
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

**Prepared by: NEIL STEWART, PLANNING OFFICER
(DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED: OUTLINE PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE, LAND 62M SOUTH WEST OF PARKHEAD CROFT, SKYE OF CURR, DULNAIN BRIDGE

REFERENCE: 07/387/CP

APPLICANT: MR. DAVID McCAFFERTY, PER PAUL DEVLIN ARCHITECT, ALLT BEAG, DALRACHNEY, CARRBRIDGE

DATE CALLED-IN: 19 OCTOBER 2007

RECOMMENDATION: GRANT SUBJECT TO CONDITIONS AND S75 AGREEMENT

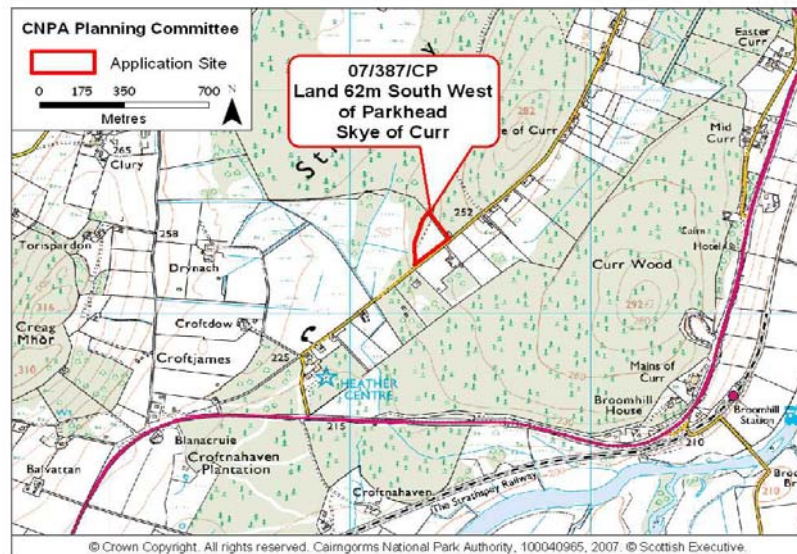


Fig.1. Location Plan

SITE DESCRIPTION AND PROPOSAL

1. This site fronts the north west side of the Skye of Curr Road which runs south westwards for about 3km from Dulnain Bridge to the A95 road. The site is located on Parkhead Croft most of which lies on the other side of the Skye of Curr Road opposite the site. The land forms part of a sub-croft (Croft 20) at Parkhead and comprises “in-bye” croft grazing land extending to 1.3 Hectares. Parkhead croft is sub-divided into 3 sub-crofts, Crofts 18 and 19 being the other two, all in the ownership of the applicant’s family. These are located on the other side of the road. The land is enclosed on all sides, apart from the road frontage, with woodland. One existing house (“Seafield House”), not part of the Parkhead croftlands, is located on this side of the Skye of Curr Road, at the locality. This is located adjacent to the site on its north east side.



Fig. 2. Site and land associated with Croft 20 viewed from road.

2. The northern half of the Skye of Curr Road is characterised on one or both sides by ribbon development but at the more southern end, where Parkhead Croft is located, the pattern of development changes to more in-depth scattered housing, but only on the south-eastern side.
3. Croft 20 is registered as a distinct croft in the Register of Crofts. It is also registered as vacant. It is proposed to erect a new dwellinghouse positioned in a central location on this sub-croft but immediately adjacent to the road. The house would be for a new tenant of Croft 20. The applicant, who owns all the land at Parkhead Croft, will remain as the landlord of Croft 20. The intention is to let the croft under crofting tenure. As part of this, the applicant will be providing only the working land associated with Croft 20, and it will be for the new tenant to

provide all the necessary improvements to the croft, including the building of a single house to serve it. To this end, the actual site of the house and its immediate domestic curtilage, will be sold, if planning permission is granted.



