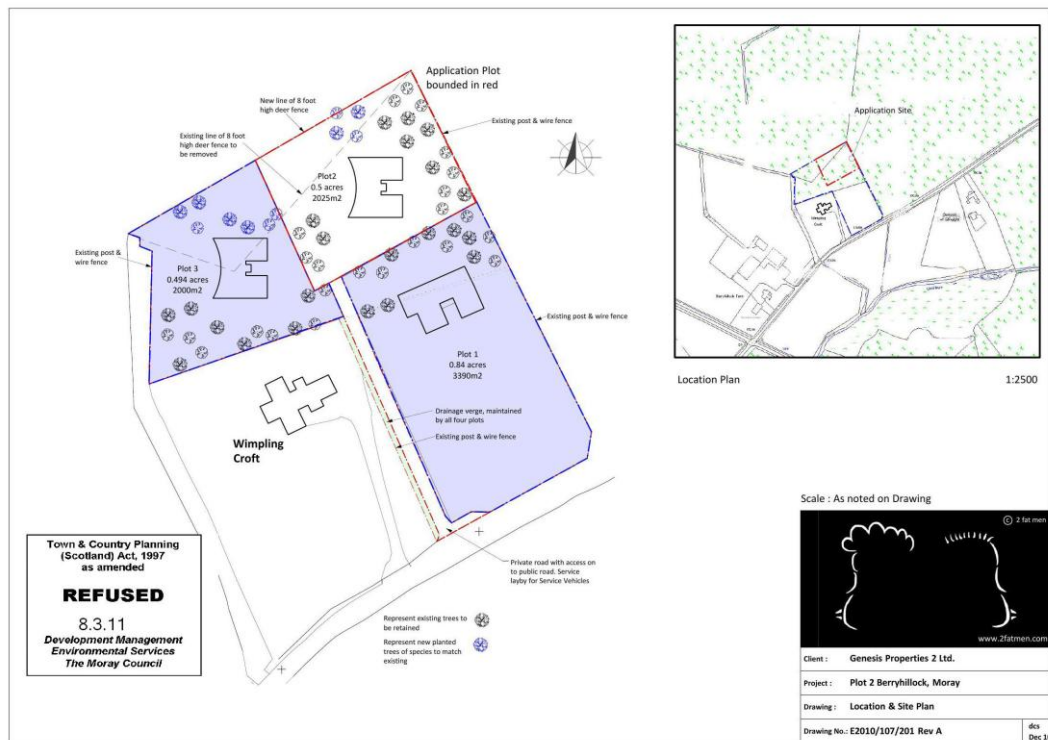
The site of the subject application, the subject site, is located approximately 4 Kilometres north-east of Keith along a minor road leading from the A95. A site context plan is provided in figure 1. There are a number of properties located within the vicinity of the subject site including a farm and cottage located to the southwest and a number of residential properties to the east along the minor road.

Figure 1 Site Context Plan



The land is bordered by two development plots, the first to the south and the second to the west. This is shown in figure 2 below. Details of the planning permissions relating to these sites are provided in section three of this document. The remaining land to the north east is owned by the Forestry Commission and is planted with coniferous trees. An existing property Wimpling Croft is located to the south west of the subject site. This property is a bungalow shown in figure 5 below.

Figure 2 Site Location Plan, shown as Plot 2.



The land comprising the two existing development plots and subject site is a clearly defined area of 1.84 acres.

The subject site is rectangular and extends to 0.5 acres. The land is set back, to the north, from the public road by 77 metres. Access to the site will be via a joint access track to the neighbouring development plot, planning consent exists for this access track.

The subject site contains overgrown scrub with a small number of semi-mature trees. It is set within a shallow valley surrounded by the growing forestry to the north and east and two development sites to the south and west, both of which have a number of semi-mature trees, making the site well screened from the main road and surrounding areas.

Figure 3 provides an aerial picture of the site.



Figures 4-9 provide photos of the site from a number of viewpoints, a location plan showing the location of the viewpoints is provided in figure 4.

Figure 4 Location plan showing the location of viewpoints.



Figure 5 Distant view of the site, located behind Wimpling Croft the building in the centre of the image.



Figure 6 View of site, located behind line of shelter trees image 1.



Figure 7 View of site, located the other side of electricity line sheltered by trees image 2.



Figure 8 Looking directly towards the site from the minor road, site located behind shelter line of trees with an approved development site between it and the road.



Figure 9 Looking towards the rear of the site.

