



Decision by Dannie Onn, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2159
- Site address: Land 40 metres east of Pierhead, Onich, PH33 6SD
- Appeal by Mr C O'Keefe against the decision by The Highland Council
- Application for planning permission dated 30 June 2015 refused by notice dated 22 April 2016
- The development proposed: erection of a dwelling house
- Application drawings: 11/078 101; 11/078 102; 11/078 301F; 11/078 302; 11/078 D101
- Date of site visit by Reporter: 12 September 2016

Date of appeal decision: 14 October 2016

Decision

I allow the appeal and grant planning permission subject to the 7 conditions listed at the end of the decision notice. Attention is also drawn to the 3 advisory notes at the end of the notice.

The appellant in this case, Mr C O'Keefe, has made a claim for an award of expenses against The Highland Council. My determination of that application is subject of a separate decision 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 character and appearance of the proposed access to the site and the impacts on road safety.

Character and appearance

2. The appeal site lies between the A82 coast road and the inshore waters of Loch Linhe. It is in the Ben Nevis and Glencoe National Scenic Area (the NSA). The appeal site slopes away from the road towards the shore. It has the landform of a raised beach and is the eastern extent of an area of gently sloping grazings. Further east, the road is held by a stone retaining wall rising from the beach. Beyond that are there are some rocks and rip-rap. This whole stretch: grazings, retaining wall, rock outcrops and rip-rap is seen from the beach, on the water and across the water in the context of the settlement and is softened at intervals with trees and shrubs.



3. The siting design and materials of the proposed house on the appeal site are not at issue. The council's first reason for refusal relates simply to the design and scale of the access, which it says is over-engineered and would have a negative impact on the natural environment and amenity of the NSA.
4. The proposed access to the site would be some way from the siting of the proposed dwelling house so that visibility can be maximised at the junction. The result of this is that the roadway to the house must cross a sharp dip in the landscape of the field next to the house plot. The proposed solution is to infill the dip locally to allow the road to dip and rise again at acceptable gradients. The infill would consist of stone-filled metal cages or 'gabions' on the seaward side and earth on the landward side. At its maximum the infill would be around 4.5 metres high on the shore side and about 2 metres high on the landward side. It would extend as a retaining wall for some 30 metres.
5. The retained road would be below the road level at the A82 and barely seen from it. It would be seen as a further engineering solution in the context of the road retaining wall and other features along this part of the coast. The impact of the gabions would soon be lessened by plant growth or deliberate landscaping. In views across the water, the small change at this level would be lost in the scale of the landscape as a whole. The NSA would be adequately protected.
6. The impact on the natural, built or cultural heritage and amenity value of the area would be acceptable and thus in accordance with Policy 49 of the LDP.

Road safety

7. The appeal site runs alongside the A82 trunk road. The road here is a single two-way carriageway with centre-line markings and has a 40 mph speed restriction. There is no system of lighting and a footpath on the north side only. The appeal site is on the south side of the road. At the point chosen for access visibility is restricted to the east by a bend in the road and to the west by an existing beech tree and bus stop before the road reaches a gentle summit and bend. The bus stop is set back in a lay-by. The Beech is a mature tree with a trunk rising about 3 metres before branching out.
8. The proposed access includes sight lines of 2 metres by 120 metres to the east and 2 metres by 105 metres to the west. This would require the repositioning of the bus shelter to behind the visibility splay to the west.
9. Transport Scotland does not object to the proposed access. I agree that the Beech tree would not block entirely the view of approaching traffic and that the visibility splays would provide adequate foresight of traffic in the circumstances of the road. I note that the occupation of the bus lay-by (by buses and other vehicles) could block the view from time to time. That would reduce visibility of the oncoming carriageway to about two thirds of what it would normally be. It would, incidentally, block views of the Beech tree trunk as well. Even so, drivers exiting the new access road would need to proceed with extra care. They might be tempted to pull out onto the westbound lane for a better look. However, the amount of time the lay-by is used would be only a small proportion of the day and is unlikely to coincide with the limited use of the access by those in the proposed dwelling. I consider it more likely that, on the rare occasions when the view is temporarily impeded, drivers would proceed with extra caution or wait for the bus to move on.
10. I recognise that this road can be very busy in the summer months, but consider that this would not add to the hazard as it would probably not affect the speed or the visibility of approaching traffic. I also note that there are several vehicle access points along this

stretch of the road serving a church, houses and businesses. However, these are likely to have a calming effect on traffic rather than increase the risk at the proposed new junction.

11. Whilst I acknowledge that the proposed arrangement of access and visibility includes compromises, I do not consider that it would add significantly to the risk of road accidents in Onich. To the extent that it would provide for the safety and convenience of all road users, the proposed access would accord with policy 56 of the LDP.

Conditions

12. The council suggests conditions to define the external materials for the development, to protect existing trees; and to provide for new landscaping at the site. These will be attached to protect the amenity of the area. The council also proposes restricting permitted development rights to protect the riparian buffer strip of 2 metres at the watercourse on the western boundary of the site and also to prevent residential intrusion further into the coastal landscape without the scrutiny of the council. Conditions are also proposed to require visibility splays and other measures to protect road safety. A further condition is suggested to maintain access to the croft land so that it remains viable. I will attach all of these conditions as being necessary, subject to some minor amendments for accuracy.

Conclusions overall

13. The proposed access road would require significant retaining by gabion blocks and backfilling, together with appropriate drainage. This will have an impact visually on the coastal scene and the NSA. However, I consider that impact would be satisfactory in the context of the immediate setting and the presence of other structures and features along the shoreline. There being no objection to other aspects of the proposed development, I consider that the character and appearance of the area would be protected. The proposed development would also have a safe junction with the A82 trunk road. I therefore consider that the proposal as a whole would comply with the development plan.

14. I have taken into account the concerns of those living or carrying out a business nearby, but consider the effects on them to be acceptable. Crofting matters are not directly a matter for this planning application. No other matters have been put before me to indicate that the development should be refused planning permission.

Dannie Onn

Reporter

Conditions

1. The external walls of the development shall be finished in a white wet-dash or smooth cement render and the roof of the development shall be finished in natural slate.

Reason: To ensure that the development is sensitive to, and compatible with, its context within the National Scenic Area and local architectural styles in accordance with Policies 28, 29 and 57 of the Highland-wide Local Development Plan, 2012.

2. No other development shall commence until the site access, parking and turning area has been constructed in strict accordance with the approved site layout plan 301 Rev F, with:

- i. visibility splays of 2 metres x 105 metres to the west and 2 metres x 120 metres to the east (the X dimension and Y dimension);
- ii. the gradient of the access road not exceeding 1 in 40 for a distance of 5 metres from the nearside edge of the trunk road carriageway;
- iii. the first 5 metres surfaced in a bituminous surface;
- iv. the existing field access permanently stopped up; and
- v. a 2.0 metre wide strip from the existing kerb line kept clear of development and no fence or other structure erected within this strip. Notwithstanding the existing copper beech tree shown, within the stated visibility splays at no time shall anything obscure visibility between a driver's eye height of 1.05 metres positioned at the X dimension and an object height of 0.60 metres anywhere along the Y dimension.

Reason: To ensure the safety and free flow of traffic on the public road, in the interests of road safety in accordance with Policy 28 of the Highland-wide Local Development Plan, 2012.

3. No development shall commence until details of access, suitable to accommodate agricultural traffic, have been provided within the application site to adjacent croft land and approved in writing by the Planning Authority. Prior to the first occupation of the house, the croft access shall be formed in accordance with the approved details and thereafter shall be maintained in perpetuity.

Reason: To ensure that the development will not impede access to, or have an adverse impact on the purposeful use of, another part of the croft in accordance with Policy 47 of the Highland-wide Local Development Plan, 2012.

4. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:

- i. A plan showing existing landscaping features and vegetation to be retained;
- ii. The location and design of any existing or proposed walls, fences and gates. For the avoidance of doubt the boundary treatment shall comprise post and wire fencing with a maximum height of 1 m with the exception of the 5 metres long close boarded fencing shown on approved site plan 301 Rev F;
- iii. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
- iv. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site in accordance with Policies 28, 29 and 57 of the Highland-wide Local Development Plan, 2012.

5. Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development shall take place within any of the riparian buffer zones detailed on the approved plans without planning permission being granted on application to the Planning Authority.

Reason: To ensure that development which is normally permissible without the need for a planning application is carefully managed and does not encroach onto riparian buffer strips. Such buffers strips are required a) for the maintenance of watercourses within the application site, b) to account for natural watercourse migration, and c) in order to safeguard property from flood risk, in accordance with Policy 64 of the Highland-wide Local Development Plan, 2012.

6. Notwithstanding the provisions of Article 3 and Classes 1 and 3 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no extensions, outbuildings, decking structures or means of enclosure shall be erected within the curtilage of the development hereby permitted without planning permission being granted on application to the Planning Authority.

Reason: In order to prevent excessive residential intrusion into the important open coastal landscape on the loch side of the A82 in accordance with Policies 28, 34, 49 and 57 of the Highland-wide Local Development Plan, 2012.

7. No development, site excavation or groundwork shall commence until all retained trees have been protected against construction damage using protective barriers located beyond the Root Protection Area (in accordance with 885837:2012 Trees in Relation to Design, Demolition & Construction, or any superseding guidance prevailing at that time). These barriers shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

Reason: In order to ensure the protection of retained trees, which are important amenity assets, during construction.

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)).