



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

Decision by Simon Bonsall, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2328
- Site address: 18 Roag, Dunvegan, Isle of Skye, IV55 8ZA
- Appeal by Klara Krejci against the decision by The Highland Council
- Application for planning permission 25/00878/FUL dated 10 March 2025 refused by notice dated 5 February 2026
- The development proposed: erection of 2no. short term letting units (amendment 22/00459/FUL), erection of garage, polytunnel and formation of access
- Date of site visit by Reporter: 11 June 2026

Date of appeal decision: 29 June 2026

Decision

I dismiss the appeal and refuse planning permission.

Preliminary matters

The site forms part of a croft. Existing conditional planning permission 22/00459/FUL is for a dwellinghouse, garage, two letting units, and improved access for the croft, with conditions including residential occupation of a letting unit, occupation of a caravan, surface water treatment, and landscaping. Following this a further planning application 25/00878/FUL (subject to this appeal) sought a different approach to development on the croft and additional development. A separate prior approval consent has been granted at appeal (PAC-270-2004) for an agricultural shed on the croft.

The description of development differs between the application form, and the decision notice and appeal form. The reference to amendment of 22/00459/FUL and polytunnel do not appear on the application form. The appellant says the result of the appeal being upheld would be the authorisation of additional development on the site and does not seek revocation of any existing planning permission. Given the submissions provided, I consider the appeal before me is for two letting units, a garage, a polytunnel, a vehicular access, two areas of hardstanding and an internal road. Application 25/00878/FUL is retrospective to the extent that I observed the two areas of hardstanding and internal access road to be substantially constructed.

Following the council's refusal of planning application 25/00878/FUL the appellant seeks to exclude the proposed vehicular access.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. In this case the development plan is formed of National Planning Framework 4 (NPF4), the Highland Wide Local Development Plan (HWLDP), and the West Highlands and Islands Local Development Plan (WestPlan).

2. The development plan does not include site specific proposals for the appeal site. Having regard to the development plan, as the proposal seeks to regularise elements of development already undertaken, I consider the main issues in this case to be: safety; landscape character, croft land, and diversification of the croft.

3. NPF4 policy 23 (Health and safety) has clear intent to mitigate risks arising from safety hazards. HWLDP policy 28 (Sustainable Design) supports proposals that are compatible with public service provision, including roads, and promotes wellbeing including community safety. I observed the two hardstandings shown in the application drawings to have been dug out and a hardcore surface laid.

4. Parties dispute whether excavation to form the hardstandings has been undertaken within the road verge. The appellant's submissions include images said to be from 2009 which I consider show a post and wire fence to the east of the public road. However no evidence is provided for the distance between that fence line and the carriageway. While I observed a post and wire fence to the east of the public road, which appeared to me to be recent and not that shown in the 2009 images, no evidence is provided this fence is in the same location as that shown in 2009. The council says that the road verge extends to boundary fences, or for open ground, to three metres from the edge of the carriageway, and at the time of construction a boundary fence was not in place. As there is uncertainty about the location of the previous boundary fence and no evidence is submitted that the road verge should not in this case be considered to be a distance up to three metres from the edge of the carriageway, I use that distance for my assessment.

5. I measured the external face of the upper retaining wall above the southernmost hardstanding to be three metres from the edge of the carriageway, notwithstanding that the wall and carriageway edge may not be entirely straight. The appellant says that third party images show excavation related to the new access and that work to the verge was only where a junction (not part of this appeal) was formed. However, I consider that one of the third party images shows a deep excavation adjacent to and south of the parking bay on the public road, which is in the vicinity of the southernmost hardstanding. One of the council's images also shows cutting back of the slope in the location of the partially constructed upper retaining wall. The appellant says that a retaining structure was required for the levelling works. Overall I consider it to be likely that excavation has occurred within three metres of the carriageway, and so within the road verge, to facilitate the southernmost hardstanding.

6. I note the appellant says no excavation of the public road itself has occurred. The council's report of handling says that a road opening permit has not been sought for works involving the excavation of the road verge. It states 'As that process has not been followed there is some question as to whether the integrity of the public road has been compromised by the works which the applicant has undertaken.' It concludes 'Given the substantial difference in levels between the C1230 road and the site, there is a risk that safe public access may be compromised due to potential undermining of the public road.' As I have found it to be likely that excavation within the road verge has occurred and no documentary evidence is provided to confirm that the integrity, and therefore safety, of the public road would not have been compromised as a result of the works, I agree with the council's position that there is a risk to the integrity and safety of the public road.

7. Had I been minded to uphold the appeal, the effect would be to regularise those works necessary for the southernmost hardstanding. As I observed the works relating to the southernmost hardstanding to have been undertaken, I consider it would not be appropriate to apply a planning condition seeking details of the works to be authorised after my decision on the appeal has been made.

8. I observed established vegetation and shrub/trees to the verge adjacent to the location of the northernmost hardstanding. While I was not able to gain an accurate measurement of the distance between the location of the excavation facilitating the northernmost hardstanding and the edge of the carriageway, I consider the distance to be likely to somewhat exceed three metres. Where that is the case, it would not be within the road verge.

9. Overall, for the reasons set out above, I find the works to facilitate the southernmost hardstanding would not be in line with NPF4 policy 23 nor HWLDP policy 28.

Other development plan matters

10. The council says that the proposal would not be in line with NPF4 policies 4 (Natural places) and 14 (Design, quality and place), as well as HWLDP policies 28, 29 (Design Quality and Place-Making), 44 (Tourist Accommodation), 57 (Natural, Built and Cultural Heritage) and 61 (Landscape), and considers the cumulative effect in relation to the existing planning permission in its assessment.

11. With regard to landscape effects, including the North West Skye Special Landscape Area, the appellant contests the council's first reason for refusal. The appellant and the council are content for the proposed access to be excluded to address part of the second reason for refusal. Had I not found that works for the southernmost hardstanding to have impinged on the road verge I would have given specific consideration to the other matters raised by the council and third parties. However, even if I were to find that these other topics could have found potential support within the local development plan, and that the proposed access could be excluded through a suitably worded planning condition, the safety issue I have identified is such that the development would still be unacceptable.

Other matters

12. On the site I observed a touring caravan, a garage, and retaining walls which are not detailed in planning application 25/00878/FUL. While I do not take a view on whether these matters represent a breach of planning conditions or in themselves constitute unauthorised development, a decision on whether enforcement action would be necessary rests with the council.

13. With regard to the effect of the proposal on implementation of the landscaping condition of permission 22/00459/FUL, I consider the existing consent for development within the croft could be a material consideration within the assessment of further development proposals on the land.

Conclusion

14. I therefore conclude, for the reasons set out above, that the proposed development would not overall be in line 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.

Simon Bonsall

Reporter