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K Lyons
Highland Council
Sent By E-mail

Our ref: PPA-270-2193
Planning Authority ref: 17/04356/FUL

26 July 2018

Dear Ms Lyons

**PLANNING PERMISSION APPEAL: LAND 30 NW OF SGURR ALASDAIR 10
TORRIN BROADFORD ISLE OF SKYE IV49 9BA**

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 <https://beta.gov.scot/publications/challenging-planning-decisions-guidance/>.

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I trust this information is clear. Please do not hesitate to contact me if you require any further information or a paper copy of any of the above documentation.

Yours sincerely

Smerah Akbar

SMERAH AKBAR
Case Officer
Planning and Environmental Appeals Division





Decision by Christopher Warren, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2193
- Site address: land 30 metres NW of Sgurr Alasdair, 10 Torrin, Broadford, Isle of Skye, IV49 9BA
- Appeal by Peter Williamson against the decision by The Highland Council
- Application for planning permission 17/04356/FUL dated 18 September 2017 refused by notice dated 06 March 2018
- The development proposed: erection of house and shed
- Application drawings: Location Plan 775-101; Site Plan 775-102 Rev B; Proposed Site Plan 775-104 Rev A; Ground Floor Plan 775-201 Rev A; Site Section 775-302; Site Section 775-304; Site Section 775-305; Site Section 775-301 Rev A; Site Section 775-303 Rev A; Elevation 775-401; Elevation 775-402 Rev A; Elevation 775-403 Rev A; and Elevation 775-404 Rev A
- Date of site visit by Reporter: 26 June 2018

Date of appeal decision: 26 July 2018

Decision

I allow the appeal and grant planning permission subject to the 5 conditions listed at the end of the decision notice. Attention is drawn to the 3 advisory notes at the end of the notice.

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 and the council's reasons for refusal, the main issue in this appeal is whether the proposed development would be of an appropriate design for the location in which it would be situated.
3. The development plan consists of the Highland-wide Local Development Plan (HwLDP), adopted in 2012. I find policies 28, 29, 34 and 61 of the HwLDP to be of most relevance to my decision. These are also the policies cited by the council in its four reasons for refusal.
4. Policy 28 ('Sustainable Design') sets out a number of considerations against which developments should be assessed. The extent to which a development would



“demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials”, as stated in bullet point 10 of the policy, should be assessed alongside other wide ranging considerations listed by the policy.

5. Policy 29 (‘Design Quality and Place-Making’) requires development to make a positive contribution to the architectural and visual quality of the place in which it is located. Development should demonstrate sensitivity and respect towards the local distinctiveness of the landscape, architecture, design and layouts.

6. Policy 34 (‘Settlement Development Areas’) supports development in defined areas if they meet the requirements of policy 28 and all other relevant policies of the plan.

7. Policy 61 (‘Landscape’) expects development to be designed to reflect landscape characteristics and special qualities, through consideration of the appropriate scale, form, pattern and construction materials.

8. I note that there is an extant planning permission (reference number: 15/03233/FUL) for a dwelling of an alternative design and footprint within the same site. The proposal which is the subject of this appeal would be instead of, rather than in addition to the already consented development. As that earlier application was approved by the council on 17 December 2015 under the same adopted development plan, the principle of a single dwelling on this site has already been established. Noting that the site is within the settlement development area (referred to in policy 34) for Torrin, I do not find it necessary to further consider any policies or matters relating to the principle of development as part of my assessment.

The design of the proposed development

9. I recognise that design matters are inevitably subjective to some degree. However, I consider that the development plan establishes the considerations against which the merits or otherwise of a design may be robustly assessed.

10. During my unaccompanied site inspection I noted that Torrin is predominantly comprised of dwellings and other buildings of traditional (or otherwise conventional) design and materials, positioned on relatively generous plots. That said, I did not find there to be such a strong single design cue or vernacular in the locality to lead me to a finding that a contrasting, contemporary design would be inherently inappropriate or jarring.

11. The appeal site is positioned on a hillside to the west of, and overlooking, Loch Slapin. The proposed development would be seen in the context of other residential development to its north, south and east, and I see no reason why the proposed design would interfere with or detract from wider views, despite this very evidently being an area of high scenic value. I also viewed the site from the opposite side of the loch as part of my site inspection, having regard to concerns raised in representations that the development would be detrimental to the view looking across the loch to Torrin. Given the intervening distance, I found the precise design of the building would be largely indecipherable at this range.

