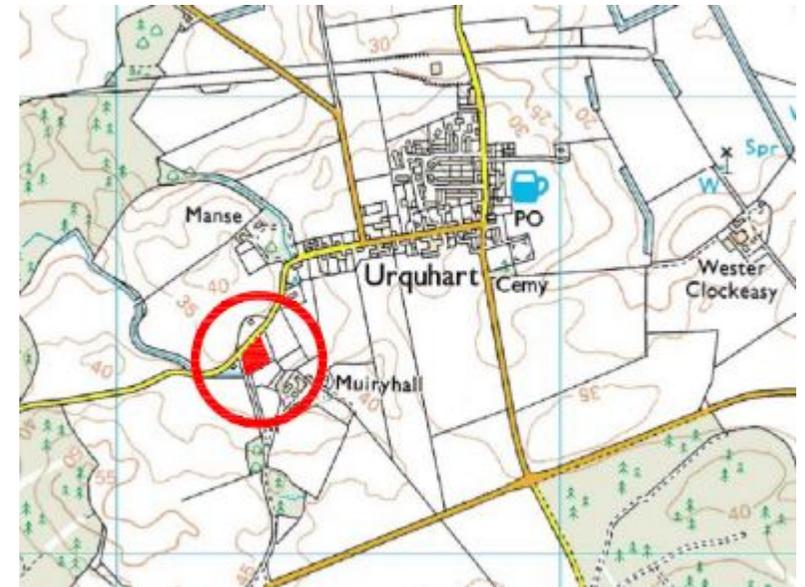


**Erect House at Site Adjacent To The Willows Urquhart Moray**

January 2014

**Grounds for Review of Refusal of Planning Permission**

Planning Application Ref No 13/01004/APP



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**1.0 Introduction**

1.1 These grounds for review of a decision to refuse planning permission for a house on a site adjacent to The Willows, Urquhart are 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 28<sup>th</sup> October 2013.

1.2 The grounds for review respond to the reasons for the refusal of planning permission 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).

## **2.0 Background to Handling of Application**

2.1 The application (Appendix 1) was dated 7<sup>th</sup> June 2013 and was refused under the Councils Delegation scheme by the case officer on 28<sup>th</sup> October 2013.

2.2 The reasons for refusal state that;

*1 – The proposed dwelling is contrary to the adopted Moray Local Plan 2008 policies H8 and IMP1 in that its siting in relation to neighbouring dwellings would detract from their setting and result in an unacceptable build-up of housing located beyond the settlement boundary of Urquhart, thereby detracting from the character and appearance of the surrounding countryside.*

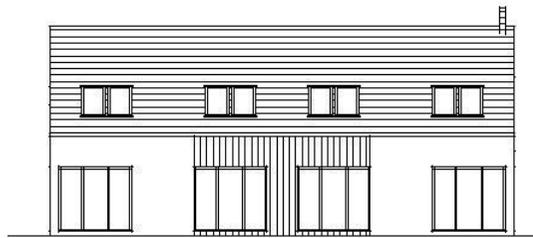
*2 - The proposed dwelling is contrary to the adopted Moray Local Plan 2008 policies E9 and IMP1 where, in being located less than 60m outside the Urquhart settlement boundary, this development will result in the outward expansion and build up dwellings on and beyond the existing periphery of the village boundary, thereby eroding the distinction between the built up environment of Urquhart and the surrounding open countryside.*

2.3 The case officer's report of handling for the planning application (Appendix 2) was dated 23<sup>rd</sup> October 2013.

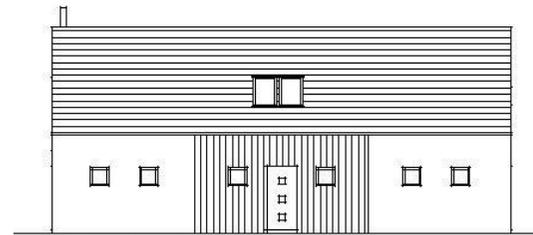
2.4 The report confirms that there were no objections from statutory consultees which included the Councils Contaminated Land Team, Environmental Health Manager,

Environmental Protection Manager, Transportation Manager and Scottish Water.

