



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

- Planning appeal reference: PPA-270-2255
- Site address: Smithy Croft, Station Road, Carrbridge PH23 3AL
- Appeal by A & V Groom against the decision by The Highland Council
- Application 20/04751/PIP for planning permission in principle dated 01 December 2020 refused by notice dated 21 June 2021
- The development proposed: Proposed development of a house/house plot
- Application drawings: PL 001 - Location plan; PL 002 - Proposed site plan; PL 003 - Site plan levels
- Date of site visit by Reporter: 10 November 2021

Date of appeal decision: 7 December 2021

Decision

I allow the appeal and grant planning permission in principle subject to the five conditions listed at the end of the decision notice. Attention is drawn to the two advisory notes at the end of the notice.

I have determined the appellant's claim for an award of expenses against the council in a separate notice.

Reasoning

1. By notice of intention dated 19 November 2021 (attached as an annex to this notice) I indicated that I was minded to grant planning permission 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 19 of that notice of intention.
2. On 26 November 2021, the council's Principal Solicitor confirmed by email that the appellant has paid the required developer contribution to the council.
3. Given the contributions have been paid, there is no longer a need for a legal agreement to be entered into for this purpose. Accordingly, I am satisfied that planning permission can now be granted subject to the conditions originally specified in the notice of intention.

Christopher Warren

Reporter



Conditions

1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:

- i. a detailed layout of the site of the proposed development (including site levels as existing and proposed) and demonstrating that the proposed house does not exceed a plot ratio of plot to building footprint of 75:25, whilst ensuring adequate private amenity space and car parking and turning facilities;
- ii. the design and external appearance of the proposed house;
- iii. landscaping proposals for the site of the proposed development (including boundary treatments);
- iv. full details of access and parking arrangements; and
- v. details of the proposed water supply and drainage arrangements, including surface water drainage proposals.

The development shall thereafter be carried out in complete accordance with the approved details.

Reason: Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

2. Unless the applicant can provide a detailed site history that does not indicate any former potentially contaminative land use, a scheme to deal with potential contamination on site must be submitted to and approved in writing by the Planning Authority. The scheme shall include:

- a) the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be submitted to and agreed in writing by the Planning Authority, and undertaken in accordance with PAN 33 (2000) and British Standard BS 10175:2011+A2:2017 Investigation of Potentially Contaminated Sites - Code of Practice;
- b) the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works, and proposed verification plan to ensure that the site is fit for the uses proposed;
- c) measures to deal with contamination during construction works.

In the event that remedial action be required, a validation report that will validate and verify the completion of the agreed decontamination measures; and in the event that monitoring is required, monitoring statements shall be submitted at agreed intervals for such time period as is considered appropriate by the Planning Authority.

The development shall thereafter be carried out in complete accordance with the approved scheme.

Reason: To ensure the potential for contaminated land is adequately addressed and to ensure remedial works are implemented if required.

3. Any details pursuant to Condition 1(iii) above shall include:

a) a plan clearly showing the footprint of the house, garage and driveway, along with any underground services due to be excavated. All trees proposed for retention and removal are to be clearly and accurately marked on the plan;

b) A Tree Protection Plan, prepared in accordance with BS5837:2012 (Trees in Relation to Design, Demolition and Construction); and

c) A detailed Replanting Plan and maintenance programme.

Reason: To ensure the adequate protection of trees to be retained as part of the development and ensure an adequate level of replacement planting, in the interests of the amenity of the area.

4. The proposed finished floor level of the house shall be at least 260.25m, as shown on approved plan PL003.

Reason: To ensure that the finished floor area is sufficient to mitigate as far as is practicable the residual risk of pluvial flooding.

5. The proposed house shall not be occupied until parking and turning arrangements for at least five vehicles (comprising of at least two spaces for the proposed house and at least three spaces for Smithy Croft) have been formed in complete accordance with the details required by condition 1(iv). The parking spaces and turning area shall thereafter be retained and available for use in perpetuity.

Reason: To ensure that an adequate level of off-street parking is provided timeously in the interests of road safety.

Advisory notes

1. **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).)

2. **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).)

Annex

Planning and Environmental Appeals Division

Appeal: Notice of Intention

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Notice of Intention by Christopher Warren, a Reporter appointed by the Scottish Ministers

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- Date of site visit by Reporter: 10 November 2021

Date of notice: 19 November 2021

Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission in principle subject to the conditions listed, and 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 19.

