

<b>APPEAL DECISION (DPEA)</b>
Appeal Reference PPA-110-2297
Planning Reference APP/2015/3350
Planning Proposal Erection of dwellinghouse
Summary of Decision
To allow the appeal and grant planning permission subject to six conditions.
Policy Issues
<ul style="list-style-type: none"><li>• Policy 3 Development in the countryside and SG Rural Development1: Housing and Business Development in the Countryside.</li></ul>
<p>This provision extends up to 20% organic growth in the size of the settlement during the development plan period. At the time the application was considered, 29 of the potential sites had been permitted, and 5 more have since been approved. Therefore, even with the revised 20% limit of 37 units, there is still capacity for another single dwelling.</p>
<p>Being closely related to the other recently approved houses, the planning officer felt that a single dwelling would comply with that policy, although the reporter noted that neighbours considered it to be development by stealth.</p>
<p>When looking at sites to fulfil this potential, the council have already exceeded the 3 dwelling policy by permitting a 4<sup>th</sup> house on the adjoining land, primarily because it forms a compact group with the 3 houses already approved. Having agreed that this is one of those sites with the potential to contribute to the growth capacity of the village, the report to Committee accepted that the proposal would, in rounding off the group without resulting in ribbon development, accord with ALDP policy 3 – Development in the countryside.</p>
<ul style="list-style-type: none"><li>• Policy 8 Layout, siting and design of new development and SG LSD2: Layout siting and design of new development.</li></ul>
<p>The single reason for refusal alleges overdevelopment of the site contrary to ALDP policy 8 and supplementary guidance SG LSD2 - Layout siting and design of new development. The new house would have a footprint of 120 square metres sited on a plot of 0.44 hectares and would be some 40 metres from the nearest houses all of which are on smaller plots. The reporter was not convinced that the proposal would be overdevelopment.</p>

- Policy 9 Developer contributions and SG DC1: Developer Contributions

As no affordable housing is proposed with the development, the principle of a contribution to affordable housing to address the shortage of such housing in rural area would comply with planning policy and meet the tests in Circular 3/2012 – Planning Obligations and Good Neighbour Agreements.

The Reporter concluded that, subject to appropriate conditions, as the final part of a complete cluster of dwellings adjacent to 3 existing houses, the proposed dwelling house would have a moderate but acceptable impact on the character and amenity of the area

#### Additional Points

- Not considered ribbon development
- No concerns for increase in traffic, Roads Development are satisfied.
- No contributions were requested for Education which suggests that the Council is satisfied the school can accept this single dwelling.

#### Actions

Financial contributions towards affordable housing has been paid.

#### Note Decision

#### Other

The applicant is required to comply with six conditions relating to road/access, landscaping, connection to public water supply, and submission of an Energy Statement.

Planning and Environmental Appeals Division

Appeal: Notice of Intention

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Notice of Intention by John H Martin, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-110-2297
- Site address: Land to north of Pitblain House, Daviot, Inverurie
- Appeal by Mr Jim Gray against the decision by Aberdeenshire Council
- Application for planning permission (APP/2015/3350) dated 29 October 2015 refused by notice dated 11 February 2016
- The development proposed: erection of a dwelling house
- Application drawings: 1:2500 Location Map, Drgs.Nos. A14021/501, 502 and 503
- Date of site visit by Reporter: 26 April 2016

Date of notice: 18 May 2016

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## Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission subject to the conditions listed at the end of this notice, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matters listed in paragraph 17.

## Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issue in this appeal is the impact of the proposed development on the character and amenity of the area.
2. The appeal site lies in open countryside and on agricultural land to the north of Daviot and adjacent to a development of 3 houses (approved under planning permissions APP/2014/3946; 3953 & 4059), of which one has been erected, and next to the plot of a further house approved in October 2015 (APP/2015/0612). The whole development site lies immediately to the north of Pitblain House, Highbury and Lin-Aire, a well established group of detached dwellings sited within 400 metres of the village.
3. The most relevant policies in the Aberdeenshire Local Development Plan (2012) (ALDP) are policy 3 – Development in the countryside with supplementary guidance SG RD1 – Housing and Business development in the countryside; policy 8 - Layout, siting and design of new development with supplementary guidance SG LSD2 - Layout, siting and design of new development and policy 9 – Developer contributions with supplementary guidance SG DC1 - Developers contributions.

