
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: ERECTION OF NEW DWELLINGHOUSE, AT LAND BETWEEN SMIDDY HOUSE AND TORCROY, KINGUSSIE (OUTLINE PLANNING PERMISSION)

REFERENCE: 04/460/CP

APPLICANT: MR & MRS W MACKENZIE, DELL OF KILLIEHUNTLY FARM, KINGUSSIE, INVERNESS-SHIRE PH21 1NS

DATE CALLED-IN: 27TH SEPTEMBER, 2004

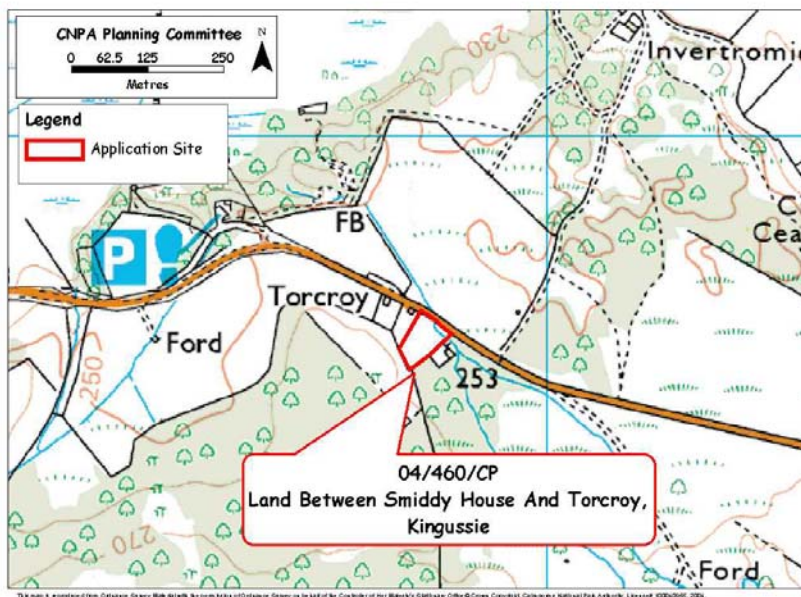


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. This application is for outline planning permission to erect a new dwellinghouse and garage on a flat site between 2 existing houses, at Torcroy, near Kingussie. The site is adjacent to the B970 road, which leads from Kingussie to Insh and then on to Aviemore. There are a number of trees on the ground surrounding the site, on surrounding feus and land. There is an area of woodland to the south of the application site where the landform rises. There are also some trees along the edge of a burn (“Allt an Torra Chruaidh”) which crosses the north eastern part of the site. The site is about a third of a hectare, and is larger than the adjacent residential feus. The house to the immediate west side is a modern built single storey property with dry dash harling and concrete roof tiles and it is set near to the roadside. The house to the east side, is entirely enclosed by trees and is set back from the road to the south of the burn. It is timber clad. There is a third house located further to the east, with its gable facing the road. This is a traditionally built single storey property with slate and wet harling. Across the road from the site to the north is flat open agricultural land.
2. Access to the site is proposed directly off the B970, and drainage will be to a septic tank and soakaway. Further indicative details were sought from the applicant, concerning the siting and design of the new house, and a sketch layout has been submitted which indicates an L-shaped, 3 bedroomed house near to the roadside frontage of the site. A new access is shown, with a crossing of the burn within the site boundaries to a parking and turning area adjacent to the house. The **indicative** design proposal is to have slate or tiled roof, an internal chimney stack, and log cabin type walls.
3. It is understood that outline permission was granted for a cottage on the current application site in 1976, and detailed consent for a gamekeeper’s cottage was approved subject to conditions, in 1977. No house has been built and these consents have long since lapsed.

DEVELOPMENT PLAN CONTEXT

4. **Highland Structure Plan (approved March 2001) Policy H3 (Housing in the Countryside)** states that housing will generally be within existing and planned new settlements. New housing in the open countryside will not be permitted unless it can be demonstrated that it is required for the management of land and related family purposes or where it supports communities experiencing difficulty in maintaining population and services. **Policy L4 (Landscape Character)**, states that the Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals. **Policy G2 (Design for Sustainability)**, lists a number of criteria on which proposed developments will be assessed. These include service provision (water and sewerage, drainage, roads,

schools electricity); accessibility by public transport, cycling, walking and car; energy efficiency in terms of location, layout and design (including the utilisation of renewable energy sources); and the impact on resources such as habitats, species, landscape, scenery and freshwater systems.