- 2.5 The report identified a single objection for an address within Urquhart (Main St), very well away from the site and not a neighbouring property. The grounds of objection related to road safety/access and drainage. The report confirmed that the transportation manager was satisfied with the proposals in terms of road safety/access subject to conditions. The terms of the objection related to drainage had not been defined but the case officer confirmed that this may have related to surface water which had been dealt with satisfactorily in a report submitted during the planning application (Appendix 1).
- 2.6 Two previous applications for dwellings on the site which were refused were identified in the report. However these applications have not been the subject of appeal or review and do not, in themselves, prejudice the power of the LRB to determine the current review on the basis of the grounds being put forward.



South Elevation



North Elevation

elevations – NTS (full plans in Appendix 1)

### 3.0 The Proposal

3.1 The proposal is for a simple modest single storey dwelling served by a public water supply and private drainage (septic tank/soakaway) and SUDS. Access will be from the Urquhart/Darklands public road.

3.2 The design of the proposed house is single storey with traditional proportions and finishes including slate effect grey rooftiles, with smooth white render and sections of vertically panelled timber linings on the walls.



Location – NTS (full plans in Appendix 1)



Aerial view of site in relation to Hawthorn Cottage and The Willows – larger version following p 22

#### 4.0 The Site

- 4.1 The site is located to the Southwest of Urquhart with two long established dwellings to the North (Hawthorn Cottage) and Southwest (The Willows). Both of these properties are set within mature gardens and are well screened from view and each other.
- 4.2 This is a very generous plot at 4341sqm (0.43ha, 1.06ac) and it is effectively part of a small grouping of established existing houses. This small group is located to the North of a larger established grouping of houses at Muiryhall where planning consent has been granted for additional dwellings.
- 4.3 The proposed plot is very well defined and enclosed by the public road to the North and an existing track to the West. It is also well screened by mature trees within the plot which will be retained and supplemented by new planting.
- 4.4 The approach to the site in either direction both to and from Urquhart is very well screened by mature trees and hedging within the site and beyond.

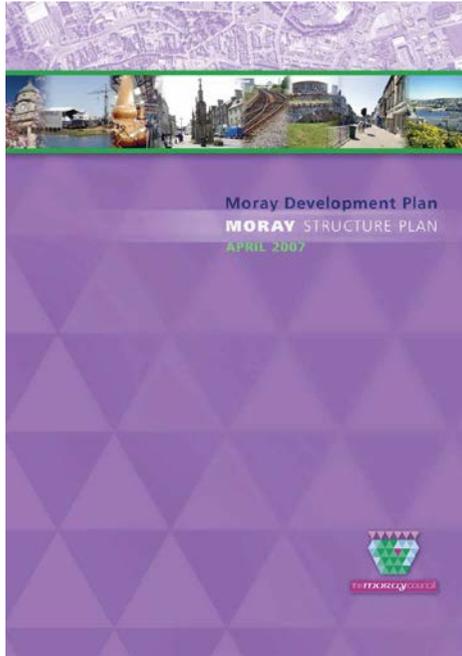
## **5.0 Development Plan Policy**

5.1 The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

5.2 The Development Plan for Moray comprises the Moray Structure Plan 2007 approved in April 2007 and the Moray Local Plan adopted in December 2008.

5.3 Material considerations are not defined statutorily. Examples of possible material considerations are set out in an Annex to Scottish Government Circular 3/2013 (Appendix 3) and they include;

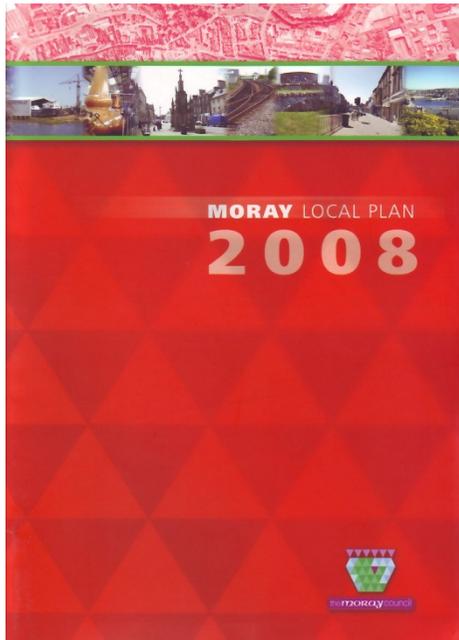
- National Scottish Planning Policy
- The environmental impact of a proposal
- The design of a development and its relationship to its surroundings
- Access, provision of infrastructure and planning history of the site
- Views of statutory consultees
- Legitimate public concern, or support, expressed on relevant planning matters



