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| Agenda Item | 6.2 |
| Report No | PLN/059/22 |

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 10 August 2022

Report Title: 21/05293/FUL: Mr Angus Macleod

Carnbeag, 1 Earlish, Portree

Report By: Area Planning Manager North

Purpose/Executive Summary

Description: Extension to a cafe, provision of a larger parking area, siting of a shipping container and provision of a lean to covered walkway.

Ward: 10 - Eilean A' Cheò

Development category: Local

Reason referred to Committee: Called in by members

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** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks full planning permission for the erection of an extension to an existing café. The extension will measure 7m by 13.7m with a ridge height of 5m and will be finished in a mix of blue vertical timber cladding and blue metal profiled sheeting to the walls and grey metal profiled sheeting to the roof.

Also included within the application is the retrospective siting of a storage container and retrospective erection of a covered walkway. The container is green in colour and of standard design and appearance. It measures 6m by 2.4m and is 2.4m in height and is located to the rear of the existing café. The covered walkway is 4.4m in length and 1.8m in width with a height of 2.7m and is finished in matching materials to the existing café.

- 1.3 Pre Application Consultation: None

- 1.4 Supporting Information: None

- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 The site consists of an existing café building that is located within the grounds of the applicant's house. The site is accessed via an existing driveway onto the A87 trunk road. It is noted that the junction with the A87 has not yet been completed to a standard as required by a condition of two earlier planning permissions.

Adjacent to the café is an external seating area. This seating area is currently operating under the relaxation of planning controls adopted by the planning authority as promoted by the Scottish Government due to the Covid 19 pandemic. It is noted that beyond September 2022, there will be a need for this external seating area to be removed, unless a formal planning application has been submitted and determined which would grant permission for its retention. The land for the proposed extension lies to the north of the existing café building and extends over land which is in third party ownership.

There are currently 6 designated parking spaces for the existing café and 3 spaces available for the applicant's house.

3. PLANNING HISTORY

- | | | | |
|-----|--|-----------|------------|
| 3.1 | 03/00004/FULSL Erection of house | Refused | 25.02.2004 |
| 3.2 | 04/00248/FULSL Erection of House | Permitted | 06.10.2004 |
| 3.3 | 13/01599/PREAPP Erection of log cabin to form Seafood Cafe for max 20 people | Closed | 23.04.2013 |
| 3.4 | 17/01559/FUL Retrospective erection of a cafe and creation of parking area | Permitted | 04.08.2017 |

3.5 20/04716/FUL Erection of a house Permitted 27.01.2021
[House next door to the north]

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour – West Highland Free Press

Date Advertised: 26.11.21

Representation deadline: 10.12.21

Timeous representations: None

Late representations: None

4.2 Material considerations raised are summarised as follows:

a) None

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 Environmental Health – Original objection to the proposal regarding confirmation of the use of the extension. Once this information was received the objection was lifted.

5.2 Transport Scotland – No Objection. Conditions requested regarding the incomplete access. Transport Scotland would not be supportive of any development proposals that could potentially result in indiscriminate parking on the trunk road network. Accordingly, we would generally expect new developments to meet the appropriate Local Authority parking standards.

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 and Place-making

36 - Development in the Wider Countryside

47 - Safeguarding Inbye/AppORTioned Croftland

65 - Waste Water Treatment

66 - Surface Water Drainage

6.2 West Highland and Islands Local Development Plan (2019):

No Relevant Policies

6.5 Highland Council Supplementary Planning Policy Guidance

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

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (as amended December 2020)

75. The planning system should:

- in all rural and island areas promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces;
- encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality; and
- support an integrated approach to coastal planning.

93. The planning system should: promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets.

National Planning Framework 3

Designing Streets

Creating Places

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) Neighbour Amenity
- c) Parking
- d) any other material considerations

Development plan/other planning policy

8.4 Policy 28 requires sensitive siting and high quality design in keeping with local character and historic and natural environments, and the use of appropriate materials. This Policy also requires proposed developments to be assessed on the

extent to which they are compatible with service provision, as well as their impact on individual and community residential amenity.

Policy 29 repeats this emphasis on good design in terms of compatibility with the local landscape setting.