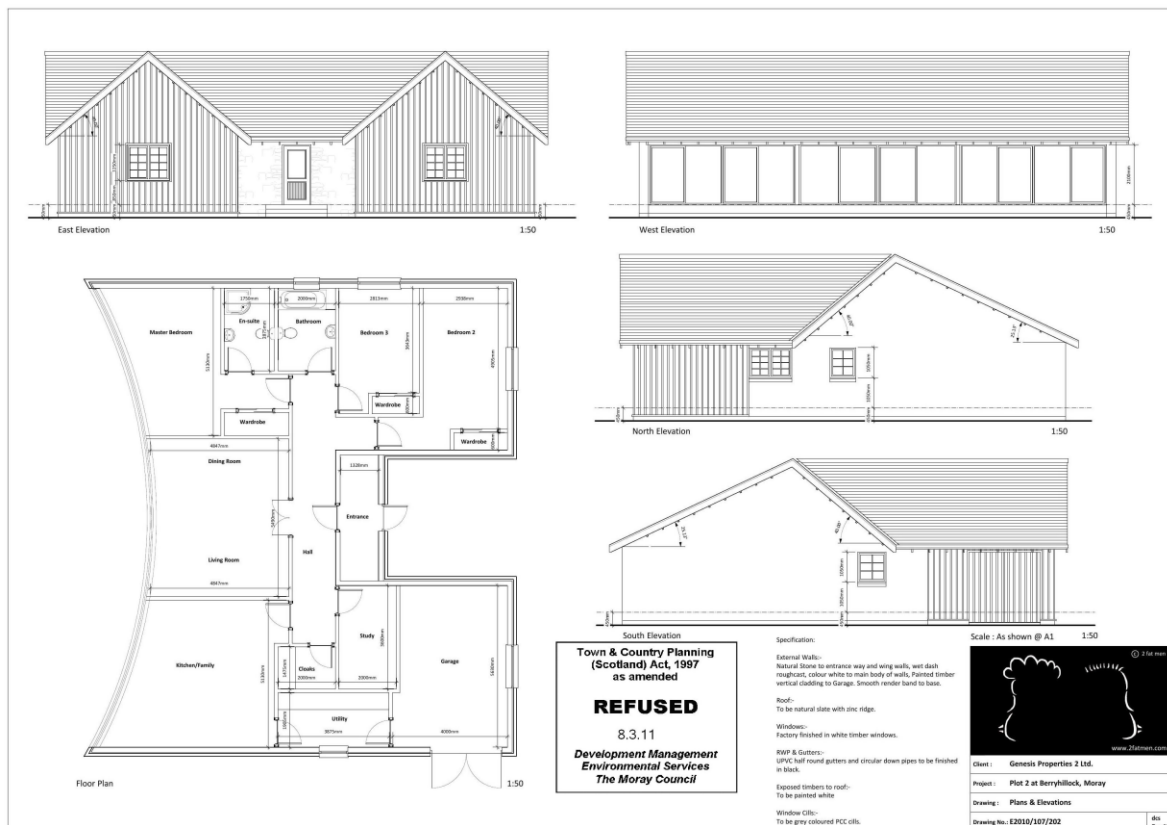


3. Description of the development

The development proposed in application reference 11/00009/APP is for a single dwelling with a contemporary design and finish. A copy of the plans is provided below in figure 10

The proposed dwelling would be a single story bungalow with a maximum ridge height of 5.81 metres. Construction will be of a mixture of natural stone, white wet-dash render and painted timber vertical cladding. The roof will be of natural slate with zinc ridges. Access to the site will be via a shared access track off the minor road to the south. This access route already benefits from planning consent under references 11/00008/APP and 11/00010/APP.

Figure 10 Proposed Plans



4. Application history

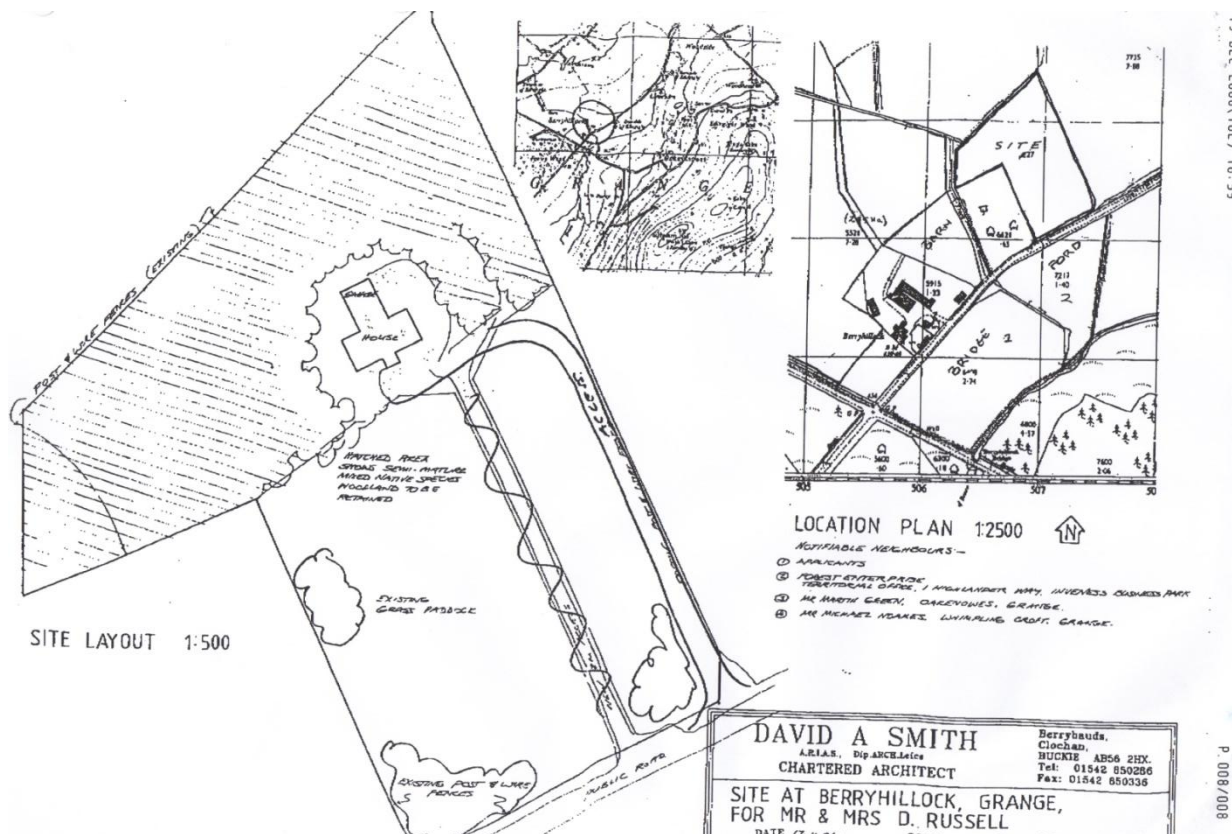
As described above the subject site is adjacent to two sites with planning consent. For ease of reference a brief summary of these planning consents is provided below. This is provided as the subject application would integrate with these sites. The planning history across the three sites is described below in chronological order.

