
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

Prepared by: ANDREW TAIT, PLANNING OFFICER
(DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: FORMATION OF A NEW DWELLINGHOUSE BY SUBDIVISION AND EXTENSIONS AT COULNAKYLE COTTAGE, BY NETHYBRIDGE

REFERENCE: 04/333/CP

APPLICANT: ALAN BERRY, C/O MMA ARCHITECTS,
1 HUNTLY STREET, EDINBURGH
EH3 5NB

DATE CALLED-IN: 16 JULY 2004

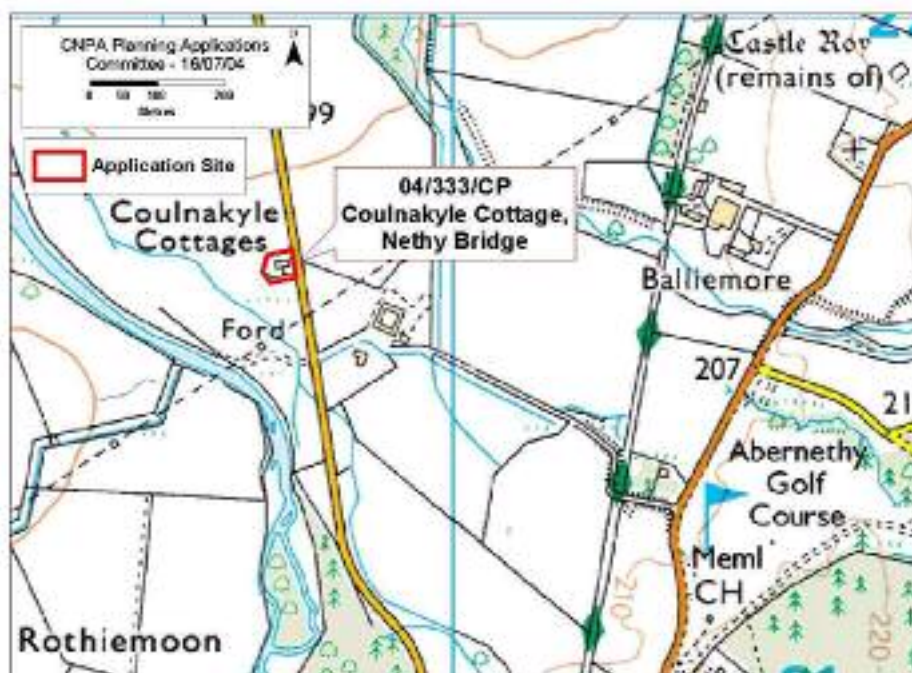


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The application is for extensions to Coulnakyle Cottage to create an additional dwelling. The site is located in open countryside on the west side of the minor, Nethy Bridge to Broomhill Station road and to the south of the River Spey. Coulnakyle Cottage itself was originally 2 semi-detached properties, which in May 2000 were amalgamated into a single house. This application originally proposed a large extension at one end of the pair of cottages to provide an entirely new house, the design was considered to be unsympathetic and to be out of balance with the existing traditional character and symmetry of the former cottages.
2. The existing building is a single storey, long rectangular, pitched roof building with full gables at each end. There are minor low-pitched extensions on the northern elevation. Coulnakyle is currently a second home, the resulting house from this application would be likely to be sold on the open market.
3. The proposed access from the public road is as it exists and will be shared between the 2 properties, each property having 2 parking spaces and the ability to turn vehicles within the curtilage.
4. As a result of the concerns raised in paragraph 1 a revised proposal has been negotiated which essentially constitutes a pitched roof extension to each end of the former cottages that results in more of a courtyard shaped footprint. The dividing line between the resulting properties would revert back to the original division down the centre of the building.
5. Drainage for the properties will be by septic tanks and percolation tests have taken place to ensure satisfactory drainage.
6. **At the Planning Committee meeting in January this application was deferred. Members had concerns that the site was located in a Restricted Countryside Area and that a new dwelling was being created, albeit by a combination of conversion and extensions. Members requested that a legal view be sought on whether the occupancy of the resulting dwelling could be restricted to a local person.**

DEVELOPMENT PLAN CONTEXT

7. In the **Highland Structure Plan (approved March 2001) Policy H3** states that new housing will generally be within existing and planned new settlements. In such an area, where there are a number of local communities nearby, with land identified in the Local Plan for new housing, eg Nethy Bridge and Dulnain Bridge, the Structure Plan does not support new single houses in the countryside. In such

circumstances, new housing, or the conversion of non-traditional buildings 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. **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).

8. The site lies within the area covered by **Policy 2.1.2.3 for Restricted Countryside Areas in the Badenoch and Strathspey Local Plan (September 1997)**. This policy has a strong presumption against the development of new 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. The site lies near to Nethy Bidge and Dulnain Bridge where sites for new housing have been identified in the Local Plan.
9. Para 2.1.2 sets out that single houses outwith recognised settlements will require to be (a) properly located in harmony with the landscape, (b) compatible in scale and character with local buildings, where appropriate, designed and constructed to a high standard with particular emphasis on proportions, roof pitch, fenestration and selection of materials.
10. 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 any new housing within the open countryside will be exceptional, for example where it is necessary to support the maintenance of rural communities and services.

CONSULTATIONS

11. **Highland Council, Planning Officers** have commented that the existing property until a couple of years ago, consisted of two small cottages and can in the light of this see an argument that the property is being returned to its original status. It was purchased and converted to one larger dwelling (not requiring planning consent). There were concerns about the design of the 'extension'. The proposal is considered to unbalance the existing façade, aggravated by the introduction of dormers. It is not clear if the house is a holiday home or a holiday let, and similarly the intention of the new house is unknown.

Concerns have also been raised about the drainage arrangements on the site.

12. **Highland Council Planning** considers that the amended proposals represent a much neater and attractive architectural solution to the design concerns expressed earlier. The letter points out that drainage issues need to be resolved.
13. **The Area Roads and Community Works Manager**, advises the provision of a combined service bay/passing place at the junction of the access road and the public road, with appropriate surfacing, visibility splays, positioning of (any) gates, parking provision for each of the houses, and drainage measures to prevent any discharges onto the public road.
14. **The Area Roads and Community Works Manager** raised concerns regarding the original layout and a revised layout has been negotiated to allow two parking spaces for each dwelling with turning space for vehicles within the curtilage, a range of conditions are also recommended.
15. **SEPA** Have expressed concern at the proposed drainage arrangements in the application submission. Foul drainage was proposed to utilise an existing tank draining to a watercourse or loch. SEPA have no record of the current property being consented to discharge, and have asked for clarification. Each property will require its own separate foul drainage system. SEPA have indicated a strong preference for land soakaway options to be pursued in this instance as the River Nethy is designated as a Site of Community Importance and SSSI.
16. Subsequently, percolation tests have been provided by the applicant together with a drawing for land soakaway systems and SEPA now has no objection to the drainage measures proposed provided that Building Control are happy with the arrangements. **Building Control** has been consulted and confirms that the details are acceptable.

REPRESENTATIONS

17. No representations have been received.

APPRAISAL

18. There are two main issues to be assessed for this application, firstly the principle of a new house on this site, and secondly the question of the suitability of the design proposed.

19. Although the applicants have described the application as an extension to an existing cottage, the proposal was essentially the erection of a new dwellinghouse. The original proposal of the application was to attach a new house one on end of the cottage resulting in an additional unit in a restricted countryside area. The revisions to the proposal have essentially resulted in the subdivision of the cottage into two along the original line that divided the building into two cottages until a few years ago. Additional accommodation will be provided by extension at each end of the building, essentially representing an extension to each of the former cottages. While there is recognition that the application results in an additional dwelling in a restricted countryside area it is considered that it would be unreasonable to object to the conversion back to 2 dwellings given that the cottages were only recently converted into one (May 2001) and that the character of the building still reads as two dwellings. The method of extending the property essentially represents an extension to the end elevation of each former cottage. This approach is considered entirely reasonable in principle.
20. With regard to the design of the extensions, the applicant has tried to fit in with the general proportions of the existing building and materials are shown to match the existing building and include natural slate. The proposal essentially adds a gable on each end elevation and will add additional visual interest to the building particularly enhancing the north (rear) elevation when viewed from the road.
21. The application was submitted without percolation tests being carried out and Highland Council Building Control Officers and SEPA raised some concerns. Subsequently, the applicant has been advised to carry out the tests, these have been completed and the details have been found acceptable. This should satisfactorily protect the conservation interests in relation to the River Nethy which is located some 160 metres away from the site.
22. **At the earlier meeting members raised concern that a new dwelling was being created in what is a restricted countryside area under the Badenoch and Strathspey Local Plan. Members requested that officers seek further advice from our solicitors and talk to the applicant to see whether a condition, or Section 75 Agreement could be imposed in this case, so that if the proposal was generally acceptable the dwelling could be prevented from becoming a second home.**
23. **The solicitors have looked at this issue and it would be technically possible to apply a condition or Section 75 Agreement to any approval. However, having looked at the circumstances of the case they feel that on balance there are not sufficient material considerations in relation to this scenario which justify planning conditions being imposed or the applicant being required to enter a planning agreement. This view is reached because there is no**

sound policy basis contained within the Highland Structure Plan, or the Badenoch and Strathspey Local Plan to justify such an approach.

24. The above advice does not restrict the options of the Planning Committee should it wish to resolve to grant subject to an occupancy condition. However, the applicant has confirmed that they would not be willing to enter into an agreement and would resist a planning condition by appealing against it. Given this, my view is that the Planning Committee have 3 options. Two of those options would involve either refusing or approving the application. A decision to grant subject to the applicant entering a Section 75 planning agreement would lead to an impasse. However, a third option would be for the Planning Committee to resolve to grant planning permission subject to some form of occupancy condition which would allow the applicant the opportunity to appeal against that condition.
25. The aims of the Park could possibly be used to justify a planning condition, but the legal advice is that while a court may uphold the CNPA's aims as material considerations, this has yet to be tested. On balance the legal advice is that there are not sufficient material considerations, in this case, which justify an occupancy condition being imposed. Because of this, my recommendation is as before to approve the application. Despite the site being in a restricted countryside area, the building was 2 dwellings until recent times, the proposal is essentially part conversion/subdivision of a traditional building (which of itself accords with Policy H3 of the Structure Plan) with extensions, and this approach is thought reasonable by Highland Council Planners. If this application was put forward on the basis of entirely new build I would have no hesitation in recommending refusal. However, in my view the factors outlined above are strong planning material considerations in favour of the proposal which may be likely to be supported by a Scottish Executive Planning Reporter.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

26. The proposal represents an additional residential unit provided in such a manner as to have minimal impact upon the natural and cultural heritage of the Park and will result in the cottage going back to its earlier and quite recent use as two dwellings.

Promote Sustainable Use of Natural Resources

27. There are no details submitted to be able to assess this aspect fully. The roof will be clad with slate.

Promote Understanding and Enjoyment of the Area

28. Not applicable to this application.

Promote Sustainable Economic and Social Development of the Area

29. The proposal involves an additional residential unit in open countryside, which could foster greater reliance upon the private car. However, the site is within a short cycle ride or a 15 minute walk of the services available in Nethy Bridge. **A condition restricting occupancy of the dwelling could be seen to help foster the social and economic development of the Park, but as discussed above is not recommended in this particular case.**

RECOMMENDATION

30. That Members of the Committee support a recommendation to:

GRANT full planning permission for the formation of a new dwellinghouse, at Coulnakyle Cottage, near Nethy Bridge, subject to the following conditions:-

1. The development to which this permission relates must be begun within five years from the date of this permission.
2. Exact details and specifications of all proposed external finishing materials (including roofing materials) shall be submitted for the further approval of the Cairngorms National Park Authority acting as Planning Authority before any work commences on site. The development shall be implemented in accordance with those approvals.
3. The parking shall be provided in a manner to allow all vehicles to enter and exit the site independently in forward gear. The parking and turning layout shall be in a finished condition to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority in consultation with Highland Council Area Roads Manager prior to the first occupation of the building as two dwellings.
4. Prior to any other work starting in connection with the proposed development a combined access bay/passing place as per the attached sketch shall be provided at the junction of the access point and the public road. Construction shall consist of a minimum of 40 mm thick close graded wearing course on 60mm dense basecourse on a minimum thickness of 350 mm Type 1 sub base, all on a sound formation, for a distance of at least 6 metres from the nearside edge of the public road.

5. The entire roadside frontage of the site shall be kept clear of obstruction for a depth of at least three metres from the nearside edge of the public road and within this area no structures, trees or shrubs shall be placed exceeding a drivers eye height of 1 metre at centre line of the resulting access lane.
6. Any gates to be provided shall be set back at least 1 metre from the rear of the service bay and shall open into the property only.
7. No walls fences, trees or other shrubs shall be established within 1 metre of the rear edge of the service bay passing place.

ADVICE NOTE

No water shall discharge onto the public road and the applicant shall be responsible for the provision of any measures necessary to prevent road water entering the site. Such measures shall be to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority in consultation with Highland Council Area Roads and Community Works Manager.

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30 May 2005