



Decision by Trevor A Croft, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2252
- Site address: Land 40 metres north-west of 12 Glenkingie Terrace, Caol, Fort William
- Appeal by Lochaber Housing Association against the decision by Highland Council
- Application for planning permission 20/03270/FUL dated 31 August 2020 refused by notice dated 27 April 2021
- The development proposed: Housing development – erection of 18 residential units
- Application drawings: See schedule at end of notice
- Date of site visit by Reporter: 17 September 2021

Date of appeal notice of intention: 12 October 2021

Notice of intention

For the reasons given below I am minded to allow the appeal and grant planning permission subject to the 14 conditions listed at the end of this notice, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997 as amended, or some suitable alternative arrangement, covering education improvements at Caol primary school as discussed in paragraph 19 below.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case comprises the Highland-wide Local Development Plan 2012 and the West Highland and Islands Local Development Plan 2019.
2. The council's single reason for refusal quotes only Highland-wide Local Development Plan Policy 29 Design Quality and Placemaking. The council's committee report refers to West Highlands and Islands Local Development Plan Map 2.1 Fort William Areas – Caol Map. In brief policy 29 supports development that does not impact upon individual and community residential amenity and demonstrates siting and design in keeping with local character.
3. Having regard to the provisions of the development plan, the submissions before me and my site inspection, the main issues in this appeal are the impact of the proposal on individual and community residential amenity and the extent to which siting and design is in keeping with local character.



4. The appeal site is a level grassed area, approximately rectangular in shape, located on the north-western edge of Caol, within the Fort William settlement area. It is surrounded on three sides by existing long established houses on Glenkingie Street, Glenkingie Terrace and Kilmallie Road. On the fourth, north-west, side is a well wooded embankment that supports the Caledonian Canal. An existing narrow road runs between the site and the canal, giving access to the rear of properties on Glenkingie Street. This road would be upgraded to provide access to the appeal properties. There is an area of existing parking at the north-east corner of the site.

5. The appeal proposal is for the erection of 18 housing units for the affordable or social renting sectors. There would be 12 two bedroom apartments in two two-and-three-quarter storey blocks; two four bed semi-detached houses to the south-west of these blocks; and four three bedroom semi-detached house to the north-east. They would be set out in a line along the access road. Car parking would be provided on ground between the new and existing houses, including provision for parking for the latter. There would be a small landscaped area and play space.

6. There is no issue about the principle of developing the site, which lies within a long established residential area. It is effectively undeveloped land within the settlement boundary as shown on the Caol map in the West Highlands and Islands local development plan. The council's reason for refusal states that through the scale of development the proposal does not demonstrate sufficient sensitivity and respect towards the existing layout and design and does not have sufficient regard to the historic pattern of development through the removal of parking and access.

7. The appellant states that it worked closely with the planners and local community to achieve a viable scheme in an area of extreme housing demand. Plans were altered to reflect the concerns of the community, such as retaining green space and adding to existing parking whilst ensuring viability in a very challenging economic time.

8. The existing houses around the site are mainly in terraced blocks of four units, with two semi-detached blocks, all under fairly steeply sloping roofs. Most have cat-slide dormers with traditional dormers in the peeped roofs at the ends of the terraces. Some have new dormers or Velux-style windows inserted into the roof spaces giving three floors of living area. The rear of the properties overlook the appeal street with the frontages looking across small front gardens to similar houses on the opposite sides of the roads. The local roads are relatively narrow and the overall impression is of a fairly densely developed area.

9. Although the two blocks of apartments are a storey higher than the surrounding houses the nearest ones in direct line of sight would be some 40 metres away, measured by me from the appeal drawings. This would be approximately double the 20 metres typical distances between blocks of the existing houses across the fronting roads and which comprise the principal outlooks from the houses. At this distance I do not consider the additional storey height would dominate the outlook from the existing houses. Mature deciduous trees along the canal embankment would still be prominent in the outlooks to the rear of the houses. I do not consider residential amenity would be compromised to an extent that would justify refusing to grant planning permission. Sunlight and daylight would not be affected and there would be no significant overlooking.

10. Both the proposed semi-detached houses and the apartment blocks, the latter with feature gables front and rear, match the general form of the existing houses. The layout, in a single line fronting the road, is similar to the existing street pattern. Car parking would be along the rear of the houses with access to the widened road taken between the apartments and three bedroom semi-detached blocks. There would be 27 spaces with three of them providing for disabled access. The existing parking area would be formalised and added to, providing a further 18 spaces in total. Access to these on foot from the existing houses would be via four footways between the houses.

