

Planning and Environmental Appeals Division

## Appeal Decision Notice

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Decision by Stephen Hall, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2240
- Site address: Glenmamie, Lochailort, Highland, PH38 4NA
- Appeal by James Macnaughton against the decision by Highland Council
- Application for planning permission 20/01714/FUL dated 5 May 2020 refused by notice dated 14 December 2020
- The development proposed: Change of use of ground to proposed development of four holiday accommodation pods, with site access, parking and septic tank drainage
- Date of site visit by Reporter: 9 April 2021

Date of appeal decision: 7 July 2021

### Decision

I dismiss the appeal and refuse planning permission.

### Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case consist of the Highland-wide Local Development Plan, the West Highland and Islands Local Development Plan, and supplementary guidance associated with these plans. It is the Highland-wide plan that is of most relevance to this appeal.

2. Having regard to the provisions of the development plan the main issue in this appeal is the standard of the site access onto the A830 trunk road, and road safety. However, I will first deal briefly with the principle of the development.

#### Principle of Development

3. The appeal site is located in open countryside. According to Policy 44 of the Highland-wide plan, proposals for tourist accommodation in such locations will be supported where: it can be demonstrated that a demand exists for this type of accommodation; that it can be achieved without adversely affecting the landscape character or the natural, built and cultural heritage features of the area; and it is consistent with the other guidance on siting and design set out in Policy 36: Wider Countryside.

4. No evidence has been advanced as to the demand for this accommodation, but I note that it is no part of the council's argument that there is no such demand. Given the scenically attractive location adjacent to the main road to Mallaig, I do not doubt that a level of demand exists. The proposed development would be relatively low-density and low-key,

utilise natural materials, and be set well back from the roadside. It would be located in a natural landscape bowl with views into the site restricted by surrounding topography and woodland. I am therefore satisfied there would be no adverse effect on landscape character or other features of the area. I discuss the potential impact on natural heritage designations separately below.

5. Policy 36 deals more generally with development in the wider countryside, including factors such as siting, design and landscape character. For the same reasons as discussed above in respect of Policy 44, I do not identify any conflict with this policy.

6. For these reasons I find the principle of this development in this location to be in accordance with the development plan.

### Access and Road Safety

7. The development would be accessed directly off the A830 trunk road, utilising an existing agricultural access. Policy 56 of the Highland-wide plan requires development to be designed for the safety and convenience of all potential users, and incorporate appropriate mitigation, which might include road improvements. Although not part of the development plan, the interpretation of this policy is assisted by the Scottish Government's Planning Advice Note 66 Annex A: Advice on Minor Developments Affecting Trunk Roads (PAN66A).

8. I issued a procedure notice to Transport Scotland seeking clarification on its views about how the proposal should be considered in the light of the advice contained in PAN66A.

9. Paragraph 9 of PAN66A states that direct vehicular access on to a trunk road should be avoided as far as practicable. In this case, if this development were to go ahead at this location, an access onto the trunk road would appear unavoidable. Paragraph 10 includes a presumption against the creation of new accesses onto high-speed trunk roads. It is perhaps a moot point as to whether the intensification of the use of the existing agricultural access for a commercial development would constitute its being considered a new access in the terms of PAN66A. In its response to the procedure notice, Transport Scotland describe the access as requiring upgrading.

10. Paragraph 11 of PAN66A requires applicants to provide and maintain suitable visibility splays. The required splays are set out in the subsequent paragraphs, in terms of a y-distance along the length of the trunk road, and an x-distance describing the setback along the centreline of the access road. The y-distance varies according to the speed of the traffic. At the appeal site, the 60 miles per hour speed limit applies, and I consider it possible that traffic could be travelling at this speed. A y-distance of 215 metres therefore applies.

11. For minor developments, an x-distance of 4.5 metres is normally required, though for lightly-used accesses, a reduction to 2.4 metres may be considered, or 2.0 metres in exceptional circumstances. In its response to the procedure notice, Transport Scotland has confirmed that the access in this case should be considered lightly used. No object should obscure visibility in a vertical plane within the splay above a height of 0.26 metres measured from a driver's eye height of between 1.05 metres and 2 metres.

12. Following my site inspection, I assess that a y-distance (from a setback x-distance of either 2 metres or 2.4 metres) would exist of over 215 metres to the north of the access point, were it not for a road sign which partially obscures this view. To the south, the curvature of the road and a rock outcrop restrict the y-distance to a maximum of 180 metres. Visibility is therefore slightly substandard in both directions. While it might be possible to address the obstruction caused by the road sign to the north (perhaps by means of a suspensive condition), it would appear impossible to bring the visibility to the south fully up to standard without major engineering works.