Fig. 3. Site and land associated with Croft 20 viewed from road.

4. The applicant has provided a considerable amount of additional information but it is clear that the main justification for the house, from his point of view, is to raise capital. One of his daughters, who resides with her 3 children on a house at Parkhead Croft, has unfortunately separated from her partner. The proposed development would allow capital to be raised to buy-out the former partner and thus prevent a forced sale of their house and re-housing of the applicant's daughter and grandchildren elsewhere. There is though presented, a land management justification in the form of crofting need in relation to the operation of sub-croft 20.

History

5. It is of relevance to detail the history of development at Parkhead Croft. This is as follows:-
 - 1990 – two houses, speculative and not based on crofting need, approved and subsequently sold off and developed. These are not in the applicant's ownership.
 - 1997 – two houses, one for the applicant's daughter, the other considered to be speculative, approved. Subsequently, one of these could not be developed because of loss croft land and the Crofters

Commission refusing to de-croft the land. The other has been built and is not in the applicant's control.

- 1998 – one house for the applicant's daughter, approved and built.
 - 2001 - one house considered acceptable by Highland Council as the limit of development on the croft – was to be subject of S75 agreement prohibiting further development of the croft. Applicant did not agree to sign the S75 because he had plans to erect three further houses on the croft for himself, his other daughter and his son.
 - 2002 – three houses, as above, approved, subject to S75 which effectively created the three sub-crofts, and tied the three houses to these sub-crofts. Subsequently, this S75 agreement was amended in 2005. This deleted the aforementioned restrictions but prohibits any other new development on the croft, except those deemed necessary for agricultural purposes.
 - 2006 – replacement house for existing original dilapidated croft house, not determined by Highland Council. Not in the control of the applicant but still relatives (nieces).
 - 2006 – application for one house, to be sold off, refused and appeal dismissed.
6. In addition to the above, there is another croft house constructed in 1975. This is the applicant's mother's house and is currently unoccupied.
7. In conclusion, there are, at present, 9 houses on the original croft. Three are on plots that have been sold off and not therefore in the applicant's control. Six others (including the dilapidated one) are in the control of the applicant, his immediate family or other relations. Not all are considered to be essential for land management purposes at Parkhead.

DEVELOPMENT PLAN CONTEXT

Cairngorms National Park Plan 2007

8. Strategic objectives for Landscape, Built and Historic Environment include; ensuring that development complements and enhances the landscape character of the Park; and new development in settlements and surrounding areas complementing and enhancing the character, pattern and local identity of the built and historic environment. Strategic objectives for Farming and Crofting include encouraging the continued development of crofting. Strategic objectives for Housing include increasing the accessibility of rented and owned housing to meet the needs of communities throughout the Park.

Highland Structure Plan 2001

9. **Policy G2 (Design for Sustainability)** states that developments will be assessed on the extent to which they, amongst other things; impact

on individual and community residential amenity; impact on resources and designations; demonstrate sensitive siting and high quality design; accommodate the needs of all sectors of the community; and contribute to the economic and social development of the community. **Policy H3 (Housing in the Countryside)** advises that housing development will generally be within existing settlements but elsewhere housing in the countryside of an appropriate location, scale, design and materials may be acceptable where there is a land management justification or it supports communities experiencing difficulty in maintaining population and services. In crofting townships, new housing will need to respect the existing pattern of development. In addition, the Structure Plan recognises that there is a strong demand for crofting tenancies from potential new entrants. **Policy L4 (Landscape Character)** states that there is a desire to maintain and enhance present landscape character in the consideration of development proposals.