Application Ref: 06/00913/OUT

This application sought outline planning consent for a single unit on a site that included the subject site and the building plots to the south and east of the subject site. Planning was granted on 23rd August 2006. This planning consent was not implemented and has expired.

The site boundary of this application is shown below in figure 11

Figure 11 Site boundary for application reference 06/00913/OUT



Applications Refs: 07/02539/OUT, 07/02540/OUT, 07/02541/OUT and 07/02542/OUT

Four applications, each seeking outline planning consent for an individual unit were submitted in 2007. Following discussions with the planning department two applications were withdrawn (references 07/02540/OUT and 07/02541/OUT) and the remaining two amended to cover the sites of all four original applications. The location of the approved site boundaries are shown in Figures 12 and 13 below. Planning consent was granted on 31st March 2008, references 07/02539/OUT and 07/02542/OUT.

The site boundaries for these planning consents covered the subject site. These planning consents were not implemented and have now expired. However when application reference 11/00009/APP was made the subject site benefited from planning permission 07/02542/OUT. It is acknowledged that the site of the current application would have been for garden use, or use associated with the residential properties rather than accommodating a residential unit.

Figure 12 Site Boundary for applications reference 07/02542/OUT

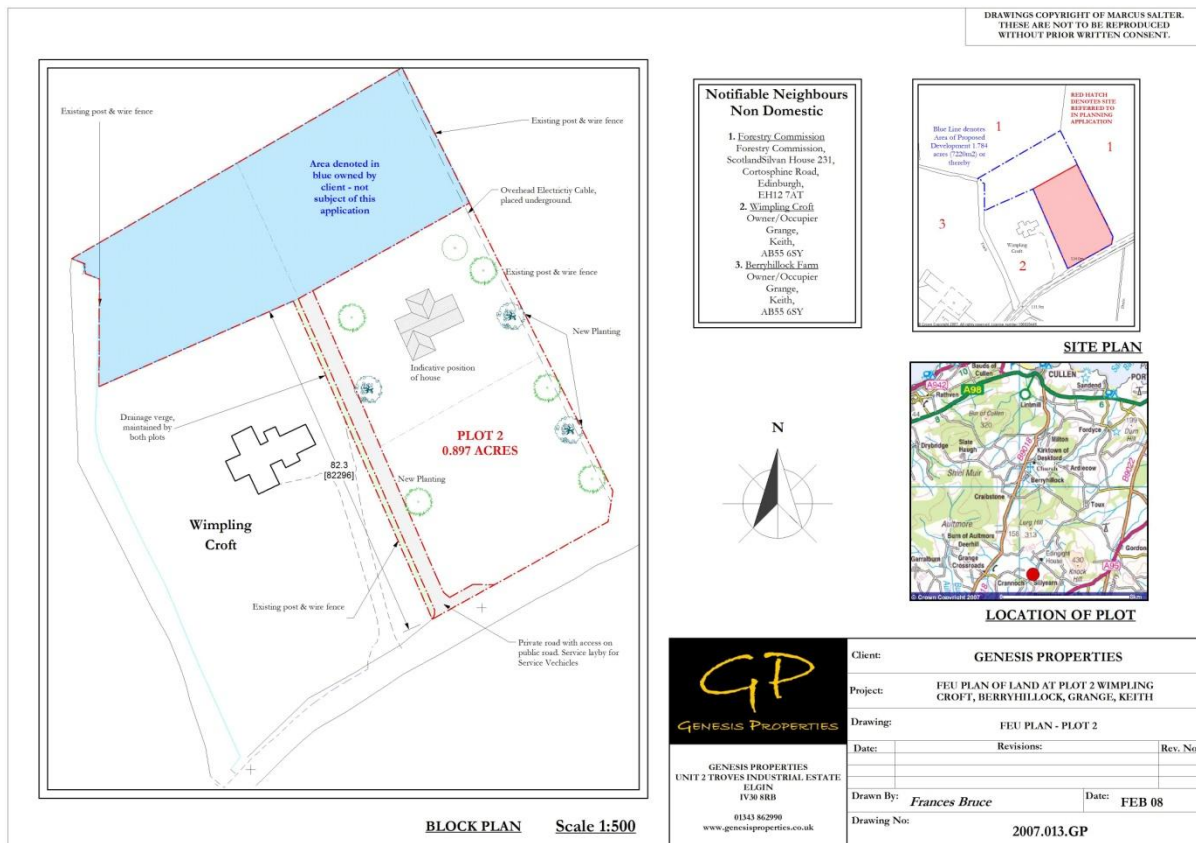
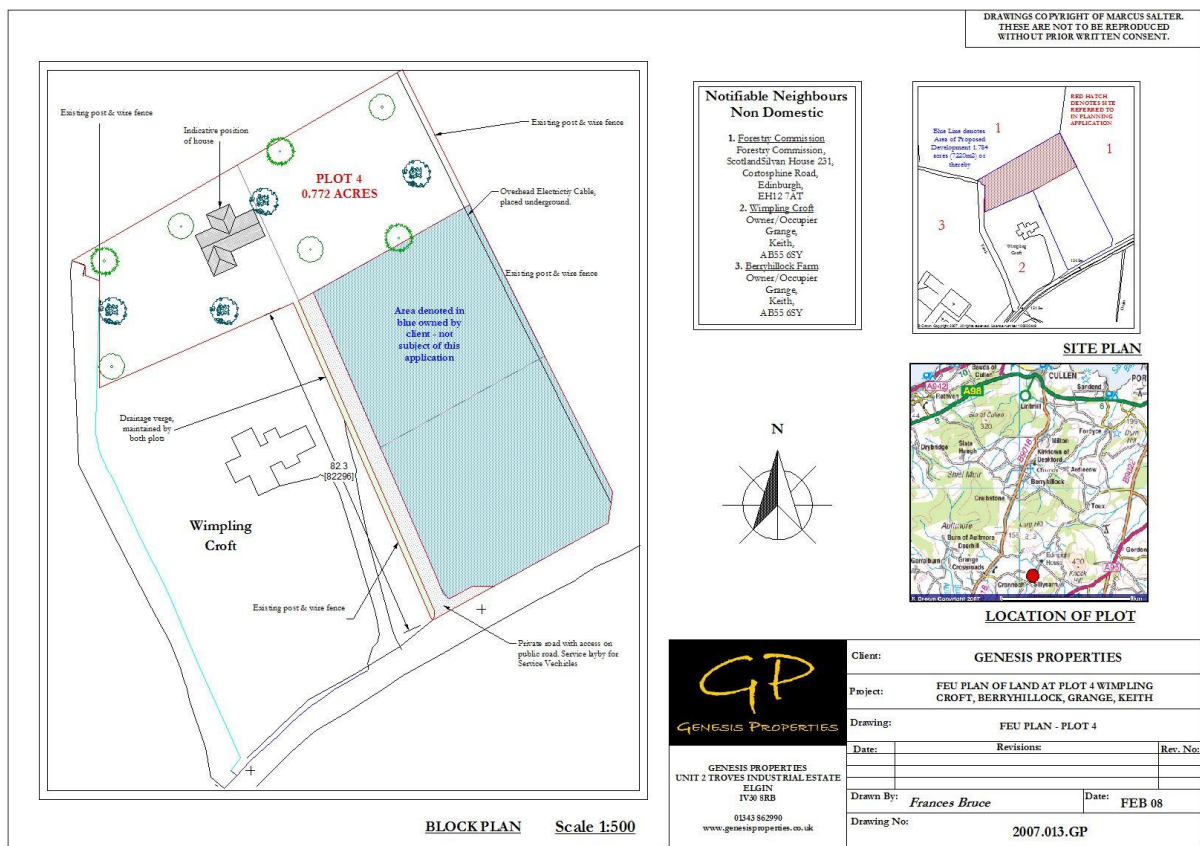


