

Planning and Environmental Appeals Division

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Ms K Lyons
Highland Council
Sent By E-mail

Our ref: PPA-270-2145

7 March 2016

Dear Ms Lyons

PLANNING PERMISSION APPEAL: DOUGLAS ROW, FORMER MACE SHOP STATION ROAD KYLE IV40 8AE

Please find attached a copy of the decision on this appeal.

The reporter's decision is final. However you may wish to know that individuals unhappy with the decision made by the reporter may have the right to appeal to the Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ. An appeal **must** be made within six weeks of the date of the appeal decision. Please note though, that an appeal to the Court of Session can only be made on a point of law and it may be useful to seek professional advice before taking this course of action. For more information on challenging decisions made by DPEA please see <http://www.gov.scot/Topics/Built-Environment/planning/Appeals/ourperformance/commentsandcomplaints>.

I trust this information is clear. Please do not hesitate to contact me if you require any further information.

Yours sincerely

Jane Robertson

JANE ROBERTSON
Case Officer
Planning and Environmental Appeals Division



Appeal Decision Notice

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Decision by Frances M McChlery, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2145
- Site addresses: land at Douglas Row, and Former 'Mace' Shop, Station Road, Kyle of Lochalsh, IV40 8AE
- Appeal by Compass Building & Construction Ltd against the decision by The Highland Council
- Application for planning permission (council reference 15/02637/FUL) dated 3 July 2015 refused by notice dated 3 November 2015
- The development proposed: demolition of retail unit and erection of flatted development (comprising 12 flats) with 3 retail units to ground floor and formation of additional parking accessed via Douglas Row
- Application drawings listed in schedule at end of notice
- Date of site visit by Reporter: 9 and 10 February 2016

Date of appeal decision: 7 March 2016

Decision

I allow the appeal and grant planning permission subject to the conditions listed at the end of the decision notice. Attention is drawn to the advisory notes also at the end of the notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are

- the acceptability of the proposed design
- the effect of the proposed building on neighbouring properties,
- the adequacy of parking provision, and
- the potential of the development to cause or exacerbate traffic congestion.

2. The proposal concerns two sites in Kyle of Lochalsh. The main proposal is for a block of 12 flats, with 3 retail units on the ground floor, and 2 residential storeys above, on a site on the corner of Main Street and Station Road (which is also the A87 trunk road). This site is currently partly cleared and partly occupied by a now disused single storey general store on the corner.

3. The other site is the existing council-run car park off Douglas Row about 125 metres to the north of the housing site along and across Main Street, and near the leisure centre. The

car park is also accessible for pedestrians to and from Main Street via flight of steps. The appeal proposals include the reconfiguration of this car park to accommodate 12 additional parking spaces.

4. The housing site occupies a prominent corner location within the traditional centre of Kyle. For a road user approaching from the west and the Skye Bridge, the site is the first visual encounter with the core of the village. For the pedestrian the site is effectively in the middle of the shopping area, which includes the shops on Main Street to the north of the site, a row of shops and facilities to the east on Station Road, and shops, health services, and other facilities such as the slipway, the bus turning area and the tourist information centre to the south of the site.

5. The appeal proposal was the subject of a report to the council's North Area Planning Applications Committee dated 27 October 2015 which recommended grant of permission subject to conditions. The committee decided to refuse permission, their reason being
"The scale and massing of the building represents overdevelopment of the site contrary to policies 28 and 29 of the Highland Wide Local Development Plan 2012 and will have an adverse impact on adjoining properties."

The development plan

6. The statutory development plan is the adopted Highland-wide Local Development Plan (HWLDP), but this must be read with the retained elements of the previous local plan, which is the West Highlands and Islands Local Plan (WHILP) This was among a number of development plans which were retained in force by The Town and Country Planning (Continuation in force of Local Plans)(Highland) (Scotland) Order 2012. The retained elements include site allocations, and settlement development areas, and some other policies.

7. Kyle of Lochalsh is variously identified as a 'local centre', or an 'area centre' in the settlement hierarchy of the WHILP. It is also identified as a 'large life line village' in the spatial strategy of the HWLDP. The implications of this standing are that certain development is generally supported in such settlements in the policy framework of both plans. This is both to support the sustainability of the settlements themselves, and because of their role as a focus for sustainable transport links, locally accessible services and economic development.

