



Buchan Area Committee Report 1 November 2022

Reference No: APP/2022/0329

Planning Permission in Principle For Erection of Dwellinghouse at Site Adjacent to Schoolhouse, Shannas, Cloia, Mintlaw, AB42 5AE

Applicant: Miss Melissa Cadger, Bankbrae, Cloia, Peterhead
Agent: Arcus Design Ltd, Mavisbank, Old Deer, Peterhead

Grid Ref: E:399994 N:843020
Ward No. and Name: W04 - Central Buchan
Application Type: Planning Permission in Principle
Representations: 0
Consultations: 5
Relevant Proposals Map: Aberdeenshire Local Development Plan 2017
Designations: Rural Housing Market Area
Complies with:
Development Plans: Yes
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.

- Councillor Geoff Crowson: To consider further the supporting information submitted by the applicant
- Councillor Hannah Powell: Discussion with regards to the cluster within site location

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 adjacent to Schoolhouse, Shannas, Clola.

2.2 The site is located in the Rural Housing Market Area, approximately 2.5 miles south of the settlement of Mintlaw, as defined by the Aberdeenshire Local Development Plan 2017. **See Appendix 1 – Location and Site Plan.** The entirety of the site is defined as Class 3.1 Prime Agricultural Land.

2.3 It measures approximately 0.17 hectares and forms an area of undeveloped pasture that lies on the east side of the A952 public road immediately south of the Schoolhouse and West Winds dwellinghouse and plant operations yard beyond. Otherwise, the nearest dwellinghouses are Shannas Cottages, which lie south-east of the site, on the west side of the A952. The wider area is predominantly agricultural in character with widely dispersed dwellinghouses.

2.4 Full details of the proposed development have not been provided, as they are not required for the purposes of establishing the principle of development. Indicatively, the proposed dwellinghouse is detached and located centrally within the site. **See Appendix 2 – Block Plan.**

2.5 Proposed services include a connection to the public water supply and a private drainage system. The latter would comprise a septic tank with sampling chamber and foul water soakaway. Surface water is proposed to be managed via stone-filled, sub-surface soakaway.

2.6 Access to the site is to make use of the existing slip road to the west of Schoolhouse and West Winds, taken directly from the A952.

2.7 The relevant planning history for this site is:

- APP/2019/0506 - Reinforcement of 400kV Overhead Line. No Objection dated 3 July 2019.

2.8 Supporting information includes:

- Certificate for Sub-Surface Foul Water Soakaway, dated 23 February 2022
- Development Statement, by Arcus Design, received on 16 February 2022
- Drainage Statement by Arcus Design, dated 23 February 2022

2.9 There have been no variations or amendments to this application.

3. Representations

3.1 No valid letters of representation have been received.

4. Consultations

4.1 **Business Services (Developer Obligations)** Mintlaw Primary School and Mintlaw Academy are operating within capacity. The proposal does not engage the Developer Obligations and Affordable Housing policies or supplementary planning guidance of the Aberdeenshire Local Development Plan 2017. No contributions are required in this instance.

4.2 **Environment and Infrastructure Services (Contaminated Land)** initially requested further information on past uses of the site, given it forms an area of agricultural land and may therefore have been contaminated. Upon receipt of further information, there was no evidence of any past use that may have caused contamination. There is no objection to the proposal.

4.3 **Environment and Infrastructure Services (Roads Development)** initially objected to the proposal on grounds of insufficient visibility, upon receipt of satisfactory amended plans, the objection was lifted, subject to conditions.

4.4 **Environment and Infrastructure Services (Flood Risk and Coast Protection)** advised it has no comments to make on the proposal.

4.5 **Scottish Water** has not objected to the proposal. The development will be served from Turriff Water Treatment Works and can be served by Shannas Cottages SEP Waste Water Treatment Works. No capacity can be confirmed and the applicant is advised to contact Scottish Water directly via Pre-Development Enquiry Form for further assessment. Surface Water connections into the combined sewers will not be accepted by Scottish Water and must be managed via private means.

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 P1 Layout, siting and design

Policy P4 Potentially hazardous and polluting developments and contaminated land
 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 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

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

Principle

- 6.3 Policy R2 allows for small-scale developments, such as a single house in the countryside, on the proviso that the proposals meet at least one from a specific list of criteria. This proposal has been presented as an addition to an existing cluster. One of Policy R2 criteria, allows for small-scale additions to clusters or groups of at least 5 existing houses, where the proposal is of scale and character in keeping with that cluster. No more than an additional 20% growth of the cluster is permitted up to a maximum of 10 new homes under the current plan period. In order for this criterion to be applicable, it must first be established that there is an existing cluster of at least 5 homes.
- 6.4 A cluster requires the houses within it to share mutual and/or similar characteristics. This includes, but is not limited to: shared boundary treatments, the same or similar external finishes and colour pallet, the same or similar designs, similar landscaping features, a clear relationship in the pattern of development or plot sizes, and a shared access. Firstly, there are only two properties adjacent to the proposed site. These are both detached properties within large curtilages that share the same access. Their external finishes, designs, and eras of construction otherwise vary from one another. The nearest other dwellinghouses are a row of 8 semi-detached cottages on the opposite side of the main road (approximately 30 metres away), which are accessed separately. These house designs are the same as each other and/or mirrored. They share mutual boundaries, display similar sized plots and are the same era of construction. These are more representative of a cluster. However, these two areas of residential development, together, do not form one cluster, because they are completely unrelated. Geographically, they are divided by the A952 and therefore share no mutual boundaries or access. There is a clear disconnect with their respective characters, as evidenced by

their eras of construction, plot sizes and patterns of development. Ultimately, the proposed dwellinghouse would not be an addition to an existing cluster of 5 dwellinghouses of similar scale and character. Rather, it would develop an area of pasture adjacent to two otherwise unrelated dwellinghouses. The proposal therefore conflicts with Policy R2 and cannot be supported in principle.

- 6.5 Any of the other criteria under Policy R2 that would allow for the erection of a dwellinghouse in the countryside do not apply in this instance. For example, Policy R2 supports the growth of a settlement where a particular need has been identified by Appendix 4 of the Aberdeenshire Local Development Plan 2017. In this case, the site is not within 200m of an identified settlement boundary (or any settlement boundary) and therefore cannot comply with this criterion. A single house may also be supported where it is for the retirement succession of a viable farm holding, or for a worker of a primary industry (referenced under Policy R1 Special rural areas, via the first criterion under Policy R2). Neither criterion applies in this instance, given there is no associated farm holding or related primary industry. The application also fails to meet the brownfield redevelopment criterion, in that the site is void of any buildings to replace. Similarly, the lack of structures on site rules out the other criteria relating to renovation or conversion of vernacular buildings. As such, the proposal is not compliant with any other relevant criteria under Policy R2 and cannot be supported in principle.
- 6.6 Policy PR2 Protecting important resources does not allow development that would result in negative effects on important environmental resources. One such important environmental resource is Prime Agricultural Land, defined as Class 3.1 of the Soil Survey for Scotland, Land Capability for Agriculture series. Development may only be allowed where it has been demonstrated that either; the land is not of Prime Agricultural quality (class 3.1 or 3.2), or; the wider socio-economic benefits outweigh the loss of the resource and that there are no reasonable alternative sites. In this instance, no report has been provided to demonstrate that the soil class is not class 3.1 or 3.2 and there is no evidence that the proposed development offers wider socio-economic benefits. As such, the proposal is in conflict with Policy PR1 and the principle of development cannot be supported. **See Appendix 3 – Overlay of Prime Agricultural Land.**

Character and amenity

- 6.7 Full details of the proposed layout, siting and design have not been provided at this stage, given they are not required to establish the principle of development. Based on the indicative site layout, it is expected that the site would be large enough to comfortably accommodate a detached dwellinghouse whilst allowing for ample undeveloped private garden ground for amenity purposes. Given the size of the plot, it would be expected that the house could be situated and oriented in such a way as to minimise overbearing or overshadowing neighbouring land. Reasonably, a detached dwellinghouse on this site is expected to meet the requirements of Policy P1 in terms of protecting the character and amenity of the site and wider area.

Access and services

- 6.8 Access to the site is to make use of the existing slip road to the west of the site, which continues alongside the existing properties to the north and joins the A952. Roads Development initially objected to the proposed development on grounds of insufficient visibility splays. Upon receipt of amended plans, the objection was lifted, subject to conditions if approved. The Planning Service is therefore satisfied that the proposal meets the requirements of Policy RD1 with regards site access and road safety.
- 6.9 Proposed services include a connection to the public water supply which Scottish Water has not objected to. The proposed system of private drainage would comprise a septic tank with sampling chamber and foul water soakaway. Surface water is proposed to be managed via stone-filled, sub-surface soakaway. The application has been supported by an adequate Drainage Report and Foul Water Certificate. The application has not been supported by Surface Water Soakaway Calculations and/or certification. Therefore, the entirety of the drainage system has not been demonstrated appropriate and viable for the site. The application therefore fails to fully satisfy Policy RD1.

Other material considerations

- 6.10 Developer Obligations has confirmed that contributions are not required in this instance, which satisfied 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 form an appropriate addition to an existing cluster or group of at least 5 houses of similar scale and character. The proposal does not comply with any other relevant criteria under this policy. The proposal conflicts with Policy PR1 Protecting important resources in that the site is Class 3.1 Prime Agricultural Land and the application does not demonstrate otherwise, or that there will be wider socio-economic benefits as

a result of the development and no alternative sites are available. The application conflicts with Policy RD1 Providing suitable services in that there is no certification or calculations to demonstrate that the surface water drainage system is appropriate and viable for the site.

- 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 PR1 Protecting important resources

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 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 form an appropriate addition to an existing cluster or group of at least 5 houses of similar scale and character. The proposal does not comply with any other relevant criteria under Policy R2.

02. The proposal conflicts with Policy PR1 Protecting important resources in that the site is Class 3.1 Prime Agricultural Land and the application does not demonstrate that there will be wider socio-economic benefits as a result of the development and no alternative sites are available.
03. The application conflicts with Policy RD1 Providing suitable services in that there is no certification or calculations to demonstrate that the surface water drainage system is appropriate and viable for the site.
04. The proposed development was assessed against the Scottish Planning Policy principles of sustainable development. However, adverse impacts on sporadic development in the countryside and loss of Prime Agricultural Land significantly and demonstrably outweigh the benefits of the proposal.

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: 20 September 2022



