

**THE HIGHLAND COUNCIL**

**INVERNESS, NAIRN, BADENOCH & STRATHSPEY  
PLANNING APPLICATIONS COMMITTEE – 9 JUNE 2009**

Agenda Item	
Report No	

**09/00234/FULIN - Reinstatement, improvement and maintenance of South access to Achnagairn House including upgrading of Junction with A862 at Achnagairn House, Kirkhill Inverness**

**Report by Area Planning and Building Standards Manager**

**SUMMARY**

This is a detailed planning application to reinstate, improve and maintain the south access to Achnagairn House including upgrading of the junction with the A862. The application has attracted many letters of support, representation and objection and is reported to Committee for that reason. Ordnance Survey record an access from both the north and the south to Achnagairn House. However the south access has not been used for some time, and no longer exists in its final stretch to the A862. Two houses at the south end of the road will be affected by the proposal.

**Applicant:** G & M Lacey-Solymar, Achnagairn House, Kirkhill

**Recommendation:** **GRANT** planning permission subject to conditions.

**Ward:** 13 – Aird and Loch Ness

**1. PROPOSAL**

- 1.1 This proposal is to reinstate, improve and maintain the south access to Achnagairn House, Kirkhill. The last 80 metres of the original access has been abandoned, and lies adjacent to the original south gate house and one additional house. The proposal is to divert the end section westwards to join the existing track that runs past the two houses and links to the junction with the A862.
- 1.2 The line of the access is bounded by mature trees at the upper section and by fields to the west and the two houses to the east at the lower end.

**2. PLANNING HISTORY**

- 2.1 Achnagairn House has a long history of different uses. The relevant one to this application was 07/00232/FULIN when planning permission was granted to change the use of the house to luxury self catering accommodation. The house itself has been renovated to a very high standard in consultation with the Conservation Architect's requirements.

### 3. PUBLIC PARTICIPATION

3.1 The application was advertised as affecting the setting of a listed building. 12 letters of support, 5 letters of representation and 7 letters of objection including a petition of 45 names (12 of which are residents of Kirkhill) have been received by the Council.

3.2 The letters of support raised the following points:

- Valuable source of business for small local companies;
- Concerned about effects of current access constraints;
- New access would allow larger vehicles to access the site, therefore reduce the number of cars and the manual movement of supplies to the house;
- Valuable source of income and employment to the local area;
- Existing access is being obstructed and is extremely unattractive;
- Existing access gives a very bad impression to guests;
- Re-opening of the original road would benefit all, allowing a new business to grow;
- Seems inappropriate that such a grand building should be approached from the rear, like a tradesman's entrance;
- Huge potential for Achnagairn House to develop into an important part of the Inverness business landscape;
- Achnagairn is an asset to the Highland tourism industry with potential to bring economic benefit to the area – a new access will be far more suitable for a house like this;
- The current owners have invested considerable money in the house and returned it to its former glory - it must have unhindered access; and
- Used the historic access through the 1960's – 1990.

3.3 The letters of representation and objections raised the following concerns:

- Track has not been used for motor vehicles in the past;
- Proximity of South Lodge to the track;
- Dangerous junction with A862 – visibility sightlines;
- Maintenance and planting along edges of the track;
- Track used by local walkers and cyclists;
- Existence of badger setts;
- Devalue the two properties at south end of access;
- In adverse weather conditions the track becomes flooded in areas – increase in traffic will make this worse;
- This is a Core Path (October 2008);
- Previous owners did not use this track to access Achnagairn House;
- Existing access to the house is from the north;
- Inaccurate description of proposal, should be something more like “reinstate historic access”;
- Unauthorised works;
- Felling of trees in a TPO;
- Contrary to the development plan – Inverness Local Plan 11:3 and
- Creation of a public road access through the Estate from the B9164 to the A862 represents a significant and unacceptable change to the

operation of the Estate.

- 3.4 Copies of all letters of representation have been placed in the Members' Lounge for inspection prior to the Committee meeting. The originals are available for inspection in the case file.

#### **4. CONSULTATIONS**

- 4.1 **Community Council:** The business is an asset to the area and therefore the Community Council supports the application.