Highland Council Development Plan Policy Guidelines 2003

10. These guidelines consider that **open countryside** is **all** land outside the boundaries of defined settlements. New housing in the countryside will be exceptional and will only be permitted, in accordance with national policy and approved structure plan policy where it is required for the management of land or related family purposes (retired farmers and their spouses); provided by a social housing provider; involves the conversion/re-use of a traditional building; involves the replacement of an existing dwelling which does not meet the requirements for modern living and where the costs of upgrading are not justified on economic and environmental grounds (subject to the existing dwelling being demolished); or is part of a comprehensively planned new settlement.
11. For justification based on croft land management it is recognised that a degree of flexibility will be required, for example it may not be possible to sustain full time employment. Any application submitted on the basis of crofting need should be accompanied by confirmation from the Crofters Commission of the bones fides of the crofting application. Regards will also be had to the history of previous housing development on the croft and the density of development. Any new house must support and respect the traditional settlement pattern and not compound sporadic suburban type development. Approvals granted on the basis of land management will be subject to an occupancy condition.

Badenoch and Strathspey Local Plan 1997

12. The site lies within the Skye of Curr inset map in the Local Plan. However, the site is covered by **Policy 4.13.1 (Rural Uses)**. This policy states that the better in-bye land and forestry adjoining the community will be safeguarded. **Policy 2.1.2. (Housing in the Countryside)** advises on design. Single houses outwith recognised settlements will require to be properly located in harmony with the

landscape; compatible in scale and character with local buildings; and designed and constructed to high standard.

CONSULTATIONS

13. **Scottish Water** have stated that Blackpark Water Treatment Works may have sufficient capacity to service the development but that there may be issues in the water network. Dulnain Bridge Waste Water Treatment Works may have sufficient capacity to serve the development but again there may be issues within the waste water network.
14. There are no issues for **SEPA**.
15. **Highland Council's Area Roads Manager** initially repeated previous concerns regarding continual ad hoc development along the Skye of Curr Road. The road is generally of poor standard with limited width, few formal passing places and no pedestrian facilities. He therefore initially recommended that no further development in the general area should be approved until such time as a Development Brief had been prepared to co-ordinate and define the measures required to enable future development. However, following further discussions, the **Area Roads Manager** has accepted that this argument may be difficult to now sustain and therefore recommends the imposition of standard conditions, relating to, service bay, visibility splay, and parking provision, if the application is approved.
16. **Highland Council's Principal Planner** has advised that the applicant sought pre-application advice. Taking account of the applicant's situation and the history of development at Parkhead Croft, the solution discussed was based on the existing sub-croft to the west of side of the Parkhead, being further re-organised with the original house allocated to Croft 20 renouncing tenancy and being allocated land elsewhere on the croft and then planning permission being sought for a new house for Croft 20. Having regard to Government, National Park Authority and Council support for crofting and the development of new crofts, he feels that, given adequate safeguards, the development now proposed could satisfy policy tests. The safeguards would be that Croft 20 and any new house must remain in the same ownership and that the house site and Croft 20 could only be sold to a person or persons approved by the Crofters Commission from its list of satisfactory potential new entrants to crofting. This would need to be secured by a S75 agreement.
17. **The Crofters Commission** have provided a detailed response. They have confirmed that the proposal is to secure outline planning permission to erect a new house on the croft to prepare the croft for letting on the open market. They have confirmed that Croft 20 is registered as a distinct, but vacant, croft in the Register of Crofts

(C/10500), owned by the applicant. By making the application the owner can specify where the development takes place. When considering applications for houses, the Crofters Commission look firstly at the crofting requirements, then the family requirements and finally the community requirements. In all cases they address these issues in their assessment of crofting need. In this case it is difficult to assess the crofting need at this stage because the new crofter for Croft 20 is unknown and therefore no croft improvement /development plan is available. The Commission is keen to see crofts occupied and where necessary to achieve this aim they will normally support the need for a new croft house.

