Agenda Item	6.2
Report No	PLS/067/18

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee

Date: 18 September 2018

**Report Title:** 18/03577/PIP: Mr & Mrs I Wilson

Land 80m SW of 2 Bohenie, Roy Bridge

**Report By:** Area Planning Manager – South/Major Developments

**Purpose/Executive Summary** 

**Description:** Erection of house and formation of access (part retrospective)

Ward: 11 - Caol and Mallaig

**Development category:** N03B Housing Local

Reason referred to Committee: Manager's discretion

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

## Recommendation

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

#### 1. PROPOSED DEVELOPMENT

1.1 Planning permission in principle is sought for a single detached house located to the south side of the public road at the southern edge of Bohenie. The site is set on a plateau of ground, slightly elevated above the public road. The site historically has been used for grazing. A large open fronted animal shelter is located to the south west of the site and is served by an agricultural track which joins the public road approximately 30m to the north west.

Planning permission in principle for the demolition of the agricultural building and the erection of a single, detached dwelling house was granted in 2010. Planning applications were made in 2011 for two single, detached dwellings between the approved house site (in place of the agricultural building to the south west) and the existing house at 2 Bohenie. This site is the middle of the three house sites approved in 2010 and 2012.

This application site has subsequently been subject to renewal of planning in principle consent and detailed planning permission for servicing and the upgrade of the track/formation of service bay, was granted in 2015.

- 1.2 The existing agricultural access has been upgraded in line with the details approved under 15/00458/FUL to serve this and the two neighbouring serviced sites to the south west of 2 Bohenie. These works were undertaken prior to the discharge of pre-commencement conditions relating to the serviced site and this planning permission has lapsed. Water supply and foul drainage would be private with foul drainage to individual septic tanks with soakaways, one for each house.
- 1.3 Pre Application Consultation: No pre-application discussions. Information was submitted in May 2018 to discharge pre-commencement conditions relating to the plot servicing approved in 2015. This information could not be accepted as the full planning permissions relating to the serviced sites expired in April 2018. This application seeks to re-establish the principle of residential development at this site and regularise the upgrade works undertaken (formation of service bay at junction with public road) to the existing access which have been undertaken.
- 1.4 Supporting Information: Private water supply details and Scottish Water Test Report.

1.5 Variations: None

#### 2. SITE DESCRIPTION

2.1 The site comprises an open, generally level terrace set above the public road at Bohenie within an area of steeply sloping wooded hillside. The site backs on to rising ground to the south east. 2 Bohenie, is a single storey, detached house, set to the south side of the public road, and located approximately 100m to the north east. The settlement extends to the north and comprises detached dwellings and ancillary/agricultural buildings, set in an irregular pattern, with varying setback from, but loosely following, the line of the public road. The ground to the south of the site falls away steeply to the valley floor containing the Bohenie settlement to the north. This topography forms a physical barrier to further development to the south of the

## 3. PLANNING HISTORY

3.1 8 March 2012 11/03407/PIP: Proposed dwelling house Granted

3.2 8 April 2015 15/00461/FUL: Formation of serviced site for Granted

dwelling house

## 4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour

Date Advertised: 09.08.18

Representation deadline: 23.08.18

Timeous representations: 1, Community Council.

Late representations: 0

- 4.2 Material considerations raised are summarised as follows:
  - a) Adequate available housing units in Roy Bridge and Spean Bridge with no reason for three speculative housing units at this site.
  - b) Concerns regarding any retrospective elements of proposals.
  - c) Do not consider that these applications will maintain population, infrastructure and services and will not support development of a rural area.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <a href="https://www.wam.highland.gov.uk/wam">www.wam.highland.gov.uk/wam</a>.

#### 5. CONSULTATIONS

- 5.1 Access Officer: No comments received. Upgrade of existing agricultural access has been undertaken. The application sites are set back from the public road and will not affect the Roybridge to Bohenie to Gleann Glas Dhoire Core Path (LO21.03).
- 5.2 Environmental Health Officer: No objection.

