

**THE HIGHLAND COUNCIL**

**SOUTH PLANNING APPLICATIONS COMMITTEE  
18 August 2015**

Agenda Item	6.3
Report No	PLS/060/15

**15/02101/FUL: Ian Boyd  
Mori-En, Seafield Avenue, Grantown on Spey**

**Report by Area Planning Manager - South**

**SUMMARY**

**Description:** Change of use from residential to holiday let

**Recommendation - GRANT**

**Ward :** 21 Badenoch and Strathspey

**Development category :** Local

**Pre-determination hearing :** Not required

**Reason referred to Committee :** More than 4 objections.

**1. PROPOSED DEVELOPMENT**

- 1.1 The application seeks change of use from residential to holiday let.
- 1.2 The application arises from advice given to the applicant, following investigation of a complaint, that the use to which the property is being put (holiday lets for up to 14 occupiers) was materially different from use as a house as defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, and would require planning permission.
- 1.3 The site takes access from Seafield Avenue by a common driveway serving the property and three other conjoined houses and has a public water supply and connection to mains drainage.
- 1.4 No supporting documents submitted.
- 1.5 **Variations:** No variations have been made to the application since it was lodged.

## 2. SITE DESCRIPTION

- 2.1 The house is a large modern 1¾ storey villa with a rear annexe containing a swimming pool, joined at the rear to a range of buildings containing 2 other houses and garages, stores, office space and private art gallery, this last adjacent to a Victorian stone and slate villa. These all stand in the north-eastern end of extensive landscaped grounds running back from the Seafield Avenue frontage to and in part across the Kylintra Burn. Surrounding properties are now entirely residential although the 3 storey building to the west was converted to flats from an hotel. The near side of the Avenue is characterised by Victorian villas set in mature landscaped grounds although over time some of these have been developed with infill housing, and the whole property is surrounded by extensive areas of modern housing development. Only a part of the grounds is included in the application site boundary.

## 3. PLANNING HISTORY

- 3.1 Planning applications/permissions relating to the building only are:  
BS/90/325 erection of 2 houses and swimming pool planning permission granted 27/9/90  
BS/91/21 erection of 2 houses and swimming pool (amended siting and design) planning permission granted 27/9/90  
BS/94/315 conservatory extension planning permission granted 15/11/94

The property as a whole has a history of permissions, withdrawn applications and refusals relating to the other existing buildings and the grounds. These are not listed individually but briefly, existing garage buildings were linked, altered and extended in the 1990s, partly on land acquired from the former Spey Valley Hotel (now Gordon Hall flats), to provide a gallery/meeting room for the then owners' art collection and office/workspace; an integral garage was converted to a caretaker's flat in 1998; the grounds were extended across the Kylintra Burn into open space forming part of a nearby housing development in the late 1990s and permission granted for an ornamental bridge over the burn; a number of applications to develop flats in the grounds between 2002 and 2006 were refused or withdrawn; and following a subsequent change in ownership, an application to change the use of the gallery and owner's office/workspace to a general office use was made in 2010 but withdrawn.

## 4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown neighbour. Expiry date: 25/6/15  
Representation deadline : 25/6/15  
Timeous representations : 12 timeous objections from 10 households and 16 timeous supporting comments from 16 households  
Late representations : 0
- 4.2 Material considerations raised are summarised as follows:  
*Objections:*
- Inappropriate use for residential area
  - Loss of amenity through noise

- Loss of privacy
- Inadequate parking
- Risk of on-street parking affecting road safety and convenience of road users
- Traffic impact assessment should have been required
- Impact on water supplies and waste water of increased demand
- Inaccurate/incomplete information submitted
- Possible harm to natural heritage

*Support:*

- Beneficial to local economy
- Well located for foot access to local facilities
- Well managed to deal with possible sources of disturbance
- Traffic impact limited in context of other uses served by Seafield Avenue

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam). Access to computers can be made available via Planning and Development Service offices.

## 5. CONSULTATIONS

5.1 **Cairngorms National Park Authority:** No objection

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

### 6.1 Cairngorms National Park Local Development Plan 2015

2 Supporting Economic Growth

3 Sustainable Design

4 Natural Heritage

## 7. OTHER MATERIAL CONSIDERATIONS

### 7.1 Draft Development Plan

Not applicable

### 7.2 Local Development Plan Supplementary Planning Policy Guidance

Supporting Economic Growth

Sustainable Design

Natural Heritage

### 7.3 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (SPP)

## **8. PLANNING APPRAISAL**

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

### 8.3 **Development Plan Policy Assessment**

CNPLDP Policy 2 states that development which enhances tourism and leisure based business activities and related infrastructure including accommodation will be supported where it has no adverse environmental impacts on the site or neighbouring areas, makes a positive contribution to visitor experience and adds to or extends the core tourist season. It also states that proposals which support the economy will be considered favourably where they are compatible/complementary with existing business activity in the area and support the vitality and viability of the local economy.

