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Ms G Webster
Highland Council
Sent By E-mail

Our ref: PPA-270-2157
Planning Authority ref: 16/00621/PIP

19 December 2016

Dear Ms Webster

**PLANNING PERMISSION APPEAL: LAND 150M WEST OF CASTLEHILL CROFT
DUNBEATH**

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

Christopher Kennedy

CHRISTOPHER KENNEDY
Case Officer
Planning and Environmental Appeals Division





Decision by Padraic Thornton, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2157
- Site address: Land 150 metres west of Castlehill Croft and approximately 250 metres east of Grianan, Rams Craigs, Dunbeath KW6 6EY
- Appeal by Ms. Augusta Hunt against the decision by The Highland Council
- Application for planning permission in principle 16/00621/PIP dated 11 February 2016 refused by notice dated 3 May 2016
- The development proposed: Construction of house, installation of septic tank and soak-way and upgrade of existing vehicular access.
- Date of site visit by Reporter: 25 October 2016

Date of appeal decision: 19 December 2016

Decision

I dismiss the appeal and refuse planning permission in principle.

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 the main issue in this appeal is the impact of the proposed development on road safety.
3. The site of the proposed development has frontage onto a private access lane serving the applicant's existing house called Grianan. The lane joins the A9 at a location where the trunk road has a carriageway width of about 6.5 metres. Sight distances along the road are restricted due to the horizontal alignment and there are double white lines along the centre of the road to prevent overtaking. There are 2 bends on the road to the north-east of the junction of the private lane with the trunk road. The available sight distance to the far lane in this direction is restricted to about 120 metres due to the roadside wall on the east side of the road. There is a longer sight distance available towards the north-east on the near or west side of the road but traffic approaching from this direction is on the far or east side.
4. The planning authority, in its decision, states that the development is contrary to policies 28 (sustainable design), 36 (development in the wider countryside) and 56 (travel) of the Highlands Local Development Plan as the increased use of the access would compromise safety for uses of the access and traffic using the A9 trunk road. It is stated that the vision splay to the north-east is only 120 metres which is well below the required 215 metres.



5. Policy 28 of the local development plan states that proposed development will be assessed to the extent to which it complies with various specified criteria including being compatible with public services provision including water and sewerage drainage, roads, schools and electricity. A private sewerage system and connection to the public water mains are proposed. No objection has been raised to these facilities. It appears accordingly that the objection is on the basis of unsuitable road access. I agree that sight distances are inadequate towards the north-east having regard to the status of the road and the 60 mile per hour speed limit. I consider accordingly that the development is not compatible with public road provision and so the development is contrary to policy 28 of the plan.

6. Policy 36 of the local development plan refers to development in the wider countryside in which the site is located. It is stated that development proposals will be assessed as to the extent to which they comply with various criteria including how they would address drainage constraints or can otherwise be adequately serviced in terms of foul drainage, road access and water supply without involving undue public expenditure on infrastructure that would be out of keeping with the rural character of the area. As stated in the previous paragraph I consider that the development would not be adequately serviced in terms of road access. I consider accordingly that the proposed development would be in conflict with policy no 36 of the plan.

7. Policy 56 of the local development plan deals with the issue of travel. It is stated in the policy that development should be designed for the safety and convenience of all potential users. The problem in the current situation relates to location rather than to design. I consider, however, that the development is in conflict with the spirit of the policy even if not directly contravening the wording.

8. Policy 56 referred to above is contained in part 20.31 of the local development plan. This part of the plan deals with accessibility and transport. Figure 7 contained in this part of the plan shows the Highlands Road Hierarchy. This identifies the A9 as the main trunk road serving the most northerly part of mainland Scotland. It is stated in part 20.31 that the planning authority will have regard to national transport policies and priorities.

9. PAN 66 is a planning advice note on best practice in handling applications affecting trunk roads. This advice note, which is a material consideration, contains a general presumption against any new access onto a trunk road (Annex A). It is also stated that any proposal involving extra traffic generation onto an existing access will have to be fully assessed. The advice note indicates the required sight distances for any access onto the trunk road network. The distance required at a location where a 60 mile per speed limit applies is 215 metres. The sight distance available to the north-east in the current situation is only about 120 metres to the southbound traffic lane. In the circumstances I consider that the proposed development which would potentially double the traffic using the existing access would endanger public safety due to traffic hazard.

10. The applicant submits that the planning authority has permitted other developments onto the trunk road network at locations where sight distances are restricted. The applicant refers to a number of permissions but does not submit details of the applications or decisions. One of the cases referred to is the conversion of a church at Bruan to a house.

Development works were in progress at the time of my inspection. The existence of the building, its upkeep and the previous use would have been considered in determining the application. Each application must be considered on its merits and none of the cases referred to has a direct bearing on the determination of the current appeal. I consider that planning permission should be refused due to conflict with the local development plan and the endangerment of public safety due to traffic hazard.

11. The applicant submits that approximately 35 acres of land will be sold irrespective of obtaining planning permission for a house. It is submitted that this would generate slow moving traffic on the road in terms of agricultural vehicles and that this would potentially cause more problems from a traffic perspective than having a house with farm equipment and vehicles on-site. I consider that a house would generate more traffic on the public road due to trips to shops, schools and other facilities than the agricultural use of the land in question.

12. The applicant has submitted that the existing junction with the public road could be modified to make it more visible to traffic on the A9. I have considered this proposal but do not consider that it would safely resolve the traffic hazard issue. The existing junction is located at the southern end of the applicants land-holding. Moving the access northwards would take it closer to the bends on the road to the north-east. Setting back the north side of the access lane would not improve the sight distance available at the location where the lane joins the trunk road.

13. In conclusion I consider that the proposed development would be in conflict with policies in the development plan as referred to in the decision of the planning authority and I consider that it would endanger public safety due to traffic hazard. I have considered the applicant's submissions but I do not consider there are any material considerations which would justify granting planning permission.

Padraic Thornton

Reporter