



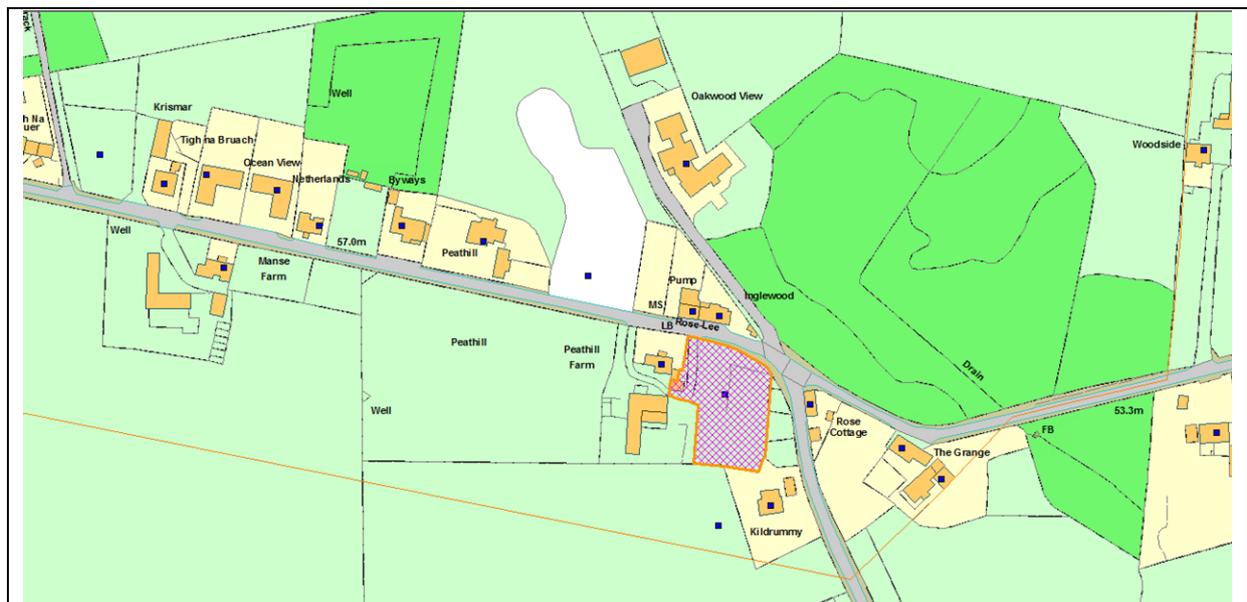
Banff & Buchan Area Committee Report – 30 August 2022

Reference No: APP/2022/0700

Full Planning Permission for Erection of Dwellinghouse at Site at Peathill,
Rosehearty, Fraserburgh

Applicant: Mr G Brown
Agent: Baxter Design Company

Grid Ref:	E:393732 N:865923
Ward No. and Name:	W02 – Troup
Application Type:	Full Planning Permission
Representations:	0
Consultations:	4
Relevant Proposals Map Designations:	Countryside, Rural Housing Market Area
Complies with Development Plans:	No
Main Recommendation:	Refuse



NOT TO SCALE

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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 50% or a majority of responding Local Ward Members in the Ward in which the development is proposed have requested that the application be referred to the Area Committee.

- Cllr Menard: This site has had planning permission in principle in the past
- Cllr Findlater: To consider further the policy issues with this application
- Cllr Cassie: To further discuss the reasons for refusal

1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. Background and Proposal

2.1 Full planning permission is sought for the erection of a dwellinghouse on a site at Peathill, Rosehearty.

2.2 The existing site is an area of undeveloped grassland within a rural area, approximately 1km to the south east of the nearest settlement, Rosehearty. A location plan is attached as **Appendix 1**. The site is on land designated as countryside as per the Aberdeenshire 2017 Local Development Plan and the Rural Housing Market Area. The site is bound to the west by the neighbouring dwellinghouse Peathill Farm. The north and east is bound by the public road C146b which provides access to the site. The south is bound by an area of open agricultural land and the neighbouring dwellinghouse, Kildrummy. The boundary treatment of the site is a low stone dyke wall to the north and east and post and wire fencing to the south. The west site boundary has a section of post and wire fencing and a stone wall, with a gap to allow access into Peathill Farm from the existing track. The site contains a stonework storage building on the west side of the access track, which has a footprint area of approximately 27m². A site layout plan is attached as **Appendix 2**. The surrounding area is characterised by a cluster of modern and traditional dwellinghouses and open agricultural land.

2.3 It is proposed to erect a 1 ½ storey detached dwellinghouse at the south boundary of the site, as a replacement of the existing storage building at the west site boundary. The dwellinghouse will have a footprint area of approximately 330m², with a ridge height of approximately 6.8m and an eaves height of approximately 3m. The dwellinghouse will have a pitched roof with two full height glazed gables on the side elevations which project towards the principal north elevation. The proposed finishes for the dwellinghouse are off-white render walls with granite detailing and basecourse, slate effect roof tiles, oak uPVC windows, doors, fascias and soffits and black rainwater goods. Elevation and floorplan details are illustrated in **Appendices 3 and 4** respectively. Proposed landscaping is shown along the south site boundary to screen the boundary between the adjacent dwellinghouse, Kildrummy. Trees are also shown adjacent to the existing access at the north site boundary but have since been felled.

2.4 The site will take access from the existing access off the C146b to the north. The development will connect to the public water supply and will be serviced by private drainage arrangements for foul and surface water drainage, which are adjacent to the north elevation of the dwellinghouse.

2.5 Relevant Planning History

APP/2016/1242 – Planning permission in principle for the erection of a dwellinghouse. Approved at Banff and Buchan Area Committee on the 24th August 2016 following a recommendation of refusal by the Planning Service.

2.6 Supporting Information

8 June 2022 – Historical map and site plan provided by Baxter Design Company

28 March 2022 - Drainage certification provided by Grampian Geotechnical (report dated April 2016)

28 March 2022 – Design statement by Baxter Design Company

2.7 Variations & Amendments

None.

3. Representations

3.1 No valid letters of representation have been received.

4. Consultations

Internal

4.1 **Business Services (Developer Obligations)** do not require additional contributions due to a previous S69 Legal Agreement under APP/2016/1242, which will be offset to the current application.

4.2 **Environment and Infrastructure Services (Flood Risk and Coast Protection)** does not object to the proposal.

4.3 **Environment and Infrastructure Services (Roads Development)** does not object to the proposal, subject to conditions.

External

4.4 **Scottish Water** does not object to the proposal.

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 R1: Special rural areas

Policy R2: Housing and employment development elsewhere in the countryside

Policy P1: Layout, siting and design

Policy C1: Using resources in buildings

Policy RD1: Providing suitable services

Policy RD2: Developer's obligations

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 2022 should be. 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

Reporter's Report of Examination of the Proposed LDP 2020 has now been published (24 June 2022). Notwithstanding, there is currently no authority to use the Proposed Local Development plan as a substitute for the Local Development Plan 2017. The weight that can be given to the phrase "settled view of the Council" can only be interpreted in the context of the publication of the Proposed Local Development Plan 2020 (March 2020). Even with the certainty associated with the Reporter's Report it still remains only a material consideration in determining planning applications. However, consideration will be given on a case by case basis where the weight of the Reporter's Report should be given overwhelming significant weight when it is most advantageous to the applicant's proposals. SPP Paragraph 34 is of associated relevance.

The Scheme of Governance reserves determination of planning policy to Full Council for resolution. As such, not until the Proposed Local Development Plan 2020 has been formally adopted by Full Council (as LDP 2022) can this be considered as the Council's "settled view".

It should be borne in mind that the LDP has been written to be implemented as a whole and not the selective use of agreeable parts.

On the 18 April with reference to the legislation the LDP 2017 becomes technically 'out of date'. Notwithstanding the Aberdeenshire LDP 2017 remains the primary document against which planning applications should be determined until such time as a new LDP for the area is adopted. Currently Scottish Planning Policy (SPP) deals with this circumstance at Paragraphs 32 to 34. The policies of the LDP 2017 are reflective of the policy position within SPP. Both SPP and the National Planning Framework 3 are confirmed as significant influences on the content of the plan, as confirmed within Section 2 – 'Influences of the Plan'. In summary, when a development plan is more than five years old the presumption in favour of sustainable development is a significant material consideration, this must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits. All of these matters however are already embedded within the policies of the Local Development Plan 2017 and deemed robust in their consideration.

5.5 Other Material Considerations

None.

6. Discussion

- 6.1 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. This must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits.
- 6.2 The key planning issues to be discussed in the determination of this application are the principle of the development, the layout and siting of the proposed dwellinghouse and whether the development can be adequately serviced and accessed.

Principle of development

- 6.3 To provide clarity on the site history, planning permission in principle was previously granted under APP/2016/1242 at Banff and Buchan Area Committee following a recommendation of refusal by the Planning Service. This consent was granted on 24th August 2016 for a period of three years and therefore expired on 24th August 2019 as no development took place on site during this period. The current application must therefore be assessed as a 'fresh' application against the policies contained within the Aberdeenshire 2017 Local Development Plan. The previous decision on this site has no weighting, nor is it a material consideration for the determination of the proposal contained within this application.
- 6.4 The site is located outwith a defined settlement boundary, therefore it must be considered as development within the countryside which is assessed against policies R1 Special rural areas and policy R2 Housing and employment development elsewhere in the countryside.
- 6.5 These policies are generally restrictive and aim to provide a more sustainable development pattern that balances the need to travel, ensures access to public services and protects the countryside from sporadic rural development whilst meeting the need for new housing in the countryside. Under policy R1 Special rural areas, the following development can be supported in countryside areas:
1. The sensitive restoration, conversion or extension of a vernacular building;
 2. Accommodation for an essential worker engaged in a primary industry; or
 3. The replacement of a single non vernacular building on the same footprint, and for the same use.
- 6.6 The current site is a largely naturalised area of grass, with the only building on the site being a storage building. The proposed dwellinghouse would not be the same use as the building proposed to be replaced and is not on the same footprint. The supporting information does not indicate that the dwellinghouse would be accommodation for an essential worker. The proposal therefore does not comply with any of the criteria found within policy R1.
- 6.7 Under policy R2 Housing and employment development elsewhere in the countryside, new housing can be supported in the countryside only if it meets one of the following criteria:
1. one of the above R1 criteria;
 2. involve the refurbishment or replacement, on the same site, of an existing house or disused building; or involve remediation of redundant brownfield land opportunities;
 3. additions to identified settlements listed in Appendix 4 of the Aberdeenshire 2017 LDP;
 4. small-scale additions to an existing cluster of at least five houses which are not within a settlement and is no more than an additional 20% growth of the cluster, up to a maximum of 2 new homes; and
 5. single homes for the retirement succession of a viable farm holding.
- 6.8 As previously highlighted, at the time of the planner's site visit for this application (22nd April 2022), the site appears to be a naturalised area of grassland with little evidence of previous development. The assessment of

APP/2016/1242 which will be offset to the current application. No contributions are therefore required and the proposal complies with policy RD2.

Conclusion

- 6.20 The policies contained in the Local Development Plan 2017 remain compliant with the principles of sustainable development as guided by the SPP and therefore provide an appropriate basis for the determination of this application.
- 6.21 In terms of assessment against the Strategic Development Plan, due to the small scale of this proposal the proposed development is not considered to be strategic or regionally significant, or require consideration of cross-boundary issues and, therefore, does not require detailed consideration against the SDP.
- 6.22 The development does not comply with Policy R1 Special rural areas or R2 Housing and employment development elsewhere in the countryside of the Aberdeenshire LDP 2017 as the proposal would not qualify under any criteria relating to development in special rural areas or the countryside. The site is greenfield in nature and would not qualify as the remediation of a redundant brownfield land opportunity. The storage building proposed for replacement is also not considered to be redundant and in any case is exempt from replacement under policy R2. The maximum amount of additional dwellinghouses formed as part of an existing cluster under policy R2 has already been reached.
- 6.23 The proposal does comply with policy P1 Layout, siting and design as the design of the dwellinghouse would not significantly detract from the character of the area or create a significant adverse impact on the amenity of neighbouring dwellings.
- 6.24 The proposal does not comply with policy RD1 Providing suitable services as insufficient information has been provided to demonstrate that the proposal can be serviced by private drainage arrangements.
- 6.25 These adverse impacts carry significant material weight lending itself to a recommendation of refusal for this application. The proposed development was assessed against the Scottish Planning Policy principles of sustainable development however the proposal does not accord with those principles and does not accord with the policies of the Aberdeenshire Local Development Plan 2017 and therefore cannot be considered to contribute to sustainable development.

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 R1: Special rural areas

Policy R2: Housing and employment development elsewhere in the countryside

Policy RD1: Providing suitable services

- 9.3 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.
- 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 Full Planning Permission for the following reasons:-

1. The planning authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017. The proposal does not comply with policy R1 Special rural areas or policy R2 Housing and employment development elsewhere in the countryside as it does not meet any of the criteria for supporting a new dwellinghouse in the countryside; and
2. The development does not comply with policy RD1 Providing suitable services of the Aberdeenshire Local Development Plan 2017 as insufficient information has been provided to demonstrate that the development can be serviced by private drainage arrangements.

10.2 Reason for Decision

The proposed development was assessed against the Scottish Planning Policy principles of sustainable development however the proposal does not accord with those principles and does not accord with the policies of the Aberdeenshire Local Development Plan 2017 and therefore cannot be considered to contribute to sustainable development.

Alan Wood
Director of Environment and Infrastructure Services
Author of Report: Martin Walker
Report Date: 12 August 2022