### *Main Issue*

4. The proposal seeks permission to add a further detached house to the 4 houses already permitted on the adjoining land. The new house would be of a similar size and design but would be set at a lower level to minimise its visual impact. The driveway serving the new dwelling would join the approved access to the adjoining houses off a 15.0 x 2.5 metres lay-by with 45° splays and 90.0 x 2.4 metres visibility splays, together with a 2.0 metres wide footway from the lay-by to the southern edge of the first plot. This access is to be taken off the country road linking Daviot with the A920 road to the north, which is also a scheduled bus route.
5. Daviot is identified in Appendix 1 of the ALDP as a village within which some organic growth may be permitted. In the supplementary guidance SG RD1, provision is offered for no more than 3 houses within about 400 metres of the village limits. This provision extends up to 20% organic growth in the size of the settlement during the development plan period, which produces a capacity of up to 38 new dwellings, now reduced to 37, of which 29 have already been approved. Being closely related to the other recently approved houses, the planning officer felt that a single dwelling would comply with that policy, although I note that neighbours consider it to be development by stealth.
6. If the SG RD1 policy of 3 dwellings were the only criterion for allowing new dwellings in the countryside within the growth potential of identified villages, the suggestion that this particular site has grown by stealth might have been justified, but the appellant points out that the council's own 20% organic growth policy has permitted several sites around Daviot that far exceed the 3 house limit, the 6 houses at Mackstead Road being an example. At the time the application was considered, 29 of the potential sites had been permitted, and 5 more have since been approved. Therefore, even with the revised 20% limit of 37 units, there is still capacity for another single dwelling.
7. When looking at sites to fulfil this potential, the council have already exceeded the 3 dwelling policy by permitting a 4<sup>th</sup> house on the adjoining land, primarily because it forms a compact group with the 3 houses already approved. Having agreed that this is one of those sites with the potential to contribute to the growth capacity of the village, the report to Committee accepted that the proposal would, in rounding off the group without resulting in ribbon development, accord with ALDP policy 3 – Development in the countryside.
8. The single reason for refusal alleges overdevelopment of the site contrary to ALDP policy 8 and supplementary guidance SG LSD2 - Layout siting and design of new development, which sets out a range of criteria with which proposed development should comply. The new house would have a footprint of 120 square metres sited on a plot of 0.44 hectares and would be some 40 metres from the nearest houses all of which are on smaller plots, so I am not convinced that the proposal would be overdevelopment. Clearly, the main objection is based on the fact that 5 houses are now proposed on a site where 3 had previously been approved but, as I have explained in paragraph 6 above, the council has allowed similar larger developments in the village under the 20% rule, so that alone cannot be regarded as overdevelopment in this case, especially when considering the generous nature of the appeal site.
9. The appellant draws attention to the design principles behind the proposal and how the building would nestle into the completed landscape. While I accept that the new

dwelling would be cut into the hillside to minimise its visual impact, it would be prominent from a distance and from the A920 to the north, although probably not as obvious as the 4<sup>th</sup> house yet to be built above it. The application proposes a comprehensive landscaping scheme including a belt of mixed species trees along the northern boundary to screen the proposed dwelling and the new house above, complementing the landscaping provisions included within the adjacent approved developments. While this planting will take several years to mature, and bearing in mind the lower profile of the proposed dwelling, I am satisfied that this would eventually provide an effective screen when viewed from the north.

10. The design would closely relate to the individual houses already approved on adjoining land to form a complete group, and it would incorporate a palette of similar materials. The dwelling would be designed to a high standard of insulation and airtightness, taking advantage of south facing roof slopes to capture sunlight to provide heat and power, all to accord with supplementary guidance SG LSD11 – Carbon neutrality in new development, while surface water and foul water drainage would all be accommodated within the site, without the need for a developer contribution under ALDP policy 9.

11. In the report to Committee, the planning officer found that the proposal complied with the 20% organic growth policy for Daviot, that the design was acceptable and that no objections had been received from Infrastructure Services (Roads Development) with regard to the formation of the access, visibility splays, the lay-by or the new footway. I therefore conclude that, subject to appropriate conditions, as the final part of a complete cluster of dwellings adjacent to 3 existing houses, the proposed dwelling house would have a moderate but acceptable impact on the character and amenity of the area.

