

AGENDA ITEM 5

APPENDIX 2

2019/0003/DET
&
2019/0006/LBC

APPEAL DECISIONS



Decision by Chris Norman, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-001-2018
- Site address: Ballater Old School, Abergeldie Road, Ballater AB35 5RR
- Appeal by Grampian Housing Association against the decision by Cairngorms National Park Authority.
- Application for planning permission 2017/0284/DET dated 24 July 2017 refused by notice dated 25 May 2018.
- The development proposed: demolition of ancillary buildings, conversion of school to 10 dwellinghouses, reinstatement of schoolhouses to form 2 dwellinghouses, erection of 3 dwellinghouses and 11 flats (affordable houses), formation of access and alterations to boundary walls.
- Application drawings listed in schedule.
- Date of site visit by Reporter: 17 September 2018

Date of appeal decision: 22 October 2018

Decision

I allow the appeal and grant planning permission subject to the 14 conditions listed at the end of the decision notice. Attention is drawn to the 12 advisory notes at the end of the notice.

Preliminary Matter

The decision on an appeal relating to listed building consent for the proposal (reference LBA-001-2000) has been issued in a separate decision notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the Cairngorms National Park Local Development Plan 2015 (the local development plan). Because the appeal site is located within a conservation area I must also have regard to the duty imposed by section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the 1997 Act). This requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Ballater Old School is a category 'C' listed building. Under section 59(1) of the 1997 Act I must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.



2. Having regard to the provisions of the development plan the main issues in this appeal are whether the design of the proposed development would have an adverse impact upon the listed Ballater Old School and Ballater conservation area; whether it would have an adverse effect on the amenity of the occupiers of adjacent dwellinghouses; and finally whether the proposal would adversely impact on road safety, especially on School Lane.
3. Located between School Lane and Abergeldie Road in a mainly residential part of Ballater, the site is bounded by a mix of house-types, with the Queen's Barracks and a nursing home to the west. The former school has been unused for some 20 years. Although it is showing no obvious outward signs of significant deterioration, within its curtilage several disused ancillary buildings lie semi-derelict. These buildings, along with unmaintained vegetation and the vacant appearance of the listed building undermine the quality and appearance of the conservation area. Despite its inclusion in the Buildings at Risk Register for around 8 years, the listed building has remained vacant since its closure.
4. Following design amendments, the proposed mix of 26 residential units, informed by local need and demand, forms part of Aberdeenshire Council's programme for affordable housing. Supported by the council, the development would assist in meeting housing need within the Ballater area. The proposal sees the retention of Ballater Old School and a new-build element within its curtilage. Vehicular access from School Lane would lead to the two proposed car parks, providing 28 spaces. Vegetation along Abergeldie Road would be retained and augmented.

The development plan

5. The local development plan contains seven relevant policies. Policy 1: 'New Housing Development' sets out parameters for new housing development in settlements. Policy 3: 'Sustainable Design' supports the reuse of redundant buildings where the conversion works maintain the style and character of the original building, where the proposal ensures that new development protects the amenity of neighbours and that it has a suitable access. Policy 5: 'Landscape' requires development to conserve and enhance the landscape character and in particular the setting of the proposed development. Policy 9: 'Cultural Heritage' supports the conservation and enhancement of listed buildings and requires that development in a conservation area enhances its character. The local development plan's allocation of the appeal site as 'C1' is for community use which may include affordable housing, and acknowledges its built heritage challenges.

The impact of the proposed development on Ballater conservation area and Ballater Old School

6. Turning firstly to the built heritage of Ballater, the National Park Authority refused planning permission, in part, because it considered that the proposal was not sympathetic to the traditional pattern and character of the surrounding area and it was therefore inconsistent with policy 3.1b of the local development plan. In support of its decision the National Park Authority rests on the minutes of its meeting on 25 May 2018 and does not specify in any specific reasons why the proposal is not befitting its location, in built heritage terms. Others opposing the development, including Ballater and Crathie Community Council, also consider that the proposal is insufficiently sympathetic to the conservation area and the listed building, due in particular to its scale. Conversely, to the appellant the

scheme is designed to a high standard by incorporating the sensitive reuse of the listed building, maintaining the use of traditional building materials and incorporating local vernacular design and distinctiveness. This is acknowledged by the National Park Authority's planning officer and Historic Environment Scotland.