The appellant has made a claim for expenses against the council. This will be addressed separately once the decision notice on this appeal is issued.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The adopted development plan in this case is the Cairngorms National Park Local Development Plan 2021 (the LDP).
2. Having regard to the provisions of the development plan alongside matters raised in representations, the main issue in this appeal is the suitability of the site to accommodate a new dwelling satisfactorily, together with its associated car parking.
3. The site is positioned centrally in Carrbridge, within the defined settlement boundary and where appropriate infill development opportunities are supported in principle by LDP policy 1 'New housing development' (in section 1.1(b) of the policy). The proposed plot would be created by utilising part of the curtilage of another house, Smithy Croft, and it would share the same existing access onto Station Road.

4. Smithy Croft is positioned towards the back of the site, leaving a relatively substantial part of the intervening garden ground between the house and Station Road with potential scope for further development. During my site inspection I observed that a number of other properties are positioned close to Station Road and the position of the proposed plot would be consistent with the general pattern of development in this location. Due to both the plot's position on a corner and the relative position of the driveway which would also visually separate the proposed house from Smithy Croft, I am satisfied that a modest house in the location proposed would appear as a logical addition in the overall street scene, rather than it giving rise to an impression of overdevelopment.

5. LDP policy 3 'Design and placemaking' contains various requirements for new developments. Amongst its provisions, section 3.3(i) of the policy requires developments to "protect the amenity enjoyed by neighbours including minimisation of disturbance caused by access to the development site". The council cited this provision in its reason for refusal because of a concern that residential amenity at the proposed new house would be compromised by its proximity to, and shared access with, Smithy Croft. That property is currently used as holiday letting accommodation.

6. The use of a house as a holiday let is not a change of use which would normally require planning permission. Whilst I recognise that there are some differences between the precise characteristics of the use of a house as a holiday let in comparison to a house which is occupied permanently by a single household, in planning terms there is normally no distinction. With this in mind, I do not consider that Smithy Croft's current use as a holiday let can be given weight in this appeal. The question of whether some form of material change of use at Smithy Croft has occurred, which would require planning permission, is outwith the scope of this appeal. Of greater relevance is whether the proposed development could co-exist with Smithy Croft as well as other neighbouring and nearby dwellinghouses on Station Road and Reed Court, without their proximity to one-another giving rise to an unsatisfactory standard of residential amenity.

7. In general, an additional house in a predominantly residential area would in principle be seen as inherently compatible with the surrounding land use. Having regard to the indicative proposed site layout, I am satisfied in this case that there would be sufficient separation between the proposed and neighbouring houses, including Smithy Croft, to enable them to co-exist whilst ensuring that a good standard of privacy and amenity would be achieved (subject to the precise design and positioning of windows in the proposed house).

8. Given the position of the plot and relative positions of other properties, the proposed development could potentially be designed to have a principal east-west aspect without giving rise to any overlooking. I see no reason why the shared access arrangement would generate any particular additional scope for disturbance or loss of amenity, over and above what may occur in any residential area where neighbouring properties are relatively close to one-another.

9. Wider concern has been expressed in representations that the proposed house may also be used for holiday letting purposes, which may generate additional noise and disturbance than if it was a main residence for a single household. The appellants have indicated that they intend to occupy the property full-time, although of course this may not

always be the case, and there is no current policy basis to restrict the occupancy of the proposed house in any event. I note the council's point that there is an intention to designate a short-term let control area which would apply to Carrbridge, but presently this is not in place and cannot be given weight.

10. Anecdotally I would accept that in the case of holiday letting, on occasion some guests may not be as aware or as respectful of neighbours as permanent residents may be, in terms of noise generated from inside and outside the property. Whilst it is relevant to consider the full spectrum of possible amenity implications when assessing a proposal, residential amenity is to some extent dictated by the behaviours of neighbours whether or not they are visitors or full-time occupiers. Overall, I find it would be untenable to conclude that the proposed house would be an incompatible land use with other neighbouring residential properties.