5. Highland Council's **Development Plan Policy Guidelines (April 2003)** provides more detailed guidance on the interpretation of specific policies contained in the 1997 Local Plan, in the light of the subsequently approved Structure Plan of 2001. This document states that new housing within the open countryside will be exceptional, and will only be permitted (in accordance with National guidance and the approved Structure Plan policy) where, amongst other specific circumstances, it is required for the management of land, or it is required for family purposes related to the management of land (retired farmers and their spouses) or where it would support the viability of rural communities experiencing difficulties in maintaining population and services. It provides detailed criteria on the functional test where the proposal is promoted for the essential and proper functioning of the enterprise concerned.
6. **The Badenoch and Strathspey Local Plan (September 1997) Policy 2.1.2.3 (Restricted Countryside Areas)**, has a strong presumption against the development of houses. Exceptions will only be made where a house is essential for the management of land, related family and occupational reasons. Restrictions on the subsequent occupancy of such houses will be enforced, and adherence to the principles of good siting and design will be required. The current application site lies within the Restricted Countryside policy area.
7. The Local Plan also states in **Policy 2.1.2.5 (Housing Groups)**, that there will be a strong presumption maintained against the development of further ad-hoc clusters of houses in the countryside. However, in exceptional cases, there may be limited opportunities to consolidate or round-off certain existing house groups. In these cases the Plan requires that such applications must be submitted in detail showing the relationship of new buildings to the layout of the group as a whole; must show what arrangements are intended to screen or enhance the group's amenity and appearance; and indicate proposed measures to remedy existing access or other infrastructure problems. A suitable form of Planning Agreement may be needed to secure the improvements in association with further development, where this is considered acceptable.

CONSULTATIONS

8. **Highland Council Planning Officers**, under delegated powers, have commented that the existing houses and application site are located within an area of **Restricted Countryside** and as such, there is a presumption against the building of houses unless where essential for the management of land, related family and occupational reasons. No such justification, in terms of this requirement was submitted with the application. However, they state that there **may** be scope for the **Housing Groups Policy** in the Local Plan to be applied in this case, and it **could be** argued that the application site represents an opportunity to consolidate this small group of houses provided any house was of a suitable size and scale in relation to the other modestly sized houses here, and was of traditional form, design and materials, as exhibited by the house at the north western end of the group. There would have to be care taken to ensure that there is no contamination from construction works and from the septic tank soakaway, which might affect the adjoining Insh Marshes National Nature Reserve, to which the burn drains. Maintaining a wayleave from the burn might affect the positioning of the house within the site and thus its relationship to the existing houses; however the houses here form a scatter along the road edge and do not have a well defined building line, thus there may be scope for flexibility in the precise siting of the house within the site.
9. **Highland Council's Archaeology Unit** has stated that the application overlies the former location of a structure on the first edition of an OS Map of 1870. This small township is known for the survival of cruck-framed houses dating to the post-medieval period. Site excavations following the start of any development may turn up traces of the previous structure. Should there be any finds the Archaeology Unit should be notified, so that the remains can be recorded and/or analysed if appropriate.
10. **Highland Council's Area Roads Manager** advises on the required visibility splays at the point of access to the site, the provision of at least 2 parking spaces and manoeuvring space within the site. Other comments about the positioning of gates and fencing, and the prevention of water discharge onto the public road have been made.
11. **SEPA** have commented that the septic tank/soakaway should comply with the Building Regulations, particularly regarding the achievement of minimum distances between the soakaway and water. Test pits have been dug and percolation tests have been carried out. The results were positive in terms of the permeability of the ground conditions.
12. **SNH** indicate that the site is not located within a designated site. However, it is located in close proximity to Insh Marshes Special Protection Area (SPA), River Spey Insh Marshes Site of Special Scientific Interest (SSSI), River Spey SSSI and cSAC. These sites

have been designated for a wide variety of interests, but the features of interest relevant to the proposed development include wetland habitats and salmon. SNH considers that it is unlikely that any qualifying feature will be affected significantly either directly or indirectly.

13. The **CNPAs Natural Resources Group** assume that drainage issues will be addressed by the appropriate authorities and in light of SNH's comments, they have no objections.

