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# CAIRNGORMS NATIONAL PARK AUTHORITY

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**Title: AMENDED REPORT ON CALLED-IN PLANNING APPLICATION**

**Prepared by: MARY GRIER, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)**

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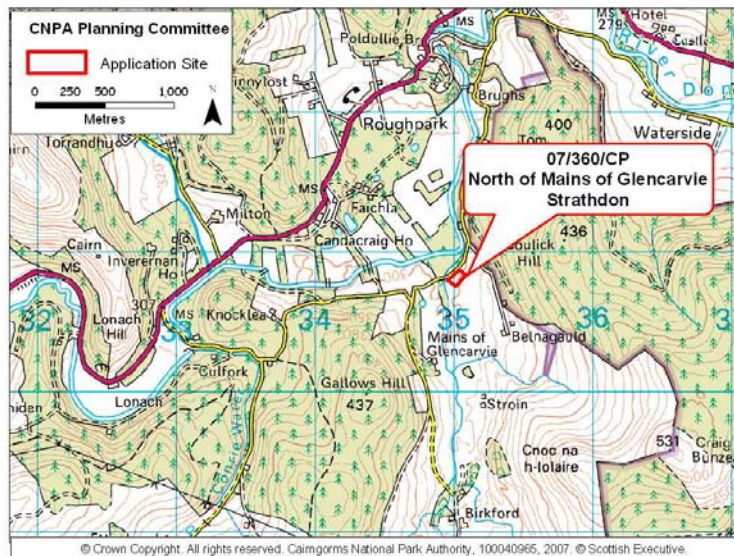
**DEVELOPMENT PROPOSED: OUTLINE PERMISSION FOR THE ERECTION OF A DWELLING HOUSE AND THE ERECTION OF AN AGRICULTURAL BUILDING ON A SITE TO THE NORTH OF MAINS OF GLENCARVIE, STRATHDON.**

**REFERENCE: 07/360/CP**

**APPLICANT: MR. & MRS. TAYLOR, C/O STEWART ANDERSON, LAGAVULIN, MONALTRIE AVENUE, BALLATER.**

**DATE CALLED-IN: 21<sup>ST</sup> SEPTEMBER 2007**

**RECOMMENDATION : APPROVE WITH CONDITIONS**



**Fig. 1 - Location Plan**

## BACKGROUND TO THE AMENDED REPORT

1. An application for outline permission for the erection of a dwelling house and agricultural building on land located to the north of Mains of Glencarvie, Strathdon was brought before the CNPA Planning Committee for determination on 11<sup>th</sup> January 2008. As the applicants, Mr. and Mrs Taylor, had advanced a land management case based on Mr. Taylor's involvement in the operation of the 211 hectare family farm,<sup>1</sup> the development proposal was considered to comply with planning policy, in particular **Policy Hou/4** of the Aberdeenshire Local Plan on **New Housing in the Countryside including the Aberdeenshire part of the Cairngorms National Park**. Based on an overall analysis of the proposal, including the aforementioned planning policy, as well as other planning considerations such as siting and landscape impact, access and servicing etc., it was recommended that planning permission be granted subject to the completion of a Section 75 legal agreement, and also subject to a number of conditions. The Planning Committee accepted the recommendation. For ease of reference a full copy of the original report is attached to the rear of this current report.
2. The recommended Section 75 legal agreement required a restriction on "the occupancy of the new dwelling house to the applicants or any person employed (or last employed) in agricultural activity on the 211 ha. landholding on which it is proposed and restricting the sale of the proposed dwelling house separate from the landholding, and also to ensure the payment of development contributions in respect of planning gain." In a letter to the CNPA planning office on 7<sup>th</sup> November 2007 Mr. Taylor stated that he was "willing to enter into a Section 75 legal agreement or occupancy condition to tie the house to the farm in perpetuity."
3. The proposed site area extends to approximately 4,000 square metres (1 acre) and lies adjacent to an unclassified public road. The land on which the site is proposed is part of a 211 hectare agricultural landholding which is in the ownership of the applicants family. The majority of the landholding extends in a relatively linear block to the south and includes groups of buildings at Stroin and Birkford. There is also a smaller fragmented section of the landholding a short distance to the north of the proposed site. The landholding consists of agricultural land and woodland, with Torr na Sithinn wood located in the centre of the farm unit.
4. The applicants currently live in Strathdon, approximately three miles from the farm. Mr. Taylor is the son of the landowner and is the third generation of the family to engage in agriculture on the landholding. A labour requirement report, prepared by the Scottish Agricultural College Farm Business Service, was submitted in support of the application.

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<sup>1</sup> Please refer to paragraph 4 of this report for a summary of the case advanced.