CNPLDP Policy 3 states that development proposals must demonstrate how they (inter alia) promote sustainable transport methods; protect the amenity enjoyed by neighbours (including minimisation of disturbance caused by access to the site); and include appropriate means of access, egress and space for off street parking.

CNPLDP Policy 4 states that development which would have an adverse effect on European Protected Species will not be permitted unless there are overriding public interest reasons and there is no satisfactory alternative solution. Development must not be detrimental to maintenance of favourable conservation status of the species involved.

The determining issues in terms of compliance with the LDP are therefore whether the use can continue without such harm to residential amenity, traffic safety and natural heritage interests as would outweigh its tourism and economic development benefits.

### 8.4 **Material Considerations**

The proposed use is a small but growing sector of the tourist accommodation market. While there is no similar use in Seafield Avenue, the principle of tourist accommodation or other commercial uses is not in principle incompatible with an area of residential character. There have at one time been two hotels in Seafield Avenue (one next door to the site). Holiday lets of this kind do differ in one significant respect from most other types of small to medium sized tourist accommodation, though, in that there is usually no on-site resident supervisor or

manager. Unless effective management arrangements are in place there is the potential for the use to have an adverse impact on the residential amenity of neighbours. As with a recent case in Duthil, therefore, in the event that Members are minded to grant planning permission it is recommended that a condition is imposed requiring the owner to submit a management plan for the development, demonstrating steps to be taken to minimise any adverse impacts on the neighbours in the locality. In response to concerns about the extent of the area of the property available for outdoor recreational use by residents, and the consequences for the application site boundary, neighbour notification and disturbance, the applicant has responded verbally to say that the area to the west could be fenced off so as to prevent use by occupiers of the property. A condition to that effect would be recommended.

Members will note references to two other houses in the grounds and to their availability for letting with the application property. However as these other two properties are incapable of accommodating more than 5 persons each and they can be tenanted independently of the application house their use remains within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended. These have, however, been taken into account in coming to the conclusion that car parking is not an issue of concern. There are several parking spaces already available in the courtyard area enclosed by the buildings and these facilities could be extended if required without undue harm to the landscaped setting of the buildings. While no Traffic Impact Assessment has been submitted or requested, a Transport Assessment submitted with an application for a residential care home development elsewhere in Seafield Avenue (called in and granted permission by CNPA) concluded that *“a review of the surrounding road network and operation of key local junctions has indicated that background traffic is low and there (are) no current capacity issues within the town centre”*. It is considered therefore that there are no traffic or parking issues which would justify refusal.

Points raised in relation to natural heritage are a dead squirrel in Seafield Avenue; loss of trees; and unspecified risks arising from future management of the site. The first can not be specifically attributed to this use. There is no tree preservation order on the property. The third is purely speculative. The development cannot therefore be said to be contrary to CNPLDP 4.

The refuse containers are well screened and situated in a location convenient for uplift.

At the time that the house and swimming pool were built, water and sewerage was a Council responsibility. The potential occupancy of the building (based on the number of bedrooms), and the use of water by the swimming pool would have been taken into account by the Water and Sewerage Department, which did not object. While a commercial use may put more pressure on these services than a purely private domestic use, water and waste water treatment facilities serving the town have, since 1990, been upgraded in anticipation of levels of future development of the town as set out in the Badenoch and Strathspey Local Plan which are now unlikely ever to happen.

## 8.5 Other Considerations – not material

Discrepancies and minor errors in the names and/or spellings of the property's address are not material.

Enforcement of the bye-law prohibiting outdoor consumption of alcohol is not a matter for the Planning Authority.

The unauthorised use of the property as a holiday let is not a valid reason to refuse permission.

## 8.6 Matters to be secured by Section 75 Agreement

None

## 9. CONCLUSION

9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

## 10. RECOMMENDATION

<b>Action required before decision issued</b>	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. Within 3 months of the date of this planning permission an operational management plan (OMP) for the development shall be submitted to the Planning Authority. The submitted plan shall detail all reasonable measures to be taken by the owner/operator to mitigate the potential for noise disturbance to neighbouring properties and shall in particular include provision for the following:
  - i. Prevention of access to areas of the property west of the application site by occupiers of the application site and adjoining houses available for holiday let with the building subject of this application;
  - ii. Full details of any external lighting to be used within the site and/or along its boundaries and/or access;
  - iii. Booking arrangements designed to eliminate bookings by groups with the potential to cause undue noise and disturbance, and including bond

arrangements incentivising good neighbourly behaviour;  
in accordance with best practice as approved by the Highland Council in similar developments. Following approval of an OMP, the development shall be at all times operated in accordance with the approved OMP.

**Reason :** In order to ensure that the use of the building is compatible with the surrounding residential uses, in the interests of amenity.

## **REASON FOR DECISION**

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 accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

## **FOOTNOTE TO APPLICANT**

### **Initiation and Completion Notices**

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

### **Accordance with Approved Plans & Conditions**

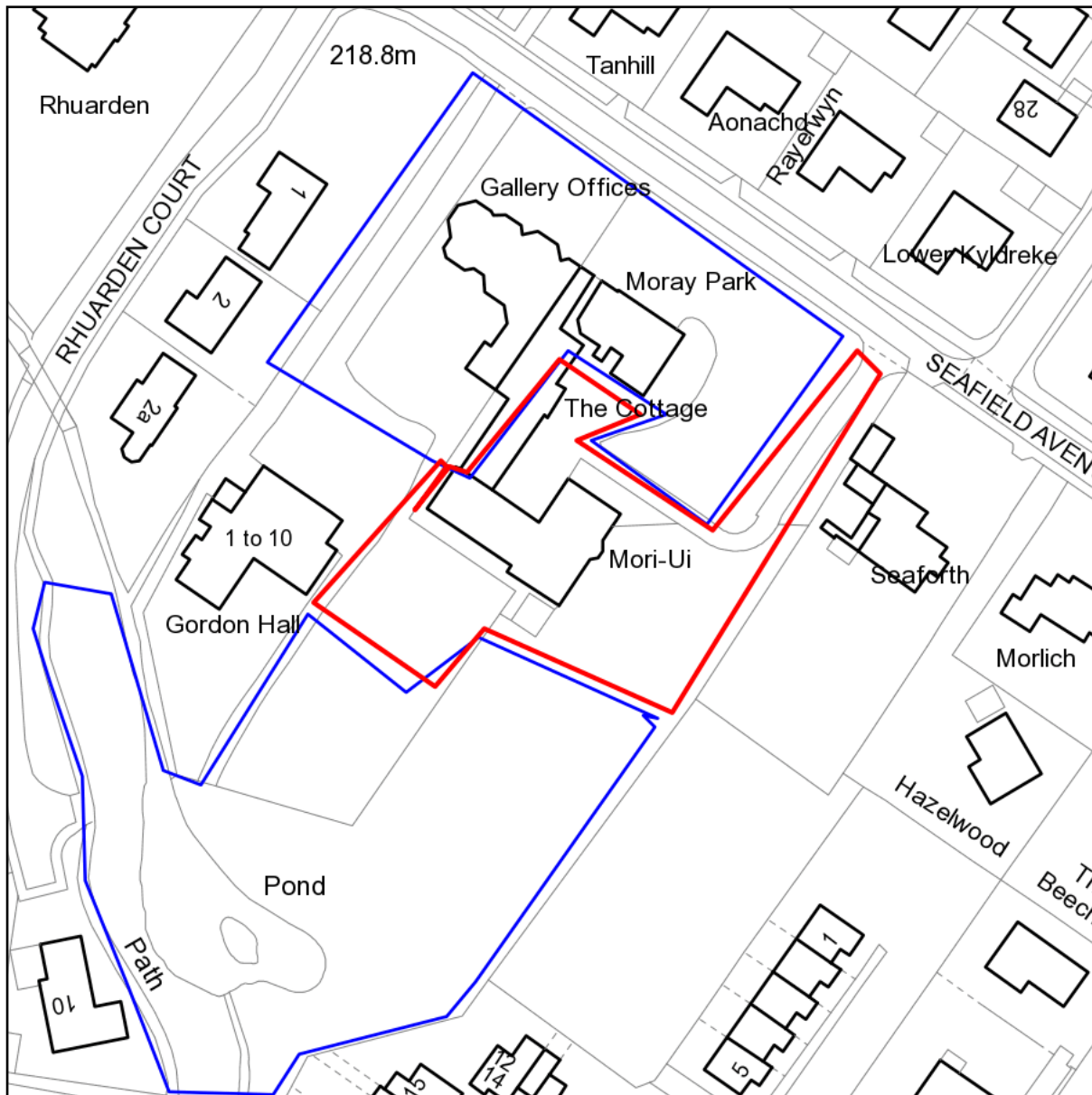
You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building 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.

Signature: Allan J Todd  
Designation: Area Planning Manager - South  
Author: Andrew McCracken  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan



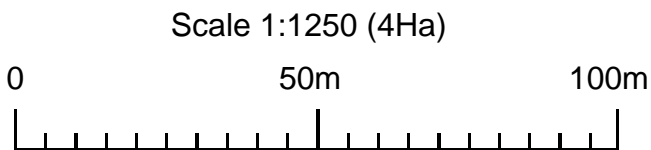
MORI-EN, SEAFIELD AVENUE, GRANTOWN-ON-SPEY, PH26 3JF



	Application Boundary
	Land in Ownership

Information

Online Ref: 000121414
Date: 27/5/2015



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