7. On my site inspection I observed, overall, the very high-quality townscape of this part of Ballater conservation area, characterised extensively by traditional building styles with local finishing materials. Nevertheless, the appeal site is one of the few places where the appearance and integrity of the conservation area is undermined. Specifically, I find that it is marred by the unmaintained appearance and condition of the site, the derelict ancillary buildings, some with asbestos present, the security fencing in School Lane, the unmaintained vegetation and the boarded-up former school buildings.

8. This part of Ballater conservation area is characterised by traditionally designed housing, with the Queen's Barracks and the nursing home in Abergeldie Road well integrated within the townscape. The proposal includes the retention of the granite and slate finishes of the existing buildings; new windows would be constructed to match existing fenestration; and new build properties would be finished in a mixture of timber cladding, harled walls and slate roofs. When seen in this overall townscape context, I am in no doubt that the proposal is a sympathetic use for the site, complemented by the conversion of the important but vacant listed building, in accordance with its local development plan allocation 'C1'. The replacement of the unsightly and derelict ancillary buildings by a scheme with a design that reflects local vernacular architecture would remove this discordant and very negative element within the conservation area.

9. The redevelopment of vacant or underused land is supported by policy 1 of the local development plan. Policy 3 supports the proposal given the retention of the character of the original building and policy 9 supports the conservation and enhancement of listed buildings. Overall, I find that the proposal would be sympathetic to the pattern and character of the surrounding area, displaying a distinctive local vernacular design and finish. None of the proposed changes to the listed building would harm any of its features of special architectural or historic interest, including its gothic detailed classroom with pedimented gableheads, the two schoolhouses, its design, fenestration details and local finishing materials. I therefore conclude that there is no tension between the design and appearance of the proposed development and both the special architectural and historic interest of the listed building and the built heritage of Ballater conservation area. Rather, the existing negative effects of the vacant and semi-derelict site would be replaced by a proposal incorporating a befitting high-quality design.

The impact of the proposed development on the amenity of the occupiers of adjacent dwellinghouses.

10. To support its decision, the National Park Authority rests on the minutes of its meeting of 25 May 2018. The proposal is seen to conflict with policy 3.1 of the local development plan because it does not protect the amenity of neighbours. Specifically it is argued that it would have inadequate car parking provision, it would provide poor domestic amenity, particularly for the flatted units, there would be a lack of recreational space especially for children and adverse road safety impacts would arise. Consequently the proposal, which could accommodate upto 83 residents, would be tantamount to overdevelopment and

cause access issues on School Lane. To other parties opposing the development including the community council, influenced in no small part by what is commonly regarded as its excessive scale, the proposal's inadequate openspace, insufficient car parking, and a poor relationship with existing houses would, in turn, adversely affect existing levels of privacy, daylight and amenity.

11. Turning firstly to the adequacy of open space provision I note that the site is located around 300 metres west of an area of public open space in central Ballater. In addition to this provision I am satisfied that on the site there is adequate on-site landscaping and open space for the benefit of its residents, reflecting the planning authority's supplementary guidance. Specifically, the overall amenity of the built development would be interspersed by grassed areas. The amenity space for houses, framed by attractive hedge planting, would provide a natural framework for the development with, albeit, limited areas of communal use. Pathways would provide satisfactory circulation space around the development. In particular the setting of the listed building would be enhanced and it would remain dominant in the streetscape, particularly when viewed from Abergeldie Road. A planning condition can require the landscaping to be maintained to an acceptable standard.

12. The loss of privacy, light and amenity and the poor relationship to adjoining houses, in terms of scale, is argued by those opposing the development. Accordingly, I have carefully studied the external and internal details of the proposal, and its relationship with existing buildings. I am satisfied that the proposal, when seen from Abergeldie Road, is adequately separated from existing houses and there is no loss of residential amenity or privacy. Similarly, because of the layout of existing houses in School Lane there would be no daylighting, sunlighting or significant overlooking or privacy issues caused by the development.

13. It has been argued by those opposing the development that disturbance due to vehicle noise or a reduction in air quality would be a consequence of the proposal, particularly along School Lane. However this is not supported by either the National Park Authority or the council and no technical assessment made from an environmental health perspective has been provided to me; nor has evidence been submitted to support the view that damage to adjacent buildings would ensue from the increased use of School Lane. The submission of a construction method statement setting parameters for construction activities can be required as a planning condition and can ensure safe and satisfactory access is available during the construction period.

