
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(DEVELOPMENT MANAGEMENT)

DEVELOPMENT PROPOSED: OUTLINE PLANNING PERMISSION FOR THE ERECTION OF 12 DWELLING HOUSES AT LAND SOUTH OF THE CROFT, DUACKBRIDGE, NETHYBRIDGE

REFERENCE: 09/030/CP

APPLICANT: COLIN LAWSON (BUILDERS) LTD.,
A.W.LAING LTD., MCLEOD BUILDING LTD.

DATE CALLED-IN: 20th FEBRUARY 2009

RECOMMENDATION: REFUSAL

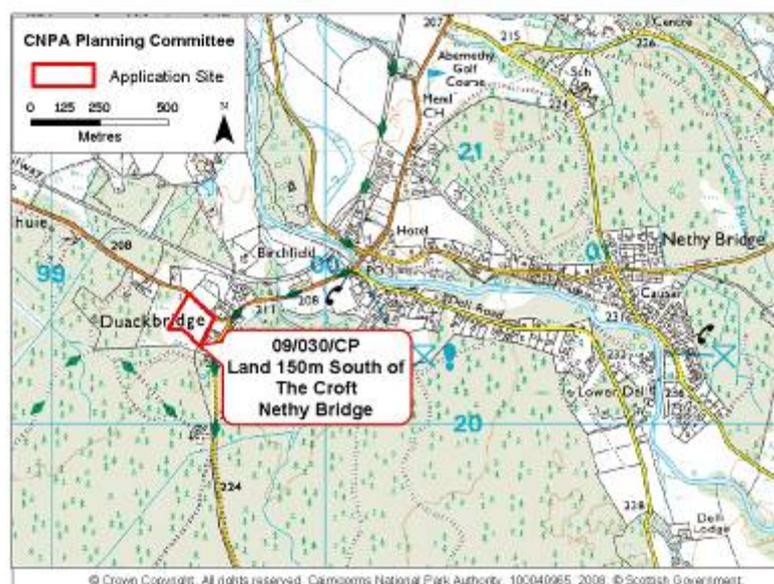


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

The site comprises 2.53 ha. of land and slopes generally down from the South West towards the B970 Boat of Garten Road to the North East. The site is largely grazed by horses but there are large areas of native Juniper bushes towards the South and West sides. There are a small number of established Birch trees across the site. To the North, across the road are fields and a freestanding croft known as The Croft. To the west is a hill topped by woodland and backing on to a small group of 6 houses around Monduie. To the South and West, over further Juniper bushes is the Abernethy Forest, a designated National Nature Reserve and Ancient Woodland. This area is also an SPA, SAC and SSSI and RSPB reserve. To the East is an area of mixed traditional and more modern houses clustered around the Tulloch Road junction and known as Duackbridge. Nethybridge proper commences further East beyond the Duack burn and the showground.

The proposal is an outline application for the erection of 12 dwelling houses within a defined site. The applicant has confirmed that all other information is indicative only and not part of the planning application. The application is accompanied by an indicative plan showing a layout of 12 1½ storey semi-detached houses with integral garages and a point of access taken off the B970 Boat of Garten Road. The houses are set round a curve to the South and West of the site. This aims to avoid the areas of Juniper scrub and at the same time sets the houses well off the road to provide a landscaped setting and avoid the more convex parts of the slope where houses would appear to rise steeply above the road and would sit on the skyline. The indicative access road is a cul-de-sac that follows a winding route in front of the houses.



Fig. 2 Duackbridge from South – site to right of road



Fig 3 Site looking South from Tulloch Road, Duackbridge

DEVELOPMENT PLAN CONTEXT

Cairngorms National Park Plan 2007

Strategic objectives for Landscape, Built and Historic Environment include: ensuring that development complements and enhances the landscape character of the Park with new developments within settlements and surrounding areas complementing and enhancing the character, pattern and local identity of the built and historic environment.

Strategic objectives for biodiversity include conserving and enhancing the condition and diversity of habitats and species present throughout the Park through a landscape-scale approach to habitat networks and engaging all sectors in meeting or exceeding international, national and local biodiversity targets.

Strategic objectives for sustainable communities encourage a population level and mix that meets the current and future needs of its communities and businesses. A complimentary objective is to make proactive provision to focus settlement growth in the main settlements and plan for growth to meet community needs in other settlements.

