

Appeal Decision Notice

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Decision by Richard E Bowden, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2033
- Site address: Land 100 metres North-West of Greenacres Portmahomack, Tain IV20 1RD
- Appeal by Allan Summers against the decision by The Highland Council to grant planning permission reference 10/01448/MSC dated 7 June 2010 subject to conditions.
- The development proposed: Erection of house and improvement of existing access
- The appeal is against is against condition 8: “The external materials of the house shall be a natural slate roof and a wet harl wall finish. For the avoidance of doubt, the developer shall confirm in writing the colour of the wet harl wall finish for the approval of the Planning Authority prior to the commencement of development.
(Reason: in the interests of residential amenity and for the avoidance of doubt.)”
- Date of site visit by Reporter: 18 August 2010

Date of appeal decision: 1 September 2010

Decision

I allow the appeal and vary the terms of the planning permission 10/01448/MSC by deleting condition (8) and substituting in its place the following condition: “The external materials of the house shall be smooth grey concrete roof tiles and a white harling wall finish, or as may otherwise be agreed in writing with the Planning Authority prior to commencement of the development.”

Reason: to ensure that the development safeguards the residential amenity of the area. For the avoidance of doubt, the other conditions previously imposed on the permission remain in place and unaltered.

Reasoning

1. The determining issue in this appeal is whether condition 8 meets the six tests in Circular 4/1998: - *The Use of Conditions in Planning Permissions*. No development plan policies of relevance to the appeal have been drawn to my attention.
2. The appellant states that, following the grant of outline planning permission for the proposed development in May 2009, the type of roof material to be used was agreed in consultation with the planning authority, after exploring a range of suitable alternatives. This process led to the selection a concrete roof tile “of slate-like appearance”, after an

evaluation based on a number of criteria, including durability and appearance, as well as concerns about the availability, cost and time for installation of suitable natural slate.

3. The appellant also states that his preferred choice of painted dry dash roughcast wall finish was similarly agreed with and supported by the council throughout the planning process. It is contended by the appellant that this gives the same aesthetic benefit as a wet harl system but in a manner more readily achievable in the local context.

4. Drawing these matters together, I note that the statement made by the appellant - to the effect that the choice of roof and wall materials and finishes put forward in application 10/01448/MSA accord with the advice and recommendation of the council officials at the time - has not been challenged by the council. I also note that these agreed matters relating to materials and finishes were reflected in the wording of the planning officer's report to the council – when recommending approval of the scheme proposed by the appellant.

5. In this context, I now turn to consider whether the terms of condition 8 in the decision notice issued by the council meet all 6 tests of Circular 4/1998. The two tests of that circular which are at issue in this case are whether the precise terms of condition 8 set out in the decision notice are necessary to make the proposed house acceptable and whether those terms are reasonable. Following my inspection of the appeal site and the surrounding area, I am persuaded by the case put forward by the appellant, as summarised above, that his preferred choice of roof tiles and wall treatment, chosen in close consultation with council officials, would ensure that the amenity of the area was safeguarded. Whilst there are some individual examples of older houses in the surrounding area with natural slate roofs almost none of these have wet harl walls and the majority of properties in the locality are more modern houses with a wide range of roof and wall finishes. Indeed, very few existing houses in the area combine a natural slate roof with a wet harl wall finish. Furthermore, the nearest houses to the appeal site do not match the requirements now being imposed by the council in condition 8.

6. In summary, I conclude that, in the terms of Circular 4/1998, it is neither necessary nor reasonable for the council to insist on the more onerous and unduly restrictive requirements regarding roof and wall materials and finishes specified in condition 8 of the decision notice issued. Nevertheless, it is necessary and appropriate to attach a planning condition to ensure that the roof and wall materials and associated finishes of the proposed new house would safeguard the amenity of the area concerned. The version of condition 8 put forward in the planning officer's report to committee on 1 June 2010 – when recommending approval of the matters specified in the conditions of the planning permission in principle 09/00042/OUTSU – meets all the 6 tests of Circular 4/1998. Accordingly, I conclude that this should replace the condition 8 set out in the decision notice issued by the council.

This is a true and certified copy as issued to parties on 1 September 2010

RICHARD E BOWDEN
Reporter