



Decision by Sinéad Lynch, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2197
- Site address: Cottage, Lower Muckovie, Inshes, Inverness IV2 5BB
- Appeal by Mr and Mrs Reid against the decision by Highland Council
- Application for planning permission 17/05908/FUL dated 21 January 2018 refused by notice dated 30 April 2018
- The development proposed: redevelopment to provide new house with access
- Date of site visit by Reporter: 29 August 2018

Date of appeal decision: 10 October 2018

Decision

I dismiss the appeal and refuse planning permission.

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 issues in this appeal are whether the proposed development would be of an appropriate design for the location in which it would be situated, and if there is a need for a house to support a rural business in this location.
3. The development plan consists of the Highland-wide Local Development Plan (HwLDP), adopted in 2012. I find policies 28, 29, and 35 of the HwLDP to be of most relevance to my decision. Policies 28 and 35 are those cited by the council in its reasons for refusal.
4. Scottish Planning Policy (SPP) at paragraph 40 encourages the re-use or re-development of brownfield land. The appellant cites paragraphs 40, 79 and 92 in support of the proposed development and diversification of the rural economy. Paragraph 193 is also noted as providing general support for development which takes account of landscape character. I find that in relation to this proposal, paragraph 81 of SPP is relevant and states that "In accessible or pressured rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate, and plans and decision-making should generally:
 - guide most new development to locations within or adjacent to settlements; and



• set out the circumstances in which new housing outwith settlements may be appropriate, avoiding use of occupancy restrictions.” I find that the provisions of the HwLDP reflect those of SPP and the issues raised by the appellant and these are discussed below.

5. 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.

6. 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.

7. Policy 35 (‘Housing in the Countryside (Hinterland Areas)’) presumes against housing in the open countryside for the hinterlands around towns. Exceptions will only be made when a proposal meets at least one of the listed criteria set out in the policy.

8. The proposed development is for a two-storey detached house, with access through the existing farmyard and then on a new track which would lead to the new house. An agricultural building is also proposed to the south of the main house. The house would be located in the hinterland area of Inverness, in the open countryside outside any settlement as defined in the HwLDP.

9. Policy 28 sets out a number of site-specific criteria against which proposals will be assessed. In addition, Highland Council adopted guidance in 2016 that provides a number of criteria to be met by proposals for housing in the countryside, within the hinterland.

10. Applicants are required to demonstrate that the site selected for the proposed development has been subject to a sequential approach, including consideration of buildings for conversion, infill sites and sites available based on land ownership. No land at Lower Muckovie is in the ownership or control of the appellant, and so some of the criteria are not relevant. No evidence on alternative sites for the house and alpaca farm is before me. It is my understanding that the appellant does not own either the house site or land for the alpaca farm but has an option to buy the house site subject to obtaining planning permission and would enter into a short-term tenancy agreement on the land required for the alpacas.

11. Overall, I find the design of the proposed house and agricultural building to be appropriate for a rural location, utilising rectangular forms and traditional materials to good effect.

12. However, Policy 28 requires proposals to demonstrate sensitive siting as well as high quality design. The proposed development is partially on the site of a derelict and uninhabitable cottage, it is not in a building group, attached to the existing farm complex at Lower Muckovie or following any defined settlement pattern in the area, which is predominantly linear and adjacent to the public road. The site chosen is in an elevated

position with views over the city and the Moray Firth. It would be visible from the B9177 and potentially in distant views from the north, and from established housing areas to the north. It would, I conclude, be an isolated and intrusive element in the open countryside, contrary to the requirements of Policy 28 of HwLDP. The appellant has submitted additional photomontages of the site with renderings of the proposed development, which were not before the council at the time of determining the planning application. I am content that the submission of the photomontages is in response to the council's reasons for refusal and so have had regard to them in reaching my decision.

13. Policy 29 of HwLDP addresses design quality and place-making. I find that this proposal does not have due regard to the pattern of development and landscape in the locality and is not an integral part of any settlement. Although there is a derelict cottage on part of the site, it is not capable of being converted and the proposed development is significantly larger in scale.

14. Policy 35 Housing in the Countryside (Hinterland areas) applies to this proposal as it is located in the Inverness hinterland area. The policy presumes against housing in the open countryside, subject to a number of exceptions.

15. The appellant argues that a house in this location is essential for land management purposes, to establish a new rural business and involves the redevelopment of brownfield land. Each or any of the foregoing can be an exception to the presumption against housing in the open countryside.

16. The appellant submitted a more detailed business plan with the appeal than the brief one submitted with the planning application to the planning authority. I am content that the more detailed version addresses one of the council's reasons for refusal and so I will take it into account in reaching my decision.

17. The appellant intends to lease 5.4 hectares of land adjacent to the house site under a short limited duration tenancy. The stated intention is to purchase 4 breeding alpacas in 2018, with a further 4 in 2019, then increasing the flock by retaining breeding females. By 2021, it is expected to have a flock of 10 animals, 14 by 2022 and 19 by 2023. Should there be no changes to the forecast made in the business plan (reviewed), then it is anticipated that the business may become profitable in year 5 of operation. The appellant will run the alpaca farm on a single-person basis and has indicated that Mrs Reid will be the primary worker, relying on contractors when required.