### *Material considerations*

12. The neighbours living in the 3 existing houses that adjoin the current new development consider that the proposal would not be in accordance with the council's own limit of 3 houses per site, which has already been exceeded by the granting permission for the 4<sup>th</sup> house on the site, so it does not therefore form part of the organic growth of the village. They point out that the 20% growth policy has already been reached and that 5 houses would be contrary to the council's own strategy, and, by extending the 3 houses along the road, it would also amount to ribbon development.

13. While I acknowledge that the proposal may not strictly be within the 3 dwelling rule, it would seem that the 20% growth potential has yet to be fulfilled, so there is still capacity for the occasional single dwelling which, in this case, would round off the new development to complete a cluster of houses off a joint access, next to a similar cluster of existing properties in the countryside. Ribbon development is usually defined as extension of a row of houses fronting a road, which is hardly the situation in this case. Two existing individual detached houses with a new house a similar distance apart can hardly be described as a row, while the proposed dwelling would then be over 40 metres away on the other side of the access, so I do not regard the proposal as ribbon development.

14. Another objection concerns the increase in traffic on this country road, which is already a "rat run" along which some parents walk their children to school. A new house of the size proposed is likely to generate up to about 8 additional vehicle movements per day, which I accept would have some effect on the traffic on this single carriageway road but, at the time of my visit in the late morning, traffic was very light although this would no doubt

increase at peak periods. Most of the roads leading into Daviot are of a similar type and this has not prevented other recent development elsewhere on the edge of the village. In any event, the council's Infrastructure Services (Roads Development) are satisfied that visibility and parking requirements can be satisfied and that they have no objection to the proposal subject to conditions.

15. Lastly, concerns were expressed that the school is struggling to cope at present and further development would put a greater strain on its ability to serve the community but, although this was referred to in the committee report, no request for a contribution has been made, which suggests that the council is satisfied the school can accept this single dwelling.

### *Developer's contributions*

16. The Formantine Area Committee report of 19 January 2016 recommends that permission be granted subject to the conclusion of developer contributions. These are referred to in paragraph 4.1 as being a 5% commuted sum towards affordable housing and a possible contribution towards education, but no specific request has been made, so I have to presume that this was found not to be required. Because there is little detail about how these contributions are to be paid, I requested further information from the council and the appellant, who responded by email on 11 and 12 May 2016 respectively to the effect that they had agreed between themselves that the contribution would be paid as a commuted sum. However, should this not be the manner by which the contributions are to be paid, I have to allow for the possibility of a planning obligation being necessary.

17. As mentioned in paragraph 16 above, the main parties agree that a financial contribution towards affordable housing in Rural Housing Market Area should be made, although it is not clear how the 5% is calculated. Nevertheless, as no affordable housing is proposed with this development, the principle of such a payment to address the shortage of such housing in rural areas would comply with ALDP policy 9 and SG DC1 and meet the 5 tests in Circular 3/2012 – Planning Obligations and Good Neighbour Agreements.

18. I therefore conclude that a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some other arrangement agreed by the parties, should be completed in order to secure provision towards affordable housing in the area. It would seem that the council's normal approach is to withhold its decision until a payment has been made, which is not a course of action available to me, nor do I consider that a planning condition can be imposed requiring an unspecified financial contribution. I am therefore issuing this notice of intention and will give the parties 13 weeks to agree a sum and the manner by which payment is to be made. If, by the end of the 13 week period, I have not received written confirmation that the payment has been received or some other appropriate mechanism initiated, I will consider whether permission should be refused or granted without any contribution towards affordable housing.

### *Conditions*

19. The council submitted a schedule of conditions, should the appeal be allowed, to which the appellant has raised no objections. Apart from the developer's contributions I have already considered in paragraphs 16 -18, and subject to minor amendments, I shall impose 6 conditions covering the design of the access, provision of visibility splays and a

footway; water supply; landscaping and the submission of an energy statement. I accept that these conditions seek to address concerns over visual impact, highway safety and energy conservation that have been raised against the proposal.

### *Conclusion*

20. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

*John H Martin*  
Reporter

### **Conditions**

1. That no other works in connection with the development hereby approved, except that required by Condition 2, shall take place unless the proposed access into the site has been provided in accordance with the approved drawings to include the following:

(a) the provision of visibility splays of 2.4 x 90 metres in both directions to remain thereafter in perpetuity;□

(b) a lay-by measuring 15.0 x 2.5 metres with 45 degree splays shall be formed on frontage of the site from which the proposed vehicular access shall be taken. Construction shall be to a standard appropriate to the location and full details shall be submitted to and approved by the Roads Development prior to commencement.

