



Town and Country Planning (Scotland) Act 1997 Appeal Decision Notice

Decision by Rosie Leven, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2304
- Site address: 9 Creag A Ghreusaiche, Aviemore, PH22 1LD
- Appeal by Mr Diana Saunders against the decision by Highland Council
- Application for planning permission 24/01309/FUL dated 3 April 2024 refused by notice dated 26 August 2024
- The development proposed: short term holiday let
- Date of site visit by Reporter: 12 December 2024

Date of appeal decision: 17 December 2024

Decision

I dismiss the appeal and refuse planning permission.

Preliminary matters

The site lies within the Badenoch and Strathspey Short Term Let Control Area, designated in March 2024, under section 26B of the Town and Country Planning (Scotland) Act 1997, as amended.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The statutory development plan is the National Planning Framework 4 (NPF4) and the Cairngorms National Park Local Development Plan (CNPLDP).
2. Having regard to the provisions of the development plan the main issues in this appeal are the effects on the amenity and character of the area, and the loss of residential accommodation.
3. NPF4 policy 30 (Tourism) part (e) does not support proposals that would result in either: an unacceptable impact on local amenity or the character of a neighbourhood or area; or the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits. NPF4 policy 14 (Design, quality and place) does not support proposals that would be detrimental to the amenity of the surrounding area. The CNPLDP does not have a policy on use of existing buildings for short-term lets or visitor accommodation but policy 3 (Design and Placemaking) has similar aims to NPF4 policy 14 and requires all proposals to protect the amenity of neighbours.

4. The appellant says the property is used by her family for up to five weeks a year, with the property unoccupied for the remainder of the year. The appellant wishes to make more active economic use of the property to let out the property during the rest of the year.

Effects on amenity and character of the area

5. The appeal property is a three-bedroom bungalow on the south of the cul-de-sac Creag A Ghreusaiche. The appeal property includes garden areas to the front and rear, and there is a driveway to the front for up to four cars.

6. The surrounding properties in Creag A Ghreusaiche are a mix of one and two storey properties. The appellant says that three of these properties are in short-term let use, with reference to the council's register of short term lets, and that two others are highlighted as holiday lets on the snapshot from Google Maps. However, I do not have evidence that planning consent is in place for each of these uses. I note that as of 2 October 2024, only the property at 13 Creag A Ghreusaiche has a licence in place, according to the council register, but the properties at 2 and 6 Creag A Ghreusaiche (in addition to the appeal property) are awaiting decisions on their licences. I consider that Creag A Ghreusaiche and the surrounding streets, lying to the east of the railway line, are quiet residential areas. There appear to be low levels of footfall and low levels of ambient noise and no restrictions on parking in the cul-de-sac itself or in surrounding streets.

7. The appellant does not confirm how many guests would be accommodated and no floor plans have been submitted. However, the licence application on the aforementioned council register indicates a maximum of six guests. I expect that the three bedroom property could comfortably accommodate six guests, as a large family or a group of guests who are not related.

8. No evidence has been submitted on the likely length of lets and the appellant says that the property was not operating as a short term let before the control area came into force, meaning that no information on past bookings exists. As no controls are proposed on minimum stays, I must therefore consider whether the shortest possible lets, for example, every 1-2 nights would generate adverse effects on the amenity of neighbouring properties or the wider area.

9. The curtilage of the appeal property is directly adjacent to the neighbouring properties to the east and west. There is a very short distance between the appeal property's side windows and those of the neighbouring properties. From what I have seen on my site inspection, I estimate that there is approximately four metres between the appeal property's side door and window, and the windows on the east elevation of the neighbouring property to the west. On the east side, I estimate around two metres window to window. There are no side doors facing onto the appeal property on either of the neighbouring properties to the east and west.

10. Representations raise concerns over noise and disruption. Given the close proximity of the appeal property to its neighbours to the east and west, I consider that the frequent changeover of six guests, some of whom may come and go at different times from each other and could arrive and depart at all hours of the day and night, would be likely to generate noise and disturbance for neighbours. I consider that guests would be more likely than permanent residents to come and go regularly throughout their stay to visit tourist attractions and eat out, and do so later in the evening.

