



Supporting Planning Statement for Full Planning Permission for Erection of Dwellinghouse at Land at 25 High Street, Kemnay

1 Background and Proposal

- 1.1 The purpose of this statement is to explain the proposal and outline the considerations, including the relevant planning history, which are material to the determination of the application. The applicant would like the new requirement for visibility of 2 metres by 25 metres from Church Lane onto Paradise Road to be reconsidered due to several historical and other considerations.
- 1.2 The application site forms part of the large rear garden of the house known as Blythewood, High Street, Kemnay. Blythewood is a traditional detached dwellinghouse set back from High Street and accessed from it by a large sweeping driveway with two points of access/egress onto High Street. The subdivision of the plot to facilitate the erection of the new house, requires its access to be taken from Church Lane which is a private road to the rear of Blythewood, and which is the main access for several other dwellinghouses. Church Lane is accessed from Paradise Road. A number of outbuildings are to be removed and the remaining boundary wall will be rebuilt along part of the boundary with Church Lane. A 1.8m high close boarded timber fence is proposed along part of the boundary with 23 High Street which is to the northwest of the application site.
- 1.3 Although the three houses to the north-west of the application site front onto High Street, the only access to these is pedestrian. The vehicular access to one of these houses is from Paradise Road and the vehicular access to the other two houses is from Church Lane. There are six other houses to the north side of Church Lane whose only vehicular access is from Church Lane. Although 27 and 29 High Street have vehicular access from High Street, these houses can also be accessed via a car from Church Lane in the same way as the application site. Including the application site there are a total of eleven houses which can be accessed by car via Church Lane. Church Lane exits onto Paradise Road which itself is one-way from its junction with High Street to the south towards its junction with Kendal Road to the north. There are also double yellow lines to the south and north of the junction onto Paradise Road from Church Road. There are no formalised footpaths on Paradise Road.

- 1.4 The map below highlights the application site and the properties which are solely accessed, or can be accessed, from Church Lane, along with the one way and double yellow lines on Paradise Road.



- 1.5 The development includes a car port in the northwest corner of the site adjacent to the boundary with 23 High Street and a driveway allowing space for two cars. The principle of developing a dwellinghouse by subdividing the existing residential curtilage of Blythewood has remained acceptable throughout the consideration of the all the previous applications for dwellinghouses on the site.
- 1.6 Full planning permission APP/2014/3815 for the erection of a dwellinghouse was granted on 8 April 2014. Full planning permission APP/2018/0602 for the erection of a dwellinghouse (renewal of planning permission APP/2014/3815) was granted on 1 June 2018. Under the Coronavirus Regulations, this permission did not expire until 31 March 2023, however, in the intervening period the property was sold to the current applicant Mr Walker who did not fully appreciate the timescales associated with the permission which then unfortunately expired.

- 1.7 A further application APP/2023/1379 was made for full planning permission for the erection of a dwellinghouse at 25 High Street, however, despite the history of previous approvals at the site, the application was refused under delegated powers for the following reason:

The proposed development by reason of the site constraints and access arrangements fails to meet the required visibility standards, posing a safety risk to road users and thereby fails to meet the requirements of Policy RD1 Providing Suitable Services of the ALDP 2023 and Policy 18 Infrastructure First of NPF4.

- 1.8 It is important in the context of this application, to highlight the consultation responses to these various applications from the Roads Development team along with a note of the most recent discussions with them in advance of submitting this new application.
- 1.9 APP/2014/3815 – No comment to make on the application. Condition 6 stated that ‘the dwellinghouse hereby approved shall not be occupied unless its driveway, turning and parking area has been provided and surfaced in accordance with the details shown on the approved plans. Once provided, the driveway, turning and parking area shall thereafter be permanently retained as such’.
- 1.10 APP/2018/0602 – No objection to the renewal of this application. Condition 7 stated that ‘the dwellinghouse hereby approved shall not be occupied unless its driveway, turning and parking area has been provided and surfaced in accordance with the details shown on the approved plans. Once provided, the driveway, turning and parking area shall thereafter be permanently retained as such’.
- 1.11 APP/2023/1379 – ‘Access to the proposed property is taken via Church Lane which is a private road therefore we cannot apply conditions to the driveway access however we do note that visibility will be poor due to the adjacent garage and would recommend that the applicant aims for a minimum visibility splay of 2m x 25m onto Church Lane. As this development would result in an increase in usage on Church Lane visibility splays of 2m x 25m are required from Church Lane onto Paradise Road, the visibility splays must be clear of all permanent obstructions above adjacent carriageway level. This does not appear to be achievable therefore Roads Development cannot support this application’.
- 1.12 It has been welcomed that Roads Development have discussed their position in more detail as part of the previous refused application and in advance of this new repeat application. This was necessary to try to understand in more detail what the concerns now are given the two previous approvals on the site. Their reasoning is as follows:

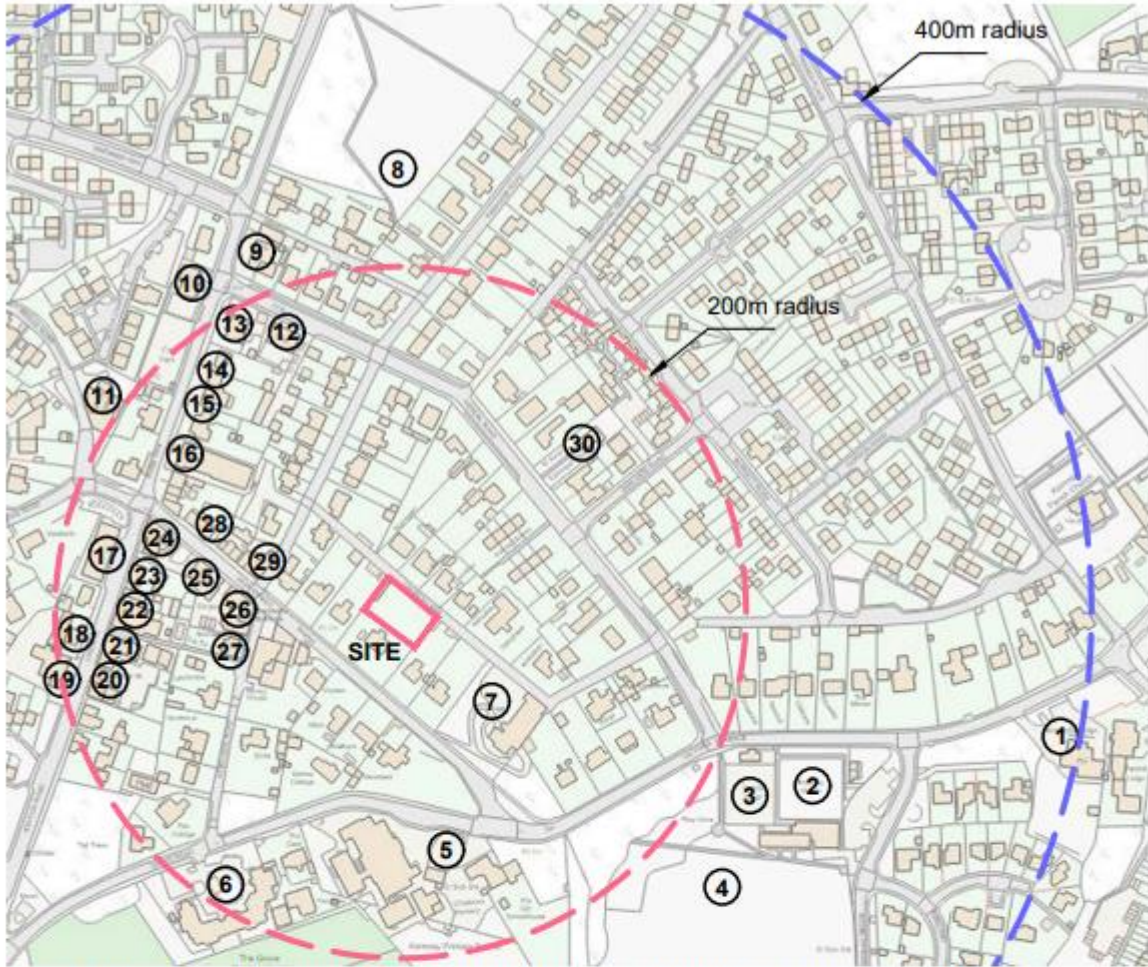
Although this is a one-way street there are no footways on Paradise Road and visibility is also required for pedestrians. To the south the requirement would be 2m x 25m but to the north we could accept a reduction in splay as it is accepted that a pedestrian would not be approaching at 20mph.