Figure 13 Site Boundary for applications reference 07/02539/OUT



Applications ref 11/00009/APP, 11/00008/APP and 11/00010/APP

Three applications were submitted to Moray Council on 7th January 2011. Two were approved in March 2011; Refs: 11/00008/APP and 11/00010/APP. Both applications sought consent for a dwelling house, garage and access road. The site boundaries of the two applications which were approved are shown in Figures 14 and 15 below.

Figure 14 Site boundary of planning consent reference 11/00008/APP shown as plot 1.

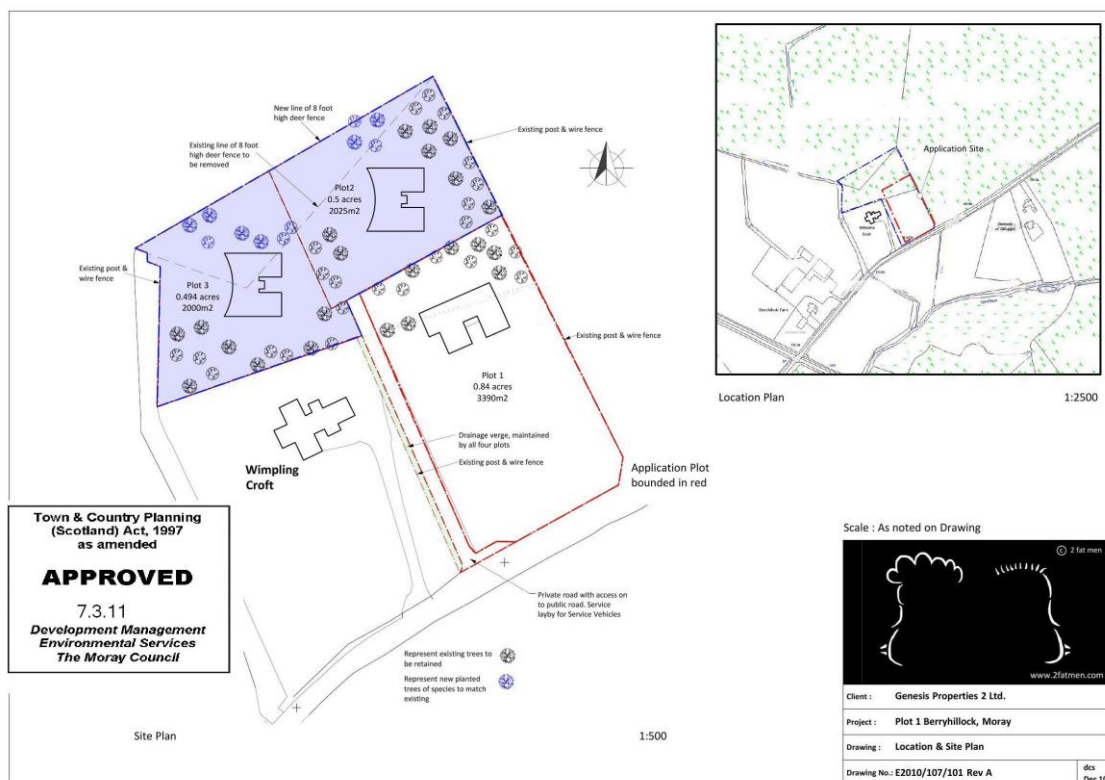
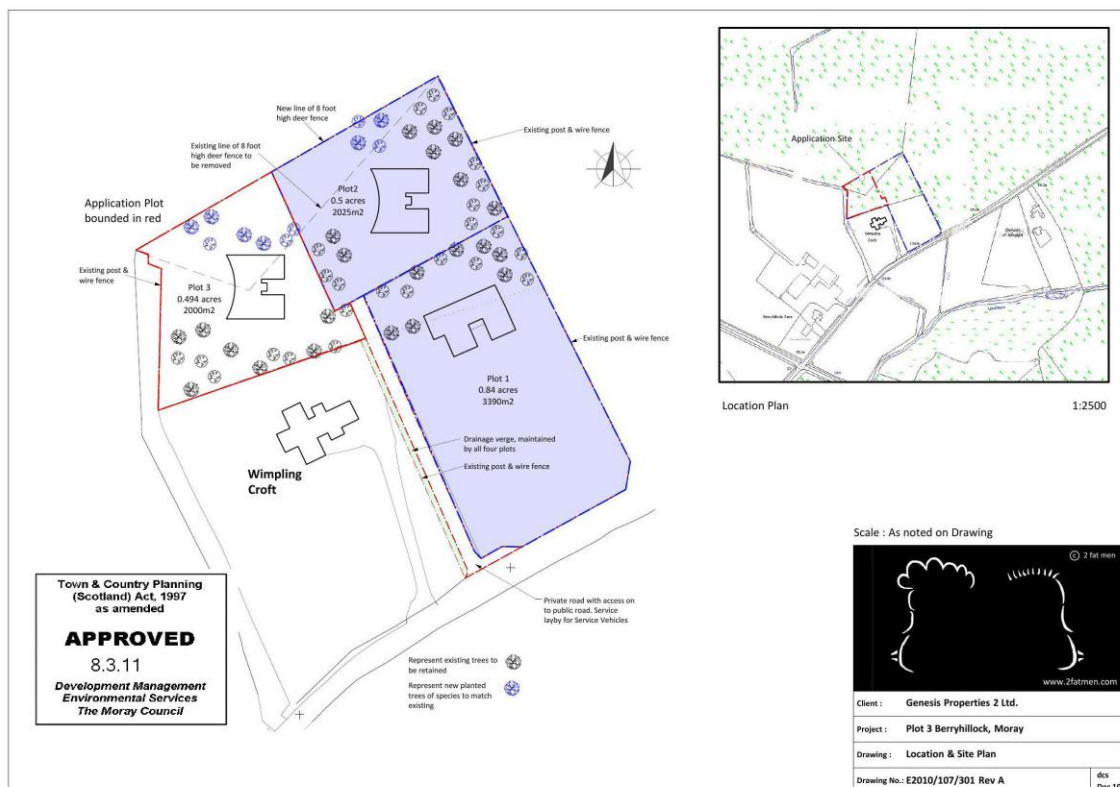


