

Appeal Decision Notice

Decision by David Liddell, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2292
- Site address: Dunroamin Guest House, Craig Na Gower Avenue, Aviemore, PH22 1RW
- Appeal by The Sweeney Group against the decision by the Highland Council
- Application for planning permission 22/05497/FUL dated 17 November 2022 refused by notice dated 25 August 2023
- The development proposed: Alterations to form 10 serviced apartments
- Date of site visit by Reporter: 21 February 2024

Date of appeal decision: 1 March 2024

Decision

I dismiss the appeal and refuse planning permission.

Preliminary matter

The description of the proposed development which I use above is, in essence, the description¹ used in the application form for this planning permission. In its decision letter the planning authority described the development as ‘Change Of Use From Guest House To Form 10 Serviced Apartments’.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the Cairngorms National Park Local Development Plan (LDP) and National Planning Framework 4 (NPF4). Having regard to the provisions of the development plan the main issues in this appeal are the effect of the development on the character and amenity of the surrounding area, and its potential benefits.
2. Firstly I return to the preliminary matter identified above. It is relevant to the nature of the proposed development which is before me, and therefore to what are the relevant considerations I should take into account.
3. The existing, and seemingly established, use of the appeal premises is as a residential property which incorporates a ‘bed and breakfast’² business. Up to four bedrooms have been available for booking by guests. Class 7 (Hotels and hostels) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 includes guest houses.

¹ Excepting that I have changed ‘11’ to ‘10’, reflecting a revision made to the proposal whilst it was being considered by the planning authority.

² Or a ‘guest house’ – I do not think there is any meaningful difference between these two descriptions.

Bed and breakfast accommodation is class 9 (houses) only where no more than two bedrooms are used for bed and breakfast.

4. The existing use therefore falls into class 7. There are differing views as to how the intended use of the property should be described – for example as ‘serviced apartments’ or (to some objectors) as an ‘aparthotel’. In any event, it seems clear to me that the intended use would also fall within class 7. The planning authority and the appellant also agree that both the current and proposed uses fall within class 7. Section 26(2)(f) of the Act provides that a change of use of land or buildings within the same use class does not constitute ‘development’ and therefore does not require planning permission. Therefore the proposal would involve no material change in the type of use of the property.

5. The proposed external physical changes to the property – including the new and altered windows and doors, areas of decking and fencing, the works to the driveway and garden to create new vehicle parking and turning areas – do (where they amount to ‘development’) require planning permission. The direct effects of these works are relevant to the appeal. So too are their indirect effects insofar as these physical changes would be likely to influence the manner in (and intensity to) which the property would be used in the future.

6. The house on the site is a fairly large modern detached dwelling, with extensions to the rear and box dormers. There would perhaps be some visual incongruity for this residential street brought about by the development, for example by the multiple doorways and areas of decking which would be provided at the front of the building. However, building styles and uses are relatively varied in the wider vicinity of the appeal site. I do not think these aspects of the development would cause any significant harm to visual amenity. The proposed use of white render and timber cladding would echo those used in the recent development (by the appellant) of serviced apartments at the adjacent property on Grampian Road, Vermont. With final details which could be controlled by a planning condition, I am satisfied that these materials would be appropriate at this location. In all these respects there is no conflict with any development plan policies.

7. Areas of decking are proposed for ground floor rooms to the front and rear of the property. I can understand the concerns raised about these by objectors. Based on the proposed floor plans, the rooms would generally be relatively small, with limited seating areas. Therefore I think the decking areas would likely be well-used by holidaying guests for relaxing and socialising, in particular in summer evenings in fair weather. Given the close proximity of the quiet rear elevations and back gardens of the neighbouring homes (especially Craig na Gower to the west and Cairnlea to the north) I think that incidental noise and activity from such use of the decking areas (in particular those to the rear) would have the potential to cause disturbance and annoyance to nearby residents. In my view these effects could be significantly greater than might be expected from decking associated with a normal dwelling. This is because there would be decking for several apartments, because I expect they would be used (for the reason I give above) quite often, and because regular and successive use by different groups of guests would be likely to be perceived by neighbouring residents to be different to, and probably more intrusive than, use by more permanent residents.

8. Objectors also raise concerns about the proposed parking and access arrangements. There are two main issues raised. Firstly a concern that insufficient provision would be made for parking, with consequent parking of vehicles on Craig na Gower Avenue. I would agree that, from looking at the proposed site plan, the parking arrangements seem somewhat cramped, involving driving (for most visitors) to the side and

rear of the property and the requirement for a 'three-point turn' manoeuvre at the rear parking area. However, I note that council roads officials are content with the proposals, which therefore presumably would meet the council's standards for parking. Indeed I note that the proposal was modified from 11 apartments to 10 to allow for this. On that basis, I am satisfied that, from an operational perspective, the proposal would be sufficiently well-served with parking places.

9. The other concern raised about the proposed parking and access arrangements is that there would be disturbance to the nearby homes caused by the sound and lights from cars as people arrive and leave, as they load and unload cars and so on. I think there is some force in these points. Again, I am concerned about the relationship of the nearest houses and gardens to the proposed new driveway, parking and turning areas. I think there would be real potential for disturbance and annoyance to be caused. I think this would likely be exacerbated by the cramped nature of the access and parking arrangements, where cars would spend more time manoeuvring than might otherwise be expected. There would be six parking spaces to the rear but only three of the apartments would be accessed from the rear. This would mean more activity as guests walked to and from the rear of the property to their vehicles. My concerns would endure regardless of whether gravel or some less noisy surface material is used, and if new boundary treatments were put in place.