The existing access to these properties is historical and we have no control over it however, we can't support further development which will increase vehicular

movement on an access and inadequate visibility, We now look at additional development off an existing private access the same way as we would a new house with a brand new access e.g. if Church Lane didn't exist and someone applied to build a house and form a new access we wouldn't be able to support this without the required visibility being provided onto Paradise Road.

1.13 The entire area in the centre of Kemnay is densely developed as it has grown historically over the years, and this is particularly the case in and around Paradise Road and Church Lane. This area is also where the majority of Kemnay's services and facilities are located. The list below shows the services and facilities which are accessible on foot within a radius of 100m around the application site. There are then shown on the map below.

- 1 Bennachie Lodge
- 2 Kemnay Bowling Club
- 3 Tennis Courts
- 4 Bogbeth Park
- 5 Kemnay Primary School
- 6 The Grove Nursing Home
- 7 Kemnay Church Centre
- 8 Kemnay Village Green
- 9 Morrisons/Post Office/Cash Machine
- 10 Kemnay Family Resource Centre
- 11 The Burnett Arms
- 12 Kemnay Library
- 13 Kemnay Farm Shop
- 14 Hairdresser/Barber
- 15 Kemnay Chip Shop
- 16 Kemnay Village Hall
- 17 Coop
- 18 Essential Hardware Shop and Petrol Station
- 19 Brian Downie Car Sales and MOT Specialists
- 20 Café 83
- 21 Station 83 Gym
- 22 Indian Take Away
- 23 Chinese Take Away
- 24 Flexible Childcare Services Aberdeenshire
- 25 Kemnay Medical Group
- 26 JG Ross Bakers
- 27 Collie Butchers
- 28 Hairdresser
- 29 Kemnay Pharmacy
- 30 St Anne's Church



LOCATION PLAN SHOWING LOCAL AMENITIES AND SERVICES

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| ① Berrachie Lodge | ⑩ Kennay Family Resource Centre |
| ② Kennay Bowling Club | ⑪ The Burnett Arms |
| ③ Tennis Courts | ⑫ Kennay Library |
| ④ Bogbeth Park | ⑬ Kennay Farm Shop |
| ⑤ Kennay Primary School | ⑭ Hairdresser / Barber |
| ⑥ The Grove Nursing Home | ⑮ Kennay Chip Shop |
| ⑦ Kennay Church Centre | ⑯ Kennay Village Hall |
| ⑧ Kennay Village Green | ⑰ Co-op Food |
| ⑨ Morrisons / Post Office / Cash Machine | ⑱ Essentials Hardware Shop |
| | ⑲ Brian Downie Car Sales |
| | ⑳ Cafe 85 |
| | ㉑ Station 83 Gym |
| | ㉒ Indian Fast Food Take-Away |
| | ㉓ Chinese Fast Food Take-Away |
| | ㉔ Aberdeenshire Flexible Childcare Services |
| | ㉕ Kennay Medical Group |
| | ㉖ JG Ross Bakers |
| | ㉗ Colie Butchers |
| | ㉘ Hair Dresser |
| | ㉙ Kennay Pharmacy |
| | ㉚ St Anne's Church |



1.14 The photographs below show the access from Church Lane onto Paradise Road looking south onto oncoming traffic towards High Street and looking north which is pedestrian access only towards Kendal Road.



- 1.15 The photograph below is of the Council waste collection vehicle on Church Lane facing towards Paradise Road. It is therefore clear that the lorry reverses from Paradise Road onto Church Lane as there is nowhere for a vehicle of this size to turn at the top (east) end of Church Lane.



- 1.16 It is not the intention of this statement to revisit the matters of principle, layout, siting and design, residential amenity, trees, energy, or developer obligations as these matters remain acceptable to the Planning Service as they have done for the last ten years since April 2014. However, the matter related to the new reason for refusal requires to be discussed in more depth related to a number of considerations and this is discussed further in Section 3 below.



