



SCOTTISH EXECUTIVE

Development Department
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Our ref: P/PPA/270/446

4 June 2007

Mr S McKellar
"Lisven"
Rockhill Road
WICK
KW1 5TP

Dear Sir

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4

PLANNING APPEAL: ERECTION OF DWELLINGHOUSE WITH INTEGRAL GARAGE, INSTALLATION OF SEPTIC TANK AND SOAKAWAY, AND FORMATION OF VEHICULAR ACCESS AT LONGBERRY, OLD WICK, WICK, CAITHNESS

1. I refer to your appeal, which I have been appointed to determine, against the refusal of planning permission by the Highland Council for the above development. I have considered the written submissions and made an accompanied inspection of the appeal site and the surrounding area on 9 May 2007. For the reasons given below, I have decided to dismiss the appeal.
2. The appeal site, which is broadly square in shape and extends to 736m², lies immediately to the north east of a single track road leading from Old Wick to Longberry, in the south east part of Wick. It is part of a 6.5 acre agricultural field belonging to you, which is currently grassed and extends from Longberry to the Mill Lade, a burn which separates your field from an area belonging to a local developer, who has planning permission for the erection of 35 houses on that area.
3. The application concerns the erection of a 3 bedroom bungalow with integral garage on the site, the installation of a septic tank and soakaway, and the formation of a new vehicular access. Access would be taken from the single track road currently serving the house at Longberry, some 50m to the south east of the site.
4. Planning permission was refused for the following reasons: -
 1. The proposed development is contrary to the provisions of policy 29(e) of the Wick Chapter of the Caithness Local Plan (CLP).

2. The proposed development is contrary to policy G2 of the Highland Structure Plan (HSP) Written Statement in that the proposal is not compatible with service provision (water and sewage, drainage, roads) and does not contribute to the economic and social development of the community.

5. **In response to notification**, there were no objections lodged to the application. **In response to consultation**, Scottish Water had no objections. SEPA recommended refusal on the grounds that the site is in an area identified in the CLP where the council will encourage development and presume against piecemeal developments. SEPA's policy is for developments to be close to a public sewer. The recommendation would only be withdrawn if a section 75 agreement was reached ensuring that the proposed drainage system would be removed and a connection made to the public sewer, when the area is developed.

Summary of the Case for the Appellant

6. In support of your appeal, it is submitted that you applied for planning permission to build a house in much the same location as the appeal site in 2005. You had been advised by a planning officer that the site formed part of a white zone catchment area for domestic development. Following submission of the application, you learned that a local developer had obtained planning permission to erect 35 houses on land adjacent to the field which you own. In the light of this knowledge, you submitted a further 2 applications for planning permission for houses in the south east corner of your field, one for your son and the other in speculation as a means of funding the development of the sites for yourself and your son. Despite being 3 separate applications, all 3 applications were treated by the council as one and refused in February 2005 for the same reasons as the appeal application.

7. You did not appeal these decisions, accepting at that time the council's conclusions that the sites were in an area for development but that the necessary infrastructure was not yet in place. At the time the 3 applications were refused, the planning committee heard objections from the owners of the house at Longberry and a representative for the developer of the adjacent site. The latter objection was based on road safety concerns arising from additional traffic on the single track road to the sites. The developer however has planning permission for 115 houses further to the west on the same road.

8. In discussions with the council, you were advised that an application for 25 houses in your field might be acceptable, but not piecemeal proposals. You point out that you are not a developer or housebuilder. The only option would be to sell out and the developer of the adjacent site is likely to be the only bidder and would have a virtual monopoly of housing development in Wick.

9. You made the appeal application after a new house was erected on land adjacent and to the north of your field in 2006. You cannot understand why that house was approved when your application for a similar proposal, serviced by a septic tank and soakaway, was refused. The new house is closer to the public drainage system, serviced by a dirt track unlike the access to your site which is tarred. You were advised by a planning officer that the recommendation was for refusal of that application but the council did not accept the recommendation.

10. You refer to the grant of outline planning permission for houses at March Road and Hempriggs Row, Wick, the latter sharing the same access road as the appeal proposal. It is your understanding that the houses in question are also in breach of HSP policy. When the CLP was

being prepared, it was your desire to have the appeal site allocated as a housing site. You have consulted all the relevant agencies in relation to the appeal proposal, including SEPA. Your plans included drawings by an engineer indicating how the drainage system could be connected to the public sewer, once the public drainage system had been extended. The house at Longberry and the new houses to the north and west of your field all have septic tanks and soakaways. A considerable volume of correspondence and plans has been produced relating to the appeal application and the recent history of residential development in the surrounding area.

Summary of the Case for the Council

11. The council submits that the appeal site forms part of a larger site allocated for a comprehensive housing development as part of the planned expansion of Wick. Development of the housing allocation is dependent on the provision of the necessary infrastructure in terms of roads, footpaths, play areas, and drainage.

12. In February 2005, 3 applications for housing on 3 separate plots, including the appeal site, were refused by the council for the same reasons as the appeal application. The circumstances have not changed in the interval. The appeal proposal represents a premature piecemeal development, which is contrary to the development plan. Approval of the proposal would prejudice the overall development of the housing allocation.

13. Reference is made to the terms of the committee report on the application, which recommended refusal of planning permission for the 2 reasons stated in the decision notice. The appeal proposal does not accord with policy G2 of the HSP or policy 29(e) of the Wick Chapter of the CLP.

CONCLUSIONS

14. Section 25 of the Act requires the determination in this case to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. I consider, based on my inspection of the appeal site and the written submissions, that the issues to be determined are whether the proposal is consistent with the relevant provisions of the development plan and, if not, whether an exception to these provisions is justified by other material considerations. Material considerations in this appeal include the consultation responses and the submissions of the parties.

15. The development plan comprises the HSP, approved in 2001, and the CLP, adopted in 2002. As regards the HSP, policy G2 - Design for Sustainability has been cited by the council as being contravened by the proposal. This policy sets out 13 criteria against which development proposals are to be assessed, the first of which is compatibility "with service provision (water and sewerage, drainage, roads, schools, electricity)."

16. In terms of the CLP, the appeal site is identified in Table 29 of the Wick Chapter of the plan under a policy relating to town expansion. The policy indicates, amongst other things, that proposals should "generally seek to maintain the existing grid layout pattern. Built forms, circulation, green space and landscaping require to be integrated with each other as part of an overall concept. Where appropriate, developers will be responsible for completing the public road, water and sewerage systems to the limits of their respective boundaries in the interest of the proper servicing of the area." In Table 29 itself, the site is identified as 29(e) - Oldwick East, an area of 8ha, with a capacity for 80

houses. The Table indicates that this area is for "longer term development following sites (a) to (d) in the Table." These sites relate to land at South Head, Roxburgh Road, Oldwick, and Roxburgh Road East, all in the south east of the town.

17 Assessing the appeal proposal against these policies, the submissions are silent on whether sites (a) to (d) have been completed. From my site inspection, it appears that construction has commenced on some of the sites. Planning permission appears to have been granted for 35 houses on the western section of site (e), to the west of the Mill Lade. The appeal proposal relates to a one off development in the south east corner of site (e). It is not part of an overall concept and is not compatible with service provision in terms of mains drainage. The appeal proposal is therefore inconsistent with the provisions of the development plan and I now require to consider whether there are nonetheless other material considerations to warrant an exceptional grant of outline planning permission.

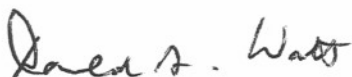
18. As regards material considerations, the thrust of your submissions is that the council has granted planning permission for other houses in circumstances similar to your own and you simply wish a level playing field. Unfortunately, your submissions reflect your belief rather than hard evidence. If your belief is correct, there are serious issues to be addressed by the council. Based on the submissions before me, it would be inappropriate for me to draw a conclusion on the claims made. As regards the SEPA suggestion of a section 75 agreement relating to eventual connection to the mains drainage system, this does not appear to have been actively pursued. The determining issues are as set out at paragraph 14 above which reflect the primacy of the development plan. On this basis, I conclude that there are no material considerations to justify an exceptional grant of planning permission.

19. I have taken account of all the other matters raised but find none that outweighs the considerations on which my decision is based. Accordingly, in exercise of the powers delegated to me, I hereby dismiss your appeal and refuse to grant planning permission in respect of application (council ref: 06/00414/FULCA), registered on 24 July 2006.

20. This decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

21. A copy of this letter has been sent to the Highland Council.

Yours faithfully



DONALD A WATT
Reporter