

**Appeal against the decision of Moray Council
in respect of planning application ref 12/00327/APP**

*'Erection of dwellinghouse including access road and garage
at Plot at Berryhillock Grange Keith Moray'*

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Appendix A – Decision Notice and Report of Handling

Appendix B - Housing in the Countryside. Supplementary Planning Guidance. The Moray Council. January, 2012.

Appendix C - Report of Handling on application number11/00010/APP

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 25th April, 2012.

The subject application, reference 12/00327/APP, was submitted and formally registered on 1st March, 2012, and was refused under Moray Councils Delegation scheme by the case officer on 27th April, 2012.

The reasons for refusal are stated, in the decision notice, as follows;

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

This document shall set out that:

1. The proposal is not contrary to MLP policies H8 and IMP1, and
2. The proposal will not change the character from that of open countryside to a small settlement.

The proposal, when approved, will result in a small cluster of houses in keeping with the existing rural settlement pattern and characteristics typified in this part of Moray.

In addition, this document asserts that the refusal of this application, under delegated powers, does not provide a consistent approach in decision making from the Moray Council.

We ask that planning consent be granted as the proposals are in accordance with the Structure Plan, policies H8 and IMP1 and represent a well-designed proposal in an appropriate location delivering a development that complements both the natural environment and typical settlement pattern of this part of Moray.

¹ A copy of the decision notice is provided in Appendix A

Assessment of the Proposals with Policy H8.

Policy H8 New of the MLP 2008 contains criteria for assessing the suitability of new rural house sites and The Moray Council's Supplementary Planning Guidance² provides advice on the interpretation of key aspects of policy H8.

Its main objectives are:

- *To provide advice on the interpretation of key aspects of policy H7 and H8, to provide a consistent approach to decision-making;*
- *To guide new development to the most appropriate locations, where it does not have an adverse impact on the landscape;*
- *To ensure new development reflects traditional patterns of development in the locality;*
- *To promote high quality new development in the countryside that respects the local character and rural heritage;*
- *To encourage new development that is energy efficient, both in location and construction;*
- *To reflect policy guidance from the Scottish Government which encourages the Planning System to promote good design, encourage energy efficiency and integrate new rural development into the landscape.*

The Planning Officer's assertion that the proposal will negatively change the character of the surrounding area is contrary to another Moray Council planning officer's written comments that:

*'The settlement pattern of this part of Moray is typified by single and small clusters of houses dispersed throughout the rural area.'*³

This, coupled with, two other applications being granted in close proximity to the proposal shows the determination of this application for refusal as an inconsistent approach by the Moray Council in its decision making of planning applications.

Contrary to the assertion by the planning officer within the report of handling, the principle for residential development has previously been confirmed on this site⁴. This, coupled with two adjacent sites being granted planning, mean the location can be determined as an 'appropriate location' and the site specific criteria of the application should be the only material considerations used by the planning officer to refuse the application.

The planning officer does not stipulate, through the report of handling, that the site-specific criteria of Policy H8 are contravened by the proposals; and, as such, there are no material considerations justifying planning permission not being granted.

Given identical proposals have been approved on a neighbouring plot coupled with the planning officers acceptance of the design, it is our assertion that the proposal respects all criteria set out within policy H8 and is a high quality proposal that compliments the local character and rural heritage.

²² Housing in the Countryside. Supplementary Planning Guidance. The Moray Council. January, 2012. Included within Appendix B

³ Comments made by Stuart Morrison within his Report of Handling on application number 11/00011/APP approved on October 17th, 2011 – Appendix C.

⁴ Planning applications approved but not implemented: 06/00913/OUT & 07/02539/OUT

The Supplementary Planning Guidance – January 2012 then goes on to provide guidance on the key aspects of the Policy:

i) Multiple House Application

An application for one or two houses situated within or adjacent to an existing group of recently constructed or approved dwellings may be considered favourably subject to compliance with the provisions of policy H8, IMP1, this guidance and any other material considerations the planning authority considers relevant.

In the immediate vicinity there is one built house and planning granted for a further two properties which, when implemented, will result in a cluster of 3 houses before this application is considered.

The well-designed proposals of this application would result in an addition of one house to the existing cluster. A small cluster of 4 houses – in keeping with the settlement pattern of this part of Moray.

As such, the application should have been considered favourably.

ii) Impact on the Character or Setting of Existing Buildings or their Surrounding Areas

Policy H8 sets a general presumption against more than 2 houses in one location regardless of whether this is a sole application or not, any additional houses (above two) in one location in the Local Plan period may be considered to contribute to buildup which will be detrimental to the rural character of the open countryside, unless site characteristics and the character of the surrounding area are favourable.

The same site characteristics and the character of the surrounding area of this proposal were considered favourable in granting planning for two building plots that created a cluster of 3 properties. The siting of this application has been designed to ensure its impact on the same site characteristics and surrounding area is limited by the established forestry and/or immature woodland on all sides.

As such, the proposal for the new house does not detract from the character or setting of existing (or planned) buildings or their surrounding area.

iii) Linear Extension

The proposal will not create Development that results in a linear extension.

iv) Prominence

The proposed structure is not overtly prominent, being only one story in height. It will not occupy an 'elevated open position' but rather the proposals include a siting with significant wooded enclosure and backdrop in the immediate proximity.

As a result, the proposals are not overtly prominent and are designed in such a way as to be in harmony within the landscape it shall sit.

v) Site Boundaries

The handling Report correctly states that the site has 50% of long established site boundaries distinguishing the site from the surrounding land. The handling report incorrectly states that the plot is surrounded by rough ground to the South.

vi) Trees

The trees on the site already exceed Policy H8's requirement for 25% tree cover and will help integrate the proposed new building into its landscape setting. The site is surrounded by either forestry land to the North and East and immature woodland to the South and West.

vii) Design Considerations

It is our assertion that the proposals satisfactorily meet the three critical elements of successfully integrating new development with the countryside: location, siting and design.

The Report of Handling states:

The Moray Development Plan does allow for a proportionate number of additional houses next to existing groupings (as evidenced by the two approvals close by) but under H8 where a further addition detracts from the character of the existing grouping by resulting in an uncharacteristic cluster of houses in the open countryside, a departure results. Therefore, the proposal conflicts with rural housing policy H8 and IMP1 where character is also to be protected.

It is our assertion that the proposed further addition does not detract from the character of the existing grouping; rather, the proposals will complement the existing cluster. In addition, it is our view that the surrounding open countryside is characterised by small clusters of homes and that four homes represents a small cluster, not a settlement.

This is supported by the comments made by Stuart Morrison (Planner, Moray Council) in the report of handling⁵ for a separate application for erection of a dwellinghouse at Bowie Croft, Grange, Keith (approved) on October 17th:

The settlement pattern of this part of Moray is typified by single and small clusters of houses dispersed throughout the rural area. The introduction of the single proposed house into this area would not detract from this character or lead to an unacceptable build-up of houses.

The plot granted planning permission is located within the same 'Grange' rural community some 3.5 miles drive from the proposed site.

In addition, a plot was granted permission⁶ immediately adjacent to the proposed plot within the same immature woodland with exactly the same house design. In the report of handling for the approved adjacent plot, the planner (Neal Macpherson) states:

The site benefits from a backdrop of the trees within the site and some visual screening from the property known as Wimpling Croft to the south when viewed from the public road. The site whilst visible on the road side is clearly not prominent and will achieve further integration into the landscape once the necessary landscaping provision required by H8 is in place.

The house design is acceptable and the contemporary curved element of the roof justifies the departure from the minimum roof pitch required. The remainder of the house complies with the more conventional proportions of vernacular housing in the countryside.

Landscaping conditions will ensure that the additional planting is provided to further define the site and provide a backdrop to the house.

The application can be approved.

⁵ Included within Appendix C

⁶ 11/00010/APP approved on March 8th, 2011.

Dealing with the specific elements of successfully integrating new development within the countryside in turn:

a. Location

The location is sustainable in the long term as the enclosure of forestry and woodland on all four sides provide sufficient shelter. The curved glass frontage of the property is pointed west to utilise solar gain, whilst ensuring the property is not turned into a greenhouse.

The site is unobtrusive using existing trees in the immature woodland and surrounding forestry as a backdrop and enclosure on all four sides.

The site's existing characteristics coupled with the good design of the proposed structure ensure the proposed structure shall integrate well as part of a cluster of buildings.

b. Siting

The siting of the property within the site boundaries has been selected to ensure the exiting surrounding landscape remains the dominant visual feature.

Given the relatively level nature of the site, it will be possible to work with the existing contours of the site and ensure the orientation of the building can achieve an outlook, shelter and direct sunlight.

c. Design

The handling report states:

'Solely in terms of design the house is acceptable and the curved facade would add a contemporary appearance to the otherwise traditional proportions'.

Accordingly, as the design of the house is in line with the guidelines within Policy H8 there is no need to comment further on this section.

d. Scale

The footprint of 205m² in a proposed plot of 2025m² resultants in a footprint to plot ratio of 1:9.9

Accordingly, the proposals are for a house of suitable size compatible with its large proposed garden that is easily absorbed by the landscape

The size of the building is identical to one granted planning within the established cluster, ensuring it is not out of scale.

e. Form

The single storey nature of the proposed house is sympathetic to the line of the landscape and the design incorporates elements of traditional features with an innovative contemporary curved glass façade that does not overwhelm the rural setting.

f. Proportion

The report of handling has already designated the design of the house as acceptable as great care was taken to marry contemporary design with the traditional characteristics required to keep to good proportions required for an aesthetically pleasing home.

g. Materials

The proposed materials and colours of the house: glass, slate, vertical timber slats, natural stone and buff coloured wet dash render are all 'traditional finishes' found within Moray and the introduction of clean simple uncluttered lines in the design result in a successful approach to rural building.

h. Access & Boundaries

The proposed plot will utilise the same access already granted permission in the two neighbouring, ensuring minimal environmental impact.

i. Garages

The inclusion of the Garage within the mass of the main house, with the same roofline is a success, helping improve the proportionality of the traditional characteristics of the 'front door' elevation.

j. External Fittings & Lighting

All external lighting will be localised PIR switched vertical lighting and/or LED soffit lighting. As neither form of lighting is floodlight lighting, they shall not result in light pollution, energy wastage or blindness for neighbouring properties and/or wildlife.

k. Walls & Fences

Simple post and rail fencing is proposed for the boundaries, in keeping with the rural and forestry location of the site.

Assessment of the Proposals with Policy IMP1 & The Moray Structure Plan

Policy IMP1 of the MLP 2008 seeks compatibility in terms of scale, density and character and requires new development to integrate into the surrounding landscape.

Given that the document has demonstrated that the proposal complies with all aspects of Policy H8 and will sit well within the surrounding landscape coupled with the evidence that the surrounding area is typified by small clusters of properties; the proposals are compatible in terms of scale, density and character.

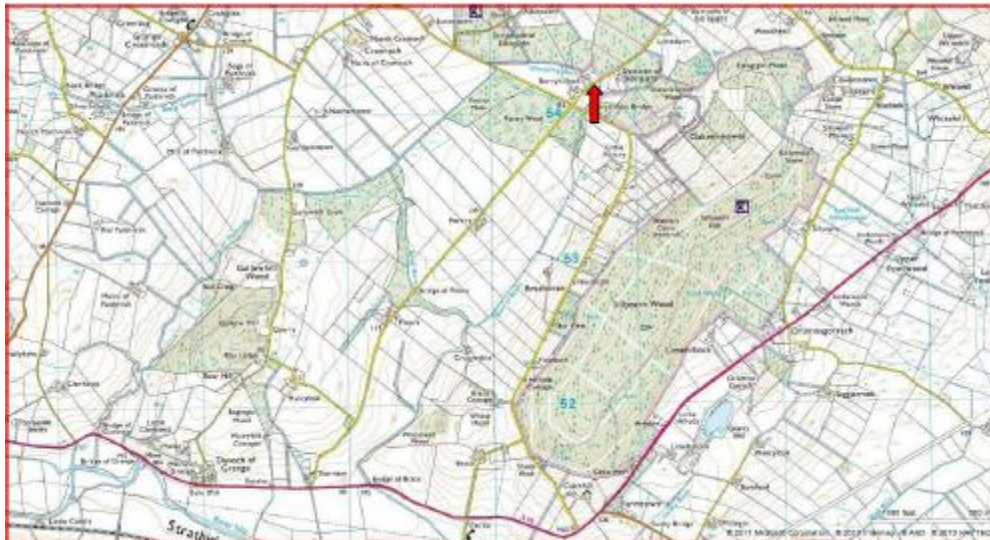
As policy 1 (e) of the Moray Structure Plan 2007 seeks to encourage well-located and designed houses in the countryside that have low environmental impact the proposals should be granted planning permission.

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.

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



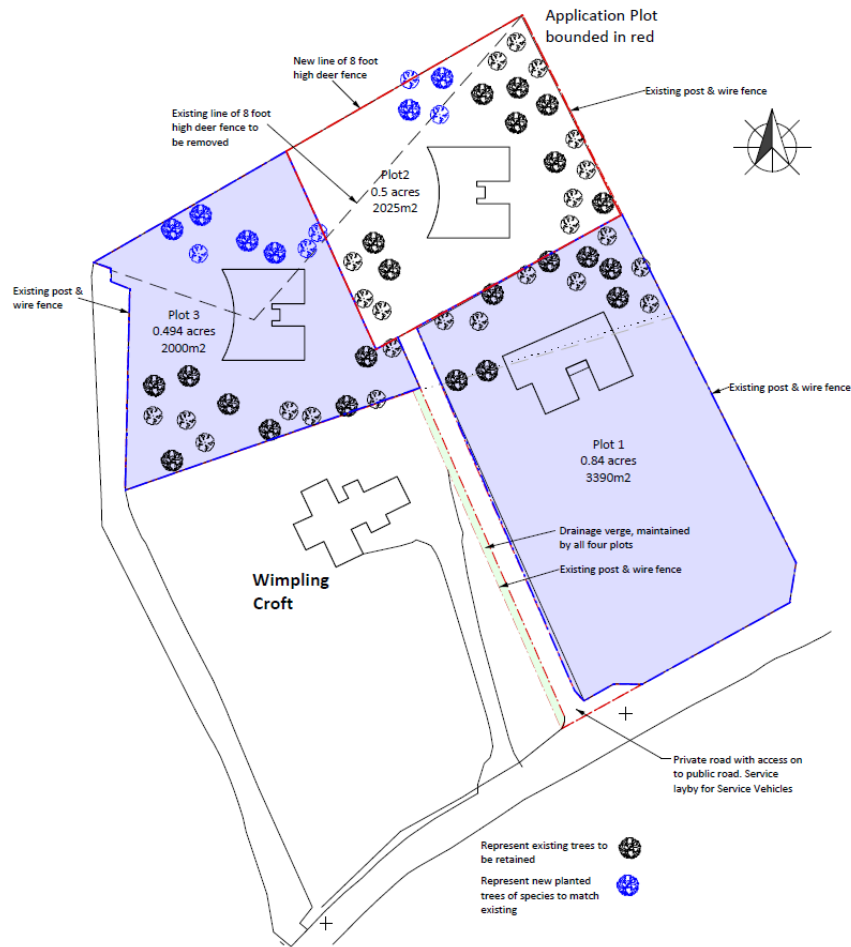
The land is bordered by two development plots, the first to the south and the second to the west. This is shown in figure 2 below and details of the planning permissions relating to these sites are provided later on.

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



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 sits within an immature woodland 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 5-9 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.



Description of the development

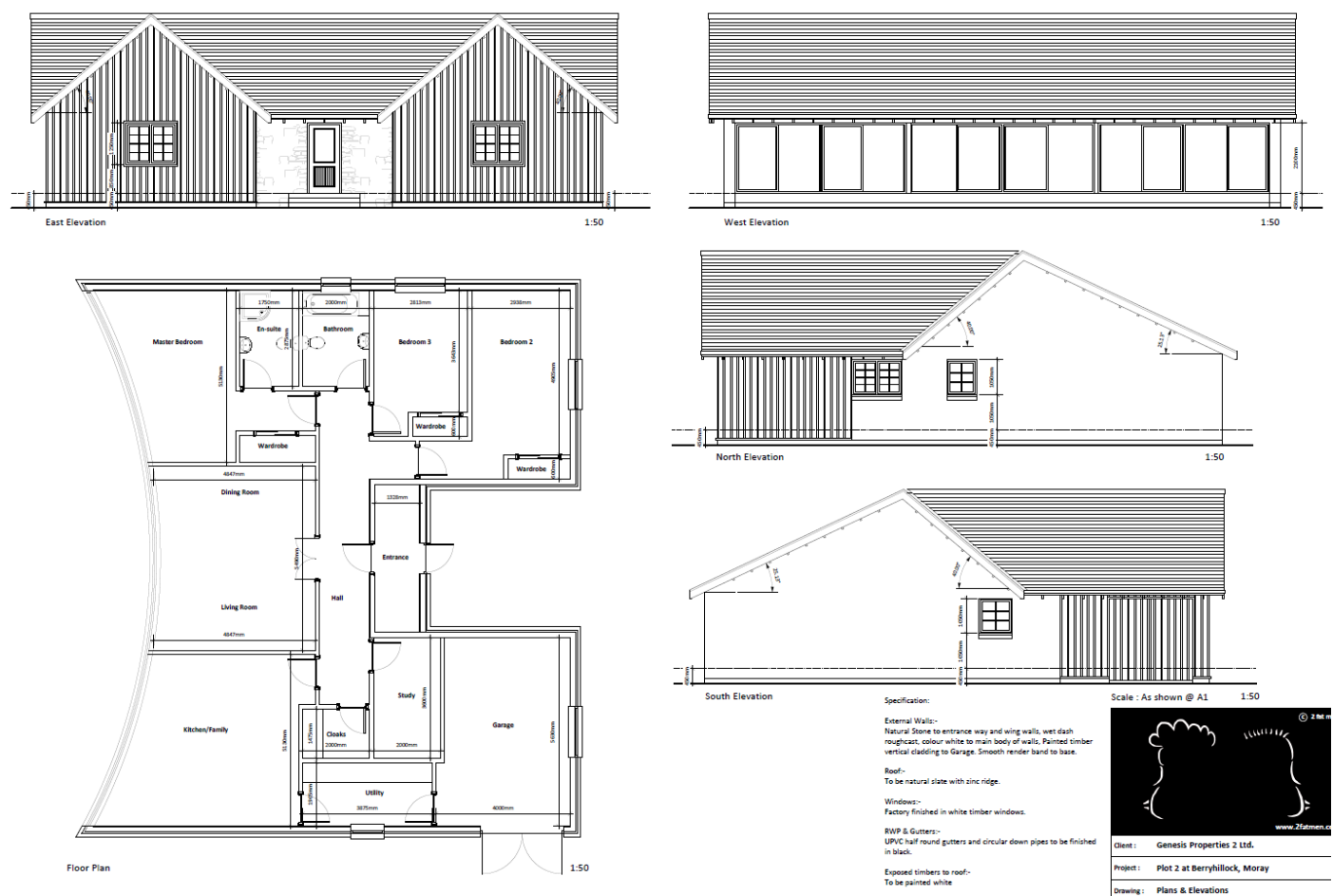
The development proposed is for a single dwelling of both contemporary and traditional design finished with traditional materials.

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, 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



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



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.

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



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



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.

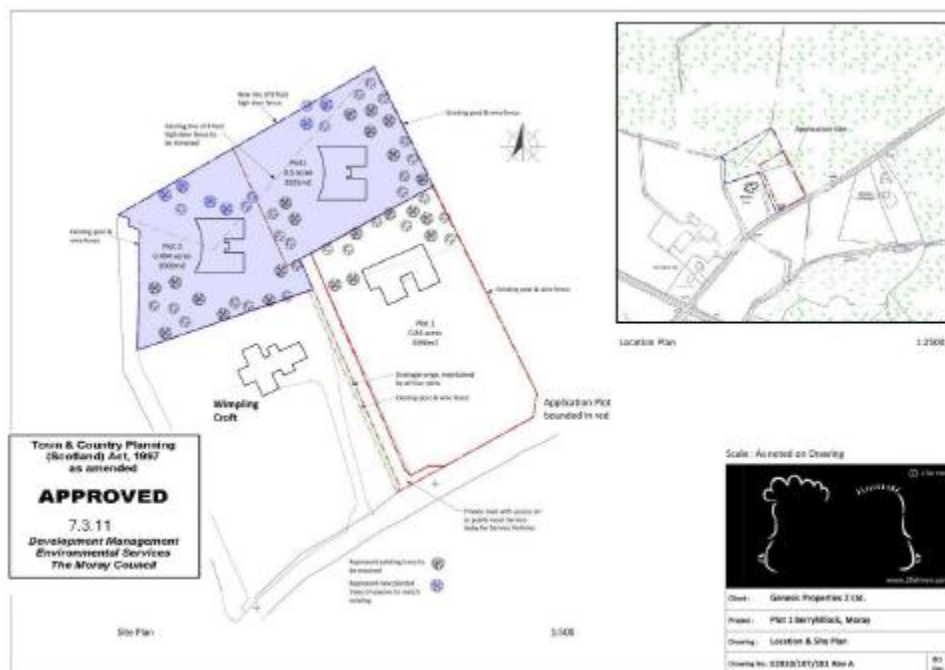
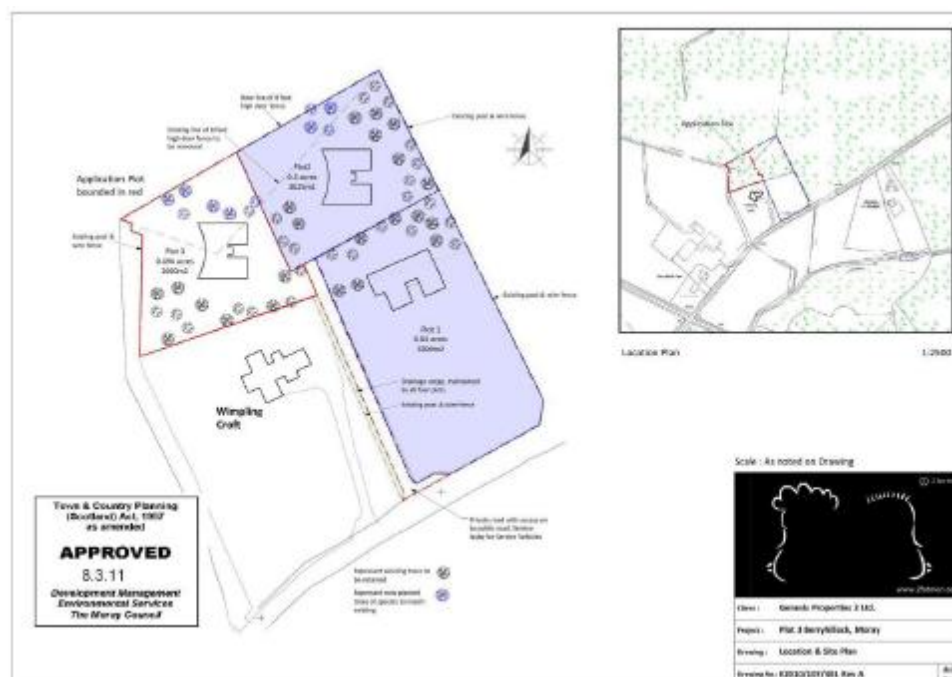


Figure 15 site boundary of planning consent reference 11/00010/APP shown as plot 3.



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