Agenda Item	6.1
Report	PLS
No	040/18

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 12 June 2018

Report Title: 17/04787/FUL: Mr & Mrs Ewan Roy

Strathleven, 12B Glencoe, Ballachulish, PH49 4HS

Report By: Area Planning Manager – South/Major Developments

Purpose/Executive Summary

Description: Erection of 2 no extensions to house, erection of building to form

cattery & erection of building to form dog kennels.

Ward: 21 – Fort William and Ardnamurchan

Development category: Local

Reason referred to Committee: Area Manager's discretion

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **Refuse** as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks full planning permission for the erection of two extensions to the existing house; (sun room, utility & office space); erection of building to form a cattery and the erection of a building to form dog kennels at Strathleven, No. 12 B Glencoe, Ballachulish.
- 1.2 The dog kennel building is to be located on the site of the existing static caravan (to be removed) on the area of croft land between Strathleven and the A82 Trunk Road. The building is a single storey rectangular, pitched roof building finished in render. The proposed building is 16.5m long by 11.2m wide, with a height of 5.5 metres to ridge. The building is to accommodate a 12 kennel block for a maximum occupancy of 16 dogs, together with a food preparation area, washing area and bathing area.
- 1.3 The cattery building is to be located between Strathleven and the detached garage to the north (owned by the applicant's father). The existing garden shed is to be removed and a larger building built running parallel to Strathleven, along the northern boundary of the property. The proposed building is a rectangular, pitched roof building finished in render. The building is 15.2m long by 4.3m wide, with a height of 4.2m to ridge and will house an 8 pen cattery with a small animal room at each end of it, together with storage space for garden equipment.
- 1.4 In terms of the proposed extensions to the existing house, it is proposed to extend the existing attached garage on the eastern side of Strathleven to form an office with ancillary accommodation upstairs. It is also proposed to remove the existing porch on the western side of the house and build a new sun lounge and utility room extension.
- 1.2 The site is accessed from an existing shared driveway off the public road through Glencoe village. There are 4 parking spaces proposed at Strathleven and there is adjacent parking to the front of the detached garage which is within the same family ownership. The site is served by the public water main and public sewer.
- 1.3 Pre Application Consultation: 17/02806/PREAPP Proposed removal of static caravan and replace with boarding kennels; and, change garage attached to Strathleven to an office with guestroom The pre-application was not fully registered and the application was returned.
- 1.4 Supporting Information: Design Statement and Noise Assessment
- 1.5 Variations: The proposed cattery building changed from timber clad to render finish and the position of the proposed dog run moved from the north of the kennel to the south.

2. SITE DESCRIPTION

2.1 Strathleven lies within Glencoe village on the south side of the public road through the village, within the main core of the village. The pattern of development in this area largely follows the road network. Between the village road and the A82 trunk road, development is more densely arranged near the village and Kinlochleven

road junction. From this core, towards the east, the density of development lowers and development is focussed on the road side of the village road. The pattern of development along the trunk road in this easterly direction changes to rigs of croft land with limited development. Croft 12B is close to the transition between developed land and open croft land along the A82.

- 2.2 The site comprises an existing house 'Strathleven' and Croft 12B which extends to approximately 1.2ha. There is a detached garage to the immediate north of the site which is within the same family ownership. On the croft (to the south of Strathleven) there are currently two polytunnels, a static caravan (to be removed) and various small structures and material relating to the crofting activities (growing vegetables).
- 2.3 From the village road, the shared access track runs between two existing houses which front onto the village road (Nos 12 and 12b) before arriving at Strathleven which is located to the rear of these properties. To the east of the site is an existing house and two mobile holiday homes. To the west of the site is open ground and to the south of the site is the A82 trunk road.