REPRESENTATIONS

14. The application was advertised by Highland Council as a "Development Contrary to the Development Plan".
15. No objections have been received from any source. However, 7 letters in support of the application have been received. Two of these are from the applicants. In summary, the points raised include; the suitability of the site within an existing group of houses at Torcroy which is a long established community; and the need case for the applicants who are a local family, their personal circumstances and the background to the application. The owner of the applicant's current "tied" house has detailed some history to the site and his support for the proposal.
16. Copies of all letters are attached for the Committee's consideration. **The applicant has requested permission to address the Committee.**

APPRAISAL

17. With there being no objections to the proposal in terms of roads, drainage, or natural heritage matters, the main issues for this application are the principle of a new house in the countryside here, and the nature of the site in terms of grouping with other residential properties.
18. One of the applicants (Mr. MacKenzie) works on a local estate which is located a few miles to the east of the proposed site around the Drumguish area. Mr. & Mrs. MacKenzie and their two sons (aged 13 and 10) currently occupy "tied" accommodation on this estate, although it is stated that the family are now finding this accommodation very tight for their needs. It has two bedrooms, living room, kitchen and bathroom. It is stated that the estate does not have other properties available to meet the family's changing needs. Mr. MacKenzie's work on the estate is varied, and he is employed for 40 hours per week. His duties include fishing and shooting ghillie, security of premises and property, grass cutting, fencing, tree planting, brashing existing woodland, cutting and extracting dead and wind-blown timber,

gardening, and driving his employer and his wife and/or guests to and from airports/railway stations etc. It is stated that the times of duty vary depending on the type and nature of the work required and accommodation in close proximity to the estate helps. Looking for a new home elsewhere, would likely mean in one of the nearby settlements, some further distance away from the estate. They own the current application site. The applicants also state that continued long term employment at the estate is not a certainty, and if there are changes in the circumstances at the estate, the "tied" house provides no security, in terms of continued accommodation.

19. The application site is not on the estate but it is within 2 miles of its boundaries. However, in terms of the Structure Plan and Local Plan housing in the countryside policies (Restricted Countryside Areas), the principle of this application does not fit. The need case set out by the applicants and as summarised above and supported by the various letters of representation received, does not present a case which relates to land management **at the application site**, or to related family and occupational reasons related to land management at the site's locality. While aware that it would not be possible to support the application on a land management basis at the site, the applicant's were asked if, in the event that there was support for the application, they would be prepared to enter into a section 75 legal agreement restricting occupancy of the house in some form or another. The response to this is in their letters. They do not wish this to be considered. They are trying to get themselves into a situation where they have ownership of their house and away from their current "tied" house situation. They also feel that it would be difficult to obtain a mortgage.
20. The applicant's situation and case is acknowledged. However, in terms of extant development plan policy for houses in the Restricted Countryside Areas of Badenoch and Strathspey (not viewed as areas suffering from depopulation), it is not possible to recommend in favour. There is no land management justification for a house on this particular site which is directly related to the land in question. An occupancy restriction, related directly to the land on which the house would be sited, is not possible, and the applicants do not feel that they can enter into any other "wider" occupancy restriction situation.
21. Highland Council Planning Officers have suggested that the site could be assessed against the terms of Local Plan Policy 2.1.2.5. (Housing Groups). This policy, while retaining a presumption against the development of clusters of houses in the countryside, has a more specific locational factor, where "**exceptional**" planning approval may be possible, but subject to a number of important caveats. This exception relates to the "rounding off" of an existing group of houses in the countryside. The Local Plan is not specific about what constitutes a 'group', nor does it indicate what would qualify as 'rounding-off'. However, the policy states that applications considered under this

policy, must demonstrate, how a new building relates to the layout of the group as a whole, must show what arrangements are intended to screen or enhance the group's amenity and appearance, and must indicate measures to remedy existing access or other infrastructural problems. It is also the case that national guidance SPP3 (Planning for Housing) and SPP15 (Planning for Rural Development) advise that there is scope for allowing more housing developments, such as small scale developments in groups or clusters.