13. The planning application does not propose any change to the existing access. However, Transport Scotland has confirmed in its response to the procedure notice, that an access to this scale of development would require to be of the type illustrated at Figure 4 of PAN66A, with corner radii of 10 metres. The existing junction radii are around 1 metre and so could be considered severely substandard in this regard. That said, I consider this proposal to be at the lower end of the scale as regards the types of development requiring this standard of junction. (I note, for instance, that accesses to single dwellings require only 1 x 1 metre corner cut-offs.)

14. Transport Scotland has also expressed concerns about visitors to the pods seeking to cross the trunk road. While the shoreline at this point is not particularly attractive, it does afford spectacular views. I agree that it is likely that visitors would wish to explore the local area on foot, and the sea is an obvious draw. Due to the bend in the road to the south, and the rock outcrop, visibility here is not ideal, there are no pavements, and there is no formalised crossing point or fencing to restrict access onto the road. While the extent of the risk of accidents cannot be quantified, I therefore agree that the proposal would be likely to increase that risk somewhat.

15. I conclude that the proposed access arrangements would fall below the standards described in PAN66A and that the development would pose an increased risk to road and pedestrian safety. The proposal would therefore be contrary to local development plan Policy 56 in these regards. While the shortfalls to the required standards are in some respects quite small, they are not all realistically capable of being resolved.

### Natural Heritage

16. Policy 57 of the Highland-wide Local Development Plan applies degrees of protection to natural heritage features of local, regional, national and international importance. The site is located within the Glen Beasdale Site of Special Scientific Interest and Special Area of Conservation (SAC), designated for western acidic oak woodland, otter and freshwater pearl mussel.

17. The council has carried out a Habitats Regulations Assessment (wrongly in my view titled 'Appropriate Assessment') of the proposed development (Appendix A to the Report of Handling), which concludes that the proposal would be unlikely to have a significant effect on any qualifying interests of the SAC either directly or indirectly, and that therefore an appropriate assessment is not required.

18. I largely agree with the council's assessment, although I note that the camping pods would be positioned within an open area (not wooded as stated by the council) in the north

of the application site. It appears that development can be accommodated without the need to remove trees. A very small area of qualifying habitat beneath each pod would be lost but overall this is extremely small in comparison to the rest of the site. The track and parking area would be set adjacent to qualifying oak woodland habitat, but there would be no loss of qualifying habitat from these elements. Otter are unlikely to be affected by the proposal, as the site is located between the West Highland rail line and the A830 trunk road, and otter would be likely to favour better habitat close by. There are no freshwater pearl mussels on or near this site.

19. On this basis I conclude that the proposal would be unlikely to have a significant effect on any qualifying interests either directly or indirectly, and that an appropriate assessment is therefore not required.

20. The site is also located within the Glenbeasdale Site of Special Scientific Interest, notified for its biological and geological features of national importance. As the development will affect only an extremely small area of the designated site, I consider that the natural heritage interests of national importance at this site would not be affected by this proposal. The council states that otters may use neighbouring woodland for siting their holts and couches, and may pass through this area. It is possible that there may be breeding or resting places nearby. However, as the site is located between the A830 trunk road and West Highland rail line, I agree with the council that otter are less likely to be present, favouring better quality habitat nearby.

21. For these reasons, I do not identify any conflict with Policy 57.

### Flooding

22. Policy 64 requires development to avoid areas susceptible to flooding and promote sustainable flood management. Although the appeal site is close to the sea, the pods are proposed to be located on land around 10 metres above sea level. According to SEPA, the watercourse running through the site drains a very small catchment area and may have its flow limited by a culvert upstream. I would not therefore anticipate any significant flood risk.

### Conclusion regarding compliance with the development plan

23. The only conflict with the development plan that I have identified relates to Policy 56's provisions regarding access and road safety (as informed by PAN66A). It is clear to me that the proposal would not conform with the identified standards in this area. While, in some respects, the departures from the standards are not great, trunk roads are an important national asset, and maintaining safety on trunk roads is an important priority. Despite the proposal's compliance with other development plan policies, I therefore conclude that the development would not comply with the development plan

### Other material considerations

24. I note the arguments submitted regarding the potential permitted development rights for caravan sites. The permitted development rights referred to relate to proposals for not more than three caravans. In this case, the proposal is for four holiday accommodation pods, and so I am clear that the permitted development rights referred to do not apply. I

have not therefore found it necessary to address the issue of whether such rights would have applied had the proposal been for three pods.

25. I do not consider the matters raised regarding the historical circumstances of the upgrading of the A830, or the design of features elsewhere on this road, to be relevant to the determination of this appeal.

### Overall Conclusion

26. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of 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.

*Stephen Hall*  
Reporter