- 4.2 **Roads (TECS):** No objections subject to condition.

#### **5. POLICY**

- 5.1 The following policies are relevant to the assessment of the proposal:

**Highland Structure Plan, 2001**

- G2 – Design for Sustainability

**Inverness Local Plan, March 2006**

- BP1

**Supplementary Policy**

- Badger Policy Guidance Note, March 2007

- 5.2 The proposal also requires to be assessed against the following relevant Scottish Planning Policies (SPP), NPPG's and Planning Advice Notes (PAN)

- SPP1 – The Planning System
- PAN 40 – Development Control
- PAN 60 – Planning for Natural Heritage

#### **6. SUPPORTING STATEMENT FROM APPLICANTS**

- 6.1 The applicants have stated that their reason for this application is only to secure safe and legal access to their own property. The proposed reinstatement of the original south drive will relieve any pressure that has allegedly been felt by the neighbouring landowner.

- 6.2 The applicants are very aware of the concerns of the neighbouring properties at South Lodge and Ridgebrook. In this regard, the owners of these properties have been approached to look at ways to reduce the potential impact of the proposal.

- 6.3 The applicants understand that South Lodge is used through the summer months for Bed & Breakfast accommodation. This has clear implications for the objections relating to cars, not belonging to the residents, using the access track on a regular basis.

- 6.4 The applicants have indicated that they will comply fully with the Arboricultural Impact Assessment. The efficacy of the Core Path Network is exaggerated in that the section of the existing vehicular right of way affected is approximately 100 metres long. 80 metres is in regular vehicular use already. It is also noted that the proposed works would improve drainage and therefore the surface of the track for walkers and cyclists.
- 6.5 It is anticipated that the flow of traffic using this access would equate to 1.5 vehicles per hour on a Saturday (for an average of four hours only), increasing to a maximum of 7.5 vehicles per hour in the less likely scenario of a coach not being used to ferry guests from the church.
- 6.6 Investment in Achmagairn House has been in excess of £1 million and while only being open for a few months, it currently employs 7 local people. This will increase if the business is allowed to thrive. In addition to the regular staff, a great many local firms are employed regularly to serve the various functions that happen at Achmagairn. Local hotels, B&B's in the area also benefit from the recommendations from Achmagairn.

## **7. PLANNING APPRAISAL**

- 7.1 **Determining issues** - Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

### **7.2 Policy**

This application site lies outwith the settlement boundary of Kirkhill and is covered by Background Policy 1. SPP1 states that *"The Planning Acts require decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Material considerations should be related to the development and use of land. Where a proposal is in accordance with the development plan, the principle of development should be taken as established and the process of assessment should not be used by the planning authority or key agencies to revisit that."* In this case, the application is in accordance with the Development Plan and so the principle of approval is established subject to any other material planning considerations. There are no policy concerns relating to this application.

### **7.3 Dangerous junction with A862 – visibility sightlines**

TECS (roads) have visited the site and confirmed that the sightlines at this junction meet the standards required in legislation and subject to some junction improvements they have no objection to this application. TECS have also considered the estimated traffic flows and consider that these would not be excessive in respect of the vehicular access. Comments with reference to the dangers for vehicles turning into this access relate to the speed and quality of driving along the A862, which is a police matter.

### **7.4 Proximity of South Lodge to the track**

It is acknowledged that the amenity of the residents of South Lodge will be adversely affected potentially by this proposal due to its proximity to the

access track. Historically, however, estate houses, like this, would mark the entrances to houses like Achnagairn in the same way that West Lodge and East Lodge do from the B9164. From the A862, the original access to Achnagairn House took visitors round the eastern side of South Lodge which now forms part of South Lodge's garden and driveway. However, recognising that South Lodge has not had an access running past it for a significant period of time, the applicant has offered to increase the separation between the house and the track as part of a possible compensation package. It is also considered that the estimated level of traffic flow to Achnagairn House is relatively low and limited to particular times.

**7.5 Maintenance and planting along edges of the track**

Maintenance of the edges of the track will still be the responsibility of the landowner who is a supporter of the proposal.