2 Planning Policy and Material Considerations

2.1 The National Planning Framework 4 policies which apply to this application are:

Policy 1 Tackling Climate Change and Nature Crises

Policy 2 Climate Mitigation and Adaptation

Policy 6 Forestry, Woodland and Trees

Policy 11 Energy

Policy 14 Design, Quality, and Place

Policy 15 Local Living and 20 Minute Neighbourhoods

Policy 16 Quality Homes

Policy 18 Infrastructure First

Policy 22 Flood Risk and Water Management

2.2 The Aberdeenshire Local Development Plan 2023 which apply to this application are:

Policy P1 Layout, siting and design

Policy P3 Infill Developments within Settlements and Householder Developments (including home and work proposals)

Policy C2 Renewable Energy

Policy PR1 Protecting Important Resources

Policy RD1 Providing Suitable Services

Policy RD2 Developer Obligations

2.3 The two policies which were used to refuse the previous application are highlighted in bold and these require to be discussed in the context of this application. However, a critical policy which has been missed in the determination and refusal of the previous application is Policy 15 Local Living and 20 Minute Neighbourhoods which is also highlighted in bold.

- 2.4 **NPF 4 Policy 15 Local Living and 20 Minute Neighbourhoods** states that development proposals will contribute to local living including, where relevant, 20-minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to:
- sustainable modes of transport including local public transport and safe, high-quality walking, wheeling and cycling networks;
 - employment;
 - shopping;
 - health and social care facilities;
 - childcare, schools and lifelong learning opportunities;
 - playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;
 - publicly accessible toilets;
 - affordable and accessible housing options, ability to age in place and housing diversity.
- 2.5 **NPF 4 Policy 18 Infrastructure First** states that development proposals which provide (or contribute to) infrastructure in line with that identified as necessary in LDPs and their delivery programmes will be supported and that the impacts of development proposals on infrastructure should be mitigated. Development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure. Where planning conditions, planning obligations, or other legal agreements are to be used, the relevant tests will apply.
- 2.6 **LDP 2023 Policy RD1 Providing Suitable Services** states that development will only be allowed that is located and designed to take advantage of or incorporate the services, facilities, and infrastructure necessary to support it. Such matters may include sustainable transport linkages and supporting infrastructure, facilities for alternatively fuelled vehicles, road access, waste management provision, water supply, wastewater connections and treatment, and other elements as may be appropriate in the circumstances.
- 2.7 **Letter from the Chief Planner and the Minister for Local Government Empowerment and Planning of 16th November 2023** detailing the balanced judgement that needs to be made in determining planning applications. This states that decision makers need to recognise that conflicts between policies can be expected and indeed that this is normal and that there remains a need to weigh up all policies and factors in applying planning judgement as always following the decision-making structure set by section 25 of the Planning Act.



3 Discussion and Conclusion

- 3.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act requires that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
- 3.2 In this case there is a very balance and judgement to be made in terms of the policies of the Development Plan and the other considerations which are material to the determination of the application.
- 3.3 Also relevant to the approach required with this application is a recent letter from the Chief Planner and the Minister for Local Government Empowerment and Planning of 16th November 2023 which details some of the wider monitoring, discussions and correspondence which have been going on in relation to the application of NPF4 policies since its adoption in February 2023. There have been recurring themes around the need to refer to the 'policy intent' for each of the NPF4 policies to support their interpretation in the circumstances of individual cases and to consider the development plan, including NPF4 as a whole. In a previous letter of 8th February 2023, the conflicts between policies were highlighted as being expected and this is recognised as indeed being normal. The latest letter concludes that there remains a need to weigh up all relevant policies and factors in applying planning judgement, as always following the decision-making structure set by section 25 of the Planning Act.
- 3.4 As such the following should be taken into account in determining this planning application.

Visibility

- 3.5 The **policy intent** of NPF4 Policy 18 Infrastructure First is to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.
- 3.6 Paradise Road is one way in the direction of High Street to Kendal Road passed the junction with Church Lane. The main visibility issue with leaving Church Lane onto Paradise Road is the visibility from Church Lane onto Paradise Road when looking in the direction of High Street (south). The required visibility to the south has been specified as 2.0m x 25 metres, however, Roads Development has acknowledged that the visibility in the opposite direction (north) can be reduced as pedestrians will not move at the same speed as cars.

