



## Appeal Decision Notice

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Decision by Stuart West, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2260
- Site address: Co-Operative Retail Services Ltd, Balmacaan Road, Drumnadrochit, Inverness, IV63 6UQ
- Appeal by Highland Housing Alliance against the decision by The Highland Council
- Application for planning permission 21/02124 dated 30 April 2021 refused by notice dated 27 September 2021
- The development proposed: Erection Of 15. No 2 And 2.5 Storey Blocks Of 2-Bedroom Flats With Associated Parking And Services
- Date of site visit by Reporter: 4 February 2022

Date of appeal decision: 14 March 2022

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### 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. The development plan consists the Highland Wide Local Development Plan 2012 (HWLDP) and the Inner Moray Firth Local Development Plan 2015 (IMFLDP) and associated supplementary guidance.
2. Having regard to the provisions of the development plan the main issues in this appeal are:
  - The principle of the development
  - Design
  - Open space
  - Previously used land

#### The principle of the development

3. The site is located in a prominent location to the west side of the A82, the principal route between Inverness and Fort Augustus. The site is partially bounded to the north and east by the A82. Blairbeg Park (Glenurquhart Shinty Club) is located to the north east, Balmacaan Road and residential properties are located to the south.
4. The appeal site lies within the Settlement Development Area of Drumnadrochit on land identified within the IMFLDP as Site DR8. HWLDP Policy 34 Settlement Development Areas states that proposals within Settlement Development Areas will be supported if they meet the requirements of Policy 28: Sustainable Design and all other relevant policies in the

plan. Furthermore, the policy is clear that proposals will be judged in terms of how compatible they are with the existing pattern of development and landscape character, how they conform with existing and approved adjacent land uses, and the effect on any natural, built and cultural heritage features. Paragraph 19.5.3 of the HWLDP states that for each of the Settlement Development Areas, the relevant local development plan will set out a number of objectives which will include development factors and developer requirements which will need to be taken into account in that particular area.

5. Policy 2 of the IMFLDP clearly states that the development of locations and uses specified in Section 4 (Development Allocations) will be supported. Section 4 of the IMFLDP sets out the strategic objectives, factors and requirements for the development of each settlement, which need to be taken into account in each particular area. Drumnadrochit is defined within the IMFLDP as a “local centre” with a series of land allocations identified within the settlement boundary for housing, commercial, mixed, and community use. Site DR8 is allocated within the plan for retail, business and community uses.

6. While HWLDP policy 34 provides general, overarching support for development within defined settlements subject to compliance with other development plan policies, the specific land allocations within each of the development allocations define which uses are appropriate in strategic locations. In this instance, the principle of development could potentially be supported by HWLDP policy 34 if the terms of the policy are met, despite the land use not being supported by the IMFLDP development allocation. I give consideration to each of the relevant relevant elements of that policy below.

### Design

7. HWLDP Policy 28 Sustainable Design states that developments which are significantly detrimental with regards to a series of criteria will be judged not to accord with the plan. One such criterion relates to the extent to which developments demonstrate sensitive siting and high quality design in keeping with local character and in making use of appropriate materials. HWLDP Policy 29 Design Quality and Place-Making states that new development should be designed to make a positive contribution to the architectural and visual quality of the place in which it is located. The policy further requires that applicants demonstrate sensitivity and respect towards the local distinctiveness of the landscape, architecture, design and layouts in their proposals.

8. Given the busy nature of the A82, and the prominent position of the appeal site directly adjacent to it, I find that the requirement for high-quality, site-sensitive design is particularly important. At the time of my site inspection the appeal site had been cleared in preparation for redevelopment. The buildings in the vicinity of the site are a mixture of single and two storey properties with dark slate roofs and smooth, light-render finishes.

9. Whilst identified as a “local centre” in the IMFLDP, Drumnadrochit has a traditional, rural appearance, especially when approaching the appeal site from the north. A number of developments have taken place in recent years that are more modern in appearance, including a commercial area and residential properties to the south and east. However, the A82 is largely devoid of visible built form in either direction along the road from the appeal site as the majority of buildings are positioned behind substantial trees and hedges. As such, the context of the site is characterised by its traditional, linear settlement pattern with single and 1.5-storey buildings set back from the road within their own dedicated grounds. Given the effective screening of the buildings along the A82, the context of the site has an open, semi-rural feel.