Highland Structure Plan 2001

Policy G2 Design for Sustainability requires developments to be assessed on the extent to which they, amongst other things; are compatible with service provision; are accessible by public transport, cycling and walking as well as by car; maximise energy efficiency in terms of location, layout and design; make use of brown field sites, existing buildings and recycled materials; impact on individual and community residential amenity; demonstrate sensitive siting and high quality design; and contribute to the economic and social development of the community. To accord with the Structure Plan's objectives and strategic themes, policies for **housing development** in Highland aim to steer demand to appropriate locations within existing settlements.

Policy H5 Affordable Housing advises that Section 75 agreements and other mechanisms will be used to secure developer contributions where justified and affordable housing secured as part of a larger development should not be of significantly higher density or lower quality.

Policy H8 Access Arrangements states that development proposals which involve new or improved access to serve more than 4 houses shall be served by a road constructed to adoptable standards.

Highland Council Development Plan Policy Guidelines 2003

This supplementary policy guidance advises that the Council operates a sequential set of mechanisms to achieve affordable housing provision in each case. On sites of 10 or more houses, a target of 25% is required. The first approach is for the developers to agree to transfer an area of serviced land on site, or to build an agreed number, type and mix of affordable housing units as an integrated part of their proposed scheme. The second approach, if the first is not achievable, is for the developer to agree the transfer of serviced land, or build the agreed number of affordable housing units, on another site in the community, that is under their control. If this is not achievable, developers may then agree to make financial contributions.

This guidance also advises on standards in relation to the provision of public and private open space in residential developments, minimum distances between windows for privacy, and day lighting/overshadowing.

The Badenoch and Strathspey Local Plan 1997

The site is allocated as amenity woodland and as forestry where restraint is defined. Part of the site at the South side overlaps a 0.5 ha. of land allocated for 6 houses. The allocated site is set back to avoid sky lining. This site appears to have not been developed due to access difficulties.

At Para. 4.5.2 Amenity, the Plan will safeguard remaining open spaces important to the character and amenity of Nethybridge, including the open approaches to the village; from the South, the games field, the field to the west of it and woodland.

At Para. 4.5.5 Settlement Edges the Plan states that land adjoining Nethybridge which is important to the community's setting, nature conservation or the rural economy and not allocated for a specific purpose will be safeguarded from sporadic development. This includes woodland, farm and croft land.

In its strategy statement for small settlements including Nethybridge, the Plan notes that they are attractive for house building and notes the need for a balanced population structure and a good mix of accommodation to maintain a basic range of facilities and services. Inappropriate scale or siting must be controlled with an emphasis on a balance between economic viability and a conservation of the environment. Greater emphasis needs to be given to urban design and enhancing the character and identity of villages. Expanding communities must relate well to their landscape setting and adjoining countryside. Ancient and semi-natural woodland should be

safeguarded with only limited encroachment in exceptional circumstances.

CONSULTATIONS

Area Roads Manager: no objection in principle but does not favour the road layout indicated. A loop road possibly incorporating upgrading and realigning the Tulloch Road junction, would be preferable to the elongated cul-de-sac proposed. Conditions including development of the road to adoptable standard and pedestrian links to the existing paths network, are recommended.

Scottish Water: capacity for water and drainage is available. Surface water should adopt SUDS methods.

Scottish Natural Heritage: no response

Royal Society for the Protection of Birds: no response.

Highland Council Forestry Officer: the proposal to reposition the development to the North of the allocated site is preferred in terms of tree protection. Trees are inaccurately plotted and the developer would need to show accurate plotting as well as adequate tree hold-back and protection measures for any trees to be retained on the site.

Highland Council Housing Officer: The site exceeds 10 units therefore the Highland Council affordable housing policy should apply.

Economic and Social Development (Housing): a contribution of at least 3 houses should be brought forward through a registered social landlord. There is a waiting list of 23 for Nethybridge including 6 families seeking 2 or 3 bedroomed houses. No discussions have taken place for this site.

Heritage and Landscape Management (Landscape and Ecology): In summary, the Ecologist comments that the development avoids the Juniper Scrub that is a UK BAP Priority and Cairngorms LBAP Priority species and of high ecological value. Juniper is also experiencing national decline, unexplained dieback and very little natural regeneration nationally. The development would put pressure on the Juniper area for use as garden ground as it is contained within the application site and responsibility for its future maintenance is unclear. The site is semi-improved acid grassland with a modest range of plant species. The range is attractive to butterflies, moths, bees and other insects. Noted in the area are the very rare mason bee *Osmia uncinata*. This UK BAP Priority and Cairngorms LBAP species of mason bee is found in less than 15 sites in Scotland (there are only 9 recent records) mostly in Strathspey and 3 recent records from Nethy Bridge. The type of grassland could potentially support this species. Another UK BAP Priority rare species that uses similar grassland habitats, the narrow bordered bee hawk moth (*Hermaris tityus*) was recently found at a site very close by in Nethy Bridge. No specific survey work has been undertaken and a survey is recommended. The on-site population of Field Gentians has declined due to the grazing regime but entire

population is likely to be lost if development goes ahead. This is a UK BAP Priority species and in national decline. Grazing sites of the type at the site are under threat and whilst they may not be rich in biodiversity in themselves, they carry potential to be recovered and are important in the wider matrix of habitats that makes the Cairngorms such an important area for biodiversity.

The Landscape Officer notes that this site forms the edge of the village. There are dwellings further down the Boat road however they are visually separated from the main village by the landform and trees growing on the western edge of the site. The site itself and the field north of the road create an open space that forms the setting to the village edge. Housing as proposed would certainly interrupt this feature by extending the building line outward and fragmenting the open space structure here. It would confuse the settlement pattern by apparently connecting the existing village with the more dispersed dwellings along the main road. The buildings as proposed (on the indicative plan) will in fact form the skyline because of their relatively elevated height from the road. This significance of this view point has been recognised by the landscape report. The effect of having the buildings on the sky line will be to further eliminate the sense of location by partial obscuring the view to the woodland, a quintessential aspect of the village.

Nethybridge and Vicinity Community Council: Note several objections. The development is not in accordance with the local plan and not on the proposed development site within the plan. The layout would lead to over-development of the site not in-keeping with local housing. Concerns were raised about the increase in traffic using a dangerous stretch of road. There is an urgent need to upgrade the corner with Tulloch road before more properties are built.

REPRESENTATIONS

There are 17 letters of objection to the proposal. They raise the following concerns:

- The six houses originally planned have now been increased to twelve semi-detached units,
- A conspicuous site at the southern entrance to the village and part of an attractive open vista up to Duackbridge. Development would reduce the attractiveness of the village setting,
- The village is already over-developed and has lost something of its character,
- Nethybridge is a forest village set in green spaces and trees. These should be retained to maintain the character of the village. The high density sky line proposal is not a suitable

gateway development in the southern approach to the village and would be contrary to the statutory Badenoch and Strathspey Local Plan as well as the forthcoming Cairngorms Local Plan and SPP15 (Planning for Rural Development).

- Development would be at odds with the stated aims of the Local Plan for Nethybridge.
- The proposed access is on a blind corner on a busy road. The B970 fronting the site is too narrow and has no pedestrian pathway, leading to danger to existing and future pedestrians and cyclists,
- The site is a considerable distance from the primary school with no safe route to school,
- Increase in existing surface water run-off problems,
- Increase in light pollution and noise,
- Houses would be better positioned along the road side,
- Affordable houses should be provided,
- Risk of overlooking and loss of privacy from houses on higher ground,
- Proposal is out of character with adjoining properties and would be an urban spread beyond the current village boundary,
- The site is part of a locally integrated habitat which is part Pine wood, part heath wetland, part Juniper scrub and part old pasture land. The field and area has a number of species of plant, animal and bird species including the very rare and protected. A full ecological survey is needed, more than the basic Phase 1 habitats map provided by the applicants. The NNR to the West and South has been surveyed for rarer species for the last 10 years and reports are provided to the relevant agencies. Pressure from recreational use of sensitive areas around the village is already putting species at risk. Twelve more households in the immediate vicinity will add to pressure for informal path links and disturbance. A number of objectors list species seen at the site and in the immediate area, including Capercaillie, Cross Bills, Red Squirrel, Wildcat. The field has not been cultivated for many years therefore carries a rich flora (50 wild flower species including Field Gentian in the area of the upper plots from 5 to 12.) and bees, butterflies and moths. A large portion of the field is given to (native) Juniper, a protected species. Development would lead to irreversible destruction. The field acts as a buffer between the forest and the village.

The applicant has submitted a Planning and Design Statement in support of the application. This includes a short design brief to govern the design and materials of the proposed houses. The applicants have also submitted ecology and tree surveys and a landscape assessment,

all of which have been examined by the Heritage and Landscape Management Officers.

Copies of the letters of representation and the Planning and Design Statement are attached for information.

APPRAISAL

The Principle of Development

In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. The current statutory plans are those listed above. Other material considerations are the statutory aims of the Cairngorms National Park as stated in Section 1 of the National Parks (Scotland) Act 2000 and the imminence of the Local Plan inquiry into the forthcoming deposit Cairngorms Local Plan. In view of the timing of the application to correspond with the landowner's submission to the local plan inquiry, due consideration should be given to the fact that there are alternative proposals for the land and objections raised to the deposit draft.

The CNPA proposes to exclude the site area from the settlement boundary and to designate the area as countryside. The community has consistently supported the protection from development of land seen as important to the setting and approaches to the settlement. This principle is supported in a number of submissions to the Inquiry. The CNPA has maintained this approach through the First and Second modifications and no modification is proposed. There is an objection from the landowner, Reidhaven Estate which seeks the allocation of a larger area than the application site for residential development.

The Badenoch and Strathspey Local Plan 1997 includes a land allocation of 0.5ha. for 6 houses. This area is at the South end of and overlaps the application site. Plots 8 – 12 as shown on the indicative plan, fall partly within the allocated site. The remainder of the application site, including plots 1- 7 and the access road on the indicative plan, falls within the area defined as forestry where restraint is required. The site is not infill as it is not within an established residential area as envisaged by the plan. On the indicative plan, a significant area close to the B970 is shown as landscaped open space or is not identified for any development at the present time. Should the current application be successful then it is likely that further development would come forward and that the road would be redesigned.

The proposed site is materially larger than the allocated site and the area indicated for development only partly overlaps with the allocated area. Although the indicative plots have been repositioned to avoid valuable native Juniper scrub there is no presumption that an alternative to the allocated land should be made available.

The proposal may be considered on the unallocated land, if it complies with other policies of the local plan. The area is defined for restraint and the Plan will safeguard remaining open spaces important to the character and amenity of Nethybridge, including the open approaches to the village; from the South these are the games field, the field to the west of it and woodland. The plan also seeks to strike a balance between the provision of a good mix of accommodation and safeguarding the natural environment, the landscape setting of the village and the protection of the settlement edges from sporadic development.

It is considered that this site makes an important contribution to the landscape setting of the village in the approaches from the South and that its development would introduce an urban expansion into an area characterised by small clusters of houses that would become conjoined and denser. This would result in a southerly spread of the village in a manner which would be highly visually intrusive and not conducive to local plan objectives for the landscape and environment. Also, it would not be conducive to the expansion of the village in a land efficient manner that would allow for sustainable living by future residents, due to the distance from and poor pedestrian access to services. The applicants are prepared to consider a contribution to a pedestrian path but no provision has been made at this stage. It is unclear how a frontage path on the site could be linked to the existing path over Duackbridge.

Ecology

The applicants Ecology Report, third party representations and the HLM Ecologist have identified a range of species and habitats that would be affected by the development, some of which are nationally rare and BAP priority species. The site contributes to a habitat matrix that supports such species and contributes to a wider matrix of habitats that makes the Cairngorms such an important area for biodiversity. Its development would be contrary to the First and Second Aims of the National Park to conserve the natural heritage of the area and promote sustainable use of natural resources. Should development lead to the destruction of protected species such as Juniper or Field Gentian then this would compromise the duties of the National Park towards the protection of its biodiversity. These factors all indicate against the development of the site.

The Indicative Layout

The indicative plan shows a layout that suggests an inefficient use of land and resources with regard to the elongated road layout and the large area of landscaped open space. The rear gardens at Plots 1 – 5 and 8 – 11 are very limited in size and would not allow for householder permitted development allowing families the opportunity to expand in situ. and would put additional pressure on the sensitive Juniper scrub and protected forests to the rear, for domestic recreational activity.

No provisions have been made between the applicant companies for joint responsibilities such as the access road, pedestrian routes and landscaping of the open spaces. The indicative proposal to hand over responsibilities for the open space to the householders is inappropriate for a development of the type proposed and is likely to lead to a degraded and neglected area. The houses would be developed on a plot by plot basis in sporadic manner governed only by a set of design criteria open to considerable interpretation. This would not be conducive to a cohesive development of the site and would detract from the landscape setting of the village.

If the houses are moved forward towards the road to avoid the above problems they would impact to a greater extent on the immediate landscape as the convex curvature of the hill would emphasis them on the skyline and produce a more urbanising effect. This would be contrary to the Local Plan objective to integrate development into the landscape and protect settlement edges from sporadic development and inappropriate scale and siting of development.

