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Ms K Lyons
Highland Council
Sent By E-mail

Our ref: PPA-270-2231
Planning Authority ref:19/03181/FUL

9 November 2020

Dear Ms Lyons

**PLANNING PERMISSION APPEAL: LAND TO NORTH WEST OF CORRIEHALLIE
GLEBE ROAD INVERINATE, KYLE IV40 8HD**

I attach for your information a copy of a notice of intention issued by the reporter. This indicates that planning permission will be granted provided an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 is reached between the planning authority and the appellant. The planning permission will not be issued until that agreement is reached and registered.

We collect information if you take part in the planning process, use DPEA websites, send correspondence to DPEA or attend a webcast. To find out more about what information is collected, how the information is used and managed please read the [DPEA's privacy notice - https://beta.gov.scot/publications/planning-and-environmental-appeals-division-privacy-notice/](https://beta.gov.scot/publications/planning-and-environmental-appeals-division-privacy-notice/)

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

Karen Cowie

KAREN COWIE
Case Officer
Planning and Environmental Appeals Division





Notice of Intention by Gordon S Reid, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2231
- Site address: land to north west of Corriehallie, Glebe Road, Inverinate, Kyle, IV40 8HD
- Appeal by SMECH Properties Limited against the decision by The Highland Council
- Application for planning permission 19/03181/FUL dated 11 July 2019 refused by notice dated 15 June 2020
- The development proposed: erection of lodge house, formation of access and installation of drainage system
- Application drawings: PL-100 C Site Plan, PL-101 Proposed Ground Floor Plan, PL-102 Proposed First Floor Plan, PL-104 A Proposed Elevations, PL-105 3D Section, PL-106 A Location Plan, PL-107 A Site Sections, PL-109 Landscape Plan
- Date of site visit by Reporter: 12 October 2020

Date of notice: 09 November 2020

Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission, subject to the conditions listed below, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matters listed in paragraph 25.

Preliminary matter

i) Planning permission in principle (16/04329/PIP) for a single house on the appeal site was approved by the council in 2016. The council confirms that the planning application for the appeal proposal was lodged by the appellant in July 2019 on an enlarged site, incorporating an area of land to the north west, and that this was prior to the lapse of the planning permission in principle in November 2019.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are the principle of residential development, size and siting of the proposed house and impact on residential amenity.

2. The development plan consists of the adopted Highland-Wide Local Development Plan (2012), the adopted West Highlands and Islands Local Development Plan (2019) (which has no site-specific policies of relevance to this application) and the relevant adopted supplementary guidance.

3. The proposed development is for the erection of a one and half storey, six bedroomed lodge house, four car parking spaces, and private drainage system. The site comprises an area of sloping, partially wooded land immediately to the north west of an existing detached house and is within the area defined in the adopted local development plan as wider countryside. Access to the site is to be taken from the existing private track which leads to Glebe Road to the south east and then onto the A87 trunk road.

Principle of residential development

4. I note that the council in its report of handling (paragraph 10.5) states that the principle of a house on the appeal site has been established through the granting of three separate planning permissions with the last (council reference 16/04329/PIP) approved in 2016. Accordingly, I note that the council in its reasons for refusal did not state that the principle of residential development at this location was contrary to the provisions of the development plan.

5. In addition, the appellant highlights that the site was purchased with extant planning permission in principle (reference 16/04329/PIP) for a single house with the application for detailed planning permission for the proposed development submitted in July 2019, prior to the lapse of permission in November 2019.

6. Since approval of planning permission in November 2016 I am satisfied that there has been no material change in the relevant policy provisions of the development plan or associated supplementary guidance. In addition, no evidence has been brought to my attention by parties of any significant changes to the site's context during the intervening period. Therefore, I am satisfied that the principle of the development would accord with the relevant provisions of the development plan for housing in the wider countryside.

7. The main issues of concern raised by the council in its decision notice relate to policy 28 Sustainable Design and the proposed size and siting of the house and its resultant adverse impact on the character of the existing area and the amenity of the neighbouring property. I also consider that these issues reflect the main valid planning concerns raised in the letters of representation. Accordingly, I now focus my attention on these matters.

