

Town and Country Planning (Scotland) Act 1997

Appeal Decision Notice

Decision by Andrew A Sikes, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2306
- Site address: Ivy House, 91 High Street, Kingussie, PH21 1HX
- Appeal by Ms Lynn Sutherland
- Application for planning permission 23/05049/FUL dated 20 October 2024 refused by notice dated 26 August 2024
- The development proposed: change of use of dwelling to short-term let accommodation
- Application drawings: see schedule at the end of this notice

Date of appeal decision: 18 December 2024

Decision

I allow the appeal and grant planning permission subject to the condition listed at the end of this decision notice. Attention is drawn to the two advisory notes at the end of the notice.

Preliminary matters

Taking account of the nature of the appeal and the submissions lodged I have concluded that my consideration of the case would not be assisted by an in person inspection of the appeal property. I am satisfied that the written submissions, photographs and my ability to view the property and surrounding area via online mapping have enabled me to give full and proper consideration to this appeal.

Reasoning

1. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the Fourth National Planning Framework (NPF4) (2023) and the Cairngorms National Park Local Development Plan (CNPLDP) (2021). Also relevant to my consideration of the appeal is the Highland Council's Non-Statutory Short-Term Let Control Area Planning Policy (2023). Having regard to the provisions of the development plan the main issue in this appeal is whether the proposed development would deliver local economic benefits sufficient to outweigh the loss of residential accommodation.
2. The property to which this appeal relates is a five-bedroomed, two-storey mid-terrace dwellinghouse with dormers. The submitted plans show the accommodation arranged over three floors. A small garden area lies to the front of the property and a private patio to the rear. A shared private access from High Street, via Jonathan's Brae, leads to a rear garden and parking area, with space for up to three vehicles. Car parking on the high street in the vicinity of the property is unrestricted. The appellant states that the property would be suitable for up to eight adult guests and two children. At present, the appellant uses the property as a second home.

3. The property is located on the north side of High Street (A86), Kingussie, at the east end of the town centre close to its junction with Dunbarry Road. It lies within the defined town centre where there is a mix of commercial and residential uses, including a number of B&Bs and other short-term let type properties. The High Street is served by a number of public transport services and is well-connected to walking and cycling routes. In March 2024, the council established the Badenoch & Strathspey Short-Term Let Control Area (Ward 20), which includes Kingussie in its entirety. Accordingly, within the area of control, the change of use of a dwellinghouse to short-term let accommodation is deemed a material change of use that requires planning permission.

4. The non-statutory planning policy that underpins the operation of the control area states that the council will support the use of an existing dwellinghouse as short-term let accommodation where it falls within one of three categories, including a dwellinghouse that has no fewer than four bedrooms. As a five-bedroomed dwellinghouse, this would include the appeal property; the two other categories are not relevant to this case. Importantly, the policy does not prohibit short-term let accommodation in the Badenoch & Strathspey ward. More broadly, the policy expects proposals to meet the requirements of NPF4 policy 30(e) – tourism. Proposals must therefore be acceptable in terms of their effects on local amenity and neighbourhood character (clause (e)(i)). While notably, clause (e)(ii) of the policy states that proposals which would result in the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits will not be supported. I address this matter in my conclusions below.

5. Contrary to the recommendation of the Area Planning Manager, the council refused planning permission to the proposed change of use on the basis that the appellant failed to demonstrate that the development would deliver sufficient local economic benefit for it to outweigh the loss of residential accommodation. In this regard, the decision notice states that the proposed change of use is contrary to NPF4 policy 30(e)(ii).

6. Turning first to the benefits of the proposed development to the local economy, I note that the appellant's application to the council did not address this matter. Nor does the Report of Handling. It does, however, contain a general statement that the proposed short-term let would support the local tourism economy. It also refers to development plan policies that relate to tourism, including NPF4 policy 30. While the CNPLDP does not address short-term let accommodation directly, it recognises that tourism is the most significant sector in the economy of the National Park. As such, it supports tourism development and the provision of a wide range of visitor accommodation to enable people from all socio-economic groups to visit and experience the National Park. With regard to Kingussie, it states that future development in the town should enhance economic development and tourism, amongst other things.

7. In support of the appeal, the appellant cites data from the Association of Scotland's Self-Caterers (2023) and BIGGAR Economics (2022) to demonstrate the economic importance of tourism to Scotland, the Highland Region and the National Park. Reference is also made to the Great Britain Tourism Survey (2023), as reported by VisitScotland, that quantifies the significant domestic and international spend on overnight tourism in Highland Region and the local employment that it supports; which amounts to approximately 15% of all employment in the region. The appellant adds, the Cairngorms National Park Partnership Plan (2022-2027) states that within the National Park tourism is directly responsible for around 43% of all employment. In its response to the appeal, the council does not comment on the survey findings nor the importance of tourism to the local economy.