3. PLANNING HISTORY

3.1 None

4. PUBLIC PARTICIPATION

4.1 Advertised: Vacant Land and Schedule 3 advert

Date Advertised: 2 November 2017

Representation deadline: 16 November 2017

Timeous representations: 21 (8 Against, 11 For)

Late representations: 3 (1 Against, 2 For)

4.2 Material considerations raised are summarised as follows:

Comments against

- a) Additional traffic congestion;
- b) Adverse noise caused by dogs barking from the kennels impacting upon neighbouring amenity;
- c) No confirmation of where cat and dog faeces will be disposed of;
- d) Adverse smells emanating from kennels and cattery transferring to neighbours amenity/neighbouring garden ground contaminated by seepage and runoff
- e) Impact on tourism if application approved;
- f) Inaccuracy on plans re neighbours house
- g) Neighbours house missed from noise assessment
- h) Kennel building not in keeping with scenic landscape

Comments in support

- (1) Development fulfils croft diversification;
- (2) Shortage of animal accommodation/animal boarding service in the locality;
- (3) Development would be beneficial to local area and wider, surrounding area for

owners of dogs and cats;

- (4) Development would lead to increased employment;
- (5) Sound-proofed kennels to alleviate any noise issues;
- (6) Waste disposal and septic tank to deal with drainage;
- (7) Development would be a community asset.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

- 5.1 **Glencoe and Glenetive Community Council**: Objection on grounds of noise from the dog kennel and impact on nearby residents. Advised that the feeling from the Community Council was that the plans for the Cattery were acceptable.
- 5.2 **Environmental Health**: Objection on grounds of noise
- 5.3 **Transport Planning**: Further information requested
- 5.4 **Crofting Commission**: No response
- 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

- 28 Sustainable Design
- 29 Design Quality & Place-making
- 34 Settlement Development Areas
- 36 Wider Countryside
- 47 Safeguarding Inbye/Apportioned Croftland
- 56 Travel
- 57 Natural, Built & Cultural Heritage
- 65 Waste Water Treatment
- 66 Surface Water Drainage
- 72 Pollution

6.2 West Highland and Islands Local Plan 2010 (as continued in force)

Glencoe Settlement Map

6.3 Proposed West Highland & Local Development Plan (WestPlan)

The Lochaber elements of the West Highland and Islands Local Development Plan (WestPlan) Proposed Plan were agreed by Members at their meeting on 18 January 2017. The Proposed Plan was then published for consultation from 5 May 2017 to 21 July 2017. This document represents the emerging 'settled view' of the Council and is a material planning consideration in making planning decisions.

The Glencoe settlement boundary remains similar to that in the current Local Plan.

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011) Managing Waste in New Developments (March 2013)

7.2 Scottish Government Planning Policy and Guidance

Scottish Planning Policy

Planning Advice Note 1/2011 - Planning and Noise

Planning Advice Note 73 - Rural Diversification

8. PLANNING APPRAISAL

8.1 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.

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key considerations in this case are:
 - a) compliance with the development plan and other planning policy
 - b) Impact on National Scenic Area
 - c) Siting and design
 - d) Impact on community and residential amenity
 - e) Servicing and infrastructure
 - f) Loss of croft land
 - g) any other material considerations.

Development plan/other planning policy

8.4 Strathleven and its garden area lies within the Glencoe Settlement Development Area where Policy 34 of the Highland wide Local Development Plan supports development proposals if they meet the requirements of Policy 28: Sustainable Design and all other relevant policies of the plan. Proposals require to 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. Developments which are judged to be significantly detrimental in terms of the

- above criteria will not be supported until there are clear material considerations which would justify permission being granted.
- 8.5 Part of the site to the south of Strathleven (the site for the dog kennels) lies beyond the Settlement Development Area boundary, within 'Wider Countryside'. Policy 36 of the Highland wide Local Development Plan requires development proposals to be assessed to the extent to which they are acceptable in terms of siting and design; are sympathetic to existing patterns of development in the area; are compatible with landscape character and capacity; avoid, where possible, the loss of locally important croft land; and can be adequately serviced
- 8.6 For the reasons discussed below it is considered that the dog kennel and dog run element of the application are not compatible with adjacent land uses and as such the proposal is considered to be contrary to Policies 36 and 28 of the Highland-wide Local Development Plan.

