
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: USE OF LAND FOR TEMPORARY SITING OF CARAVAN;
INSTALLATION OF SEPTIC TANK AND FORMATION OF NEW ACCESS ON LAND 100M NORTH WEST OF BIRCH COTTAGE, DRUMULLIE, BOAT OF GARTEN

REFERENCE: 08/086/CP

APPLICANT: MR ALEXANDER D GRANT

DATE CALLED-IN: 20 MARCH 2008

RECOMMENDATION: REFUSE AND ENFORCE



Fig. 1 - Location Plan

BACKGROUND TO THIS REPORT

1. This planning application is for the use of land for temporary siting of caravan, installation of septic tank and formation of new access on land 100m northwest of Birch cottage, Drumuillie. The application was first presented to members of the Cairngorms National Park Authority (CNPA) Planning Committee on the 16th October 2009 and was deferred because the application is of linked significance to application 07/414/CP which was also deferred. Application 07/414/CP was deferred in order that further discussions could be held with the Trunk Roads Authority regarding their objection and to allow the applicant time to prepare a business plan to justify the development of the croft.
2. The site is on land identified in the Badenoch and Strathspey Local Plan (1997) as a Restricted Countryside Area, where planning policy (section 2.1.2.3) states that there will be a "strong presumption against the development of houses" in such areas. Exceptions will only be made where a "house is essential for the management of land, related family and occupational reasons."
3. There has not been a specific agricultural justification made for this application, however given that the application is closely related to application 07/414/CP, the supporting information provided for application 07/414/CP has been used. A case was made by the applicants to demonstrate that there was a land management justification to make an exception to the general presumption against housing in a Restricted Countryside Area however the planning officials were not convinced that there was a clear land management justification from the submitted supporting information. In addition to this, there is an outstanding Trunk Roads Authority objection. The CNPA planning committee decided to defer the application for 6months in order to allow the applicant time to prepare a more detailed business plan for application 07/414/CP and to give the applicant a chance to see if a solution could be found to the Trunk Roads Authority objection. The applicant has now submitted an Operational Needs Assessment (attached at the back of the report) which has been prepared by the Scottish Agricultural College (SAC) and has held discussions with the Trunk Roads Authority. The Operational Needs Assessment is for lots 5 and 7 now whereas the initial case was made on only lot 5. Therefore the area of land has increased from approximately 3.1 ha to 4.24 ha.
4. For ease of reference, a copy of the planning report which was considered by Members at the meeting 16th October 2009 is attached.

DEVELOPMENT PROPOSAL

5. The following are the main details of the development proposal:
 - Retrospective planning permission is being sought for use of land for temporary siting of caravan, installation of septic tank and formation of new access
 - The caravan has been placed on the northern part of the site and a septic tank installed. A new access road has also been formed which will access onto the A95
 - The applicants say that the caravan would be temporary until the new house is built on the croft.

SUPPORTING INFORMATION FOR CARAVAN

6. This application relates to application 07/414/CP. The applicant states that the caravan is temporary until he gets planning permission to build a house. The applicants currently reside in the caravan having sold their property in Boat of Garten. As this application is closely related to application 07/414/CP, the additional supporting information provided for that application has been used to justify on-site accommodation even though it makes the case specifically for a dwelling house.
7. As the caravan is located in an area identified in the Badenoch and Strathspey Local Plan (1997) as a Restricted Countryside Area, the applicants were required to provide justification to support potential consideration of their proposal as an exception to the normal presumption against development of new housing in such an area. The applicant has submitted an Operational Needs Assessment which has been produced by the SAC. This report provides background to the applicant's involvement on the landholding and gives details of future plans for the croft. The SAC report states that the 4.24 ha holding is a registered croft and there is currently no other housing associated with this land with most of the cover being mixed woodland with open areas of improved grassland used for grazing two horses, three breeding sheep and for growing vegetables. The SAC report states that "Mr Grant works as a self employed forester and currently utilises the croft for self sufficiency and has the intention to develop his enterprise as a small commercial business."
8. The SAC report states that the applicant has identified a market for young trees and hedge plants acclimatised to local conditions and plans to develop an area of approximately 0.4 ha to be used for a rotational tree nursery growing approximately 1500 plants. The SAC report states that "Mr and Mrs Grant have also established vegetable plots for their self sufficiency. In doing this they have recognised the potential for expansion and sale of excess produce through established local markets and farm shops. About 0.2 ha will be developed with the addition of polytunnels to grow young plants and extend the growing season. Stock of 2 horses, 3 sheep and a small brood of hens will also be maintained. Mr