18. As the landlord of a vacant croft, the applicant has three options available to him. He can work the croft himself, he can sell his landlords interest in the croft or he can let the croft under crofting tenure. Letting the croft is the preferred option in this case. As a crofting landlord, the applicant will be providing **only** the land and it will be for the new tenant to provide all the improvements necessary to work the croft, including the building of a **single** house. The Commission is aware of the family situation and the possibility of one of the applicant's daughters potentially losing her existing house at Parkhead. If this was the case, it would be difficult for an outside family to integrate into the existing cluster of houses owned and occupied by the applicant and his family. Any solution to maintain the family unit situation at Parkhead is therefore welcomed.
19. In conclusion, the **Crofters Commission** state that is very rare to have a croft offered on the open market for let in the National Park area. They therefore are keen to support opportunities to release crofts from multiple occupation or to create new crofts to meet the demand from individuals wishing to enter crofting. They feel this is an excellent opportunity for a new entrant and the more the landlord does to ensure the croft is properly developed the better. To this end they welcome and support the proposal and they will be encouraging the applicant to advertise the opportunity locally so that local interested parties can apply. The Commission administers the Croft Entrant Scheme which provides help for new croft entrants to prepare and implement a development plan suited for their croft. As part of the information held on the scheme they maintain a register of individuals interested in securing the tenancy of a croft. There are currently 385 listed for the whole of the crofting area with 10 specifying that they are looking for a croft within the National Park area.
20. **Dalnain Bridge & Vicinity Community Council** have advised that this proposal raises very serious concerns with them. Parkhead Croft consists of three sub-crofts. Together these originally covered an area of 18.324 acres. Much of this has now been used for house sites for the applicant and his children or for selling off. They state that in relatively recent times, Highland Council granted permission for the houses for the family members because the applicant made a very

strong case for having his family live on the croft in order to help in the running of the croft enterprise. A further application for a house on Croft 18 was refused by the Council and dismissed at an appeal. Croft 20 is the only part of Parkhead Croft left clear of house sites and is arguably therefore the most productive area. The **Community Council** do not find themselves in a position to support the application, on the basis there is already serious overdevelopment; there is a S75 preventing any further development on the croft, other than that of an agricultural nature; the area is not zoned for this type of development in the Local Plan; and further development would not constitute appropriate land use and therefore not be in the interests of good crofting practice. **A copy of this response is attached to the report.**

REPRESENTATIONS

21. Apart from the letter from the Community Council, no other representations against the development have been received. However, the applicant has submitted a response to the Community Council's letter and the Area Roads Manager's original consultation response. There is also information in support of the application in relation to the crofting issues, the need and justification for the house. **Copies are attached to this report.**

APPRAISAL

22. The principle issue here is the acceptability of the principle of another house on this croft in relation to planning policy, the National Park Plan, and crofting land management need. Following on from this, are the issues of siting, design and precedent, and access and drainage provision.

Principle, Planning Policy and Need

23. As can be seen from the planning history, this croft has been the subject of considerable development pressure for new houses over the last 18 years or so. It is the case that there are now 9 houses (although one is dilapidated) on the original croft. Six of these are in the control of the applicant, his immediate family, or other relatives. A recent application for another house on the croft was refused and an appeal dismissed. While these provide a useful context to the background of the current application and the development of the overall croft, only a few issues of relevance to the current application, arise from this.
24. The first is that the last application to be submitted by the applicant was for a new house on a site adjacent to the road but on Croft 18. This was not submitted on the basis of crofting need and also lay within an area which is covered by a different policy (Policy 4.11.1.) in the Local

Plan. This different policy acknowledges that there is scope for housing development in a strip of land on the south east side of the road, subject to meeting siting and design criteria including frontage size, adequate spacing and orientation. The applicant did not put forward any crofting land management justification for this application and as such, the Crofters Commission did not provide such strong support. The justification for this application was to raise capital to help buy-out the applicant's daughter's ex-partner. The application was refused and an appeal dismissed, because of the loss of further better in-bye croft land, but primarily because of the failure to comply with the criteria contained in Policy 4.11.1, and the precedent it would set for further low density suburban development in the area. This application has some relevance to the current application but only in the respect that the current application will still involve the loss of inbye croftland, and that the applicant's primary justification is still to raise capital to help his daughter's housing situation. This personal circumstance though, cannot be given any direct material weight. Nevertheless this time, there is a croft management need and strong support from the Crofters Commission. As previously stated, the Local Plan land use policy area is also different in the current case.