The property falls outwith any Settlement Development Area and so Policy 36 of the Highland-wide Local Development Plan applies. Policy 36 supports development proposals which are not significantly detrimental in terms of their siting and design, sympathy to existing patterns of development, compatibility with landscape character, contribution to the existing mix of development types, avoidance of the loss of locally important croftland and which can be adequately serviced without undue public expense or incongruous development in a rural area.

Policies 65 and 66 require foul and surface water drainage to meet standards that minimise the risk of pollution and flooding.

8.5 Neighbour Amenity

The site is located to the northern side of the A87 Trunk Road and in between the applicant's own property and a house to the north that is currently nearing completion/occupation - planning permission 20/04716/FUL. At present there is a separation distance of 25m between the existing café and the new house with an established 2m hedge along the boundary between them providing screening. It is proposed that the extension will project northwards, away from the applicant's own house and towards the adjoining house requiring the removal of the existing hedge at this point. If developed in the manner currently proposed, the extension to the café would result in the separation distance between the café and the new house being reduced to around 14m (10m from the boundary).

The gable of the house under construction has two windows facing directly onto the proposed café extension. These windows give light and ventilation to the main habitable rooms of the house. The proposed extension to the café building has a large area of glazing facing directly towards the windows of the residential property behind which there will be seating and tables for 28 covers. The window-to-window distance would be 14m. The applicant has indicated that the existing 2m hedge will be removed and the new boundary line will be planted with a double row of Leylandii trees.

It is considered that a separation of 14m and the provision of a fresh sapling hedge is insufficient to protect the residential amenity of the neighbouring house from disturbance. Although the Leylandii, when established, will provide screening, this will take some time to establish and the extension proximity to the adjacent house would still give rise to an adverse impact on amenity in the intervening period. The extension will result in an intensified level of customer and staff activity associated with café being brought significantly closer to the neighbouring house than the current arrangements. Although, in time, the hedge may reduce direct intervisibility between the café extension and the house, it is not an effective solution to protecting the amenity of this neighbouring property from the noise disturbance associated with the increase in customer movements and activity.

During the processing of the application options were discussed with the applicant to allow some additional floorspace to be provided without bringing the café use closer to the neighbouring property. Alternative solutions were suggested for an

extension on the southern side of the existing café closer to the applicant's own house however disappointingly, no agreement could be reached and no changes to the original design have been made.

8.6 **Parking**

There are currently 6 parking spaces allocated for the existing café use and 3 parking spaces allocated for the applicant's house on site. The proposed café extension has a public floor area of 61m². This would equate to an additional 12 parking spaces calculated at 1 space per 5m² of public area. Taking into account the existing parking requirement for the café, the total parking requirement for the café and additional floor space is 18 spaces. In addition, there is a need to provide staff parking at a ratio of 1 space for every 3 members of staff. The applicant has indicated that there are currently 7 members of staff. Taking into account that some of these staff members are also residents in the applicant house, a further one space is required for staff. The total number of parking spaces for the proposed extension to the café is therefore calculated as being 19 spaces.

The submitted plans show an additional 8 spaces to be provided in addition to the 6 existing spaces - a total of 14 spaces. However, two of these spaces are already allocated for the residential property within the site so, in reality, the proposal only provides a total of 12 spaces for the extended café. There is therefore a shortfall of 7 spaces. This calculation does not consider the external seating area that is currently in place under Covid relaxations which would require an additional 8 parking spaces if it was applied for on a permanent basis.

The inevitable effect of this lack of onsite parking is considered to be that additional customer vehicles (beyond the 14 catered for) will have no choice but to use the verge of the A87 near the access for parking causing an unacceptable road safety impact for both other users of the Trunk Road but also the café customers.

Transport Scotland were consulted as part of the application and although they did not object, they confirmed they were not supportive of any application that could potentially result in parking within the boundaries of the Trunk Road.

There is no land available within the applicant's control that would allow for the creation of any additional onsite parking. As such the shortfall of on-site parking provision is considered unacceptable – see 8.8 below.