10. The proposed development would be constructed using a palette of modern building materials including grey roof tiles, reconstituted stone, upvc windows and rainwater goods, extensive glazed sections, and a white dry dash finish. Some of the materials proposed clearly reflect those evident in the surrounding built environment.

11. The proposed development would comprise three distinct blocks of flats described by the appellant and the council as being two storeys in height with a central taller block of two and a half storeys. However, in reviewing the elevation drawings, I agree with third party representations that the larger central block reads more clearly as a three-storey building. This would particularly be the case when viewing the development from the south-west along the busy A82.

12. I observed no modern buildings within Drumnadrochit of a comparable height to the proposal. There are limited examples of large buildings to the north of the settlement but these are traditional in nature and removed visually from the appeal site, which is closer to the residential area to the south of the settlement. In refusing the planning application, the council found that the height of the flats would be incongruous and overbearing in this village location. The appellant has advised that if the height of the central block were to be reduced, it would result in three fewer flats being deliverable on the site thereby rendering the development unviable. I give further consideration to other material considerations, including development viability, below.

13. The appellant contends that by breaking up the roof and elevations to correspond to each of the component blocks, the development avoids the creation of a single solid mass of a building. However, I find that rather than add architectural interest and variety as suggested by the appellant, the roofline appears discordant and confusing due to the differing roof pitches, heights and shapes proposed throughout the scheme. Furthermore, their unscreened position within the site in close proximity to the A82 does not accord with any other developments in this part of the settlement where the buildings are set back from the footway within their own grounds.

14. Due to the prominence of the proposed buildings, emphasised by their visibility over extended distances, their proximity to the A82, and the absence of any structures of a comparable scale/style in the vicinity, I agree with the council that the development as proposed would appear incongruous and overbearing.

15. I therefore find that the proposal does not demonstrate sensitivity or respect towards the local distinctiveness of the landscape, architecture, design or layout of the site's context. I am satisfied that the proposed development would not make a positive contribution to the architectural and visual quality of the surrounding area and that it would be significantly detrimental to the character and appearance of its local context. I consequently conclude that the proposal is contrary to HWLDP Policies 28 and 29.

#### Open space

16. HWLDP Policy 75 Open Space states that any new residential development of four or more dwellings will be required to provide publicly accessible open space in line with the quantity, quality and accessibility requirements set out in the Open Space in New Residential Development: Supplementary Guidance. The document specifies that open space provision of 40 square metres per person is required in "local centres". Consequently, given the scale of the development, there is a requirement for 1,338 square metres of greenspace in this instance. Due to the footprint of the proposed buildings, and

the vehicular parking provision required to serve the residential properties, there is only 440 square metres of residual open space proposed within the development.

17. Although there would be insufficient open space provision within the development site to meet the requirements of the supplementary guidance, there are multiple opportunities in the vicinity for residents to access public open space. These opportunities include parkland, sports/leisure facilities, a public play park and an extensive local footpath network. I therefore agree with the council that a commuted sum payment toward the upgrade and maintenance of the nearby public play facilities would be appropriate mitigation in this instance in line with the terms of the adopted supplementary guidance. I consequently find that the proposed development would accord with HWLDP Policy 75.

#### Previously used land

18. HWLDP Policy 42 Previously Used Land states that the council will support development proposals that bring previously-used land back into beneficial use provided the proposed development accords with all other relevant policies of the plan. Although the general principle of the development would accord with the Policy 42, for the reasons highlighted above I am satisfied that the proposal would not accord with all other relevant policies in the plan. I therefore find that the proposal would be contrary to HWLDP Policy 42. I find it unlikely that there would be any difficulty in bringing a vacant site in the middle of Drumnadrochit back into meaningful use.

#### Conclusions on the development plan

19. For the reasons given above, I find that the proposed development would be contrary to the development plan. The key policy issue is that the form, scale and location of the proposed buildings within the appeal site would be prominent, incongruous and out of keeping with the character and appearance of the surrounding area contrary to HWLDP Policies 28 and 29. As a consequence, the proposed development is also contrary to HWLDP policies 34 and 42. It also is not development supported in principle at this location by IMFLDP policy 2.

#### Other material considerations

##### Scottish planning policy

20. Scottish Planning Policy (SPP) states that planning should direct the right development to the right place. SPP requires spatial strategies within plans to promote a sustainable pattern of development appropriate to the area, with decisions guided by the series of policy principles set out at Paragraph 40 of the document.