25. The second matter of relevance from the history is that there is an existing S75 agreement on all the land at Parkhead Croft. This prohibits further development on the croft, other than for essential agricultural purposes, and was completed in 2005, following the approval of the three house application. This was designed to prevent further unjustified building on the croftlands and reflected the circumstances and pressure for development at that time. This prohibition remains in place and covers Croft 20. If approval, is given to the current proposal, the terms of this S75 would need to be revised by Highland Council and the applicant.
26. Apart from these issues, the fact that there are 9 houses on this croft now, does not carry any significant material weight. The main consideration is that, notwithstanding how it has been achieved, Croft 20 is now a distinct, separate, registered, vacant croft of 1.3 Ha (or thereby) size. It is to be offered for let on the open market and having permission for a house will obviously aid the process of encouraging interest. As the Crofters Commission have confirmed, this provides a unique opportunity for someone to enter into crofting. They fully support the application in the interests of promoting croft management, in line with the Crofting Acts.
27. So how does this relate to planning policy and the National Park Plan? Where a new house is proposed in countryside areas, land management justification, in the form of supporting evidence of on-site need, is often required. However, existing Highland policy on crofting states that it is recognised that a degree of flexibility is required because of the generally part-time nature of crofting. Applications based on a crofting basis, need only be supported by confirmation from

the Crofters Commission of the need. In this instance, because the potential tenant of Croft 20 and therefore the occupier of the new house is not known, a particular development plan for crofting activities for Croft 20 is not available. Any potential entrant will though work closely with the Crofters Commission to develop this. While acknowledging the concern of the Community Council, my conclusion on the need, is that, with the level of Crofters Commission support, and the fact that Croft 20 is a distinct vacant registered croft, it is difficult to put forward a case to resist the principle of a house, provided there is a S75 agreement to ensure that the new house is tied to Croft 20 and occupied by someone involved in the operation of Croft 20. The applicant, as the landlord, has agreed to this. This provides a burden on the land which will be transferred to the potential tenant.

28. The other matter here is that the site is located on better in-by land where Local Plan land use policy provides a safeguard (Policy 4.13.1). Despite the fact the previously refused application on Croft 18, lay within a different policy area, the loss of inbye land was put forward in the reasons for refusal. In this respect, the current application is no different. However, the policy does not say from what the better inbye land should be safeguarded. The previous application was not land management based. As stated above, this one has that justification and I therefore take the view that where there is the justification and Crofters Commission support, the principle of a new croft house, does not provide a conflict with Policy 4.13.1. In addition, the site of the house itself, as shown on the submitted plan, is a small percentage (under 5%) of the inbye land associated with Croft 20.
29. Finally, the National Park Plan encourages the continued development of crofting. It states that crofting helps to maintain people living in such rural locations and forms part of the land-use pattern. It also provides opportunities for small-scale and part-time land management and production. I consider therefore that the provision of a house to serve Croft 20 in this instance falls in line with Park Plan objectives in this respect.

Siting, Design and Precedent

30. The application is made in an outline format only. The design of the house will be the subject of a further Reserved Matters application. However, a condition can be imposed to ensure that the house generally respects a form and appearance appropriate for this rural location.
31. The site itself, while located centrally within the land associated with Croft 20, is quite well contained with woodland on all sides except for the roadside boundary. I therefore do not consider that there is a wider landscape impact concern. The issue though is, does this disrupt the settlement pattern which, at this location, is, apart from one adjacent to the site on the north east side, houses on the opposite side of the road.

My view is that it does introduce a new element to the settlement pattern but because the site is contained, and detached from other more open land further to the south west, I do not consider this to be a significant concern. In this respect, nor does it act as a precedent for others on this side of the road.

