

Appeal Decision Notice

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Decision by Douglas G Hope, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/270/526
- Site address: Seashore Cottage, 209 Lower Talmine, By Lairg, Sutherland IV27 4YS
- Appeal by Mr & Mrs Eisenhauer against the decision by The Highland Council
- Application for outline planning permission ref. no. 07/00157/OUTSU dated 16 April 2007 refused by notice dated 9 July 2007.
- The development proposed: Erection of house
- Application drawings: Plan No. 1
- Date of site visit by Reporter: 10 April 2008

Date of appeal decision: 9 May 2008

Decision

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

Reasoning

1. The determining issues in this appeal are whether the proposed house is consistent with development plan policy on housing in the countryside and, if not, whether there is any justification for an exception to this policy.
2. Policy H3 of the Highland Structure Plan 2001 (HSP) allows housing in the countryside of an appropriate location, scale, design and materials. In crofting townships, new housing requires to respect the existing pattern of development. Policy G2 of the HSP indicates that proposed developments will be assessed, amongst other things, on the extent to which they are compatible with service provision (including roads), they demonstrate sensitive siting and high quality design in keeping with local character, they impact on residential amenity and they are at significant risk of flooding. The adopted local plan, the Tongue and Farr Local Plan 1995 (TFLP), designates the area between Lower Talmine and Talmine as 'fragile countryside' where new housing is encouraged except where there are severe road safety, servicing, heritage or amenity constraints.
3. In this case, the council identifies the lack of visibility at the proposed access to the site, adjacent to the existing house, as a severe road safety constraint. Based on the



evidence and my site inspection, I have to say that I am not convinced of this. The public road, from which access is to be gained, is a very quiet road (the only vehicle I observed during my site inspection which lasted close on half an hour, apart from my own and that driven by the council's planning officer, was the coal lorry). Also, due to the nature of the road, traffic speeds are likely to be low. Whilst visibility to the north of the proposed access is restricted by the stone dyke around the front of the existing property, this dyke is only one metre high and many of on-coming vehicles would be visible over it. Also, moving the access to the southern boundary of the plot and taking down the stone dyke would allow a much larger visibility splay.

4. There would appear to be no insurmountable service constraints and there is no evidence of any heritage constraints. As regards the risk of flooding referred to by the Roads Service, this issue would seem to have been resolved. There is no suggestion from the council that the proposed house does not respect the existing pattern of development. The outstanding issue is therefore related to the location and siting of the proposed house and the likely effect on residential amenity. Although the council's decision notice refers to the proposal constituting backland development to the detriment of residential amenity, the site of the proposed house lies to the side of the existing dwellinghouse and I consider that a house could be sited on this site without having a significantly detrimental impact on the amenities of the existing house in terms of overshadowing, overlooking and effect on privacy. The precise siting and design of any proposed house would be a matter to be considered in any future planning application.

5. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires me to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. For the reasons stated in paragraphs 3 and 4 above, I find that approval of the proposal would be consistent with the provisions of the development plan. As regards other material considerations, I note that in the emerging replacement local plan, the Deposit Draft Sutherland Local Plan 2007 (DDSLP), the site lies within the Meiness Settlement development Area, a preferred area for development. The proposed house would be consistent with the relevant policy (Policy 1) of the DDSLP.

6. Reference is made by the council to the issue of precedent. For my part I am satisfied that each application should be considered on its own merits, against the relevant provisions of the development plan and taking account of all other material considerations. That is the approach I have taken in this instance. I have considered all the other matters raised but find that, in this instance, there are no other material considerations to merit a refusal of planning permission.

DOUGLAS G HOPE
Reporter



Conditions:

1. Before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any buildings, the means of access and the landscaping (collectively these are termed "reserved matters").
2. Plans and particulars of the reserved matters referred to in condition 1 above shall be submitted for consideration by the planning authority and no work shall begin until the written approval of the authority has been given. The plans of the siting of the proposed house shall be accompanied by cross sections and levels showing the finished floor level in relation to an agreed and fixed datum.
3. Application for the approval of the above reserved matters shall be made to the planning authority within 3 years from the date of this notice.
4. The development hereby permitted shall commence within 5 years from the date of this notice, or within 2 years from the date of approval by the planning authority of the last of the reserved matters to be approved.
5. The proposed house shall be single or one-and-a-half storey only, and shall reflect the building styles and materials traditional to the area. The form and massing of the building shall reflect that of the adjacent cottages to the north. The roof, which shall be finished in natural slate, shall have a minimum pitch of 40°.
6. Details of the landscaping works to be submitted in accordance with condition 1 shall include a scheme of maintenance. The agreed landscaping works shall be carried out in accordance with the details approved in writing by the planning authority during the first planting season following the completion of the proposed house and shall be maintained thereafter in accordance with the approved scheme of maintenance.
7. The proposed house shall not be occupied until the drainage arrangements have been completed in accordance with the submitted plans to the satisfaction of the planning authority, in consultation with SEPA, the water authority and the building standards authority.

Reasons:

- 1 & 2. The application is for outline planning permission only.
- 3 & 4. To comply with section 59 of the act.
- 5 & 6. To ensure that the proposed house maintains the visual quality of the area.
7. To protect the amenity of the area.