



Directorate for Planning and Environmental Appeals Appeal Decision Notice

Decision by Philip G Hutchinson, a Reporter appointed by the Scottish Ministers

- Appeal Reference: P/PPA/270/456.
- Site Address: Land east of Mosshill Cottage, Mosshill, Brora, KW9 6NG.
- Appeal by Mr & Mrs D C Stewart against the decision by The Highland Council.
- Application 06/00391/OUTSU dated 4 October 2006, refused on 19 January 2007.
- The development proposed: Erection of house and garage (in outline) with extension to track.
- Date of site visit by Reporter: 19 July 2007.

Date of appeal decision: 23 July 2007

Decision

I allow the appeal and grant outline planning permission subject to the conditions listed at the end of this notice.

Reasoning

1. The key issues are (1) whether the proposal conforms to the development plan and (2) if not, whether material considerations justify a departure from the development plan. The most relevant development plan policies are G2 and H3 in the Highland Structure Plan and ENV3 in the South and East Sutherland Local Plan.
2. The first policy lists 13 criteria to be met, in summary - (1) adequate infrastructure, (2) multi-mode accessibility, (3) energy efficiency, (4) freedom from natural hazards, (5) outwith safeguarding zones, (6) preferably on brownfield sites, (7) no adverse impacts on amenity, (8 & 9) acceptable impacts on non-renewable resources and natural or cultural heritage interests etc, (10) sensitive siting and design, (11) promotion of varied and crime-free environments, (12 & 13) meeting the needs of all sections of the community, and supporting its social and economic development. The second policy presumes that housing development will be in existing or new planned settlements while identifying possible exceptions related to land management etc, social housing and cases incrofting townships fitting existing patterns of development. Local plan policy ENV3 presumes against development here particularly if it is prejudicial to heritage, amenity or public health.
3. The material considerations are the balance of the available policy background and whether any site-specific or other local features carry special weight.
4. The site is well-defined and lies comfortably within a group of over a dozen properties where additional houses have recently been approved. The development would lie between two houses 40m apart and the resultant relationships would be slightly tighter than those between most other properties nearby. However, given the subjective nature of this area of criticism - the fundamental part of the council's case - it is significant that no local residents have objected. The site is roughly 75m long, allowing for alternative siting possibilities - flexibility which appears to have been overlooked. Despite the large number of criteria under structure plan policy G2 - 'Design for Sustainability' not all are applicable at this outline stage and it is impossible to safely

conclude that one more house in this group would be seriously at odds with any of them. The character of this semi-rural group would not change significantly. Due to tortuous local lanes, the variety of house types and generally mature boundary vegetation, it is difficult to ascertain any particular pattern of existing development. Accordingly neither structure plan policy presents the proposal with serious difficulty.

5. The council's written submissions include no reasoned justification for local plan policy ENV3 but its language implies that exceptions will be considered unless they are prejudicial to heritage, amenity or public health. The amenity of houses to each side would not be affected. This is on account of the 4m hedge marking the near side of the next property to the east, and the appellants' very large garage and another outbuilding directly outside the site to the west. The resulting relationship between properties would be lost on passers-by since the above hedge plus frontage trees would largely obstruct clear views of all 3 together. There are no serious amenity or layout issues which cannot be resolved at reserved matters stage. The other impacts against which ENV3 presumes most strongly are those which affect heritage and public health, but no such impacts have been mentioned.

6. I have dealt with material considerations in passing except for the council's brief reference to Housing Groups Policy RS1.4.2. However, I note that this policy has been superseded.

7. I conclude that the proposal is not seriously at odds with the development plan. Even had I concluded otherwise, material considerations would not have justified refusal. Having carefully considered each of the 4 reasons for refusal, including the council's precedent concerns, I find no clear-cut basis for withholding outline planning permission subject to the under-noted conditions.

This is the version issued to parties on 23 July 2007

PHILIP G HUTCHINSON

Reporter

Conditions:

1. Before any development commences written approval shall be obtained from the planning authority for the details of the siting and external appearance of all buildings, the means of access thereto, and the landscaping of the site, including the means of enclosure, hereinafter called the "reserved matters" (the submitted layout being purely indicative).

2. Plans and particulars of all reserved matters shall be submitted for the consideration of the planning authority within 3 years hereof, within 6 months of the date on which an earlier application for approval of reserved matters is refused, or within 6 months from the date on which an appeal against refusal is dismissed, whichever is the latest. That is, provided that only one such application shall be made after the 3 year period referred to has expired. No work shall commence prior to written approval of all reserved matters.

3. The development shall commence within 5 years hereof or within two years from the date of approval by the planning authority of the last of the reserved matters to be approved.

REASONS (1-3): In accordance with section 59 of the Act

4. Details submitted for approval of reserved matters shall provide for a landscaping scheme of trees and shrubs providing enhanced screening on the west boundary, and all frontage trees shall be retained permanently with any failures being promptly replaced on a like-for-like basis.

REASON: In the interests of amenity by providing proper visual containment of the existing and proposed houses, commensurate with the surroundings.

DPEA as issued to parties