Size and siting of the proposed house

8. I note that the proposed house has been designed as three distinct elements around a T-shape footprint, utilising a combination of different finishing materials. The finishes include white render to the walls and natural slate to the roof for the two end sections with darker natural stone walls and zinc roofing to the link section between the two outer elements. The house is to be one and half storeys utilising dormers for accommodation in the roof space to reduce the overall height of the property. It is also set within an enlarged area of land to that of the previous proposals. I am satisfied that, with a height of one and half storeys, the overall design would reduce the scale and massing of the proposed house ensuring that it would be of an appropriate character and appearance for its location. I also note that the council states in its decision notice that the house is designed to a high quality. Overall, I find that the approach taken to the design of the proposed house is appropriate and would accord with the council's adopted supplementary guidance Housing in the Countryside (2013) for the design of larger properties.

9. I observed at my site visit that the neighbouring property is of a modern design and made up of a single storey element and a one and a half storey element in a t-shaped footprint. Given the size of the footprint I would not consider this to be a particularly small property. In addition, The Manse and Kintail church to the south east are relatively large two storey properties with The Manse being of a modern design. All these properties are finished in white render to the walls and dark coloured natural slate/concrete tiles to the roofs. I am satisfied that the proposed house given its size, design and use of materials would not appear to be out of scale with the existing properties in the immediate area.

10. The council in its decision notice claims that the proposed house does not demonstrate sensitive siting and, therefore, is not sympathetic to existing patterns of development in the area and in particular the more significant spaces between existing properties.

11. I note that the house has been set back from the private access track and is positioned below the level of the A87 trunk road to the north east. The appellant highlights that the closest part of the appeal property is 20 metres from the gable of the neighbouring property to the south east. I note that the proposed house has been positioned in the site in order to retain the majority of the trees, avoid potential issues of coastal flooding and has the principal elevations orientated to the south west to benefit from solar gain. In addition, no flora or fauna of significance or areas of otter activity would be affected. Taking these factors together I consider that the proposed house has been appropriately positioned within the appeal site.

12. In terms of the siting within the wider area I established at my site visit that the main public views of the proposed house would be similar to that of the existing properties, with some limited glimpses when looking south through the trees from the footpath running along the A87. The only other potential public views, again similar to existing properties, would be from boats on the loch or very distant views from the road on the opposite side of Loch Duich. Given the high quality of design and its location just above the foreshore, surrounded by woodland and against a backdrop of steeply rising land, I find that the proposed house would be sensitively located within the wider landscape area and would not result in a visually prominent or isolated feature.

13. The council raises further concerns regarding the importance of maintaining the pattern of spacing between existing properties. I established at my site visit that there are some 11 existing properties on the north side of Glebe Road and the private track. These are situated in three locations separated by mature woodland. The first is a grouping of eight modern semi-detached one and a half storey houses, forming a closely grouped row running parallel to Glebe Road. The second grouping is to the north west along the private track and is made up of Kintail church and The Manse which are approximately 30 metres apart. As established above both of these are relatively large two storey buildings. The final property further along the private track to the north west is the detached house adjacent to the appeal site. All of the residential properties have their principal elevations facing south or south west towards Loch Duich and are bounded by trees and the A87 to the north.

14. The proposed house would be sited in relatively close proximity to the north west of the existing detached house and I consider that on this basis it would form a new grouping of two houses at this location. This arrangement would be similar to the relationship

between Kintail church and The Manse. Accordingly, I am satisfied that the siting and orientation of the proposed house would maintain and be sympathetic to the existing pattern of development in the area.

15. Arguments have been forwarded in the letters of representation that an alternative site should be utilised on land owned by the appellant further to the west. Whilst I note this point, I must consider the appeal proposal based on the merits of the proposed site before me and not on the potential suitability of some other alternative location.

16. Overall, I consider that the appeal proposal is in accordance with the provisions of policy 28 and the related supplementary guidance in terms of size and siting. In addition, I am satisfied that it would maintain and be sympathetic to the character and pattern of development within the surrounding area.

Impact on residential amenity

17. I am satisfied that the only property likely to be directly affected in terms of residential amenity is the neighbouring house to the south east of the appeal site. Whilst the council's reason for refusal claims that there would be an adverse effect on residential amenity it does not specify the particular matters of concern. However, I note that the concerns raised in the representations, including those of the occupier of the neighbouring property, relate to the loss of privacy, overshadowing and disturbance from traffic.

18. Whilst I observed at my site visit that the principal elevation of the neighbouring property faced south, I did note that there were two smaller windows in the north west facing gable. However, as there are to be no windows in the south east facing gable of the proposed house and with all other windows orientated so as to not directly overlook the neighbouring property, I am satisfied that there would be no direct overlooking of the neighbouring property. In addition, I note that the existing planting along the south east boundary is to be retained with further planting added to provide improved screening and reduce any potential loss of privacy. Therefore, I am satisfied that there would be no overlooking or loss of privacy to the detriment of the neighbouring property.

19. In terms of the impact from traffic I note there are to be four parking spaces located approximately 20 metres from the neighbouring property positioned to be facing the main elevation of the proposed house. The council confirms that this level of parking is adequate and given the orientation of the parking spaces I am satisfied that there would be no direct glare from headlights when vehicles are parked which could adversely affect the neighbouring property. In addition, I consider that the parking spaces are located at a sufficient distance from the neighbouring property so that their use would cause no direct disturbance. The council requests that a condition be attached to any permission granted requiring the upgrading of the private track in order to accommodate the level of traffic generated by the appeal proposal. I consider that this is appropriate and would ensure an adequate standard of access is provided. Accordingly, I am satisfied that, subject to upgrading the private track, there would be no adverse impact on residential amenity from the limited traffic generated by the proposed development.

20. The appellant submitted a solar study to assess the potential for any adverse effect on residential amenity through overshadowing from the proposed house. I am satisfied with the methodology applied and with the conclusion that there would be no adverse impact at

any time of the year. I note that the council does not dispute the findings of the study in its report of handling.

21. Overall, I am satisfied that given the design, layout and siting of the proposed house there would be no significant adverse impact on the amenity of the neighbouring property. Therefore, I find that the proposed development is in accordance with the provisions of policy 28 in terms of residential amenity.

Other matters

22. Representations were received from 31 individuals all raising objections to the proposed development. Loch Duich Community Council also objects to the proposed development. Concerns were raised in the representations in terms of the use of the appeal proposal for holiday letting and the condition and use of the 'Coffin Pier'. Whilst I note these concerns, the appeal proposal does not state the accommodation is for the use as a holiday letting and in any case guidance within paragraphs 81 and 83 of Scottish Planning Policy (2014) advises against the imposition of occupancy restrictions on new housing. In addition, as the appeal proposal does not include any physical works to the Coffin Pier or would affect access to it, I do not consider that there would be any adverse impact in this instance. All other valid planning concerns raised in the representations have been taken into account and are addressed in my considerations as set out above.

23. No objections were raised by any of the consultees in terms of access and parking; woodland and trees; public access; drainage/suds; ecology; and flood risk. However, conditions were sought in relation to the provision of four car parking spaces; the requirement for access by construction traffic and plant to be taken from the west access track; tree protection measures; the implementation of the appellant's landscape plan; finished site levels and maintaining public access to the core path. I find that, subject to the requested conditions (with some minor amendments to improve their clarity), the proposed development accords with the relevant local development plan policies and related supplementary guidance with regard to these matters.

24. The council advises that the appeal proposal would be the fourth house developed on the appellant's land holding. Therefore, in line with the requirements of local development plan policy 31 Developer Contributions and policy 32 Affordable Housing and the associated adopted supplementary guidance, either on site provision or a financial contribution towards affordable housing is necessary. The appellant confirms its agreement to the requirement for this contribution and to the upfront payment option of £30,000 in accordance with the council's supplementary guidance. I find that this requirement accords with the provisions of policy 31 and 32 of the local development plan and the associated supplementary guidance.