22. It is debatable that three houses, separated by a larger "gap" site (it is significantly larger than the adjacent house feus) could be classed as a group, but, **on plan**, it appears to represent an opportunity to "fill the space" between two of the houses. However, the house to the south east side is a very modest single storey wooden structure situated back from the road within a belt of trees. It is therefore not immediately visible from the road and visually, it does not "read" as part of a group. The house to the immediate north west of the proposed site, represents more of a "visual stop" to the built form here (2 houses). I therefore feel that a house on the site would represent more of an extension of development, along the roadside, rather than "rounding off" a group.
23. Even if it could be argued that by developing a house here, it consolidates, rather than extends a "group", Policy 2.1.2.5. requires its criteria to be met. The indicative information provided by the applicant shows a house (log cabin style) situated in line with those to the north west and the applicant has indicated that tree landscaping would be carried out. However, it would have its own access and septic tank. It is not obvious to see how a house on the site could enhance the overall amenity and appearance of the "group". In addition, it is not possible to consider that the house will provide measures to remedy existing access or other infrastructural problems, all as required by policy. Such instances would include the upgrade of a shared access or the improvement of drainage arrangements for all the properties. As such, I do not find it possible to treat this site as an **exceptional** case for approval in terms of Policy 2.1.2.5.
24. To conclude, while sympathetic to the applicants situation and case, I cannot find that the proposal meets with planning policy and I would be concerned that approval would provide a catalyst for other similar unrestricted developments in the countryside of the National Park.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

25. There is some evidence that there may be some archaeology in the vicinity and, if approved, it would be necessary, to ensure that any finds on the site are appropriately recorded. There are no natural heritage designations directly affected and there would be little or no impact on trees. However, it is felt that the house does not comply with planning policy in principle and therefore, in general terms, it cannot be seen to be conserving or enhancing the natural state of the site or the cultural heritage of the area.

Promote Sustainable Use of Natural Resources

26. This application is for outline permission only but the indicative details and supporting letters indicate a house constructed of locally sourced timber. However, being located in a countryside area, the occupants of a house here would be reliant on the use of the car to access local services and facilities.

Promote Understanding and Enjoyment of the Area

27. The development has no implications for this aim.

Promote Sustainable Economic and Social Development of the Area

28. The applicant works locally and therefore a house for him and his family would, in the short term seem to be positive in terms of this aim. However, there is no direct land management justification at the site and it fails to comply with policy in this respect. There is no means of controlling the future occupancy of the property and the applicants employment situation may change in the future. Without the necessary long term controls on the occupancy of the property, it represents a house in a countryside area away from a settlement and any community/educational/retail facilities. Housing needs, in general, need to be more positively provided under this objective, through developing sites in recognised settlements.

RECOMMENDATION

29. That Members of the Committee support a recommendation to:
Refuse Outline Planning Permission for the Erection of a Dwellinghouse and Garage on land between Smiddy House and Torcroy, Kingussie, for the following reasons:
1. The proposed development is contrary to Highland Structure Plan (2001) Policy H3 (Housing in the Countryside) and Badenoch and Strathspey Local Plan (1997) Policy 2.1.2.3. (Restricted Countryside Areas). These policies state a strong presumption against the development of houses in countryside areas except where a house is essential for the management of land, and related family and occupational reasons, or where the development of a house will help support the viability of a rural community experiencing difficulty in maintaining population or services as defined in Local Plans. In this instance, there is no direct land management justification for a house on the land in question, and the site is not located in an area where the Local Plan has identified a need for housing development to support a rural community.
 2. The proposed development is contrary to Badenoch and Strathspey Local Plan (1997) Policy 2.1.2.5. (Housing Groups). This policy indicates a presumption against the development of further clusters of houses in the countryside and states that only exceptional consideration of development proposals will be considered where they consolidate or round-off an existing housing group. In such circumstances, there will be regard to the desirability of maintaining and enhancing the overall amenity and appearance of the group, and proposals should indicate measures to remedy existing access or other infrastructural problems for the group. In this instance, the development of a house on this site will be seen, visually, as an extension to the built form along the roadside rather than rounding-off the group. There are also no benefits to the group in terms of improved access or infrastructural arrangements or in the overall enhancement of the group's amenity or appearance.
 3. If approved, the proposal would act as a precedent for other unrestricted single house developments in restricted countryside areas of the National Park, which would ultimately be detrimental to the landscape character of the countryside and the collective aims of the National Park.

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24 June 2005

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