Grant also proposes to plant Christmas trees within the existing woodland as a cash crop."

9. The Operational Needs Assessment includes a breakdown of the labour requirements of the business based on the crop figures and stocking densities detailed in Paragraph 8. The breakdown includes hours required for the proposed tree nursery and vegetables under glass. The assessment points out that a labour unit is now recognised as 1,900 hours per year and the hours suggested for the croft which includes the future plans on the croft are 1,918 hours per year which will equate to one labour unit. The labour requirement for proposed future plans on the croft make up 1600 of these hours and the labour requirement of two horses make up 300 of these hours. The Operational Needs Assessment states that "Mr Grant will be providing this labour himself while also working as a self employed forester. There will be peak times when it will be essential for Mr Grant to be on site permanently particularly during lambing and when vegetables are in season. It is therefore necessary that there is a permanent dwelling house constructed for Mr Grant and his wife to reside in."
10. The Operational Needs Assessment further makes the case stating that livestock keepers and land managers must fulfil certain duties and responsibilities. In particular, they must ensure the welfare of their livestock and security of their assets. The Operational Needs Assessment states it is vital to the day to day running of the farm that he is on site so the clear option is construction of a dwelling house.
11. In the summary section of The Operational Needs Assessment it states that "the land at Drumuillie has much potential to be developed as an agricultural business but it will depend on increasing hours worked by Mr Grant on the farm. Mr Grant already works as a forester and is self employed with his job covering a large proportion of the Highlands." The summary goes on to state that "Mr Grant has identified realistic production opportunities for this small holding. The growing of vegetables and nursery tree stock builds on areas of expertise and readily identifiable markets. To develop these enterprises Mr and Mrs Grant will have to invest more time on the croft while maintaining their full time employment. In order for them to continue this work and put in further hours on his croft it is crucial that they live there on a permanent basis in accommodation more suitable than a caravan. This will enable them to really be able to develop the croft and take it forward as a small commercial agricultural business."

PLANNING HISTORY

12. A brief summary of the planning history of the land holding/croft is shown below.
 - 9th September 1996 – Application for erection of dwellinghouse on the southern part of Lot 7 and another application for the erection of a dwelling on the northern part of Lot 7 were both refused by Highland Council.
 - 27th August 1997 – Application on southern half of Lot 7 for erection of dwelling was appealed - The decision to refuse by Highland Council was upheld by the Scottish Executive Inquiry Reporters Unit (SEIRU)

- 2nd November 2007 – Application 07/414/CP Called in
- 7th March 2008 – Application 07/414/CP deferred for further information from Trunk Roads and land management justification
- 20th March 2008 – Application 08/086/CP Called in
- 16th October 2009 – Application 07/414/CP and 08/086/CP deferred for 6 months further clarification could be sought from Trunk Roads Authority regarding their objection and to allow the applicant time to prepare a business plan to justify the development of the croft

APPRAISAL

13. This application was presented on the 16th October 2009 with a recommendation for refusal due to an insufficient land management justification and Trunk Roads objection. The planning committee agreed to defer the application as it was of linked significance to application 07/414/CP which was deferred so further clarification could be sought from the Trunk Roads Authority regarding their objection and to allow the applicant time to prepare a business plan to justify the development of the croft.

