



## Buchan Area Committee Report 1 November 2022

Reference No: APP/2022/0196

**Planning Permission in Principle for Erection of Dwellinghouse at Land to the South East of North Craighead, Skelmuir, Mintlaw, AB42 5AL**

**Applicant:** Mr Geoff Morrison, North Craighead, Skelmuir, Peterhead  
**Agent:** Arcus Design Ltd, Mavisbank, Old Deer, Peterhead

Grid Ref: E:398705 N:839979  
 Ward No. and Name: W04 - Central Buchan  
 Application Type: Planning Permission in Principle  
 Representations: 0  
 Consultations: 8  
 Relevant Proposals Map: Aberdeenshire Local Development Plan 2017  
 Designations: Rural Housing Market Area  
 Complies with:  
 Development Plans: No  
 Main Recommendation: Refuse



**NOT TO SCALE**

Reproduced from Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright and database rights. Ordnance Survey Licence Number 0100020767.

## 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.

- Councillor Simpson: To further discuss in relation to Policy R2 and P1.
- Councillor Crowson: To consider further the supporting information submitted by the applicants.

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 the land to the south east of North Craighead, Skelmuir, Mintlaw. The site measures approximately 0.16 hectares and is located in the Rural Housing Market Area. It lies approximately 0.7 miles west of the A952 and 4.5 miles south of the settlement boundary of Mintlaw, as defined by the Aberdeenshire Local Development Plan 2017. The site comprises the existing access track to the north-east, a disused cottage to the west and the proposed site of the dwellinghouse to the south-east. North Craighead dwellinghouse and ancillary buildings are located centrally within the wider site, albeit outwith the red line boundary. **See Appendix 1 – Site, Block, Location Plan.**

2.2 The site of the new dwellinghouse is approximately 210 metres south-east of the existing cottage which it is proposed to replace. It forms an area of undeveloped pasture outwith the curtilage of Craighead dwellinghouse, surrounded by undulating grassland and dense woodland beyond (north-east and south-west). The nearest other dwellinghouses are located at South Craighead, approximately 280 metres south-east of the proposed site. **See Appendix 1 – Site, Block, Location Plan.** Otherwise, the surrounding area is predominantly rural in character.

2.3 Full details of the proposed dwellinghouse are not available at this time because this application seeks to establish only the principle of development. Indicatively, the dwellinghouse is detached and located centrally within the application site boundary, with areas for parking and turning to the west and garden ground to the east. There is indicative tree planting in all four corners of the square-shaped plot, with SuDs to the south and the private access track to the north-west. The latter would continue north-west, through a clearing in between the eastern site boundary of North Craighead dwellinghouse and the woodland to the north-east.

2.4 The proposed development will make use of the existing site access from the unclassified road to the north-east. Services to the site include a connection to an existing private water supply and a system of private drainage, The latter would comprise a septic tank with discharge to foul water soakaway. Surface water will be managed via surface water soakaway.

2.5 Relevant planning history includes:

- APP/2004/1625 FPP, Change of Use of land and part of Steading to form Car Sales and Repair Workshop, and Quad Bike Sales. Granted 21 September 2004.

2.6 Supporting information includes:

- Certificate of Bacteriological Examination (private water supply), by Aberdeenshire by Council Environmental Health, dated 17 March 2022
- Certificate of Chemical Analysis (private water supply), by Aberdeenshire Council Environmental Health, dated 17 March 2022
- Certificate for Proposed Foul Water Sub-Surface Soakaway, dated 14 November 2021
- Development Statement, By Arcus Design, received 2 February 2022
- Drainage Statement, by Arcus Design, dated 28 January 2022
- Private Water Supply Information, by I & E Smith (Water) Services, dated 11 February 2022

2.7 There have been no amendments or variations to the application.

### 3. Representations

3.1 No valid letters of representation have been received.

### 4. Consultations

4.1 **Business Services (Developer Obligations)** advises that both Arnage Primary School and Ellon Academy are currently operating within capacity. The proposal does not engage Developer Obligations and Affordable Housing policies or associated supplementary planning guidance therefore no contributions are required in this instance.

4.2 **Environment and Infrastructure Services (Contaminated Land)** requested further information on past uses of the site to assess whether contamination of the ground may be present. Upon receipt of satisfactory information, there is no indication of any past use which might have caused contamination.

4.3 **Environment and Infrastructure Services (Environmental Health)** initially objected to the proposal on grounds of lack of information of the proposed source, quantity, and quality of the private water supply. Upon receipt of satisfactory information, the objection was lifted, subject to the installation and testing by Aberdeenshire Council (EH) of a UV treatment, physical pre-filtration and pH correction system.

- 4.4 **Environment and Infrastructure Services (Roads Development)** has not objected to the proposal, subject to standard conditions.
- 4.5 **Health & Safety Executive (HSE)** does not advise on safety grounds against the granting of planning permission in this case.
- 4.6 **National Grid** does not object to the proposed development, advising that the site is outwith the high-risk zone. There is a national high pressure gas pipeline within the vicinity of the site and standard guidance has been provided to the applicant to follow, should works commence on site.
- 4.7 **Scotia Gas Networks (SGN)** has not objected to the proposal and provided standing advice for safety when working within the vicinity of its apparatus.
- 4.8 **Scottish and Southern Energy (SSE)** has not objected and provided standing advice for safety when working within the vicinity of its apparatus.

## 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 R2 Housing and employment development elsewhere in the countryside

Policy C1 Using resources in buildings

Policy E2 Landscape

Policy P1 Layout, siting and design

Policy P4 Potentially polluting and hazardous developments and contaminated land

Policy RD1 Providing suitable services

Policy RD2 Developers' 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 Reporters' 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 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

N/A

### 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 main issues for consideration in determining this application are its acceptability in principle, and the impacts on the character and amenity of the site and wider area. Access and services to the site must be demonstrated appropriate and viable.

#### Principle

- 6.3 Policy R2 Housing and employment development elsewhere in the countryside, supports small scale development outwith settlements, on the proviso that it meets at least one from a specific list of criteria. One such criterion allows for the replacement of a disused building or dwellinghouse, within the same site, with up to 3 new dwellinghouses. In this case, the proposed replacement dwellinghouse would be sited approximately 210 metres south-east of the existing cottage and therefore not on the same site. A supporting statement has been provided, justifying the proposal as departure from policy on grounds that the applicant does not own the land which immediately surrounds the footprint of the disused cottage, only the building itself. As such, it is proposed to locate the new dwellinghouse to the

rear of Craighead dwellinghouse, on land which is under the ownership of the applicant. The ownership of the land and its consequent availability (or lack thereof) for development is not a material planning consideration. The proposal has therefore not been suitably justified under Policy R2 in this instance, because the proposed dwellinghouse will not be on the same site as the building it is to replace, and no material considerations have been presented to warrant departure from the policy on this occasion.

#### Character and amenity

- 6.4 Full details of the proposed dwellinghouse are not available at this time, given this application is to establish the principle of development. However, the plans indicatively show a detached dwellinghouse with generous surrounding garden ground. The site is large enough to accommodate this, without significant concerns regarding overdevelopment of the land and would allow for ample garden ground for amenity purposes. The siting is sufficiently distanced from Craighead dwellinghouse and other residential properties to mitigate any significant concerns regarding overlooking, overshadowing or overbearing. This is in accordance with Policy P1.
- 6.5 However, the proposed siting is visibly detached from the rest of the hub and would erode the visual amenity and character of the area. The Planning Service is unsatisfied that the proposed siting is suitably justified. The Development Statement has highlighted areas of land which were considered for the site and ruled out due to constraints. However, there is ample land to the south of Craighead dwellinghouse's curtilage (closer to it than is proposed) and to the west of Craighead dwellinghouse itself, which should have been considered first. The application lacks an adequate sequential assessment to justify the proposed site and full consideration has not been given to appropriate siting in relation to the existing development hub. This conflicts with Policy P1.
- 6.6 In terms of the impact on the landscape, the proposal would see the development of an otherwise undeveloped, undulating area of pasture, lacking in any discernible landscape features. The site is not of visual prominence and therefore the visual impact on the character of the landscape is not deemed significant. Furthermore, the proposed landscaping features with additional screening would reasonably be expected to mitigate any significant impacts. The application does not conflict with Policy E2.

#### Access and services

- 6.7 Access to the site is to make use of existing, with continuation of the private track within the clearing in between Craighead dwellinghouse (west) and the woodland (east). Roads Development has not objected to the proposal, subject to standard conditions, which demonstrates that the development complies with Policy RD1 Providing suitable services.
- 6.8 Services to the site include use of an existing private water supply, which Environmental Health has not objected to subject to the installation and

subsequent testing of an UV filtration system, which will be applied as a condition should Members decide to grant permission. This complies with Policy P1 and Policy RD1.

- 6.9 A private drainage system is proposed, which incorporates a sewage treatment plant with discharge to sub-surface foul water soakaway. Surface water will be managed via surface water soakaway. An appropriate drainage report has been provided which demonstrates that this system is both appropriate and viable for the site. The above complies with Policy RD1 Providing suitable services.

#### Other material considerations

- 6.10 Developer Obligations has confirmed that contributions are not required in this instance, which satisfies Policy RD2.
- 6.11 The development is required to be designed to reduce carbon-dioxide emissions and where possible achieve a Gold sustainability label under section 7 of the building standards technical handbook. An Energy Statement is therefore required to demonstrate that the above can be achieved. This will be controlled via condition of the permission should Members decide to support the application. This accords with Policy C1 Using resources in buildings.

#### Conclusion

- 6.12 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.
- 6.13 The proposed development is not acceptable in principle under Policy R2 Housing and employment development elsewhere in the countryside in that the development would not replace a disused building or dwellinghouse within the same site and suitable justification for departing from policy has not been provided. The application conflicts with Policy P1 Layout, siting and design, in that a suitable sequential assessment has not been provided to justify the proposed siting, which is detached from the nucleus of development and will erode the visual amenity and character of the area.
- 6.14 These adverse impacts carry significant material weight lending itself to refusal of this application.
- 6.15 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 R2 Housing and employment development elsewhere in the countryside

Policy P1 Layout, siting and design

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 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 in that the development would not replace a disused building or dwellinghouse within the same site and suitable justification for departing from policy has not been provided.

02. The application conflicts with Policy P1 Layout, siting and design, in that a suitable sequential assessment has not been provided to justify the proposed siting, which is detached from the nucleus of development and will erode the visual amenity and character of the area.
03. The proposed siting of the dwellinghouse is not in accordance with Scottish Planning Policy (SPP) in that the location has not been demonstrated to be the most sustainable of the available locations.

### 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: Roslyn Purdie  
Report Date: 5 October 2022