Figure 15 site boundary of planning consent reference 11/00010/APP shown as plot 3.



The subject application was the third of these applications, ref 11/00009/APP, it was refused under the Councils Delegation scheme by the case officer on 8th March 2011.

The Report of Handling, Appendix B, for the subject application is dated 7th March 2011. Under the heading "Development Plan Policy" it states that the application was considered to be a departure from Local Plan policies H8 and IMP1.

The Report advises that the planning application was advertised in the local press and that there was one objection from third parties. It advises that there were no objections from statutory consultees, including the Councils Environmental Health Manager, Contaminated Land Team, Transportation Manager, Environmental Protection Manager and Scottish Water. The transportation department requested conditions and an informative. The Councils planning gain department would have sought a contribution towards local roads infrastructure, which the applicant would be willing to do.

These grounds for review respond to the reasons for the refusal of planning permission provided in the Report of Handling and address 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).

5. The development plan

Moray Councils Structure and Local Plan policies encourage well sited houses in the countryside.

Moray Structure Plan 2007

Moray Structure Plan April 2007, approved by the Scottish Ministers with Modifications provides strategic priorities for the area. Option 3 advises that

“There is a case to allow some development, of low impact, in the open countryside.”

The text further advises that *“Outwith the primary and secondary centres opportunities will be provided for more local provision of development land to meet local need and support services at an appropriate scale for the settlement. This option will also be supported by the scope to allow rural businesses and low impact housing in the wider countryside.”*

The subject site is within the countryside, there is an existing home and planning consent for a further two properties. If allowed the subject application would create a fourth dwelling in an area of countryside. The proposed cluster of housing is considered to be well screened, with no traffic implications. It is considered to be low impact.

The Structure Plan also identifies 6 strategic aims, the sixth of which is to allow sensitive small scale development in rural areas. The plan states, page 17, that:

“In the rural areas there will be a presumption in favour of housebuilding:

i) within rural communities; or

ii) where it involves the re-use, replacement or rehabilitation of existing buildings; both of which comply with the Council’s sustainable objectives; and

iii) only on well located and designed sites that have low environmental impact.”

In respect of parts i and ii above, while the proposed development will not reuse an existing building there is a small cluster of properties which will be created by the consented two development sites along with the existing property of Wimpling Croft. The proposed additional property will enhance the small community which will be created at Berryhillock.

With respect to part iii, the site is considered to be well located; it forms a natural addition to the existing and consented properties. The design of the proposed property will be subject to further controls. It will have a low environmental impact.

Conclusion on the Structure Plan

The Council have not refused the subject application in respect of the structure plan. It may be concluded that they feel that the application is in accordance with the structure plan. It is submitted that the proposed development of the subject application is for low impact housing which would not contravene the Moray Structure Plan

Moray Local Plan 2008

There are 2 main policies in the Local Plan that apply to this application namely; H8 and IMP1. These policies are dealt with in turn below. The Report of Handling in respect of the subject application advises that in the Councils view the addition of the proposed dwelling detracts from the character of the existing grouping as it results in an uncharacteristic cluster of houses in the open countryside. It is the Councils view that the proposal conflicts with rural housing policy H8 and IMP1 where character is to be protected.