The report detailed that the 211 hectare farm consists of a mix of rotational grassland (61 hectares) and rough grazing (139.66 hectares).<sup>2</sup> A small herd of 28 suckler cows is out-wintered and a flock of 250 ewes are lambed indoors in March and April. The SAC report calculates that the total working hours required to operate the farm are 3,273 per annum. Based on the UK Agriculture Departments Standard Labour Unit of 1900 hours, the labour requirement for the farm is calculated as 1.72 labour units. In addition to including a summary of the activities undertaken and the hours devoted to each, the SAC report also emphasised that breeding livestock are kept on the farm and recommended in the interests of animal welfare and security, it would be desirable to have a stockman resident on the farm. Supporting documentation indicated that Robert Taylor (the applicant) is the only farm worker on the farm. His father, who is past retiring age, assists only at occasional, busy times of the year, such as at lambing time or during silage making. At present, the applicant travels between his existing home in Strathdon and the farm. The applicants advanced the case that the construction of a family home on the landholding would ensure that Mr. Taylor would be on hand for essential animal welfare at all times, regardless of weather conditions.

#### **THE APPLICANTS CASE FOR AMENDMENTS TO THE REQUIRED SECTION 75 LEGAL AGREEMENT**

5. Further to the resolution of the CNPA Planning Committee in January 2008 to grant planning permission subject to a number of conditions and also subject to the completion of a Section 75 legal agreement,<sup>3</sup> a legal agreement was drafted by Ledingham Chalmers acting on behalf of the CNPA. The applicants considered the terms of the agreement and have now indicated that they feel unable to sign the agreement in its present form. Correspondence from the applicants dated 6<sup>th</sup> April 2008 and 9<sup>th</sup> April 2008 (attached to the rear of this report) provide the background to their concerns. Essentially the applicants main point of concern is the requirement that the proposed dwelling house be tied specifically to the acreage of the 211 hectare landholding. The applicants have expressed concern that in the event of any future change in circumstances, such as the sale of any portion of the landholding, however small, would be a breach of the terms of the agreement. Although they have expressly stated that there is no intention to sell any ground at the moment, reference has been made to a hypothetical situation which might occur in the future, for example if a portion of the hill ground was sold to the Forestry Commission. The point has also been made that the sale of such land would not affect the labour need and work required on the farm. Mr. and Mrs. Taylor have also made reference to family circumstances, where the applicants brother may inherit some of the landholding at some time in the future, but the farm business would remain albeit with altered acreage.

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<sup>2</sup> The remainder of the landholding comprises of 4.22 hectares of woodland, 2.12 hectares taken up by roads, yards and buildings and in addition there is also a 4 hectare field which is rented.

<sup>3</sup> The nature of the required Section 75 legal agreement has been detailed in paragraph 2 of this report.

6. In their most recent correspondence the applicants have re-affirmed that they are willing to “sign a Section 75 to tie the house to this farm” but they request that consideration is given to revisions to the terms of the agreement to “so that the occupancy of the house is tied to the farm business of Birkford, Belnagauld” and “not to the current specific acreage of the farm business.”

## APPRAISAL

7. The report originally presented to Committee in January 2008 outlined relevant planning policies relating to housing in the countryside, from national level guidance through to the **North East Scotland Together, Aberdeen and Aberdeenshire Structure Plan 2001 – 2016 (NEST)** and the **Aberdeenshire Local Plan**. **Policy 12** of NEST deals with House Building in the Countryside Beyond the Green Belt and indicates that there will be a presumption against house building except in three circumstances, one of which is the construction of a new house which is essential to the efficient operation of an enterprise, which is itself appropriate to the countryside. Within the Local Plan **Policy Hou\4 on New Housing in the Countryside including the Aberdeenshire part of the Cairngorms National Park** states that a single new house will be approved in principle if
  - (a) it is for a full time worker in an enterprise which itself is appropriate to the countryside;
  - (b) the presence of that worker on-site is essential to the efficient operation of that enterprise;
  - (c) there is no suitable alternative residential accommodation available;
  - (d) the proposed house is within the vicinity of the worker’s place of employment; and
  - (e) it conforms with Appendix 1 (The Design of New Development in Aberdeenshire).

The aim of the policy is to support a long term sustainable pattern of development and prevent sporadic development in the countryside. The Plan aims to ensure that any new house approved under Policy Hou\4 is never sold to a non essential worker, and as a result indicates that developers would be required to enter into a Section 75 agreement.

8. The principle of a dwelling house at the proposed location was accepted and considered compliant with planning policy. The applicants involvement in land management activities on the family farm have not altered since the presentation of the case originally and the applicant, Mr. Robert Taylor, remains the primary operator of the farm business. In addition at the present time the size of the landholding on which the farming business operates also remains the same (211 hectares) as that originally detailed in support of the case.

9. Given that the applicants do not own the landholding (as it is in the ownership of Mr. Taylor's parents) and that there are also other siblings who may eventually inherit portions of the landholding, the applicants are requesting that an alternative form of wording be permitted in the required Section 75 agreement, which would not prohibit potential future changes in the ownership of the landholding.
10. Amendments to the Section 75 legal agreement would result in the agreement restricting the occupancy of the new dwelling house to the applicants and any person employed (or last employed) in agricultural activity in the farm business at Birkford and Belnagauld and restricting the sale of the proposed dwelling house separate from that farm business, and also ensuring the payment of development contributions in respect of planning gain. Having considered the case put forward by the applicants to amend the terms of the required Section 75 legal agreement, it is my view that the altered terms i.e. linking to the farm business rather than the farm acreage, would achieve the same required outcome of ensuring that the new dwelling house is only ever occupied by an essential worker involved in the farm business at Birkford and Belnagauld.

