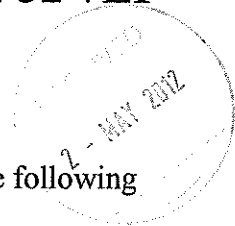


# The Architecture Studio

The Orchard, Ashfield, Garmouth, Moray, IV32 7LF

PLANNING APPLICATION REF. NO. 11/01963/APP.  
STATEMENT ACCOMPANYING NOTICE OF REVIEW.



It is maintained that the application should not have been refused, for the following reasons.

Two reasons are given for refusal of the application. The first is that it does not comply with Local Plan policies H8 and IMP1. If it does not comply with these policies, then it must be deemed a departure from them. In the Report of Handling, seven different Development Plan policies are stated as being relevant to the application, among them policies H8 and IMP1. Against each one, under the heading of **Dep**, which I understand means *is the application a departure from this particular policy?* is the letter **N**, which I understand means *no, it is not*. If the application is not considered to be a departure from any of the listed policies then it must be deemed to be in compliance with them and therefore should be approved. The alleged reason for noncompliance with the aforementioned policies is “on the basis that the site would extend linear development along the roadside towards the settlement boundary of Garmouth.”, but neither policy H8 nor policy IMP1 addresses nor relates to the proximity of new developments to existing settlement boundaries. Policy E9 does, however: it states that “Development proposals immediately outwith the boundaries of these settlements will not be acceptable...” Policy E9 is not one of the seven Development Plan policies that are deemed to be relevant to the application, yet the case officer refers to it in his assessment of the proposal, stating: “The proposed development is not ‘immediately’ outwith the Garmouth Settlement Boundary and therefore cannot be construed as a departure from policy E9...” Equally, it cannot be construed as a departure from policies H8 and IMP1 as they are not relevant to this particular subject. With regard to the “linear development” element of the reasoning, policy H8 neither restricts nor preclude new houses, providing they do not exceed two in number, being added to an existing grouping, *or linear extension*. Policy IMP1 makes no reference whatsoever to linear development.

It is maintained that the first reason for refusal is not valid because:

- a). According to the Report of Handling there is no departure from and ergo no noncompliance with policies H8 and IMP1.
- b). The basis of the reasoning is fallacious as it based on an inaccurate interpretation, or misunderstanding of policies H8 and IMP1.
- c). The proposal complies in all respects with the siting and design criteria of policy H8: New Housing in the Open Countryside.

The second reason for refusal is that the proposal “would act to diminish the distinction between the open countryside and the built up area resulting in a build up of development in the country side that is detrimental to the character of existing buildings and the surrounding countryside.” There is no suggestion that this assertion implies the contravention of a Development Plan policy and no such policy is quoted in its support.

*Contd.*

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E9 is the only Local Plan policy that relates to new development proposals and their proximity to settlement boundaries and the case officer has stated that the application proposals “cannot be construed as a departure from policy E9”. – see above. As the assertion is not founded on policy it has to be presumed that it simply reflects the personal opinion of the case officer and as such is not relevant to the determination of the application. Nowhere in the Moray Development Plan is it stated what the precise distance of a proposed development from a settlement boundary should be. The only description of any such distance is to be found in policy E9 where it states that developments “immediately out with the boundaries...will not be acceptable.” The application sites are not located immediately outwith the Garmouth settlement boundary, the northeastern boundary of the nearest site being 185 metres distant measured along the road edge. The southeastern corner of the boundaries of The Orchard, a property to the north of the application sites, is closer to the settlement boundary at 172 metres - see copy of an Ordnance Survey map to a scale of 1/5000, attached, which shows the application sites and surrounding area. The sites are coloured red and they and the two areas of ground shown coloured orange are owned by the applicant. To the southwest of the application sites are eight houses and to the north are eleven plus a recently approved house site – these are shown coloured green. They are both linear developments, the former along a public road, the B9015 and the latter along a farm track over which the public has right of access and which links the B9015 to the unclassified public road – Innes Road – to the north. The B9015 bisects both groups which retain their linear characteristics as a result. Mature trees and hedging along the southern, roadside boundary of The Orchard and on the east and west boundaries of all the properties between the B9015 and Ashfield Farm results in them being substantially screened from view and so cannot be linked visually with the linear development along the B9015 which the proposed development would extend, but not extend to such a degree that it would be closer to the Garmouth settlement boundary than part of the other, separate linear development to the north.

It is maintained that the second reason for refusal is not valid because:

- a). The distance of the application sites relative to the Garmouth settlement boundary does not contravene any relevant Development Plan policy and in fact complies with the only relevant policy, policy E9, in that it is not immediately outwith the settlement boundary.
- b). The distance of the application sites from the Garmouth settlement boundary is greater than that of existing neighbouring property, therefore the proposed development cannot be considered to diminish the distinction between the open countryside and the built up area and so would not result in a build-up of development in the countryside that would be detrimental to the character of existing building groups and the surrounding countryside.



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