10. In addition to the issue of parking and vehicle movement arrangements on the site itself, objectors raise other concerns about effects on the local road network. These include concerns about problems for emergency vehicles gaining access to Craig na Gower Avenue, road safety, air pollution and increased traffic levels. However, the absolute numbers of vehicle trips which would be associated with the development is likely to be low. Therefore any effects on congestion or air quality would be minimal. There is no evidence which suggests to me that Craig na Gower Avenue is unsuited to accommodating such additional traffic levels so as to lead to any problems in respect of road safety, or access by emergency vehicles. Nothing I observed during my site inspection caused me any concern in respect of potential effects on the capacity and safety of local roads.

11. Bringing the above effects of the development together, the concerns I have about the effects on the residential amenity of the closest neighbouring houses seem to me to arise as a result of what I would characterise as a proposal to over-develop the site. The number of car parking spaces required results in a cramped and awkward layout. It brings the parking and vehicle movements for the development around to the side and rear of the building, which seems to me to design-in the potential for conflict with the amenity of the neighbouring dwellings, in particular given the significantly increased visitor capacity. The decking for multiple apartments at the site adds to the likely effects of the intensified use of the site. Even the somewhat incongruous inclusion of five separate apartment entrances on the front elevation and the need for three further individual access to the rear is in my view a further indicator that what is proposed is over-development, even though I do not find the visual effects of these to be significantly harmful. So too is the requirement to remove the hedge on the western boundary. I accept that this could be removed without the need for any planning permission. But the proposal to remove it arises from the need to create space for sufficient off-street parking for the development. I saw that there is other tourist accommodation nearby in the town with parking at the rear, and which is very close to neighbouring dwellings. I have noted, as referred to above, the similar use now established at the neighbouring property on Grampian Road. Nevertheless, these are my findings in respect of this development.

12. Since there would be no material change to the nature of the use, then in my view certain matters raised in the evidence are not relevant to my decision. Or at most they are

relevant but do not, because the change in the nature of the use itself does not require planning permission, add to any case against dismissing the appeal. These include whether or not there would be on-site management presence, how the property would be managed and marketed, the type of clientele likely to patronise it, the effect on the supply of homes in the area, and whether or not Aviemore has too much (or not enough) tourist accommodation and places to eat out. Similarly, I do not place any weight on an argument (perhaps implied in the planning authority's second reason for refusal) that the commercial nature of the development renders it unsuitable for its location.

13. I recognise the potential benefits of the development highlighted by the appellant and by those who have written letters supporting the proposal. However, and again because no material change in the type of use would occur, I do not place much weight on any claimed qualitative benefits, for example any diversification in the type of accommodation available in the town. The development would facilitate an intensification of use of the premises by visitors (from, say, a maximum capacity of eight or ten guests to a maximum (based on the drawings) of 26. Therefore it would have the potential to increase the numbers of visitors to Aviemore and, consequently, to increase the amount of spending in the town (and the wider area) by visitors. With limited cooking facilities in the apartments, I expect that most guests would eat out. There would be spending on cleaning, managing, supplying and servicing the development. There would also be local employment and other economic effects arising from the physical works to alter the property. I take all of this into account.

14. LDP Policy 2 supports economic growth. Tourist accommodation is supported where it would have no adverse impacts on amenity, would contribute to a wide range of visitor accommodation and would contribute to a year-round economy. Clearly the development aligns well with the aims of this policy. However, the concerns I have about the effects on residential amenity are such that I find significant conflict with this policy.

15. The appellant's statement also refers to LDP Policy 3 Design and Placemaking. Amongst this policy's requirements are that development protects the amenity enjoyed by neighbours, including minimisation of disturbance caused by access to the development site. On the basis of my findings above, there would be conflict with this aspect of the development. I am not aware of any significant tension with the other requirements of this policy, or with any other requirements of the LDP.

16. Policy 30 of NPF4 gives support to tourism development, subject to certain caveats. As with LDP Policy 2, I find that the principle of the development gains support from Policy 30. However, as referred to in the planning authority's reasons for refusal, the requirement to take into account the compatibility of the development with the surrounding area means that, in respect of effects on residential amenity, there would be conflict with this element of the policy. The proposal also requires me to take account of impacts on communities, which I interpret could include effects on residential amenity. I also find conflict with policy 14 of NPF4, which deals with design, quality and place, insofar as the development would be detrimental to the amenity of the surrounding area.

17. I agree with the appellant that the brownfield nature of the site and its location near to the centre of Aviemore means that the proposal aligns well with other policies in NPF4, for example policy 9 Brownfield, vacant and derelict land and empty buildings.

18. Considering the development plan as a whole, and keeping in mind that the change in the type of use proposed is not material, I consider that the principle of the proposed development is supported. However, my concerns about the adverse effects on amenity,

and the resultant conflict with some of the detailed requirements of development plan policy, are such that I find that, overall, the proposal is contrary to the development plan.

19. 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.

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

David Liddell

Reporter