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Decision by Chris Norman, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2181
- Site address: land 85 metres south-west of Cnoc Mor, Cleadale, Isle of Eigg
- Appeal by William Lewis against the decision by The Highland Council
- Application for planning permission 17/02525/FUL dated 26 May 2017 refused by notice dated 24 October 2017
- The development proposed: erection of dwellinghouse with access, parking and turning and associated services
- Date of site visit by Reporter: 21 February 2018

Date of appeal decision: 18 May 2018

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## Decision

I dismiss the appeal and refuse planning permission.

## Reasoning

1. I am required to determine this appeal in accordance with the development plan, the West Highland and Islands Local Plan 2010 (as continued in force) and the adopted Highland-wide Local Development Plan 2012 (HwLDP) unless material considerations indicate otherwise. No policies in the 2010 plan have been brought to my attention and my decision is based upon policies contained in the HwLDP 2012.
2. Having regard to the provisions of the development plan the main issues in this appeal are, firstly, whether the proposed house is sensitively located having regard to the distinctiveness of the local landscape and existing patterns of development in the area and, secondly, whether the design of the proposed house is acceptable in terms of its landscape and visual impact on the countryside around Cleadale.
3. The appeal proposal comprises the erection of a contemporary designed house with a simple geometrical form and finished in timber, with extensive glazing on its south elevation. The site is in the wider countryside, outwith any settlement development area, as defined by the HwLDP.
4. The appeal must be assessed against several relevant policies in the HwLDP. Key policies are those that form the basis of the council's decision, policy 28 'Sustainable Design', policy 29 'Design Quality and Place-Making'. Other important policies in the HwLDP are policy 36 'Development in the Wider Countryside', policy 47 'Safeguarding



Inbye/AppORTioned Crofting Land', policy 57 'Natural, Built and Cultural Heritage' and policy 61 'Landscape'. Accordingly, to determine the appeal I find that it is necessary to carry out a detailed assessment of the siting and design of the proposed house in the context of the HwLDP and the council's supplementary planning policy guidance 'Housing in the Countryside and Siting and Design'.

5. To the appellant there is nothing to justify the overturning of the council's planning officer's recommendation to grant planning permission. Extensively reliant on the officer's report, the appellant asserts that the council has not taken into account the site's planning history, it has been inconsistent by approving other contemporary house designs on Eigg and its reasons for refusal are without merit.

### **The development plan**

6. To the council the proposal is contrary to policy 28 because it fails to demonstrate sensitive siting due to its visibility from the route between Cleadale and Laig Bay. Secondly, the council considers that the proposal does not make a positive contribution to the visual quality of the place where it is located, and it fails to demonstrate sensitivity towards local distinctiveness, contrary to policy 29.

### *Siting*

7. Policy 28 of the HwLDP sets out, amongst other things, the site-specific criteria against which proposals are to be assessed. To comply with policy 28 proposed developments will be supported if they promote and enhance the social, residential and environmental wellbeing of the people in Highland. In the context of policy 28 I find that the principal considerations for the determination of this appeal are its impact on landscape, cultural heritage and scenery, together with the sensitivity of its siting and the quality of its design.

8. Additionally, to comply with policy 36, the proposal must accord with 6 criteria. Specifically, it must be acceptable in terms of siting and design; it must be sympathetic to existing patterns of development in the area; it must be compatible with landscape character and capacity; it must avoid the incremental expansion of one particular development type; it must avoid the loss of locally important croft land; and it must be capable of being satisfactorily serviced. The council's supplementary planning policy guidance 'Housing in the Countryside and Siting and Design', referred to in policy 36, sets out detailed considerations about siting and design including new housing in the wider countryside. The guidance recognises that new housing in the wider countryside may be acceptable, taking into account the siting and design guidance contained in the document.