Impact on National Scenic Area

8.7 The site lies within the Ben Nevis and Glen Coe National Scenic Area (NSA). The special qualities of the NSA include its classic highland vistas, mountain grandeur, human settlement dwarfed by mountain and moorland and the expansive Moor of Rannoch. As the site lies within the existing village of Glencoe, and given the scale of development proposed, it is considered the proposal will not adversely affect the special qualities of the National Scenic Area. The proposal generally accords with Policy 57 of the Highland wide Local Development Plan.

Siting and design

- 8.8 The proposed extensions to the existing house are generally in keeping with the design of the house and subject to securing appropriate finishing materials, could be supported.
- Aside from the use of the buildings (discussed below), the scale, design and location of the two proposed buildings are considered to be acceptable in the context of Glencoe village, the croft, and the neighbouring buildings and structures. The noise mitigation recommended by the applicants' consultant includes a 2.5m high acoustic fence around the dog run. This does raise concerns in terms of visual impact, particularly as the dog run is now located on the A82 side of the dog kennel building. However, taking into account the level of screening between the A82 and the dog run (trees, shrubs and policy tunnel), if the application were being supported, conditions seeking additional planting and appropriate detailing of the fence (style and colour) could mitigate this concern.

Impact on community and residential amenity

8.10 One of the determining issues in this application is the impact on amenity, predominantly from the dog kennel element of the proposal. The Council's Environmental Officer originally objected to the proposal. They advised that a Licence will be required from Highland Council to operate an animal boarding establishment and provided the following comments in relation to the proposal itself:

- "..the proximity of the kennels to existing houses raises significant concerns about loss of amenity from noise. To a large extent, noise from barking dogs can be reduced through management measures which would also be covered by the licence conditions. Again there is no supporting information submitted with the application. However, there will inevitably be barking at times and I think it is extremely likely that this will have a detrimental effect on the amenity of existing residents. Given the proximity, I also think it likely that noise arising from this development would result in a Statutory Nuisance in terms of the Environmental Protection Act 1990, particularly at night, and I must object to the application on those grounds."
- 8.11 In light of the issues raised by Environmental Health the applicants advised they were commissioning a noise assessment. This was submitted to the Council on the 8 January 2018 and assessed again by the Environmental Health Team. The Council's Environmental Officer questioned some of the content/methodology of the report and some clarification was provided by the consultant. The Council's Environmental Health Team have made it clear that they did not request a noise report as they believe the size, location and proximity of the development to houses make this proposal inappropriate. They provided clarification that the previous case (near Forres) referred to in the submitted noise report was under different circumstances and the two are incomparable. They advised that they are highly reluctant to propose conditions for any noise report for the following reasons:
 - 1. Accurately predicting the likely level of noise from this type of development is impossible. The extent of any barking will depend on the number of dogs, the breed and nature of the individual dogs, their interaction with other dogs and the ability of the operator to manage the facility to reduce barking to a minimum. However, it is fairly safe to assume that given the proximity of houses, barking will be clearly audible at neighbouring properties at times.
 - 2. One dog barking can set off others
 - 3. Perception of dog barking by humans can greatly differ

They further advise that they have no doubt that noise from any dog boarding establishment in such close proximity to these houses would have an adverse impact on amenity at times. The only way Environmental Health would proceed with the application is by allowing some kind of temporary consent, for say 6 months, and on the basis there are no complaints specifically relating to noise before a full consent be granted. They acknowledge that this would place considerable financial risk on the applicants and therefore a temporary consent may be seen as undesirable.

- 8.12 In light of the continued objection from Environmental Health with respect to impact on residential amenity as a result of the close proximity of the dog kennels to neighbouring houses, the proposal cannot be supported and is contrary to Policies 28 and 34 of the Highland wide Local Development Plan.
- 8.13 If the Committee determine to support the application contrary to officer recommendation it should be borne in mind that the premises would still require a Licence to operate an animal boarding premises and, given the objection from Environmental Health, it is questionable whether such a licence could be secured.