21. The IMFLDP sets out the spatial strategy for Drumnadrochit, stating that the settlement has more facilities than would be expected for a village of its population and proximity to the Highland capital. In considering the planning application the council found that whilst the site is safeguarded for retail, business and community uses, there are other sufficient recent, proposed and/or allocated development sites to cater for local demand for these uses. The council therefore concluded that the proposed residential use would not be a significant policy issue in principle.

22. I am satisfied that the principle of the proposed residential use would be acceptable on balance despite being contrary to the Drumnadrochit allocation summary and IMFLDP Policy 2.

23. I am aware that SPP requires a generous supply of housing land to maintain at least a 5-year supply of effective housing land at all times. Where there is a shortfall in effective housing land the presumption in favour of sustainable development, and the level of contribution that a development site would make toward meeting the identified shortfall, is a significant material consideration. No party has suggested that there is a shortfall in the five-year effective-housing-land supply.

#### Design precedent

24. The appellant contends that a higher density of development is to be expected within settlements, which may differ in appearance from the two storey properties that are predominant in the surrounding area. The appellant further argues that the proposal is a visually appropriate design solution for a flatted development on a site separate from existing housing. My attention has been drawn by way of comparison to planning permission 13/03694/FUL (subsequently 16/05708/FUL).

25. Having reviewed the cited planning permission, I note that the approved development comprises a mixture of residential properties of one and two storeys in height, none of which I find are directly comparable to the development proposed. Furthermore, whilst precedent may be a material consideration in the determination of planning applications, what is appropriate design in one location may not be appropriate in another. In this case, the constrained nature and prominent location of the appeal site is such that high-quality, site-sensitive design is critical.

#### Affordable housing and development viability

26. The appeal site is owned by Highland Housing Alliance, a not-for-profit development company. The proposed flats would be developed for social housing in partnership with Highland Council. The council has confirmed that there is a demand for affordable housing in the area and I am satisfied that this is a material consideration in the determination of the appeal.

27. The appellant has stated that the number of units proposed would ensure that the development is an economically viable project. The appellant contends that any loss of units as a result of lowering the height of the main central block, would generate a funding shortfall. No specific viability appraisal has been submitted to demonstrate the need for 15 flats on the site. I am satisfied that, even if evidence were provided to demonstrate that the proposed density is essential to make the project viable, the benefits associated with delivering the affordable housing would not outweigh the adverse visual impacts that the proposed design solution would have on the character and appearance of the streetscape and the wider settlement. Although there are alleged viability issues with regard to the alignment of the development with the funding model of the appellant, it is unlikely that a site in the middle of Drumnadrochit cannot viably be developed in accordance with policy or without adverse design impacts.

#### National Planning Framework 4

28. The appellant has drawn my attention to the draft National Planning Framework 4 (NPF4) and its support for "local living" and the principle of 20-minute neighbourhoods. NPF4 is far from adoption and could change substantially, so its weight is limited, though it does carry some weight as indicating the current views of Ministers. The proposed

development would comply with a 20-minute neighbourhood policy, at least in the sense that it would be close to village facilities.

#### Conflict with existing use

29. Third party representations raised concerns regarding a perceived conflict between the proposed development and the ongoing operation of the adjacent shinty club. The representations contend that the proposed ball-stop fence on the boundary of the site would not be sufficient to prevent balls entering the land and causing damage to people and/or property although the appellant disputes this. Potential incompatibility with existing uses is a material consideration in the determination of planning proposals. Had I not already resolved to dismiss the appeal on design grounds, I would have sought additional information regarding this matter.

#### Other matters

30. Concerns were raised within a third party representation regarding the future safety of children and adults using the adjacent recreational facilities. The representation focused upon potential criminal actions of future residents. Further concerns were raised regarding individuals having comfortable vantage points to overlook local play facilities. In considering the merits of the proposal before me I must focus upon the proposed development/use as opposed to the potential actions of individuals who may or may not occupy the properties in the future.

31. It is common for residential properties to overlook public areas and I do not find the proximity or positioning of the proposed windows in relation to the park or sports facilities to be unreasonable or unacceptable in any way. The concerns raised regarding the potential actions or identities of future individuals are not material to this proposal and I have not therefore taken them into consideration in the determination of the appeal.

#### **Conclusion**

32. 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 and that there are no material considerations which would still justify granting planning permission. I have considered all of the other matters raised, but there are none which would lead me to alter my conclusions.

*Stuart West*

Reporter