



Decision by Keith Bray, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2177
- Site address: land at croft 104 and 105, 70m north east of Tigh A Chladaich, Glenmallie Road, Caol, Fort William, PH33 7BA
- Appeal by Mr Donald Donnelly and Mr & Mrs Chris Donnelly against the decision by The Highland Council
- Application for planning permission 17/01697/FUL dated 11 April 2017 refused by notice dated 26 June 2017
- The development proposed: amended access to three approved house plots (including amendment to condition 1 of planning permissions 11/04288/FUL, 15/02479/FUL and 15/03547/FUL)
- Date of site visit by Reporter: 10 November 2017

Date of appeal decision: 20 November 2017

Decision

I dismiss the appeal and refuse planning permission.

Reasoning

Development plan

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of the Highland Wide Local Development Plan 2012 and the Western Highlands and Islands Local Plan adopted in 2010, as continued in force (by Order) 2012. I consider that paragraph 8.19 of the local plan, which requires land for the Caol link road to be safeguarded, is the key determining issue and policy matter in this case.

2. Having visited the appeal site and the surrounding area, I accept the appellants statements that there are existing 'obstacles' which would need to be addressed should the proposed Caol link road proceed. I also accept that, independent to the planning system, compulsory purchase powers exist to secure the provision of roads infrastructure. Nevertheless, I find that the proposed alternative access arrangement to the three house sites would run directly across the proposed route of the Caol link road as identified in the local plan. The proposed new access is therefore contrary to the development plan which seeks to safeguard the route corridor from development to ensure that the land is available for a future road. The previous access to the three houses was to enter on to Glenmallie



Road which is clear of the Caol link road safeguarding corridor. The footprints and immediate environs of the three approved houses are also north west and clear of the corridor.

3. I note that the appellants have put forward a range of mechanisms to support the approval of the application, including the possibility of a planning obligations agreement. While I understand the appellants desire to secure an alternative access, none of the mechanisms would mitigate the unambiguous conflict that the proposed access road has with the local plan. Approval of the proposal would only serve to undermine the purpose of the safeguarding policy within the local plan.

Material planning considerations

4. The current development plan is now beyond five years old. There is a statutory requirement to prepare a local development plan at an interval of no more than five years. I should therefore consider if the development plan is out-of-date with reference to this case.

5. Within the West Highland and Islands Proposed Local Development Plan May 2017, I find a similar safeguarding approach is taken to the Caol link road (shown on the Fort William Settlement Map - Fort William Caol Map). Therefore, the council's view as planning authority has not substantively changed since the adoption of the previous local plan. This demonstrates that the planning authority does not, at this moment in time, seek to supersede the safeguarding approach towards the Caol link road as set out in the local plan. I therefore find that the local plan is not out-of-date regarding this policy matter.

6. The appellants argue that representations made on the emerging local development plan should be taken into account in this appeal. The emerging local development plan, has not been subject to examination nor is it adopted. It does not seek to supersede the policy intent of the previous plan in respect of the Caol link road. Therefore, I consider that it, along with any representations made on it, to be of limited weight in the consideration of this appeal.

7. The appellants also cite Scottish Planning Policy, in paragraph 274, where it expects local authorities (when preparing development plans) to appraise transport network proposals. The appellants argue that no robust appraisal has been undertaken to establish the need, impact or benefit in relation to the Caol link road. This view is echoed by the Planning and Architecture Division of the Scottish Government in its response to the emerging West Highland and Islands Proposed Local Development Plan.

8. The development plan requirement, set out in Scottish Planning Policy at paragraph 274, should not however be retrospectively applied to a local plan adopted before Scottish Planning Policy was produced. The examination of the emerging local development plan will be most appropriate process to consider compliance with Scottish Planning Policy and to consider the merits of safeguarding routes for road infrastructure in and around Fort William.

9. Matters concerning funding availability, land values and the resumption of croft land may be affecting the developers but they are not directly relevant to the consideration of this planning appeal and I therefore should not consider them.

10. I am also not aware of evidence relating to any material planning consideration that should be given weight in relation to the overriding need for the proposed development and the three houses associated with it.

Conclusion

11. I therefore conclude, for the reasons set out above, that the proposed development does not accord with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

12. Finally, as planning policies may change over time, my decision on this appeal should not prejudice any further application which may be made under a different development plan in the future.

Keith Bray
Reporter