# 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
- 36 Development in the Wider Countryside
- 47 Safeguarding Inbye/Apportioned Croftland
- 51 Trees and Development
- 56 Travel
- 57 Natural, Built & Cultural Heritage

65 - Waste Water Treatment

66 - Surface Water Drainage

77 - Public Access

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

No specific policies apply

# 6.3 West Highland and Islands Local Development Plan (Emerging WestPlan)

No specific allocation - not identified within a Lochaber Settlement, Growing or Potential Community Plan Settlement. Highland wide Local Development Plan Policies apply.

## 7. OTHER MATERIAL CONSIDERATIONS

# 7.1 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011)

Flood Risk & Drainage Impact Assessment (Jan 2013)

Highland's Statutorily Protected Species (March 2013)

Housing in the Countryside and Siting and Design (March 2013)

Sustainable Design Guide (Jan 2013)

Trees, Woodlands and Development (Jan 2013)

## 7.2 Scottish Government Planning Policy and Guidance

- 83. In remote rural areas, where new development can often help to sustain fragile communities, plans and decision-making should generally:
  - encourage sustainable development that will provide employment;
  - support and sustain fragile and dispersed communities through provision for appropriate development, especially housing and community-owned energy;
  - include provision for small-scale housing and other development which supports sustainable economic growth in a range of locations, taking account of environmental protection policies and addressing issues of location, access, siting, design and environmental impact;
  - where appropriate, allow the construction of single houses outwith settlements provided they are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies;
  - not impose occupancy restrictions on housing
- 212. Development that affects a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve should only be permitted where:
  - the objectives of designation and the overall integrity of the area will not be compromised; or
  - any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

#### 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 Parallel Roads of Lochaber Site of Special Scientific Interest
  - c) impact on trees
  - d) service provision

# Development plan/other planning policy

## 8.4 Principle

The site is within the Wider Countryside as defined in the HwLDP. Policy 36 requires proposals in the wider countryside to be assessed against six criteria. This assessment will determine how a proposal would fit into the existing pattern of development in an area, its siting and design, and whether proposals would be compatible with landscape character and capacity.

The existing settlement pattern at Bohenie is one of a small cluster of dwellings at the end of the public road on the south east side of Glen Roy. The river is in a deep gorge here and the crofting township is sited on the flat terraces above the river, which are a geomorphological feature of scientific interest.

Subject to appropriate siting and design (at full planning or matters specified in condition stage) this proposal, together with the sites previously approved to the south west of 2 Bohenie, would be well contained by the surrounding landform and would read together with existing properties in the settlement as part of a cohesive housing group.

The plot size is substantial; however, this would be commensurate with other dwellings in this rural area and ensure appropriate low density development.

8.5 The adopted Housing in the Countryside Siting and Design Guidance sets out a presumption in favour of residential development in the wider countryside subject to appropriate siting and design. A sequential approach to development is required to ensure development is directed to appropriate locations including rounding off existing housing groups, development of brownfield land, sub-division of garden ground, supporting agriculture, croft land management or an existing or new rural business.

Current and emerging development plan policy, seeks to consolidate existing settlements, utilising existing infrastructure and strengthening rural communities. A number of sites have been identified for residential development within the village centre at Roy Bridge however this does not preclude small scale residential development within smaller settlements. Development at this site, within the existing settlement at Bohenie, defined by the physical characteristics of the site would accord with this general principle.

Planning applications for detailed consent (house siting and design) have not been submitted for this site. In the longer term, it is considered that small scale residential development at Bohenie will help to maintain population within this rural area.

8.6 Policy 47 of the HwLDP requires development proposals to minimise the loss of Inbye/apportioned croftland. The siting of development should not unreasonably restrict the flexibility to cultivate and move stock on the remaining croftland and the siting of development should avoid the better quality soils of the croft. The Crofting Commission has been consulted on the previous applications at this and neighbouring sites and has provided no site specific advice; their standard guidance has therefore been considered.