14. Drawing these strands together I conclude that the proposal complies with Policy 3: Sustainable Design.

The impact of the proposed development on pedestrian and road safety.

15. Car parking provision, comprising 28 unallocated spaces, including 2 for disabled persons and 3 for visitors, would be accessed from School Lane, a narrow but lengthy cul-de-sac with a restricted footway. It is also proposed to provide on-site bicycle storage. Objectors, including the community council, set out their concerns about the road safety implications of the proposal, specifically referring to on-street car parking, reversing and drivers' visibility, especially in School Lane. No technical evidence on road safety has been submitted by the planning authority in evidence to support its decision to refuse planning

permission. This is despite the iterative sequence of consultation responses from Aberdeenshire Council's Roads Development Service which contain a technical assessment of the site's access and identify a solution to the road safety implications of the proposal.

16. On my site inspection I observed in detail the current on-street car parking arrangements around the site. In both Abergeldie Road and School Lane on-street parking is controlled for three months each year, albeit in Abergeldie Road only west of the site frontage. Against this background I observed the geometry and width of Abergeldie Road and the off-road car parking provision in many of the larger houses there. I conclude that, despite the parking controls, the linear layout of Abergeldie Road aids manoeuvrability and the larger driveways of the houses it serves will reduce demands for on-street car parking from existing residents and their visitors. Similarly its width would readily facilitate the collection of refuse, thereby avoiding School Lane for that purpose. The Roads Development Service consider that parking provision for the development is assisted by limited on-street car parking on the eastern part of Abergeldie Road, for visitors and for the two renovated schoolhouses, as would have happened in the past.

17. I am mindful of the physical constraints caused by the lesser width of School Lane and its associated footways. I agree with the Roads Development Service that obstructive parking on School Lane could hinder both the free-flow of cars and pedestrians. To aid site access, egress and on-site parking, although not supported by the community council and those opposing the development, physical amendments to the two access points on School Lane are proposed. This would include a reduction in the height of the adjacent wall and realignments to the footway adjoining each access point. I am satisfied that the partial alterations to the boundary wall would not significantly impact upon the historic qualities of the site. I also note the appellant's positive approach to the management of tenants' parking. As acknowledged by the Roads Development Service, with these enhanced access arrangements in place I am satisfied that the appeal proposal would provide adequate car parking and would not exacerbate any current road safety concerns.

The local development plan; overall conclusion.

18. The appeal site is allocated in the local development plan for a community use which can include affordable housing. The proposal would enhance Ballater conservation area by re-using a locally important listed building and remediating unsightly derelict land to provide affordable housing in line with Aberdeenshire Council's housing needs and demand assessment. It complies with local development plan policy 1: 'New Housing Development'. The proposal is sympathetic to the character of the area, it has satisfactory openspace and it would not impact in any significant way on the amenity of neighbours and is in compliance with policy 3 'Sustainable Design'. The proposal's on-site landscaping would complement bio-diversity concurrently with the remediation of derelict land, in accordance with policy 5 'Landscape'. Finally, by conserving the listed building and enhancing the character and appearance of the conservation area the proposal is compliant with policy 9 'Cultural Heritage'.

Material considerations.

19. I have had regard to the National Park Partnership Plan, Scottish Planning Policy, National Planning Framework 3 and the planning authority's non-statutory planning guidance which are material considerations and which point to the need for affordable housing to sustain rural communities and the protection the historic environment through positive change.

20. The views expressed by the some 22 parties who have made representations on the proposal, expressed on a planning matter, are material considerations. My findings on the design of the proposal, its impact on residential amenity and its access are set out above. I am satisfied that there are no infrastructure impediments to the site's development and the proposal will not adversely impact on tourism or exacerbate congestion in Ballater. Conditions can address matters such as archaeology, construction methods, contaminated land, protected species, refuse collection and the removal of asbestos. Matters such as the internal management of refuse collection, the provision of outdoor drying facilities, the financial viability of the proposal, the resultant social mix of residents in this part of Ballater and the means of allocating properties are matters for the appellant and are not material to the consideration of this appeal.