8. The main appeal site is allocated for development in the WHILP as site MU2. This identifies acceptable uses for the site as affordable housing, business and retail, with an indicative capacity of 6 units. Mention is made of the need for an off-site parking contribution, and that high design quality is required for the site, given its prominence.

9. The HWLDP vision statement spatial strategy includes the objectives of increasing the population of the Highlands to achieve a balanced age range; providing opportunities for market housing and affordable housing both within settlements and within the Highland countryside; and supporting developments which cater for Highland's ageing population.

10. The relevant HWLDP policies include Policy 34: 'Settlement Development Areas', which supports development within settlements subject to the considerations of Policy 28,

discussed below. Policy 32: 'Affordable Housing' requires all proposals of four or more housing units to include no less than 25% affordable housing. Policy 28 'Sustainable Design', and Policy 29 'Design Quality and Place-making' are linked with the council's supplementary guidance document called the 'Sustainable Design Guide', and prescribe the policy tests for acceptable development.

11. Policy 28 contains positive support for developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland. The relevant considerations in the policy say that all proposals will be assessed on the extent to which they:

- are compatible with public service provision (water and sewerage, drainage, roads, schools, electricity);
- are accessible by public transport, cycling and walking as well as car;
- make use of brownfield sites, existing buildings and recycled materials;
- impact on individual and community residential amenity;
- demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials;
- promote varied, lively and well-used environments which will enhance community safety and security and reduce any fear of crime;
- accommodate the needs of all sectors of the community, including people with disabilities or other special needs and disadvantaged groups; and
- contribute to the economic and social development of the community.

Developments which are judged to be significantly detrimental in terms of the above criteria will not accord with the plan.

12. The policy further requires that development proposals must also demonstrate compatibility with the Sustainable Design Guide: Supplementary Guidance, which requires that all developments should:

- conserve and enhance the character of the Highland area;
- use resources efficiently;
- minimise the environmental impact of development;
- enhance the viability of Highland communities.

13. Policy 29 'Design Quality and Place-Making' requires that new development should be designed to make a positive contribution to the architectural and visual quality of the place in which it is located. The design and layout of new residential development proposals should focus on the quality of places and living environments for pedestrians rather than movement of vehicles, and should incorporate all of the six qualities of successful places in national policy. Thus places should be distinctive, safe and pleasant, easy to get around, welcoming, adaptable and resource-efficient. The policy also requires that proposals should have regard to the historic pattern of development and landscape in the locality and should, where relevant, be an integral part of the settlement.

14. The development plan allocates the housing site for the uses which are proposed. It is for 12 relatively compact one bedroom flats, which have been identified by consultees as 'much needed' affordable housing. To that extent the proposals are clearly supported by the development plan.

15. Taking stock of the design and presentation of proposed development, the building would be contemporary in style. The design recognises the urban design significance of the junction of Main Street and the A87 with a curved feature corner. The 3 storey building with three shops on the ground floor would accordingly be a substantial and prominent new element of the streetscape sitting at the end of the street and beside a relatively busy crossroads. It is intended to have a monopitch shallow sloping roof, with the highest edge on the Main Street frontage, which would be in some contrast in style to its immediate neighbours, but would take the building to the same height as those across Main Street. The public elevations on Main Street and `Station Road elevations have been given visual interest by the use of a series of indented bays and by contrasting cladding materials of white and grey render and weatherboard panels, the final finish of which would be as agreed with the planning authority. The two more private elevations facing the adjacent buildings to the north and east also have some design interest with bay windows and offset windows, which would counter some direct overlooking.

16. Objectors have suggested that the proposed building would overshadow the street and its neighbours. They say it will block views of the sea from residences across Main Street, and appear out of place in the street. Main Street has mixed retail, service and residential use along its length. Overall, the buildings of Main Street are mainly traditional in appearance including two good quality traditional 'bank' building ranges, and the Kyle Hotel. However, there are a variety of building types along the road, such the immediate neighbour to the appeal proposal, an electrical showroom, which is another relatively modern flat roofed building.

17. With regard to its relationship with its immediate surroundings, the existing access lane around the north and east sides of the site between the site and the neighbouring buildings would be improved to form a 3 metres wide access pathway to the side and rear of the building. This pathway would provide access from both Main Road and from Station Road to the side of the existing neighbouring building known as the Gateway building, which is further discussed below. The pathway would also give access to the rear of the shops on the ground floor of the new housing block, the internal refuse stores, and a bicycle store, if that is constructed,

18. There are objections from the current tenants of the neighbouring Gateway building, which is the two storey building sitting immediately to the west of the site. They say the new block would overshadow and block light from the windows of their eastern elevation. The Gateway building is a fairly simple rectangular box on a narrow and deep plot, with a relatively narrow frontage on Station Road. This frontage contains the double door entrance to the premises on the first floor, and a ground floor shop unit. The building is named after the former restaurant on the upper floor, which does not appear to be in current use. There is another business unit on the ground floor of the building to the rear. The new building would be about 3 metres, or one storey, higher than the Gateway building, and would be the same height as the Islander Bar building, the Gateway's immediate neighbour to the east. At present some of the windows of the Gateway have a view over the cleared site towards the street. The construction of the new building would present these windows with the rear elevation and the rear passageway of the block of flats.

19. Looking first at the impact of the proposed housing block on Main Street, it is clear that the new building would introduce a substantial new and to some extent contrasting element into the street scape of the village. However, in my view the overall impact would be suitable in scale and in terms of the existing character of the street. This is because the buildings along Main Street are varied in architectural style, and in massing. As this is a corner site, to an extent the building would sit slightly apart from the other buildings and have presence in its own right. The new building would be of similar height in the street to many of its neighbours, and in my view would not overpower the street from that point of view. On the east side of the street, the immediate neighbour to the new block would be another flat roofed retail building. For these reasons I do not consider the new building would appear either disproportionate or discordant in the overall streetscape

20. In terms of the relationship with the buildings immediately opposite on the west side of Main Street, the new building would be approximately the same height. While the new building would be markedly different in style and external treatment, I do not consider that it would compete with or overpower the pleasing traditional and substantial form of the buildings opposite it. The building design provides sufficient visual interest to enliven the streetscape, and to avoid being bland, but is also relatively unassuming. I consider that the contrast in styles would not appear discordant, given the variety of architectural styles in the vicinity. It may be the case that some views from the houses or flats in the buildings on the west side of the street would be interrupted to some extent, but such change in circumstances can be regarded as a necessary consequence where development is acceptable,

21. The relationship with the Gateway block is also not problematic in my view. The appellants have provided detailed evidence about the relationship between the development and the neighbouring buildings, including information about the effect on the availability of sunlight throughout the year. The Gateway is a building in commercial uses. The development would result in a more closed in environment at ground floor level, but this would be a similar environment to many urban situations in an alleyway or pend, and is not in itself unacceptable. At the moment, to a degree, the occupiers of the ground floor of the Gateway enjoy an open aspect across the cleared part of the site as it awaits redevelopment, but that cannot reasonably be regarded as a permanent situation. At first floor level and above, based on the information provided by the appellants, I consider that there would be sufficient available light and space between the two buildings to provide an acceptable degree of amenity, both for the occupants of the flats and for the users of the Gateway building.

22. The council considers that the site is being overdeveloped, which I take to mean that they consider that the proposed development will not fit acceptably on the site or into its context. Given my findings I disagree that this is the case. The site would be fully utilised, but in my view the resultant development would fit into the urban context of its surroundings with acceptable consequences for the amenity of the surrounding buildings and the occupants and users of the new development.

23. Considering the effect of the new building in the wider context of the village, the growth of Kyle of Lochalsh is constrained by its topography. It has had to expand among the rocky spurs of an inlet on the north shore of the loch. The trunk road and the railway, which entailed the making or enlarging of a deep channel through the rock to reach the shore, are

key features of the town which introduce differing levels. Because of these constraints development within the village is relatively dense, particularly along Station Road and the streets leading off it. The resultant overall appearance of Kyle is one of a variety of styles and built forms, often closely grouped, with a range of types and sizes of buildings located at different levels throughout the village. Several relatively recent developments, such as the tall block of flats beside the railway and the road, or a group of wooden buildings on the south side of Station Road are modern in appearance with some interesting design features. The appearance of many of the buildings in the village are unified by a finish of white paint. There are a variety of roof treatments including pitched and flat roofs.