11. There would be a reduction in overall green space but the landscaped and play area would be an improvement on the somewhat unkempt character of the existing site. I also noted at my site inspection that there is a significant area of public open space some 200 metres to the west of the appeal site. There is also a good network of paths, so the area is not without access to open areas.

12. Access to the canal side footpath and Great Glen Way would be maintained. Improvements would be made to the access road and the junction with Kilmallie Road. I consider it likely that the increase in traffic is unlikely to cause any road safety issues to an extent that would be significant. Overall I find the siting and design of the development is in keeping with the character of the surrounding area and complies with policy 29.

13. Taking all the above into account I consider the proposed development accords with the principles and policies set out in the development plan.

14. Turning to other material considerations the council notes that consultations did not produce any concerns that could not be dealt with by conditions.

15. The council received representations from 13 households objecting to the proposals and four late representations were submitted via the community council's Facebook page. Representations were also received direct to DPEA from two individuals and the community council, also objecting to the proposals. All these were primarily related to issues of amenity and open space that have been dealt with above.

16. The community council notes that the Lochaber Housing Association's mission statement includes: "helping to sustain and develop thriving communities throughout Lochaber". It considers that the proposed development does not accord with this mission. I am unable however to accept this view as I am in no doubt that the provision of 18 affordable houses in an area of high demand would help to sustain and develop the community and thus meet the terms of the statement. The council's committee report accepts that there is a balance to be met but that the delivery of the affordable scheme, with its mix of house types is acceptable, a conclusion with which I concur.

17. A number of issues have been raised about the handling of the application but these are not relevant to the appeal. Potential loss of property values is not a planning matter.

18. Overall I find that other material considerations do not affect my conclusions.

19. The council has requested that in the event of planning permission being granted a legal obligation is concluded for the payment of a contribution towards an extension for a single classroom at Caol primary school. This is founded on policy 31 of the local

development plan, which sets out the requirement, premise and authority for development contributions. The appellant has not commented on this but a summary of the required contributions has been provided and this is in accordance with the development plan.

20. I therefore conclude that a planning obligation, under the terms of section 75 of the Town and Country Planning (Scotland) Act 1997 as amended, should be completed in order to secure the requirements set out in paragraph 18 above. I will accordingly defer determination of this appeal for a period of 12 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 as may be agreed by the parties, to be completed and registered or recorded as the case may be. If by the end of the 12 week period, a copy of the relevant obligation with evidence of registration or recording, or an appropriate alternative agreement, has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation or other agreement.

21. The council's committee report included 14 conditions for imposition in the event of planning permission being granted. The council's appeal response noted that because the council had refused permission it would not comment on the conditions. No comments were received from the appellant.

22. I have examined these and consider they are in accordance with circular 4/1998 regarding the use of conditions in planning permissions. I note also that condition 14 relates to the provision of electric vehicle charging points. I have not been alerted to any reference to this in development plan policy but it accords with the Scottish Government's stated aim of reducing carbon emissions and I consider it accords with the tests in the circular. Subject to minor editing I will adopt these conditions in the event of planning permission being granted.

23. Taking all the above into account I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that, subject to the completion of a section 75 obligation, there are no material considerations which would still justify refusing to grant planning permission.

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

Trevor A Croft

Reporter

Conditions to be imposed in the event of planning permission being granted

1. No development shall commence on the construction of the housing units hereby approved, until a detailed specification for all proposed external materials and finishes (including trade names and samples where necessary) has been submitted to, if asked, and approved in writing by, the planning authority. Thereafter, the development shall be undertaken in accordance with the approved specification. For the avoidance of doubt the

roofs of the development shall be finished in dark grey natural slate, unless otherwise agreed in writing by the planning authority.

Reason: to protect visual amenity.

2. No development shall commence on the construction of the housing units hereby approved until a construction phase Traffic Management Plan has been submitted to and approved in writing by the planning authority. Thereafter, the approved Traffic Management Plan shall be implemented in accordance with the approved plan for the duration of construction.

Reason: to promote road and pedestrian safety.

3. No development shall commence on the construction of the housing units hereby approved until a construction method statement has been submitted to and approved in writing by the planning authority. This plan shall include the proposed location of the works compound, the means of screening the site, details of how the site will be developed and mitigation measures in terms of dust and noise for the adjacent premises. Thereafter, the development shall be undertaken in accordance with the approved construction method statement for the duration of the construction works.

Reason: to promote road and pedestrian safety and protect visual and residential amenity.

4. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the planning authority. Thereafter, only the approved details shall be implemented, and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason: to ensure that surface water drainage is provided timeously and complies with the principles of SUDS.

5. No development shall commence until evidence has been provided that Scottish Water intends to grant its permission for the discharge of surface water arising from this development to the public sewer.

Reason: to ensure surface water drainage arising from the development is adequately managed.

6. No development shall commence until an application for Road Construction Consent for development, together with the appropriate financial bond, has been submitted to and approved in writing by the council's roads department.

Reason: to promote road safety and to ensure that improvements to the public road network are made commensurate to the scale of development proposed.

7. Prior to the first occupation of the development hereby approved, the car parking and access arrangements detailed on the approved plans listed below shall be completed in full

and made available for use. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

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

8. Despite the details shown on the approved plans listed below, no development shall commence until full details of a fully enclosed and secure communal bicycle storage system for 24 bicycles have been submitted to, and approved in writing by, the planning authority. Thereafter, the storage facilities shall be installed in accordance with these approved details prior to the first occupation of the development hereby approved and retained for this use in perpetuity.

Reason: to facilitate the use of a variety of modes of transport and to ensure cycle storage is provided in keeping with the village setting

9. No development shall commence until full details of remote path upgrade works which link the site to Kilmallie Road and Glenkingie Terrace, including a timetable for implementation of these works, are submitted to and approved in writing by the planning authority. Thereafter, delivery of the improvements agreed shall be carried out in accordance with the timescale agreed, unless otherwise first agreed in writing by the planning authority.

Reason: to promote pedestrian safety and provide commensurate improvements to the public path network which links to the wider village.

10. No development shall commence until a detailed Outdoor Access Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the planning authority. The plan shall include details showing:

i. All existing access points, paths, core paths, tracks, rights of way and other routes and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;

ii. All proposed paths, tracks and other routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.); and

iii. Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the development (including details of mitigation measures, diversion works, duration and signage). The approved Outdoor Access Plan, and any associated works, shall be implemented in full prior to the first occupation of the development or as otherwise may be agreed within the approved plan.

Reason: to safeguard public access during the construction phase of the development.

11. No development shall commence until full details of the scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the planning authority. Details of the scheme shall include:

i. Full details of the layout, design and construction of the green space, play area and outdoor recreation area (including path specifications, protection measures, boundary treatments and timescales for implementation);

ii. The location and design, including materials, of any existing or proposed walls, fences and gates;

iii. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and

iv. A programme for preparation, completion and subsequent on-going maintenance and protection of all open space, play area and landscaping works. The public amenity space and play area scheme as agreed shall be implemented in full and in accordance with the timescales contained therein.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing or other surfacing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: to ensure suitable integration of development into the village setting and to that all communal spaces, facilities and landscaping areas are properly managed and maintained.

12. The finished ground level adjoining the development shall be set at or above 5.29 metres above ordnance datum (with the exception of parking and open space areas) as detailed in the supporting statement dated 22.01.2021.

Reason: to reduce flood risk to the proposed development during an extreme flood risk event.

13. No development shall commence on site until full details of a scheme of management for the car parking area shown on the approved plans attached hereto, has been submitted to, and approved in writing by, the planning authority. The scheme shall include details of any markings, signage, permits and management proposals for the parking area to include 27 parking spaces to serve the development hereby approved and 18 parking spaces reserved for use for existing neighbouring residents.

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

14. No development shall commence until a scheme has been submitted detailing the provision of infrastructure to serve future electric vehicle charging points. The scheme shall include the provision of infrastructure, defined as the provision of cabling to serve appropriately located communal electric vehicle charging points within the communal parking area. The approved scheme(s) shall be implemented in line with the approved details.

Reason: to facilitate the move toward the reduction in reliance of petrol and diesel cars.

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)).

Schedule of drawings

General Plan Landscape layout	PN2162-RFB-ZZGF-DR-AL-0001	REV C
Location Plan	000001	
Proposed Site Layout Plan	103	
Floor/Elevation Plan	104 (2 bed apartments)	
Floor/Elevation Plan	203 (3 bed semi-detached)	
Floor/Elevation Plan	204 (4 bed semi-detached)	
Street elevations	311 (With existing houses)	
General Plan: Kerbing layout	197116-07 REV C	
General Plan: Areas for adoption	197116-06 REV C	
General Plan: Road layout	197116-03 REV D	
General Plan: Swept path analysis	197116-02 REV E	