

APPEAL STATEMENT

PROPOSED ERECTION OF DWELLINGHOUSE

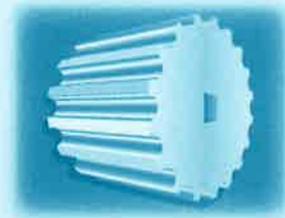
OAKWOODS FARM,
CROFTAMIE G63 OEX



JAMIE & INGEBORG MARTIN



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PROPOSED ERECTION OF DWELLINGHOUSE

OAKWOODS FARM, CROFTAMIE G63 OEX

INTRODUCTION

This Statement has been prepared in support of an Appeal that is being submitted to the Local Review Board of LLTNPA by Jamie and Ingeborg Martin.

The Planning application for the above project was processed by LLTNPA under reference 2016/0096/DET and was refused on 20/06/2016.

BACKGROUND

The appellants Jamie and Ingeborg Martin have lived and worked in the Gartocharn / Croftamie area for many decades, as have their family, and since the 1990's when the BSE crisis struck cattle farms, they have been focussed on their diversification into holiday letting accommodation. Their own Statement offers in-depth detail of their ties to the local area, the quality of holiday letting accommodation they offer and how they cope with the time demands this generates. In effect three generations of their family have assisted in the day-to-day running and management of the business during the last two decades and they are now at the stage of forward planning for the next few years when they can undertake a reduced role, their daughter Evelyn can assume the main management role with Ingeborg assisting and Jamie can re-establish his stock of Highland cattle.

In conjunction with their own Statement, however, this Statement endeavours to assess the specifics of the Reason for Refusal vis-à-vis Planning policies and to show that the decision to refuse was not taken in light of the full background and was not consistent with other similar applications for "retirement" houses linked with long established rural businesses.

ASSESSMENT OF REASON FOR REFUSAL

The Reason for Refusal states:-

"The proposal does not comply with policy HOUS5 of the Adopted Local Plan. Insufficient justification has been presented to support an exceptional grant of permission for an additional dwelling to serve as a retirement home. Although the chalet business is accepted to be an established rural business, it is not of a scale and nature which necessarily demands a full time presence on site and could therefore be managed remotely. There is an existing house at the site, which the applicant could continue to occupy and retire in. An exception to policy HOUS5 for a retirement house is therefore not justified in this case"

It has therefore to be assumed the proposed house design, its scale and appearance within the landscape next to the barn, use of the existing access, etc are all of an acceptable form relative to Local Plan aims and expectations.

From this the sole reason for the refusal is that “insufficient justification” was presented to show the “scale and nature” of the chalet business is enough to demand a full-time presence on the site.

As mentioned above, unfortunately this perception of insufficient information / justification was not raised during the processing of the application at which time the applicants could have shown the Case Officer around the letting lodges and given a comprehensive review of the holiday accommodation, the early morning to late evening hours of operation etc. Such an opportunity was not made available as part of the processing of the application and is therefore now being addressed.

In their own statement the appellants have therefore now presented additional clarification of this aspect and in the independent letters of support further justification is offered verifying the status of their business and the time demands that such a standard of business requires.

However, over and above this, on reviewing the LLTNPA website it is apparent that a number of other rural businesses have sought and been granted Planning Permission for new houses, all tied to the existing property as retirement / business owner or employee housing. These offered very similar backgrounds and justifications whereby for an established rural business (of varying durations) another house was granted. Examples that are known to the appellants include:-

- (a) The introduction of another house at Catterbog Farm, a short distance to the east of Oakwoods (the appeal site), for a retiring owner of the agricultural machinery business.
- (b) The introduction of another house at Auchendennan Farm, Arden for the retiring parents where the son has taken over the farming and tourist-related businesses.
- (c) The introduction of another house at High Duncryne Farm on the south easterly outskirts of Gartocharn for the son who has taken over the running of the agricultural contracting business upon retiral of his parents.

In all three of these cases, each granted within the last few years, it is believed they were assessed under the HOUS5 Policy and approved of the basis of it being an established rural business where the family have a long-standing relationship with the area and where the next generation are in the throes of taking over the reins of the family business from the retiring parents. It is therefore inconsistent to adopt a different approach and conclusion in this instance at Oakwoods Farm.

To illustrate the similarities the undernoted paragraphs in yellow are extracts from the three applications as downloaded from the LLTNPA website.

Firstly is an extract from the Application Report ref. 2016/0054/DET regarding a new retirement house at nearby Catterbog Farm, Croftamie and the similarities to the Martin's situation are apparent.

Principle

The proposed house would be located in the countryside and is therefore assessed against policy HOUS5 Housing in the Countryside.

Policy HOUS5 states that 'single houses in the countryside will be supported where demonstrated as necessary in connection with the operation of an established rural business or newly formed croft and where this necessitates a countryside location and full time presence on site. Exceptionally, support may be given to a new house where this would meet the housing needs of a household that is retiring from working in an established rural business and where there is a long established link between that household and the wider rural area.'

It is evident through the supporting statement, planning history and site visit that two distinct albeit connected businesses operate from the site and are established. Each business also necessitates a countryside location. Advice was sought from the National Parks Land Management Advisor regarding the work requirement for each business and it is considered reasonable and necessary for two full time presences on site, both in terms of the operation of the businesses and for security purposes.

The site already comprises two dwellings thereby fulfilling the requirement for two people to have a full time presence on site. Exceptionally, policy HOUS5 allows for the development of a house to meet the needs of a household retiring from working in an established rural business and who has a long established link with the area. In this case, although the proposed dwelling would not be for a retired person, the requirement for an additional dwelling has arisen through the retirement of Mr Gordon Snr who wishes to remain within his current home at Catterbog Farm and who has a long established link with the area. The proposed new dwelling would be connected to the businesses by virtue of its location within the existing building group and by way of an agricultural workers occupancy condition. It is therefore considered that the proposal would meet the requirements of policy HOUS5 as it would allow a retired household who has a long established link with the area to remain on the farm and accommodate the requirement for two full time presences on site to allow the successful operation of two established rural businesses.

Landscape and Design

The proposed dwelling would be located within an existing building group to the rear of the site. It is screened from the A811 by the existing buildings and by mature trees to the east. There would therefore be no landscape impact. The proposed design is a simple one and a half storey dwelling with rendered walls and slate roof. It would not appear as a prominent feature within the building group or impact on the amenity of the existing properties on the site. It would also have sufficient garden curtilage and parking provision.

The house would be accessed using the existing access to the farm and connect to the existing infrastructure at the site.

The proposal is considered to comply with local policy HOUS5 as an exceptional case which will allow a retired person to continue to reside at Catterbog Farm. Although the retired person is not proposed to reside in the new dwelling, overall the proposal will result in one retired persons dwelling and two dwellings to accommodate workers on site. This is considered to be acceptable in the circumstances of this particular case where this requirement has been justified. The proposed dwelling will be located within a building group and will not impact on surrounding landscape character. The design of the proposed dwelling is acceptable and there will be no impact on the amenity of neighbouring properties.

Reason for Decision:- The proposal is considered to comply with local policy HOUS5 as an exceptional case which will allow a retired person to continue to reside at Catterbog Farm. Although the retired person is not proposed to reside in the new dwelling, overall the proposal will result in one retired persons dwelling and two dwellings to accommodate workers on site. This is considered to be acceptable in the circumstances of

this particular case where this requirement has been justified. The proposed dwelling will be located within a building group and will not impact on surrounding landscape character. The design of the proposed dwelling is acceptable and there will be no impact on the amenity of neighbouring properties.

Secondly, likewise the Report on an application at Auchendennan Farm, ref. 2012/0272/DET included similar policy references (as copied below) and again there are clear similarities with Mr & Mrs Martin's situation in terms of the mix of agricultural and tourist-based operations. In this instance it is believed there are a total of 33 bed spaces on offer to tourists whilst at Oakwoods (including the ancillary cottage) there are 38 bed spaces being offered for letting. So notwithstanding the Reason for Refusal the scale of the tourist business is in fact comparable with the facilities being offered at Auchendennan Farm and which were accepted as appropriate under the HOUS5 policy.

Policy assessment 6.2 Policy HOUS5 of the National Park Local Plan states that, exceptionally, support may be given to a new house where this would meet the housing needs of a household that is: □ retiring from working in an established rural business; and □ where there is a long-established link between that householder and the wider rural area. This policy provides allowance for new dwellinghouses to meet the needs of retirees from established rural businesses (not solely farming). 6.3 The information supplied on behalf of the applicant confirms that Auchendennan Farm is an established rural business. The applicant has owned and managed the farm since 1974 so they also have a long-standing connection with the business. They continue to manage the farm operation but are now looking to retire fully. It is considered that these conditions enable the applicant to meet the first test of "a new house in the countryside" exception as outlined in Policy HOUS5 and para 6.2 above. 6.4 In addition, it is accepted that the applicant has a long-established link with the wider rural area and this is outlined in para. 3.21 of this report. Furthermore, this connection has been within the immediate Arden/Balloch area, near to the application site. The application therefore meets the second test of the policy. 6.5 The health and mobility issues faced by the applicants are accepted and, at the date of this report, further verification by a GP was not deemed necessary to meet Policy HOUS5; but has been offered. In addition, it is also accepted that a suitable dwelling, designed for their purposes and need cannot be accommodated within the remaining parts of the farm buildings; or alternatively, the remaining buildings are not available for their occupation (i.e. Burnbeag Cottage). 6.6 Over and above the fact that the proposal meets the main policy tests, consideration has been given to the farm operations at Auchendennan Farm (which form the main rural business involvement of the applicant). Although taken on by the applicant as a going concern; in the intervening years since the applicant bought the farm the physical farming operations have been carried out by local farmers (non-tenanted) and the farming has reduced over time to a point where the farm unit in itself would not be viable as a sole source of income for the applicant and his son. However, this reduction in one side of the rural business should be considered in light of the other on-site businesses operations that have established and grown since the applicant's son moved to the site in 2006 - whilst acknowledging that these other businesses are predominantly managed by their son. The viability of the current farm unit is not a prime consideration on whether this proposal should or should not be supported. The fact that the applicant has lived on, and managed the farm since 1974 and has had a long-standing life and business connection with the area since birth is considered to be the key point of support for this proposal. 6.7 It is noted that the future of the rural business rests on a combination of the on-site letting businesses in addition to the farming operations. It is this combination of business that will likely support future occupants of the proposed dwelling. A Agenda Item 6 9 planning condition should be attached to any permission, in accordance with Policy HOUS5, to ensure that it is occupied by the applicant and his spouse (for their retirement purposes) or thereafter occupied by unrelated parties subject to the proviso that they are employed in the on-site rural businesses. However, such a restriction does not extend to the close family members of the applicant that may occupy the house by succession, as this would be an unreasonable obligation in planning terms. 6.8 In light of the above assessment it is considered that support can be given, in this instance, to the principle of a rural business/retirement dwelling at Auchendennan Farm as meeting the terms of Policy HOUS5, subject to a planning condition restricting occupancy

REASON FOR DECISION

The proposal complies with the development plan policies, namely HOUS5; L1; D1; SUSDEV1; and TRAN3 of the adopted National Park Local Plan, as the proposed house would meet the specific retirement housing needs of a person last employed in an established rural business at the site who also has a long-standing connection with the wider rural area. The design, siting and finish of the house would be appropriate for the context and would not result in any adverse landscape or visual impact and, subject to conditions requiring improvements to be undertaken, the access track and junction with the Trunk Road are deemed acceptable in terms of road safety.

Thirdly, from the application at High Duncryne Farm by Gartocharn, which was processed under ref. 2014/0169/DET, the undernoted extract once again shows the similarities with Mr & Mrs Martin's situation whereby the next generation of the family are taking over the management of the long established business and, although there were other house(s) nearby, a new retirement house was being sought. The Report stated:-

- Policy HOUS5 of the National Park Local Plan is the main development plan tool for assessing the suitability of the principle of a house in this countryside location. Policy HOUS5 states that: *"Single houses in the countryside will be supported where demonstrated as necessary in connection with the operation of established rural business or newly formed croft and where this necessitates a countryside location and full-time presence on site"*. The policy also states that: *Exceptionally, support may be given to a new house where this would meet the housing needs of a household that is retiring from working in an established rural business and where there is a long-established link between that household and the wider rural area. Occupancy conditions shall be used to ensure that the dwelling is occupied, in perpetuity, by a household employed, or last employed, in a established rural business in the countryside. New dwellings will require to be sensitively sited within the landscape and to be of an appropriate scale and design in keeping with the surrounding landscape and commensurate with the nature of the rural business for which it is required.*

Therefore, in summary, this particular case may be supported in principle if the following matters can be satisfactorily addressed:

1. the house is required to support an established rural business;
2. there is a need to fulfil a full-time presence on site – within the countryside location; and
3. the proposal is for a single house of a scale and design that is commensurate with the nature of the rural business for which it is required.

These matters will now be addressed in turn:

- (d) A Certificate of Lawful Use application was previously submitted in order to demonstrate that the existing agricultural and forestry contracting business had been operating at High Duncryne Farm for in excess of ten years without the required change of use having been approved, thus now formalising the situation making it a lawful use. It was concluded that on the 'balance of probability' the agricultural and forestry contracting business based at High Duncryne Farm has been operating for circa thirty years. The time period for enforcement action in respect of the breach of planning control has therefore expired. It is accepted that the proposal involves an existing established business. In terms of the requirement of the house, the applicant (Mr David

Smith) is in the process of taking over responsibility of managing the contractors business from his father (Ralph Smith Senior), with Mr Smith Snr and his wife continuing to live in their existing dwellinghouse on the site. Given the nature and scale of the business, with particular reference to elements of the business requiring the applicant to be on call 24hrs a day for breakdown of equipment and subsequent repairs/maintenance and servicing, there is a requirement for the operator of the business to permanently reside on site. This would allow the applicant to continue to effectively manage the business, which would not be possible from a remote location.

(e) The submitted 'Supporting Statement' sets out the justification for full-time presence on site, within the countryside location, as follows;

- It is a regular occurrence throughout the year that, in order to transport large vehicles with plant to work sites, an early start is required when the public roads are quieter. As touched upon above, the applicant is also on call 24hrs / 7 days a week for plant haulage and breakdown of equipment, as well as the likes of salting and snowploughing for the council during the winter months.
- With increasingly complex requirements, the company and HGV paperwork demands increased administration time i.e. for tacograph records, digital card downloading, 6 weekly checks plus yearly MOT's for lorries and trailers, service schedule for tractors, plant and all machinery. At present it is frequently the case that the on-site contract work is undertaken during daylight hours with the administrative tasks being carried out in the evening at High Duncryne Farm. With these duties being historically carried out on site (office room within the existing cottage), it is proposed these duties will now be removed from the parents house and relocated to within a proposed office within the new house.
- With Mr Smith Snr nearing retirement, the applicant will be looking to not only continue the business but to make it more efficient and seek new sources of work. This responsibility will in large lay with the applicants partner, who will assume the administration of the day-to-day running of the business, which for family reasons would be undertaken during the daytime rather than evening hours.
- The information above, and additional detail provided within the Supporting Statement, gives convincing evidence that a full-time presence is required on the site in connection with the day-to-day running of the existing established business. Given the hours and type of work involved, it would be unreasonable to expect these duties to be performed on a daily basis while living remotely from the Farm.
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- The proposed house is a modestly sized 1½ storey dwellinghouse designed to be a family home, and therefore, it is deemed that it is indeed of a scale and design commensurate with its proposed need and purpose.
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Overall Conclusion

- In conclusion, it is accepted that;
- The accompanying application 2014/0217/LAW confirms that the agricultural and forestry contracting business operated from the farm is lawful, and
- The proposal for a further dwellinghouse complies with Policy HOUS5.
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- It is considered that the proposal accords with the development plan and other material considerations and recommended that it be approved subject to conditions.

CONCLUSION.

It is believed that the Reason for Refusal under reference 2016/0096/DET does not stand up to scrutiny against similar applications for additional houses that have been considered and approved under Policy HOUS5 by the Park Authority in recent years. A selection of three similar and recent applications have been highlighted, simply as examples and all from within a few miles of the Appeal site, which clearly show similarities to the current proposal in that the next generation are intending taking over the management and day-to-day running of the established rural business and where another house was required on site to accommodate the applicants. In this instance, however, it is essential that the appellants continue to assist in the business for the immediate future, albeit on a reduced scale, pending full retirement at some future date.

Furthermore, the indication that although accepted by LLTNPA as *an established rural business it is not of a scale that requires a permanent on-site presence and as such it could be managed remotely*, confirms the validity of the proposal to some degree but does not appreciate the actual scale and complexity of running and managing the existing holiday letting business.

It is unfortunate that further information was not sought from the applicants during the processing of the application with regard to this perceived shortfall in justification arising from the scale and demands of the business. The Statement submitted with the application covered the numerous aspects required to address the many policy, design, ecology and thermal efficiency criteria under the normal Planning assessment for developments within the LLTNPA area. Within this statement reference was also made to the 24 hours / 7 days per week time demands that the business requires, how this has been covered by the three generations of the Martin family since the lodges were first introduced and how the appellants envisage it being managed in the next few years. The supplementary statement now prepared by the appellants, along with the additional letters of support from a range of parties, all verify in greater detail the highly-regarded status of the holiday letting business, the time demands that must be addressed to meet the expectations of the guests and also the resultant need for a continuous (day and night) on-site presence (of more than one person) to maintain this status.

From these statements and letters, and the other highlighted Planning applications, there is clear evidence to show that the applicants have a long-standing and generational relationship with the area and likewise after 20 years their business is also long established. Furthermore these documents show that the scale of the business, greater than other similar examples, does indeed meet the expectations of LLTNPA under Policy HOUS5 and that the proposal accords with Local Plan aims and expectations. Finally, the highlighted examples of other such developments illustrate that there are similar and recent precedents within the nearby locality and as such, to maintain a consistency of approach, the application should have been approved.

Whilst it was not fully available, nor requested, during the processing of the application it is therefore hoped that the additional information now being presented will be accepted in good faith and will be sufficient to allow the Members of the Review Board to find in favour of the proposed development.

September 2016