24. I agree with the council's planning officers that the proposed building would be compatible with its immediate design context and with the village more generally. Overall I consider it to be a well mannered and modest modern design, with sufficient decorative features to enhance its surroundings, which would enliven this significant location. I do not find it to be too large for the site or to be over dominant in the street scape. I consider the standards set by policies 28 and 29 of the HWLDP to have been met.

Parking provision

25. Several objectors suggest that there will be serious parking problems and congestion as a result of the development. One consultee calls for the council to instigate a traffic management scheme, but these observations are not submitted as an objection to the scheme, so much as an expression of concern.

26. My site inspections were in winter, at different times of the day. Even at that time it was clear that this is a busy village where parking is often under pressure, particularly in Main Street and to the south in the loch side area of the village across Station Road from the development. From my general experience I would expect that there would be significant congestion in the village during the tourist season, which is likely to be regarded by the community as a serious problem. The Douglas Row car park was however lightly used during my visits.

27. The appeal proposal reflects the local plan allocation by offering to provide additional offsite parking at the council car park close to the leisure centre at Douglas Row. This would be achieved through the reconfiguration of the car park. This is not at present intended to be parking dedicated to the use of the development residents, requiring residents' permits or similar regulation. The intention is to provide additional spaces for general use, in recognition of some additional pressure on parking from the development. This car park is about 125 metres away from the development along Main Street. some spaces would require to be reserved for the use of Network Rail and to allow access to the rail side, but that can be achieved. The manager of the leisure centre has objected, anticipating pressure on the leisure centre parking provision. However, I note that these proposals have been approved as sufficient provision by the council's road service. I also note that the trunk road authority has offered no objection to the development from their perspective, subject only to a request that the Station Road pavement be kept in use during construction. They have raised no parking concerns.

28. In my view the Douglas Row car park is sufficiently close to the development to be convenient for the development residents' vehicles, such that there is a reasonable

prospect of this being used for their parking needs in preference to the regulated Main Street or the busier car parks near the tourist information centre. Given the existing traffic control restrictions on Main Street, and the proximity of the junction on Station Road, I think it unlikely that in practice there would be a major problem of illegal parking near the development associated with the permanent residents of the block. I acknowledge that there may be occasional problems of blockage or illegal parking associated with the new shops. If either of these patterns does cause problems the council may require to revisit the parking restrictions. However, at present these type of conflicts are endemic in any reasonably busy shopping street. Virtually any redevelopment of the appeal site along the lines suggested by the development plan would be likely to have similar effects, even if it were a smaller proposal.

29. On the other hand, this site is very accessible to bus stops and the railway station both of which are within easy walking distance. Provision has been made within the block for residents' bicycle storage. In my view the development has good sustainable transport credentials. I conclude that the additional parking provided in the Douglas Row parking site would be sufficient to offset some additional pressure on parking in the village core. I do not consider that the impact on parking or congestion would justify refusal.

30. In evaluating the development against the development plan, I take into account that the development provides a number of public benefits.

31 Given the size of the flats, the development would provide 12 compact housing units, which are linked with a registered social landlord and which the council considers to be affordable housing. There is an established need in the development plan for such housing. These small units would be likely to be more suitable for people without children, which suggests their availability would both support the retention of younger people in the area, and potentially provide housing for older people needing to be close to facilities. Again, the need to provide for these demographic sectors is recognised in the development plan.

32. This is a prominent site at an entry point to the village, presently blighted by dereliction. In its present state it significantly detracts from the otherwise attractive appearance of the settlement. It would be of significant benefit to the visual appearance of the village to have the site redeveloped.

33. Kyle of Lochalsh is a recognised local centre, to which population and new developments are directed by the development plan. This development will make provision for 12 additional households in the village, and three new retail units. This accords with the development plan.

34. The council suggests that the development would depart from the local plan because the local plan identifies the capacity of allocated site MU2 as 6, rather than 12 residential units. However, the local plan description clearly shows this number as indicative. I do not regard an application for a larger number of units to amount to a departure from the plan. It is fair to say that a lower number of units on the site would provide some more space for the housing element. However, as explained above, I consider that the proposed design has achieved acceptable levels of amenity.

35. Overall, I therefore conclude that the development would be in accordance with the development plan, and in particular, would not be contrary to policy 28 and 29 of the HWLDP.

Other considerations.

36 Some objectors imply that there would be antisocial behaviour from the development. I do not consider that any such inference can be drawn from the building of 12 new affordable housing units.

37. Some objectors have raised concerns relating to the storage of domestic refuse. In my view there appears to be the basis for a satisfactory arrangement for this, given that the current proposals will retain bins within the building and behind doors. The council wishes to further discuss the precise arrangements with the developers so I have retained the council's suggested condition requiring the final details of the arrangements to be approved by them.

38. Other objectors suggest there will be a road safety issue at the Station Road / Main Street junction. I am content to find from the two roads authorities' absence of objections that this junction would be able to continue to function within their standards, and that road safety would not justify refusal.

39. Skye and Lochalsh Access Panel have identified a number of potential shortcomings in the proposed design as regards the provision of access for people with disabilities. Some of these concerns, such as those relating to the access to shops, may be able to be dealt with by the designers as non-material variations as the detailed implementation of the project proceeds. Some of the concerns relate to the dropping off of elderly or disabled persons. These may be able to be addressed to some extent if the council decides that a traffic management scheme in the area is justified. However, I do not consider that any of the concerns expressed would provide sufficient reason to refuse permission .

40. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter this conclusion

41. I have imposed the conditions suggested by the council, including a condition to ensure the continuation of Network Rail's operational use of the Douglas Row car park.

Frances M McChlery

Reporter

Conditions

1. No development shall commence on site until a scheme for the provision of, or contribution towards, on-site affordable housing (which meets the definition of affordable housing outlined in The Highland Council's Affordable Housing Supplementary Planning

Guidance dated August 2008 (as amended, revoked or replaced; with or without modification)) as part of the development hereby approved has been submitted to, and approved in writing, by the Planning Authority. The scheme shall include:

- i. the numbers, type, tenure and location of the affordable housing provision to be made, which shall consist of not less than 25% of the total number of housing units proposed within the application site;
- ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii. the arrangements for the management of the affordable housing;
- iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Thereafter, the affordable housing shall be provided in accordance with the approved scheme.

Reason: To ensure that affordable housing is provided as part of the development, in order to reflect the need for the affordable housing within the area, alongside market housing, which has been established through the Council's Affordable Housing Supplementary Planning Guidance.

2. No development shall commence until a scheme for the storage and emptying of refuse and recycling within the application site has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented prior to the first use of the development and thereafter maintained in perpetuity.

Reason: To ensure that suitable provision is made for the storage and emptying of communal waste and recycling bins.

3. No work shall commence in relation to the development until a legally binding agreement for the provision of additional parking spaces has been completed with the proprietor of the car park adjacent to Douglas Row to the satisfaction of the planning authority.

Reason: to meet the need for additional car parking provision in the locality by reason of the development.

4. Network Rail's access to its site office, lineside access gate and leased car parking must be kept clear during and after any construction activities carried out in relation to the proposal, unless otherwise agreed in writing by the planning authority in consultation with Network Rail.

Reason: To protect Network Rail's access to railway infrastructure and site office.

5. The development shall not be occupied until four parking spaces for the use of Network Rail have been provided to the satisfaction of the planning authority in consultation with Network Rail.

Reason: To protect Network Rail's access to railway infrastructure and site office.

6. No development or work shall commence until a detailed specification for all proposed external materials and finishes (including trade names and samples where necessary) has been submitted to, and approved in writing by, the Planning Authority. Thereafter, development and work shall progress in accordance with these approved details.

Reason: In order to enable the planning authority to consider this matter in detail prior to the commencement of development; in the interests of amenity and to secure an acceptable visual appearance for the development.

Advisory notes

- 1. The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 3. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).