Policy H8, New Housing In The Open Countryside, is a key policy in the Local Plan for testing the acceptability of the subject site as a suitable location for a house in the countryside and the proposed design of the property. This policy contains specific criteria about the siting and design of new dwellings.

This policy assumes against multiple house applications (more than 2) on the basis that these are more appropriately directed to Rural Communities (H6) and applied to the Re-use and Replacement of Existing Buildings (H7). The subject site is not located within an identified rural community nor does it use or replace an existing building. It is therefore submitted that it is not appropriate to consider the subject application under the terms of policies H6 or H7. The subject application is for a single dwelling, although it is acknowledged as being one of 3 in the same locality. It is assumed that as the Council provided it as a reason for refusal it is considered appropriate to assess the proposed development against this policy. The policy states:

“New dwellings in the open countryside will be acceptable subject to meeting the requirements below:

a) Siting

- It does not detract from the character or setting of existing buildings, or their surrounding area, when added to an existing grouping, or linear extension*
- It is not overtly prominent (such as on a skyline or on artificially elevated ground; or in open settings such as central areas of fields). Where an otherwise prominent site is offset by natural backdrops, these will normally be acceptable in terms of this criterion.*
- At least 50% of the site boundaries are long established and are capable of distinguishing the site from surrounding land (for example, dykes, hedgerows, watercourses, woodlands, tracks and roadways).*

If the above criteria for the setting of the new house are met, the following design requirements then apply:-

b) Design

- A roof pitch of between 40-55 degrees.*
 - A gable width of no more than 2.5 times the height of the wall from ground to eaves level (see diagram 2);*
 - Uniform external finishes and materials including slate or dark “slate effect” roof tiles;*
 - A vertical emphasis and uniformity to all windows;*
 - Proposals must be accompanied by a plan showing 25% of the plot area to be planted with native species trees, at least 1.5m in height;*
 - Where there is an established character, or style, of boundary demarcation in the locality (e.g. beech hedges, dry stone dykes) new boundaries must be sympathetic.*
- Exceptions to the above design requirements will only be justified on the basis of innovative designs that respond to the setting of the house.*

This policy will be supplemented by Guidance, which will be the subject of separate further consultation, prior to incorporation of the Guidance into the process of determining planning applications.

The Guidance will include advice on maximising energy efficiency.

Proposals falling within the aircraft noise contours, as published by the Ministry of Defence, will be subject to consultations with MOD and consideration against policy EP7 regarding noise pollution."

In respect of the above the following is submitted

a) Siting

- The proposed development will not detract from the character or setting of the exiting/consented group, their surrounding area. It will not result in a linear extension.
- The development will not be overly prominent; it will be well screened by existing planting.
- The site has a definable boundary with the consented sites and the existing forestry.

b) Design

The Report of Handling acknowledges that the design of the proposed house is acceptable. It states: *"Solely in terms of design the house is acceptable and the curved facade would add a contemporary appearance to the otherwise traditional proportions."*

The guidance referred to in Policy H8 is still under consideration and is referred to in Section 6 of this document as a material consideration.

The Justification for H8 advises that:

"The Plan aims to allow housing in the open countryside that can be easily absorbed into the landscape. New development should be low impact and reflect the character of the surrounding area in terms of scale and design. In particular, the introduction of suburban style or ribbon development into the countryside would have an adverse effect on the area's high quality of environment.

Adequate servicing provision should be available to avoid any potential adverse impact on surrounding properties.

Innovative modern design and energy efficiency measures are encouraged to promote sustainable development."

It is submitted that the proposed development can be easily absorbed into the countryside as part of a small cluster of houses at Berryhillock which are well designed and sited. It is submitted that the design of the proposed house is acceptable.

The report of handling advises that the proposed development is contrary to policy IMP 1. This policy states:

"New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It must meet the following criteria:

- a. the scale, density and character must be appropriate to the surrounding area,*
- b. the development must be integrated into the surrounding landscape,*
- c. adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development,*
- d. adequate water, drainage and power provision must be made,*

- e. sustainable urban drainage systems should be used where appropriate, in all new developments
- f. there must be adequate availability of social, educational, healthcare and community facilities,
- g. the development should, where appropriate, demonstrate how it will incorporate renewable energy systems and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria,
- h. provision for the long term maintenance of public landscape and amenity areas must be made,
- i. conservation of natural and built environment resources must be demonstrated,
- j. appropriate provision to deal with flood related issues must be made, including the possibility of coastal flooding from rising sea levels and coastal erosion,
- k. pollution, including ground water must be avoided,
- l. appropriate provision to deal with contamination issues must be made, and
- m. the development must not sterilise significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.
- n. where appropriate, arrangements for waste management should be provided.”

These issues are addressed in turn as follows:

- a. It is submitted that the addition for a fourth house at Berryhillock is appropriate in the surrounding area. There are a number of examples, in Moray, where multiple (more than two) new houses have been built in the countryside, outwith designated settlements. It is assumed that the Council has allowed these developments and accepted that the scale, character and density is acceptable in these cases. It is understood that each application is determined on its own merits but three examples are illustrated below in Figures 16 and 17. Planning references were sought but the Moray Council's online planning map was off-line at the time of writing this document.

Figure 16 Two Multi House New Build Developments outside Aberlour



Figure 17 Multi House New Build Development outside Elgin



- b. The proposed development is well integrated into the surrounding landscape
- c. There is adequate transport infrastructure, access to the site is provided by an existing planning consent
- d. Adequate water and drainage will be provided
- e. SuDS will be provided as required
- f. There have been no objections in respect of service provision
- g. The property will be of renewable timber frame constructions and meet or exceed the required u-values thereby reducing heat loss and energy consumption.
- h. There will not be any public landscaping required as part of the proposed development
- i. The proposed development will not unacceptably impact on natural or built environment resources.
- j. Flooding is not an issue at this site
- k. Standards will be conformed with to ensure no pollution results from the site
- l. Contamination is not an issue at this site
- m. The development will not sterilise significant mineral resources, areas of prime agricultural land or preferred areas for forestry planting
- n. It is assumed that normal council waste services will apply to the proposed development.

