



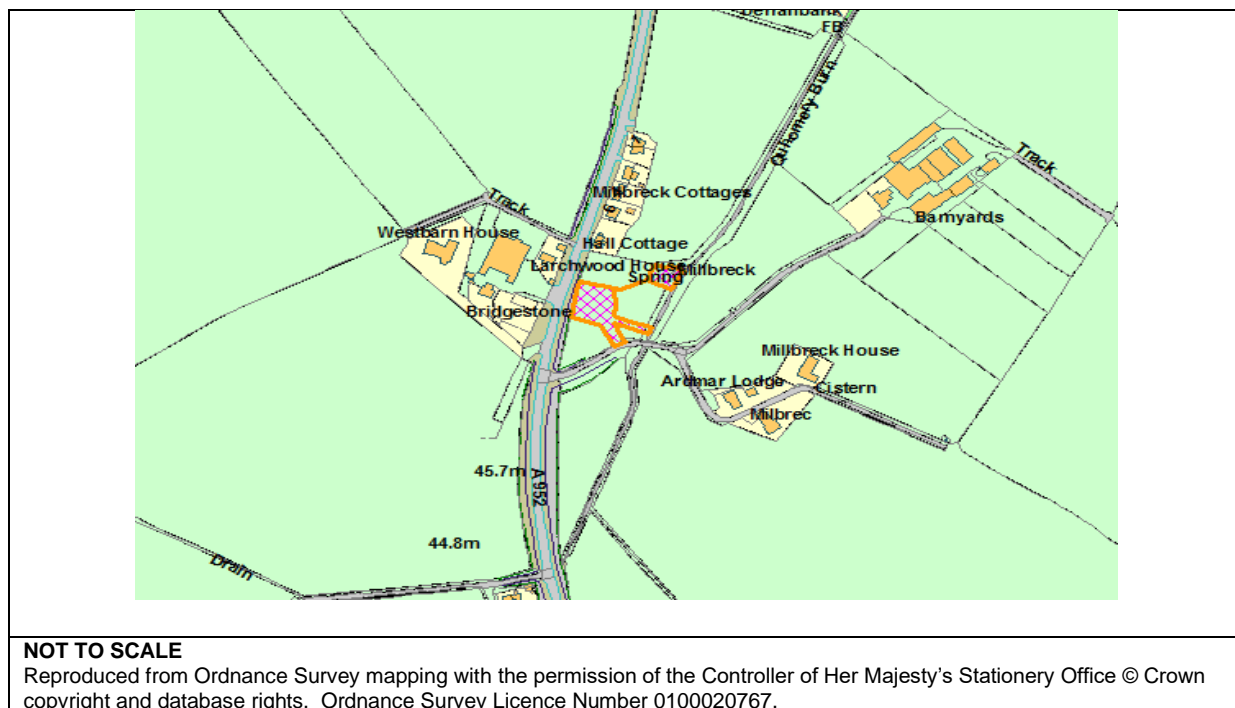
Buchan Area Committee Report 22 February 2022

Reference No: APP/2021/2655

Planning Permission in Principle for Erection of Dwellinghouse at Site at Millbreck, Mintlaw

Applicant: Mr A Cumming, 2 Yokieshill Cottage, Mintlaw
Agent: Arcus Design Ltd, Mavisbank, Old Deer, Peterhead