The proposed site, located at the edge of the croft, follows the traditional crofting settlement pattern, would avoid better parts of the croft and there is scope for development without obstructing agricultural access to the wider croft, in accordance with policy 47 of the HwLDP. Details of the provision of croft access will be sought by planning condition at matters specified in condition stage.

The Crofting Commission will consider the proposals in detail at de-crofting stage and reserve the right to review the extent to which crofting issues have been taken into account at planning stage. In addition, the Commission will consider the effect of the purpose on the sustainability in the locality of the croft on crofting, the crofting community, the landscape and environment and the effect of the purpose on the social and cultural benefits associated with crofting.

# Impact on Parallel Roads of Lochaber Site of Special Scientific Interest

8.7 The site is designated for its geomorphological interest; however this area is not one of the key locations where sensitivity is greatest. Development would be located on top of one of the terraces created by fluvial and fluvio-glacial activity at the end of the last Ice Age.

SNH were consulted previously and raised no objection to development in this location. This and neighbouring sites would be contained entirely on one of the terraces. Use of the existing access for this and adjacent developments would minimise the impact on this feature, avoiding the need for multiple crossing points up onto the terrace from the road, which is at a lower level. Consent will be required from SNH for the construction of the whole development. A note is proposed to point out the limitations this will present to the future development of this site.

The development will not have a significant adverse impact on the designated feature and the proposal accords with policy 57 of the Highland wide Local Development Plan, 2012.

## Impact on Trees

8.8 The mature oak and birch between the existing agricultural access and public road to the south west of the site will be unaffected by development of this middle application site.

A tree constraints plan and tree protection measures are required in connection with redevelopment of the neighbouring agricultural shelter site to the south west.

# Servicing

8.9 A communal private water supply is proposed to serve this, and the neighbouring two house sites. This private water supply currently serves two existing dwellings at Bohenie and is derived from a minor tributary of the River Roy. A private water supply and Scottish Water test report have been supplied in support of the application and Environmental Health has raised no objection to the proposals.

Final details of the private water supply arrangements, including storage tanks and infrastructure will be required at matters specified in condition stage.

- 8.10 Foul drainage will be to a septic tank and soakaway. There is ample space for the provision of foul water drainage infrastructure within the application site boundary. Further drainage details will be required at matters specified in condition stage and the technical sufficiency of the scheme would be subject to consideration and control at building warrant stage.
- 8.11 In 2015 full planning permission was granted for the upgrade of the access and installation of services to this site, subject to the prior discharge of condition relating to private water supply details to demonstrate the sufficiency of supply. This condition was not timeously discharged and this planning permission has lapsed.

The junction of the existing agricultural access with the public road has been upgraded and a service bay formed. Although a planning in principle application cannot technically regularise these works, it is acknowledged that the service bay has been formed in accordance with the requirements of previous consents and is acceptable.

Planning permission granted in 2015 was restricted to the access and servicing, foul drainage and water supply (suitable for a single house plot). A further separate application was required for the residential use, design, siting and layout of development within the plot.

# Other material considerations

8.12 There are no other material considerations.

Matters to be secured by Section 75 Agreement

8.13 None

## 9. CONCLUSION

9.1 This site would be located at the western edge of the existing settlement at Bohenie. Low density development, contained by the surrounding topography,

would accord with the historic crofting township pattern, would consolidate an existing settlement, utilise existing infrastructure and strengthen a rural community. The provision of a house at this site, close to the road, would not significantly adversely impact on the operation of the rough grazing/crofting ground to the south and appropriate access to surrounding croftland will be agreed at matters specified in condition stage. This site avoids key areas of the Parallel Roads of Lochaber Site of Special Scientific Interest and would be subject to separate consent from Scottish Natural Heritage.