Access and Servicing

32. The Area Roads Manager has now withdrawn his initial concern about this proposal adding to further development along this road, which he considers to be generally substandard for the level of development it serves. Public drainage and water is available and any concerns within the network are not matters that can be used to prohibit development that is otherwise considered to be acceptable. Permissions will still be needed independently from Scottish Water for connections.

Conclusion

33. While it is accepted that Parkhead Croft has a complex development and croft sub-division history, I can find no sustainable reason, in planning policy terms, to resist the proposal. The recommendation is therefore one of approval.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

34. The site does not carry any significance in terms of natural or cultural heritage designations. There will be no adverse impacts on the wider landscape setting of Skye of Curr.

Promote Sustainable Use of Natural Resources

35. Being an outline application, there are no significant implications for this aim.

Promote Understanding and Enjoyment of the Special Qualities of the Area

36. There are no implications for this aim.

Promote Sustainable Economic and Social Development

37. Croft 20 is registered as a distinct but vacant croft. Permitting a house to serve the operation of the croft, is considered to be generally positive for this aim.

RECOMMENDATION

38. That Members of the Committee agree to:

GRANT, Outline Planning Permission for the Erection of a Dwellinghouse, Land 62m SW of Parkhead Croft, Skye of Curr, subject to:

- a. **prior to the issuing of any planning permission, completion of a revision, by Highland Council and the applicant, to the existing S75, prohibiting development other than that essential for agricultural purposes, on Parkhead Croft;**
 - b. **prior to the issuing of any planning permission, completion of a new S75 agreement ensuring the house is occupied by a person working Croft 20, and which does not permit the house to be disposed separately from Croft 20; and**
 - c. **the following conditions;**
1. **A formal planning application and detailed plans indicating all matters relating to the siting, design and external appearance of all buildings, means of access thereto, means of enclosure and landscaping proposals 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 dwellinghouse hereby approved shall be of a traditional architecturally sympathetic design for a rural area, in respect of the building form, detail and finishing materials.**
 3. **Prior to the commencement of any other work commencing on site, a standard combined access/service bay shall be formed at the access to the site. Construction for at least the first 6m of the new access measured from the nearside edge of the public road shall consist of a minimum of 40mm thick Close Graded Wearing Course on 60mm Dense Basecourse on a minimum thickness of 350mm Type 1 sub base, all on a sound formation.**
 4. **The gradient of the access shall not exceed 5% for the first 5 metres and thereafter shall not exceed 10%.**
 5. **Any walls or fencing shall be set back at least 1m from the rear of the combined access/service bay.**
 6. **Prior to the commencement of any other work commencing on site, visibility splays shall be provided and maintained on each side of the**

access. These splays are the triangles of ground bounded by the first 2.5metres along the centreline of the access road (the x dimension) and the nearside edge of the main road (the y dimension) measured at least 90 metres in either direction from the intersection with the access road. Within these splays, nothing shall obscure visibility between a driver's eye height of 1 metre positioned at the x dimension and an object height of 1 metre anywhere along the y dimension.

7. Any gates that are provided shall be set back at least 3 metres from the edge of the public road and shall only open into the property.
8. Prior to the occupation of the dwellinghouse hereby approved, parking and manoeuvring space for at least 2 no. cars shall be provided within the curtilage of the property such that each vehicle may enter and leave the site independently in forward gear.
9. No surface water shall discharge on to the public road.

ADVICE NOTES

1. The applicants are advised that prior to any work of excavation or surfacing starting within 2 metres of the public road edge, a road opening permit shall have been obtained from Highland Council as Roads Authority.
2. The applicants should note that this planning permission is also the subject of a Section 75 Legal Agreement. It should therefore be read and implemented in conjunction with the terms and conditions of the agreement.

Neil Stewart

24 April 2008

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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.