

Agenda item	6.10
Report no	PLN/040/18

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 5 June 2018

Report Title: 18/00749/S42 GlenWyvis Distillery, Scroggie Farm, Upper Dochcarty, Dingwall IV15 9UF

Report By: Area Planning Manager – North

1. Purpose/Executive Summary

1.1 **Applicant:** GlenWyvis Community Benefit Society

Description of Development: Application under Section 42 to remove Condition 1 of Planning Permission 16/00967/FUL to allow managed visitor access to the distillery and sales from the premises.

Ward: 08 – Dingwall and Seaforth

Category: Local Development

Reason Referred to Committee – Referred to Committee by Members

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

2. Recommendation

2.2 Members are asked to agree the recommendation to Refuse as set out in section 13 of the report.

3. PROPOSED DEVELOPMENT

3.1 The application under Section 42 is to remove Condition 1 from Planning Permission 16/00967/FUL for the erection of a micro whisky distillery, to allow managed visitor access to the distillery and sales from the premises. Condition 1 reads:

1. For the avoidance of doubt, permission is granted for a micro distillery only. No part of the development hereby approved shall be used as a visitor centre or for the direct sale of product to customers.

Reason: In accordance with the terms of the application submitted and on which basis the access and parking arrangements have been assessed and approved.

3.2 The distillery has been constructed and production of spirit has commenced. The access to the site has been upgraded, however the works which have taken place do not comply with the approved drawings and a retrospective application was requested to regularise this (17/05137/FUL). The application was received in December 2017, however it attracted objections from SEPA and the Council's Flood Risk Management Team on flood risk grounds. A Flood Risk Assessment has now been provided but SEPA is maintaining its objection and has asked for further information. The planning application therefore remains undetermined.

It has also been noted by SEPA that as part of the unauthorised works, a new culvert has been put in place without appropriate authorisation from SEPA under the Water Environment (Controlled Activities) regulations (CAR).

3.3 No formal pre-application consultation has taken place.

3.4 Notes have been added to the submitted drawing to support the application to have Condition 1 removed.

3.5 **Variations:** None

4. SITE DESCRIPTION

4.1 The site is a recently constructed micro distillery, located at Scroggie Farm, to the east of the existing farmhouse and steading on the south facing hillside overlooking the town of Dingwall. A new bonded warehouse has also recently been completed to the east. An established private access exists from the C1071 public road to the south-west.

5. PLANNING HISTORY

5.1 Numerous. The following relate to the distillery only:

14/03201/PIP - Erection of Micro Distillery - Planning Permission in Principle Granted 26.01.2015

16/00967/FUL - Erection of Micro Whisky Distillery Building - Planning Permission Granted 27.09.2016

17/05137/FUL Re-routing of access road (retrospective) - Pending Consideration

6. PUBLIC PARTICIPATION

6.1 Advertised : Schedule 3 and Unknown Neighbour
Representation deadline : 16 March 2018

Timeous representations : 12 Support 0 Objections

Late representations : 52 from 49 Households Support 2 Objections

6.2 Material considerations raised are summarised as follows (in support):

- a) Economic boost to Dingwall - will help regeneration of the town and broader Highland community;
- b) Visitor Centre crucial to the success of distillery - the absence of a visitor centre could damage the project's long term future;
- c) Proposed electric buses will successfully manage traffic and optimise road safety;
- d) Proposal will generate more tourist visits to Dingwall and surrounding area, including from local docking cruise liners, and in association with the NC500, to benefit of other businesses;
- e) Environmental and sustainable credentials of project will be reinforced by electric bus transport proposal;
- f) Without the buses, visitors would still attempt to visit the site meaning more unregulated trips;
- g) Suggestion for signs (particularly at the bottom of the hill) to inform potential customers they cannot access the site without being on mini-bus; and restrictions to public access (such as an electronic gate); would help manage public access;
- h) Educational benefits, ensuring locals and visitors will learn more about gin and whisky making in Scotland;
- i) Proposal complementary to the five priority areas of the Council, specifically A Place to Live, A Place to Thrive and A Welcoming Place.

6.3 Material considerations raised are summarised as follows (objections):

- a) Distillery has now become a huge industrial development located in a beautiful, scenic, rural, crofting community;
- b) Continued disregard of planning regulations, with recent construction of amended road layout completed without the necessary permissions and despite concerns expressed by SEPA regarding possible flooding;
- c) Infrastructure of the single track road is in poor condition and traverses two steep hills with the entrance into the distillery difficult and dangerous. To have continuous additional traffic on this road is considered unacceptable for the local community. Construction traffic has already contributed to the current state of the road with significant pot holes and worn surfacing;
- d) Increased activity will cause disruption to adjoining deer farm enterprise causing stress and loss.

