



MORAY LOCAL REVIEW BODY

30 AUGUST 2018

SUMMARY OF INFORMATION FOR CASE No LR208

Planning Application 18/00227/APP – Change of use of amenity land to garden ground at Ferndale, Mains of Buckie, Buckie

Ward 3: Buckie

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 3 May 2018 on the grounds that:

The proposal is contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies E5 and IMP1 as well as the Moray Open Space Strategy Supplementary Guidance 2018) because the proposal to change the land from undeveloped open ground into private enclosed garden ground does not meet any of the policy objectives or exemptions identified and would lead to the loss of part of the Buckie ENV6 designation which is designated to preserve open/amenity space within settlements. The proposal in failing to maintain the designated ENV6 green corridor would also fail to comply with the objectives of the Moray Open Space Strategy Supplementary Guidance 2018.

Documents considered or prepared by the Appointed Officer in respect of the above planning application are attached as **Appendix 1**.

The Notice of the Review, Grounds for Review and any supporting documents submitted by the Applicant are attached as **Appendix 2**.

No Further Representations were received in response to the Notice of Review.

Site Plan for Neighbour Notification purposes only

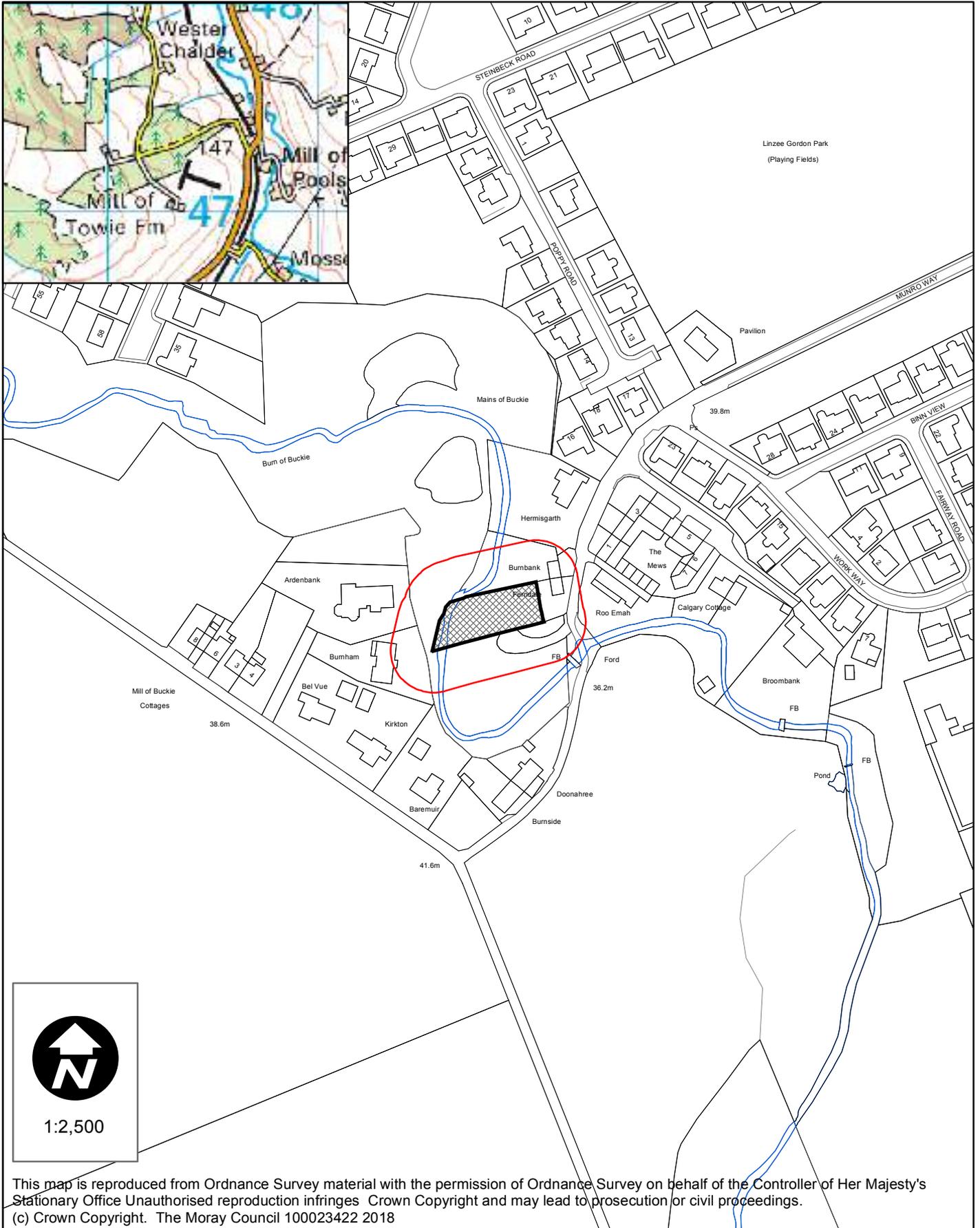
Town and Country Planning

(Development Management Procedure)(Scotland) Regulations 2008



Planning Application Reference Number:

18/00227/APP





APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER

18/00227/APP

18 FEB 2018

APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997
The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please refer to the accompanying Guidance Notes when completing this application
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://www.eplanning.scot>

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR	Ref No.	
Forename	RONALD	Forename	
Surname	MAIR	Surname	
Company Name		Company Name	
Building No./Name	FERNOALE	Building No./Name	
Address Line 1	MAINS OF BUCKIE	Address Line 1	
Address Line 2		Address Line 2	
Town/City	BUCKIE	Town/City	
Postcode	AB564AA	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	

3. Postal Address or Location of Proposed Development (please include postcode)

SAME

NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.

4. Type of Application

What is the application for? Please select one of the following:

Planning Permission

Planning Permission in Principle

Further Application*

Application for Approval of Matters Specified in Conditions*

Application for Mineral Works**

NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.

*Please provide a reference number of the previous application and date when permission was granted:

Reference No:

Date:

**Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.

5. Description of the Proposal

Please describe the proposal including any change of use:

Change of use of amenity land To garden ground

Is this a temporary permission?

Yes No

If yes, please state how long permission is required for and why:

Have the works already been started or completed?

Yes No

If yes, please state date of completion, or if not completed, the start date:

Date started: OCTOBER 2017

Date completed: DECEMBER 2017

If yes, please explain why work has already taken place in advance of making this application

UNAWARE THAT PLANNING PERMISSION WAS REQUIRED

6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal?

Yes No

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting Telephone call Letter Email

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes No

Please provide a description of the advice you were given and who you received the advice from:

Name: STUART DALE

Date: 14.2.2017

Ref No.:

ADVICE GIVEN IN RELATION TO APPLICATION PACK

7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha):

Square Metre (sq.m.) 682

8. Existing Use

Amenity Ground

Please describe the current or most recent use:

/

9. Access and Parking

Are you proposing a new altered vehicle access to or from a public road?

Yes No

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access?

Yes No

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

2

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces)

6

Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements?

Yes No

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

Yes, connecting to a public drainage network
No, proposing to make private drainage arrangements
Not applicable – only arrangement for water supply required

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway
Discharge to watercourse(s) (including partial soakaway)
Discharge to coastal waters

Please show more details on your plans and supporting information

What private arrangements are you proposing?

Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)
Other private drainage arrangement (such as a chemical toilets or composting toilets)

Please show more details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water?

Yes No

Note:- Please include details of SUDS arrangements on your plans

Are you proposing to connect to the public water supply network?

Yes No

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site)

11. Assessment of Flood Risk

Is the site within an area of known risk of flooding?

Yes No

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your planning authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? Yes No Don't Know

If yes, briefly describe how the risk of flooding might be increased elsewhere.

12. Trees

Are there any trees on or adjacent to the application site?

Yes No

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling)

Yes No

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats?

Yes No

If yes how many units do you propose in total?

Please provide full details of the number and types of units on the plan. Additional information may be provided in a supporting statement.

15. For all types of non housing development – new floorspace proposed

Does your proposal alter or create non-residential floorspace?

Yes No

If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

17. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority?

Yes No

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority?

Yes No

If you have answered yes please provide details:

DECLARATION

I, the applicant/agent certify that this is an application for planning permission The accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed

I, the applicant/agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants

Yes No N/A

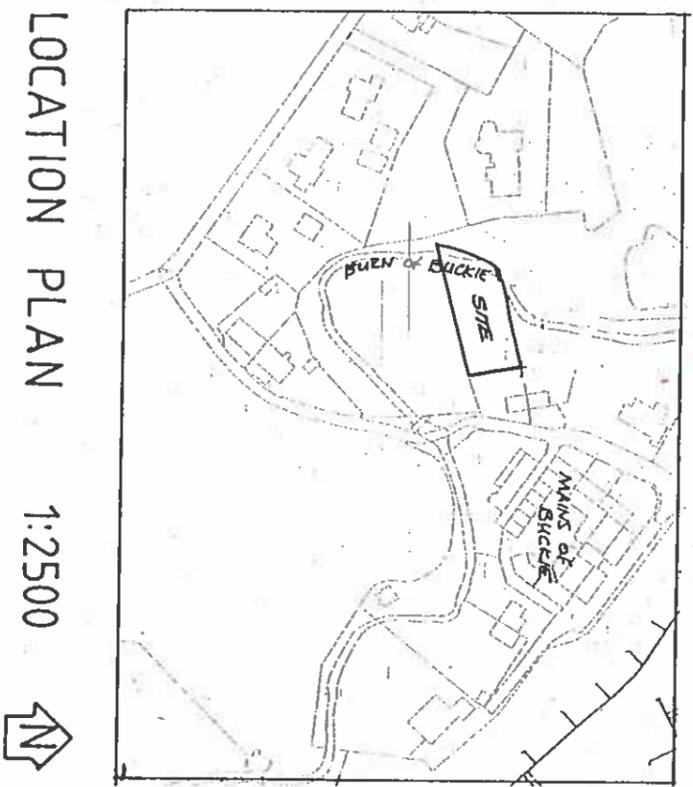
Signature:

Name:

Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

----- / STATED FENCE 1.8 HIGH WITH 6MCH GAP AT GROUND LEVEL
 oooooo / LEYLANDII HEDGE



GROUND AT FERNDALE, MAINS OF BUCKIE,
 BUCKIE, MORAY

DAVID A. SMITH
 DIP ARCH. LEIS
 ARCHITECT
 BERRYBAUDS, CLOCHAN, BUCKIE AB56 5HX
 TEL: 01542 850286 FAX: 01542 850336 EMAIL: david@dsmith.co

Consultation Request Notification

Planning Authority Name	The Moray Council
Response Date	21st March 2018
Planning Authority Reference	18/00227/APP
Nature of Proposal (Description)	Change of use of amenity land to garden ground at
Site	Ferndale Mains Of Buckie Buckie Moray AB56 4AA
Site Postcode	N/A
Site Gazetteer UPRN	000133049710
Proposal Location Easting	342651
Proposal Location Northing	864575
Area of application site (Ha)	m²
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=P48M5QBG0CQ00
Previous Application	03/01967/ID
Date of Consultation	7th March 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Ronald Mair
Applicant Organisation Name	
Applicant Address	Ferndale Mains Of Buckie Buckie Moray AB56 4AA
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Shona Strachan
Case Officer Phone number	01343 563303
Case Officer email address	shona.strachan@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

If you do not respond by the response date, it will be assumed that you have no comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Contaminated Land

Planning Application Ref. No: 18/00227/APP

Change of use of amenity land to garden ground at Ferndale Mains Of Buckie Buckie Moray for Mr Ronald Mair

I have the following comments to make on the application:-

- | | Please |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | x
<input type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | x |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Reason(s) for objection

Condition(s)

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: Adrian Muscutt
email address:
Consultee:

Date: 7 March 2018
Phone No

Return response to	consultation.planning@moray.gov.uk
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Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://public.moray.gov.uk/eplanning/> (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.

Consultation Request Notification

Planning Authority Name	The Moray Council
Response Date	21st March 2018
Planning Authority Reference	18/00227/APP
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Area of application site (Ha)	m²
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=P48M5QBG0CQ00
Previous Application	03/01967/ID
Date of Consultation	7th March 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Ronald Mair
Applicant Organisation Name	
Applicant Address	Ferndale Mains Of Buckie Buckie Moray AB56 4AA
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Shona Strachan
Case Officer Phone number	01343 563303
Case Officer email address	shona.strachan@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

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The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the

two month determination period to be exceeded.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Environmental Health Manager

Planning Application Ref. No: 18/00227/APP

Change of use of amenity land to garden ground at Ferndale Mains Of Buckie Buckie Moray for Mr Ronald Mair

I have the following comments to make on the application:-

- | | Please |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | x
<input type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal |
x |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below |
<input type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below |
<input type="checkbox"/> |

Reason(s) for objection

Condition(s)

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: James McLennan
email address:
Consultee:

Date: 7 March 2018
Phone No

Return response to	consultation.planning@moray.gov.uk
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Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://public.moray.gov.uk/eplanning/> (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.

