Agenda Item	6.4
Report No	PLN/034/24

HIGHLAND COUNCIL

- **Committee:** North Planning Applications Committee
- **Date:** 16 April 2024

Report Title: 23/04883/FUL: Mrs Maria Estefania Brun

Land 200M NE Of 1 Upper Milovaig Glendale

Report By: Area Planning Manager North

Purpose/Executive Summary

- **Description:** Erection of short term letting property, installation of air source heat pump. Formation of access. Installation of septic tank and soakaway
- Ward: Ward 10 Eilean A' Cheò

Development category: Local Development

Reason referred to Committee: Number of Objections

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

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

1. PROPOSED DEVELOPMENT

- 1.1 This application seeks full planning permission for the erection of a single storey, one bedroomed holiday letting unit. The building measures some 11.4m long by 6.7m wide and 4.8m to the highest part of its mono-pitch roof. It would be clad in natural larch boarding on the walls and would have a sedum/turf roof. A tarmac track would be formed from an existing vehicular croft access. This track would negotiate the steeply sloping landform on the upper portion of the field by means of an 'S' bend.
- 1.2 Pre-Application Consultation: Positive advice was provided in response to a request for pre-application advice, ref. 23/01988/PREAPP.
- 1.4 Supporting Information: A Private Access Checklist has been submitted.
- 1.5 Variations: The site layout has been amended to move the car parking area closer to the building, and a turf roof is now proposed instead of a metal sheet roof.

2. SITE DESCRIPTION

2.1 The site comprises an area of open grassland which lies on the eastern (seaward) side of the B884 Milovaig loop road. Existing houses lie on the opposite side of this road. The site lies within the North West Skye Special Landscape Area.

3. PLANNING HISTORY

3.1 27 July 2023 23/01988/PREAPP

Positive advice

4. PUBLIC PARTICIPATION

4.1 Advertised: Section 34 and Unknown Neighbour

Date Advertised: 13 November 2023

Representation deadline: 1 December 2023

Timeous representations: 11 from 10 Households

Late representations: None

- 4.2 Material considerations raised are summarised as follows:
 - a) The site lies outside a Settlement Development Area and does not utilise brownfield/derelict land.
 <u>Officer Response</u>: The Development Plan does not preclude buildings outside defined Settlement Development Areas or on land which is not derelict or brownfield.
 - b) The proposal merits a full Environmental Impact Assessment as it threatens biodiversity including otters.
 <u>Officer Response</u>: The proposal falls below the threshold required for an Environmental Impact Assessment. An otter survey has been undertaken which advises that there are no breeding holts or resting areas within 500m of the site boundaries. As such, no mitigation is required in respect of this protected species.

c) The proposal would adversely impact a designated landscape (the North west Skye Special Landscape Area), would adversely affect public seaward views and would set a precedent for further development on the seaward side of the road.

<u>Officer Response</u>: It is considered that the modest scale of the proposal and the large drop in elevation from the most significant visual receptor represented by the public road down to the site means that the building would not adversely affect public seaward views and would not adversely affect the qualities of the Special Landscape Area. Any future planning applications on the seaward side of the road would be assessed on their own merit.

- d) The proposal would result in the loss of agricultural land. <u>Officer Response</u>: The site comprises part of an owner-occupied croft. The use of croft land for holiday letting is recognised as an acceptable form of croft diversification which assists with croft viability.
- e) Adverse impact on the nearby listed Meanish Pier. <u>Officer Response</u>: the proposed building lies some 540m to the south of this Pier. A modern, timber clad building (consented by application 14/00458/FUL lies between the site and this pier. As such, it is not considered that the proposal would adversely affect the setting of this listed structure.
- f) Adverse impact upon existing residential properties. <u>Officer Response</u>: The nearest existing or proposed dwelling lies some 240m away from the site. This is a very substantial degree of separation which is considered more than sufficient to safeguard residential amenity.
- g) Coastal development should be avoided in view of climate change. <u>Officer Response</u>: The site does not lie within a coastal or fluvial flood zone.
- h) The proposal would be at odds with the local pattern of development which is restricted to the upper side of the public road.
 <u>Officer Response</u>: The site lies at the bottom of a valley which descends from the public road and as such the proposed building would have little visual prominence. It is considered that this proposal can be supported on the basis that its modest dimensions, single storey height and sedam/turf roof would allow it sit within the landscape and not jar with the existing pattern of development.
- i) The access track would be on a steep slope which could be prone to slippage. <u>Officer Response</u>: The track would require to meet the necessary building standards in this respect. It is noted that the maximum gradient of this proposed track is 7 degrees – which is not considered unduly steep.
- j) The existing road is in a poor condition and would be weakened by the formation of a new access. <u>Officer Response</u>: The public road appears to be in a reasonably good condition and the developer would have a legal responsibility to prevent their access from weakening the public road.
- k) It is stated by an objector that they are the owner of 1 Upper Milovaig, and that they have not given anyone permission to propose building anywhere on their land. Furthermore, the Neighbour Notification map wrongly shows the site to be on croft Lower Milovaig and the application should be refused for this major error.

<u>Officer Response</u>: The site has been correctly identified on the Neighbour Notification map. It appears that this objector is confusing their own address

with the address assigned to the site by the EPC, which is 'Land 200M NE Of 1 Upper Milovaig'.

- Existing services including water and internet are already stretched. <u>Officer Response</u>: Scottish water have no objection to the application and a water connection would only be allowed if sufficient capacity exists. Modern technology provides various ways of accessing high speed internet.
- m) Light pollution would occur. <u>Officer Response</u>: It is not considered that the small amount of light associated with this modest building represents a policy reason to justify refusal of this application.
- n) There are already too many holiday lets in the area.
 <u>Officer Response</u>: Skye is not the subject of a Short-Term Letting Control Area.
- o) Highland Council has approved 24 out of 27 planning applications in Milovaig over the last 6 years – is there any trigger that might make them refuse new builds of houses/holiday homes?
 <u>Officer Response</u>: Each planning application is considered on its own merits in relation to Development Plan policy and any other material considerations.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <u>www.wam.highland.gov.uk/wam</u>.

5. CONSULTATIONS

5.1 **Scottish Water**: No objection. This proposed development will be fed from Glendale Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry Form. There is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application.

6.1 **National Planning Framework (NPF) 4 National Planning Policy:**

- 1. Tackling the climate and nature crises
- 2. Climate mitigation and adaptation
- 3. Biodiversity
- 4. Natural places
- 29. Rural development
- 30. Tourism

6.2 Highland Wide Local Development Plan 2012

- 28 Sustainable Design
- 29 Design Quality and Place-making
- 31 Developer Contributions
- 36 Development in the Wider Countryside

- 44 Tourist Accommodation
- 49 Coastal Development
- 57 Natural, Built and Cultural Heritage
- 58 Protected Species
- 61 Landscape
- 65 Waste Water Treatment
- 66 Surface Water Drainage

6.3 West Highlands and Islands Local Development Plan 2019

Site lies within the North West Skye Special Landscape Area No site-specific policies apply

6.4 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011) Developer Contributions (March 2018) Highland's Statutorily Protected Species (March 2013) Special Landscape Area Citations (June 2011) Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 None

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. 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.

Determining Issues

- 8.2 The key considerations in this case are:
 - a) compliance with the development plan
 - b) siting, design and landscape impact
 - c) neighbour amenity
 - d) access and parking
 - e) protected species

Development plan/other planning policy

8.4 All planning applications must now be determined in accordance with the provisions of NPF4 and the existing Local Development Plan unless material considerations provide justification otherwise. If there is an inconsistency between NPF4 policies and an LDP which was adopted before 13 February 2023, the NPF prevails under Section 24(3) of the Town and Country Planning (Scotland) Act 1997 (as amended), and NPF 4 takes precedence over HwLDP Policy 36. In this case the Development Plan is comprised of NPF4 and the West Highlands and Islands Local Development Plan (although this has no site–specific policies of relevance to this application) and the Highland-Wide Local Development Plan, the relevant policies of which focus on siting, design, access, neighbour amenity and flood risk (policies 28, 29, 36, 44 and 64), landscape impact (policies 36, 44, 49, 57 and 61) and protected species (policy 58). For the reasons laid out below, the proposal is considered to comply with these policies.

- 8.5 NPF4 Policies 1-3 apply to all development proposals throughout Scotland. When considering development proposals, significant weight will be given to the global climate and nature crises. Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible. The application has been amended to incorporate a sedum roof into the building and this is considered to provide a contribution towards biodiversity.
- 8.6 NPF4 Policy 4d states that development proposals which affect a site designated as a Landscape Area in the Local Development Plan will only be supported where development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified. Policies 49, 57 and 61 of the HwLDP are also relevant in this respect and the issue of landscape impact is considered below.
- 8.7 Under NPF4 Policy 29, development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy will be supported, while NPF4 Policy 30 states that proposals for tourism related development will take into account the contribution made to the local economy.

Siting, Design and Landscape Impact

8.8 The site lies at the bottom of a valley which descends from the public road. There is a substantial difference in levels between the site and the public road, with site being very much lower than the road. As such the proposed building would have little visual prominence. It is considered that this proposal can be supported on the basis that its modest dimensions, single storey height and turf roof would allow it sit within the landscape and not jar with the existing pattern of development. The other siting consideration is whether the development would adversely affect public seaward views. The key visual receptor in this regard is the public road. The roof parapet of the modest single storey structure being proposed would be some 15m below the level of this road at the proposed site access location. Further to the south, at the entrance to Milovaig the road is at an even higher level relative to the proposed building. As such, it is considered that public seaward views would not be obstructed by this building to such a degree for them to be adversely affected. However, it is considered that the key factor in reaching this conclusion is the modest size, design

and finish of the proposal, which on balance allows it to be supported. A different conclusion would have been reached in relation to a more substantial building.

- 8.9 In terms of design, the simple, contemporary aesthetics of the proposed building are in keeping with key elements of the local vernacular and can be supported due to the low single storey roof height, rectangular floorplan and windows with a strong vertical emphasis. The external finishes of larch boarding on the walls and a sedum mat on the roof are also representative of the local building tradition and would be visually recessive within the landscape setting.
- 8.10 Given these positive siting and design considerations it can be concluded that the proposed development could be assimilated into the local landscape setting without adversely affecting the qualities of the Special Landscape Area.

Neighbour Amenity

8.11 The nearest existing or planned dwelling house lies some 240m to the south of the proposed building. This is an extensive degree of separation, which is considered more than sufficient to safeguard the privacy and amenity of this existing property. A footnote which advises the applicant that the proposed external Air Source Heat Pump must be installed in accordance with the Microgeneration Certification Scheme standards can be applied. These standards require that noise from this unit is within acceptable limits.

Access and Parking

8.12 The junction of the proposed access with the public road would have ample visibility in excess of the 90m standard applicable to this road in either direction. A condition can be applied to secure the delivery and maintenance of these visibility splays, as well as the design of the junction to be in accordance with Council standards.

The submitted site plan shows that the necessary car parking and turning spaces can be accommodated within the plot boundaries, and the provision of these spaces can be secured by condition.

Protected Species

8.13 An otter survey has been submitted which includes the application site and a 500m buffer around it. The survey states that no otter holts or resting up sites were located within the area of the proposed development or within 500m of it. On this basis no avoidance or mitigation measures are required in respect of this protected species.

Other material considerations

Use of the Building

8.12 Because the proposed building would lack sufficient private amenity space, a condition which restricts its operation to holiday letting accommodation is necessary.

Non-material considerations

8.13 None.

Matters to be secured by Legal Agreement / Upfront Payment

8.14 The site lies within the catchment areas of Dunvegan Primary and Portree High schools. Neither of these establishments is approaching capacity, and as such no educational developer contribution is required. The proposal does not trigger any other contribution thresholds.

9. CONCLUSION

- 9.1 It is considered that the design, scale and siting of the building at the bottom of a valley well below the key views from the public road mean the proposal would have an acceptable landscape impact which would not jar with the existing pattern of development and would not adversely affect public seaward views. The design of the scheme is considered acceptable in that it relates to the local vernacular. There would be no adverse effect on existing residential privacy and amenity, and the site can be accessed in accordance with the Council's standards. Protected species would not be affected.
- 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

APPROVE the application subject to the following conditions and reasons:

1. The development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. No other development shall commence until the site access has been constructed in accordance with The Highland Council's Access to Single

Houses and Small Housing Developments guidelines and the attached Access Schedule (dated 14 March 2024), with:

i. the junction formed to comply with drawing ref. SDB1; and

visibility splays of 2,4m x 90m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

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

3. Prior to the first occupation of the development hereby approved, the car parking and turning arrangements detailed on approved plan ref. 23/12/08 REV C shall be completed in full and made available for use. Thereafter, all car parking and turning spaces shall be maintained as such in perpetuity.