21. The National Park Authority has proposed the imposition of 14 planning conditions, as set out in its committee report, if planning permission is to be granted. The appellant is agreeable to the scope and terms of these conditions. I find that each of the proposed planning conditions as drafted by the National Park Authority are appropriate and satisfy the terms of Scottish Government Circular 4/1998 'The use of conditions in planning permissions'.

22. Having regard to the statutory duty imposed by the 1997 Act, I conclude that the site of Old Ballater School has the capacity to absorb the scale and the visual impact of the proposal and consequently it would not be to the detriment of the character and appearance of Ballater conservation area. I similarly consider that the proposal would preserve the listed building and its setting and the features of special architectural or historic interest which it possesses.

23. 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. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Chris Norman
Reporter

List of conditions

1. No development shall commence until details of the proposed maintenance arrangements for the approved scheme for the disposal of surface water by means of a SUDS scheme have been submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority, in consultation with the Aberdeenshire Council's Flood Risk and Coastal Protection Team. The surface water drainage arrangements shall thereafter be implemented in accordance with the approved plans. They shall be certified by an appropriately qualified professional to confirm their compliance. This certification shall be submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority, in consultation with Aberdeenshire Council Flood Risk and Coastal Protection Team, before any residential unit is occupied. The scheme shall thereafter be maintained in accordance with the approved details throughout the lifetime of the development hereby approved.

Reason: to ensure that satisfactory arrangements for the disposal of surface water and foul drainage are provided in accordance with Policy 3: Sustainable Design, Policy 4: Natural Heritage and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

2. No development shall commence until a fully detailed landscaping scheme has been submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority. This scheme shall include the following requirements:

- a) details of all hard landscaping and all trees to be retained and the trees and shrubs to be planted, specifying the details of species, number, location, sizes and planting distances; and
- b) maintenance and management details, and a timetable for implementation.

The landscaping and tree retention shall be implemented in accordance with the approved details and timetable and maintained thereafter in accordance with the approved details throughout the lifetime of the development hereby approved.

Reason: to ensure that a suitable landscape setting is established with trees appropriate to the streetscape, biodiversity is enhanced and that the development conserves and enhances the landscape character and special qualities of the National Park in accordance with Policy 5: Landscape and Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

3. No development shall commence until a revised lighting plan has been submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority. This plan shall include the details of the position and intensity of all proposed lighting and accord with the need to ensure that any lighting on the east side of the building does not impact adversely on bat roosts. All lighting shall thereafter be implemented and maintained in accordance with the approved details.

Reason: to ensure that lighting at the site conserves and enhances the landscape character and special qualities of the National Park and does not adversely affect European Protected

Species in the area in accordance with Policy 4: Natural Resources and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

4. No development shall commence until details of the arrangements for the provision of communal waste and recycling containers have been submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority in consultation with Aberdeenshire Council Waste Management Service. Thereafter no residential unit shall be occupied until its waste management provision has been provided in accordance with the approved plans and maintained thereafter in accordance with the approved scheme throughout the lifetime of the development hereby approved.

Reason: to ensure that satisfactory arrangements are made for the collection, storage and recycling of waste in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

5. No development shall commence until protective barriers or fencing have been provided in accordance with the approved tree protection plan. All trees shall thereafter be protected in accordance with the approved tree protection plan throughout the construction of the development, subject to the caveat that, unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority, path construction under Scots Pine 5083 shall be by “no dig” construction and there shall be no wooden edge to the path in this location. The trees shall thereafter be retained on site in accordance with the approved landscape scheme.

Reason: to ensure the protection of retained trees throughout the construction period and so ensure that the development conserves and enhances the landscape character and special qualities of the National Park in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

6. No development shall commence until the following information has been submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority in consultation with the Aberdeenshire Council Environment Team:

- a) Details of any photovoltaic panels and ground source heating. Guidance should be sought from Historic Environment Scotland’s Managing Change Guidance Note on Micro-renewables;
- b) samples of all materials to be used in the development including the proposed harling and the surfacing of parking areas; and
- c) details of the alterations to the walls and pillars on School Lane, the design of which must be as close to the original as possible.

The development shall thereafter be implemented in accordance with the approved details.

