

PLANNING APPLICATION: 07/01468/FUL

In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications

The Proposal

- Detailed application for the erection of two detached two storey dwellings at the Tennis Courts, Mount Street, Dufftown.
- Area proposed for each dwelling approximately 624m² and 593m² respectively.
- Two vehicular accesses to be formed onto Mount Street.
- Foul drainage - public sewer. Water supply - public mains.

The Site

- Former tennis courts within Dufftown settlement boundary situated in the eastern part of the town.
- Site rectangular in shape. The tennis court fencing surrounding the site remains in situ, the nets have been removed and the surface would appear to require up-grading.

Policy / Objections-Representations / Consultations - See Appendix

History

- 07/00796/FUL** - Detailed application for the use of the former tennis courts as a car park for the bowling club - approved January 2008.
- 07/01796/FUL** - Erection of four single storey dwellings - withdrawn.
- 06/00378/OUT** - Outline application of a single storey office building and car park approved 28th September 2006.

Advertisement

Advertised as a departure from the development plan.

Observations

Determining issues:

Departure from policy designation ENV4 'Playing Fields at Hill Street and Tininver Street' of the Dufftown Settlement Statement of the Moray Local Plan

The site is annotated in the settlement proposals plan for Dufftown of the adopted Development Plan as designation ENV1. The Development Plans Section has since confirmed however that

this is a typing error and should in fact read ENV4 titled 'Playing Fields at Hill Street and Tininver Street', which seeks to preserve the area for open space and recreational use. The proposal to develop the site for residential purposes, whilst not impacting upon the playing fields will result in the loss of the tennis courts, a former recreational facility, and as such constitutes a departure from policy designation ENV4.

Other development plan policies covering community facilities, sport and recreation include, L/CF1 and L/CF2. These generally presume against development, which encroaches onto recreational and amenity ground in towns and villages and with regard to L/CF1 & L/CF2, seek the provision of replacement or alternative facilities as part of new proposals, which remove existing ones. In this case the Dufftown settlement statement of the local plan contains no specific reference to the 'Tennis Courts' or their being a community facility. Furthermore, since they have been unused for a number of years it would be difficult to argue that an existing community facility would in fact be removed and on this basis, the proposal is not considered to be a departure from these particular provisions.

Consultation has been carried out with Sport Scotland, which has advised that it has no objection to the proposal but the Council should consider the points they raise carefully before allowing the redevelopment of this potentially valuable sporting resource. They state that "if a community desire exists to retain tennis provision in the town than refurbishing the existing courts may be easier than finding a wholly new site. It may therefore prove worthwhile to undertake local market research to ascertain the views of the local community and nearby tennis clubs in this regard. The views of the relevant Council sports development team should also be given due weight".

The Council's Sports Development Staff have also been consulted who have raised no objection to this current application following previous consultations with this section.

Sport Scotland conclude in their comments by advising that "should the courts ultimately be redeveloped, it may be reasonable to seek a contribution from the developer to help find replacement sports facilities within the town. This need not be restricted to tennis: alternatives to consider may be a contribution towards the provision of a multi-court or towards the upgrading of existing sports facilities within Dufftown". In this regard the adjoining former tennis court, which formed part of the previous outline application following recent detailed consent, is currently in use by the Bowling Club for car parking purposes. It is considered that this is a reasonable contribution for the scale of this development.

It is considered that in this case a departure to policy ENV4 can be justified for the following reasons:

- a) The former tennis courts have been unused for a number of years and cannot be described as an existing community or recreational facility;
- b) A lack of local objections and no formal objections being received from both Sport Scotland the Moray Sport's Development Section;
- c) Part of the former tennis court site is now utilised for car parking for the bowling club.
- d) Outline consent has already been granted for the use of the site for office purposes;

- e) As the adopted plan is incorrect in identifying the correct site and no specific reference to the tennis courts are made it would be difficult to support a departure to policy ENV4 at an appeal as the heading only refers to Playing Fields.

Impact of Development on Character of Area (ENV1, & L/IMP1 and Appendix 4)

This site is surrounded on two sides by residential properties, with the Bowling Green to the north and the ambulance station to the west. The character of the surrounding area is one of a mixed use. The two detached dwellings would be set in relatively spacious plots in keeping with the character of the surrounding area. Following the receipt of amended plans the houses have been handed and the finished floor levels dropped. The adjoining properties are also two storeys in height. No amenity issues are raised.

Access and Car Parking (T/4 & T/7)

Access to the site would be via two new access points onto Mount Street, one to serve each dwelling. The Transportation Manager has been consulted on the proposal and no objections are raised subject to conditions requiring a footpath to be provided across the entire frontage of the dwellings.