**7.6 Track used by local walkers and cyclists**

The applicant has indicated that they will have no problem with walkers and cyclists continuing to use the woods and indeed the planned works will ensure that the woods can be enjoyed at all times of year and not just in better weather when the ground is drier. The proposed works will allow for better draining ground, primarily due to the requirement to protect the tree roots.

**7.7 This is a Core Path (October 2008)**

The applicant has indicated that access will be maintained through this area on the same basis as is the case now. The construction of the track will also improve the current situation as the ground will be better draining.

**7.8 Existence of badger setts**

The applicants have advised that they are aware of the badger setts in the vicinity, but the nearest one is 75 metres away. Scottish Natural Heritage have advised that a licence is only required when a sett is within 30 metres of the proposed works.

**7.9 In adverse weather conditions the track becomes flooded in areas – increase in traffic will make this worse**

Since the track is within woodland, the trees have been surveyed by an arboriculturalist, who has recommended that a no-dig method of track construction be employed. This means that the ground will be better draining to ensure the protection of tree roots and the track less prone to flooding.

**7.10 Inaccurate description of proposal, should be something more like “reinstate historic access”**

The Planning Authority is aware that the access is historic and has not been used in some time for vehicles. Indeed, the Planning Authority granted planning permission for one of the two houses at the south end adjacent to a section of the access in 1994. This is not considered to be a sufficiently significant change to the description on the application to warrant an amended application.

7.11 **Felling of trees in a TPO**

The trees within the woodland affected by the proposal have been surveyed and the Council's Forestry Officers have been consulted throughout the process of this application. Providing the advice from the arboriculturalist is adhered to, the Forestry Officers are satisfied that the trees to be lost can be compensated for with further tree planting (which can be conditioned) and the remaining trees can be protected.

7.12 **Contrary to the development plan – Inverness Local Plan 11:3**

This is a paragraph within the Kirkhill section of the Inverness Local Plan and the sentence referred to says that "Farmland, amenity woodland and a network of lanes valuable to the village, character should be retained." It should be noted that this is not a *policy* of the Local Plan, but it is a development factor. This site is outwith the settlement boundary of Kirkhill and is therefore covered by the general and landward policies of the Local Plan and not the specific Kirkhill settlement policies. However, this proposal to open a track to the south of Achnagairn House has the potential to increase the accessibility and the "network of lanes" for non-vehicular traffic and would therefore not be regarded as contrary to the spirit outlined above.

7.13 **Creation of a public road access through the Estate from the B9164 to the A862 represents a significant and unacceptable change to the operation of the Estate.**

One of the proposed conditions of this application is that a gate will be installed to prevent vehicular, but not pedestrian, access between the B9164 and A862. This is considered to be an acceptable solution to controlling access within the Estate.

7.14 **Track has not been used for motor vehicles in the past**

While some objectors have indicated that they have no recollection of the vehicles using the track in the past, the current owner of the track has indicated that between the 1960's and 1990 he and a previous owner of South Lodge used the track regularly.

**8. CONCLUSION**

8.1 This has not proven to be a straightforward planning application for a new access. It represents a difficult balance between the established amenity of two houses and the needs of a new local business that employs local people and services and is trying to establish itself in the current economic climate. On balance, given that the applicants have offered compensatory measures to those immediately affected by the proposal and have addressed all concerns raised by the Forestry Officers and TECS, it is recommended that the application be granted.

**RECOMMENDATION**

It is recommended that the application be **GRANTED** subject to the following conditions:

1. Except as otherwise provided by the terms of this permission, the developer shall construct and operate the development in accordance with the plans and supporting information submitted with the application and docketed as relative hereto with no deviation therefrom unless otherwise approved in writing by the Planning Authority.

Reason: In order to clarify the terms of the permission hereby granted and to ensure that the development is implemented as approved.

2. Construction work associated with the development hereby approved, for which noise is audible at the boundary of the site shall only be carried out between 08:00 and 19:00 Monday to Friday, between 08:00 and 13:00 on Saturdays and at no time on a Sunday or Public Holidays.

Reason: To minimise the risk of noise nuisance given the close proximity of the existing houses.