Principle

14. In terms of planning policies the site is located in an area identified in the Badenoch and Strathspey Local Plan (1997) as a Restricted Countryside Area where there is a presumption against individual houses (on-site accommodation), unless it can be demonstrated that it is required for the management of land and related family purposes. Highland Council's Development Plan Policy Guidelines (2003) recognises that for a justification to be based on croft management it is accepted that a degree of flexibility will be required, for example, in such circumstances it may not be possible to sustain full time employment and this will be taken into account. It also says that any application for a house should be a registered croft or associated common grazing and be accompanied by appropriate confirmation from the Crofters Commission of the bona fides of the crofting application. The Crofters Commission has confirmed that the applicant is the registered owner of the croft and has expressed general support for applications of this nature.

15. The applicant has submitted additional supporting information to make a land management justification for the development of a dwelling house on his croft and as this application is of linked significance then the land management justification for the retrospective temporary siting of the a caravan has been used. The additional supporting information is in the form of An Operational Needs Assessment prepared by the Scottish Agricultural College (SAC). It is considered that the majority of the information contained within the Operational Needs Assessment relates to potential plans for the croft and not actual activities currently carried out on the croft. It is not possible for the planning authority to have any control over the applicant to carry out these planned activities on the croft. If in the future these planned activities were implemented there would be a much stronger case for a dwelling house and a temporary caravan if required. However, at the moment it is a fact that according to the Operational Needs Assessment only 319.84 hours are required per annum on the croft and as part

of this total two horses make up 300 of these hours. Horses are not normally considered part of an agricultural business. Horses are not normally considered part of an agricultural business. Based on the SAC standard labour requirements which are contained in the submitted Operational Needs Assessment there are currently only 19.84 hours per annum which could be classified as agricultural activity on the croft. Therefore, it is considered that it has not been demonstrated that there is a sufficient land management justification for a dwellinghouse and consequently nor for a temporary caravan in an area which is designated as a Restricted Countryside Area.

Access and Roads Issues

16. The applicant has subsequently held discussions with the Trunk Roads Authority and they have advised the applicant in a letter that "land outwith the trunk road boundary should be within your control for the future maintenance of the visibility splay." The Trunk Roads Authority submitted a map shown in Figure 2 which shows the area of ground outwith Transport Scotland's control and is also outwith the applicants control but is still within the required standard of visibility splay.