Recommendation

Approve subject to conditions.

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Signature (*Alan Short, Development Control Manager*)

RA STEWART
DIRECTOR OF ENVIRONMENTAL SERVICES

APPENDIX

POLICY

Moray Structure Plan 2007 and/or Moray Local Plan 2000

Policy 1: Development and Community

The policy set out below identifies the strategic community development requirements for the delivery of the structure plan strategy-

The Moray Structure Plan Strategy will be supported by:

- h) the protection and enhancement and new provision of facilities for community use, healthcare, sport and recreation.

Policy L/T4: Provision of Road Access

The Council will require that a suitable and safe access from the public highway is provided.

Policy L/T7: Parking Standards

Proposals for different forms of development must comply with the Council's 'Car Parking Standards' (available from the Council's Roads Service).

Where development (including housing) within the defined town centre cannot reasonably supply parking on site, (or where it is appropriate not to include parking), the developer will require to comply with the Council's system for 'commuted payments' for parking. Housing development in town centres which need not provide residential parking on site, must make provision for vehicular access for deliveries and emergencies.

In housing developments of over 30 houses, provision must be made for communal off-street parking, in addition to in-curtilage in order to permit the parking of large commercial vehicles away from road frontages.

Policy L/IMP1: Development in Built-up Areas

In areas covered by this policy, (i.e. all land within settlement boundaries and rural communities), the Council will, in considering applications for planning permission, try to ensure that proposals for development do not harm the general character of the surrounding area. Applications will therefore take account of the main uses of land and buildings in the vicinity, the mix of such uses and the architectural quality of the area. The main concern of the Council is to ensure that development proposals should neither conflict with nor detract from the character, amenity and design of an area. This policy will not preclude appropriate new development and is not intended solely to maintain the status quo.

In interpreting and clarifying this policy, the Council will take into account the guidelines on Character, Amenity and Design.

Guidelines on Character, Amenity and Design (L/IMP1)

a. Character

The character of an area is assessed by the;

- (i) main uses;
- (ii) appropriateness of a diversity of uses; and
- (iii) desirability of introducing a development which may detrimentally alter the existing balance of usage
- (iv) architectural style of the area.

b. Amenity

The amenity of an area is assessed in terms of both the people who will occupy the development site, and the adjoining occupiers. In short, new developments should be "good neighbours". Where there is an inherent incompatibility of neighbouring developments, or where remedial action cannot be made effective, applications are likely to be refused.

The important aspects of amenity which the Council considers are worth protecting are:-

- (i) **Privacy** - for both the occupants of a proposed development and surrounding neighbours. Loss of privacy can be minimised by re-orientation, reducing the densities of development reducing the size of buildings, and attention to building levels or by design modifications, for example, window proportion and size.
- (ii) **Traffic** - the introduction of increased traffic movement and resulting noise, can significantly detract from the amenities of an area.
- (iii) **General Disturbance** - protection from activities which create unreasonable levels of noise, smells and other discomforts including wheeled bin locations.
- (iv) **Sunlight/Daylight** - adequate levels of sunlight and daylight, and to a lesser extent, outlook, should be safeguarded for surrounding properties and afforded to new developments.

c. Design

Design of new development should not only relate to the type of development in the immediate vicinity but also to the wider issues of context and setting. This need not be restrictive to new or innovative architectural expression.

Applicants should, therefore, avoid design proposals which compromise the appearance of design characteristics of the surrounding area.

In considering the appropriateness of a design the Council will have regard to:

- (i) The scale of adjoining development.
- (ii) The materials, finishes and colours used in nearby development.

- (iii) Any features on or near the site worthy of reproduction, protection or enhancement, e.g. trees, hedges, views and other features of public importance.
- (iv) Principles of site sensitive design e.g. that pitched roofs are preferred to flat roofs, pitched dormers to box dormers, vertical windows to horizontal picture windows etc., where these features predominate in an area.

Policy L/IMP3: New Building Design

(i) Design Principles

All building development must be designed to respond adequately to the locality. Applications must meet the following requirements:-

- a) appropriate location in landscape or townscape
- b) careful placement on a site, particularly in relation to character, amenity and energy conservation
- c) appropriate size and form in relation to existing buildings, sky line and landform
- d) appropriate density, layout and orientation in relation to character, amenity, privacy of neighbouring properties and energy conservation
- e) sensitive use of materials and colours in relation to existing setting and environmental impact

Standardised solutions to building design are not encouraged and will not be acceptable unless existing context (the design and character of the existing surroundings) suggests otherwise. Design solutions which seriously compromise the amenity and character of the area will not be permitted.

