



## SCOTTISH EXECUTIVE

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### Directorate for Planning and Environmental Appeals Appeal Decision Notice

Decision by DGB Duncan , a Reporter appointed by the Scottish Ministers

- Planning Appeal reference: P/PPA/270/472
- Site Address: Land 50m northeast of Woodside, 131 Ardachu, Brora, KW9
- Appeal by Mr and Mrs WA Sutherland against the decision by The Highland Council
- Application 07/00145/OUTSU for outline planning permission dated 5<sup>th</sup> April 2007 refused by notice dated 8<sup>th</sup> June 2007
- The development proposed: Erection of house and garage: installation of septic tank and soakaway system
- Date of site visit by Reporter: 9<sup>th</sup> August 2007

Date of appeal decision: 22<sup>nd</sup> August 2007

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### Decision

I dismiss the appeal and refuse to grant outline planning permission for the above development.

### Reasoning

1. The determining issues in this appeal are whether the development would be sensitively sited in keeping with the local character and historic environment; would respect for the dispersed pattern of development that characterises the surrounding area; and would achieve 70m spacing between adjacent houses, bearing in mind the provisions of the development plan.
2. Structure plan Policy G2, Design for Sustainability, requires development to demonstrate sensitive siting and high quality design in keeping with local character in keeping and natural environment; and Policy H3, Housing in the Countryside, requires that new housing should be for the management of the land and related family purposes and should respect the existing pattern of development. Local plan Policy ENV2: 12(d), Dispersed Townships, requires spacing between houses not to exceed 70m with no more than two houses per croft.
3. The council submits that the proposal does not comply with development plan policy in that it does not demonstrate sensitive siting in keeping with local character and historic environment, is not in an appropriate location and it only allows for a spacing of about 55m, which falls substantially below the 70m requirement. There are already three house sites on the croft.
4. The appellants submit that the proposed house matches the spacing of surrounding houses (about 42m) and respects the dispersed pattern of development that characterises the surrounding area; that compliance with the 70m spacing standard could be achieved (not ideal as ground conditions are more favourable on the proposed location); and that the appeal site is not prominent as it is quite well screened and the proposal is in keeping with the local character and historic environment. The oldest houses in the area, which date back 100 – 150 years, have a spacing of 60m. Septic tank soakaway percolation tests were carried out and are within acceptable guidance. SEPA has no objections subject to the standard conditions being met. If necessary the effluent could be pumped up to the public sewer 150m away. It is submitted that Croft 131 is a 'bare croft' and it

is not suggested that the site is going to be decrofted. The appellants intend to pass the croft on to another person and it does not have a house for the crofter to manage the animals and land. The site will not go on to the open market and the person who is going to take over the whole of the croft is already known.

5. Third parties objected to the proposal because it would result in less spacing than 70m and four (rather than two) houses on the croft. It also raises concerns about waste water treatment and the proposal is purely speculative and is against the spirit of crofting.

6. I find, with regard to foul water treatment, that the proposal could comply with the requirements of SEPA. I also find that the proposed house could be located on land within the appellants' control at a distance of 70m from the nearest house (albeit in a less than ideal location) and thus comply with that aspect of local plan Policy ENV2: 12(d) and comply with structure plan Policies G2 (in keeping with local character) and H3 (respecting the existing pattern of development). Policy H3 also requires that new housing should be for the management of the land and related family purposes. Objectors contend that there are already three houses on the croft contrary to policy and the appellants aver that it is intended to pass the croft (presumably without a house) on to another person and it does not have a house for the crofter to manage the animals and land. Whichever, Policy ENV2: 12(d) limits the number of houses per croft to two and even if it be the case that it is intended "to pass the croft on to another person and it does not have house for the crofter to manage the animals and land", I find that a present 'intention' does not provide sufficient justification to secure compliance with local plan Policy ENV2: 12(d). I conclude that the proposal does not conform to the development plan.

This was the version issued to parties on 22<sup>nd</sup> August 2007.

DGB DUNCAN  
Reporter