- 3.7 Double yellow lines exist around the junction of Church Lane to ensure no parking in the vicinity of the junction, and it appears to function safely as a result.
- 3.8 Paradise Road has no pedestrian footpaths on either side but a significant number of houses that front onto Paradise Road are accessed directly from it with parking adjacent to the road.
- 3.9 The development of houses along Church Lane has taken place incrementally over several years up to the point it becomes a footpath as it goes uphill towards Kemnay Church and then becomes a road again exiting onto Kendal Road. There has been no subdivision of any of the residential properties on Church Lane. The subdivision of Blythewood does not appear to be an opportunity that would be available to any other property on Church Lane due to lack of available space within existing curtilages and therefore it is the only property where the curtilage could be subdivided. The erection of a house in the garden ground would therefore not set an undesirable precedent which would see applications for further houses being made. On its own merits and despite the lack of visibility at the junction of Church Lane and Paradise Road, permission could be granted for this single dwellinghouse.

Other Site-Specific Considerations

- 3.10 To reiterate the point made under paragraph 3.9 above, there would be no further opportunities to develop dwellinghouses on Church Lane and therefore an undesirable precedent would not be created in granting permission for the dwellinghouse.
- 3.11 It is widely known that the previous owner of the property used to use Church Lane as well as the access off High Street to access their house. It can therefore be demonstrated that there has always been vehicular access to the property from Church Lane. It can be argued that the subdivision of the property removes the ability of accessing the house via Church Lane, instead requiring it to be from High Street. The proposed house effectively replaces the cars which would and could have accessed the house from Church Lane in any case. In addition, as the proposal is a small three-bedroom dwellinghouse which will only require access for two cars. The applicant intends downsizing from their current residence and moving to the new house as part of wider retirement planning =, so while there is no guarantee or control over the number of cars using Church Lane to access the house, it is likely that at any time there will only be one car used by the applicant utilising this access point.
- 3.12 The Council's bin lorry collects rubbish from the properties on Church Lane which must be facilitated by reversing into Church Lane from Paradise Road. While the lane is not adopted it must be deduced that there are no safety issues as such in carrying out such a manoeuvre and where the lorries will exit onto Paradise Road in a forward gear.

Planning History

- 3.13 Planning permission for a dwellinghouse has been granted twice to the previous owner of Blythewood in 2014 and 2018. The sale of the property to the current owner and applicant took place while the 2018 permission was still extant under the Coronavirus

legislation. The owner and applicant secured a separate permission to extend the dwellinghouse and erect a garage in April 2023 and these works are now progressing on site. While the owner and applicant should have been aware of the 2018 permission expiring on 31 March 2023, they have clearly been working towards the renovation and extension of the existing house before proceeding once again with the subdivision application and have fallen foul of the tightening up of the new requirements for visibility. The two previous permissions, while expired, are a material consideration in the determination of this new application.

Local Living and 20-minute Neighbourhoods

- 3.14 The **policy intent** of NPF4 Policy 15 Local Living and 20 Minute Neighbourhoods is to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options. As highlighted in section 1 above, it is clear that within a very short walking distance (100m) of the application site, just about every service which could be required exists whether that be shops, churches, health and education facilities or public transport. It would be difficult to find a more connected site in the heart of a settlement where there are no other constraints to development, and which has up until earlier this year also been technical acceptable.
- 3.15 Again, it should be reiterated that as the development will be lived in by the applicant as part of wider retirement planning, the availability of services and facilities which can be reached easily on foot was one of the defining factors in them purchasing the property and seeking to utilise the permission to build a small property for their later years. The house is also a bungalow which seeks to address the wider need for such types of property in this area.
- 3.16 The Planning Service has not adequately balanced all policy considerations in refusing application APP/2023/1379 as NPF4 Policy 15 is not even mentioned in the report of handling. Bearing in mind the Chief Planner and Ministers letter, and that Town and Country Planning (Scotland) Act requires that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise, the application can be supported. Based on the planning history, other access and very specific site characteristics, and most importantly the principles promoted by Policy 15 of NPF4, the planning application can be supported as a departure from NPF4 Policy 18 and LDP Policy RD1.
- 3.17 It is therefore respectfully requested that full planning permission is granted.