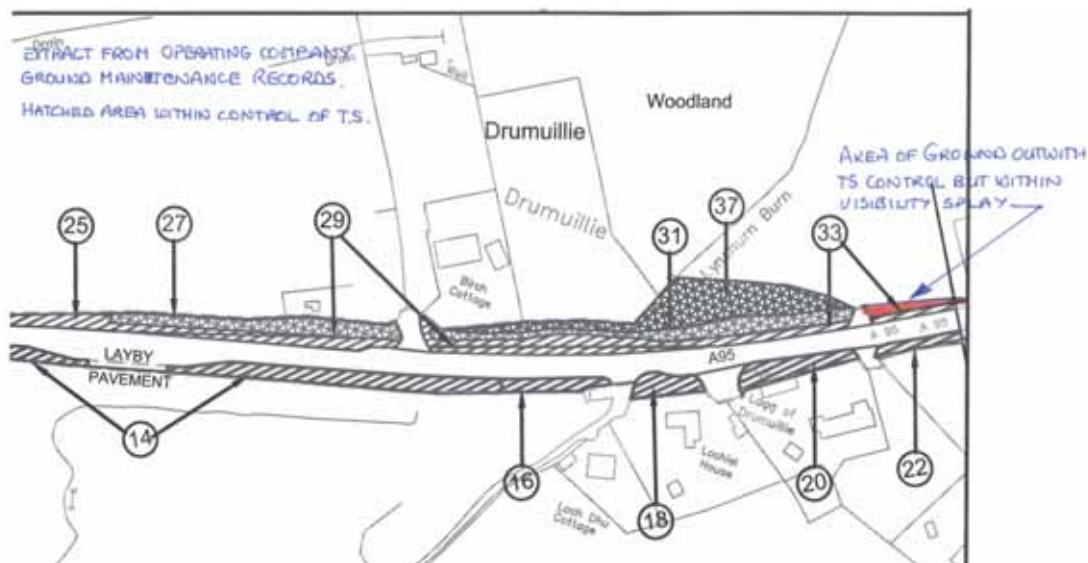


Fig. 2 – Map showing area of ground outwith Transport Scotland control and outwith applicants control.

17. As the applicant does not have ownership over the section of land coloured in red on the map shown in Fig.2 and it is not within part of the red line boundary of the planning application then planning conditions cannot be used to secure the control for the future maintenance of the visibility splay. This therefore means that the required trunk roads standards cannot be achieved. A new planning application which shows the required visibility splays within the red line boundary would enable the trunk roads objection to be overcome through the use of

planning conditions. The Committee should note that if approval is deemed appropriate for the current application then the application would require to be notified to the Scottish Government for a final decision. This is because the applicant cannot meet the specified trunk roads standards.

Conclusion

18. It is considered that although the SAC have carried out an Operational Needs Assessment for the croft this largely deals with planned development of the croft and not what is currently managed on the croft. Therefore, it is considered that there is not currently an appropriate land management justification for the erection of a new dwelling on this site and consequently nor for a temporary caravan. Furthermore, as the applicant cannot control all the land which is required to achieve the visibility splay required by Transport Scotland the proposal would be detrimental to traffic safety on the A95. Therefore the proposal is recommended for refusal

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

19. Although there are no natural heritage designations, a new unjustified dwelling house on this site, together with the formation of its access, will have negative impacts on the character and quality of this part of the rural landscape of the National Park and would potentially set a precedent for additional development which could further erode the character of the area. It would not therefore promote the conservation or enhancement of the natural heritage of the area.

Promote Sustainable Use of Natural Resources

20. This is an outline planning application, therefore, details of the proposed new building have not been provided. It is not therefore possible to assess compliance with this aim.

Promote Understanding and Enjoyment

21. Not relevant to this application.

Promote Sustainable Economic and Social Development

22. The development proposal represents a dwelling house in the countryside, which has not been sufficiently justified as being necessary for land management purposes, therefore it does not demonstrate a sustainable form of economic development within the park

RECOMMENDATION

That Members of the Committee support a recommendation to

(A) Refuse planning permission for the use of land for the temporary siting of a caravan; installation of septic tank and formation of new access on land North West of Birch Cottage, Drumuillie, Boat of Garten for the reasons listed hereunder : -

- 1. The proposed development is contrary to Regional and Local Planning Policy as contained in Highland Structure Plan Policy H3 (Housing in the Countryside), Development Plan Policy Guidelines 2003 and the Badenoch and Strathspey Local Plan Policy 2.1.2.3. (Restricted Countryside Areas), all of which restrict new houses in the countryside unless there are particular circumstances and special needs in relation to land management. It has not been sufficiently demonstrated that the proposed dwelling is required for the purposes of land management. If approved, the development would set a precedent for further unjustified development of this nature and would encourage the sporadic siting of other residential developments in similar rural locations, all to the detriment of the character of the countryside and the amenity of this part of the National Park.**
- 2. The proposed development will result in the intensification in use of the existing access which would be detrimental to the safe and free flow of traffic on the A95 Trunk Road, at a point where visibility is restricted and where there has been a serious road traffic accident in the past.**

And

- 3. (B) Resolve to authorise the taking of enforcement action as necessary in order to remove, the static caravan, septic tank and new access and secure appropriate restoration of the site.**

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16th March 2010

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.