Moray Structure Plan 2007

## 6.0 Moray Structure Plan 2007 (Appendix 4)

- 6.1 The development strategy in the Structure Plan promotes growth and its strategic aims (p8) include a commitment to maintain and grow the population and to allow sensitive small scale development in rural areas.
- 6.2 Whilst the Structure Plan directs the majority of new growth to the established settlement hierarchy it also recognises that in rural Moray the development of small scale housing is essential to sustain communities (p17)
- 6.3 The Structure Plan has an explicit presumption in favour of house building in rural areas on well located and designed sites that have a low environmental impact (p17). It also recognises that new development should be sensitive to areas of scenic, special scientific and nature conservation value (p17).
- 6.4 Structure Plan Policy 1 (e) (Development and Community) (p24) encourages low impact and well designed development in the countryside.



Moray Local Plan 2008

## 7.0 Moray Local Plan 2008 inc Supplementary Guidance on Housing in the Countryside (Appendix 5)

7.1 The Local Plan reflects the Structure Plan strategy and allows for housing in the countryside subject to certain criteria being met.

7.2 The site is located in the countryside. It is not within any of the designated sensitive areas identified in the Local Plan e.g. Countryside Around Towns, National Scenic Areas, Coastal Protection Zones and Areas of Great Landscape Value. It is not within any designated sensitive habitats identified in the Plan e.g. Sites of Interest to Natural Science, Sites of Special Scientific Interest, RAMSAR sites, SWT Wildlife Sites, National Nature Reserves and Special Areas of Conservation.

7.3 As a proposal for a new house site in the countryside the lead policy to consider is Policy H8 – New Housing In The Open Countryside.

7.4 Policy H8 sets out requirements on the siting and design of new houses in the countryside. It presumes against applications for more than two houses and allows for two or less houses on sites which;

- do not detract from the character and setting of existing buildings, or their surrounding area, when added to an existing grouping or linear extension,
- are not overtly prominent (such as on a skyline, on artificially elevated ground, or in open settings such as the central areas of fields). Where an otherwise prominent site is offset by natural backdrops, these will be acceptable in terms of this criterion,
- have at least 50% of the site boundaries as long established features capable of

distinguishing the site from the surrounding land (for example dykes, hedgerows, watercourses, woodlands, tracks and roadways).

7.5 As regards design policy H8 also requires;

- a roof pitch of between 40-55 degrees.
- Gable width of no more than 2.5 times the height of the wall from ground to eaves level.
- Uniform external finishes including slate or slate effect roof tiles
- Vertical emphasis and uniformity to windows
- Additional planting within the plot
- Boundaries sympathetic to the area.

7.6 The siting and design criteria in Policy H8 are supplemented by the general criteria based Policy IMP1 – Development Requirements. This policy has a range of requirements applicable to all new development including that;

- scale, density and character must be appropriate to the surrounding area,
- development must be integrated into the surrounding landscape,

7.7 In addition to the siting and design requirements of Policies H8 and IMP1 there are a range of other Local Plan policies relating to infrastructure, servicing, and tree requirements as follows;

- Policy T2 – Provision of Road Access
- Policy T5 – Parking Standards
- Policy EP5 – Surface Water Drainage: Sustainable Urban Drainage Systems

(SUDS)

- Policy EP9 – Contaminated Land
- Policy EP10 – Foul Drainage

- 7.8 In general terms these policies seek to ensure that new development is provided with adequate infrastructure including a suitable and safe access, adequate car parking and adequate foul drainage (private systems are accepted for small developments in the countryside).
- 7.9 Policy E9 (Settlement Boundaries) has been identified in the reasons for refusal. This policy says that the settlement boundaries around towns and villages represent the limit to which they can expand during the plan period and that proposals “immediately outwith” these boundaries will not be acceptable. The justification for the policy explains that the settlement boundaries are defined for the purpose of guiding development to towns and villages, preventing ribbon development and maintaining a clear distinction between built up areas and the countryside.
- 7.10 The Council also has Supplementary Guidance on Housing in the Countryside which states that 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 and IMP1. Site characteristics and the character of the surrounding area will be taken into account when looking at the issue of whether or not a build up of development will be detrimental to the rural character of the open countryside.