18. In relation to policy 35 of HwLDP, the proposal needs to demonstrate that it is essential for land management or family purposes related to the management of the land in order to be considered an exception to the policy presumption against housing in the open countryside. I find there is no evidence before me to demonstrate that the proposed alpaca farm is essential for land management. From my site visit, I noted the land in question was under grazing for cattle, and so productively used for agriculture without the need for a dwelling other than the existing farmhouse and cottage at Lower Muckovie. It appears that the family purpose is also not met as there is no family relationship that I have been made aware of between the current owner of the farm and the appellant, nor any rights of succession between the current owner and the appellant.

19. In establishing a new rural business, the council seeks the submission of a business plan which demonstrates why housing is essential in association with an existing or new rural business to demonstrate an exception from the presumption against housing in the open countryside as set out in policy 35 of HwLDP. The review carried out by Highland Council in 2016 also provides criteria against which proposals will be assessed, to demonstrate the need for accommodation on site, or the need for temporary accommodation while a new business is being established.

20. The appellant has provided a calculation of a labour unit equivalent of 1.069 persons per annum, based on a flock of 31 alpacas and 30 cria (young alpaca). These figures are based on pedigree beef production figures, as none are available for alpacas in Scotland. They are also based on maximum capacity of the business, as set out in the business plan. The council prefers the sheep production figures as a base for calculating the labour equivalent ratio, which would generate a requirement for 0.28 persons. As there are no production figures for alpaca production in Scotland, I find that it is not possible to determine the actual labour requirement. However, I agree with the council that pedigree sheep production may be a more suitable base for the calculation, as pedigree sheep are bred for wool production as well as meat, and that calculation would give rise to a lower requirement for labour annually. I have not been provided with the calculation based on pedigree sheep for the 5.4 hectares. The business plan (reviewed) appears to suggest that at year 5 of operation, there would be stock of 19 breeding females and 7 cria, giving rise to a significantly lower labour unit calculation than the one set out in the Occupational Needs Assessment. Based on the Standard Work-Rate calculation set out at part 4 of the Occupational Needs Assessment, I estimate that the labour unit required at year 5 of operation would be approximately 0.6.

21. I consider that the business plan (reviewed) and Occupational Needs Assessment provided by the appellant are both based on an optimistic scenario, and both assume that there would be no loss of livestock over the first five years, that breeding would result in the maximum cria and that market prices would be achieved for both stock and wool. The business plan acknowledges that it is based on an assumption that all would proceed as set out in the plan. I find that in setting up a new rural business, with no previous experience in agriculture or alpacas, such an optimistic business plan is laudable but may be unrealistic and undeliverable. In any case, the business plan clearly indicates that the requirement for a full time equivalent in labour unit terms would be generated, at the earliest, at year 7 of operation. In addition, the business plan appears to acknowledge that on-site personnel are not essential to farming even at the maximum anticipated alpaca stock numbers and that the business may be managed remotely with the same outcomes.

22. I conclude that for at least the first 7 years of operation, there is no demonstrable requirement for a full-time labour unit equivalent and no basis for requiring that person to be on-site. There is no evidence that housing is essential in association with the proposed new rural business, and I conclude that the business plan submitted does not support the proposed new house in this location.

23. Part of the proposed development would occupy the site of a farm cottage, but I note all parties are agreed that it has not been a habitable cottage for at least 20 years and is incapable of being converted into habitable accommodation. Policy 35 of HwLDP states that “development of “brownfield” sites will be supported where a return to a natural state is

not readily achievable and where a wider environmental benefit can be achieved through development". From my site visit, I note that a return to a natural state would require removal of the remaining built elements of the farm cottage, which seemed readily achievable. I have received no evidence to the contrary and can see no apparent reason for there being any constraint to removal of the remains of the former cottage. No wider environmental benefit is sought to be achieved through the development and no party has suggested that there may be any such benefit arising as a consequence of this proposal.

24. I conclude that this proposal would not meet the relevant criteria of policy 35 of the HwLDP, and so an exception to the policy cannot be supported.

25. Overall, I conclude that the proposed development does not accord with the relevant provisions of the development plan.

26. Although not available to the council at the time of determining the application, the appellant has provided a draft five-year tenancy agreement to be entered on receipt of planning permission, which would provide the appellant with 5.45 hectares of land in total. I am content that the submission of the draft tenancy is in response to the council's reasons for refusal and so have had regard to it in reaching my decision. I find that there is no security of tenure, which the council considers gives rise to the potential for risk in that the tenancy may not be entered into or that it may not be renewed and so the new rural business may not eventuate. That is a risk, but it should be noted that equally possible is the scenario that the new business is started, thrives and that the tenancy agreement is renewed, or a future purchase of the land takes place. In any case, ownership of the land is generally not a matter for the planning system.

27. A representation raised matters which have been addressed above. Matters were also raised which are not material to the planning system, including but not restricted to matters such as ownership, management of an agricultural holding, family relationships, possible future scenarios relating to the proposed alpaca farm and the intentions of the appellant. As such matters are not material to the planning system, I have not taken them into account in reaching my decision.

28. 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 being policies 28, 29 and 35 of the HwLDP and that there are no material considerations which would justify granting planning permission.

29. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Sinéad Lynch
Reporter