8.14 The Planning Service has suggested alternative routes available to the applicants in relation to this proposal. These included removing the dog kennels from the application, to allow support of the cattery and house extension elements, or an alternative proposal for the cattery and a self catering unit instead. The applicants have chosen to continue with this application in its current form. It is not open to the Planning Authority to partially grant or partially refuse an application, therefore, although the house extension element of the proposals, and to a large degree the cattery element, are acceptable to the Planning Service, the application cannot be supported due to the dog kennel element.

Servicing and Infrastructure

- 8.15 The existing access from the public road through the village is to be used to serve the development. The Transport Planning Team requested additional information in relation to parking and turning provision and suggested consideration be given to an access from the trunk road. Further information has been provided relating to on site parking, together with an overspill parking area. A full assessment of parking requirements based on increased visitor numbers has not been provided, although details have been provided of the management of visitors to the site (by appointment and within set hours 08:00 to 20:00). It is considered likely that the increased parking with overspill will be sufficient and that the number and timing of additional visitors to the site will not have an unacceptable impact on residential amenity. As the proposal is not being supported on amenity grounds, further assessment of visitor numbers has not been pursued. The option of an access onto the trunk road has also not been pursued as previous planning history in this area indicates Transport Scotland would be resistant to this option.
- 8.16 The development is to be served by the public sewer and the public water main. This will require the separate permission from Scottish Water to connect to their assets.
- 8.17 Management of the site, including waste management and cleanliness is controlled by separate legislation.

Impact on Croft Land

- 8.18 The proposed cattery building and the house extensions lie on land that has previously been decrofted. The proposed dog kennels and adjoining dog run are the elements of the application which are located on croft land. Policy 47 of the Highland wide Local Development Plan expects development proposals to minimise the loss of in-bye/apportioned croft land. The Crofting Commission have not responded to the consultation request. The applicants have advised they do not wish to decroft any area of the croft as they intend to continue its use as a croft for future generations and have highlighted that the kennel building could be altered for use as an agricultural shed if required in the future. A letter has been received from the Clerk of the Carnoch Grazings Committee which indicates full support for the application as it supports the diversification of crofting activities.
- 8.19 It is considered that the proposal represents an opportunity for croft diversification and will not impede the use of the remaining croft land. It is also important to note that part of the site lies within the Glencoe Settlement Development Area where the

principle of development is generally acceptable.

Other material considerations

8.20 There are no other material considerations.

Non-material considerations

8.21 The issue of impact on value of adjacent properties raised in the representations is not a material planning consideration.

Matters to be secured by Section 75 Agreement

8.22 a) None

9. CONCLUSION

- 9.1 The proposed dog kennel and associated dog run is likely to have an adverse impact on residential amenity due to the close proximity of the proposed development to existing houses, and may result in Statutory Nuisance in terms of the Environmental Protection Act 1990. Accordingly the proposal not considered to be compatible with adjoining land uses and is contrary to Policies 28 and 34 of the Highland wide Local Development Plan.
- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended that planning permission be **REFUSED,** subject to the following:

Reasons for Refusal

1. The proposed dog kennels and associated dog run is likely to have an adverse impact on residential amenity due to the scale, location and close proximity of the proposed development to existing houses, and may result in Statutory Nuisance in terms of the Environmental Protection Act 1990. Accordingly the proposal is not considered to be appropriate in terms of siting or to be compatible with adjoining land uses and as such is contrary to Policies 28 and 36 of the Highland wide Local Development Plan.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Signature: Nicola Drummond

Designation: Area Planning Manager – South/Major Developments

Author: Susan Macmillan / Philip Sweeney

Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 - 100 – Location Plan

Plan 2 - 200 REV A - Site Plan

Plan 3 - 101 – Existing Elevations and Floor Plan (House)

Plan 4 - 201 – Proposed Elevations and Floor Plan (House)

Plan 5 - 202 REV A – Cattery elevations and plans

Plan 6 - 203 – Proposed Elevations and Plans (Kennel)

Plan 7 - 400 - Traffic Management Plan













