Buchan Area Committee Report - 19 June 2018

Reference No: APP/2018/0577

Planning Permission in Principle For Erection of Dwellinghouse at Site Adjacent To Dikeside, Skelmuir, Mintlaw, Aberdeenshire

Applicant: Mr I Grubb, c/o 1 The Square, Mintlaw, AB42 3EH
Agent: Baxter Design Company (Old Deer) Ltd, 1 The Square, Mintlaw, AB42 3EH
Grid Ref: E:399382 N:841180
Ward No. and Name: W04 Central Buchan
Application Type: Planning Permission in Principle
Representations 0
Consultations 5
Relevant Proposals Aberdeenshire Local Development Plan 2017
Map
Designations: No
Development Plans: Refuse
1. **Reason for Report**

1.1 The Committee is able to consider and take a decision on this item in terms of Section B.9.1 of Part 2A List of Committee Powers and Section C.3.1i of Part 2C Planning Delegations of the Scheme of Governance as the application is recommended for refusal but at least two Local Ward Members in the Ward in which the development is proposed, have requested that the application be referred to the Area Committee.

- Councillor Jim Ingram - To give further consideration to the possible contamination of the former site and its suitability for redevelopment.

- Councillor Norman Smith - To further discuss siting with regard to policy R2.

1.2 This application was deferred at the last meeting of the Buchan Area Committee on 29 May 2018 for a site visit. The site visit was carried out on 5 June 2018.

1.3 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. **Background and Proposal**

2.1 Planning Permission in principle is sought for the replacement of an existing bothy with a house. The site is located in the rural housing market area of Aberdeenshire Countryside, approximately 6 km south of Mintlaw.

2.2 The bothy is located to the north of a dwelling house “Skelmuir Smiddy”. The bothy is located within a yard that appears to be used for storage associated with haulage. To the west of the bothy is a larger shed. The granite bothy is intact with roof and walls. The slates have been removed from the roof, but are stored on the site. The bothy has a footprint of 8 metres by 7 metres.

2.3 The applicant proposes to replace the bothy with a new house. The proposed house is to be located on the opposite side of the public road from the bothy, some 17 metres away. The proposed site is greenfield land and has not been previously developed. “The Slack” watercourse runs along the northern boundary of the application site. Plans are attached to this report as Appendix 1.

2.4 As this application is for planning permission in principle, a house design and siting is not required to be assessed. However, the applicant has provided an indicative layout plan that demonstrates how a house may be accommodated within the site, with a principal elevation fronting the public road.
2.5 Access to the site is proposed to be taken on the western side of the site, directly off the public road.

2.6 The applicant proposes to connect to the public water supply. It is also proposed to install a private arrangement for the treatment of foul and surface water. A mini sewage treatment would be located in what would be the garden ground of the proposed house. A separate soakaway is proposed for the treatment of surface water. The application is accompanied by a Geotechnical Investigation report, dated May 2017 prepared by Grampian Geotechnical.

2.7 In addition to the Geotechnical Investigation report, the applicant has submitted a Phase 1 site investigation report: Former Smiddy at Skelmuir, Ardallie by Mintlaw, Aberdeenshire AB42 5AU, version 3 final, dated 20 April 2018 was prepared by Envirosurveying Ltd.

2.8 The site was part of an earlier application to replace the bothy with two houses, reference APP/2017/1468. This application, which was subject to Local Member Delegation, was refused on 9 August, 2017 on the ground that:

(1) The proposal to replace the existing bothy with two houses outwith the curtilage of the bothy on greenfield land does not comply with Policy R2 Housing and employment development elsewhere in the countryside contained in the Aberdeenshire Local Development Plan 2017.

(2) It is considered that proposal to replace the existing bothy with two new houses would have an adverse impact on the character of the surrounding area, more so than the small existing bothy. As such the application does not comply with Policy E2 Landscaping contained within the Aberdeenshire Local Development Plan 2017.

(3) The development does not comply with Policy P4 Hazardous and potentially polluting developments and contaminated land. The past uses of the site indicate that the land may be contaminated. The applicant has not submitted contaminated land investigations and as such an assessment on whether the site will cause an unacceptable danger to the public or the environment cannot be made.

3. Representations

3.1 No valid letters of representation have been received.

4. Consultations

4.1 **Business Services (Developer Obligations)** has confirmed that no obligations are required in this instance.
4.2 **Infrastructure Services (Archaeology)** has confirmed that archaeology mitigation is not required for this application.

4.3 **Infrastructure Services (Contaminated Land)** have identified that the site has been previously used as a smithy, a haulage yard and for fuel storage and dispensing. These uses may have caused contamination of the ground. A Phase 1 site investigation report: *Former Smiddy at Skelmuir, Ardallie by Mintlaw, Aberdeenshire AB42 5AU, version 3 final, dated 20 April 2018* was prepared by Envirosurveying Ltd has been submitted. The Report is satisfactory. An intrusive site investigation is required and could be secured as a condition on any planning decision.

4.4 **Infrastructure Services (Roads Development)** do not object to this application, subject to conditions.

4.5 **Scottish Water** do not object to this application. However according to their records there is no public Scottish Water infrastructure and waste water infrastructure within the vicinity of this development.

5. **Relevant Planning Policies**

5.1 **Scottish Planning Policy**

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.2 **Aberdeen City and Shire Strategic Development Plan 2014**

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to
the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region’s built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

5.3 Aberdeenshire Local Development Plan 2017

Policy R2 Housing and employment development elsewhere in the countryside
Policy P1 Layout, siting and design
Policy P4 Hazardous and potentially polluting developments and contaminated land
Policy E1 Natural heritage
Policy E2 Landscape
Policy C1 Using resources in buildings
Policy RD1 Providing suitable services
Policy RD2 Developers’ obligations

6. Discussion

6.1 Planning Permission in principle is sought for the replacement of a small bothy with a house at site adjacent to Dikeside, Skelmuir Mintlaw. The main issues to be considered are the principle of development, access and drainage arrangements and possible contamination of the land.

6.2 The proposed site is located within the rural housing market area of Aberdeenshire countryside. Therefore this application is assessed in the first instance against Policy R2. This policy supports small scale housing development in the countryside if it would be appropriate in the greenbelt; involve the replacement, on the same site, of an existing house or disused building; involve the remediation of a redundant brownfield land; small scale growth of an Appendix 4 settlement; or in the rural housing market area an addition to an existing cluster or group of five houses.

6.3 In this case, the applicant is promoting this site as the replacement of the existing disused bothy. No other exception criterion would apply. This policy requires that development proposal for the replacement of disused buildings must be made on the same site as the disused building. The phrase “on the same site” means that the replacement house should be situated within the area previously occupied by that house or building. It is expected that the primary development should encompass the footprint of the existing house or building it seeks to replace. Off-site replacement or where the site is substantially removed from the existing house or building is not permitted under this policy. In this case, the applicant requires entirely greenfield land on the opposite site of the road from the bothy to accommodate the development. The aim of the policy is the re-use of brownfield land not building on land which has not been developed. The Planning Service considers that the existing bothy could be replaced within the site of the existing building, but this is not included as part of this application.
6.4 In the rural housing market area, small scale housing developments may be permitted if it is for the addition to an existing cluster or grouping of at least 5 houses. The group may grow by 20% of the size of the cluster, up to a maximum of 2 houses during this plan period. This application does not meet this criterion, as there are only two houses in this cluster “Dikeside” and “Skelmuir”. This application therefore does not comply with Policy R2.

6.5 In terms of water supply the applicant intends to connect to the public water supply. While this is acceptable to the Planning Service, Scottish Water have confirmed that there is no public water infrastructure within this area. Should this application be approved, a condition would be included to ensure that the applicant connects to the public water supply as information regarding a private connection has not been submitted.

6.6 With regard to drainage, the applicant intends to use a private drainage arrangement. This application is accompanied by a Geotechnical Investigation report which demonstrates that the proposed arrangements will be successful at this site. This information is considered sufficient.

6.7 Access to the site is via a new access onto the public road. The Roads Development Team have assessed the access arrangement in accordance with Policy RD1 and find them to be acceptable subject to conditions. The application therefore complies with Policy RD1.

6.8 As the proposal involves the removal of the existing bothy, an assessment is necessary to determine if the proposed works are to have an impact on Bats, which are a European protected species, in accordance with Policy E1 Natural Heritage. Aberdeenshire Council's Environment Planner has assessed this application and has concluded that due to the habitat in the surrounding area it is unlikely that bats will be present in the bothy. As such a bat survey has not been requested in this instance.

6.9 Policy E2, Landscaping, states that we will refuse development that causes an unacceptable effects through its scale, location or design on the quality of the landscaping. The principle of accepting the replacement of an existing or disused building in the countryside, limiting that replacement to the same site and supporting the principles of replacement one building for one building, is to ensure that the replacement building has no more of an impact on the character of the rural landscape than the building it is replacing. Replacing the existing small bothy with a potentially larger house on a greenfield site set away from the application site, on the opposite site of the road, would cause an unacceptable effect on the rural landscape. The application is on the opposite side from the existing buildings, and would extend into land previously undeveloped. The application is therefore contrary to Policy E2 landscaping and P1 Layout, siting and design.

6.10 Policy ‘P4 Hazardous and potentially polluting developments and contaminated land’ states that development will not be supported if there is a risk that any contaminates within the land could cause an unacceptable danger to the public or the environment. Aberdeenshire Council’s
contaminated land team have informed the Planning Service that the land may be contaminated due to its former and existing use as a smithy, haulage storage, and fuel storage and dispensing. The Contaminated Land team had requested that the applicant further investigates the site for contamination. A Phase 1 site investigation report has been submitted and the Contaminated Land team has confirmed that the report is satisfactory. An intrusive site investigation is required, however the Contaminated Land officer suggests that the intrusive investigation can be secured through a condition on any planning consent. The intrusive contaminated land investigation could be carried out and a report be submitted, including mitigation, to the Planning Service as part of any Matters Specified in Condition application. As such the Planning Service is content that this application is not in conflict with Policy P4, at this time and subject to planning condition.

6.11 In conclusion, the Planning Service is unable to support this application. The development to replace the small bothy with a house at a location adjacent to the curtilage of the bothy and on greenfield land does not comply with Policy R2, E2 or P1 as it does not involve the redevelopment of brownfield land and would extend the built form. It is therefore recommended that this application be refused.

7. Area Implications

7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

8.1 An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

8.2 There are no staffing and financial implications.

8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

9. Sustainability Implications

9.1 No separate consideration of the current proposal’s degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

10. Departures, Notifications and Referrals

10.1 Strategic Development Plan Departures
10.2 Local Development Plan Departures

Policy R2 Housing and employment development elsewhere in the countryside
Policy E2 Landscaping
Policy P1 Layout, siting and design

10.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.

10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.

10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

11. Recommendation

11.1 REFUSE for the following reasons:-

01. The proposal to replace the existing bothy with a house outwith the curtilage of the bothy on greenfield land does not comply with Policy R2 Housing and employment development elsewhere in the countryside contained in the Aberdeenshire Local Development Plan 2017.

02. It is considered that the proposal to replace the existing bothy with a house outwith its curtilage and on land unconnected with the bothy would have an adverse impact on the character of the surrounding area. A house would appear disconnected with the buildings on the other side of the road, and therefore would have an adverse impact on the landscape. As such the application does not comply with Policy E2 Landscaping or P1 Layout, siting and design, the proposal is therefore in conflict with the Aberdeenshire Local Development Plan 2017.

Stephen Archer
Director of Infrastructure Services
Author of Report: Laura Dingwall
Report Date: 31 May 2018