Reason: to ensure that the development conserves and enhances the listed building of architectural and historic interest and enhances its character and the contribution it makes to cultural heritage and the conservation area in accordance with Policy 9: Cultural Heritage the Cairngorms National Park Local Development Plan 2015.

7. No residential unit shall be occupied until the visibility and access widening works at the access points onto School Lane have been implemented in accordance with the approved plans, which shall be retained thereafter throughout the lifetime of the development hereby approved.

Reason: in the interests of road and pedestrian safety to ensure that there is appropriate access to the site in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

8. No development shall commence until the Cairngorms National Park Authority acting as planning authority has approved a construction method statement and the development shall be constructed in accordance with the method statement so approved. All construction works shall be implemented in accordance with the approved Construction Traffic Management Plan.

Reason: in the interests of amenity, road and pedestrian safety to ensure that disturbance to adjacent residents is minimised and that there is appropriate access to the site in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

9. Development shall be undertaken in accordance with the approved 'Swift Species Protection Plan' and any mitigation or compensatory features required to be implemented in accordance with the approved plan including:-

- (a) The provision of a single swift brick to be incorporated in the second-storey level on a north-facing wall of one of the new buildings during construction and before completion of the relevant unit; and
- (b) details of works undertaken to protect or mitigate the loss of the existing nesting submitted in writing to and approved by the Cairngorms National Park Authority acting as planning authority before any unit is occupied.

All features to be retained thereafter throughout the lifetime of the development hereby approved.

Reason: to ensure that the development does not adversely affect wildlife interests in the area in accordance with Policy 4: Natural Resources of National Park Local Development Plan 2015.

10. Development shall be undertaken in accordance with the approved 'Bat Species Protection Plan'. All mitigation set out in the approved plan, including the timing of works, shall be implemented in accordance the details contained in the plan and any compensatory features shall be retained throughout the lifetime of the development hereby approved.

Reason: to ensure that the development does not adversely affect European Protected Species in the area in accordance with Policy 4: Natural Resources of the Cairngorms National Park Local Development Plan 2015.

11. The residential units hereby approved shall be retained as social rented housing.

Reason: to ensure that provision is made for affordable housing and that the tenure remains as considered in this application in relation to the required parking provision in accordance with Policy 1: Housing Development and Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

12. No residential unit shall be occupied until it is connected to public water and drainage supplies.

Reason: to ensure that the development is appropriately serviced in accordance with Policy 10: Resources and Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

13. No residential unit shall be occupied until the cycle parking, car parking, pedestrian and vehicular accesses, delivery and turning arrangements have been formed and surfaced in accordance with the approved plans. All parking and turning spaces shall be kept free for this purpose at all times and parking spaces shall not be allocated to individual properties and shall be thereafter retained in this manner throughout the lifetime of the development hereby approved.

Reason: in the interests of road and pedestrian safety to ensure that there is satisfactory parking and turning provision made on site in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015 and to avoid overspill parking in the wider area.

14. The development shall be completed in accordance with the approved plans and design and conservation statements.

Reason: to ensure that the development conserves and enhances the listed building of architectural and historic interest and enhances its character and the contribution it makes to cultural heritage in accordance with Policy 9: Cultural Heritage the Cairngorms National Park Local Development Plan 2015.

Schedule of approved plans

Traffic Management Plan; 1 January 2018;
 Location Plan 001; 1 December 2015;
 Existing Roof/Site Plan 003; 1 October 2016;
 Existing Elevations Sections 004 Rev A; 1 October 2016;
 Existing Elevations Sections 005 Rev A; 1 October 2016;
 Proposed roof /site plan 012 Rev D; 5 April 2018;
 Proposed Ground Floor Plan 010 Rev H; 5 April 2018;
 Proposed First Floor Plan 011 Rev F; 5 April 2018;
 Proposed Elevations and Sections 1 Plan 013 Rev F; 5 April 2018
 Sections 1 Plan - Proposed Elevations and Sections 2 014 Rev F; 5 April 2018
 Sections 2 Plan - Proposed Demolition 017; 1 July 2017
 Proposed Housing Units 015 Rev F; 5 April 2018
 Design Amendments comparison; 1 April 2018
 Communal Bin Store B232
 Other - Bike Store Details

Preliminary Surfaces Layout 102 Rev C; 6 April 2018
 Design Statement 1 July 2018
 Design Amendment Statement; 1 April 2017
 Tree Survey Report by 01/02/17 Struan Dalgleish Arboriculture
 Tree Survey Drawing by Struan Dalgleish Arboriculture
 Tree Survey Schedule by Struan Dalgleish Arboriculture; 1 January 2018
 Tree Protection Plan by Struan Dalgleish Arboriculture; 1 January 2018
 Swift Species Protection Plan; 01/02/18
 Bat Species Protection Plan; 01/02/18
 Drainage Impact C2522 Rev C; 4 April 2018
 Preliminary drainage layout 10 I Rev E; 06/04/18
 Proposed cell locations 001 Rev A 01/03/18 I 1/04/18,
 Other- showing rootspace 1 cell with trees in soft landscape; 0001 rev.A; 1 March 2018
 Other - tree pit system installation rootspace under footpath GBU 2018 Rev A; 1 February 2018
 Swept paths - van and car 100 rev F; 6 April 2018
 Asbestos refurbishment and combined demolition survey. Environtec J346282; 1 November 2016
 Ground Investigation Report by Green Cat Renewables; 21 April 2017
 Timber survey report by Richardson and Starling 7 April 2018

Informatives

1. This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. The person undertaking the development should note that should any contamination of the ground be discovered during development the Cairngorms National Park Authority shall be notified immediately. The extent and nature of the contamination shall be investigated and a suitable scheme for the mitigation of any risks arising from the contamination should be agreed and implemented to the satisfaction of the Cairngorms National Park Authority in consultation with Aberdeenshire Council's Scientific Officer. The responsibility for ensuring the safe development of the site rests with the developer.
3. The person undertaking the development should note that adequate provision must be made for internal surface water drainage to ensure that surface water does not run from the site onto the public road or vice versa; and that adequate precautions must be taken to protect any statutory undertakers' plant which may be affected by the development.
4. The person undertaking the development should note that an application for a road excavation permit must be submitted to Aberdeenshire Council Infrastructure Area Roads Office at least 15 days prior to the commencement of any excavation works within the boundaries of the public road. Failure to obtain a permit is an offence under the terms of Section 56 of the Roads (Scotland) Act 1984. The public road may incorporate carriageway, verge, cycleway/footway and visibility envelopes. Further details can be obtained from the council's website or call the Area Office (Marr) on 019755 64920.
5. The person undertaking the development should note that a legal agreement under the terms of Section 56 of the Roads (Scotland) Act 1984 will be required for any major works

required to be undertaken on the existing public road network. A road bond or security will be required as a condition of any such agreement.

6. The person undertaking the development should note that the removal and disposal of asbestos containing materials should be undertaken in accordance with relevant legislation. Further information is provided in the attached guidance note can be obtained from the planning authority.

7. The person undertaking the development should note that Scottish Water are unable to reserve capacity at their water and waste treatment plant and will require to apply to Scottish Water for formal connection at which time the agency will review capacity.

8. The person undertaking the development should keep in contact with the Aberdeenshire Council Housing Service to discuss and agree the provision and delivery of affordable housing.

9. Construction work should not take place outwith the hours of 0800 hours to 1900 hours Mondays to Fridays, 0800 hours to 1300 hours on Saturdays or at any time on Sundays or Public Holidays in order to minimise disturbance to residents in the area.

10. 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)). Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more costly to rectify.

11. Following completion of the development, a notification of the completion shall, as soon as practicable, be given to the Planning Authority and a Notice of Completion of Development can be obtained from the planning authority. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.

12. A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.



Decision by Chris Norman, a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-001-2000
- Site address: Ballater Old School, Abergeldie Road, Ballater AB35 5RR
- Appeal by Grampian Housing Association against the decision by Cairngorms National Park Authority
- Application for listed building consent 2017/0285/LBC dated 24 July 2017 refused by notice dated 25 May 2018
- The works proposed: demolition of ancillary buildings, conversion of school to 10 dwellinghouses, reinstatement of schoolhouses to form 2 dwellinghouses, erection of 3 dwellinghouses and 11 flats (affordable houses), formation of access and alterations to boundary walls.
- Application drawings listed in schedule
- Date of site visit by Reporter: 17 September 2018

Date of appeal decision: 22 October 2018

Decision

I allow the appeal and grant listed building consent subject to the two conditions at the end of this notice. Attention is also drawn to the advisory note at the end of this notice.

Preliminary Matter

The decision on an appeal relating to planning permission for the proposal (reference PPA-001-2018) has been issued in a separate decision notice.

Reasoning

1. The appeal was lodged against the decision of Cairngorms National Park Authority to refuse listed building consent for the conversion of the former Ballater Old School and its adjoining school houses to provide new residential accommodation, together with the construction of new residential development within its curtilage. The National Park Authority also refused planning permission for the development.

2. I am required by section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the 1997 Act) to have special regard to the desirability of preserving this category 'C' listed building or its setting or any features of special architectural or historic interest which it possess. Because the appeal site is within a conservation area I am also required by section 64(1) of the same Act to pay special

attention to the desirability of preserving or enhancing the character or appearance of that area.

3. Having regard to sections 14(2) and 64(1) of the 1997 Act the issue in this appeal is whether the conversion of the former school to 10 dwellinghouses, the reinstatement of the two schoolhouses and the construction of new residential development, together with access and car parking, would harm the special architectural or historic features of the listed building, or its setting, or the character or appearance of Ballater conservation area.

4. Ballater Old School was last used as a school in the 1960's and latterly as an outdoor centre until the 1990's. It is on the Buildings at Risk Register. The two schoolhouses and the gothic detailed classroom and distinctive pedimented gableheads provide an interesting and positive contribution to the local streetscape, presenting a particularly interesting façade to the south. The associated planning appeal seeks full planning permission for the conversion and renovation of the existing buildings and erection of new buildings within the site to provide a total of 26 residential units.

5. In support of its decision to refuse listed building consent the National Park Authority rests on the minutes of its meeting on 25 May 2018 and does not specify in any specific reasons why the proposal is unacceptable. Others opposing the development also consider that the proposal is insufficiently sympathetic to the conservation area and the listed building, in particular due to its scale. Conversely, to the appellant the scheme is designed to a high standard by incorporating the sensitive reuse of the traditional buildings, maintaining the use of traditional building materials and incorporating local vernacular design and distinctiveness. This is acknowledged by the National Park Authority's planning officer and Historic Environment Scotland.

The development plan

6. Development plan policies are material considerations in my assessment of this proposal. The National Park Authority's policies aimed at protecting and enhancing the built heritage of Cairngorms National Park are set out in the adopted Cairngorms National Park Local Development Plan 2015. The local development plan contains two relevant policies. Policy 3: 'Sustainable Design' supports the reuse of redundant buildings where the conversion works maintain the style and character of the original building, where the proposal ensures that new development protects the amenity of neighbours and that it has a suitable access. Policy 9: 'Cultural Heritage, not referred to by the National Park Authority, supports the conservation and enhancement of listed buildings and requires that development in a conservation area enhances its character. The local development plan's allocation of the appeal site as 'C1', for community use which may include affordable housing. The allocation's acknowledgement of its built heritage challenges is similarly not referred to by the National Park Authority.

7. In its refusal of listed building consent the National Park Authority considers that the proposed development is contrary to Policy 3 'Sustainable Design' of the Cairngorms National Park Local Development Plan 2015. Specifically, under Policy 3.1 the proposal is not sympathetic to the traditional pattern and character of the surrounding area.

8. I have very carefully examined the appeal proposal's design, scale, finish and appearance, together with the appeal site itself and the character and appearance of the wider conservation area in this part of Ballater. On my site inspection I observed that the appeal site is one of the few places in Ballater where the appearance and integrity of the conservation area is undermined. Specifically, I find that the site is marred by the unmaintained appearance and condition of the site, the derelict ancillary buildings, many with asbestos present, the security fencing in School Lane, the overgrown vegetation and the boarded-up former school buildings.

9. While much of this part of Ballater conservation area is characterised by traditionally designed housing houses, the Queen's Barracks and the nursing home in Abergeldie Road are well integrated within the townscape. The proposal includes the retention of the granite and slate finishes of the existing buildings; new windows would be constructed to match existing fenestration; and new build properties would be finished in a mixture of timber cladding, harled walls and slate roofs. The two former schoolhouses, the gothic detailed classroom and the distinctive pedimented gableheads of the listed building would be preserved as a consequence of the proposal. When seen in this overall townscape context, I am in no doubt that the proposal is a sympathetic use for the site, complemented by the conversion of the important but vacant listed building, in accordance with its local development plan allocation 'C1'. The replacement of the unsightly and derelict ancillary buildings by a scheme with a design that reflects local vernacular architecture, would remove this discordant and negative element within the conservation area.

10. Overall, I find that the design of the proposed development, which I consider is studiously sympathetic to the listed building's character and appearance, would return the vacant listed building back into a productive and beneficial use, in line with the site's allocation in the development plan. It would also remediate the current and unsightly dereliction on this part of the conservation area. The proposed restoration of the listed building, by its conversion in a sensitive manner, maintains the fabric and the key aesthetic elements of the building. The new build proposal is consistent in its use of appropriate finishing materials and fenestration detailing. The new build part of the proposal, within the curtilage of the listed building, is sympathetic both to the listed building and the wider conservation area. By remediating the existing dereliction present on the site it would enhance the overall character of the conservation area, in accordance with the local development plan.

11. The redevelopment of vacant or underused land is supported by policy 1 of the local development plan. Policy 3 supports the proposal given the retention of the character of the original building and policy 9 supports the conservation and enhancement of listed buildings.

12. Overall, I conclude that the proposal would be sympathetic to the pattern and character of the surrounding area, displaying local vernacular and distinctiveness in its design and use of materials. I conclude that there is no tension between the design and appearance of the proposed development and the built heritage of Ballater conservation area. Rather, the existing negative effects of the vacant and semi-derelict site would be replaced by a proposal incorporating a befitting high-quality design.

13. I have had special regard to the desirability of preserving the listed building and its setting and the features of special architectural or historic interest which it possesses. I

have also paid attention to the desirability of preserving or enhancing the character or appearance of Ballater conservation area. Overall, I conclude that, for the reasons that I set out above, the proposal complies with the relevant provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the local development plan policies that relate to the built heritage of Cairngorms National Park. I have considered all the other matters raised but have identified none that would lead me to a different conclusion.

Chris Norman

Reporter

List of conditions

1. No development shall commence until the following information has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Aberdeenshire Council Environment Team:

- a) Details of any photovoltaic panels and ground source heating. Guidance should be sought from Historic Environment Scotland's Managing Change Guidance Note on Micro-renewables;
- b) samples of all materials to be used in the development including the proposed harling and the surfacing of parking areas; and
- c) details of the alterations to the walls and pillars on School Lane, the design of which must be as close to the original as possible.

The development shall thereafter be implemented in accordance with the approved details.

Reason: to ensure that the development conserves and enhances the listed building of architectural and historic interest and enhances its character and the contribution it makes to cultural heritage and the conservation area in accordance with Policy 9: Cultural Heritage the Cairngorms National Park Local Development Plan 2015.

2. The development shall be completed in accordance with the approved plans and design and conservation statements.

Reason: to ensure that the development conserves and enhances the listed building of architectural and historic interest and enhances its character and the contribution it makes to cultural heritage in accordance with Policy 9: Cultural Heritage the Cairngorms National Park Local Development Plan 2015

Schedule of approved plans

Location Plan 001; 1 December 2015;
Existing Roof/Site Plan 003; 1 October 2016;
Existing Elevations Sections 004 Rev A; 1 October 2016;
Existing Elevations Sections 005 Rev A; 1 October 2016;
Proposed roof /site plan 012 Rev D; 5 April 2018;
Proposed Ground Floor Plan 010 Rev H; 5 April 2018;
Proposed First Floor Plan 011 Rev F; 5 April 2018;
Proposed Elevations and Sections 1 Plan 013 Rev F; 5 April 2018
Proposed Elevations and Sections 2 014 Rev F; 5 April 2018
Proposed Demolition 017; 1 July 2017
Proposed Housing Units 015 Rev F; 5 April 2018
Design Amendments comparison; 1 April 2018
Communal Bin Store B232
Other - Bike Store Details
Preliminary Surfaces Layout 102 Rev C; 6 April 2018
Design Statement 1 July 2018
Design Amendment Statement; 1 April 2017

Advisory note

The length of the consent: This listed building consent will last only for three years from the date of this decision notice, unless the works have been started within that period. (See section 16 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended))