



Appeal Decision Notice

Decision by Sarah Foster, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2294
- Site address: Old Mill, Dores, Inverness IV2 6TR
- Appeal by Mr Graham-Read against the decision by The Highland Council
- Application for planning permission in principle 21/01593/PIP dated 31 March 2021 refused by notice dated 9 October 2023
- The development proposed: Demolition of Old Mill dwelling house and creation of 3 house plots
- Application drawings: PL001- Location Plan, PL004 Rev E – Indicative Plots Layout, PL005 Rev D – Visibility Splay Plan, PL006 Rev E- Site Sections, PL007 Rev C – Indicative Plots Layout with THC's Road Dept Proposals, PL014 Rev B - Housing in the Development Area.
- Date of site visit by Reporter: 22 February 2024

Date of appeal decision: 7 March 2024

Decision

I allow the appeal and grant planning permission in principle subject to the eight conditions listed at the end of the decision notice. Attention is drawn to the two advisory notes at the end of the notice.

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 for the area consists of National Planning Framework 4 (NPF4), the Highland Wide Local Development Plan (HWLDP) 2012, and the Inner Moray Firth Local Development Plan (IMFLDP) 2015.
2. There is no dispute among the parties that the principle of housing use on this land is established and acceptable, and I agree that this is the case. On that basis, I consider that, having regard to the development plan, the main issue in this appeal is whether the proposals represent overdevelopment and would consequently have an adverse impact on the character and appearance of the area.
3. Of most significance to this appeal, Policy 14 of NPF4 requires new development to improve the quality of the area and be consistent with the six qualities of successful places. HWLDP policy 28 sets out the criteria for assessing sustainable design which includes demonstrating sensitive and high-quality design in keeping with local character. The policy also requires that all development should conserve and enhance character, use resources efficiently, minimise the environmental impact of development, and enhance the viability of Highland communities.

4. IMFLDP sets out the development strategy for Dores, including the protection of the village setting, particularly the iconic Loch Ness vista. It also allocates two sites on the edge of the village for residential development but does not preclude further development from taking place elsewhere in the settlement.
5. The site is located on the north eastern shore of Loch Ness. It takes its access directly off the B852. The land is currently occupied by a single storey dwelling, known as The Old Mill, which is of traditional construction but limited architectural interest. It sits in a large, domestic curtilage containing a variety of incidental domestic outbuildings and structures. I saw on my site visit that, as the B852 is at a higher level than the site, the existing dwelling is barely visible from the public realm with only its roof slopes and front gable glimpsed above the existing boundary hedge.
6. The neighbouring properties on the shores of the Loch are similarly single or 1.5 storey buildings in large plots. The majority are oriented to face east, with ridge lines running north to south, but there are gabled projections on some buildings running west to east.
7. To the east of the appeal site, the built character is substantially different with largely 1.5 and two-storey, twentieth century, semi-detached or detached dwellings on higher ground set closer to the road. The dwellings on the eastern side of the road sit within smaller plots and are largely oriented with ridge lines running north to south.
8. The appeal proposals would subdivide a large, single domestic curtilage into three development plots. The character of the immediate vicinity of the appeal site is mixed, including detached dwellings in large plots and smaller dwellings in more modest plots. Both sides of the road are viewed together from most publicly accessible vantage points. The three resulting development plots would not appear out of character in this context. Whilst there would undoubtedly be change to the existing character of the site, I do not consider that this level of additional development would represent overdevelopment or be harmful to amenity given the size of the site and the limited aesthetic value of the existing dwelling and its array of outbuildings.
9. The more intensive use of the site represents an efficient use of land, inevitably minimising environmental impact elsewhere by directing development to a brownfield site within the settlement boundary. The additional two units would provide dwellings with the potential to bring residents to the village and thereby enhance the viability of the Dores community in accordance with HWLDP policy 28.
10. As each new development plot would be of a generous size, there is the potential to ensure that significant gaps are retained between the buildings, allowing views through to Loch Ness from the public realm consistent with the IMFLDP's requirement to retain the iconic Loch Ness vista. The ultimate size and orientation of the new houses should respect this relationship and can be controlled by the planning authority through the approval of matters specified by conditions.
11. As this application is for permission in principle, there is no requirement for information to have been submitted in relation to the height of the proposed dwellings nor their final design and orientation. In this respect, and having due regard to the need to protect vistas of Loch Ness and retain local distinctiveness, it would be appropriate to limit the heights of the dwellings so that they would not substantially exceed the ridge height of the existing house (as measured above ordnance datum or 'AOD'), and to ensure that materials, massing and fenestration are in keeping with the local building tradition. This can

be ensured by conditions to ensure compliance with NPF4 policy 14 and HWLDP policy 28 in terms of quality of design.

12. Issues relating to flood risk and loss of trees were demonstrated during the planning application period to be capable of being satisfactorily resolved and can also be controlled by condition.

13. Therefore, for the reasons stated, the proposals comply with NPF4 policy 14, HWLDP policy 28, and the strategy for Dores contained within the IMFLDP.

Other Matters

14. The Inner Moray Firth Local Development Plan 2 (IMFLDP 2) 2023 is at an advanced stage and so is capable of being given some weight in the decision-making process as a material consideration, although not as part of the development plan. The emerging IMFLDP 2 supports a 'modest level of development in Dores' including residential development allocations at the two sites in the village also identified in the IMFLDP 2015 but, again, without precluding development elsewhere in the settlement. There is, therefore, no conflict with this emerging policy.

15. Third party representations have raised concerns about the potential loss of on-street parking provision as the result of the two new vehicular points proposed onto the B852. There are no parking restrictions along this stretch of road and on-street parking is not directly protected by development plan policy. The Roads Authority have also raised the potential for the southern-most access to conflict with planned road improvements. As the submitted plans are indicative, it is not necessarily the case that three separate accesses will ultimately be developed as shown. A condition could be added requiring vehicular access details to be agreed.

16. The committee report suggested that a financial contribution towards the Dores Village Improvement Scheme should be made by the appellant, as requested by the Roads Authority. Policy 31 of the HWLDP allows such contributions to be sought where the request is fair and reasonable, and the contribution proportionate to the scale and nature of the development proposed. In this case, the proposals will generate some additional car movements due to the additional dwellings created. However, on my site visit, it was clear to me that any existing traffic problems in Dores are not due to pressure from existing residential uses in the village and are instead seasonal and tourism generated.

17. It would not seem fair or reasonable for the appellant to contribute towards an agreed road improvement scheme simply because of the scheme's planned proximity to the appeal site, rather than an objective assessment of the impact the development is likely to have on the operation of the road network and road safety more generally. Accordingly, I do not believe that a contribution towards the Dores Village Improvement Scheme is necessary in this case.

18. The first reason for refusal refers to privacy issues. However, as this application is for permission in principle, there is no evidence that there would be any threat in this respect, and that such concerns could not be successfully overcome at the detailed design stage.

19. Overall, I find that, subject to conditions, the proposals will not be harmful to the character or appearance of the local area and nor are they likely to have any consequential, adverse impact on the residential amenity of neighbouring occupants.

Overall Conclusions

20. 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.

21. I have considered the council's proposed conditions and largely accept them as reasonable. I have, however, added a general condition requiring submission of details requiring further approval. I have also modified condition 3 to refer to the height of development AOD rather than in relation to the existing building for the avoidance of doubt. I have added to this condition at 3(vii) a requirement to specify the final treatment of the western elevation of any necessary building platforms to ensure no adverse visual impact on views from Loch Ness or its western shore. I have removed the requirement for the dwellings to be rectangular as this seems overly restrictive in terms of responding appropriately to local context and ensuring clear vistas are retained to Loch Ness. I have also modified condition 4 which required only two off-street parking spaces. I consider this to be an error and it should instead refer to two spaces per plot. Condition 7 has been reworded to relate to access points more holistically and not just in relation to plot 3.

Sarah Foster

Reporter

Conditions

1. An application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i. The expiration of three years from the date on this decision notice;
- ii. The expiration of six months from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of six months from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than two years from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained), whichever is the later. If development has not commenced within this period, then this planning permission in principle shall lapse.

Reason: In accordance with Section 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. Plans and particulars of the matters listed below shall be submitted for consideration by the planning authority. No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval:

- a) Siting
- b) Scale
- c) Means of access
- d) Appearance
- e) Landscaping

Reason: To ensure that the matters referred to are given full consideration

3. Any details pursuant to Condition 1 and 2 above shall show a development featuring the following elements:

- i. walls finished predominantly in a white/off-white wet-dash render/smooth coursed cement render/natural stone;
- ii. a roof covering of natural slate;
- iii. single storey or 1½ storeys in height. The ridge height should not exceed 24.4m OED.
- iv. windows with a strong vertical emphasis;
- v. a roof symmetrically pitched of not less than 40°; and
- vi. traditional gable ends.
- vii. An elevational treatment for the western elevation of any raised building platform or platforms that is sympathetic to the character and appearance of the local area.

Reason: To ensure that the development has no adverse impact on the character and appearance of the area in accordance with NPF4 policy 14 and the HWLDP policy 28.

4. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

5. Prior to the first occupation of the development hereby approved, 2 car parking spaces per plot shall be provided within the application site. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

Reason: In order to ensure that the level of off-street parking is adequate.

6. No development shall commence until drawings (including cross-sections through the site) are submitted to demonstrate to the satisfaction of the Planning Authority, in consultation with SEPA, that;

- (i) all built development is located 18m AOD (as shown on drawing PL007 Rev C)
- (ii) There is no landraising below 18m AOD
- (iii) The finished floor levels of the houses shall be set at a minimum of 19.1m AOD

Reason: To ensure against flood risk and that development does not intrude into the functional flood plain.

7. No development shall commence until details of a scheme of hard and soft landscaping works 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, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and

(v) A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works. Landscaping works 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 order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

8. No development shall commence until the precise locations of vehicular access points onto the B852 have been agreed in writing with the Planning Authority in consultation with the Roads Authority. The agreed access points must thereafter be provided as agreed and retained for the lifetime of the development.

Reason: To ensure access points do not conflict with the Dores Village Improvement Scheme in the interests of road safety and in accordance with NPF4 policy 13.

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).)