12. I consider the simple form and mass of the development would respond positively to the topography of the site, essentially enabling the building to 'nestle down' into the land. I also consider the building would be of an appropriate domestic scale, aided by the house appearing as a group of adjoining boxes of differing heights and positions, rather than a single, larger form.

13. I did not find the site to be prominent from the B8083, which I recognise is well used by large numbers of visitors to the island. Where the building would be visible from the road I consider my findings above - that the building would be of an appropriate scale - would hold true. I do not consider its simple form, finished with larch board cladding, would attract one's attention from the road. I find the proposed larch boarding to be an appropriate cladding material, well suited to the more contemporary design proposed. Once weathered, its natural silver-grey colour would significantly soften the overall appearance of the buildings.

14. It is clear that the proposed use of a flat roof has stimulated objections to the development, as well as being specifically referred to in the council's reasons for refusal. I note that no policies stipulate that a particular roof design is required. Policy 29 is focused specifically on design; its requirement for development to show sensitivity and respect towards local distinctiveness does not necessarily mean that design cannot deviate from a traditional form.

15. I consider the proposed building's design has been well judged for the particular characteristics of the site. The use of a flat roof reduces the overall mass and prominence of the building in the landscape. I also consider the flat roof makes a positive contribution to the overall integrity of the design. Whilst there is no doubt that the design of the building contrasts with other development nearby, I find that the site lends itself well to introducing a different architectural approach without competing or clashing with the established character of the settlement.

16. It has been asserted in representations that the more traditional design of the dwelling with extant consent demonstrates what is appropriate for the site. It is not for me to assess the design merits of the previously consented development. However, the fact that one design approach has previously been deemed to be acceptable does not imply that an alternative, entirely different design approach is incapable of being accommodated.

17. In conclusion, I find the design of the proposed development accords with the relevant provisions of the Highland-wide Local Development Plan.

Other matters

18. The appellant has stated that improvements to the access track and its junction onto the B8083 would reflect those proposed, and secured by condition, for the extant 2015 consent. With such upgrades, I am satisfied that the access track would be adequate to safely serve the proposed development in addition to the existing properties. However, the condition proposed by the council to require access track upgrades as part of this proposal, cites a drawing which does not specify any such works. As no such drawings have been submitted with this current proposal, I have modified the condition to require these details to

be submitted to, and agreed by, the council. Any issues relating to the maintenance of the private access track are civil matters between those with responsibility for it.

19. I am satisfied that residential amenity at the nearest neighbouring properties would not be adversely affected, given the separation distance between the proposed and existing dwellings. I also note the principal outlook from the proposed dwelling is to the west, focused on the views available and looking away from other properties.

20. There is no evidence before me to suggest that foul and surface water cannot be appropriately managed, subject to the necessary consents being obtained. I note that two objections relating to ownership rights for the route of the proposed outfall have been withdrawn.

21. The concern raised in representations, regarding whether the structure would be capable of withstanding all weather conditions, is not a planning matter.

Conclusions

22. I conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions. I grant planning permission subject to the conditions listed below, which align with those requested by the council.

23. The footprint of this proposal, and that of the dwelling with extant consent, overlap. It would not be possible to implement both consents. I therefore see no need for the earlier consent to be revoked.

Christopher Warren

Reporter

Conditions

1. No development or work shall commence until details of all upgrades to the access track including its junction with the B8083 have been submitted to, and agreed in writing by, the Planning Authority. Thereafter development and work shall progress in accordance with these approved details and no other development shall commence until all agreed site access upgrades have been completed.

Reason: To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

2. Prior to the first occupation of the development hereby approved, the car parking and turning arrangements detailed on approved plan ref. 775-104 Rev A shall be completed in full and made available for use. Thereafter, all car parking and turning spaces shall be maintained as such in perpetuity.

Reason: In order to ensure that the level of off-street parking is adequate.

3. Notwithstanding the provisions of Classes 1a-b, 1d, 2b, 3a-e of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, or any Order revoking and re-enacting that Order, with or without modification, no development of a type identified in the aforementioned classes, shall take place within the curtilage of the house hereby approved without planning permission being granted on an application made to the Planning Authority.

Reason: In order to allow the Planning Authority to retain effective control over the development of the site.

4. No construction materials or waste/spoil shall be stored outwith the development site boundaries.

Reason: To prevent any possible contamination arising from the construction phase of the development of nearby natural heritage features.

5. No development or work shall commence until a detailed specification for any proposed external paint or stain finishes (including trade names and samples where necessary) has been submitted to, and approved in writing by, the Planning Authority. Thereafter, development and work shall progress in accordance with these approved details.

Reason: To ensure that the development is sensitive to, and compatible with, its context.

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)).