Grid Ref: E:400214 N:845185
Ward No. and Name: W04 - Central Buchan
Application Type: Planning Permission in Principle
Representations: 0
Consultations: 4
Relevant Proposals Map: Aberdeenshire Local Development Plan 2017
Designations: Rural Housing Market Area
Complies with:
Development Plans: No
Main Recommendation: 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.8.1 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 Ann Simpson: To further discuss policies R2 and RD1;
 - Councillor Jim Ingram: To give further consideration to Policy R2 & RD1;
 - Councillor Marion Buchan: To further discuss policy R2;
 - Councillor Norman Smith: to further discuss policy R2 / PR1
- 1.2 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 erection of a dwellinghouse on land at Millbreck, Clola.
- 2.2 The site is located within the Rural Housing Market Area, on the east side of the A952, approximately 1 mile south of the settlement boundary of Mintlaw, as defined by the Aberdeenshire Local Development Plan 2017. The application site is split into two. The easternmost area of the application site lies adjacent to the watercourse and comprises a small number of trees and a section of ruin. The visible ruin looks like a section of derelict wall and is approximately 1.5m in length x 0.6m high (see Appendix 1 for site plan).
- 2.3 The westernmost area of the application site is located approximately 65 metres away and fronts the A952. It forms an area of undeveloped pasture designated as Prime Agricultural Land (Class 3.1). This is the proposed location for the dwellinghouse, which is to replace the ruin. Land to the north of the site has planning permission for the erection of a dwellinghouse under APP/2021/0828. This was originally approved in principle under APP/2008/3105 on grounds that it formed an appropriate addition to an existing cohesive group. Beyond, is Hall Cottage and five properties at Millbreck Cottages. The land immediately north of Millbreck Cottages has planning permission for the erection of a dwellinghouse under APP/2017/2135 (PPP) and APP/2020/2251 (MSC), approved in principle as an appropriate addition to an existing cluster.

- 2.4 Full details of the proposed dwellinghouse have not been provided, as they are not required until further planning stages. The proposed plans are indicative of a detached dwellinghouse, sited centrally within the plot.
- 2.5 Proposed services include a connection to the public water supply and a private drainage system. The latter would comprise a treatment plant and sampling chamber with discharge via partial foul water soakaway to burn. Surface water drainage will be managed via partial soakaway with discharge to burn.
- 2.6 Proposed access is to be taken from the existing access road to the south of the site.
- 2.7 There is no planning history on the applicant site.

The site immediately to the north has the following relevant history:

APP/2021/0828 – FPP Erection of Dwellinghouse. Granted 6 October 2021
 APP/2018/2585 – MSC, Condition 3 (Siting, Design, Levels, Cross Sections, Parking and Enclosures) of Planning Permission Reference APP/2015/2689 for Erection of Dwellinghouse. Granted 14 December 2018 (expiry date extended until March 2022, due to the Coronavirus Act)
 APP/2015/2689 – PPP, Erection of Dwellinghouse. Approved 23 October 2015.
 APP/2008/3105 – PPP, Erection of Dwellinghouse. Approved (Committee) 10 May 2010.

The site north of Millbreck Cottages has the following history:

APP/2017/0722 PPP Erection of Dwellinghouse. Refused 29 June 2017.
 APP/2017/2135 PPP Erection of Dwellinghouse. Granted by BAC on 14 November 2017.
 APP/2020/2251 MSC Condition 1 (Siting, Design, Layout, Materials, Waste Bin Uplift Area, Parking, Turning Area, Access, Visibility Splays, Lay-by, Landscaping, Cross Sections, Levels, Drainage) of Planning Permission in Principle Reference APP/2017/2135 for Erection of Dwellinghouse. Granted 21 May 2021.

- 2.8 The following supporting information has been received:

Development Statement, received 23 November 2021

Ground Assessment and Soakaway Test Report with Foul Water Treatment System Design and Surface Water Disposal, by SA McGregor, dated 27 November 2009.

The above drainage report was undertaken for a client named Mr Wilson (not the current applicant) and relates to the site immediately north of the application site,

rather than the current application site. The Planning Service requested the correct drainage report on 18 January 2022, however this has not been received to date.

3. Representations

3.1 No valid letters of representation have been received.

4. Consultations

4.1 **Business Services (Developer Obligations)** has advised that both Mintlaw Primary School and Academy are operating within capacity. The development does not engage the Developer Obligations and Affordable Housing Policies or associated supplementary guidance of the Aberdeenshire Local Development Plan 2017. Therefore no contributions are required in this instance.

4.2 **Environment and Infrastructure Services (Contaminated Land)** has not objected to the proposal and advised that a formal note be added to the Decision Notice, should permission be granted.

4.3 **Environment and Infrastructure Services (Roads Development)** has not objected, subject to conditions. Comment is made that the development will be served by a well-established and appropriate bellmouth from the A952.

