

**PLANNING APPLICATION: 10/00124/PPP**

*In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications*

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As Members will recall, this application was previously considered at the Planning and Regulatory Services Committee meeting on the 6<sup>th</sup> April. Notwithstanding the recommendation for refusal of the application on the grounds that it was in contravention of policies H8 and CF4 of the Local Plan, and that it would establish an undesirable precedent, the decision of Committee was to approve the application. It was further agreed by committee that the application should be returned to the next meeting of the Planning and Regulatory Services Committee for consideration and determination with a list of appropriate draft planning conditions.

The report to the April Committee made mention of the lack of drainage (SUDS) details, and the fact that SEPA maintained an objection to the application on this basis. It was noted that this matter would require to be resolved prior to the issue of any consent. Following further investigation of this matter it has been concluded that the matter may be dealt with by conditions of planning permission in view of the fact that this is an application for outline planning permission only. This also conforms with the advice given to Committee when considering the 2009 application for this site. Conditions 2 and 4 as listed below address this matter.

In light of the previous decision of the Committee, a list of appropriate planning conditions is given below. A copy of the previous report to Committee on the 6<sup>th</sup> of April is also attached for Members' attention.

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## PREVIOUS REPORTS

### REPORT TO ENVIRONMENTAL SERVICES COMMITTEE DATED 6<sup>th</sup> APRIL 2010

#### **The Proposal**

- This application is for planning permission in principle for a mixed development of new club facilities, holiday lodges and housing, at the Kinloss Golf Club.
- Five new houses.
- Five holiday chalets are proposed in the same area as the houses, positioned centrally to the overall golf course site.
- Existing clubhouse to become a locker room.
- New, larger clubhouse to be erected parallel to the roadway.
- One tennis court proposed.
- Existing road access to be retained.
- Connection to public water supply and public sewers proposed.

#### **The Site**

- The site extends to around 1.9 hectares (4.7 acres) all within the boundary of the Kinloss Golf Course.
- The site adjoins the B9089 Kinloss to Burghead road and is otherwise enclosed by agricultural land.
- The landscape is generally flat farmland, with scattered farms and individual houses, and woodland coppices.

#### **Policy / Objections-Representations / Consultations - See Appendix**

#### **History**

An application on the same site was considered by the Planning and Regulatory Services Committee on 24th November 2009. The application then was for new golf club facilities, eighteen new houses and five holiday chalets. Also included were three tennis courts and an area for greenkeeper's sheds. In accordance with the recommendation of officers, the application was refused on the grounds that it was contrary to policies H8 and CF4 of the Development Plan, and as it would establish an undesirable precedent.

As noted in the report to Committee on the previous application, there have been a substantial number of planning applications for new houses in the vicinity of and bordering onto, the golf course.

#### **Advertisement**

Advertised as a departure to policy H8 of the Development Plan, and under neighbour notification regulations.

## **Overall Summary of the Proposal**

- This application differs from the previous application in that the overall size of the application site has been reduced from 5.5 to 1.9ha; the number of houses applied for has been reduced from 18 to 5; and the tennis courts from 3 to 1.
- The number of holiday chalets proposed remains at 5. There is no reference in the current application to the siting of greenkeeper's facilities, but as before a new clubhouse is proposed, and the present clubhouse converted to other sport facilities.
- The application is supplemented by an Economic Impact Assessment which highlights the potential benefits to the business itself, to the local economy, and to local employment through enhanced golfing facilities and the chalets for tourist accommodation. The Assessment does, however, conclude that in order for the development to proceed it will be necessary to sell off some land for housing, to enable the development to progress "without additional commercial debt".
- Letters of support for the application have been submitted from Highlands and Islands Enterprise (Moray), Visit Scotland, The Findhorn Golf Society, Clubgolf Scotland Ltd., and from Moray Tourism Executive. These corroborate the Assessment, as to how the proposed development will hopefully be a boost to the tourist economy in the area while also being of benefit to local golfers through the provision of all-weather training facilities.
- No objections to the proposal have been lodged.