Reason: To ensure that sufficient space is provided within the application site for the parking and turning of cars, so they do not have to park within or reverse onto the public road.

4. The development shall be used for holiday letting purposes only and shall not be used as a principal private residence or be occupied by any family, group or individual for more than three months (cumulative) in any one calendar year.

Reason: To ensure that the development does not become used for permanent residential occupation in recognition of the lack of private amenity space and in accordance with the use applied for.

5. The building hereby approved shall have a sedum or turf roof. Full details of this finish shall be agreed in writing with the Planning Authority prior to the commencement of development.

Reason: In order to enable the planning authority to consider this matter in detail prior to the commencement of development; in the interests of amenity.

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.

INFORMATIVES

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

- 1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
- 2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

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.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks and 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: <u>http://www.highland.gov.uk/yourenvironment/roadsandtransport</u>

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_wor king_on_public_roads/2

Mud and 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 <u>env.health@highland.gov.uk</u> for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot 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 NatureScot: https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species

Air Source Heat Pump

The external Air Source Heat Pump requires to be installed in accordance with the Microgeneration Certification Scheme 020: Planning Standards for Permitted Development of Wind Turbines and Air Source Heat Pumps on Domestic Properties.

Signature:	Dafydd Jones		
Designation:	Area Planning Manager - North		
Author:	Graham Sharp		
Background Papers:	Documents referred to in report and in case file.		
Relevant Plans:	Plan 1	- Committee Location Plan	
	Plan 2	- 23/12/03 REV A Location Plan	
	Plan 3	- 23/12/08 REV C General Plan	
	Plan 4	- 23/12/10 Building Section	



LOCATION PLAN - 1:2500

0	40	80m	
Scale Bar 1:2500			

NOTE:

If scaling from drawings use scale ruler to ensure accurate scaling of both originals and copies. Use scale bar as reference check.

NOTE TO CLIENTS:

I am a Part II Associate Member of the Royal Institute of British Architects No 20010010. I am not a Chartered Architect which has the affix Part III.

> Donald MacSween Part II BSc (Hons) Architecture 7 Upper Breakish Isle of Skye - IV42 8PY Tel: 01471 822536 EMail: dcmacsween@gmail.com

JOB

RENTAL ACCOMMODATION BUILDING AT NO 1 LOWER MILOVAIG SMALL HOLDING, SKYE, IV55 8WR FOR MARIA ESTEFANIA BRUN & JOSE ALEJANDRO CASTELLANO

DRAWING

LOCATION PLAN

Scale • As Shown Date • 09/10/23

Dwg. No. 23/12/03 -REV A



WALLS: V-Grove hardwood Vertical larch cladding

If scaling from drawings use scale ruler to ensure accurate scaling of both originals and copies. Use

Site Survey including level survey of site undertaken dimensions as shown are measured site dimensions

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No	Distribution & Revision	Date		
	CLIENT REV A — Heat pump only available DAN 5KW R32	06/10/23 as 5kw unit,		
	CLIENT REV B – Sedum roof	27/10/23		
1NO CLIENT REV C — Parking moved down to h house level moved up 200mm, Note on				
	CLIENT	20/12/23		

RENTAL ACCOMMODATION BUILDING SMALL HOLDING, SKYE, IV55 8WR FOR MARIA ESTEFANIA BRUN &



HOUSE SECTION A - 1:50



Dwg. No. 23/12/10

Scale " As Shown

Date ⁿ 10/12/23

DRAWING

JOB

HOUSE SECTION A

RENTAL ACCOMMODATION BUILDING AT NO 1 LOVER MILOVAIG SMALL HOLDING, SKYE, IV55 8WR FOR MARIA ESTEFANIA BRUN & JOSE ALEJANDRO CASTELLANO

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