Affordable Housing

The applicants have made no provision for affordable housing as defined in terms of the Highland Structure Plan 2001 and Guidelines 2003. A contribution of at least 25% is required. The applicants have indicated that they are prepared to work with a Registered Social Landlord to bring forward a scheme but no arrangements have been made.

Conclusions

The proposal is largely on land that is not allocated for development and that makes a considerable contribution to the landscape setting of Nethybridge. It contains and contributes to a wealth of flora and fauna and a network of habitats in the vicinity that support a number of nationally rare and protected species. Its development would be contrary to both the strategic objectives and settlement policies

contained in the statutory development plan and to the Aims of the Cairngorms National Park as set out below. Its development for residential use is therefore inappropriate and would be potentially damaging to the interests of the community at large and the National Park. It therefore recommended for refusal.

IMPLICATIONS FOR THE AIMS OF THE PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

The proposal could have a significant impact on the landscape setting, character and amenity of Nethybridge as well as on important flora and fauna and the network of habitats that sustain them. National designations to protect species and habitat would be materially affected by the extra pressure from human activity and the loss of a buffer zone with the village. The development would not support this aim.

Promote Sustainable Use of Natural Resources

The development would represent an inefficient use of land and materials if the indicative layout is followed. The development would have a significant adverse impact on the natural biodiversity of the area, contrary to the sustainable use of these natural resources.

Promote Understanding and Enjoyment

The impact on the environment, landscape and amenity is likely to undermine the enjoyment of Nethybridge by residents and visitors.

Promote Sustainable Economic and Social Development

The delivery of some affordable houses would meet local needs but the site is not suitable in its location in relation to the local school and services and would not sustain a good and economic living environment for young families. It would also be at the expense of important natural assets in vicinity, so reducing the economic value of the natural assets of the area to tourism.

RECOMMENDATION

That Members of the Committee support a recommendation to:

REFUSE outline planning permission for the following reasons:

1. Approval of the proposal would be premature pending the imminent consideration of the Draft Deposit Cairngorms Local Plan at Local Plan (1st and 2nd modifications) in that it would prejudice due consideration of the proposal to define the settlement boundary to exclude the site and area and an objection seeking the allocation of the site and a larger area for residential development.
2. The proposal would severely impinge on the landscape setting, character and amenity of Nethybridge and would significantly breach the boundaries and numbers envisaged in the land allocation provided for in the Badenoch and Strathspey Local Plan 1997. It would represent a significant expansion of the village to the South in a manner that is expressly resisted in the strategy for the village set out in the Local Plan. A reorganisation of the design and access presented in the indicative plan, to improve on external space provision and lessen impacts on ecological interests is likely to further impact on the visual amenity and character of the village found in the open clusters of houses to the South of Nethybridge, by introducing denser and more prominent forms of development closer to the road. The proposal is therefore contrary to the main strategy and the village strategy contained in the statutory Highland Structure Plan 2001 and the Badenoch and Strathspey Local Plan 1997 and does not comply with the land allocation envisaged and the Aims of the National Park.
3. The proposal is contrary to the terms of the Highland Structure Plan 2001 in that no provision has been made for affordable housing in terms of Policy H5 Affordable Housing.
4. The development is likely to be unsustainable in terms of its poor links to village services, unsuitability for family housing in the affordable sector and its impacts on the landscape, character of the village and tourism, all contrary to Policy G2 of the Highland Structure Plan 2001 and the Fourth Aim of the national Park.
5. The lack of a coherent master plan and arrangements for providing and maintaining common elements of the development is likely to lead to a piecemeal form of development and a lack of cohesion in the style and finish of the proposed houses, contrary to objectives of Policy G2 of the Highland Structure Plan 2001, to obtain high quality design and contrary to the visual appearance of the area.
6. Development of the site would lead to the destruction of an acid semi-improved grass land of a type that is under threat and makes a significant contribution to the matrix of habitats that supports a biodiversity that renders the Cairngorms of great importance in a national context. UK BAP species on the site would be destroyed and the scope for recovery of the grass land and its support for UK BAP species of considerable rarity and found in the area, would be lost. This would breach the duty of the Cairngorms National Park Authority under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity and would be contrary to the first Aim of the National Park under the National Parks (Scotland) Act 2000.

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20th April 2009

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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.