6.4 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

7. CONSULTATIONS

- 7.1 **Dingwall Community Council:** No objections. Considers that the proposal for a visitor centre served only by minibus from the town centre would go a long way to minimising the traffic on the road to the site. This would provide more much needed tourist income to the town, and also is in keeping with the ethos of a community owned business. The Community Council therefore supports the application for the removal of the condition.
- 7.2 **Transport Planning:** Objects. It is judged that the proposed increase in traffic represents a detrimental effect on road safety at this location where the visibility at the junction is significantly substandard (previously measured on site at a distance of 70m to the north instead of the standard 120m). The additional total of around 12 movements per day represents a significant increase of 80% over the existing average volumes using the access on a weekday.

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan 2012:

Policy 28 Sustainable Design

Policy 56 Travel

8.2 Inner Moray Firth Local Development Plan 2017:

Policies: Outwith Settlement Development Area

9. OTHER MATERIAL CONSIDERATIONS

9.1 Draft Development Plan

Not applicable

9.2 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide (Jan 2013)

9.3 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (June, 2014)

10. PLANNING APPRAISAL

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

The key considerations in this case are:

- a) compliance with the development plan and other planning policy;

- b) transport, access and road safety issues;
- c) any other material considerations.

10.1 Development Plan Policy Assessment

HwLDP Policy 28 – Sustainable Design

Policy 28 outlines that the Council will support developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland and assess any proposals against a list of criteria, including compatibility with public service provision (including roads.)

HwLDP Policy 56 - Travel

Policy 56 highlights the transport criteria which should be considered in determining any development proposals and this includes the requirement that all proposals should be 'designed for the safety and convenience of all potential users.'

In this case, the application has attracted an objection from the Council's Transport Planning team, as visibility north from the access onto a steep section of public road falls around 50m short of the required 120m. Where the ability to achieve technical compliance for a critical safety factor cannot be met, the precautionary principle should be applied and the application refused as it does not accord with the requirements of Development Plan policies 28 and 56 as it relates to public road servicing provision.

10.2 Material Considerations

Transport, access and road safety issues

10.3 The wider planning history for development at Scroggie Farm is relevant to consideration of this current application. An Outline Planning Permission was first granted by Committee for a house on this landholding in 2009 contrary to planning and roads officers' advice on road safety grounds (09/00001/OUTRC). This permission was renewed in 2012 (12/02800/PIP) and a detailed permission was granted in 2013 (12/02452/FUL). The supporting statement which accompanied this application reiterated the management reasons for this house, as detailed at the original outline application stage, as a property required by the land owner, Mr John Mackenzie, to manage Scroggie Farm. This house is complete and occupied.

10.4 Planning Permission for the micro distillery was subsequently granted on the basis of an assessment of risk associated with a transport statement and other information (14/03201/PIP). The applicant stated within this supporting statement that there was to be no visitor centre and no additional staff and made the case that this was a farm diversification project with no significant increase in traffic. Clear advice has consistently been given from the Council's Transport Planning team at Planning in Principle and Detailed Planning Permission stage that any significant increase of traffic at this substandard junction would attract an objection from the Roads Authority on safety grounds. Condition 1 was attached to reflect what was applied for.

'For the avoidance of doubt, permission is granted for a micro distillery only. No part of the development hereby approved shall be used as a visitor centre or for the direct sale of product to customers.'

- 10.5 As part of the current application to remove the condition, the applicant has advised that visitors would be managed by use of a distillery owned (possibly electric) bus to avoid multiple additional traffic movements. The applicant proposes 4 tours per day by a 15 seater bus, picking up customers from the railway station and town centre car parks. This equates to a minimum of 8 movements. It is judged that three additional staff will equate to around 4 additional movements per day. This gives a total of 12 movements per day and represents an increase of around 80%. The use of the bus is critical to the calculation of any increase in traffic. If visitors were allowed to access by car, then assuming around 10 visitors on average per tour and generously allowing 2 visitors per car this could result in an additional 40 movements per day. This would equate to an increase of around 260% in traffic using the access. The applicant's agent has advised that to date the distillery has not prevented visits by car even though they had previously stated there would be no visitor centre. It therefore seems unlikely that they will do so if the use is regularised although use of a bus would help to reduce numbers. So there remains the possibility of further increased use of the junction if any visitor facility is permitted. The existing traffic volumes on the access itself were stated in the Transport Statement produced on behalf of the applicant in December 2014 and equate to a weekday average flow of 15 vehicles with a peak daily flow of 22 vehicles.
- 10.6 The key issue relating to this application is road access. The site is located around 1km from the north-western edge of Dingwall on the C1017 Heights public road. This road is substantially single track, with 90° bends and very steep gradients. Critically, visibility to the north of the site access is limited by a bend and crest in the road to 70m (previously measured on site by the Roads Authority following improvements). It is not considered reasonably practicable to achieve any further improvement here due to the awkward topography. The speed of traffic downhill along Dochcarty Road was measured by the applicant and reported in the Transport Statement. This shows an 85 percentile speed of 37mph. The standard visibility splay for 40mph design speed is 120m. Only 70m has been achieved with the works to upgrade the junction for this permission (this is increased from the original 50m).
- 10.7 The applicant's agent has submitted comments referring to the document 'Designing Streets' which sets out suitable parameters for determining visibility splays. Based on the 85 percentile speed of 37mph, he notes that the visibility splay required in this case is 59m.
- 10.8 Transport Planning notes that the standard visibility distance for a 30mph design speed in a rural setting is 90m and 40mph is 120m. The figures in 'Designing Streets' quoted by the applicant's agent are used within urban situations but this is not judged to be an urban location. The speed and distances quoted in the Roads' response are based on the specific information supplied by the client and measurements taken on site together with Table 5.5 of the Council's Roads and Transport Guidelines for New Developments giving indicative Y dimensions for rural speed values based on an 85 percentile speed measurement and these are the figures consistently used to assess rural situations. This level of shortfall (50m) in a rural setting is judged to represent a possible negative impact on road safety.

10.9 Other Considerations

It is acknowledged that there are a high number of representations made in support of the application, including some from shareholders. It is also noted that a post on the company's Facebook page (28 March 2018) has asked all friends and members to support this application. The applicant and supporters point to the financial advantages of allowing visitor access to the distillery in securing the long term success of a newly formed locally owned sustainable community business; and the wider economic benefits this would bring to the town of Dingwall and the Highlands.

The applicant and supporters consider that the proposed managed visitor access by bus only will adequately address concerns over the inadequacies of the access and as well as the wider economic advantages, will provide educational benefits by demonstrating how gin and whisky are produced in a sustainable and environmentally friendly way.

There are two objections to the application, particularly expressing concern over the inadequacy of the access and local road network to cope with increased traffic as proposed. In addition, concern is expressed over the increasing industrial nature of the site within a quiet area of countryside and the potential conflict with adjoining rural uses.

For clarification, the approved drawings (16/00967/FUL) do not include any visitor or retail facilities. The approved floor plan (as varied), drawing Ref. 2013 065 – 501 Rev D, clearly identifies the main body of the distillery building as including a Malt/Mill Area; a Production Area; a Boiler House and Pellet Store. The single storey entrance section is laid out internally to include an entrance foyer, a hallway, two offices, a staff kitchen and staff WC/ shower room. Externally, only five car parking bays (including one disabled bay) are shown.

11. CONCLUSION

- 11.1 The economic, environmental and sustainable qualities of the recently established distillery business, as highlighted by the applicant and supporters, are acknowledged. However it should be noted that the original applications, at Planning in Principle and Detailed Planning Permission stage clearly stated that 'despite the diversification of the farm to include the distillery, the access to the site will have no significant additional use (14/03201/PIP)'; and 'The Glen Wyvis BenCom plans to use its early profits....to establish and support a Distillery Visitor Centre in the burgh of Dingwall itself..(16/00967/FUL).'
- 11.2 The condition was therefore attached for clarity, to reflect what was applied for and did not seek to impose any unreasonable restriction. As noted above, the approved drawings do not include any proposed visitor reception or retail facility and show only five car parking bays. The application to remove Condition 1 reflects a change in the applicant's business proposals to encourage managed visitor access to the distillery. This has wider implications, in that even if permission was granted to delete the Condition as requested, a separate planning application would be required if there is any intention to provide a visitor reception and sales area within the building. The requirement for additional car/bus parking/turning would also have to be assessed as part of such application/s.

- 11.3 As noted in the Appraisal above and has been made clear by the Council's Transport Planning team in all previous consultation responses and discussions with the applicant and agent regarding GlenWyvis Distillery, the proposed increase in traffic represents a detrimental effect on road safety at a location where the visibility at the junction is significantly substandard. It is for this reason that the application cannot be supported.
- 11.4 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

12. IMPLICATIONS

- 12.1 Resource – Not applicable
- 12.2 Legal –Not applicable
- 12.3 Community (Equality, Poverty and Rural) –Not applicable
- 12.4 Climate Change/Carbon Clever –Not applicable
- 12.5 Risk – Not applicable
- 12.6 Gaelic – Not applicable

13. RECOMMENDATION

Action required before decision issued No

Subject to the above, it is recommended the application be **Refused** for the following reason:

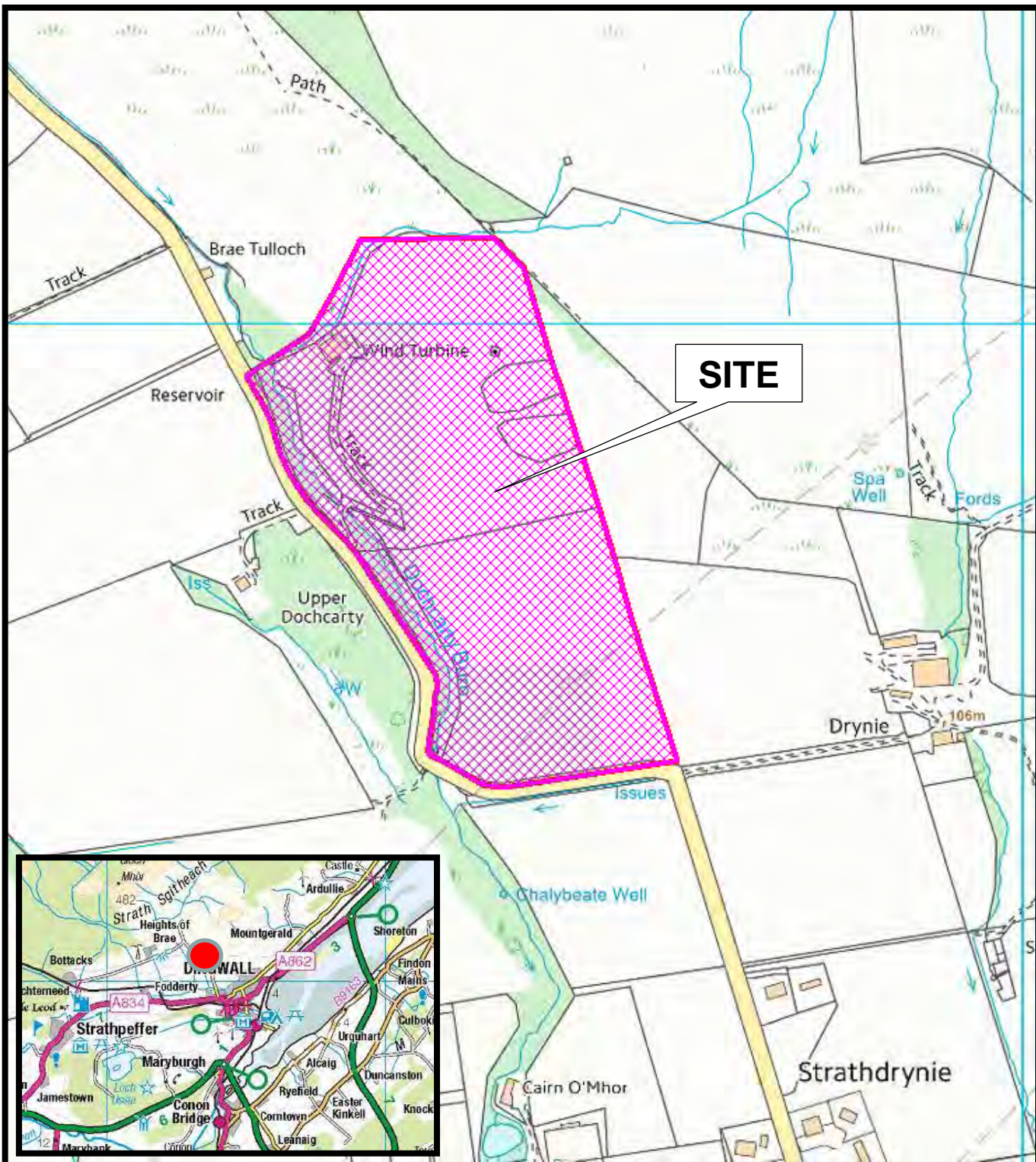
1. The proposal is contrary to the provisions of the Highland-wide Local Development Plan Policies 28 (Sustainable Design) and Policy 56 (Travel) as the increased use of the existing substandard access would compromise vehicular safety for site traffic as well as for general users of the C1071 public road, due to restricted visibility. The visibility splay to the north is clear for only 2.4m x 70m, falling considerably short of the 120m that is required.

Designation: Area Planning Manager - North

Author: Dorothy Stott

Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 – Location Plan
Plan 2 – Location and Site Layout Plan




The Highland Council
 Comhairle na Gàidhealtachd
 Planning & Development Service

18/00749/S42
 Application under Section 42 to remove Condition 1 of planning permission 16/00967/FUL to allow managed visitor access to the distillery and sales from the premises at GlenWyvis Scroggie Farm, Upper Dochcarty, Dingwall