25. I conclude that, for the reasons set out above, the proposed development accords overall with the relevant provisions of the development plan, subject to a financial contribution being made towards offsite affordable housing provision. I, therefore, also conclude that a planning obligation restricting or regulating the development or use of the land should be completed in order to secure this financial contribution. I will accordingly defer determination of this appeal for a period of up to eight weeks to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997 or some suitable alternative arrangement) to be completed and registered or

recorded, as the case may be. If, by the end of the eight week period, a copy of the obligation with evidence of registration or recording (or any alternative arrangement agreed by the council) has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

Gordon S Reid
Reporter

Draft conditions

1. No development or work shall commence until a detailed specification of all proposed external materials and finishes and boundary treatments (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: In order to enable the planning authority to consider and approve these finishes in detail prior to the commencement of development; in the interests of amenity.

2. 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, and with the exception of a single garden shed not exceeding four square metres in area, 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 and in the interests of amenity.

3. A suitably qualified arboricultural consultant must be employed at the applicant's expense to ensure that the approved Tree Protection Plan and Arboricultural Method Statement are implemented to the agreed standard. Stages requiring supervision are to be agreed with the planning authority and certificates of compliance for each stage are to be submitted for approval. No development shall commence until an arboricultural consultant has been appointed and a work instruction issued enabling them to undertake the necessary supervision unhindered for the duration of the project.

Reason: To secure the successful implementation of the approved tree protection measures.

4. A suitably qualified landscape consultant must be employed at the applicant's expense to ensure that the approved Landscape Plan is implemented to the agreed standard. Stages requiring supervision are to be agreed with the planning authority and certificates of compliance for each stage are to be submitted for approval. No development shall commence until a work instruction has been issued to the landscape consultant to enable them to undertake the necessary supervision unhindered for the duration of the project.

Reason: To secure the successful implementation of the approved landscape works.

5. Prior to the first occupation of the development hereby approved, the car parking arrangements detailed on approved plan reference PL-109 Landscape Plan, shall be completed in full and made available for use. Thereafter, all car parking spaces shall be maintained as such in perpetuity.

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

6. No development shall commence until a scheme for improvements to the private access track has been submitted to, and approved in writing by, the planning authority. The scheme shall include:

i) details of the specific nature, extent and location of the road improvements to be carried out;

ii) details of the means/method of construction of the road improvements to be carried out (including cross-sections, dimensions, gradients etc. as required) in line with the council's Roads and Transport Guidelines for New Developments (or any superseding document if applicable); and

iii) limited widening of the stone surfaced private access at a minimum of two points to facilitate vehicles passing.

Thereafter, the house hereby approved shall not be occupied until the road improvements detailed in the approved scheme have been completed in full by, and at the expense of, the applicant/developer, unless otherwise agreed in writing by the planning authority.

Reason: To ensure that the standard of access to the new house is adequate.

7. No part of the development hereby approved shall take place on ground lying below 5.09 metres above ordnance datum, with finished floor levels set no lower than 5.50 metres above ordnance datum.

Reason: To minimise the risk to the development from coastal flooding.

8. The core path running to the north and east of the site shall remain accessible and free from obstruction throughout the construction and operational phase of the development. Glebe Road and the access track which forms a continuation of this road shall remain unobstructed at all times, before, during and after development of the site.

For the avoidance of doubt obstruction would include any of the following:

- the placing of materials on the path
- allowing water, soil or any other substance to flow or spill onto the path
- erecting any fence or locked gates across the path
- prohibitory signs or notices
- plant or overhang any vegetation on the path
- projections from building
- park vehicles or place structures.

In accordance with the Land Reform (Scotland) Act 2003, any disturbance to the surface of a right of way must be reinstated within 14 days of the beginning of that disturbance or longer only if agreed by the local authority.

Reason: In order to safeguard public access both during and after the construction phase of the development.

9. No traffic associated with the construction of the development, hereby approved, shall access the site from the east and shall instead take access from the existing track to the west.

Reason: In order to route large construction vehicles and plant away from an existing dwelling house; in order to safeguard neighbour amenity during the construction of the development.