8. The appellant also describes some of the direct local economic benefits of the proposed development; essentially the appointment of local letting, management and cleaning services. Tourists would also eat, drink and shop in the town, use its services and visit

attractions in the National Park. As noted by the council, some of the examples of tourist spend are speculative and based on assumptions. Nonetheless, the examples are not unreasonable and highlight aspects of the local economy that could benefit from the proposed development, particularly were the property to be let to the extent indicated by the appellant. In contrast, as noted by the appellant, empty properties do not generate any local spend.

9. Finally on this matter, I note that the proposed development does not raise any planning issues of general significance for the Cairngorms National Park Authority. As such, it did not consider it necessary to 'call-in' the application for its own determination.

10. Based on the evidence before me, I accept that tourism is vitally important to the economic wellbeing of the National Park and the wider Highland Region. It is also important to businesses in Kingussie. Although the proposal involves the reuse of a single building for short-term holiday accommodation, it would nonetheless help sustain local businesses and support the wider tourism industry. The evidence presented by the appellant on this matter is thorough and persuasive.

11. Despite the economics benefits that would ensue, the council's principal concern in this case is the loss of a property from the general housing stock that could meet the needs of local families and key workers and meet immediate needs. The importance of this issue is recognised in NPF4 policy 30(e)(ii) and underpins the introduction of the council's non-statutory short-term let control area planning policy. While alluding to a housing shortage, the council's concern is presented in general terms - it does not support its argument with evidence of local housing need or demand. The council has, however, provided me with a copy of the adopted CNPLDP, which I note allocates land in Kingussie at Ardbroilach Road and Craig an Darach for the development of 300 houses, with a requirement to include 25% affordable housing to support the delivery of housing to meet local needs.

12. The community council shares the council's concerns and expresses its preference for the appeal property to remain a family home. However, the focus of its objection, and that of a representee, relates to the effects of the proposed development on road safety. It claims that there is no dedicated parking provision and that road markings prohibit car parking in front of the property. The evidence before me, however, indicates that is not the case. Furthermore, the Report of Handling confirms the availability of three car parking spaces to the rear of the property and the absence of parking restrictions on High Street in the vicinity of the site. More broadly, the report concludes that the proposed change of use would not result in any unacceptable effects on amenity or neighbourhood character. I agree with the Area Planning Manager's assessment of these matters.

13. Despite the loss of a residential dwellinghouse, the Report of Handling concludes that the proposed development complies with the development plan. It comments, the property is of a size where a change of use to short-term let accommodation is acceptable in principle when considered against the council's Non-Statutory Short-Term Let Control Area Planning Policy. Nor would it have adverse effects on the local housing market. At the same time, the proposed development would support the local tourism economy.

14. In summary, the intent of NPF4 policy 30 is to encourage, promote and facilitate sustainable tourism development which benefits local people. In this case, the proposed development involves the change of use of an existing building to short-term holiday accommodation. The property is located within Kingussie town centre, where there is a mix of commercial and residential uses. It is accessible by public transport. The use of the property as short-term holiday accommodation would not have an unacceptable impact on local amenity or the character of the area. Other holiday accommodation is located nearby, including some short-term let accommodation. Furthermore, the appellant has demonstrated

to my satisfaction that the proposed development would deliver demonstrable economic benefits sufficient to outweigh the loss of residential accommodation. The CNPLDP, through the allocation of land, makes provision for the development of affordable housing to meet local needs. Finally, while it does not form part of the development plan, the proposed development attracts the support of the council's Non-Statutory Short-Term Let Control Area Planning Policy. Overall, I am satisfied that the proposed development meets the requirements of NPF4 policy 30 (i) and (ii).

Other matters

15. Despite there being no internal or external alterations proposed to the property, there is some confusion regarding the naming and numbering of the plans that accompanied the appellant's application to the council. For the avoidance of doubt, the approved plans include a location plan and plans of the property at ground, first and second floor. I have noted them as being plans 1 to 4, respectively.

Conclusion

16. For the reasons set out above, I conclude that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission.

Andrew A Sikes

Reporter

Schedule of approved drawings

- Plan 1 – Location Plan
- Plan 2 – Ground Floor Plan
- Plan 3 – First Floor Plan
- Plan 4 – Second Floor Plan

Condition

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of grant of this permission.

Reason: Section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permissions limiting their duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.

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)).