Our ref: PCS/158135
Your ref: 18/00227/APP

If telephoning ask for:
Jessica Fraser

27 March 2018

Shona Strachan
The Moray Council
Development Services
Environmental Services Dept.
Council Office, High Street
Elgin
IV30 1BX

By email only to: consultation.planning@moray.gov.uk

Dear Ms Strachan

Town and Country Planning (Scotland) Acts
Planning application: 18/00227/APP
Change of use of amenity land to garden ground at
Ferndale Mains Of Buckie Buckie Moray AB56 4AA

Thank you for your email which SEPA received on 21 March 2018 enclosing photographs of the boundary treatments at the site. We have also received additional photographs directly from the applicant in their email of 23 March 2018 and further additional information in their email of 27 March 2018. We note that this follows the comments made within our previous response PCS/157875 (21 March 2018).

We have considered the additional information that has been received and we wish to provide the following amended comments on flood risk:

We ask that the **requirements** set out in section 1.5 below are secured by planning **condition** or other mechanism as deemed appropriate by the planning authority. If any of these will not be applied, then please consider this representation as an **objection**. Please note, if the Planning Authority considers that the requirements set out in section 1.5 cannot be controlled or enforced, please **re-consult** us for further advice.

In addition, we also request that permitted development rights be removed from the garden ground that is proposed within this planning application.

In the event that the planning authority proposes to grant planning permission contrary to this advice on flood risk, the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 provides criteria for the referral to the Scottish Ministers of such cases. You may therefore wish to consider if this proposal falls within the scope of this Direction.

Notwithstanding our position we would expect Moray Council to undertake their responsibilities as

the Flood Risk Management Authority.

1. Flood risk

- 1.1 Within our previous response which highlighted that, based on the information currently available to us (our Flood Map and information submitted in regard to a previous planning application in the area referenced 10/01916/PP), it is likely that at least some of the ground within this current planning application lies within the functional floodplain and there is a possible east-west flow path crossing within or adjacent to this land. Therefore, it is important that any application at the site complies with the flood risk principles of Scottish Planning Policy (SPP), that the flood storage and conveyance capacity provided by the site is preserved and protected and that the proposals do not result in an increase in flood risk on or offsite.
- 1.2 Unfortunately, the additional information and photographs that have been submitted does not alter the above advice. We note that the applicant has submitted some information on another previous planning application referenced 900693 which was granted planning permission on 24 October 1991 and which we understand expired 24 October 1996. The exact site location of that application site is not completely clear to us. However, no flood risk information has been provided and, in any case, flood risk understanding and policy has significantly changed since that time.
- 1.3 In regard to the photographs that have been submitted, we note that there is currently a tall fence which we understand is erected on the northern and southern boundaries of the site. We note that the applicant, in his "supporting document," considers that this would allow water flow from the burn if flooding occurred and would not increase the probability of flooding elsewhere. However, unfortunately it appears to us that this boundary treatment, in its current form, does have the potential to impact on the flood storage and conveyance capacity of the area. The spacing between and under the fence is small and it would take minimal debris to create blockages which would result in the creation of an obstruction to flow. This may also increase the flood risk to Ferndale and properties elsewhere. Therefore, we do not consider that the current boundary treatments meet the requirements set out within our previous response. This fence should therefore be removed or amended to ensure that it does not negatively impact on flood risk.
- 1.4 In light of all of the above, our position on this planning application is as follows:
- 1.5 Ideally, in line with the precautionary principle, garden ground should be located outwith the functional floodplain wherever possible. However, we **do not object** to the use of the ground as garden ground for the associated house of Ferndale provided that, to preserve the flood storage and conveyance capacity of the floodplain and to ensure no increase in flood risk, the following requirements are secured by planning **condition** or other mechanism as deemed appropriate by the planning authority:
 - There is no change (increase or decrease) in present ground levels
 - Details of all boundary treatments are submitted to demonstrate that they do not negatively impact on the flood storage and conveyance capacity of the floodplain and that flood risk is not increased. This should be for approval by the Planning Authority in consultation with SEPA.
- 1.6 In regards to the boundary treatments, it needs to be ensured that the design and construction is such that floodplain flow and storage is not impeded. Ideally boundaries should be left open. However, if boundary treatments are required, they should be designed

to allow the free flow of floodwater. As some fencing has already been constructed, if the applicant wishes to maintain these, the fencing would need to be amended. For example, a significant gap could be formed along the entire length, between the present ground level and the bottom of the fence. This gap should enable the easy conveyance of flood water without interference from possible debris blockage. As no specific information is available from previous Flood Risk Assessments to define the necessary gap size along the full length of the boundaries, a conservative approach should be taken which we have discussed with Moray Council Flood Risk Management team, for example, as a minimum the lower part of the fence up to the first layer of screws should be removed. We would comment that the required gap at the bottom of the fence will depend on the amount of water which is likely to flow under the fence during a flood event and ideally this height should be where there is no restriction on water flow.

- 1.7 We would be happy to provide further advice to the applicant on any proposals that are submitted. In this respect, we note that the applicant has confirmed they will work with SEPA and Moray Council with regards to the boundary treatments, which we very much welcome.
- 1.8 As highlighted above, we also request that permitted development rights be removed from the garden ground that is proposed within this planning application.
- 1.9 If the above requirements are not acceptable to the Planning Authority or applicant, the applicant has the option of carrying out an up-to-date Flood Risk Assessment to try to demonstrate that the site is not at risk from flooding (We refer the applicant to the document entitled: "[Technical Flood Risk Guidance for Stakeholders](#)". This document provides generic requirements for undertaking Flood Risk Assessments. Please note that this document should be read in conjunction [Policy 41](#) (Part 2)). However, we would caution that this may only confirm that the site is at flood risk and therefore the requirements set out above would still apply.
- 1.10 We would also take this opportunity to highlight that, based on the information we currently have available to us, if built development for example housing or land raising were to be proposed at the site in the future, we would likely object to this on flood risk grounds in line with the flood risk principles of Scottish Planning Policy.

If you have any queries relating to this letter, please contact me by telephone on 01224 266698 or e-mail at planning.aberdeen@sepa.org.uk.

Yours sincerely

Jessica Fraser, Planning Officer, Planning Service

ECopy to: Applicant, Ronald Mair: scottishmannie@hotmail.com
Moray Planning Officer, Shona Strachan: Shona.Strachan@moray.gov.uk
Moray Flood Risk Management, Leigh Moreton: Leigh.moreton@moray.gov.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).

Manager
(Development Management)
Development Services
Moray Council
Council HQ
Elgin

Development at Ferndale Mains of Buckie Buckie
Ref: 18/00227/APP
(Change of use has already taken place)

This is the third time I have had occasion to contact your department regarding this piece of ground, the issue being the raising of ground level causing changes to the environment lower down the burn. This area of ground at its original level has always been the natural flood plain for the Buckie Burn.

Now one just needs to view the area at the first bend on the burn at the downside of the area of ground in question. The burn at this point has at least quadrupled in width. The soil of the banks are showing cracking and parts are hanging ready to fall with the next heavy rains. Further down where there is no rock banks there are signs of erosion with ground missing being washed away and where there is rock the ground above has also been washed away. Evidence of bank erosion is now evident for quite a distance downstream.

Also Highfield Gardens Development Buckie Plots numbered 21 & 22

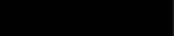
To add to the change in the surrounding area and part of the change to the environment in this area, the part of our land adjacent to Morlich Homes Highfield Gardens development which was always a dry area is now becoming a wet area with loss of vegetation because the site numbered 22 on this development and where an current application has been submitted with your department to build a house has been flooded. this are of ground always floods with normal rainfall and there has been no excess water run off in the past months. (there has been very little snow or rain in the Buckie area) The boundary fence between us at this point has been demolished with a mechanical digger bucket. I contacted Mr John Main of Morlich Homes requesting an answer as to the vandalised fence. (it was a wire mesh fence with concrete slab base, this has been removed and a trench dug to allow the flood water from plot 22 to exit.) Mr Main's answer was that the site foreman had instructed the above to take place.

Serious consideration is required as to how all this additional water is being allowed into the burn from the area at the Tesco store down to the bottom of Highfield Road. Moray Council has and is spending millions of pounds to prevent flooding in different places, yet in this area, development is being given planning approval which is having an adverse effect on the environment.

I request that you look into the above matters and that the ground at Ferndale been returned to its original level and that any flooding on the two sites mentioned be contained within the said development.

I look forward to your reply

Yours Sincerely



REPORT OF HANDLING

Ref No:	18/00227/APP	Officer:	Shona Strachan
Proposal Description/ Address	Change of use of amenity land to garden ground at Ferndale Mains Of Buckie Buckie Moray		
Date:	03/05/18	Typist Initials:	FJA

RECOMMENDATION

Approve, without or with condition(s) listed below	
Refuse, subject to reason(s) listed below	Y
Legal Agreement required e.g. S,75	
Notification to Scottish Ministers/Historic Scotland	
Hearing requirements	Departure
	Pre-determination

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Contaminated Land	08/03/18	No objection
Environmental Health Manager	08/03/18	No objection
Moray Flood Risk Management	29/03/18	No objection subject to a condition that the lower section of the boundary fence be removed up to the first set of screws.
Scottish Environment Protection Agency	09/04/18	<p>Object unless a number of conditions are applied to any consent, in short these include:</p> <ul style="list-style-type: none"> - No change (increase or decrease) in present ground levels, - Details of all boundary treatments are submitted to demonstrate that they do not negatively impact on the flood storage and conveyance capacity of the floodplain and that flood risk is not increased. This should be for approval by the Planning Authority in consultation with SEPA. It is noted that as a minimum the lower part of the fence up to the first layer of screws should be removed. - Permitted Development rights are to be removed.

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
PP1: Sustainable Economic Growth	Y	
PP3: Placemaking	Y	
E5: Open Spaces	Y	The application will be refused on the basis of this policy.
EP7: Control of Develop in FloodRiskArea	N	Subject to the application of specified conditions from MFRM and SEPA the application is not a departure from this policy.
IMP1: Developer Requirements	Y	

REPRESENTATIONS		
Representations Received	YES	
Total number of representations received ONE		
Names/Addresses of parties submitting representations		
Name and address details of parties submitting representations withheld in accordance with the Data Protection Act.		
Summary and Assessment of main issues raised by representations		
<p>Issue: Concern that the raising of the ground level at the site is causing changes to the environment lower down the burn. It is further advised that this area of ground at its original level has always been the natural flood plain for the Buckie Burn. The contributor also advises that this representation is the 3rd time that they have contacted the Council about this matter.</p> <p>Comments (PO): SEPA has confirmed in its consultation response that at least some of the ground within this current planning application lies within the functional floodplain. However, the retrospective nature of this application means that Officers do not have the benefit of seeing the land in its original state and whilst from the site inspection the land has been cleared, there are no obvious signs of land raising. It is noted from historic photographs that levels at this locality have changed over the years, with previous overgrown mounds of earth having been subsequently levelled at some point. It is also noted that the applicant has confirmed in the Supporting Statement that there has been no alteration to the ground height or any change to the burn embankment. It is reasonable to conclude that whilst there has been some regrading of the land, its levels have not increased, or increased substantially.</p>		
<p>Issue: Concerns are raised that the alterations to the site including the bank walls. The soil of the banks are showing cracking and parts are hanging ready to fall with the next heavy rains. Further down where there are no rock banks, there are signs of erosion with ground missing being washed away and where there is rock the ground above has also been washed away. Evidence of bank erosion is now evident for quite a distance downstream.</p> <p>Comments (PO): There was no evidence on site, that the earth banks on the west side of the burn had been altered. The applicant has confirmed in the Supporting Statement that there has been no alteration to the ground height or any change to the burn embankment.</p> <p>SEPA has confirmed that a should planning permission be granted a condition ensuring that there would be no change (increase or decrease) in ground levels of the site must be applied, this would be to ensure there is no further increase of flood risk as a result of this proposal.</p>		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2015 (MLDP 2015) unless material considerations indicate otherwise. In this case the main planning issues are considered below.

Proposal

Retrospective planning permission is sought for the change of use of amenity land to garden ground at Ferndale Mains of Buckie, Buckie.

The application seeks the change of use of the amenity land to private garden ground for the property Ferndale, the land is to be used to provide parking and private garden space.

The land has been cleared and much of the land has been surfaced with loose stones. A wooden slatted fence has been erected to the north and south boundaries of the site. The western boundary is formed by the steep sided land embankment to the Burn of Buckie, the eastern boundary of the site adjoins the residential property Ferndale.

Site Characteristics

Extending to 682 sq m the land is located to the rear of the property Ferndale.

The site is part of the Burn of Buckie Environmental Designation "ENV6" which is characterised by green corridors, natural coastal braes/slopes; valleys semi natural greenspaces.

As identified by the SEPA flood maps and confirmed by SEPA in their consultation response at least some of the ground within the site lies within the functional floodplain.

Planning History

The site and adjoining land to the north and south was part of a larger site area under application reference 10/01916/PPP which sought Planning Permission in Principle for a housing development for 5 houses. This application was refused because the proposal would have a detrimental impact upon ENV6 and related Open Space Policy because this policy presumes against development of green spaces in towns where there would be a loss of amenity and landscape benefit and because of flood risk concerns.

The site and adjoining land to the north and south was also part of a larger site area under application reference 05/00263/OUT which sought Outline Planning Permission for 9 houses, this application was refused because the proposal would have a detrimental impact upon ENV6 and related Open Space Policy which as noted above policy presumes against development of green spaces in towns where there would be a loss of amenity and landscape benefit.

The site was also part of an application site for two dwellings under planning application reference 900693. This application was granted following an appeal to Scottish Ministers. The flood history in the area, and availability of flood data for the locality has occurred since this lapsed approval.

Policy Assessment

Impact of the development (E5 and IMP1)

As noted previously, the site is part of an "ENV6" which is characterised by green corridors, natural coastal braes/slopes; valleys semi natural greenspaces. The overarching policy for this designation is Policy E5 Open Space which seeks to safeguard open spaces.

In particular Policy E5, advises: Development which would cause the loss of, or adversely impact on, areas identified under the ENV designation in settlement statements and the amenity land designation in rural groupings will be refused unless;

- The proposal is for a public use that clearly outweighs the value of the open space or the proposed development is ancillary to the principal use and will enhance use of the site for sport and recreation; and
- The development is sited and designed to minimise adverse impacts on the recreational, amenity and biodiversity value of the site; and
- There is a clear excess of the type of ENV designation within easy access in the wider area and loss of the open space will not negatively impact upon the overall quality and quantity of open space provision, or
- Alternative provision of equal or greater benefit will be made available and is easily accessible for users of the developed space.

The Moray Open Space Strategy Supplementary Guidance 2018 sets out a strategic vision for protecting, enhancing and managing publicly usable open space in Moray. The Open Space Strategy was informed by an Open Space Audit which sought to review the ENV Designations, based on the findings of this Audit the Burn of Buckie ENV6 Designation was identified as a steep sided gorge like landscape feature which runs through the town. It further identifies that development opportunities are restricted to brownfield sites, and, within the curtilage of existing buildings only. The findings of the Audit also conclude that the designation is of "good quality" and should be retained (page 45). This document is a material consideration in the determination of planning applications.

Policy IMP1 seeks compatibility in terms of scale, density and character, requiring new development to integrate into the surrounding landscape and be sensitively sited, designed and serviced appropriate to the amenity and character of the area.

In this instance, the proposal to change the land from amenity ground into private garden ground does not meet any of policy objectives (or qualifying exceptions in E5) identified and would lead to the loss of part of the designation which would have a detrimental impact upon the ENV6 Designation resulting in the reduction of the amenity and landscape value of the designation. In these terms, the proposal would fail to integrate sensitively to the surrounding area including the ENV6 Designation within which it is located, therefore; on these grounds the proposal would be contrary to Policies E5 and IMP1 as well as the Moray Open Space Strategy Supplementary Guidance 2018.

Control of Development in Flood Risk Area's (EP7)

As noted previously, part of the site lies within the functional floodplain for the Burn of Buckie. As such SEPA has been consulted on the proposal. SEPA has advised in their consultation response that they would maintain their objection unless a number of conditions are applied to any planning permission granted. The conditions identified are as detailed:

- I. There is to be no change (increase or decrease) in present ground levels;
- II. Details of all boundary treatments are submitted to demonstrate that they do not negatively impact on the flood storage and conveyance capacity of the floodplain and that flood risk is not increased. This should be for approval by the Planning Authority in consultation with SEPA. It is noted that as a minimum the lower part of the fence up to the first layer of screws should be removed; and,
- III. Permitted Development rights are to be removed.

Moray Flood Risk Management has also been consulted on the proposal and they have similarly recommended that the Lower section of boundary fence be removed, up to first set of screws on the horizontal board supporting the vertical slats. This is to ensure there is no restriction in water flow during a flood event.

During the course of the application, the applicant has agreed to these conditions and these would need to be adhered to in order for the development to be acceptable in relation to flood risk. However, addressing the flood risk concerns does not negate the main policy objection to the proposal in relation to the loss of Open Space. Flood risk has therefore not been cited in the grounds

for refusal and had the application been approved the above requirements from SEPA and Moray Flood Risk would have been attached as conditions.

Conclusion and Recommendation

The proposal to change the use of this amenity land to garden ground is unacceptable at this location and would result in the loss of land from an ENV 6 designation which does comply with the provisions of the MLDP 2015, including Policies E5 and IMP1 as well as the Moray Open Space Strategy Supplementary Guidance 2018. Therefore this application is therefore recommended for refusal.

As the application is retrospective, the decision will be referred to the Development Management Enforcement Officer.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description			
03/01967/ID	Form opening from house to garage Ferndale Mains Of Buckie Buckie Banffshire AB56 2AA			
	Decision	Planning Permission NOT Required	Date Of Decision	10/09/03
10/01916/PPP	Planning Permission in Principle for housing development of 5 house sites at Mill Of Buckie Buckie Moray			
	Decision	Refuse	Date Of Decision	14/02/13
05/00263/OUT	Outline for housing development for nine sites at Mill Of Buckie Buckie Banffshire AB56 2AA			
	Decision	Refuse	Date Of Decision	30/04/10

ADVERT

Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Banffshire Advertiser	No PremisesDeparture from development plan	09/04/18
PINS	No PremisesDeparture from development plan	09/04/18

DEVELOPER CONTRIBUTIONS (PGU)

Status	None sought
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DOCUMENTS, ASSESSMENTS etc. *
 * Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc

Supporting information submitted with application?	YES	
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Summary of main issues raised in each statement/assessment/report

Document Name: Supporting Statement

Main Issues: This Statement supports the application and seeks to address some of the planning considerations raised during the course of the application. In particular, the Statement advises that there has been no alteration to ground height or any change to the burn embankment.

The applicant also advises that he would be willing to work with SEPA and Moray Council to make alterations to the fence if required. It is also advised that the garden would be used for garden ground and parking. Reference is also made to a historical consent for 2 dwellings encompassing the site which was granted following an appeal to Scottish Ministers.

Document Name: A planning application reference 900693

Main Issues: The applicant has submitted a copy of a historical consent for 2 dwellings encompassing the site which was granted following an appeal to Scottish Ministers.

Document Name: The application is supported by some photos of the site/fence.

S.75 AGREEMENT

Application subject to S.75 Agreement		NO
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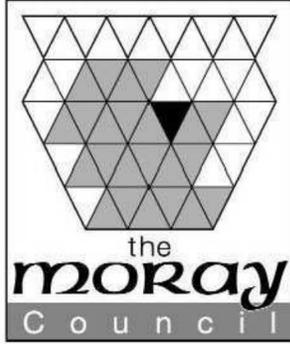
Summary of terms of agreement:

Location where terms or summary of terms can be inspected:

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)

Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO

Summary of Direction(s)

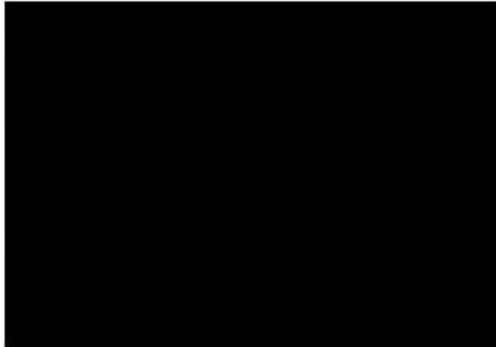


**THE MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Buckie]
Application for Planning Permission**

TO

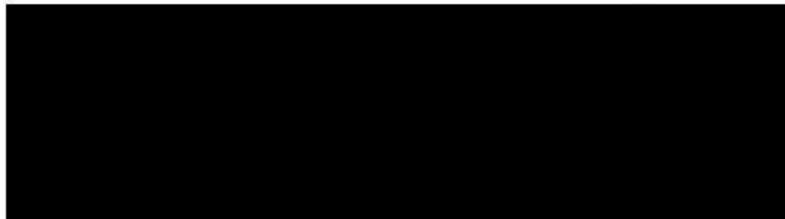


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Change of use of amenity land to garden ground at Ferndale Mains Of Buckie
Buckie Moray**

and for the reason(s) set out in the attached schedule.

Date of Notice: **3 May 2018**



HEAD OF DEVELOPMENT SERVICES
Environmental Services Department
The Moray Council
Council Office
High Street
ELGIN
Moray IV30 1BX

Ref: 18/00227/APP

**IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW**

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposal is contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies E5 and IMP1 as well as the Moray Open Space Strategy Supplementary Guidance 2018) because the proposal to change the land from undeveloped open ground into private enclosed garden ground does not meet any of policy objectives or exemptions identified and would lead to the loss of part of the Buckie ENV6 designation which is designated to preserve open/amenity space within settlements. The proposal in failing to maintain the designated ENV6 green corridor would also fail to comply with the objectives of the Moray Open Space Strategy Supplementary Guidance 2018.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
		Site and location plan

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

N/A

**NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, The Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 01343 563 501 Fax: 01343 563 263 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100121044-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:

18NP309

You must enter a Building Name or Number, or both: *

First Name: *

Michael

Building Name:

n/a

Last Name: *

McLoughlin MRTPI

Building Number:

62

Telephone Number: *

07742084590

Address 1 (Street): *

Main Street

Extension Number:

Address 2:

Buckpool

Mobile Number:

Town/City: *

Buckie

Fax Number:

Country: *

United Kingdom

Postcode: *

AB56 1XQ

Email Address: *

mcloughlin__michael@hotmail.co.uk

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Ferndale"/>
First Name: *	<input type="text" value="Ronald"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Mair"/>	Address 1 (Street): *	<input type="text" value="Munro Way"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="Mains of Buckie"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Buckie"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Moray"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB56 4AA"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="FERNDALE"/>
Address 2:	<input type="text" value="MAINS OF BUCKIE"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="BUCKIE"/>
Post Code:	<input type="text" value="AB56 4AA"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="864575"/>	Easting	<input type="text" value="342651"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of use of amenity land to garden ground

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see the separate Supporting Statement.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Please see separate Supporting Statement.

Application Details

Please provide details of the application and decision.

What is the application reference number? *

18/00227/APP

What date was the application submitted to the planning authority? *

02/02/2018

What date was the decision issued by the planning authority? *

03/05/2018

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

It would be beneficial for the Local Review Body to access the Site itself (private land) to judge the effects of the Development and not just to consider visual/amenity and related matters from surrounding public land.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

The Site is private land to the rear of Mr Mair's property.

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

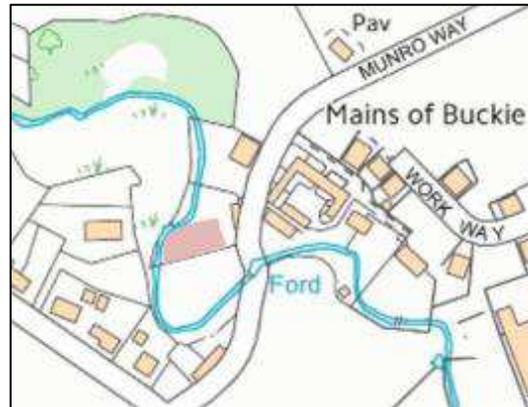
I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Michael McLoughlin

Declaration Date: 12/06/2018

SUPPORTING STATEMENT

to the Notice of Review in respect of
Planning Application 18/00227/APP for
Development at Ferndale,
Munro Way, Mains of Buckie



CONTENTS

1. The Application
2. Appointed Officer's Decision
3. Summary of Reasons for Requesting a Review
4. The Planning Case in favour of a Grant of Permission
5. Conclusion

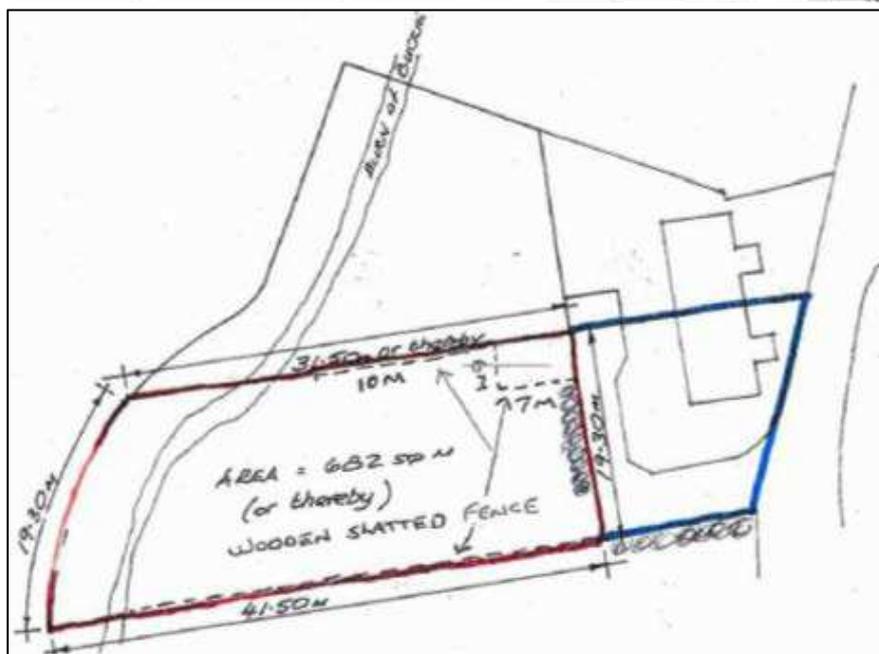
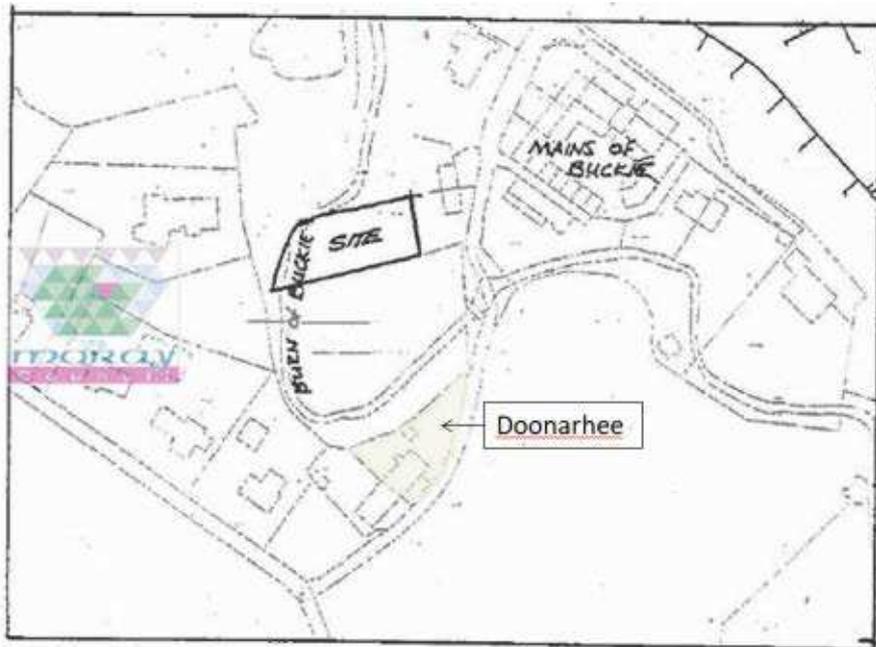
Appendices

- 1 Submitted Location Plan and Site Plan Drawings
- 2 Notice of Decision
- 3 Note/details of Enquiries made for the Review with the Council's Planning Policy personnel
- 4 Planning Appeal Decision Letter for Planning Application 900693 and Approved Site Layout Drawing
- 5 Table extracted from page 45 of Appendix 4 (Buckie Audit Findings) to the Moray Open Space Strategy Supplementary Guidance 2018
- 6 Extract of the Buckie West Landscape Analysis Plan from the Council's Final Report on the Integration of New Development into the Landscape, May 2005
- 7 Extract from Map 17A (Buckie Inset Map) of the Moray Core Paths Adopted Plan 2011
- 8 Local Plan Policy IMP1 (page 84 extracted from the 2015 Moray Local Development Plan)
- 9 Local Plan Policy PP3 (page 9 extracted from the 2015 Moray Local Development Plan)
- 10 Extract from the Moray Urban Design Guide 2015 (pages 2, 3, 9, 10 and 12)

1. The Application

The Application is a retrospective one, seeking permission for the change of use of amenity land to garden land (with fencing) at the rear of Mr Mair's home, Ferndale adjacent to the Burn of Buckie.

The Location Plan Drawing and Site Plan Drawing from the Application are reproduced in full at Appendix 1. However, for ease of reference image clips from both Drawings are shown below (these are of course not to scale). The property known as Doonarhee to the south of the Site has been annotated on the first image as well because this is discussed in Section 4 of this Statement and identifying it on the image may help the Local Review Body:



2. Appointed Officer's Decision

Planning permission was refused on 3rd May 2018. The full Notice of Decision is provided at Appendix 2.

The Officer's grounds of refusal allege that as the Development involves the loss of undeveloped open ground forming part of the Buckie ENV6 green corridor designation to private enclosed garden ground, it would not meet the terms/objectives of Local Plan Policies E5 (Open Spaces) and IMP1 (Developer Requirements) and the Moray Open Space Strategy Supplementary Guidance.

The focus of the Officer's concern is thus the alleged conflict of the Development with open space policy.

Some of the Site lies in the Burn's floodplain. Whilst flooding is discussed in the Officer's Report of Handling, this was not a reason for refusal and the relevant Local Plan policy on this matter, Policy EP7 is not cited in the Notice of Decision.

In their consultation responses, the Scottish Environmental Protection Agency (SEPA) and Moray Flood Risk Management recommended some conditions/actions to manage potential flooding risk. These included no alteration to ground levels on the Site, the removal of permitted development rights and removal of the lower section of the fencing as erected, so as to enable burn water to flow unrestricted through the Site during any flood event.

The Report of Handling accepts that as a result of the Development, Site levels have not been increased substantially. Mr Mair has also already removed the lower section of the fencing as evidenced by the photograph below:



Plate 1: Gap at bottom of fencing as a result of the removal of the lower section

In addition, Mr Mair is happy to accept a planning condition removing any permitted development rights from the Site as appropriate.

3. Summary of Reasons for Requesting a Review

1. The Appointed Officer's decision was based on an inadequate assessment of the merits of the Application against the provisions of the Local Plan, bearing in mind the purpose/objectives of Policy E5 and the Buckie ENV5 green corridor designation, the characteristics of the Buckie ENV5 green corridor in the vicinity of the Site and the limited effects of the development on the specific qualities of the burnside environment/space in this location.
2. The Appointed Officer's decision gave undue weight to the contents of the 2015 Open Space Audit which is inadequate in the level of analysis/description its provides about the nature of the burnside environment/space with regards to the Site and the immediate environs.
3. The Appointed Officer's decision didn't give adequate weight to a key aspect of the planning history of the immediate locality, namely the 1991 Appeal Decision for Planning Application 900693 which granted planning permission for 2 houses and a garage in this burnside location.
4. The Appointed Officer's decision failed to consider certain benefits of the development that are material planning considerations, supported by Local Plan Policy PP3 and the Urban Design Supplementary Guidance 2015, namely the improvement to streetscene appearance, highway safety and community safety.

These matters are discussed in greater detail in the next Section of this Statement. They are all matters that were capable of consideration at the time the Application was determined by the Appointed Officer. They represent material planning issues that ought to be considered by the Local Review Body in its determination¹.

¹ In line with Section 43B (2) of the Town & Country Planning (Scotland) Act 1997, which requires all material planning considerations to be addressed in the process regardless of any prohibition implied by the preceding Section.

4. The Planning Case in favour of a Grant of Permission

It is quite true that the current Local Plan Proposals Map shows the Development Site lying within an area designated as an open space (ENV6).

This is one of several in and around Buckie identified as contributing to the town's amenity.

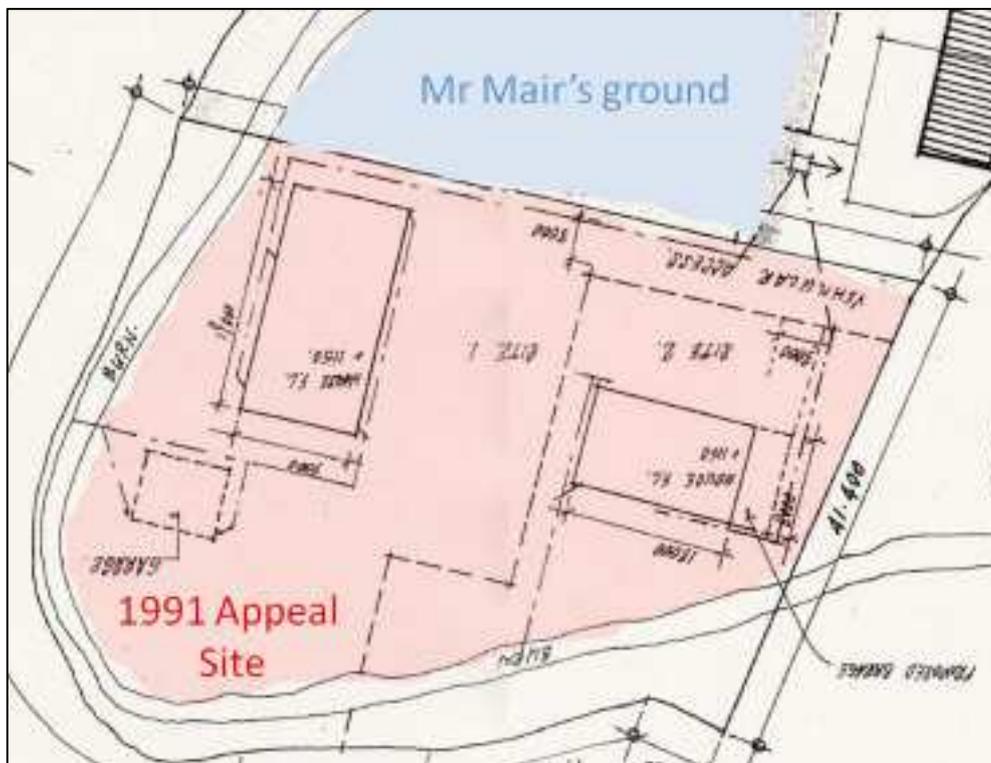
The Notice of Decision states that the ENV6 designation has been designated to 'preserve open/amenity space within settlements'.

Earlier Local Plans have contained similar open space policy designations focussed on the Burn of Buckie, going back to at least 1993 (see details of enquiries undertaken at Appendix 3).

Each Plan since then has, more or less, shown the same detailed boundaries and 'accepted wisdom' of the preceding version.

However, the historic evidential basis for the original, detailed definition of the boundaries of these open space designations is not so clear, nor the criteria employed.

Oddities have occurred. For example, in defining the open space, the 1993/98 Local Plan Proposals Map seems to have effectively ignored the existence of a then extant planning permission granted on Appeal in 1991 for the development of 2 houses and a garage on land immediately south of the Site (see Appendix 4). The image below is an annotated extract from the approved Appeal site plan drawing. The Reporter did not consider that residential development here, even of this scale, would detract from the qualities of the burnside environment.



The approved area for the proposed new houses, garage and gardens was included within the open space designation rather than being shown as part of the built-up area. Other residential properties and curtilages in the vicinity were in contrast excluded from the space. This gives an impression of inconsistency on how the boundary between the open space and the built-up parts of the settlement were originally defined.

Even the current 2015 Local Plan was not informed by a study looking at/reviewing open space policy designations and their detailed boundaries. The Open Space Audit that underpins the 2018 Moray Open Space Strategy Supplementary Guidance was undertaken in 2015 as the ink was drying on the current Local Plan.

The Audit did 'survey' the whole of the Burn of Buckie (Audit Site Reference M/BCOS/011) and records an overall 'quality' score for the entire open space corridor against various criteria. It also briefly describes the Burn valley as a landscape feature, noting its steep slopes and gorge-like appearance in parts, both of which it acknowledges limit public access (see extracted Table from the Open Space Strategy at Appendix 5). These generic comments represent the extent of information from the survey on the physical aspects of the space.

However, in the same part of the Strategy, there is no discussion of the appropriateness of the boundaries of the existing open space designation or even the criteria for the definition of its boundaries.

Furthermore, the same enquiries referred to above (Appendix 3), have also revealed that detailed information from the Audit does not survive e.g. survey sheets, the locations at which the burnside environment was evaluated, the disaggregated scores for different sections of the burnside corridor, the basis for retaining the existing boundaries of ENV Designations and how these key judgements were made.

So, the Audit was very strategic in its study and 'review' of the ENV6 designation and it is not possible from the Audit to gain an in-depth picture of the specific characteristics/qualities of the burnside environment immediately around the Site, which might suffer from development and which planning decisions ought to be safeguarding.

The Site and adjacent burnside area forms a relatively low lying and sheltered 'hollow' in the local landscape of this part of Buckie - something acknowledged by the 1991 Appeal Reporter, and to a certain extent the post-Local Plan Open Space Audit and Landscape Study work carried out to assess development bids for the 2015 Local Plan (see Extract at Appendix 6). Development also fringes the space, further limiting long distance views.

The setting of the Burn valley in the locality of the Site is thus visually well-contained.

Whilst it is not common for people to walk up/down the Burn north/south at this point, a local Core Path route does cross the Burn here west/east (BK03 Laird's Way to Drybridge) using the road and a footbridge adjacent to a ford (see Appendix 7). It is noted that Criteria c) of Local Plan Policy IMP1 expects new development not to adversely affect Core Paths (see Appendix 8).

To the north-west, past the footbridge/ford, the Burn takes an extensive looping meander in

the valley around a large semi-circular area of flat open land (which was where the 1991 Appeal was allowed). This area contains considerable tracts of broom and Japanese knot weed.

This vegetation further limits views into the Site and adjacent burnside area. Heading east down towards to the Burn of Buckie, Core Path users experience screened views of the Development as evidenced in the photographs below:



Plate 2: Looking eastwards towards Ferndale from the western side of the Burn



Plate 3 : Looking eastward towards Ferndale from the Footpath over the Burn

Coming from the other way, out of town along Munro Way, views are even less affected. Initially, this is because of the narrow roadway and effects of existing housing development, either side. Then, the focus of one's attention is on long open views towards the wider countryside beyond the Burn. Furthermore, at Ferndale there is Leylandii hedging to the rear of the property, which also screens the development that has been carried out. This is illustrated by the photographs below.



Plate 4: Approaching Ferndale from the east along Munro Way



Plate 5: The focus attention travelling west down to the Burn



Plate 6: Looking into the rear of Ferndale from Munro Way

So the Development's impact on how walkers/cyclists/horse-riders experience the Core Path as it crosses the Burn seems limited. They are not impeded in using the Path and the pleasantness/tranquillity of the burnside environment is not affected to an unacceptable extent. Any recreational objective/purpose/value of the ENV6 Local Plan designation in the local context therefore does not appear to have been critically undermined as a result of the Development. The Development doesn't conflict with Criteria c) of Local Plan Policy IMP1 either.

In physical terms too, a very large part of the space around the Burn remains open as undeveloped land to the south of the Site (the semi-circular shaped piece of ground where housing development was allowed on Appeal in 1991) and a corridor is still maintained through to the rest of the valley further north/north-west by virtue of the Burn itself and open ground on the other side of valley, which is steep and landscaped, rising to a substantial height above the Burn. Part of the land on the northern side of the valley is in Mr Mair's ownership and is included in the Application Site – he is happy to see this area permanently given over to 'public' open space use. In addition, whilst that part of Site on the southern side of the Burn is fenced-off, the land itself remains open in nature as garden ground. The current ENV6 designation as defined on the Local Plan Proposals Map includes some of the garden ground at the property known as Doonarhee on the southern side of the Burn, just beyond the footbridge/ford – so, unless this is a drafting error or arbitrary inclusion, it must be possible for enclosed private open space like Doonarhee's garden, to contribute to the purpose/role of the ENV6 designation. It was mentioned in Section 2 of this Statement that SEPA would like to remove any permitted development rights from the Site if permission is granted for the change of use. This action would ensure no potentially large built structures such as domestic outbuildings could be erected in future on it without express planning permission from the Council and would maintain openness. In terms of the entire Burn of Buckie open space designation (a whole 17.9 hectares in extent), the Site (just 682 square

metres) represents a mere 0.3% of the total. Finally, Mr Mair's garden extension/fencing is far less substantial in physical terms than the 2 houses and garage what were permitted in the Appeal on the semi-circular area of ground to the south of his ground – the Reporter didn't consider that the loss of this space to significant built development would be detrimental to the 'open gap' formed by the burnside valley.

Bearing in mind the above points, any landscape/townspace objective/purpose/value of the ENV6 Local Plan designation in the local context therefore does not appear to have been critically undermined as a result of the Development (or likely to be so in the future). The Development likewise appears to satisfy Criteria a), b) and c) of Local Plan Policy IMP1 dealing with siting and design issues. If, following a site visit, the Local Review Body are minded to grant permission for the change of use including the wooden fencing, it would of course be possible to impose a condition requiring the fence to be painted in a darker colour to further match other fencing in the immediate locality and help it blend into the local surroundings.

As far as enquiries could reveal (Appendix 3), no habitat mapping of the Burn of Buckie by a professional ecologist appears to have been undertaken as part of the 2015 Open Space Audit. Mr Mair has confirmed that vegetation on the Site that was cleared for the Development was similar ecologically speaking to that occupying the large semi-circle of land to the south: mainly broom, grass and Japanese Knotweed. The latter species is of course an invasive alien species and general nuisance. Little, if anything of value on the Site appears to have been lost in biodiversity terms as a result of the Development. The maintenance of the Burn as a watercourse and a corridor of open land between the area around the footbridge/ford and the rest of the valley, albeit reduced in size, still allows for the theoretical movement of aquatic and terrestrial wildlife up and down the Burn of Buckie open space. Any ecological objective/purpose/value of the ENV6 Local Plan designation in the local context therefore does not appear to have been critically undermined as a result of the Development. Likewise, the Development appears to satisfy Criteria c) of Local Plan Policy IMP1 in relation to conserving natural resources.

It is noted that the Officer Report of Handling did make some reference to Local Plan Policy PP3 on Placemaking (see Appendix 9). It is considered that this Policy is indeed material to the Review Body's appraisal of the merits of the Development. This is because Policy PP3 seeks to minimise the visual impact of parked cars on the streetscene through new development as well as acknowledging the role planning can play in reducing the fear of crime and improving community safety. The related Urban Design Supplementary Guidance 2015 (see Appendix 10) contains similar sentiments and is also considered relevant in this case. The Guidance seeks to avoid parking within the front curtilage of houses as this breaks up the building frontage, leads to a visual dominance of parked cars, restricts natural surveillance/overlooking of the street and affects how garden space can be used. It also notes that well designed places should take account of crime prevention measures.

As mentioned previously and shown on Plate 4, the highway known as Munro Way narrows considerably in the vicinity of Ferndale. On-street parking is problematic. There is some space in the front curtilage of Ferndale for off-street parking but use of this hitherto, has led to the very issues/effects highlighted in the Urban Design Guidance. The inclusion of extra

garden ground to the rear of the property, beyond the existing Leylandii hedge allows less intrusive and secure parking of vehicles in line with Local Plan Policy PP3. The removal of parked cars off the highway in this way, increases the pleasantness of Munro Way at this point for users of the Core Path. The fencing of the ground also improves the general security of Ferndale and its neighbouring property, Burnbank, which adds to a greater sense of well-being for their occupants due to the reduced possibility/fear of crime. These benefits of the Development were overlooked in the Report of Handling and the Appointed Officer's decision.

5. Conclusion

The preceding Section has sought to demonstrate that the Development does not frustrate the objectives of relevant Local Plan policies, nor undermine the fundamental integrity of the Burn of Buckie open space designation.

It would appear that there has been no substantial harm to any interest of acknowledged planning importance and indeed some benefits have been identified that were previously overlooked.

In this case, it is hoped that Members of the Local Review Body will be able to agree to a grant of planning permission for Mr Mair's Application.

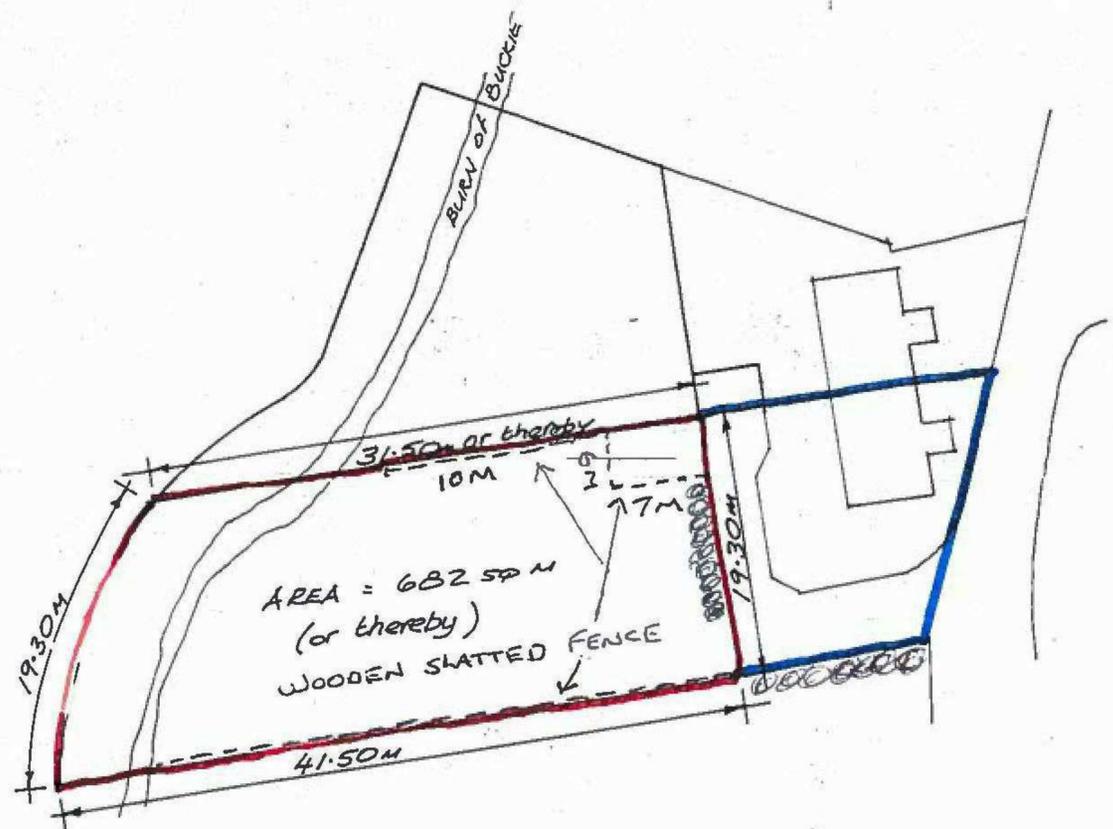
He is happy to accept a condition to paint the wooden side fencing in a darker colour to further match other fencing in the immediate locality and help it blend into the local surroundings, if this is something the Local Review Body consider would be beneficial.

He is also happy to accept conditions along the lines previously suggested by SEPA in the interests of managing flood risk in the Burn of Buckie valley, noting that one removing permitted development rights would retain the openness of the Site and support the open space designation.

APPENDIX 1

Submitted Location Plan and Site Plan Drawings

----- / SLATED FENCE 1.8 HIGH WITH 6INCH GAP AT GROUND LEVEL
 ○○○○○○ / LEYLANDII HEDGE



SITE PLAN 1:500 

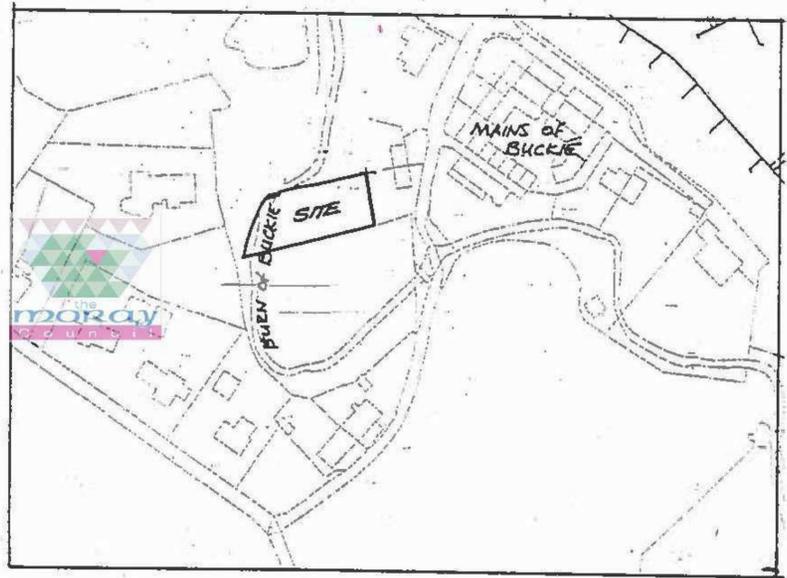


Town & Country Planning
 (Scotland) Act, 1997
 as amended

REFUSED

03 May 2018

Development Management
 Environmental Services
 The Moray Council



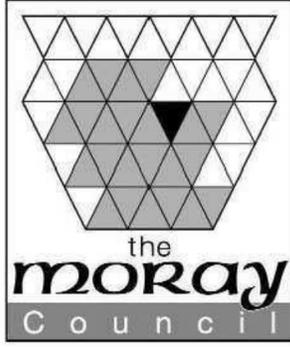
LOCATION PLAN 1:2500 

**GROUND AT FERNDALE, MAINS OF BUCKIE,
 BUCKIE, MORAY**

DAVID A. SMITH
 DIP.ARCH. Leics
ARCHITECT
 BERRYBAUDS, CLOCHAN, BUCKIE AB56 5HX
 TEL: 01542 850286 FAX: 01542 850336 EMAIL: david@dasmith.co

APPENDIX 2

Notice of Decision



**THE MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Buckie]
Application for Planning Permission**

TO

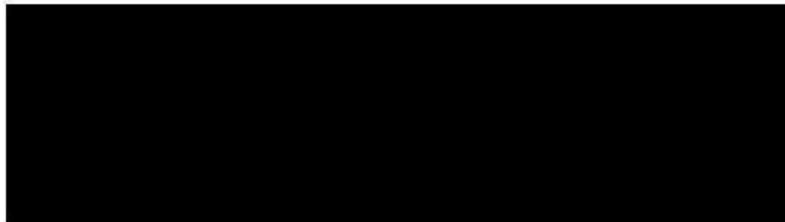


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Change of use of amenity land to garden ground at Ferndale Mains Of Buckie
Buckie Moray**

and for the reason(s) set out in the attached schedule.

Date of Notice: **3 May 2018**



HEAD OF DEVELOPMENT SERVICES
Environmental Services Department
The Moray Council
Council Office
High Street
ELGIN
Moray IV30 1BX

Ref: 18/00227/APP

**IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW**

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposal is contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies E5 and IMP1 as well as the Moray Open Space Strategy Supplementary Guidance 2018) because the proposal to change the land from undeveloped open ground into private enclosed garden ground does not meet any of policy objectives or exemptions identified and would lead to the loss of part of the Buckie ENV6 designation which is designated to preserve open/amenity space within settlements. The proposal in failing to maintain the designated ENV6 green corridor would also fail to comply with the objectives of the Moray Open Space Strategy Supplementary Guidance 2018.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
		Site and location plan

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

N/A

**NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, The Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

APPENDIX 3

Note/details of Enquiries made for the Review with the Council's Planning Policy personnel

On Wednesday 30th May 2018, Michael McLoughlin phoned Moray Council's Planning Policy Team to ask a number of questions about the evolution of Local Plan policy in the Mains of Buckie locality and the detail of the 2015 Open Space Audit with respect to the Burn of Buckie (method and findings).

Mr Keith Henderson was very helpful. The email exchange that followed the telephone conversation is provided on the pages towards the back of this Appendix.

The key points about the Audit from the telephone conversation and email exchange can be summarised thus:

- the survey sheets from the Open Space Audit no longer exist, nor the master spreadsheet
- precise details of the exact spots from where the Burn valley was assessed are also now unknown
- the general approach of the surveyor was to 'walk down the length of the space as much as you can'
- the Audit following on from the adoption of the current Plan

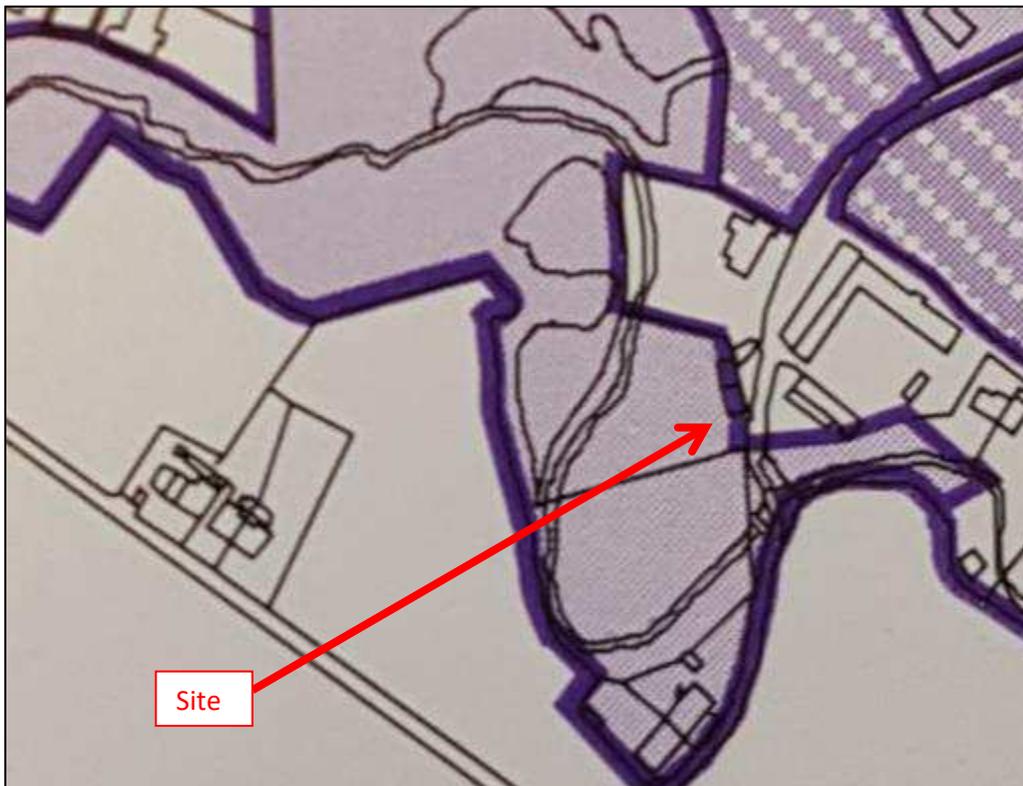
The key points about the evolution of Local Plan policy from the telephone conversation and email exchange are outlined below.

Although in the Appeal Decision Letter (at Appendix X), the Reporter refers at paragraph 11 to the Buckie Area Local Plan, Mr Henderson was unable to uncover further details of this Plan. From what the Reporter says it appears that at the time of the planning appeal decision, the Site lay in an area treated as countryside in policy terms.

The same enquiries have confirmed that for the period 1993-1998, the Local Plan in force was the Moray District Plan. The Proposals Map from that Plan shows that, rather oddly the Site was included in a green space designation area (L/ENV1) despite the appeal decision and extant planning permission for new housing development. The image clip below pinpoints the Site on an extract of the relevant part of the Proposals Map (the original having been kindly provided by Mr Henderson with his email):

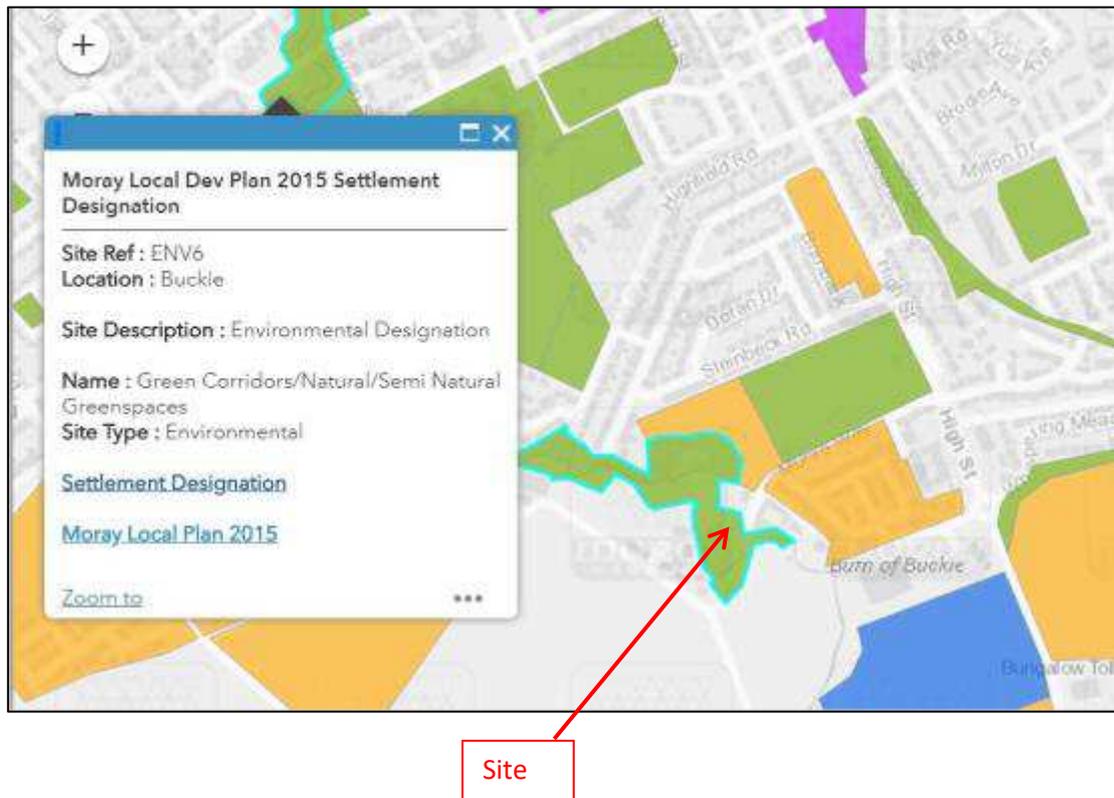


When the 1993-1998 Local Plan was superseded by the Moray Local Plan 2000, this approach was carried forward without much alteration apart from the green space policy designation label changing from L1/ENV to ENV1. The image clip below pinpoints the Site on an extract of the relevant part of the Proposals Map (the original having been kindly provided by Mr Henderson with his email):



Another Local Plan followed in 2008 along the same lines.

The current Local Development Plan (2015) adopts a similar approach, with the Site and the burnside environment shown as falling within an environmental designation ENV 6. The image clip below pinpoints the Site on an extract of the relevant part of the Proposals Map (the original having been taken from the Council's online version):



The ENV6 designation is described in the Local Plan Settlement Statement for Buckie as relating to open space sites identified as contributing to the amenity of the town, covering the following: 'Green Corridors/Natural Coastal Braes/slopes; Valleys Semi Natural Greenspaces Valleys of Buckie; Freuchny and Rathven burns; old railway lines, Portessie Station'. The Settlement Statement states that in line with Policy E5 these areas should be safeguarded from development not related to their current use.

NB Please see overleaf for copies of the emails referred to above.

6/8/2018

RE: Open Space at Mains of Buckie/Buckie Burn - michael mcloughlin

RE: Open Space at Mains of Buckie/Buckie Burn

Keith Henderson <Keith.Henderson@moray.gov.uk>

Thu 31/05/2018 15:59

To: michael mcloughlin <mcloughlin__michael@hotmail.co.uk>;

 4 attachments (17 MB)

Local Plan 2000 map.jpg; Local Plan 2000.jpg; Moray District Plan - 1993 - 98.jpg; Moray District Plan 1993 - 98.jpg;

Michael,

I have had a look around and found a copy of the Moray Local Plan 2000 and the Moray District Plan 1993 – 1998. I have attached some photographs (as it is hopefully clearer than scanning) of the Buckie Burn ENV designation and the area that you had in the red dashes. Sorry for the large files. We do not have a record or any knowledge of a Buckie Local Plan in the 1990's and do not have any copies of the older plans to sell but let me know if there is anything else you need.

Regards

Keith

Keith Henderson | Planning Officer | Planning & Development

keith.henderson@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [newsdesk](#)

01343 563614



From: michael mcloughlin [mailto:mcloughlin__michael@hotmail.co.uk]

Sent: 31 May 2018 12:35

To: Keith Henderson

Subject: Re: Open Space at Mains of Buckie/Buckie Burn

Thanks Keith - most kind!

Michael

From: Keith Henderson <Keith.Henderson@moray.gov.uk>
Sent: 31 May 2018 12:32
To: michael mcloughlin
Subject: RE: Open Space at Mains of Buckie/Buckie Burn

Good afternoon Michael,

Sorry to hear that your throat is worse. I will have had a look and ask around and get back to you.

Kind regards

Keith

Keith Henderson | Planning Officer | Planning & Development
keith.henderson@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [newsdesk](#)
01343 563614



From: michael mcloughlin [mailto:mcloughlin__michael@hotmail.co.uk]
Sent: 31 May 2018 10:39
To: Keith Henderson
Subject: Open Space at Mains of Buckie/Buckie Burn

Morning Keith,

Thank you again for your help yesterday on the phone and for bearing with me and my croaky voice. Today I now have a full blown throat infection! Hence the late start.

I can fully understand that 3 years on the survey sheets from the Open Space Audit no longer exist, nor the spreadsheet and that precise details of the exact spots from where the Burn valley was assessed are lost in the mists of planning time. I noted what you said too about the Audit following on from the adoption of the current Plan.

As discussed I am trying to understand how local planning policy has evolved for the area around Mains of Buckie over the past 30 years.

I believe that in 1990 there was a Buckie Area Local Plan.

6/8/2018

RE: Open Space at Mains of Buckie/Buckie Burn - michael mcloughlin

Is there any chance that you could ask around the 'old-timers' or look in your library to see what this Plan was subsequently replaced by? It may be that it was superceded by the 2000 Moraywide Local Plan that you mentioned.

Would it be possible to purchase a photocopied/scanned extract of the Proposals Map from the 2000 Moraywide Local Plan for the area marked by a red dashed line on the attached plan? It is at Mains of Buckie, north-west of the Tesco store.

Likewise, if there was another Local Plan adopted between the Buckie Area Local Plan and 2000 Moraywide Local Plan, would it also be possible to purchase a photocopied/scanned extract of the Proposals Map from it for the same area?

I hope you are able to help further.

Best regards

Michael

APPENDIX 4

Planning Appeal Decision Letter for Planning Application 900693 and Approved Site
Layout Drawing



THE SCOTTISH OFFICE

Inquiry Reporters

COPY

2 Greenside Lane
EDINBURGH
EH1 3AG

Alexander George & Company
Solicitors
24 Shore Street
Macduff
AB44 1TX

Telephone 031-244-5063
Fax 031-244 5880

Your ref: ELA/EMD

Our ref: P/PPA/CR/207

24 October 1991

Dear Sirs

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972: SECTION 33 AND SCHEDULE 7
APPEAL BY MR W MILTON: ERECTION OF 2 DWELLINGHOUSES AND ONE GARAGE AT
MAINS OF BUCKIE, BUCKIE

1. I refer to your client's appeal, which I have been appointed to determine, against the refusal of planning permission by Moray District Council for the erection of 2 dwellinghouses and one garage at Mains of Buckie, Buckie. I made an accompanied inspection of the site and surroundings on 27 August 1991.
2. The site lies in countryside to the south west of the former farmstead of Mains of Buckie, and about 100m south of the built up area of Buckie. It comprises an overgrown area of low lying land, extending to about 0.25 ha, which is bounded to the west, south and south east by the Burn of Buckie, and to the north by a slightly higher area of overgrown land. There are about 3 occupied houses at or near Mains of Buckie. Conversion work on the main part of the former steading, to provide further houses, is well advanced, but appeared to have been suspended. Access to the area is by way of a minor road running west from the A942 road. It deteriorates beyond the farm steading, as it descends towards the appeal site and a bridge over the burn.
3. Each proposed house has a rectangular plan, buff harled walls, and a shallow pitched roof clad with charcoal coloured tiles. Each has a lounge, kitchen, 4 bedrooms and a bathroom. One also has a large snooker room, and a detached garage. Elevations of the garage have not been submitted. The block plan shows septic tanks and soakaways close to the burn.
4. The reasons stated for the refusal of planning permission are that the proposal is contrary to the council's policies on housing development in the countryside and the green belt surrounding Buckie, that it would set an undesirable precedent, that connections to the public sewerage system have been required in rehabilitation schemes in the area, and that the design of the proposed properties does not readily relate to existing ones in the vicinity.
5. On behalf of your client, you state that he wishes to erect one house for himself and one for his parents. There is limited scope for this type

of development in Buckie. The proposal would be in keeping with existing development at Mains of Buckie. As the site is low lying, the development would not be visually obtrusive. Any precedent needed would be limited as the site is small and there are few, if any, similar sites in the area. Your client is prepared to connect the development to the public sewer. He would be willing to conform to reasonable requirements regarding design, and would prefer a "cottage type" design to a more modern design.

6. The district council states that the site lies within the boundaries of the Buckie Area Local Plan and the Buckie green belt. A precedent would be created for possibly a further 2 houses sites on adjacent land. The house styles, while simple, incorporate a shallow roof pitch. Septic tank drainage is contrary to policy and to recent committee decisions in the area.

7. The North East River Purification Board states that the conversion of the Mains of Buckie steading to houses required a connection to the public foul sewer, and this development should also be connected to the foul sewer.

8. A letter of support was submitted by the owner of the appeal site. He states that the site was previously a stockyard, not a field, and that it is completely isolated from the rest of the farm by housing development.

CONCLUSIONS

9. From my inspection of the site and surroundings and consideration of the written submissions, I believe that the main issues in this appeal are whether the principle of erecting houses on this site is contrary to the relevant national and local planning policies, whether the design of the proposed houses would be seriously out of keeping with the character of the area, whether adequate drainage can be provided, and whether the possibility of a precedent being set provides an adequate basis for withholding planning permission in this case.

10. The first reason for refusal refers to local plan green belt policy. In accordance with SDD Circular 24/1985 ("Development in the Countryside and Green Belts"), the strategic context for a green belt should be established in a structure plan before its boundaries are defined in a local plan. As the structure plan for this area contains no such provision, the area around Buckie is not a statutory green belt. The advice on green belts contained in Circular 24/1985 is therefore not relevant to this appeal.

11. Paragraph 7.3.8 of the Buckie Area Local Plan, which deals with these non-statutory green belts, states that they are intended to prevent unnecessary development on the edge of the built up areas so that a clear distinction is kept between town and countryside. It emphasises the need to protect the east and west edges of coastal towns, and the separate identity of the village of Rathven to the south. It states that some sites within the defined green belt may be acceptable because they are obscured from settlements by the contour of the land. The appeal site lies in a hollow, next to a small group of buildings. The proposed development would not erode the physical distinction between town and country, the east or west edges of Buckie or the identity of Rathven. In my opinion it would not run counter to the objectives of this policy.

12. Policy 2.3.7 of the local plan stated that there is no inherent presumption against new housing development in the countryside. Policy 7.3.1 states that a site proposed for development in the countryside will be assessed in relation to both the natural features and the number and location of buildings in the locality, as well as considerations of road access and road safety, availability of services and the means of sewage treatment proposed. The last issue is discussed below in paragraph 14. No objections on road access or safety grounds were raised by the planning or roads authorities. The first part of the policy, regarding natural features and buildings, is not expressed as clearly as it might be, and allows for considerable flexibility in interpretation. However it appears to encourage planned, grouped development that fits relatively inconspicuously into the landscape, and discourage an unplanned build up of isolated and prominent development. The proposed houses would be built in a hollow, next to an existing group of buildings, and as such they would appear to comply closely with the terms of this policy. I conclude that the principle of erecting houses on this site is not contrary to the relevant national and local planning policies.

13. The proposed houses would have a traditional harr finish, and fairly innocuous charcoal coloured tiles. The site is not very prominent, and existing houses near the former steading display a variety of styles. However I share the planning authority's concern about the inappropriateness of the shallow pitched roofs. The roofs would be particularly noticeable parts of these low lying houses. Steeper roof pitches, generally between 40 and 45 degrees, are a characteristic feature of Scottish rural buildings, and I would have thought that they could be provided here without any major difficulty. I note that your client has a preference for more traditional looking houses. Subject to this proviso, I consider that the design of the proposed houses would not be seriously out of keeping with the character of the area.

14. The application proposed septic tank drainage, but this is unacceptable to the planning authority and the river purification board. You state that your client would be prepared to connect the development to the public sewer. This has apparently been done elsewhere in the area, and I therefore assume that adequate drainage could be provided in this case.

15. The district council is concerned that approval could set a precedent for the development of up to 3 more houses on adjoining land. I assume it is referring to the overgrown land to the north of the appeal site. I do not know whether such a proposal has been made, or whether it would be feasible or desirable. It would be inappropriate for me to comment on such a proposal. Each planning application falls to be determined on its individual merits, and I see no reason to withhold planning permission in this case because of fears about possible development on that, or any other site.

16. I therefore find the proposal to erect the 3 houses acceptable. In the absence of details of the garage I cannot approve it. Accordingly, and in exercise of the authority delegated to me, I hereby sustain the appeal and grant planning permission for the erection of 2 dwellinghouses at Mains of Buckie, Buckie, in accordance with planning application No 900693, dated 17 July 1990, subject to the following conditions:

1. The permission hereby granted shall lapse if the development is

24 October 1981

not begun within 5 years from the date of this decision.

2. Details of the external materials to be used on the houses shall be approved by the planning authority prior to the start of construction work on site.

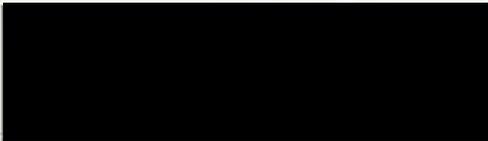
3. The roofs of the houses shall have a pitch of between 40 and 45 degrees.

4. The houses shall be connected to the public sewerage system before they are occupied. They shall not be drained by means of septic tanks and soakaways.

17. The foregoing decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks from the date hereof as conferred by sections 231 and 233 of the Town and Country Planning (Scotland) Act 1972; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1971 or of any orders, regulations or rules made under these Acts.

18. A copy of this letter has been sent to Moray District Council.

Yours faithfully



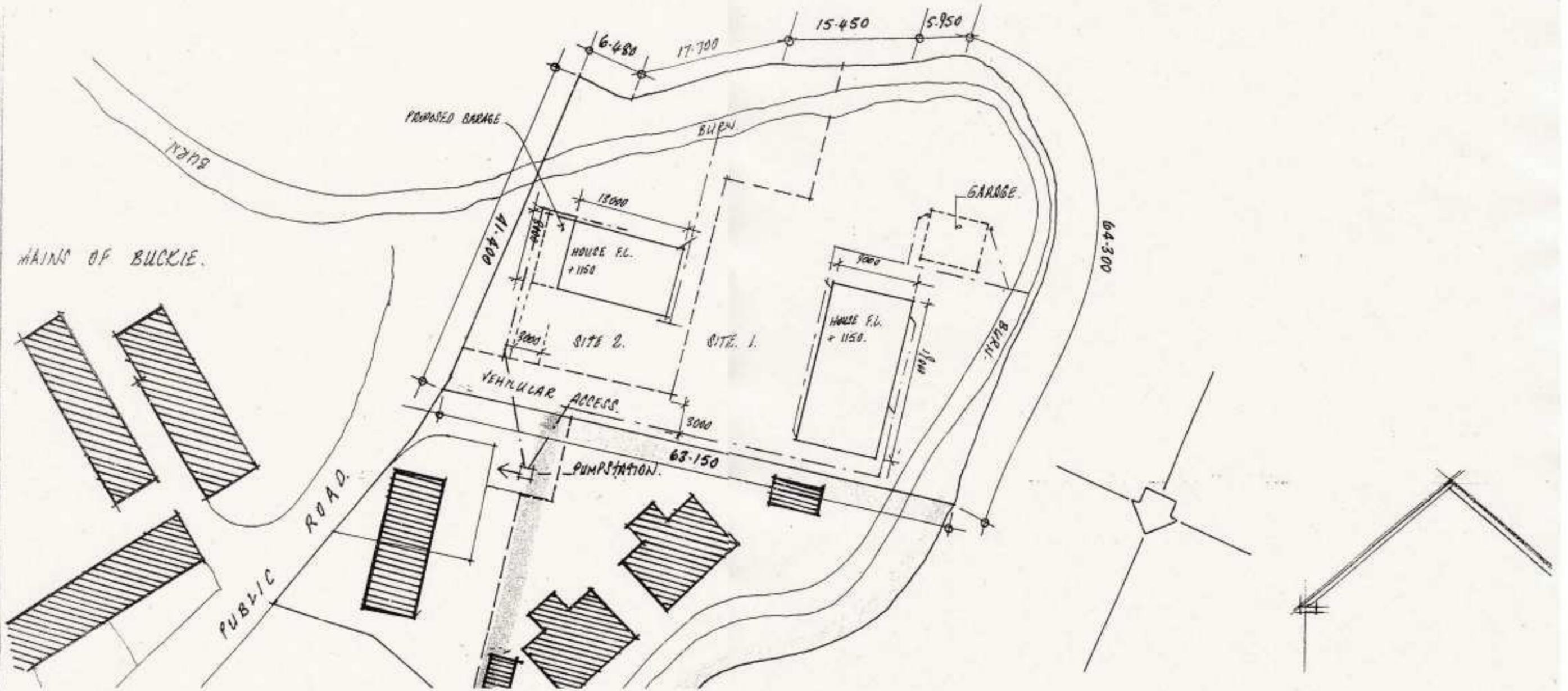
D N GORDON
Reporter



NOTE: DRAINAGE FROM HOUSES TO PUMPSTATION
RAINFALL TO BURN.

3

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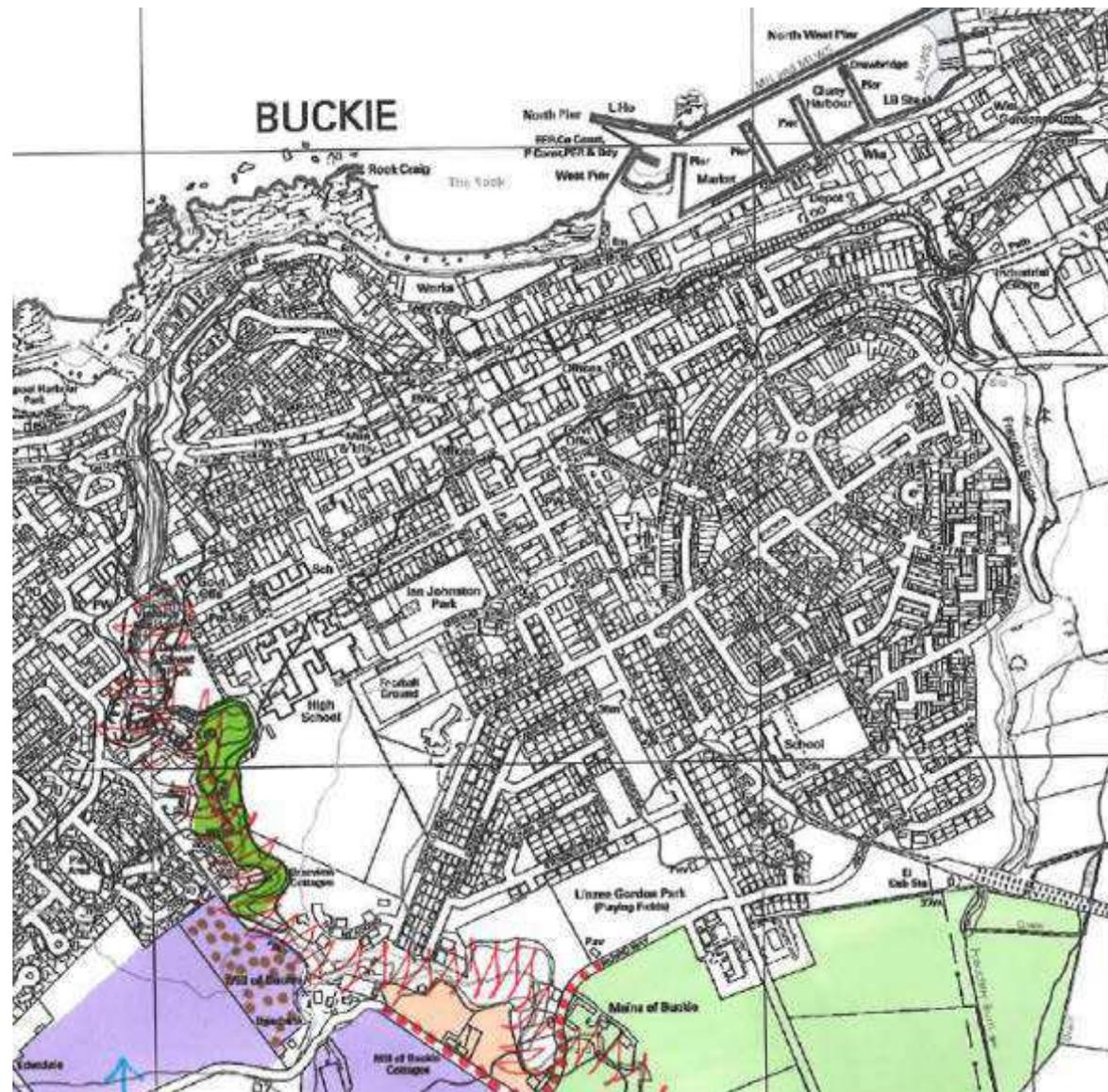
APPENDIX 5

Table extracted from page 45 of Appendix 4 (Buckie Audit Findings) to the Moray Open Space Strategy Supplementary Guidance 2018

Audit Site Ref	Site Name	Ownership/ Responsible for Management	Audit Typology	Area (Ha)	Quality Score	Reasons for Poor	Park Hierarchy	Key qualities and features
M/BC/OS/001	Buckpool Coast	TBC	Green Corridor	0.49	Good		N/A	Area of foreshore, rocky at sea edge with rough grass behind. Coastal path runs through site.
M/BC/OS/002	Buckpool Coast/Shore	TBC	Amenity	0.19	Good		N/A	Area of foreshore, rocky at sea edge with rough grass behind. Coastal path runs through site. Parts surfaced for carparking.
M/BC/OS/003	Buckpool Harbour Park	Moray Council	Public Parks	2.47	Good		Neighbourhood Park	Distinctive public park with attractive setting beside harbour wall. Primarily grass with areas planted with shrubs. Includes well equipped playspace and coastal path. Area of foreshore to the west.
M/BC/OS/004	Coastal slope and former railway	Private /Moray Council path	Green Corridor	3.17	Good		N/A	Former railway with distinctive changes in level. Allows movement between upper and lower parts on steep paths with steps. Distinctive landform which runs through Buckie.
M/BC/OS/006	Buckpool Playing fields	Moray Council	Sports Area	2.17	Good		Neighbourhood Park	Playingfields with playspace,
M/BC/OS/007	The Bow	Moray Council	Amenity	0.17	Poor	Lacks any clear function and made up solely of grass.	N/A	Flat grass area forming a square. Breaks up housing development and provides amenity for housing in immediate vicinity.
M/BC/OS/010	Letterfourie Road	Moray Council	Playspace	0.42	Good		Pocket Park	Landsaped area in centre of housing development with playspace. Includes mature trees and landscaping.
M/BC/OS/011	Burn of Buckie	Moray Council/ Private	Green Corridor	13.79	Good			Corridor for Burn of Buckie which runs through town. Steeply sided and gorge like in parts. Landscape feature. Access limited due to steep slopes.

APPENDIX 6

Extract of the Buckie West Landscape Analysis Plan from the Council's Final Report on the Integration of New Development into the Landscape, May 2005 (situated between pages 29 and 30)



THE MORAY LANDSCAPE
Buckie West
 SURVEY AND SITE OBSERVATIONS
 Scale 1:10 000

Landscape Character

- Level Fields
- Gentle Undulations

Landscape Survey

- Steep slopes enclose the den of the Burn of Buckie
- Long ridges
- Woodland
- Unmanaged grassland
- Golf course
- New cemetery and civic amenity site
- Paths and Tracks
- Houses under construction
- Isolated developments fragment settlement edge

Landscape Setting

- Sense of arrival ambiguous due to fragmented

APPENDIX 7

Extract from Map 17A (Buckie Inset Map) of the Moray Core Paths Adopted Plan
2011



Legend

- Start-finish points
- Core Paths - Public roads/ Roadside paths
- ▤ Core Paths- Off road
- Promoted paths
- Existing paths

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APPENDIX 8

Local Plan Policy IMP1 (page 84 extracted from the 2015 Moray Local Development Plan)

Policy IMP1 Developer Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with 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) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Justification

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, with particular emphasis on providing pedestrian and cycle access, and any necessary public transport facilities/connections. The use of SUDS and incorporation of renewable energy techniques and sustainable design and construction methods will all help promote sustainability in Moray. Most of the serious flood risks have been addressed by flood alleviation schemes, but there are still areas that are susceptible and these should be avoided. Similarly, pollution issues in relation to air, noise, groundwater and ground contamination, must be adequately addressed to provide proper development standards.

APPENDIX 9

Local Plan Policy PP3 (page 9 extracted from the 2015 Moray Local Development Plan)

All residential and commercial (business, industrial and retail) developments must incorporate the key principles of Designing Streets, Creating Places and the Council's supplementary guidance on Urban Design.

Developments should;

- create places with character, identity and a sense of arrival
- create safe and pleasant places, which have been designed to reduce the fear of crime and anti social behaviour
- be well connected, walkable neighbourhoods which are easy to move around and designed to encourage social interaction and healthier lifestyles
- include buildings and open spaces of high standards of design which incorporate sustainable design and construction principles
- have streets which are designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars on the street scene.
- ensure buildings front onto streets with public fronts and private backs and have clearly defined public and private space
- maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity
- The Council will work with developers and local communities to prepare masterplans, key design principles and other site specific planning guidance as indicated in the settlement designations.

Justification:

The Scottish Government aims to encourage higher standards of urban design and has published Designing Streets and Creating Places. The Council has approved supplementary guidance on urban design which developers are referred to.

The planning system encourages a designed approach to planning responding to the context and characteristics of each site. The 6 key qualities of distinctive, welcoming, adaptable, resource efficient, safe and pleasant and easy to move around and beyond should be considered and integrated into new developments.

Design statements are required for all major applications, however this approach is encouraged for all developments over 10 units to understand the proposal within the context of the site and surrounding environment.

Scottish Government policies encourage the creation of walkable neighbourhoods which are defined as neighbourhoods which have a range of facilities within 5 minutes (about 400 metres) walking distance of residential areas.

A Design and Access Statement is required for national and major planning applications and the Council encourages preparation of a Design Statement for all housing developments of 10 or more units and commercial developments in excess of 500 sq. metres.

APPENDIX 10

Extract from the Moray Urban Design Guide 2015 (pages 2,3,9,10 and 12)

Introduction

The Scottish Government's clear commitment to raising urban design standards is set out in its policy statements 'Creating Places' and 'Designing Streets'. These emphasise the important value that good design brings to creating successful places that enhance our quality of life. Our quality of life is determined by the way in which we interact with our surroundings. Architecture, public space and landscape are central to this.

The Scottish Government's approach to designing successful places is underpinned by six key qualities: a successful place is distinctive, safe and pleasant, easy to move around, welcoming, adaptable, and resource efficient. Creating Places sets out the value (physical, functional, viable, social and environmental) that a creative, innovative and inclusive design process can deliver. Designing Streets puts the importance of well-designed streets and its impact on movement and connection between people and places, building and streets, public and private spaces, and the built and natural environment back at the heart of the design process.

This urban design guide has been produced to ensure that new development, especially Greenfield sites at the gateway to towns and villages are places of character with their own identity, which are well-connected and pleasant to live in. These places should have a sense of place which helps establish communities and foster civic pride.

The aim of this guide is to ensure that good design principles are applied to new developments in order that they become successful places to live, work and relax. The design process must ensure that the site and area appraisal together with design principles are analysed at the outset to create an appropriate design that adds value to the place and people. The planning authority must be involved from the outset to ensure that the key design principles set out in this guide are embedded in new development, and to avoid delays in the planning application process.

Good design can avoid longer term problems of poorly maintained spaces, isolated communities, and social problems. The guide aims to reduce reliance on the car and reinforce the role of our streets as a key way of walking and cycling therefore creating a sense of place and allowing for more social interaction.



The benefits of good urban design are:

- Enhances our quality of life by creating attractive, safe and well-connected places;
- Makes urban areas more attractive and competitive for inward investment;
- Creates distinctive places with their own sense of identity and community;
- Lower crime rates and fewer social problems;
- Provides opportunities for active and healthier lifestyles with more opportunities for walking and cycling as an alternative to the car;
- Creates better access to public transport; and,
- Provides opportunities to maximise energy efficiency and reduce emissions.

This guide is aimed primarily at larger housing developments however, many of the principles should be applied to all sizes and types of developments. The guidance supports and expands on the Moray Local Development Plan (LDP) policies of which Placemaking is a key priority for the Council. The guide also supplements the key design principles set out for development sites in the LDP. The guide is a material consideration in the determination of planning applications.

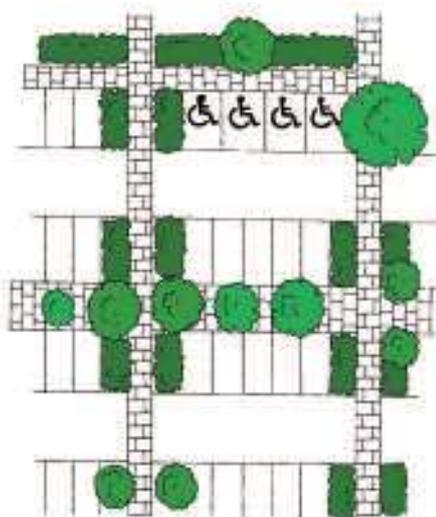


Homezones can form part of a well connected network of public shared spaces which encourage walking, cycling and social interaction. Homezones should conform to the following key principles:

- Access points into homezones must be clearly defined to allow all users to understand the change in street layout and function, which requires different behaviour. Access point design is likely to include design features such as planting, street narrowing, surface level and material changes.
- Streets within homezones must be capable of allowing two-way traffic movements. One way systems will not be acceptable.
- Short forward visibility standards must be applied to influence driver behaviour and encourage low vehicle speeds. This can be achieved with varied deflections in the street and the careful positioning of trees, planters, buildings, lighting columns, etc.
- On street parking should be designed to minimise the impact upon the streetscene, influence traffic movement and speed. Soft and hard landscaping and street furniture should be used to define parking areas.
- Paving material and colours should be varied to distinguish between the preferred use of a particular part of a shared surface and to reinforce the distinctiveness and identity of public spaces. Developers are advised to discuss materials/colours with the Planning Authority at pre-application stage.

Car parking

Car parking can dominate the streetscape unless it is carefully designed. The street must be capable of accommodating parked vehicles without detracting from the character of the place. Parking and turning space also needs to be considered for bicycles, public transport and service vehicles. The level and location of car parking provision can influence how people travel. Parking should be conveniently located and overlooked by properties. Parking within the front curtilage should be avoided as it breaks up the building frontage and leads to a visual dominance of parked cars, restricts overlooking of the street and minimises garden space.



Parking bays should be broken up with soft landscaping

Most residential car parking must be provided to the side or behind the building line, in areas which allow for active surveillance. Car parking to the side of properties is preferred, but some styles of development, e.g. flats may be suited to the rear or courtyard parking.

Street frontages should not be dominated by garage doors, which should be in line with or set back from the house front.

On-street parking using discrete bays broken up by soft landscaping, kerb features or street furniture softens the impact of communal parking areas. Communal car parking to the rear of flatted developments reduces the impact of the car and allows for a softer, landscaped frontage to the building.

In commercial developments, which involve significant areas of car parking the impact should be reduced by locating parking to the side or rear. Paved surfaces should be kept to a minimum and parking bays broken up into small separated clusters.



Car parking provided to the rear of property reduces the level of parking on the street



Reducing Street Clutter

Street furniture, signs, bins, bollards, lighting and other items which tend to accumulate on a footway can clutter the streetscape and be visually intrusive. Signage must be kept to a minimum and be well located. Street lighting should be as discreet as possible but provide adequate illumination, e.g. mounted on building walls.



Crime Prevention

Blank facades, remote footpaths, poor lighting and areas which cannot be observed all contribute to perceptions of poor security. Well designed places should take account of crime prevention measures. Buildings should be orientated to ensure that public open spaces, car parking areas and footpaths are all overlooked to improve security. Active building frontages generate activity and help to increase safety.

Lighting can help to reduce the incidence of crime, add vitality to the area and enhance its attractiveness and sense of place.

Footpaths should have an open aspect, be well lit, with good surveillance allowing pedestrians to see the full length of the path. Pedestrians should not have to negotiate enclosed, poorly lit paths or blind corners or recesses.

Density

The Moray Local Development Plan identifies indicative capacities for designated housing sites. For other sites the appropriate density will be determined by taking account of a number of criteria including neighbouring density levels, landscaping, access, noise, flooding, etc.

Sequence Markers

Sequence markers can be added to the design of a development to assist with orientation around an area. Sequence markers are required along longer stretches of paths or roads to remind people where they are and provide a sense of getting somewhere. A sequence marker can be added in a variety of forms including a different house style, landscape feature or street furniture. These can be sited at junctions to become landmarks within a formal grid structure. However, on curved streets they should be sited to be visible from a distance and could project up, down or forward, relative to the building line.



Mixed Uses

Large residential areas should incorporate a range of non-residential uses, such as shops, school, employment and community facilities. The location of these within predominantly residential areas will reduce the need to travel, and will create activity and the opportunity for social interaction. Community facilities should be sited at locations, which are accessible by a choice of transport modes.