8.7 **Siting, Design and Visual Impact**

The proposed extension is to be of a similar scale and massing to the existing café and will produce a twin gable elevation facing onto the public road. This is a feature that is replicated on other properties within close proximity to the site and is considered to be in keeping with its surroundings. The existing building is dressed in blue timber cladding, and this will be replicated on the proposed café. The design and external appearance of the proposed extension is therefore considered acceptable.

The container is located to the rear of the café and is already in place. Given its location there are no public views of the container. Should planning permission be refused the container will either need to be removed from site or a further retrospective application submitted for its retention.

Retrospective planning permission is also sought for the covered walkway which is located on the southern side of the café and leads to the public entrance to the building. The design and finish of the structure matches the existing building and given its location and small scale it, raises no concerns with regards to visual impact on the existing building or surrounding landscape. As above, refusal of the application will mean that the structure will either need to be removed from site or a further retrospective application submitted for its retention.

8.8 **Road Safety**

The site is accessed via an existing access from the A87 Trunk Road. Transport Scotland were consulted as part of the application and have returned a no objection comment subject to a condition being attached to any planning permission granted, requiring the first 10m of the access to be surfaced and drainage installed.

It is noted that similar conditions were attached to the planning permission for the erection of the applicant's house granted in 2002 and also the retrospective permission granted for the café approved in 2017. It is disappointing that the applicant has failed to comply with the terms of these planning permissions and the resultant breach in planning will be investigated separately.

As regards the proposed extension the consultation response from Transport Scotland indicates that they do not consider that there will be a direct risk to road safety as a result of the increase in vehicle movements in and out of the access associated with the development proposed. Transport Scotland do not comment on the internal layout of a site and therefore do not give any consideration to the number of car parking spaces proposed – this is a matter for the local planning authority.

As set out above in paragraph 10.6, it is considered that there is a significant shortfall in the number of spaces required for a commercial development of the size proposed based on the council's own standards. The applicant has failed to provide sufficient additional car parking to cater for the significant increase in parking required. It is considered that the proposal would create a likelihood for customers to park on the trunk road verge adjacent to the access. This would create a significant risk to road and pedestrian safety for both those wishing to visit the café and well as other users of the public road. Transport Scotland are in agreement that the proposal has the potential to have a negative impact on road safety with regards to users of the café parking on the A87 road verge and have stated they could not be supportive of the proposal in this instance but cannot object to a matter related to onsite parking provision.

Other material considerations

8.9 There are no other material considerations.

Non-material considerations

8.10 There are no non-material considerations

9. CONCLUSION

9.1 The proposal fails to demonstrate that the extension to the café can be provided without having an unacceptable impact on the amenity of the neighbouring property.

The distance between the extension and the neighbouring residential building along with the distance between directly facing windows will unacceptably affect the amenity of the residents of the neighbouring house. Alternative locations to overcome the amenity issues as mentioned in section 10.5 were put forward but the applicant was unwilling to consider this.

- 9.2 The application also fails to provide an adequate level of on-site parking for the users of the café, and this is likely to result in on-verge parking on trunk road adjacent to the access to the detriment of trunk road safety.
- 9.3 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.
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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 actions, it is recommended to **REFUSE** the application for the following reasons.

Reasons for Refusal

1. The proposal will decrease the separation distance between the neighbouring residential property and the commercial premises bringing the associated intensified noise and disturbance associated with increased customer and staff activity closer to the house and its private amenity space. This is considered to result in an

unacceptable impact on the occupants of the neighbouring residential property. The proposal is contrary therefore to the requirements of Policy 28 of the Highland Wide Local Development Plan 2012.

2. The development as proposed fails to provide sufficient onsite parking as required by current guideline standards. The proposal is therefore considered likely to result in the introduction of parking on the A.87 carriageway verge adjacent to the site access. This will result in visual and physical obstruction to other road users resulting in an unacceptable reduction in trunk road safety. The proposal is contrary therefore to the requirements of Policies 28 of the Highland Wide Local Development Plan 2012.

Designation: Acting Head of Development Management – Highland

Author: Chris Hallas

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

Relevant Plans: Plan 1 - Location Plan 21-23-05 Rev A
Plan 2 - Site Layout Plan 21-23-04 Rev B