*Reason: In order to ensure that the development is served by an appropriate standard of access prior to development commencing in the interests of road safety.*

2. That no other works, except those required by Condition 1, in connection with the development hereby approved shall take place unless a 2.0 metres wide footway as shown on Developer's drawing No. A14021 503 has been provided to base course level to ACC Standards. Prior to the first occupation of the development the footway shall be surfaced and finished in full in accordance with ACC standards, and thereafter retained in perpetuity.

*Reason: In order to ensure that the development is served by an appropriate pedestrian access prior in the interests of pedestrian safety and to promote alternative modes of travel.*

3. Prior to the first occupation of the development hereby approved the vehicular access shall be provided in accordance with the approved plans and to include the following, which shall thereafter remain in perpetuity:

- (a) the first 5.0 metres of the access road and the lay-by shall be surfaced in bituminous material;
- (b) the gradient shall not exceed 1:20 over the first 5.0 metres;
- (c) the provision of three car parking spaces surfaced in hard standing materials within the application site boundary;
- (d) a refuse bin uplift store area, to be constructed in accordance with details that shall be first submitted to and approved in writing by the Planning Authority in consultation with Roads Development team;
- (e) within the curtilage a turning area, measuring not less than 7.6 x 7.6 metres, shall be laid out to enable vehicles to exit and enter the site in a forward gear.

*Reason: In order to ensure that the development is served by an appropriate standard of access in the interests of road safety.*

- 4. The dwelling house hereby approved shall not be occupied until a connection to the public water supply has been secured and implemented.

*Reason: The planning application states that the water supply will be public; to ensure a wholesome water supply (in terms of quality and quantity) in the interests of public health.*

- 5. Prior to the first occupation of the development hereby approved a scheme of landscaping, including soft and hard landscaping and boundary treatments, shall be submitted to and approved in writing by the Planning Authority.

Details of the scheme shall include:

- (a) the location of new trees/shrubs/hedges/grassed areas;
- (b) schedule of planting comprising species, plant sizes and proposed numbers and density;
- (c) the location, design and materials of all hard landscaping works including walls, fences, gates;
- (d) a programme for the completion and subsequent maintenance of the proposed landscaping.

All landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the first occupation of the development. Any plants which die, are removed, are seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced by plants of similar size and species to those originally required to be planted or as otherwise agreed by the Planning Authority.

*Reason: To ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.*

6. Prior to the construction of the dwelling house hereby approved an Energy Statement applicable to that dwelling house must be submitted to and approved in writing by the Planning Authority, including the following items:

(a) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development. □

(b) Calculations using the SAP or SBEM methods, which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with the Council's Supplementary Planning Guidance on Carbon Neutrality in New Developments. (In this case the development will achieve at least a Bronze Active rating under Section 7 of the Building Standards Technical Handbook). □

(c) The development shall not be occupied unless it has been carried out in full accordance with the approved details in the Energy Statement. The carbon reduction measures shall be retained in place and fully operational thereafter.

*Reason: To ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and the Council's Supplementary Planning Guidance - Carbon Neutrality in New Developments.*

Planning and Environmental Appeals Division

Appeal Decision Notice

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- Application drawings: 1:2500 Location Map, Drgs. Nos. A14021/501, 502 and 503
- Date of site visit by Reporter: 26 April 2016

Date of appeal decision: 26 May 2016

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## Decision

I allow the appeal and grant planning permission subject to the 6 conditions listed at the end of the intentions notice. Attention is drawn to the 3 advisory notes at the end of this notice.

On 18 May 2016, I issued an intentions notice stating that I was minded to allow the appeal and grant planning permission subject to the conditions listed in the intentions notice (attached as an appendix to this notice), and to the payment of a commuted sum agreed between the parties to cover a financial contribution towards affordable housing in Rural Housing Market Areas. On 25 May 2016, I was advised that the payment has now been made and the developer's obligation has been completed to the satisfaction of the planning authority. Accordingly, I am now in a position to formally determine the appeal.

*John H Martin*

Reporter

## Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning



