



## SCOTTISH EXECUTIVE

Development Department  
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Our ref: P/PPA/270/450

5 June 2007

Dear Sirs

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

**PLANNING APPEAL BY MR & MRS SUTHERLAND: DEMOLITION OF RUINOUS DWELLING, ERECTION OF NEW DWELLINGHOUSE, FORMATION OF NEW ACCESS, AND INSTALLATION OF SEPTIC TANK AND SOAKAWAY AT HUMSTER, NEWTON ROW, WICK, CAITHNESS**

1. I refer to your clients' appeal, which I have been appointed to determine, against the refusal of outline 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 extends to 2,307m<sup>2</sup>, lies in an open field close to a ruinous crofting house in countryside in the south western area of Wick, approximately 2km from the town centre. It is accessed from the town centre by Newton Road, which leads to Newton Row, a single track road with passing places, serving a number of businesses and houses along and close to it as it leads up to a hammerhead at the top of Newton Hill. There appears to have been no vehicular access to the ruinous dwelling.
3. The application, which is in outline, concerns the demolition of the remains of the ruinous dwelling on the site, the erection of a new 1½ storey house in its place, the formation of a new vehicular access from the hammerhead, and the installation of a septic tank and soakaway. There are no indicative drawings, merely a location plan and block plan showing the proposed access road, which would be 94.5m long and 9m wide. The application form details that 3 car parking spaces would be provided.

4. Planning permission was refused for the following reason: -

In the interest of public safety in that the public road leading to the application site is substandard, as are the associated verges, and this development if approved would increase the risk of accidents on that public road.

5. **In response to notification**, there were no objections lodged to the application. **In response to consultation**, SEPA had no objections, while Scottish Water and the council's Archaeologist had no objections, subject to conditions. The Roads Department recommended refusal for the reason stated in the decision notice.

#### **Summary of the Case for the Appellant**

6. In support of your clients' appeal, it is submitted that, since the appeal application was refused, the council has awarded a school transport contract to a business, using the same access road. It is understood that the contractor in question has acquired 5 mini-buses to operate the contract. In these circumstances, your clients are at a loss to understand why planning permission for the appeal proposal should have been refused when they only have one vehicle.

#### **Summary of the Case for the Council**

7. The council adopt the committee report and supporting documents as its submissions. The appeal site falls within an area where policy PP3 of the CLP applies. This policy presumes against new housing development, subject to a limited number of exceptions. One of these exceptions covers the replacement of an existing ruinous dwellinghouse and, in that respect, the appeal proposal is acceptable.

8. The over-riding consideration in this appeal relates to the consultation response from the Roads Department. The detailed response indicated that, at several locations, the existing road, Newton Row, had been surveyed as being too narrow, with verges ranging from 0.85m to 1.9m as compared with the 2m standard width. Because of the substandard road and verges, further development would lead to increased risk of accidents and higher maintenance costs.

#### **CONCLUSIONS**

9. 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 so, whether there are nonetheless other material considerations to justify withholding the grant of outline planning permission. Material considerations in this appeal include the consultation responses and the submissions of the parties.

10. The development plan comprises the HSP, approved in 2001, and the CLP, adopted in 2002. No structure plan policies have been drawn to my attention by the parties. As regards the CLP, the council concedes that the appeal proposal is one of the exceptions to the presumption in policy PP3. The appeal proposal is therefore consistent with the provisions of the development plan and I now require to consider whether there are nonetheless other material considerations to warrant withholding the grant of outline planning permission.

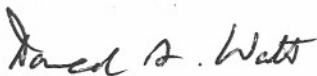
11. As regards material considerations, the views of statutory and other consultees can form such considerations. In this case, the views of the Roads Department are significant. Newton Row already serves a considerable number of houses and businesses, mainly in linear form along and close to the road itself. The road is narrow, with passing places, and in technical terms is substandard. The appeal proposal entails the construction of a relatively lengthy section of private access road through the field from the hammerhead at the end of Newton Row to the site of the proposed house. While only one additional house is proposed, given the substandard condition of Newton Row and the amount of traffic it already carries, I consider that further development, particularly development relatively remote from Newton Row, should not be permitted for road safety and road capacity reasons. Approval of the proposal might encourage further ribbon development and set an undesirable precedent for further developments of a similar nature in the local plan area. As regards the school transport contract, I have no information on the circumstances leading to the award of the contract, which in any event would not have been made on land use planning grounds. Accordingly, I conclude that there are material considerations in this appeal to justify withholding the grant of outline planning permission.

12. 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 clients' appeal and refuse to grant outline planning permission in respect of application (council ref: 06/00169/OUTCA), registered on 15 March 2006.

13 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.

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

Yours faithfully



DONALD A WATT  
Reporter