4.4 **Scottish Water** has not objected to the proposal. The development will be fed from Turriff Water Treatment Works, however there is no Scottish Water Waste Water infrastructure within the vicinity of the proposed site. Capacity cannot be guaranteed and the applicant is advised to submit a Pre-Development Enquiry Form directly to Scottish Water to allow for full assessment.

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 2020

The Strategic Development Plan (SDP) was approved on 12 August 2020.

The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years. 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.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Aberdeen City & Shire SDP 2020 as approved forms part of the Development Plan.

5.3 Aberdeenshire Local Development Plan 2017

Policy P1 Layout, siting and design
 Policy R2 Housing and employment development elsewhere in the countryside
 Policy E2 Landscape
 Policy PR1 Protecting important resources
 Policy RD1 Providing suitable services
 Policy RD2 Developers' obligations
 Policy C1 Using resources in buildings

5.4 Proposed Aberdeenshire Local Development Plan 2020

Aberdeenshire Council on 5 March 2020 resolved to agree the Proposed Aberdeenshire Local Development Plan (LDP) 2020 as the 'settled view of the Council' on what the final adopted content of the LDP 2021 should be. A period during which representations on the Proposed LDP 2020 could be made took place between 25 May and 31 July 2020.

The Proposed LDP 2020 is a material consideration in the determination of planning applications. The Planning Authority must therefore assess what weight it should have in the context of this particular application. The Proposed LDP has been subject to public scrutiny and has now been submitted for Examination by an independent Reporter. Nevertheless, it is considered that the level of weight that should be applied to the Proposed LDP 2020 remains as not significant at this time. The Aberdeenshire LDP 2017 remains the up-to-date LDP for the area and the primary document against which planning applications should be determined until such time as a new LDP for the area is adopted.

5.5 Other Material Considerations

N/A

6. Discussion

- 6.1 This application is for planning permission in principle. Therefore, the details of the layout, siting and design do not need to be assessed until further planning stages. The main issues for consideration in determining this application are its acceptability in principle, the impact of the development on the character and amenity of the site and wider area, and the suitability and viability of access and services.

Principle

- 6.2 Policy R2 Housing and employment development elsewhere in the countryside, supports small scale development on the proviso that it meets at least one of a specific set of criteria. There are three criteria which could apply in this instance:
- 1) The replacement, on the same site, of a disused building
 - 2) The remediation of a brownfield site
 - 3) Appropriate addition to an existing cluster of at least 5 houses (no more than 20% increase of that cluster)

In either of the first two cases above, visual (above ground) evidence of the building to be replaced needs to be substantial. It is expected that for criterion (1) the extent of the historic building form is discernible, such as the foundations and/or walls, in order to warrant a replaceable structure. A viable brownfield site (2) must be a site which has been developed or used for some purpose that has now ceased and on which a new use has not been established. Previously developed land must be assessed based on its current condition. Its historic use, unless physically evident, will not be taken into consideration. In this case, the site consists mostly of overgrowth and trees, with only a minor section of stone wall evident. Historic Maps from 1891-1912 show that the easternmost section of the site once comprised a cotton mill. However, the building is no longer there.

All that remains is a small section of stone dyke amidst trees and shrubs. Therefore, the visual evidence on site is not enough to constitute a brownfield site, because the site has naturalised.

- 6.3 In order for the principle of development to be in accordance with criterion (1) listed above, the proposed dwellinghouse should be on or at least overlapping the footprint of the ruin. The application justifies the relocation of the dwellinghouse to the top of the embankment for two reasons: (a) flood risk and (b) pattern of development. A SEPA flood map has been provided which shows that flood risk appears to be an issue on the site of the wall. This is not in dispute and flood risk is a valid reason to locate the house away from the original footprint. However, no technical supporting information has been provided to demonstrate that flooding is an insurmountable issue at or immediately next to the site of the original structure. Therefore, there is no weighted justification for the proposed site by the roadside. Relocation for reason (b), pattern of development, also lacks sequential assessment to demonstrate why the proposed location is the best option, despite Policy R2's requirement to develop on or immediately next to the original footprint. As such, the siting of the proposed development is not acceptable and conflicts with the principle of development under Policy R2.
- 6.4 Policy R2 criteria (3) also permits small-scale development within the countryside where the proposal would be a suitable addition to a cluster of at least five dwellinghouses. Development allowed under this section of the policy is capped at 20% growth of the size of the cluster up to a maximum of two dwellinghouses during any plan period. Millbreck constitutes such a grouping and the houses that comprise this group are the five Millbreck Cottages, Hall Cottage and Bridgestone. These seven properties display the required level of connectivity through proximity and shared access along the A952. There are other properties nearby, however they lack the connectivity shared by the houses listed above. The 20% growth limit permits the addition of one dwellinghouse to this group of 7 within the current plan period. Extant permission APP/2017/2135 has already granted an addition to this group. As such, there is no more capacity for additional properties to be approved under this criterion of Policy R2.

Character and amenity

- 6.5 The proposed centralised siting of the dwellinghouse within the application site, is not in keeping with the existing pattern of development to the north, which is characterised by modest housing which has a roadside presence. Any subsequent detailed planning application should bring the house towards the A952, more in line with the neighbouring houses. It is expected that this would be possible.
- 6.6 In terms of design and scale, the indicative detached dwellinghouse is appropriate. The indicative footprint appears to be reasonable, in that it allows for

ample undeveloped garden ground for amenity purposes and thus will not overdevelop the site. The scale of the dwellinghouse should be capped at 1.5 storeys in height, to be in keeping with nearby properties, appropriate to the rural character of the area and minimize visual landscape impacts. Where possible, external materials should be natural and locally resourced for sustainability purposes. The eras of construction of dwellinghouses nearby are mixed, therefore a traditional, contemporary or hybrid design would be appropriate. The colour pallet should be muted, to avoid any significant visual impacts or contrasts with neighbouring house finishes.

- 6.7 Impacts on neighbouring amenity and privacy are expected to be minimal, as there is ample space within the plot to locate the house accordingly, to mitigate overshadowing or overbearing. Similarly, considerate internal layout and fenestration design is also achievable to avoid significant overlooking issues. Overall, the Planning Service has no significant concerns regarding the layout, siting and design in terms of its impact on the character or amenity of the site or surrounding area. The above is, on balance, in line with Policy P1 and E2.

Access and services

- 6.8 Proposed access is to be taken from the south-east of the site, joining the existing access road which meets the A952 to the north. Roads Development has not objected to the proposal, subject to standard conditions. This complies with Policy RD1 Providing suitable services.
- 6.9 Proposed services include a connection to the public water supply and a private drainage system. The latter would comprise a treatment plant and sampling chamber with discharge via partial foul water soakaway to burn. Surface water drainage will be managed via partial soakaway with discharge to burn. Scottish Water has no objections, subject to further assessment of its available capacity.
- 6.10 The ground assessment and test results provided in support of the application has expired and is for the wrong site. The tests were conducted (and report signed) in 2009, which is outdated far in excess of the 5 year timeframe allowed by Aberdeenshire Council. In addition, the report is for the site immediately north of the application site and produced for an applicant not named on this application. The correct and current drainage report and certification was requested by the Planning Service, but has not been received to date. The application fails to demonstrate that the site is suitable for any private drainage systems, or that those drainage systems are appropriate and viable for the site and occupants of the proposed dwellinghouse. The application therefore conflicts with Policy RD1.

Protecting important resources

- 6.11 The land where the proposed dwellinghouse would be located is designated as Class 3.1 Prime Agricultural Land, by the Soil Survey for Scotland, Land Capability for Agriculture Series. Policy PR1 Protecting important resources does not allow any development which would have a detrimental impact on prime agricultural land (and other protected resources) unless the land is designated by the Local Development Plan for development, or it is demonstrated that the loss of the land and its' value to the local community is outweighed by the public economic and social benefits of the development. There is no supporting information to the latter effect, nor is the site allocated by the Plan for any specific purpose. As such, the application is in conflict with Policy PR1.
- 6.12 There are a small number of trees on site which surround the ruin. Given the proposal is to develop the dwellinghouse outwith the site of the ruin, the impact on existing trees is expected to be negligible. This does not conflict with Policy PR1.

Other material considerations

- 6.13 The proposal is in accordance with Policy RD2 Developers' obligations, in that the development does not engage the Developer Obligations and Affordable Housing Policies or associated supplementary guidance of the Aberdeenshire Local Development Plan 2017. Both Mintlaw Primary School and Academy are working within capacity, therefore no contributions are required in this instance.
- 6.14 Policy C1 Using resources in buildings, requires than an Energy Statement is submitted at the time of application. Given this is planning permission in principle and full details will be required at further planning stages, a condition will be applied should permission be granted.

Summary

- 6.15 The proposed development is not acceptable in principle under Policy R2 Housing and employment development elsewhere in the countryside, because the site which is presented as a brownfield opportunity has naturalised and the remaining ruin is insufficient in structure to warrant its replacement with a house.
- 6.16 The application also conflicts with Policy R2, because the site of the proposed dwellinghouse is of notable distance from the footprint of the original structure and there is no supporting evidence to demonstrate that the original site cannot be redeveloped, nor to justify that the proposed site is the best available option.
- 6.17 The application fails to comply with Policy R2, in that there is no more capacity for an addition to a cohesive group of at least 5 houses, because this allowance has been fulfilled by extant permission reference APP/2017/2135.

- 6.18 The application site is not on land allocated for development by the Local Development Plan. It fails to demonstrate that the loss of Prime Agricultural Land will be outweighed by the public economic and social benefits of the development. The application therefore conflicts with Policy PR1 Protecting important resources.
- 6.19 The application fails to demonstrate that drainage to the site is appropriate and viable, because the information submitted is out of date and for the wrong site. This conflicts with Policy RD1 Providing suitable services.
- 6.20 The application is in conflict with the policies of the Aberdeenshire Local Development Plan 2017, both technically and in principle. It is therefore recommended that planning permission in principle is 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 integrated impact assessment is not required because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 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.
- 8.4 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.

9. Departures, Notifications and Referrals

9.1 Strategic Development Plan Departures

None

9.2 Local Development Plan Departures

Policy R2 Housing and employment development elsewhere in the countryside
 Policy PR1 Protecting important resources
 Policy RD1 Providing suitable services

- 9.3 The application is a Departure from the valid Local Development Plan (and/or) Strategic 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.
- 9.4 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.
- 9.5 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.

10. **Recommendation**

10.1 **REFUSE Planning Permission in Principle for the following reasons:-**

01. The planning authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017.

The proposed development is not acceptable in principle under Policy R2 Housing and employment development elsewhere in the countryside, because the site which is presented as a brownfield opportunity has naturalised and the remaining ruin is insufficient in structure to warrant its replacement with a house.

02. The application conflicts with Policy R2, because the site of the proposed dwellinghouse is of notable distance from the footprint of the original structure and there is no supporting evidence to demonstrate that the original site cannot be redeveloped, nor to justify that the proposed site is the best available option.
03. The application fails to comply with Policy R2, in that there is no more capacity for an addition to a cohesive group of at least 5 houses, because this allowance has been fulfilled by extant permission reference APP/2017/2135.
04. The application fails to demonstrate that drainage to the site is appropriate and viable, because the information submitted is out of date and for the wrong site. This conflicts with Policy RD1 Providing suitable services.
05. The application site is not on land allocated for development by the Local Development Plan. It fails to demonstrate that the loss of prime agricultural land

will be outweighed by the public economic and social benefits of the development. The application therefore conflicts with Policy PR1 Protecting important resources.

For noting:-

Part 2C (Planning Delegations) states at Section C.3.2b for Local Development, that following consultation with the Chair and Vice-Chair of the determining Committee, the Head of Planning and Economy can refuse planning applications for which Section 75 Agreements are not completed or Developer Obligations are not paid within four months from the date of the Committee at which the application is determined. Local Ward Members shall be notified of any such refusal.

Please note that this power may be exercised in respect of the application which is the subject of this report if the application is approved by the Committee.

Alan Wood
Director of Environment and Infrastructure Services
Author of Report: Roslyn Purdie
Report Date: 8 February 2022