## **Policy Analysis**

The primary policies by which this application is assessed are Policies ED9, CF4 and H8 from which the housing element of the applications departs. In addition, it requires to be assessed against new National Policy for Rural Development.

## **Scottish Planning Policy on Rural Development**

Published only in February this year, this Policy has been brought into effect since the Councils' adoption of its Local Plan in December 2008.

The new SPP carries forward the previous supportive policy for small scale housing in rural areas, including "new clusters and groups" linked to rural businesses, then adds: "or in support of new businesses by providing funding." This latter phrase is a significant departure from previous national advice and policy on housing in the countryside and is at odds with this Council's long-held stance in its successive Local Plan. There is no particular conflict with the first phrase regarding "new clusters and groups" for which this Council has long made provision through its identification of Rural Communities, many of which are related to one of Moray's primary rural industries, distilling.

The applicant seeks justification for the housing element of this proposal based on the statement above "in support of new businesses by providing funding".

While the objective of the national policy is clearly to encourage new business in the rural area, this is not a new business in need of funding to ensure its establishment; it is established, and this proposal is to expand its facilities and range of business attraction (into, for example, holiday accommodation). Furthermore, it is the case that two new houses have already been granted consents - and built - on the justification of association with the golf course business. This is not acknowledged in the Economic Assessment.

The Kinloss Golf Club is, currently, a rural business unrelated to any other business or community facilities, and only by reason of the above houses referred to, related to the settlement pattern in the vicinity.

There is no substantive case for considering this area as a potential Rural Community, and therefore the justification for the planned expansion promoted in this proposal would have to rest on over-riding considerations of economic benefit arising from the business engendered by the new indoor club facilities; a tennis court; and five holiday lodges. It is contended that the Economic Impact Assessment does not make that case.

Firstly, a golf course is not an intrinsically rural business, most golf courses in Moray being located at the edge of the built-up areas of towns or villages. Rural housing is being sought here to support a business which is not normally associated with isolated rural settings.

The Economic Impact Assessment (EIA) does not compare similar experiences of investment in indoor golfing facilities (the main expenditure) elsewhere in Scotland, and there is inconclusive evidence as to the viability of such ventures.

The shortfall in "income" for this venture (i.e. the shortfall to be met from the sale of five house plots) is not specified. The EIA was written (and dated October 2008) for the original application which sought 18 house plots and it is not clear how the difference in viability is calculated. The total capital cost of the club facilities and five chalets is given as £1,350,000 and with reasonable (verified) estimates of return from increased client usage, set against increased staffing costs, the shortfall would be expected to equate to the income from the five plots - which at estimate £60,000 per plot would be £300,000 (about 22%) but no analysis of this is given, either in terms of timescale for return, or market expectation of sales.

The Council is essentially being asked, as a Planning Authority, to risk compromising its Planning policy for housing in the countryside, on the basis of a "hoped for " return on investment, and an optimistic estimate of jobs created.

### **Tourism Facilities and Accommodation (ED9)**

Whilst this policy would generally support the golf course upgrades proposed in the application, and may, (subject to visual impact, landscaping and access assessments) permit chalet development, the objectives of ED9 have to be set against the interpretation of policies CF4 and H8 below.

## **Golf Courses (CF4)**

This policy supports the granting of planning permission for golf course and driving range developments where certain criteria are met, one of which is specifically that the proposal does not include housing or other developments that would not be acceptable under other policies. Thus whilst in broad terms the golfing elements of this application comply with the terms of CF4, the proposal will fail if it is dependent upon a housing element (which the applicant states to be essential to the viability of the proposal) which then fails the tests of policy H8.