#### **AMENDED RECOMMENDATION**

That Members of the Committee support a recommendation to:

**Grant outline permission for the erection of a dwelling house and the erection of an agricultural building on a site to the north of Mains of Glencarvie, Strathdon, subject to completion of a S75 Legal Agreement which restricts the occupancy of the new dwelling house to the applicants or any person employed (or last employed) in the farm business at Birkford and Belnagauld and restricting the sale of the proposed dwelling house separate from that farm business, and also to ensure the payment of development contributions in respect of planning gain; and also subject to the following planning conditions<sup>4</sup>:-**

- 1. A formal planning application and detailed plans indicating all matters relating to the siting, design and external appearance of all buildings shall be submitted for the prior approval of the Planning Authority within 3 years of the date of this consent and the development must be commenced within 5 years of the date of this permission or within 2 years from the date of final approval of all the foregoing Reserved Matters.**
- 2. The proposed dwelling house shall be designed in accordance with the traditional vernacular architecture of the area and shall be a maximum of 1 ½ storeys in design, and shall incorporate the use of**

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<sup>4</sup> Please note all conditions remain unaltered from those approved on 11 January 2008.

external materials that visually compliment existing properties in the wider area.

3. An application for approval of reserved matters shall be accompanied by a detailed landscaping plan and a maintenance plan for the proposed site and the associated landholding, which shall include
- (i) proposals for the planting of semi mature trees and shrubs of indigenous species on the boundaries of the overall area;
  - (ii) details of all other types of new boundary treatments proposed; and
  - (iii) details of all surface treatments.

The landscaping and maintenance programme shall be implemented and maintained in accordance with the approved plan. The plan shall include details of the siting, numbers, species (which shall be appropriate to the proposed setting) and heights (at the time of planting) of all trees, shrubs and hedges to be planted and shall ensure:-

- (a) Completion of the scheme during the planting season next following the completion of the development, or such other date as may be agreed in writing with the Planning Authority;
  - (b) The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.
4. A detailed site layout plan submitted as part of an application for approval of reserved matters shall demonstrate compliance with the following requirements –
- (a) The access located as shown on indicative site plan drawings submitted as part of the application for outline permission;
  - (b) The provision of off street parking in accordance with Aberdeenshire Council's Car Parking standards, and surfaced in hardstanding materials;
  - (c) The formation of visibility splays, measuring 2.4 metres by 90 metres, either side of the proposed vehicular access and thereafter shall be kept free from all permanent obstructions above the adjacent carriageway level; and
  - (d) the provision of a suitable vehicle turning area, measuring not less than 7.6 metres x 7.6 metres, within the site to enable all vehicle movements onto or from the public road to be carried out in a forward gear.

5. The access with the public road shall not be surfaced with loose material and shall be fully paved for at least the first 5 metres.
6. Adequate provision shall be made for internal surface water drainage in order to ensure that surface water does not run from the site onto the public road and vice versa.
7. Prior to the first occupation of the proposed dwelling house, the water supply shall be improved by the installation of appropriate treatment and satisfactory samples to demonstrate this improvement shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority, in consultation with the Environmental Health section of Aberdeenshire Council.
8. An application for approval of reserved matters shall include details of the quantity of the private water supply.
9. All public services for the development, including electrical, cable television and telephone cables, shall be located underground throughout the site.
10. The private foul drainage system shall be designed to ensure the protection of surface waters and groundwater, by ensuring that all minimum distances as set out by SEPA are adhered to.
11. An application for approval of reserved matters shall be accompanied by detailed surface water drainage proposals for the agricultural building, which should include the adoption of a Sustainable Urban Drainage System.
12. Where the agricultural building is intended to house animals, the development shall adhere to the following requirements –
  - (i) no part of the slurry storage tank, or any effluent tank, channels, pipes or reception pit shall be situated within 10 metres of any inland or coastal waters;
  - (ii) the base of the slurry storage tank, the base and walls of any effluent tank, channels or reception pit and the walls of any pipes shall be impermeable; and
  - (iii) the capacity of this new structure, together with the existing storage capacity, should provide at least 6 months storage, unless otherwise agreed with SEPA.

**Advice notes:**

1. All works within the limits of the public road shall be carried out in accordance with the requirements of Transportation and Infrastructure, and application should be made for a Road Opening Permit prior to the commencement of the works. For information and application forms, please telephone (01569) 768455.

2. With reference to condition no. 7 of this permission, the water supply at present does not comply with the Private Water Supplies (Scotland) Regulations 2006 by reason of the presence of coliform bacteria and low pH.
3. As referred to in condition no. 10 of this permission the following are the minimum distances acceptable - in the interests of protecting surface waters a minimum distance of 10 metres from a soakaway to a watercourse (including ditches and field drains) and 50 metres from soakaway to a well or abstraction is required. In the interests of protecting groundwater a minimum distance of 1 metre from the bottom of distribution pipes of a soakaway to the seasonally highest water table is required.

**Mary Grier**  
**24 April 2008**

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