The Justification for IMP1 states that:

“The quality of development in terms of its siting, design and servicing is a priority consideration within the Plan. In the first instance development needs to be suitable to the surrounding built and natural environment. Development should be adequately serviced in terms of transport, water, drainage, power, facilities. Particular emphasis is placed on providing pedestrian, cycle and public transport access to the development, and the use of sustainable urban drainage systems and the incorporation of renewable energy equipment and systems, and sustainable design and construction into the development in order to promote sustainability within Moray. Flooding is an important consideration particularly within the Laich of Moray and needs to be adequately addressed. Similarly, pollution issues in relation to air, noise, ground water and ground contamination must be adequately addressed to provide proper development standards.”

Conclusion on the Local Plan

It is acknowledged that application does exceed the assumption of only two houses on a site in the countryside; it does meet all the other requirements for under H8.

It is submitted that there is an assumption against more than two properties and not a complete embargo. In terms of the justification given on Local Plan H8 the proposed site fits the justification well providing a site that can be easily absorbed into the landscape, is low impact and reflects the character of the surrounding area in terms of scale and design. Its location, set back from the main road would prevent the introduction of suburban style or ribbon development into the countryside. Its design and location would also avoid any potential adverse impact on surrounding properties, with regard to servicing. It also meets the innovative modern design and energy efficiency measures that are encouraged to promote sustainable development. It is therefore submitted that the application does meet the core justifications of policy H8.

The application was also refused as it contravened IMP1 under section a: "the scale, density and character must be appropriate to the surrounding area". It is submitted however that the proposed site would fit well into the local area, especially as the site is situated in a nearly unobservable position on a good sized plot, well screened and sheltered with trees both on the plot itself and surrounding it and therefore meets the principle that: "The quality of development in terms of its siting, design and servicing is a priority consideration within the Plan" as well as being of a scale, density and character that is appropriate to the surrounding area.

6. Material considerations

As part of the process of determining the review it is necessary to take account of material considerations in relation to policy to consider whether or not they provide a basis for accepting the proposal. Scottish Planning Policy is a key material consideration. In respect of housing paragraph 66 states that:

“The Scottish Government is committed to increasing the supply of new homes and the planning system should contribute to raising the rate of new housebuilding by identifying a generous supply of land for the provision of a range of housing in the right places. The planning system should enable the development of well designed, energy efficient, good quality housing in sustainable locations and allocate a generous supply of land to meet identified housing requirements across all tenures.”

It is submitted that the proposed development is well designed, would be energy efficient and provide quality housing in a sustainable location.

In respect of the location and design of new development paragraph 80 advises that: *“Planning authorities should promote the efficient use of land and buildings, directing development towards sites within existing settlements where possible to make effective use of existing infrastructure and service capacity and to reduce energy consumption. Redevelopment of urban and rural brownfield sites is preferred to development on greenfield sites. When identifying locations for housing, planning authorities and developers should consider the reuse of previously developed land before development on greenfield sites and should take account of the following factors:*

the potential contribution to the strategy and policies of the development plan and other national and local policy objectives,

the relative accessibility of sites by a choice of transport options,

the availability of infrastructure, including waste management infrastructure, and education and community facilities,

whether development can be achieved within the required time frame,

the provision of choice across the housing market area,

the design, quality and density of development that can be achieved, and

the individual and cumulative effects of the proposed development.”

The proposed development is an efficient use of land. The site is serviceable and the proposed house will use existing services. The site is considered to be of a good standard of design. The density of the proposed development is considered to be acceptable and the cumulative effect of the development, ie a small community of 4 houses, is considered to be acceptable in this location.

Paragraph 83 further advises that

“The density of new development should be determined in relation to the character of the place and its relative accessibility, with higher densities appropriate at central and accessible locations. Through good design it is possible to achieve higher density living environments without overcrowding or loss of amenity.”

The proposed development is considered to be acceptable in terms of the character of the surrounding area. The increased density of the development at Berryhillock will not result in overcrowding or loss of amenity.

In respect of rural development the SPP is generally supportive of development in appropriate locations.

Planning Advice Note 72 (PAN 72) Housing in the Countryside provides advice that is relevant to the subject appeal. In respect of new groups of houses it states: at page 7 that:

“Housing related to existing groupings will usually be preferable to new isolated developments. The groupings should not be suburban. They should be small in size, and sympathetic in terms of orientation, topography, scale, proportion and materials to other buildings in the locality. They should take account of sustainable development criteria in location and infrastructure needs.”

Page 8 of the PAN advises that

“Together, the guidance and advice indicates that the amount and location of housing that can be developed in rural areas is determined by a number of factors. These include:

Context – Fit in the landscape.

Identity – Design details which reflect the local character, as well as an increased awareness of energy efficiency linked to design standards.

Connection – Proximity to services, e.g. schools, shops (ideally within walking or cycling distance), ease of access (from an existing road and foot path and to a rail station or bus route); drainage and sewerage capacity (from combined septic tanks or links to public systems).

Overall, new developments in the countryside, if properly planned, sited and designed, contribute to the quality of a landscape.”

It is submitted that the proposed development fits well into the landscape, it would finish off an existing area of development. The design of the proposed property is considered to be acceptable and suitable for the proposed location. There have been no objections to the application based on lack of services. It is submitted that the proposed development is acceptable in terms of the landscape and is supported by PAN 72.