## **New Housing in the Open Countryside (H8)**

This policy assumes against multiple house applications (more than 2) in the open countryside on the basis that these are more appropriately directed to Rural Communities. Five new dwellinghouses in an open countryside setting is therefore in contravention of this policy. In effect it would create an unplanned community in the rural area, without appropriate services, and entirely out of character with the settlement pattern of the location and in opposition to the Council's strategy for new housing in the countryside.

The location for the five house plots has been given careful consideration, and it is acknowledged that five can be more readily blended into the landscape than eighteen. They will almost be hidden from view from the road by the contours of the golf course, and the configuration of the remaining woodland. Nevertheless they will be entirely visible to the users of the golf course, and occupants of the holiday lodges, and this is not an entirely satisfactory situation for the promotion and quality tourist facilities, given that these houses will resemble a suburban grouping in the countryside. It is for this latter reason that multiple houses in the open countryside is discouraged by Policy H8, and a consent would set an undesirable and unhelpful precedent.

## **Affordable Housing (H9)**

The application seeks permission for only 5 houses, and there is thus no requirement for an affordable housing element.

## **Access and Parking (T2, T5)**

The existing road into the site is to provide and access to the proposed housing and chalet development on the line of existing tracks.

The Transportation Manager indicates that the development could be acceptable in road terms, subject to a number of conditions. In the event that Committee are minded to approve the application, conditions recommended by the Transportation Manager should be attached.

## **Archaeology (BE1)**

(This policy is intended to protect archaeological remains from development which may compromise its integrity, and to ensure that where development is accepted on sites with potential interest, then measures are put in place to record and protect any discoveries.)

There are archaeological remains in the vicinity of the site, and hence this was the subject of consultation with the Regional Archaeologist, no conditions are required in the event that permission is granted.

## **SUDS (EP5)**

As an outline application, no details of SUDS have been submitted with the application, and SEPA object to the application due to the lack of information on surface water drainage. This response was copied to the applicants/agents, and at the time of writing no further information has been submitted.

In the event that Committee are minded to approve the application, this matter will require to be resolved prior to the issue of any consent.

## **Energy Reduction (ER2)**

This is an outline application only. In the event that a detailed application, or reserved matters application is submitted for the development as proposed, then it will require to demonstrate compliance with this policy at that stage.

## **Development Requirements (IMP1)**

(This policy stresses the need for development to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area.)

Indicative sketches have been submitted for the proposed new clubhouse only.

Any detailed or reserved matters application would require to fully demonstrate that the development would be capable of complying with this policy.

## **Developer Contributions (IMP3)**

This policy would require to be implemented only in the event of an approval by Committee.

## **Conclusion**

Although the Scottish Planning Policy is a material consideration in the determination of this application, it does not override the adopted policies of the 2008 Moray Local Plan. Approval of this application would establish an undesirable precedent for further development of this nature in countryside locations. Whilst it may be possible to approve those parts of the application relating to golf and tourist accommodation only, it is quite clear from the supporting Assessment that the housing element is inextricably linked. The recommendation must therefore be for refusal of the application as in breach of Development Plan policies.

## **APPENDIX**

### **POLICY**

#### **Moray Structure Plan 2007 and/or Moray Local Plan 2008**

##### **Policy 1: Development and Community**

The policy set out below identifies the strategic community development requirements for the delivery of the structure plan strategy-

The Moray Structure Plan Strategy will be supported by:

- a) the identification within the local plan of the business and industrial land allowances set out in Schedule 1 and the provision of strategic business locations at Elgin and Forres Enterprise Park and business park opportunities at Buckie, Keith and Lossiemouth;
- b) the encouragement of tourism development opportunities;
- c) the identification within the Local Plan of the housing allowances set out within Schedule 2;
- d) the provision of affordable housing in association with new housing development where a demand is identified in the Local Housing Strategy;
- e) the encouragement of low impact, well-designed development in the countryside to support local communities and rural businesses;
- f) sustaining the vitality and viability of town centres through the support of opportunities and proposals for retail and commercial development in accordance with the sequential approach;
- g) promotion of the strategic transport links as set out in Proposal 2;
- h) the protection and enhancement and new provision of facilities for community use, healthcare, sport and recreation;
- i) the inclusion within Local Plans of a policy requiring appropriate developer contributions towards healthcare and other community facilities.

##### **Policy 2: Environment and Resources**

The Moray Structure Plan Strategy will be supported by: -

- a) protecting international, national and local nature conservation and scenic designations from inappropriate development;
- b) protecting the wider natural environment and local biodiversity from inappropriate development and promote opportunities for environmental enhancement and restoration where possible;

- c) working in partnership with the Cairngorms National Park Authority and other interested parties to implement the objectives of the National Park;
- d) restricting development within coastal areas outwith settlements to only that in which social and economic benefits outweigh environmental impact;
- e) providing protection from development to the countryside around the towns of Elgin, Buckie, Keith, Forres and Lossiemouth;
- f) conserving and enhancing the areas built heritage resources and their settings;
- g) supporting proposals aimed at regenerating the area's natural and built environment including good design;
- h) providing waste management facilities to deliver Area Waste Plan and National Waste Plan objectives and ensuring that new development is designed to facilitate waste management practices and promotes the minimisation of waste;
- i) promoting sustainable urban drainage systems (SUDS) in all new developments;
- j) promoting schemes to alleviate flooding in a sustainable and sensitive way using natural ecosystems and features where possible and also restricting development within flood risk areas following the guidance set out in the Risk Framework in SPP7: 'Planning and Flooding' and promoting flood risk management schemes to tackle flooding that threatens existing development and considering development proposals against the Flood Risk Framework set out in Table 5;
- k) safeguarding the area from pollution and contamination;
- l) promoting opportunities for the sensitive development of renewable energy and promoting renewable energy in new development;
- m) safeguarding resources for the production of minerals, preferred forestry areas, and prime agricultural land.

#### **ED8: Rural Business Proposals**

New business developments, or extensions to existing industrial/economic activities in the countryside will be permitted if they meet the following criteria:

- a. careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, industrial estate/urban designs may not be appropriate,
- b. a locational justification for the site concerned if serviced industrial land is available nearby,
- c. the capacity of the local infrastructure to accommodate the proposals,



- d. environmental considerations, including the impact upon natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land, and
- e. the location of the development close to populated rural areas where appropriate.

Proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business-premises will be encouraged, provided access and parking arrangements are acceptable. Where noise emission or any other aspect is considered to be incompatible with surrounding uses, there will be a presumption to refuse.

### **ED9: Tourism Facilities and Accommodation**

The Council will generally support, proposals which contribute towards Moray's role and image as a tourist area. Proposals will require to: -

- a. be compatible with policies to safeguard and enhance the built and natural environment,
- b. provide adequate infrastructure arrangements (e.g. roads, parking, water, drainage), and
- c. demonstrate a locational need for a specific site.

Developments built as holiday accommodation (e.g. caravans or chalets) should be retained for that purpose and not become permanent residences. Conditions will be applied to planning consents to control this aspect.

For caravan and chalet parks in countryside areas, visual impact and access arrangements will be important considerations. Proposals must demonstrate what landscaping measures will be taken to assist integrate the site into its rural setting, in addition to providing on-site amenity. Rigid formal arrangements should be avoided with stances/units separated to provide discrete locations/surroundings

### **Policy H8: New Housing in the Open Countryside**

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).

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.

### **Policy H9: Affordable and Special Needs Housing**

Proposals for new housing developments of 10 houses or more on designated or undesignated sites, will be expected to provide an "affordable housing" element. The specific contribution will be assessed at the time of the planning application, and will be informed by Moray Council's Supplementary Guidance on Affordable Housing and the most recent Housing Needs Assessment. The preparation or revision of Supplementary Guidance will be subject of stakeholder consultation prior to adoption. There are various forms in which the affordable housing contribution can be provided (such as social rented; homestake; and others as listed in PAN74, para 11). Where the developer can demonstrate that there are exceptional site development costs, the requirement for affordable housing may be reduced, to ensure the cumulative burden on the overall development does not make the development unviable. Whilst the preference will be to locate affordable housing within the site of the related development, other options may include off site contributions, or through the provision of commuted payments.

## **Policy T2: Provision of Road Access**

The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians. Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

SPP17 details that there will be a presumption against new accesses onto a trunk road, and that the Scottish Executive will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

## **T5: Parking Standards**

Proposals for development must conform with the Council's policy on parking standards.

## **CF4: Golf Courses and Driving Ranges**

Planning permission will be granted for golf course and driving range developments providing the following criteria are met;

- a. the proposal does not include housing or other development proposals that would not be acceptable under other policies,
- b. the proposal does not adversely affect the public right of way network or paths used for access purposes unless an acceptable alternative route is provided,
- c. the proposal does not adversely affect the character of the natural and built environment. Associated buildings will require to comply with policies for buildings in the countryside in terms of siting and design.

## **BE1: Scheduled Ancient Monuments and National Designations**

### National Designations

Development proposals will be refused where they will adversely affect Scheduled Ancient Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

### Local Designations

Development proposals which will adversely affect sites of local archaeological importance, or their settings, will be refused unless it can be demonstrated that;

- a. local public benefits clearly outweigh the archaeological value of the site, and
- b. there is no suitable alternative site for the development, and
- c. any adverse effects can be satisfactorily mitigated at the developers expense.

Where, in exceptional circumstances, the primary aim of preservation of archaeological features in situ does not prove feasible, the Council shall require the excavation and researching of a site at the developers expense.

The Council will consult Historic Scotland and the Regional Archaeologist on development proposals which may affect Scheduled Ancient Monuments and archaeological sites.

### **EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)**

Surface water from development should be dealt with in a sustainable manner that avoids flooding and pollution and promotes habitat enhancement and amenity. All sites should be drained by a SUDS system or equivalent. A Drainage Assessment will be required for developments of 10 houses, or greater than 100 sq. metres for non residential proposals. Applicants must agree provisions for long term maintenance to the satisfaction of the Council, SEPA and Scottish Water.

### **Policy ER2: Energy Reduction Requirements in New Development**

Proposals with a cumulative floorspace of 500 m<sup>2</sup> or more must include on site zero and low carbon equipment contributing at least an extra 15% reduction in CO<sub>2</sub> emissions beyond the 2007 Building Regulations carbon dioxide emissions. The location of the equipment should not significantly detract from the amenity, appearance or character of the site. Applications should only be exempt from the above targets where developers are able to demonstrate that technical constraints exist. In those cases, equivalent carbon savings elsewhere in the area would require to be secured from the applicant by agreement.

PAN 84 will be used as guidance for the implementation of this policy.

### **IMP1: Development Requirements**

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.

### **Policy IMP3: Developer Contributions**

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact on existing infrastructure, community facilities or amenity, and those contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

Where the necessary contributions can be secured satisfactorily by means of planning conditions attached to a planning permission, this should be done, and only where this cannot be achieved, for whatever reason, the required contributions should be secured through a planning agreement.

### **OBJECTIONS-REPRESENTATIONS**

None.

### **CONSULTATIONS**

**Transportation Manager, Direct Services** - No objection, subject to conditions of planning permission and informatives.

**Environmental Health Manager, Development Services** - Response awaited at time of writing.

**Environmental Health (Contaminated Land), Development Services** - Response awaited at time of writing.

**Environmental Protection Manager, Direct Services** - No response received.

**Scottish Water** - No objections.

**SEPA** - SEPA object to the application due to the lack of information on surface water drainage.

**Regional Archaeologist** - No objections.

**Ministry of Defence** - Holding response received. Final comments awaited at time of writing.

**Findhorn and Kinloss Community Council** - No response received.