11. The council's reason for refusal also cites section 3.3(j) of LDP policy 3 in support of its finding that there would be insufficient parking provision for both properties. The proposal is accompanied by an indicative site plan which shows that two car parking spaces could be provided to serve the new house, with three spaces available to serve Smithy Croft. Given the number of bedrooms in Smithy Croft and the maximum number of bedrooms likely to be achievable in the proposed house, the minimum number of spaces required by the Highland Council's 'roads and transport guidelines for new developments' document would be exceeded by one space for Smithy Croft. Given the number of beds provided in Smithy Croft and the possibility that it could accommodate three households on holiday together, I consider that a minimum requirement for three spaces to serve that property is justified in this case.

12. From the submissions I am satisfied that there is space within the site to provide sufficient car parking for both properties, together with space for a turning head within the site to enable access from and egress onto Station Road in a forward gear. The ability to accommodate a turning head is particularly important given the oblique angle of some of the proposed spaces relative to the shared access drive, although the final site layout and parking and turning arrangements would be a matter to address further as part of a subsequent detailed design. At this stage however, I am satisfied that appropriate arrangements are achievable, thereby according with policy 3 (section 3.3(j)).

13. A number of other matters have been raised in representations. In regard to road safety considerations, the driveway is located on the outside of a bend on Station Road, and during my site inspection I observed that this allowed for good visibility in both directions. I note that some improvements to the verge area are also required as part of an adjacent development which is currently under construction, including provision of a pavement. There is nothing before me to indicate that road safety would be compromised by the slight intensification of use of the access. The number of additional vehicular movements on Station Road itself would be imperceptible.

14. The development would lead to the loss of some trees within the site. I did not find any of the affected trees to be particularly noteworthy individual specimens, and I consider that greater amenity is provided from trees on the landscaped grass verge, to the immediate south and west; this area is outwith the site and these trees would be unaffected. I attach weight to the position of the council's forestry officer who has no objection to the proposal, but I agree that a tree protection plan and replanting plan would

be appropriate and reasonable conditions of consent in this instance.

15. Concerns have been raised over the ability to provide adequate surface water drainage. However, no insurmountable constraints to providing an appropriate drainage scheme have been identified, and this would be a further matter to be addressed a part of a detailed proposal (and a condition of consent).

16. The Carrbridge settlement statement in the LDP identifies that all housing developments should include 25% affordable housing, and that contributions will be sought to increase capacity at the primary school and at community leisure facilities. In the event that planning permission is to be granted, the council has in this instance requested a commuted sum of £1,250 in lieu of on-site affordable housing, and a contribution of £547 towards an additional primary school classroom.

17. In conclusion, I find that the proposal represents an appropriate infill opportunity in a central location within Carrbridge. As the appeal relates to an application for planning permission in principle, there are numerous detailed matters which would require to still be addressed satisfactorily. Despite this, based on my foregoing assessment I find no reason in principle why a modest house could not be successfully accommodated on the site. Subject to the conditions outlined together with the securing of the financial contributions as outlined above, I find that the development would accord with the relevant provisions of the development plan. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

18. The conditions set out below are based on those suggested by the council, but I have not included a condition which stipulates precise design requirements (council condition 2). In my view this would be unduly restrictive at this stage, particularly given the final design of the house must be approved in any event.

19. I conclude that a planning obligation restricting or regulating the development or use of the land should be completed in order to secure the contributions towards affordable housing and primary school capacity. I will accordingly defer determination of this appeal for a period of up to 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 has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

Christopher Warren
Reporter

List of conditions

1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:

- i. a detailed layout of the site of the proposed development (including site levels as existing and proposed) and demonstrating that the proposed house does not exceed a plot ratio of plot to building footprint of 75:25, whilst ensuring adequate private amenity space and car parking and turning facilities;
- ii. the design and external appearance of the proposed house;
- iii. landscaping proposals for the site of the proposed development (including boundary treatments);
- iv. full details of access and parking arrangements; and
- v. details of the proposed water supply and drainage arrangements, including surface water drainage proposals.

The development shall thereafter be carried out in complete accordance with the approved details.

Reason: Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

2. Unless the applicant can provide a detailed site history that does not indicate any former potentially contaminative land use, a scheme to deal with potential contamination on site must be submitted to and approved in writing by the Planning Authority. The scheme shall include:

- a) the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be submitted to and agreed in writing by the Planning Authority, and undertaken in accordance with PAN 33 (2000) and British Standard BS 10175:2011+A2:2017 Investigation of Potentially Contaminated Sites - Code of Practice;
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