Scottish Planning Policy (SPP)

## **8.0 National Planning Policy and Guidance**

8.1 National Planning Policy and Guidance is a material planning consideration to be taken into account in the consideration of planning applications. It is set out in Scottish Planning Policy (SPP) and Planning Advice Notes (PAN's).

## **8.2 Scottish Planning Policy -SPP - (Appendix 6)**

8.3 Scottish Planning Policy sets out the Scottish Governments overarching policy on land use planning.

8.4 The section of the SPP on Rural Development supports small scale housing in "all rural areas" (para 94), including new clusters and groups, extensions to existing clusters and groups and plots on which to build individually designed houses.

## **8.5 Planning Advice Note 72 (PAN72) – Housing in the Countryside (2005) (Appendix 7)**

8.6 PAN72 starts by recognising changing circumstances and points out that one of the most significant changes in rural areas has been a rise in the number of people wishing to live in accessible parts of the countryside while continuing to work in towns and cities within commuting distance. It contains guidance in some detail on how to achieve a successful development in the countryside. The PAN acknowledges that there will continue to be a demand for single houses, often individually designed, but these have to be planned, with location carefully selected and design appropriate to locality (P7).

8.7 The PAN gives advice on location within the landscape and specifically states that housing related to existing groups will usually be preferable to new isolated



Planning Advice Note 72 - Housing in the Countryside

development (page 7). It requires new housing in small groups to avoid a suburban appearance, by being sympathetic in terms of orientation, topography, scale, proportion and materials to other buildings in the locality.

8.8 It also states that the purpose of new planting is not to screen or hide new development, but to help integration with the surrounding landscape (P11).

8.9 The PAN cautions against skyline development (P11) to ensure that it does not interrupt and conflict with the flow of the landform or appear out of scale.

8.10 As regards design the PAN points out (P15) that there is considerable scope for creative and innovative solutions whilst relating a new home to the established character of the area.

## **9.0 Main Issues**

9.1 Having set out the policy background it is now necessary to consider the main issues that arise from the proposal in relation to this policy context. The main issues are considered to be;

- principle of the site
- design
- infrastructure and servicing

## **9.2 Principle of the Site**

9.3 There is a clear commitment in National Planning Policy and Guidance and the Moray Structure Plan Strategy to the principle of well sited and designed new housing in the countryside. There is particular support for houses related to existing groups as is the case with the site under appeal.

9.4 Structure Plan policy 1 (e) encourages low impact well designed development in the countryside.

9.5 The Moray Local Plan 2008 reflects Structure Plan policy. The lead policy for testing the acceptability of a new site in the countryside is Policy H8 (New Housing in the Open Countryside).

9.6 Policy H8 starts off by saying that it assumes against multiple house applications (more than 2) on the basis that these are more appropriately directed to Rural Communities (policy H6) and the replacement of Existing Buildings (policy H7). The application is for a single house and as such it is in accordance with the general thrust of the policy in terms of the number of houses being applied for.

- 9.7 Policy H8 sets out three specific criteria under the heading "siting" which have to be met for the principle of a site to be acceptable.
- 9.8 Firstly the site should have at least 50% of its boundaries as long established features capable of distinguishing it from the surrounding land. Examples of acceptable boundaries are woodlands, dykes, hedgerows, watercourses, tracks and roadways. The site meets and exceeds the boundary requirements of the policy as it has the required boundary definition; a public road along the Northern boundary and a long established track along the Western boundary. There is also a substantial stand of mature trees within the site defining the West boundary and part of the North boundary. The boundary definition of the site is not identified as an issue in the reasons for refusal.
- 9.9 The second of the siting criteria within Policy H8 is that the dwelling must not be overtly prominent. Examples of overtly prominent locations identified in the policy are sites on a skyline, on artificially elevated ground, or in open settings such as the central areas of fields. The site is not on the skyline, on artificially elevated ground or in the centre of a field. Once again this element of the policy is not identified as an issue in the reasons for refusal.
- 9.10 The third element of the siting criteria under Policy H8 states the house must not detract from the character and setting of existing buildings, or their surrounding area, when added to an existing grouping or linear extension. The proposed plot is very well related to the size and characteristics of the existing long established plots to the North (Hawthorn Cottage) and Southwest (The Willows). It effectively rounds off this small grouping. Hawthorn Cottage and The Willows sit within mature landscaped plots and the proposed site has the benefit of a similar mature landscaped appearance within which to contain the proposed house. The proposed

house has been positioned within the plot to keep it well apart from the The Willows and Hawthorn Cottage and also to ensure that the relationship between the size of the house and the plot is consistent with that of the relationship between the size of the houses and plots at The Willows and Hawthorn Cottage. The proposal will relate very well to the character and setting of the existing small grouping of houses at The Willows and Hawthorn Cottage.

- 9.11 The site also has the benefit of existing trees on the plot allowing the house to be set within them. This will further reduce the impact of the proposal on the setting of the existing grouping. Taking account of this, and by rounding of this existing small grouping and not extending it along the road to the Northeast or Southwest, the proposal will not result any ribbon development or increase the impact of the existing established small group in an unacceptable manner.
- 9.12 As the site is so well defined and enclosed and reflects the settlement pattern of the existing grouping it will not detract from the character and setting of these properties or the surrounding area.
- 9.13 Policy E9 (Settlement Boundaries) is quoted in the reasons for refusal. It is not considered that this policy applies to the proposal. The policy precludes development “immediately outwith” settlement boundaries to prevent settlements expanding in a manner that leads to ribbon development or that blurs the distinction between built up areas and the countryside. This is not a proposal for the expansion of the settlement and the site is certainly not “immediately outwith” the settlement boundary for Urquhart. There is a very clear area of separation (a field) between Urquhart and the site. The site falls to be considered under policy H8 for new housing in the countryside and as has been shown above the proposal complies with Policy H8.

9.14 The effect of the separation between the site and Urquhart is added to by the fact that there is very strong screening along the road between the site and Urquhart to ensure that both the visual and perceptual effect of the proposal will be entirely separate and distinct from Urquhart. The proposal is not the expansion of Urquhart “immediately outwith” its boundaries and the screening on the site, and between the site and Urquhart, will ensure that there is a clear visual separation between the plot and Urquhart. Policy E9 is clearly related to proposals for the expansion of settlements which can compromise their setting by creating ribbon development or by damaging the distinction between the “built up” area of the settlement and the countryside beyond. As a matter of fact the application under review is not a proposal to expand the settlement as controlled through Policy E9. It is a proposal on a separate site not connected to the settlement boundary, visually separated and distinct from it, and which is considered to be acceptable under the relevant Policy H8 for a new house site in the countryside. In fact the first reason for refusal describes the site as “located beyond the settlement boundary” as opposed to “immediately outwith” it which is the limitation in policy E9.

**9.15 Design**

9.16 There are a series of specific design requirements within policy H8. They are all met by the proposals as follows, (the design of the proposed house is not identified as an issue in the reasons for refusal);

- a roof pitch of between 40-55 degrees
- Gable width of no more than 2.5 times the height of the wall from ground to eaves level.
- Uniform external finishes
- Vertical emphasis and uniformity to the windows
- Additional planting within the plot

- Boundaries sympathetic to the area

9.17 Overall it is considered that the proposal meets the requirements of Policy H8 and the related Supplementary Guidance on Housing In The Countryside. In doing so it also satisfies the requirements of Policy IMP1 which requires development to be integrated into the landscape and of a character appropriate to the surrounding area.

**9.18 Infrastructure and Servicing**

9.19 Local Plan policy requirements for infrastructure and servicing relevant to this proposal relate to access, parking and drainage.

9.20 Policies T2 (Provision of Road Access) and T5 (Parking Standards) require a suitable and safe access to be provided from the public road along with car parking in accordance with the Councils parking standards.

9.21 The access will be from the public road along the North boundary of the site. The case officer's report of handling (Appendix 2) confirms that the Councils Transportation Manager has no objections to the proposal subject to planning conditions which can be achieved.

9.22 Policy EP10 (Foul Drainage) allows for private drainage systems (septic tanks/soakaways) for small scale development in the countryside with a preference for discharges to land rather than surface waters. A septic tank/soakaway system with a discharge to land is proposed.

9.23 The use of Sustainable Urban Drainage Systems (SUDS) is promoted by Policy EP5 (Surface Water Drainage: Sustainable Urban Drainage Systems). SUDS will be provided and the detail can be

controlled through planning conditions.

9.24 The water supply will be from the public mains.

## **10.0 Reasons for Refusal**

- 10.1 The first reason refusal starts off by saying that the proposal would detract from the setting of the neighbouring dwellings. The proposed plot is a very generous size at 4341sqm (0.43ha, 1.06ac) and contains established mature planting along its West and North boundaries. Hawthorn Cottage is across the public road to the North and is contained within its own mature landscaped and screened plot. There will be very little intervisibility between Hawthorn Cottage and the proposed house. The Willows to the Southwest is also contained within its own mature and landscaped plot and is further separated from the proposed site by a long established track from the public road to the group of houses and farm at Muiryhall to the South. Once again there will be very little intervisibility between The Willows and the proposed house. Given the very substantial level of screening on the site under review, the established mature landscaped and screened plots at the Willows and Hawthorn Cottage, and the separation of the proposed site from The Willows and Hawthorn Cottage by a track and public road respectively, it is very difficult to see how it can be said that the proposal will detract from the setting of the neighbouring dwellings. It is also significant to note that there were no representations from the occupants of either The Willows or Hawthorn Cottage.
- 10.2 Reason for refusal number one goes on to say that the proposal will result in an unacceptable build up of housing beyond the settlement boundary detracting from the appearance and character of the surrounding countryside. It has already been shown that this site is a well screened plot beside two other long established well screened plots and it will round off this small group. In addition to the plots being well screened the approaches to and from them in both directions are also well screened. Given the

level of landscape integration provided by the existing screening within and around the existing plots and proposed plot there will not be an adverse impact on the appearance and character of the surrounding countryside as a result of the proposal under review.

- 10.3 The second reason for refusal starts by saying that the proposal will result in the outward expansion of Urquhart. As has already been shown this is not a proposal to expand Urquhart in terms of Policy E9. It is a separate site, physically and visually distinct from and beyond Urquhart, and is considered to be acceptable under the relevant Policy H8 for a new house in the countryside.
- 10.4 The second reason for refusal goes on to say that the proposal will result in a build up of dwellings “on and beyond” the village boundary. This is not correct and somewhat contradictory and it does not tie in with the terms of policy E9. As a matter of fact the site is not “on” the village boundary. It is accepted that it is “beyond” the boundary and in a manner which is visually and physically separated from it with a field between the site and the boundary. As such the proposal does not contravene the terms of Policy E9 which precludes development “immediately outwith” the boundary.
- 10.5 The latter part of the second reason for refusal states that the proposal will erode the distinction between the built up environment of Urquhart and the surrounding countryside. The proposal does not involve the type of development precluded by policy E9 which is in place to control the unacceptable expansion of settlements in a manner that erodes the distinction between built up areas and the countryside beyond. It is also considered to be acceptable under policy H8 for the reasons already

given. By satisfying policies H8 and E9 the proposal cannot be said to damage the distinction between Urquhart and the countryside beyond. This is also emphasised by the mature landscape screening around the existing plots and the proposed plot and the landscape separation and screening between the plot and Urquhart.



Hawthorn  
Cottage

settlement  
boundary

proposed site

Muiryhall

The  
Willows

## **11.0 Conclusions**

- 11.1 The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.
- 11.2 National Planning Policy and Moray Councils Structure and Local Plan policies all encourage well sited and designed houses in the countryside and there is a preference for the siting of new houses with existing groupings.
- 11.3 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 is acceptable under the criteria set out in the policy.
- 11.4 It has also been shown that the proposal is acceptable in relation to other relevant Local Plan policies regarding design, provision of access, parking and drainage.
- 11.5 It is stated that the proposal contravenes policy E9. It is not considered that this applies as the proposal is not for the expansion of Urquhart in the manner precluded by this policy.
- 11.6 There were no objections to the proposals from any of the statutory consultees.

11.7 As the proposal can be accepted under Development Plan policies and there are no known material considerations to the contrary it is requested that application be approved.

View of site on approach from Urquhart. Site behind trees on left, Hawthorn Cottage behind trees on right.

**Photograph 1**



View of site on approach from West towards Urquhart. The Willows is on the right with the site behind the trees beyond The Willows. The trees beyond The Willows are within the site and the proposed house will be behind these trees.

**Photograph 2**



View towards Urquhart from East side of site.

**Photograph 3**



View towards Urquhart from West side of site.

**Photograph 4**



Field between site and Urquhart.

**Photograph 5**