11. The location of the side door in particular, close to the neighbouring property to the west, would increase the potential for disturbance from guests arriving and departing in vehicles, and loading and unloading luggage. The stacked parking arrangement could also result in disturbance from additional vehicle movements as guests manoeuvre in and out of the driveway.

12. I find that the close proximity of the appeal property to the neighbouring properties on either side could regularly bring neighbouring residents into contact with unfamiliar guests, which could affect their perceived sense of amenity and security. This could also affect other residents of other properties in the cul-de-sac given the small, intimate character of the street, the central position of the appeal property and the arrangement of the other houses and their driveways facing towards it.

13. I consider that independent servicing of the property after every let, as often as every 1-2 nights, would generate additional disturbance beyond the likely weekly servicing of a residential property.

14. The garden at the appeal property shares two boundaries with the neighbouring properties. On the west boundary, there is a low fence marking the boundary line. As a result, I expect that activity in the garden of the appeal property could generate noise and disturbance for neighbours. While residential use could similarly generate disturbance in this way, the frequent changeover of guests would bring neighbours into contact with unfamiliar visitors which could affect their sense of security and sense of privacy in their private rear garden in a way that would not occur with familiar permanent residents. On the east side, the fence is somewhat higher for some of its length at the rear of the property. However, behind it lies a conservatory, which is likely to be less insulated from noise than the neighbouring property to which it is attached and activity by unfamiliar visitors in the southern part of the garden could affect neighbouring amenity.

15. While the appellant says that she would not allow any use of the property that would have a detrimental effect on amenity, as she would not reside at the property when it was being let to guests, she would not have complete control over guests' behaviour and could not prevent noise and disturbance from occurring.

16. Representations raise concerns over parking issues including exacerbation of existing parking pressures in the street and dangers to pedestrians. I consider, as does the council, that the amount of car parking available at the property is likely to be sufficient for the size of property and would accommodate one car per bedroom. Despite potential effects from the stacked parking arrangement as highlighted above, taking into account the significant amount of unrestricted parking in the area, I do not find that parking issues would on their own merit refusal. I am satisfied that regular waste management arrangements would be sufficient for the proposed use.

17. In light of all of the above, I consider that the proposal would be likely to generate unacceptable adverse effects on amenity, in conflict with NPF4 policy 30(e)(i). For the same reasons, it would not be in line with the amenity elements of NPF4 policy 14 and CNPLDP policy 3.

Loss of residential accommodation

18. As I have found that there would be an unacceptable impact on amenity and thus the proposal would not be supported by NPF4 policy 30, there is no need for me to assess the proposal against NPF4 policy 30(e)(ii).

Development plan compliance

19. In light of the above, I find that the proposal would not be supported by NPF4 policy 30(e)(i). The proposal would also be inconsistent with the amenity aspects of NPF4 policy 14 and CNPLDP policy 3. I therefore find that the proposal would not be in line with the development plan overall.

Other material considerations

20. The council's non-statutory short-term let control area planning policy, published in November 2023, supports the use of dwellinghouses as short-term lets if they fall within one of three categories. Looking at the first category, despite the appellant's suggestion that the property being used for only 4-5 weeks of the year is analogous to it being long-term empty, there is no clear evidence that the property meets the definition of a long-term empty dwellinghouse in the guidance i.e. registered as empty for two years or more on the council tax list. I consider that its use for even a short time of the year means that it is not long-term empty. But neither do I find that this would automatically define the property as vacant or inactive in the housing market, as the property's current residential use status means that the owner or a residential tenant could live there at any time. The effects of residential use and short term let use can differ and, as I have found above, in this case I find that they would differ to the extent that policy NPF4 policy 30(e)(i) would not give support to the proposal.

21. Turning back to the non-statutory guidance, the property would not fall within the second category of dwellinghouse above a commercial unit. The three-bedroom property would not fall within the third category of properties with no fewer than four bedrooms. I consider therefore that the proposed use would not be supported by the non-statutory guidance and the guidance would not alter my position on development plan compliance.

22. The council also refers me to non-statutory planning guidance supporting CNPLDP policy 3. Although this discusses effects on amenity, I find the detailed guidance to be more relevant to proposals for new housing development and it would not alter my development plan conclusions.

Conclusion

23. I therefore conclude, for the reasons set out above, that the proposed development would not be in line with the development plan and that there are no material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Rosie Leven

Reporter