9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other 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

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

Revocation of previous permission N

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

## Conditions and Reasons / Reasons for Refusal

- 1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:
  - a) a detailed layout of the site of the proposed development (including site levels as existing and proposed);
  - b) the design and external appearance of the proposed development;
  - c) landscaping proposals for the site of the proposed development (including boundary treatments);

- d) details of access and parking arrangements to serve the house;
- e) details of a waste storage area within the residential curtilage; and
- f) details of the proposed water supply and foul and surface water drainage arrangements.

No development shall commence on site until all specified matters have been approved in writing by the Planning Authority.

**Reason**: Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

- 2. In addressing the terms of condition 1, above, and notwithstanding the details shown on site layout plan 200 attached hereto, the house shall be designed within the following parameters:
  - The house shall be not more than 1½ storeys in scale
  - External building span (excluding any projections which may be approved) shall not exceed 7 metres
  - Roof pitch to be between 40 and 45°
  - Roof finish to be dark grey natural slate
  - External walls shall be finished in white coloured wet dash roughcast or white coloured smooth masonry render
  - If chimneys are incorporated, they shall be set squarely on the main building ridge
  - Window openings shall have a vertical emphasis.

**Reason**: In the interests of visual amenity and in order to maintain the vernacular building traditions and character of the area and to integrate the proposed dwellinghouse with its surroundings; in accordance with policies 28, 29 and 36 of the Highland wide Local Development Plan, 2012.

- 3. No development shall commence until, details of the scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
  - Existing and finished ground levels in relation to an identified fixed datum
  - ii) Existing landscaping features and vegetation to be retained
  - iii) Location and design, including materials of walls, fences and gates
  - iv) Soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Planning Authority. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of the development unless otherwise first agreed in writing by the Planning Authority.

Any trees or plans which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing by the Planning Authority.

**Reason**: To ensure the implementation of a satisfactory scheme of boundary treatment and landscaping in order to integrate the proposals with its surroundings; in accordance with policies 28, 29 and 36 of the Highland wide Local Development Plan, 2012.

4. No other development shall commence until the site access has been upgraded in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated 04.09.18), with the junction formed to comply drawing ref. SDB2.

**Reason**: To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity

5. Any details pursuant to condition 1 above shall show details of access, suitable for accommodating agricultural traffic, provided through the application site to the adjacent croftland. Prior to the first occupation of the house, the access shall be formed in accordance with the details approved by the Planning Authority and thereafter shall be maintained in perpetuity.

**Reason**: To ensure that the development will not impede access to, or have an adverse impact on the purposeful use of, another part of the croft or other croftland.

#### REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

# TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i. The expiration of THREE YEARS from the date on this decision notice;
- ii. The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter

being obtained)., whichever is the later. If development has not commenced within this period, then this planning permission in principle shall lapse.

#### FOOTNOTE TO APPLICANT

# **Accordance with Approved Plans & Conditions**

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

#### Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

# Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

## **Local Roads Authority Consent**

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <a href="http://www.highland.gov.uk/yourenvironment/roadsandtransport">http://www.highland.gov.uk/yourenvironment/roadsandtransport</a>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads\_and\_pavements/101/permits\_for\_working\_on\_public\_roads/2

#### Mud & Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

## **Construction Hours and Noise-Generating Activities**

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

#### Parallel Roads SSSI

In addition to this planning permission consent will be required from SNH for this development to take place because the site is within the Parallel Roads SSSI designated for its geomorphological landforms. Consent from SNH is required for the following operations within the SSSI:

- Dumping, spreading or discharge of any materials (except fertilisers, lime and manure)
- Extraction of minerals including sand and gravel, topsoil and sub-soil
- Construction, removal or destruction of tracks, walls, fences, hardstands, banks, ditches or other earthworks, or the laying, maintenance or removal of pipelines and cables, above or below ground
- Modification of natural or man-made features

## **Protected Species – Halting of Work**

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt,

it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Signature: Nicola Drummond

Designation: Area Planning Manager – South/Major Developments

Author: Christine Millard

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

Relevant Plans: Plan 1 - 200 Site Plan

Plan 2 - 201 Location Plan