3. Delivery of construction materials to the site shall be between the hours of 08:00–18:00 Monday to Friday, 08:00–13:00 on Saturdays and at no time on Sundays or Public Holidays.

Reason: To minimise the risk of noise nuisance given the close proximity of the existing houses.

4. Prior to the commencement of development, a fully detailed scheme of landscaping for the site, including a scheme of maintenance, shall be submitted to and require the approval in writing of the Planning Authority. This should include details of compensatory tree-planting. All planting thereby approved shall be undertaken in the first planting season following commencement of the development and shall thereafter be maintained in accordance with the approved scheme of maintenance. Any plants which, within a period of five years from the commencement of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.

Reason: In the interests of amenity and in order to ensure that the development is adequately screened.

5. All work must be carried out in accordance with the Arboricultural Impact Assessment by Jacqueline Waring dated 11<sup>th</sup> April 2009.

Reason: In order to ensure the protection of existing trees within the site.

6. All work must be carried out in accordance with the Method Statement for no-dig construction dated 5th May 2009 and updated on 25th May 2009 by Jacqueline Waring. The applicant's appointed Arboricultural Consultant will be responsible for directly overseeing the elements of work as set down in the Method statement and providing 'Certificates of Compliance' to the Planning Authority.

Reason: In order to ensure the protection of existing trees within the site.

7. Until the access is completed to the written satisfaction of the Planning Authority, no

construction materials shall be brought to the site from the A862.

Reason: In order to ensure the protection of existing trees within the site.

8. Any additional or replacement storage area for materials will require to be agreed in writing with the Planning Authority.

Reason: In order to ensure the protection of existing trees within the site.

9. Prior to the access coming into use, a gate shall be installed, the design, size and location of which is to be agreed in writing with the Planning Authority.

Reason: In order to prevent traffic, not connected with Achnagairn House, using the Estate as a "short-cut".

10. The vehicular access to the site shall be located, designed, constructed and completed to the standards and specifications recommended by the Roads Authority in the attached schedule and to the satisfaction of the Planning Authority.

Reason: In the interests of road traffic safety.

**PLEASE NOTE:**

Under the Wildlife and Countryside Act (as amended) it is an offence to damage, destroy or obstruct access to any place or structure used by red squirrels for shelter and protection, or to disturb them while they are occupying a structure used for shelter or protection. All contractors must be made aware that if the presence of red squirrels is found then work must cease until suitable mitigation measures to safeguard squirrels are put in place.

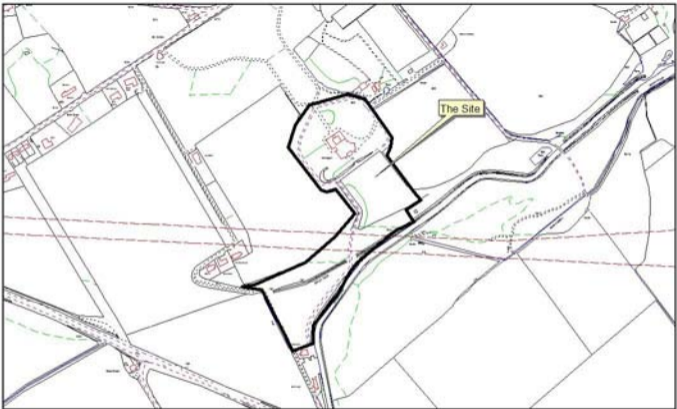
Badgers are protected under the Protection of Badgers Act 1992. Should the track and any associated developments be closer than 30 metres to a badger sett, then work cannot proceed without a licence from Scottish Natural Heritage.

Signature:

Designation: Area Planning and Building Standards Manager  
Inverness, Nairn and Badenoch & Strathspey

Author: Elaine Watt. Planner

Background Papers: Application file 09/00234/FULIN



09/00234/FULIN - Achnagalm House, Kirkhill

Reinstatement, improvement and maintenance of south access to Achnagalm House including upgrading of junction with A852

SUPPLIED BY THE HIGHLAND COUNCIL

Reproduced for the Ordnance Survey in accordance with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright. Ordnance Survey map data reproduced by permission of Ordnance Survey. The Highland Council 10000000



Scale  
1:4000