PAN 72 provides some advice in respect of landscape considerations which are relevant to the potential for housing in the countryside. Page 11 states:

“Location within the landscape – Most new developments should try to fit into or nestle within the landscape. This is to ensure that the building does not interrupt and conflict with the flow of the landform or appear out of scale. Sites which are least visible can often be suitable for more adventurous or individual designs. Occasionally, where a landmark development is considered to be appropriate, its design needs to be of the highest quality and considered very carefully. Likewise, where there are groupings of new buildings, their location within the landscape and relationship to each other is important.

Woodlands – *Setting a building against a backdrop of trees is one of the most successful means by which new development can blend with the landscape. Where trees exist they should be retained.*

New planting – *The purpose of new planting is not to screen or hide new development, but to help integration with the surrounding landscape.*

Boundary treatments – *The open space associated with a house or houses should be considered as an integral part of the development, not as an afterthought, and again be treated in relation to the surrounding environment.”*

It is submitted that the location of the proposed development in the landscape is appropriate. The development will not be skyline development. The relationships of the proposed building with the existing and consented buildings are considered acceptable.

The proposed development will be seen in the context of the existing coniferous plantation and the mature trees around the site. The proposed development will not compromise any mature trees.

It is anticipated that any tree planting as part of the development would require Council approval, by means of a planning condition.

It is submitted that the proposed development would have a sound boundary treatment both on its own and as part of the group of four houses which would result should planning consent be forthcoming.

Supplementary Planning Guidance: Housing in the Countryside

Policy H8 refers to the publication of supplementary planning guidance (SPG) in respect of housing in the countryside. This guidance is understood to still be in the draft stage and not yet approved by the Council. It is included here for completeness.

For the purposes of this document the June 2009 document has been referred to as no other documents are available, confirmed by Moray Council.

As stated above the subject application was one of three for single dwelling units at Berryhillock. In respect of policy H8 the SPG advises that:

“A multiple house application will mean a sole application for 2 houses or more. A sole application for 2 houses or more will be advertised as a departure from policy H8 of the Moray Local Plan 2008. An application for one house situated within or adjacent to an existing group of recently constructed dwellings may be considered favourably subject to compliance with the provisions of policy H8, this guidance and any other material considerations the planning authority considers relevant.”

It is submitted that the spirit of this allows for the subject application to be determined favourably. It is acknowledged that the consented sites are yet to be developed but it is submitted that consented the additional unit would comply with the design provisions of Policy H8. The issue of the acceptability of the proposed design is understood to be considered acceptable in the Report of Handling.

In respect of Impact on the Character or Setting of Existing Buildings or their Surrounding Area the SPG states that:

“A proposal for a new house must not detract from the character or setting of existing buildings or their surrounding area when added to an existing grouping. This means that the siting of the new building must form a logical part of the existing grouping and must not be disjointed or have the appearance of being added on. The design must reflect the rural character of the countryside and shall not have suburban characteristics. Suburban characteristics on existing buildings within the grouping in the vicinity will not be an acceptable justification to add more. Where an additional house is being applied for (or

houses, should successive applications be submitted), the impact on the surrounding area will be taken into consideration. Where a cumulative build-up of additional houses to existing groupings or in the local area is judged to have reached a stage where a further new house will detract from the rural character, it will lead to a refusal.”

It is submitted that the erection of a further house at Berryhillock will not detract from the character or setting of the existing and consented buildings or their surrounding area. It is submitted that the development of the subject site would finish off development at Berryhillock in an appropriate way. The proposed building forms a natural extension to the existing and consented properties. The approval of planning consent for the subject application will not detract from the rural character of the local area.

Conclusion to Material Considerations

It is concluded that the proposed development is generally supported by the material considerations that are referred to in this document. There are no material reasons for the refusal of planning consent.

7. 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.

The proposal is for a single story dwelling that would add contemporary design to traditional proportions. The property would be situated away from the main road and would not be visible from it. It would also be sheltered from the surrounding area by trees and the natural boundaries of the site and would therefore have a minimal impact on the surrounding environment.

National Planning Policy and Moray Councils Structure and Local Plan policies all encourage well sited houses in the countryside. Whilst the Local Plan allows for new houses in the countryside it also seeks to protect, through specific designations, areas of landscape and habitat significance. The site is not within any of the areas designated in the Local Plan as being of landscape or habitat significance.

The lead policy in the Local Plan for testing the acceptability of the site as a suitable location for a house in the countryside is Policy H8 – New Housing In The Open Countryside. This policy contains specific criteria about the siting of new dwellings and it has been shown that the proposal meets the criteria set out in the policy. With regard to the specific issue that this proposal would contravene the assumption against multiple housing applications. This is only an assumption and each application should be dealt with on its own merits, in cases where development clearly meets all other criteria it is reasonable to make exceptions.

It has also been shown that the proposal is acceptable in relation to other relevant Local Plan policies regarding the provision of access, parking and drainage.

Despite being advertised in the local press there was only one objection from third parties and the planning officer has made it clear in his report of handling that the proposed development would be far enough away from the objectors property to protect their amenity. There were also no substantive objections to the proposals from any of the statutory consultees and the applicant is willing to install a new passing place required if the site obtains planning consent.

As part of the process of determining the review it is necessary to take account of material considerations in relation to policy to see if they provide a basis for accepting the proposal. The impact, design and relationship of a proposal to its surroundings are all material considerations and when assessing them in relation to policy it is necessary to take account of the aims and objectives of policy as well as the detailed wording.

This siting and design of the proposal have been accepted in relation to the Councils policies for housing in the countryside which are not part of the reasons for refusal. Therefore we have a proposal which is considered to integrate successfully with its countryside location

As the proposal is in accordance with the Development Plan and there are no known material considerations to the contrary it is considered that the application should be approved.