

Planning and Environmental Appeals Division

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Town and Country Planning (Scotland) Act 1997 Appeal Decision Notice

Decision by Allison Coard, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2315
- Site address: Land 75 Metres Northwest of Pollbreac, Coldwell, North Kessock, IV1 3XQ
- Appeal by Mr Gary Robinson against the decision by Highland Council
- Application for planning permission 24/01710/FUL dated 23 April 2024 refused by notice dated 17 March 2025
- The development proposed: Erection of House and Garage
- Application drawings as listed in Schedule 1 at the end of this notice
- Date of site visit by Reporter: 25 June 2025

Date of appeal decision: 13 August 2025

Decision

I allow the appeal and grant planning permission subject to the six conditions listed at the end of the decision notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are the principle of a house in the countryside and whether it is of an appropriate scale and design.

Principle of development

2. National Planning Policy 17 (Rural Homes) supports the proposal in so far as it would be the reinstatement of a former dwelling house. This is clear given the retained gated access, the level area of ground consistent with the previous building footprint and the remaining evidence of a former garden area. It also references detailed matters of siting and design. I return to those matters below.

3. Policy 36 of the Highland Wide Local Development Plan is also of relevance given that the site is within the wider countryside. It places focus on the acceptability of siting and design and compatibility of landscape character and capacity. The site is also subject to Policy 35 as it is close to settlement within the rural hinterland. Policy 35 is a more restrictive policy than NPF4 Policy 17. The former only enables replacement of an existing house whereas in this case the house was demolished some time ago.

4. Nevertheless, the formed access and gates and the remnants of a garden clearly distinguish the previous use of the site. In that specific context, I consider a replacement house would not undermine the objectives of the development plan particularly when the more permissive terms of NPF4 Policy 17 are taken into account. In any event, the site

benefits from planning permission in principle for residential use (922/02719/PIP).

Consequently, my conclusion is that a house on the site is supported in principle subject to an appropriate scale, siting and design.

5. Whilst the planning permission in principle included indicative plans, reflecting those currently at appeal, my assessment is based on the fact that the approval did not relate to the details of the scheme.

Siting and Design

6. Aside from the policies referenced above a number of other development plan policies are relevant in the context of securing scale, siting and design compatible with the pattern of development in the surrounding area and its landscape context. Relevant policies include Policy 14 of NPF4 – Design, Quality and Place and Policy 29 on Rural Development. In turn Policies 28 and 29 of the Highland-wide Local Development Plan – Sustainable Design and Design Quality and Place Making apply similar principles. Policy 28 states that developments that are judged to be significantly detrimental in terms of any of the stated criteria are not considered to accord with this local development plan.

7. The proposal is for a 3 storey (with basement) building looking out above the trees towards the Beaully Firth. From the council's submissions the former dwelling was a modest single storey bungalow constructed on the level area of the site. From the photograph, I accept it was not of any distinct design or character, but it was relatively modest in scale. In contrast this proposal would introduce a twin gabled two/three storey building that would require earthworks to accommodate its larger form and inclusion of its basement level. In this instance, the proposed footprint (approximately 212 square metres) is greater in comparison to that of the former dwelling (approximately 147 square metres).

8. The Rural Housing Supplementary Guidance 2021 (RHSG) is also part of the local development plan. The terms of the RHSG are relevant in setting out the approach to siting and design that should inform the local consideration of this scheme and its appropriateness in the rural hinterland area of Inverness. It states that the resultant footprint of a replacement house should not result in an excessive increase to that of the original. Notably the RHSG only applies this stipulation where detrimental to the wider landscape setting. There is no specific reference to any matching scale of a replacement house in Policy 35 of the Highland Wide Local development plan. There are other more general policy references to scale including in related NPF4 Policy 17. Consequently, I consider the issue of scale in that general context.

9. The proposed house would be visible in glimpsed views as a substantial house but within a spacious wooded site with sympathetic materials including larch cladding, white render and a slate-effect roof with a 40-degree pitched roof. There are partial views into the site from various points along the public road, particularly in the winter. I noted on my site visit it is possible to see into the site from sections of the road and through the gated access. I appreciate that it is not appropriate to rely on a wooded context and landform to screen an inappropriate form of development.

10. Visualisation 03 – view from access shows how the established trees and twin gables break up the proposed massing. The positioning relative to slope means that in views from the public road the proposed house would be two rather than 3 storeys in appearance. The submitted cross section shows a sightline from the road approximately 500 mm below ridge level. For these reasons I do not consider the proposed scale and massing would be

dominant or obtrusive when viewed from the road. I consider the RHSG is reflected by improving the design quality and energy efficiency of the bungalow it replaces.

11. The objective of the relevant development plan policies is to secure a design tailored to the local context and character of the area. The design and scale would not necessarily fit a more open setting, smaller site area or local area characterised by smaller scale vernacular buildings. However, in this particular local context the proposed scale and design reflects on the fact there are a range of established house types and sizes established within spacious woodland settings.

12. One of the council's other reasons for refusal is that the proposed mass and scaling is overbearing relative to the site. I appreciate the proposed house and garage would occupy the majority of the level area of the site. The house would extend slightly south of the footprint of the original house into the sloping bank. However, I consider the site is of an appropriate scale relative to the proposed footprint. It extends to some 8,300 sqm. In addition, the proposed house is capable of being absorbed within its specific landscape setting. It would be screened by landform and trees from the A9. Any potential wider visibility above the trees would be mitigated by distance. The scale of the site, as described above, would enable an overall spacious woodland setting to be retained. I do not consider the proposed house would be an incongruous addition within its specific local context.

13. The RHSG also references "Design Rules for Building on a Slope." These include avoiding engineered platforms or underbuilding to form a level site and avoiding forming excessive cuts into the landscape by seeking a naturally flat site and/or using split level buildings to work with the slope. I recognise tension with the council's Guidance in this specific respect. The revision A site cross-section shows the basement level is cut into existing topography. The ground level would be raised by around a metre with alteration of the slope profile to reduce the impact of exposed under-building with some use of retaining walls.

14. Whilst the proposed basement level increases the mass of the building the underbuilding would be exposed on a relatively small part of the elevation. The existing trees are to be maintained so reducing the visible impact of the basement level and slope regrading. Views of this elevation would be very restricted. Whilst I agree that housing should generally respond to topography and avoid extensive engineering operations, in this case the building footprint is accommodated on the level portion of the site. In addition, the impact of the basement and earthworks can be accommodated with some limited regrading of the existing slope.

15. The appellant refers to enhanced landscaping relative to the south-west elevation and I consider this could be re-enforced to soften the appearance of the proposed regraded slope. Subject to that additional mitigation, which can be aligned with the biodiversity improvements I discuss below, I do not consider the proposal would result in any unacceptable visual impact on neighbouring property or on the character and amenity of the area.

16. Consequently, I consider the scale, design and siting of the proposal would comply with the relevant development plan policies and guidance as set out above.

Biodiversity

17. A Tree Protection Plan and Arboricultural Method Statement are submitted. Subject to their terms I consider that there would be no unacceptable loss of trees. Provision is made for replacement trees. This conclusion reflects that of the council's forestry team.

18. I note the council also identify conflict with Policy 3 of NPF4 – Biodiversity which seeks to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. Policy 3(a) requires all development proposals to contribute towards the enhancement of biodiversity. Other than the 6 trees proposed to be planted and measures to protect established planting no other biodiversity measures have been proposed. The submissions and site plan refer to the planting of 'beech' and 'holly' along the boundary of the neighbouring property to aid screening during winter months as they keep their leaves. Such additional planting is also referenced in the context of softening the groundworks relative to the south-west elevation. I consider further details of this mitigation combined with opportunities for biodiversity enhancement could be appropriately secured by condition.

19. Ideally enhancement should have been further addressed and detailed from the outset. However, in this case I consider that application of the condition as proposed by the council, with some minor change, is sufficient to secure enhancement and compliance with Policy 3 of NPF4.

20. Whilst the council draws my attention to Policy 17 part b) of NPF4 this must be considered in the context of replacement of an existing house. In that context, I do not consider the objective of location close to services and amenities is directly applicable. Consequently, I do not rely on that aspect of national planning policy.

Development Plan Conclusion

21. I appreciate the council's concern around the basement level and massing of the building. However, my conclusion is that matters of scale and massing are to be assessed relative to the specific characteristics of this site and its locality. Overall, I find the layout and design responds to its local context. The characteristics of the site would enable a more substantial building without detriment to the established character of the local area or its wider landscape setting. Consequently, for the reasons set out above the proposal complies overall with the relevant provisions of the development plan.

Other considerations

22. The appellant refers me to other nearby two storey homes (Gorstan House and Braemore). I accept above there are a mix of house types and styles of housing within this woodland setting. This is reflected in my reasoning above. Reference is made to procedural issues in the council's handling of the case and its consideration by the planning committee. However, my focus here is in assessing the case on its planning merits.

23. I appreciate the need to secure appropriate access and visibility provision in advance of the development and have attached the council's suggested condition to address this matter in accordance with The Highland Council's Access to Single Houses and Small Housing Developments Guidelines. The council's transport planning team are content that adequate visibility is demonstrated in drawing number 1373/MS/02 Rev A. I have amended this condition slightly, so it does not specifically require the attachment of additional advisories to this notice.

Conclusion

24. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission.

Allison Coard

Reporter

Conditions

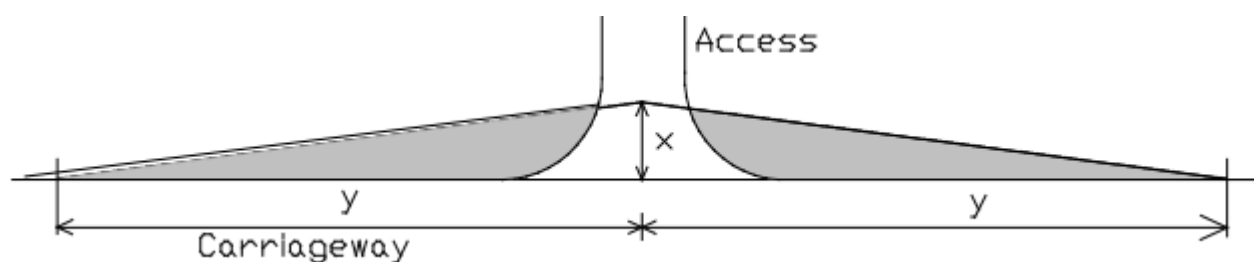
1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of grant of this permission.

Reason: Section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permissions limiting their duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.

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 including its drawing ref SDB1 with:

i. the junction formed to comply with drawing ref 1373/MS/02 Rev. A

ii. visibility splays of 2.4m x 64.5m (northward) and 2.4m x 50m (southward (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.



iii) 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.

iv) The gradient of the access shall not exceed 1 in 20 for the first 5 metres, measured from the nearside edge of the public road and thereafter should not exceed 1 in 10.

v) Any roadside drainage ditch shall be culverted under and adjacent to the access. The culvert shall have sufficient capacity to accommodate anticipated flows and shall be no less than 300 mm diameter. Suitable masonry or concrete headwalls shall be provided at each end of the culvert.

vi) No surface water from the site shall shed onto the public road and the applicant shall be responsible for the provision and maintenance of any measures necessary to prevent surface water from the public road entering the site.

vii) Facilities for the storage and collection of wheelie bins shall be provided. A suitable collection point of at least 2m x 1m shall be provided within 10 metres of the public road edge, but outwith the required visibility splays.

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

3. Prior to first occupation of the development hereby approved, parking and turning shall be provided for three vehicles within the curtilage of the site and thereafter maintained for this purpose.

Reason: In order to ensure that the level of off-street parking is adequate and to avoid vehicles reversing onto the public road.

4. No development shall commence on site until a construction phase Traffic Management Plan (including a routing plan for construction vehicles) has been submitted to, and approved in writing by, the Planning Authority. The approved traffic management plan shall be implemented prior to development commencing and remain in place until the development is complete.

Reason: In the interests of road safety, and that the works involved comply with applicable standards.

5. A suitably qualified arboricultural consultant shall be employed at the developer's expense to ensure that the approved Tree Protection Plan and Arboricultural Method Statement are implemented to the agreed standard.

Stages requiring supervision are to be agreed with the planning authority and certificates of compliance for each stage are to be submitted for approval.

No development, including site clearance or demolition, shall commence until an arboricultural consultant has been appointed and a work instruction issued enabling them to undertake the necessary supervision unhindered for the duration of the project.

With effect from the date of this permission, no trees are to be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the planning authority.

Reason: To secure the successful implementation of the approved Tree Protection Plan.

6. No development shall commence until details of a scheme of hard and soft landscaping works (demonstrating biodiversity enhancement) have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:

i) All earthworks and existing and finished ground levels in relation to an identified fixed datum point;

ii) A plan showing existing landscaping features and vegetation to be retained;

- iii) The location and design, including materials, of any existing or proposed walls, fences and gates;
- iv) All soft landscaping and planting works to conserve, restore and enhance biodiversity levels, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities and to include additional planting relative to the reformed ground to the south-west elevation; and
- v) A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping and biodiversity enhancement measures shall be carried out in accordance with the approved scheme. 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 development, unless otherwise stated in the approved scheme. Any trees or plants 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.

Reason: In the interests of amenity and biodiversity net gain.

Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Schedule 1: Application drawings

- Plan 1 - LOCATION PLAN – 1373/MSC/01
- Plan 2 - GENERAL PLAN – FLOOR PLAN, ELEVATIONS & SECTIONS – 1376/MSC/10
- Plan 3 - DRAINAGE LAYOUT PLAN – CTCH-J5666/P001 REV A
- Plan 4 - TREE PROTECTION PLAN – TPP_GR_160424
- Plan 5 - FLOOR PLAN – BASEMENT – 1373-MSC-03 REV A
- Plan 6 - GROUND FLOOR PLAN – 1373-MSC-04 REV A
- Plan 7 - FIRST FLOOR PLAN – 1373-MSC-05 REV A
- Plan 8 - ELEVATION PLAN – 1373-MSC-06 REV A
- Plan 9 - SECTION PLAN – 1373-MSC-07 REV A
- Plan 10 - CROSS SECTION – 1373-MSC-08 REV A
- Plan 11 - SITE LAYOUT PLAN – 1373/MSC/02 REV A