9. Cleadale contains a mix of houses of varying age and appearance but which predominantly are of a traditional design. Typically, they are rectangular in form, one and a half storeys in height and incorporate a pitched roof, front porches and traditional dormer windows in the roof space. Many of the houses are clustered in discreet groups, interspersed with agricultural buildings, static caravans and miscellaneous structures. Taking advantage of the iconic view over Laig Bay to the Isle of Rhum, the grain of the settlement pattern is predominantly west facing, with the scattered southern gables of the houses forming an integral component in the view northwards from the main approach into Cleadale. Served by an unclassified road and its north-western spur Cleadale's irregular-

shaped and dispersed settlement pattern displays a random arrangement of built development, set amongst traditional crofting field systems and areas of pasture and rough ground.

10. The appellant's design statement considers that the site and its surroundings would be enhanced by the presence of a modern energy efficient building without impacting on the natural environment and the amenity of neighbouring properties. The remote nature of the island, it is argued, makes it easy to avoid adverse visual impact. Located south-west of the low knoll at Cnoc Mor the building would, to the appellant, have a limited impact on the skyline and not cause an adverse visual impact from the "main road area". The footprint of the proposed building would have a limited landscape impact as it "slots seamlessly" into the natural environment.

11. From my site inspection I find that a particularly important view of the appeal site, and its setting in relation to the wider settlement, is obtained from the public road in the vicinity of Bealach Chlithie, some 800 metres south of the site. From this commanding view the appeal site is seen as an integral part of the wider countryside around Cleadale. The open character of the site is seen between the listed St Donnan's Chapel and the knoll adjacent to Cnoc Mor. Unlike the more distant view to the existing Airigh housetype at Bayview, north of the appeal site, the absence of any intervening landform and only sparse vegetation of a limited height accentuates the openness of the site and reduces the capacity of the landscape to absorb a building when seen from this important viewpoint. The exposed location of the site would constrain the extent to which new landscaping may assist in screening the house.

12. There are closer views into the site from the route that descends to Laig Bay from Cleadale, and from St Donnan's Church and Chapel Bothy. However, from lower points along that route, whilst visible, the proposed house would be less prominent and have a more limited overall impact than from the higher viewpoint at Bealach Chlithie.

13. Because of its distance from other houses, and the intervening knoll, I am satisfied that a house on the site could be designed in such a way to ensure that there would be no adverse impact on the privacy or residential amenity currently enjoyed by existing householders. Similarly, the access to the site, which is acceptable in road safety terms, would have little negative impact on the overall appearance and setting of Cleadale. From my site inspection it was not evident that the proposal would impact in any significant way on biodiversity.

14. Given the intervening distance between the appeal site and St Donnan's Church I do not consider the proposal would adversely affect the setting of the listed building. There are no historic environment impacts that would require mitigation. As such, there would be no tension between the proposal and the built heritage aspects of policy 57 'Natural, Built and Cultural Heritage'.

15. There can be little doubt that the crofting landscape around Cleadale, recognised by its inclusion in the extensive Small Isles National Scenic Area (NSA), is of an exceptionally high quality in a national and local context, from both a cultural and natural heritage point of view. The HwLDP sees landscapes designated as an NSA being of the highest quality and value within Highland. The HwLDP, in supporting development in rural areas,

acknowledges that development can have a significant impact on the character of the landscape. Accordingly, as set out in the HwLDP, proposals should be sympathetic to this, and landscape is a key consideration.

16. No evidence of any landscape character assessment has been led by either party. However, I disagree with the council's planning officer's conclusion that the building would not be highly conspicuous from most public views. The appeal site's prominence when viewed from Bealach Chlithie, and the open character of the intervening landscape with relatively sparse tree cover, reduces the capacity of the landscape to satisfactorily absorb a building. From public viewpoints, especially to the south, a new house on the highly visible appeal site requires particular sensitivity in its design to protect the character and appearance of the NSA, in order not to undermine the objectives of its designation and to accord with Scottish Planning Policy and policies 57 and 61 of the HwLDP.

17. Setting aside the uncompromisingly modern design of the house, in accordance with the council's supplementary planning policy guidance a new house here would not constitute continuous linear development along a roadside nor would it comprise overdevelopment and coalescence. The development of the site could broadly maintain the local pattern of croft development in Cleadale. Mindful of views when seen from the route between the village and Laig Bay, and from the more panoramic viewpoint at Bealach Chlithie, I consider that the principal of a dwelling on the appeal site is broadly compatible with the character of the scattered settlement pattern of Cleadale. However, contrary to policy 28 the proposal does not, for the reasons I set out below, demonstrate sensitive siting and high-quality design in keeping with local character and the historic and natural environment.

### *Design*

18. Policy 29 requires new development to be designed in a way that it makes a positive contribution to the architectural and visual quality of the place where it is located. Seeking high quality design, the policy responds to the Scottish Government's place-making agenda by emphasising the importance of the architectural and visual quality of the place in which the proposal is located. Sensitivity and respect are called for, having regard to the historic pattern of development in the locality.

19. The acceptability of the design of the building is an integral part of the first criteria of policy 36 of the HwLDP. Accordingly, development proposals are to be determined against the relevant sections of the council's supplementary planning policy guidance 'Housing in the Countryside and Siting and Design'.

20. The appellant's design statement explains that the design of the building "pays tribute to the vernacular style of the area" and respects the traditions of the Scottish countryside, being a modern interpretation of a traditional longhouse. To the appellant, the council's approach is inconsistent because of the recently consented 'Airigh' housetype south of Bayview, which is of the same design to that proposed, and, the albeit significantly lesser scale, 'Sweeney's Bothy'.

21. I find that much attention has been paid by the appellant to achieve a contemporary architectural product which takes full advantage of the stunning views over the Sound of

Rhum. The modern, uncluttered design and finish of the house could be appropriate in many rural settings. It is not a poor-quality pastiche. When the proposal is assessed against the council's supplementary planning policy guidance such an innovative design could be looked at favourably. However, for the reasons I set out, the location and siting of the proposed house is inappropriate.

22. From my site inspection I find that the nearby 'Airigh' housetype at Bayview provides a strong reference point for assessing the current appeal, albeit its dark-stained timber walls would be substituted with lighter, weathered larch planking on the appeal proposal. The design of the 'Airigh' housetype includes a shallow monopitch roof supporting a metal flue and extensive glazing and with an external decking arrangement on the principal, south, elevation. These features, and the minimal fenestration on three elevations combined with the extensive use of timber cladding, are all alien to the prevailing character and appearance of other houses in Cleadale. The distinctive design of the 'Airigh' housetype differs by far from the greater number of houses in Cleadale. I agree with the council's planning officer that the first 'Airigh' housetype does not necessarily set a precedent for future housing proposals on nearby plots and each case is to be assessed on its own merits.

23. Views of the proposed house from the north would largely be screened. However, when seen from Bealach Chlithè and from the descending route to Laig Bay, the proposed house would not directly relate to an existing group of buildings. It would be viewed as a distinctive and discordant feature when seen in the context of the linear and dispersed group of buildings that embraces Chapel Croft, St Donnan's Church and the traditional vernacular design of the houses adjacent to the road.

24. The visual and landscape impacts of the existing Airigh housetype, due in no small part to the backcloth of the cluster of buildings to the north and north-west of its site, and of the much lesser scale and contemporary design of 'Sweeney's Bothy', are more readily and satisfactorily absorbed into the crofting landscape than would be the case for the proposed house. From around the public road at Bealach Chlithè the conspicuous design of a second 'Airigh' housetype would be seen concurrently, and in combination with, the existing but more distant house. I find that in this panoramic view northwards the proposal would be viewed as a repeating and highly conspicuous feature. It is less able to be assimilated into the wider landscape, unlike the existing, single, Airigh housetype. The incremental addition of a second Airigh housetype, designed in contrast to the prevalent traditional styles of housing in Cleadale, would disproportionately increase the landscape and visual impact of the contemporary design of this housetype and reinforce its juxtaposition and absence of affinity with the other traditional buildings in the crofting landscape.

25. The cumulative effect of the proposed house, when combined with the other Airigh housetype built to the north, will give rise to an unacceptable long term adverse effect on the sensitive landscape around Cleadale. It would be a visually dominant design and would conflict with the first and fourth bullet points of policy 36 of the HwLDP.

26. To be supported by policy 29 new development must make a positive contribution to the architectural and visual quality of the place where it is situated. Against this policy background I agree with the council and conclude that the development of a second Airigh housetype in this location would fail to make a positive contribution to the very high visual

quality of the landscape around Cleadale. This second uncompromisingly modern design does not demonstrate sensitivity towards the local distinctiveness of the landscape, designated as a national scenic area because of its national importance. Accordingly, I consider that the proposal is contrary to policies 29, 36, 57 and 61 of the HwLDP and to the council's supplementary planning guidance 'Housing in the Countryside and Siting and Design.

## **Other Material Considerations**

### *Planning History*

27. The appellant's second ground of appeal is that the planning officer's report omits the full planning history of the appeal site, which is a material consideration. The owner of the appeal site, and the council's handling report for planning permission 04/00005/FUL, set out the lengthy planning history of the site for tourism-related use since the mid 1990's and which culminated in planning permission for chalets being granted there in June 2004.

28. As a consequence the 2004 planning permission established the principal of built development on the site, albeit for tourism related development. It has not been demonstrated to me that development commenced, and the planning permission therefore lapsed in June 2009. Unlike the 2004 consent, it has not been suggested that the appeal proposal helps to support the viability of the wider rural community. Nevertheless, to the appellant the acceptability of built development at the appeal site, valid until 2009, means that refusal of planning permission for a house in 2017 cannot be justified.

29. I set out above my view that the principal of development on the site may be acceptable, in the context of the HwLDP, and that it is, fundamentally, the design of the appeal proposal, and its landscape and visual impact, that offends the design requirements of the development plan. I do not consider that the planning history of the site, and in particular the 2004 planning permission comprising tourism related development, justifies the approval of the proposed house in the context of the current development plan.

### *Crofting*

30. In refusing the application the council has not suggested that the proposed house would adversely impact on the remaining croft land. As I dismiss the appeal for other reasons, I have not pursued this matter further.

### *Infrastructure*

31. The appellant has demonstrated that a water supply would be available and, subject to the necessary consents, there is no drainage impediment to the proposal.

32. Electricity supply is a concern of several representees and I am mindful that Eigg Electric, the provider of electricity from the island's grid, has opposed the proposal and that it is said that a connection to the proposed house would be unavailable. I have dismissed the appeal for other reasons, but I find that the seeming inability of the house to be connected to the island's own electricity network is not a valid planning reason to refuse

planning permission given that other alternative sources of power, subject to any necessary consents, may be available.

33. I note the road safety concerns of those opposing the proposal both during the construction of the house and after it is occupied. I am mindful that all vehicles coming to Eigg, including construction vehicles, require a permit from the council and that there is an extant road prohibition order to protect the roads on the island. Subject to necessary permissions, including a traffic management plan, I consider that the site could be satisfactorily regulated by the council as highways authority who are not opposed to the proposal. Consequently, I consider the matters raised by representees could be addressed and there are no grounds to dismiss the appeal because of road safety.

#### *Tourist accommodation*

34. Unlike the 2004 planning permission, and although suggested by some objectors, there is no evidence before me that indicates the house is intended to be used for tourist accommodation. As I am minded to dismiss the appeal for other reasons, I have not pursued this matter further.

#### *Statutory Publicity*

35. The choice of a newspaper circulating in the locality to publicise the planning application is a matter for the council. In any event I am satisfied that adequate publicity has been afforded to the planning application resulting in some 19 representations being made, the majority of those opposing the development and doing so on design grounds.

### **Conclusion**

36. Drawing these various elements together, I find that the proposed house would be visible from important views of the wider countryside around the crofting township of Cleadale and in particular in the panorama when seen from Bealach Chliithe, the principal approach into the village. The contemporary design of the proposed house is at variance with the traditional architectural styles of the majority of other houses in and around Cleadale which is within a national scenic area, so designated because of its nationally important landscape. The house in this prominent location is not sensitively sited because the landscape does not have the capacity to accommodate the distinctive contemporary design of the proposal. In this prominent and open location, it would be a discordant feature and would fail to make a positive contribution to the visual quality of the place. It would not be in conformity with policies 28, 29, 36, 57 and 61 of the HwLDP, the council's supplementary planning policy guidance and Scottish Planning Policy.

37. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall 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.

*Chris Norman*

Reporter