Highly innovative, experimental solutions will be encouraged but may not be suitable in every situation. In certain circumstances, the Council may request written design statements explaining various aspects of design solution e.g. explaining why a particular approach has been taken, and expect applications to show new buildings in their wider relationship with surrounding properties and the site (plans and elevations/perspective/ photomontages showing adjacent buildings, trees, landform etc)

(iv) Materials

The Council will particularly encourage the use of materials which are sustainable. The use of salvaged or recycled material is encouraged in most circumstances subject to local situation and there is a strong expectation that traditional materials will be used on heritage structures. The Council will discourage the over use of high energy materials (i.e. those which require high energy levels to make and dispose) where alternatives can be used and is also concerned about the potential long term affects of using Tropical Hardwoods, from non-managed sources.

Policy L/IMP7: Drainage Impact

New development must connect to a public sewer for the disposal of foul drainage if one is available within a Town, Village or Rural Community. If it is not available alternative forms of treatment may be considered and must meet with the approval of NOSWA and SEPA. The

Council will promote the employment of Sustainable Urban Drainage Systems (Sustainable Urban Drainage Systems) in the disposal of surface water run-off, and unless otherwise advised by SEPA, will operate a presumption against the disposal of surface water directly to a watercourse. Proposals must meet the requirements of policies L/ENV21 (Private Waste Water Treatment and Drainage), L/ENV22 (Pollution Conditions), L/ENV23 (Private Water Supplies), L/ENV24 (Surface Water Drainage) and L/ENV26 (Control of Development in Flood Risk Areas) in Chapter 2, if relevant.

Policy L/CF1: Designation of Community Facilities

Town and Village Statements will identify where local facilities are under provided, or in need of upgrading to meet the demands of that community. Sites designated for community facilities in Proposals Maps will be presumed to be protected from redevelopment unless replacement is included in the development proposal

Policy L/CF2: Replacement of Community Facilities

The Council will presume against development which removes an existing community facility unless it is in need of replacement, or an alternative provision is being made as part of the development proposal.

Policy L/ENV18: Public Amenity and Open Spaces

The Council will protect existing 'green' space within its towns and villages which are deemed to contribute to the amenity and environment of built up areas. Within these areas there will be a general presumption against development which threatens to diminish the amenity value of individual locations.

This policy should be read in conjunction with S/ENV6 and L/IMP4.

ENV4 Playing Fields at Hill Street and Tininver Street

Reserved for open space and recreational use.

OBJECTIONS-REPRESENTATIONS

None.

CONSULTATIONS

Sport Scotland - Although the tennis courts on the site are unused and in a state of disrepair, they remain a potentially valuable sporting resource and should only be redeveloped if there is no significant demand for courts within the town or no realistic prospect of the courts being refurbished.

In this regard, Sport Scotland ran its Facilities Planning Model (FPM) from Moray Council in 2005, covering tennis courts amongst several sports. The FPM predicted that there was currently some unmet demand for tennis within the town but that most demand could be satisfied by the nearby courts at Craigellachie (and to a lesser extent those at Aberlour and Rothes). These courts are, however, at some distance from Dufftown and require a journey by car or by public transport if available.

The level of unmet demand predicted by the FPM was not sufficient, on its own, to justify the provision of tennis courts in Dufftown. However, refurbishing the courts in Dufftown would prevent the need to travel to courts out of town and this would be particularly beneficial to young people and those without a car. The provision of a small tennis activity such as existed at this site is not unreasonable for a town the size of Dufftown. Finally it is important to remember that FPM is only a model and that actual demand may be higher or lower than predicted.

Sport Scotland has no objection to this proposal but the Council should consider the above points carefully before allowing the redevelopment of this potentially valuable sporting resource. If a community desire exists to retain tennis provision in the town than refurbishing the existing courts may be easier than finding a wholly new site. It may therefore prove worthwhile to undertake local market research to ascertain the views of the local community and nearby tennis clubs in this regard. The views of the relevant Council Sports Development Team should also be given due weight.

Should the courts ultimately be redeveloped, it may be reasonable to seek a contribution from the developer to help fund replacement sports facilities within the town. This need not be restricted to tennis: alternatives to consider may be a contribution towards the provision of a multi-court or towards the up-grading of existing sports facilities within Dufftown.

Moray Council's Sports Development Section - No objections to this application.

Environmental Protection Manager, Direct Services - No objections.

Contaminated Land, Development Services - No objections subject to conditions.

Transportation Manager, Direct Services - No objections subject to conditions.

Scottish Water - No objections subject to conditions.