

Agenda Item	6.6
Report No	PLN043/21

HIGHLAND COUNCIL

Committee: North Planning Applications Committee
Date: 08 June 2021
Report Title: 21/01173/PIP: Mr H Cromarty
Land 75M NE Of Brackla Wood, Culbokie
Report By: Acting Head of Development Management

Purpose/Executive Summary

Description: Erection of House

Ward: 9 – Black Isle

Development category: Local

Reason referred to Committee: Member referral

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **REFUSE** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks planning permission in principle for a house and the creation of a new vehicular access.
- 1.2 Pre-application Consultation: Formal advice has been given twice under application reference 15/00780/PREAPP and 17/02963/PREAPP. This advice concluded that the proposal did not accord with Development Plan policy. In particular, it failed to meet the housing groups exception and any other exception listed in policy 35 (Housing in the Countryside – Hinterland Areas) of the Highland-wide Local Development Plan.
- 1.3 Supporting Information: Supporting Statement, Site Photos

2. SITE DESCRIPTION

- 2.1 The site extends 0.25ha and consists of a section of open and uncultivated field. Culbokie lies approx. 2km to the west and the area known as Braefindon is situated to the north. Bogbuie Wood lies to the south. The site is served by a single track adopted road, which joins the Culbokie - Munloch public road at a junction a short distance to the north of the site. There is a loose scattering of properties located off the road serving this site, the closest being Rowen Glen to the north, Ben View to the west and Brackla Wood to the south-west. A small watercourse runs parallel with the west boundary.

3. PLANNING HISTORY

- | | | | |
|-----|------------|----------------------------------|----------------------------------|
| 3.1 | 09.03.2020 | 19/04420/PIP - Erection of house | Application Refused at Committee |
| 3.2 | 16.07.2020 | PPA-270-2225 – Erection of house | Appeal Dismissed |

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour

Date Advertised: 26.03.2021

Representation deadline: 09.04.2021

Timeous representations: 1

Late representations:

- 4.2 Material considerations raised are summarised as follows:

- Application similar to previous application 19/04420/PIP – which was dismissed. My objections to this previous application still apply.
- The crux of the new submission is that the new guidance drawn up by Highland Council is a material consideration – this guidance is not yet adopted.
- The SPP presumption in favour of sustainable development applies only where there is a shortfall of housing land supply. Housing audit data indicates that there is more land for housing available than has been taken up for development.

- d) Even if the amended Housing in the Countryside guidance were finalised the application would still fail to meet criteria for the acceptable expansion of a housing group.
- e) The appeal reporter concluded that the area was already pressurised and that development on the site would not protect against car based commuting. A car is essential in this location to access local facilities.
- f) Site was originally used for grazing and similar ground in the area is used for grazing, crops or forestry.
- g) Land to the south could also be developed if this application were submitted.

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet.

5. CONSULTATIONS

5.1 Scottish Water: Standard advice for applicant

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design

35 - Housing in the Countryside (Hinterland Areas)

65 - Waste Water Treatment

66 - Surface Water Drainage

6.2 Inner Moray Firth Local Development Plan 2015

Outwith any settlement development area (within designated hinterland)

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011)

Housing in the Countryside and Siting and Design (March 2013)

Sustainable Design Guide (Jan 2013)

7.2 Scottish Planning Policy December 2020

Promoting Rural Development – paragraphs 74 - 83

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key considerations in this case are:
- a) Compliance with the draft Housing in the Countryside and Siting and Design Guidance
 - b) Compliance with Scottish Planning Policy December 2020
- 8.4 A previous application at the site reference 19/04420/PIP was refused by the North Planning Applications Committee 3rd March 2020 for the following reason;
- The proposal does not form part of a housing group as defined in the Housing in the Countryside Supplementary Guidance and therefore fails to meet the criteria for the acceptable growth of an existing housing group. The proposal does not meet any other listed exception to housing within the hinterland. Instead the proposal constitutes an isolated housing development which breaks into an undeveloped field. The impact of this will be to the detriment of the character of the rural area. The proposal therefore fails to accord with policies 35 (Housing in the Countryside – Hinterland Areas) and 28 (Sustainable Design) of the Highland-wide Local Development Plan.
- 8.5 Appeal reference PPA-270-2225 against this decision was then dismissed by a Reporter appointed by Scottish Ministers on 16 July 2020. The appeal decision letter concluded that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would justify granting planning permission.
- 8.6 This current application, consistent with the above referenced planning application and subsequent appeal, seeks policy compliance on the basis of meeting the criteria for the acceptable expansion of a housing group as set out in policy 35 of the Highland-wide Local Development Plan (HwLDP). The site of the application has not altered with the only notable change on the accompanying location/site plan being reference to a landscape buffer on land within the applicant's ownership to the south. A supporting statement has been submitted with the application providing a revised justification for the proposal. In particular, emphasis is now placed on the draft version of the Housing in the Countryside and Siting and Design Guidance and the Scottish Government's updated SPP, published in December 2020. Furthermore, details of the applicant's circumstances are given which require a house designed for their specific needs. The following paragraphs address each of these new considerations in turn.

Compliance with the draft Housing in the Countryside and Siting and Design Guidance

- 8.7 The existing adopted Housing and the Countryside and Siting and Design Supplementary Guidance is currently under review. A draft version was approved by the Economy and Infrastructure Committee in September 2020 and a consultation event was held from 23rd October 2020 until 18th December 2020. Highland Council Development Plans are currently considering the responses made as part of the consultation event and aim to present a finalised version of the Guidance to committee seeking approval for adoption in September 2021. This guidance, once adopted, will replace the existing Housing in the Countryside Supplementary Guidance adopted in 2013. The supporting statement accompanying the application makes reference to the draft guidance with emphasis

on the fact that the guidance is supportive of appropriate new rural housing. As with the previous application and subsequent appeal, a case is also made that the proposal complies with housing group criteria.

- 8.8 Like the existing guidance, the new draft guidance aims to strike a balance between minimising impact upon pressurised areas of countryside while also providing opportunities for development. Section 4.1 of the draft guidance is relevant to proposals which seek compliance on the basis of being part of a housing group. The main change in the draft guidance relative to the adopted guidance is contained within paragraph 4.1.2 of the draft. This paragraph states that a housing group for the purpose of policy compliance must contain 3 buildings, only 2 of which must already be houses. The current adopted guidance defines a group as 3 existing houses. In essence under the criteria of the draft guidance, a housing group could now consist of at least two houses and a non-residential building granted permission before April 2012 such as, for example, a traditional steading or rural business.
- 8.9 However consistent with the adopted supplementary guidance paragraph 4.1.2 in the draft guidance maintains the requirement for buildings to be “physically detached from each other but have a perceptible relationship with each other and share a well-defined cohesive character”. This means that although there is a relaxation in one aspect of this policy - the requirement for buildings to have a closely perceptible relationship with each other is maintained.
- 8.10 Consistent with the previous decision it is still considered that the site does not constitute part of a housing group or fulfil the criteria for the acceptable expansion of a housing group. The visual cohesion between properties at this location is significantly limited by the separation distances between buildings and the screening provided by the mature landscape features. Below is an extract from the draft guidance and gives the criteria for the acceptable expansion of a housing group. This closely echoes the existing guidance and the assessment given in the previous planning application/appeal still applies. The development site is an undeveloped field and the closest neighbours comprise a loosely dispersed development pattern rather than an easily perceptible and cohesive grouping. The examples in table 1 of the draft guidance show a clear consolidation of existing housing groups and are not considered applicable to this case. Given the absence of a cohesive grouping in this instance, the proposed site fails to meet the first two bullet points below and would represent an intrusion into undeveloped open land.

“The Council’s criteria for the acceptable expansion of a housing group are:

The proposed new house **will**:

- constitute in-fill or rounding-off of the group into a readily definable development site; **and**
- enhance the cohesiveness and perceptible relationship of the buildings in the group and reflects the character, spacing, scale and amenity of the buildings in the group (i.e. the new house will appear as if it was always part of the group).

The proposed new house **will not**:

- create ribbon or linear development; or
- create an intrusion into a previously undeveloped field or open land; or
- overwhelm the landscape setting.

No housing group will be permitted to increase in size by more than 100% of the number of houses built, under construction or with an extant planning permission as at 3 August 2011.”

- 8.11 The aims and objectives contained within section 1.1 of the draft Housing in the Countryside and Siting and Design Guidance place emphasis on encouraging high quality sustainable development in the countryside. Specifically, for hinterland areas the aims and objectives are:
- Guide most new development to locations within or adjacent to settlements;
 - Protect against an unsustainable growth in car-based commuting and the suburbanisation of the countryside;
 - Provide opportunities for small scale housing development in appropriate countryside locations;

With regard to the housing group exception the draft guidance includes an adjustment to the definition of a housing group as outlined in paragraph 8.8 above. However, the draft does not present any new criteria by which this proposal could now be justified as compliant with policy 35 (Housing in the Countryside – Hinterland Areas) of the Highland-wide Local Development Plan. The proposal does not meet the definition of a housing group contained with both the adopted and draft version of the Housing in the Countryside and Siting and Design Guidance.

Compliance with Scottish Planning Policy December 2020

- 8.12 The supporting statement makes reference to the update to Scottish Planning Policy on 19 December 2020. In particular paragraph 33 which establishes the weight to be accorded to the presumption in favour of sustainable development as a material consideration. The supporting statement refers to this being particularly applicable to where the development plan is out of date and asserts that as the HwLDP is some 11 years old, the terms of paragraph 33 therefore provides a relevant and up to date material consideration. A case is made that the development is sustainable and therefore supported by SPP and its presumption in favour of sustainable development. Reference is also made housing market recovery following COVID-19.
- 8.13 The Council fully acknowledge the policy principle favouring development that contributes to sustainable development but also considers that this requires to be balanced against all other environmental and economic objectives of SPP. As set out in SPP the aim of the policy principle in presumption in favour of sustainable development is to “*achieve the right development in the right place; it is not to allow development at any cost.*” (paragraph 28).
- 8.14 The presumption in favour of sustainable development in SPP 2020 is considered to be more definitive than that set out in SPP 2014 as it removes the element of the presumption which supports “development which contributes to” sustainable development. In applying the principles set out in paragraph 29 of SPP 2020, the decision maker is required to assess whether a “proposal supports sustainable development” using a series of principles. In reaching a decision on whether the development meets with the principles, it is necessary to consider whether the proposed development can be considered sustainable development. Given the development fails to accord with policy 35 of the Highland-wide Local Development Plan which aims to sustainably manage housing development in the pressurised

countryside, the proposal is not considered to be sustainable development and paragraph 29 of SPP is not considered to justify the granting of planning permission.

8.15 SPP December 2020 does not specifically reference COVID-19 recovery, however, Chief Planner letters have given emphasis to supporting development which aids recovery from the pandemic. While it is acknowledged that the pandemic may have an impact on the housing market, this does not justify development which is deemed to be inappropriate in terms of its siting. This point in the supporting statement is linked to the applicant's need for a house more suited to their individual personal circumstances. Mainly a house is required which is single storey and adaptable, with no such housing available nearby and the likelihood of one being provided reduced by the impact of the Covid-19 pandemic. While the Planning Authority have a role to play in facilitating the provision of adaptable and flexible housing, this type of housing is still required to be appropriately sited and to comply with Development Plan policy.

8.16 SPP December 2020 is not considered to present any new justification for granting permission.

8.17 **Matters to be secured by Legal Agreement / Upfront Payment**

8.18 In order to mitigate the impact of the development on infrastructure and services the following matters require to be secured prior to planning permission being issued:

- a) None

9. CONCLUSION

9.1 The Planning Authority are required to consider whether there are any meaningful changes in circumstances since the previous application was refused in order to allow support to be offered. The proposal does not form part of a housing group as defined in the adopted Housing in the Countryside Supplementary Guidance (March 2013) or the draft revised guidance and therefore fails to meet the criteria for the acceptable growth of an existing housing group. The proposal does not meet any other exception to housing within the hinterland area. Instead the proposal constitutes an isolated housing development which breaks into an undeveloped field. The impact of this will be to the detriment of the character of the rural area. The proposal therefore fails to accord with policies 35 (Housing in the Countryside – Hinterland Areas) and 28 (Sustainable Design) of the Highland-wide Local Development Plan. It is not considered there has been any meaningful change in circumstances to warrant support for the proposal on planning grounds.

10. IMPLICATIONS

10.1 Resource: Not applicable

10.2 Legal: Not applicable

10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: Not significant

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. RECOMMENDATION

The application is recommended for refusal for the reasons set out below.

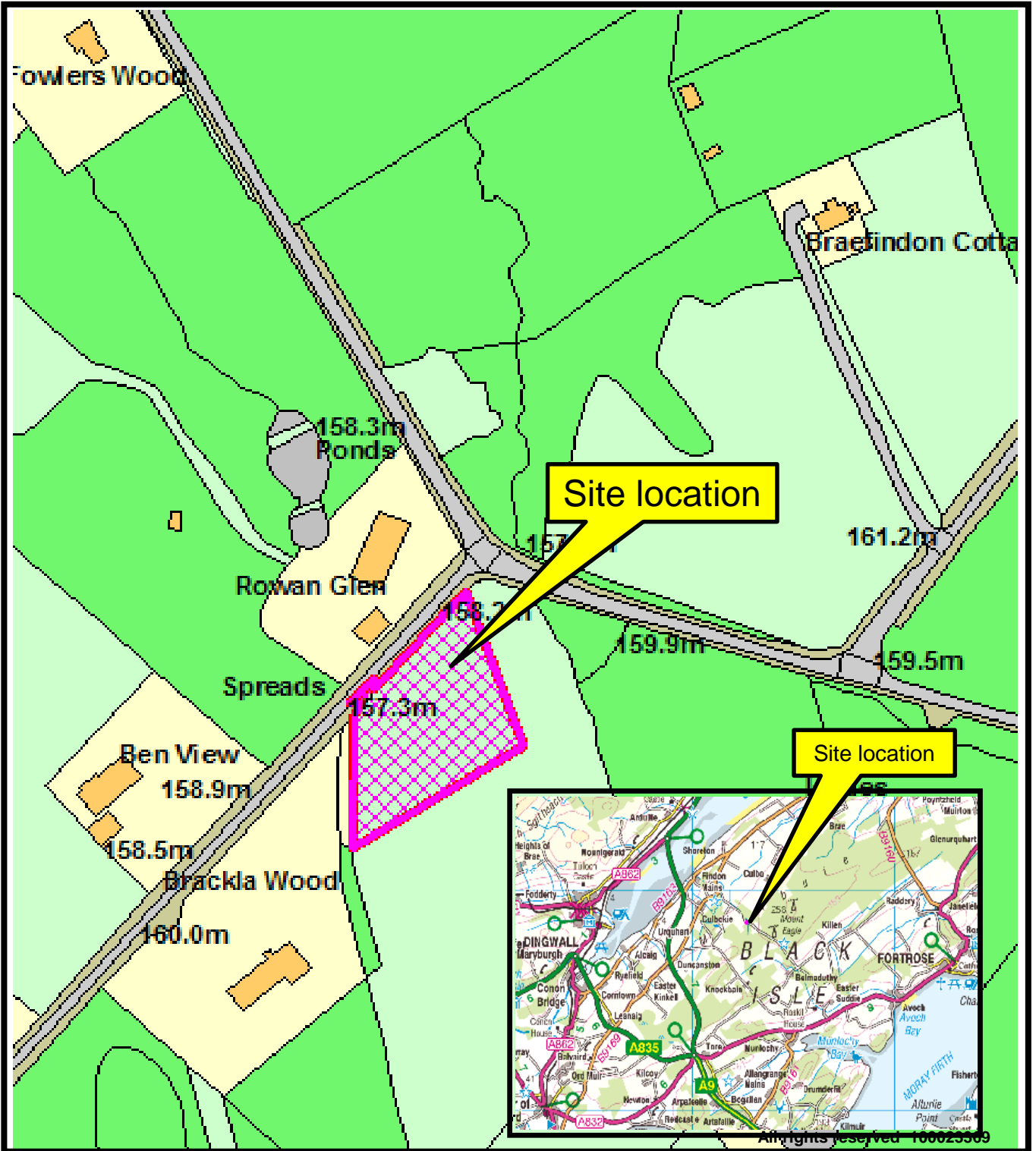
Reasons for Refusal

1.	The proposal is considered to be contrary to policy 35 – Housing in the Countryside (Hinterland Areas) – of the Highland-wide Local Development Plan as it fails to meet the Council’s criteria for acceptable expansion of a housing group, or any other exception, listed within the policy and further detailed within the Housing in the Countryside and Siting and Design Adopted Supplementary Guidance. In particular, the site does not share a well-defined and cohesive relationship with at least three other detached residential properties. Instead the proposal is an isolated development which breaks into an undeveloped field and therefore fails to demonstrate the rounding off or consolidation of an existing housing group.
2.	The proposal is considered to be contrary to policy 28 (Sustainable Design) of the Highland-wide Local Development Plan as it fails to demonstrate sensitive siting due to its location with an open and undeveloped field within an area of pressurised countryside.

REASON FOR DECISION

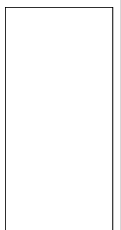
All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Designation: Team Leader – Ross and Cromarty
Author: Rebecca Hindson
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - 00001 – Location/Site Layout Plan



Development & Infrastructure Service

21/01173/PIP
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Land 75M NE of Brackla Wood
Culbokie
June 2021





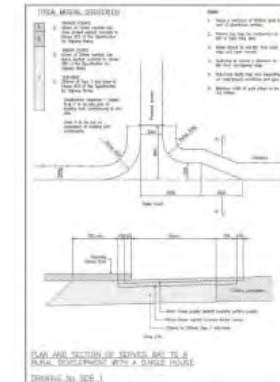
02 PROPOSED BLOCK PLAN 1:500
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01 LOCATION PLAN 1:2500
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03 PROPOSED ENTRANCE DETAIL 1:1250

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