

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
24 June 2014

Agenda Item	5.1
Report No	PLS/046/14

13/01279/PIP: Jake Mitchell
Land 361m NW of Wester Hardmuir, Nairn

Report by Area Planning Manager - South

SUMMARY

Description : Erection of house

Recommendation - GRANT

Ward : 19 (Nairn)

Development category : Local

Pre-determination hearing : Not required

Reason referred to Committee: Additional material information since Committee determination.

1. BACKGROUND

- 1.1 This application was first considered by Committee at the meeting held on 25 June 2013 and continued for the submission of an independent Operational Needs Assessment. Consideration was resumed at the meeting held on 26 November 2013, at which time Members agreed to grant planning permission in principle subject to the prior conclusion of a Section 75 agreement to tie the house plot to the rest of the farm and farm shop business. A further report was placed on the agenda for the meeting of 8 April 2014 but Members agreed to defer the item to allow further investigation of the claim that a mortgage could not be readily obtained for a self-build house if a Section 75 agreement was entered into in the terms described in the report to Committee in April, and to allow consideration of the wider policy implications of this position. In particular, the applicant stated that the burden proposed was "unacceptable" and reported advice from a farming mortgage specialist that such agreements drastically reduce the number of lenders available. A further issue for him is that the two lenders which Legal Services suggested that the applicant should contact would not provide mortgages for self-build projects, which is the applicant's intended building process.

2. UPDATE

- 2.1 From discussion with other planning authorities, in particular Argyll & Bute Council, it is apparent that current market conditions are making it difficult for customers to obtain a self-build mortgage where an occupancy restriction is imposed, whether by way of condition or section 75 agreement.
- 2.2 The Highland Council Supplementary Guidance on Housing in the Countryside and Siting and Design requires that where a house is justified in the Hinterland Area as an exception on agricultural operational need or in association with an existing or new rural business, a section 75 agreement will be used to tie the house to the operational land holding or the rural business respectively. The Council has taken a consistent approach to occupancy restrictions on this basis since the Supplementary Guidance was first introduced in 2009. No particular issues have been reported with the availability of self-build mortgages until recently. We now have two cases where this is an issue – the outstanding application at Wester Hardmuir and another application on the Black Isle.
- 2.3 This matter warrants further investigation to establish the reasons for the shift in availability of funding from the banks and other lending agencies which appears to relate solely to self-build mortgages. We are to take a joint approach with Argyll & Bute, and other large rural planning authorities, in making an approach to the Council of Mortgage Lenders to clarify the reasons for and extent of the problem, and to seek solutions that are acceptable both to planning authorities and the lenders. We will be seeking to secure a proportionate and fair approach that supports genuine occupational needs in the countryside.
- 2.4 Clearly, the outcome may well have implications for the Council's policy on housing within the hinterland. In particular, if the use of section 75 agreements is no longer considered appropriate then much more rigorous scrutiny of the justification for a house may be required where exceptional circumstances are being cited.

3. CURRENT OUTSTANDING PLANNING APPLICATIONS

- 3.1 The review will take some time to complete and if there are implications for development plan policy then the matter may require to be considered by the Planning, Development & Infrastructure Committee.
- 3.2 In the meantime, with respect to the planning application at Wester Hardmuir, Committee has already accepted the principle of a house at this location, and the operational need for that house, at previous meetings. In the circumstances, it would be unreasonable to expect the applicant to await the Council's review of practice and policy on this matter.
- 3.3 Accordingly, it is recommended that the application be granted subject to the conditions listed below, without restriction on occupancy.

- 3.4 The recommended action in this case – which will also be applied to the application in Ross and Cromarty – should not be seen as setting a general precedent for other planning applications. It reflects the particular circumstances of these two cases only.

4. RECOMMENDATION

Action required before decision issued No

Notification to Scottish Ministers No

Notification to Historic Scotland No

Conclusion of Section 75 Agreement No

Revocation of previous permission No

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons:

1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:
 - i. a detailed layout of the site of the proposed development (including site levels as existing and proposed);
 - ii. the design and external appearance of the proposed development;
 - iii. landscaping proposals for the site of the proposed development (including boundary treatments);
 - iv. details of access and parking arrangements; and
 - v. details of the proposed water supply and drainage arrangements.

Reason : Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

2. No development shall commence on the application site until the junction of the access road leading to the site with the A96 Trunk Road has been constructed to the geometric and constructional standards specified in Transport Scotland's consultation response dated 9 May 2013, and the visibility splays and bollards specified therein provided in full.

Reason : To maintain safety for Trunk Road users and for traffic moving to and from the development.

REASON FOR DECISION

Given the uncertainty about the availability of mortgages for self-build houses in the circumstances, it is considered that the proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i. The expiration of THREE YEARS from the date on this decision notice;
- ii. The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained)., whichever is the later. If development has not commenced within this period, then this planning permission in principle shall lapse.

FOOTNOTE TO APPLICANT

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Trunk Roads Authority Consent

You are informed that this consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland. Please contact the Route Manager via 0141 272 7100 to obtain permission. The Operating Company have responsibility for co-ordination and supervision of works and after permission has been granted it is the developer's contractor's responsibility to liaise with the Operating Company during the construction period to ensure that all necessary permissions are obtained.

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Signature: Allan J Todd
Designation: Area Planning Manager - South
Author: Allan J Todd
Background Papers: Documents referred to in report and in case file.
Minutes of South PAC meetings 25/6/13, 26/11/13 and 8/04/14.

Proposed new dwelling on land 350m west of Wester Hardmuir

Plan Scale 1:2500

