

## Appeal Decision Notice

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Decision by Christopher Warren, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2132
- Site address: Land 130 metres northeast of Achdalea, Ardgour
- Appeal by Mr Calum Boyd against the decision by The Highland Council
- Application for planning permission 14/04241/FUL dated 09 November 2014 refused by notice dated 27 May 2015
- The development proposed: proposed dwelling house
- Date of site visit by Reporter: 17 September 2015

Date of appeal decision: 9 October 2015

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### Decision

I dismiss the appeal and refuse planning permission.

### Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. Having regard to the provisions of the development plan, and the representations made by the community council and a third party, the main issues in this appeal are (1) whether the location of the proposed dwellinghouse is acceptable in principle, in terms of both its countryside location and its positioning within inventoried woodland, and (2) whether the specific positioning of the proposed dwellinghouse would be unsympathetic to the existing development pattern.

#### *The principle of development in the countryside*

3. The adopted Highland-wide Local Development Plan (2012) contains various policies to identify the types of development which are acceptable in principle in different locations. The appeal site falls within an area classed by the local development plan as 'wider countryside'. Policy 36 sets out the approach for assessing the acceptability of development in such locations. It is a permissive rather than proactive policy, enabling proposals to be supported if they would not be significantly detrimental, which is judged against a range of what are essentially siting and design criteria.
4. Supplementary guidance accompanies this policy in relation to housing development. This primarily concentrates on detailed siting and design considerations

rather than whether or not the development should be allowed in the wider countryside as a matter of principle. I shall therefore consider the requirements and advice of the supplementary guidance in my later assessment of the positioning of the proposed dwellinghouse.

5. The thrust of Policy 36 is such that it is implicit that there is not an embargo on development in the wider countryside. Furthermore, there are no other policies which suggest that development proposals should be ruled out as a matter of absolute principle in what the development plan defines as a wider countryside location. In this regard, the general location of the proposal in Glen Tarbert accords with the provisions of the development plan.

6. Scottish Planning Policy (SPP) reflects Scottish Ministers' priorities for the development and use of land. SPP is a material consideration to which I attach significant weight. Paragraph 83 of SPP allows, where appropriate, for the construction of single houses in remote rural areas outwith settlements, in recognition that new development can often help to sustain fragile communities. The basic principle of development in a remote rural location is therefore accepted by SPP, subject to a full assessment of the appropriateness and merits of the specific proposal.

*The principle of locating development within inventoried woodland*

7. The appeal site falls entirely within established woodland. The site itself is currently largely native, riparian woodland, whilst that immediately to the east (on the opposite side of the track) predominantly consists of conifers planted for commercial purposes. The woodland nevertheless has the appearance of a single coherent plantation, the entirety of which is within the same ownership as the appeal site.

8. The riparian woodland strip (including the appeal site) and a part of the coniferous plantation appears on the Ancient Woodland Inventory (AWI). In Scotland, ancient woodland is defined as land that is currently wooded and has been continually wooded, at least since 1750. The burn provides a clear boundary to the west and northwest but otherwise the area of woodland identified by the AWI is indistinguishable within what is now a more extensive plantation. The AWI identifies the woodland as 'other woodlands on 'Roy' woodland sites', and explains that such sites have, at most, had only a short break in continuity of woodland cover since 1750 and may still retain features of ancient woodland.

9. Local development plan policy 51 promotes the protection of trees and woodland, and seeks compensatory planting where development results in their loss. Policy 52 meanwhile specifically addresses the principle of development in woodland. Policy 57 recognises the importance of natural, built and cultural heritage assets. Inventoried woodland is listed within associated supplementary guidance (which supports all of the aforementioned policies) as a heritage feature of local / regional importance, and the policy allows development if it can be demonstrated there will not be an unacceptable impact on the resource.

10. Policy 52 is of particular relevance in the determination of this proposal. It makes clear that there is a strong presumption in favour of protecting woodland resources, and that developments will only be supported where they offer clear and significant public

benefit, amongst other requirements. The policy explicitly states that there will be a stronger presumption against development where it affects inventoried woodland. The policy also states that all proposals will be assessed against conformity with the Scottish Government's policy entitled 'Control of Woodland Removal', and policy 52 is consistent with its provisions.

11. Likewise, SPP paragraph 218 refers to the Control of Woodland Removal policy and its presumption in favour of protecting woodland. It also reiterates that removal should only be permitted where it would achieve significant and clearly defined public benefits. Compensatory planting is also generally expected where woodland would be removed as part of a development proposal.

12. It is clear that the proposed development does result in conflict with both the development plan and national policies. The proposal would lead to the loss of an area of inventoried woodland for which there is a strong policy presumption against. The appeal site falls within the narrow riparian strip which has evidently been subject to far less disturbance than those areas which are now part of the commercial coniferous plantation. As such, and in the absence of any evidence being submitted to the contrary, I consider there to be a high likelihood of this area retaining features and characteristics of ancient woodland.

13. I sought further information from the appellant on the scope and requirements of the felling licence referred to in both the planning officer's committee report and the appellant's submissions. The appellant subsequently confirmed that the felling licence had now lapsed, but also that it related only to the coniferous woodland immediately to the east of the appeal site. Therefore the only apparent recent or current threat to the riparian woodland has been from this development proposal. This substantially increases the weight which I attribute to the importance of safeguarding the inventoried woodland and to the adverse impact this development would have upon it.

14. Also within the appellant's submissions and the planning officer's committee report are references to the modest area of woodland being lost. Whilst I accept that the appeal site would affect a relatively small part of the overall area of woodland I attach limited weight to this consideration. This is because policy 52 sets out the same requirements for all developments affecting woodland, regardless of the extent of resultant woodland loss.

15. All proposals that result in the loss of woodland must be justified by clear and significant public benefits. The appellant has stated that the proposed dwelling would facilitate the intensive management and restructuring of the woodland which would only be economically achievable by being located on-site, but I do not accept the appellant's own financial considerations to be adequate justification for a dwelling. The appellant has also referred to the potential for increasing public recreational access and educational opportunities within the woodland, as a result of the development. In the absence of any specific proposals I am unable to establish whether these would be of sufficient net benefit to justify a loss of inventoried woodland.

16. Policy 52 and its associated supplementary guidance, SPP and the Control of Woodland Removal policy all state that compensatory planting should be expected where loss of woodland is proposed. Policy does not however allow for compensatory planting

alone to justify the loss of woodland, and I therefore consider it as a mitigation measure that would be essential in addition to demonstrable net public benefits. It is also relevant to note that it would be impossible to provide 'like for like' compensatory planting where ancient woodland is being lost. As this proposal has failed to provide the necessary public benefits to justify the granting of planning permission, I have not given detailed consideration to the adequacy of the augmented planting suggested by the appellant.

17. In summary, I find the proposal to be contrary to the provisions of both the development plan (policy 52 in particular) and national policy as a result of the proposed loss of inventoried woodland without justification in terms of clear and significant net public benefits arising from the development.

### *Positioning*

18. Policy 36 of the local development plan sets out a range of considerations for development in wider countryside to be assessed against. Those of greatest relevance to this appeal require proposals to be assessed in relation to their siting, design, existing patterns of development, landscape character and capacity and infrastructure requirements. The associated adopted supplementary guidance provides extensive, detailed information and guidance on effective siting and design.

19. During my site inspection I observed a range of sporadic developments which were generally oriented around the head of Loch Sunart. The proposed development would reflect this development pattern and it would relate particularly well to the currently derelict property known as 'Achnalea'. Due to the local topography I found that the location of the appeal site avoided any perceived encroachment into the area of Glen Tarbert further to the east which possesses a more remote and wilder, undeveloped character. As such, I found the development's positioning to be acceptable and in accordance with policy 36 and the associated supplementary guidance.

### *Other matters*

20. I have noted the provisions of local development plan policies 28 (Sustainable Design) and 29 (Design Quality and Place-Making) and I do not find any areas of conflict with these policies. It is also clear that the initial objections made by the Scottish Environment Protection Agency (SEPA) and the council's own Flood Risk Management Team in relation to flood risk concerns have been overcome during the application process, and requirements could be handled adequately through the use of conditions. In terms of vehicular access, the existing track benefits from good visibility for egress onto the road, and details relating to road safety requirements could also be dealt with using conditions.

### *Conclusions*

21. A significant and ultimately determining factor in this appeal is the inevitable loss of inventoried woodland. In the absence of any clearly defined and significant public benefits to outweigh this loss, the development is in direct conflict with the provisions of the adopted local development plan policies 51 and 52 and their associated supplementary guidance, together with guidance published by Scottish Ministers. In other respects the proposal satisfies development plan policy criteria relating to location, siting and design, and I

consider that this development would make a modest positive contribution to sustaining the local community and its services. I find that none of these considerations address or outweigh the strong presumption against the loss of inventoried woodland and the associated policy requirements to justify such a loss. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission.

*Christopher Warren*

Reporter

