
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

Prepared by: NEIL STEWART (PLANNING OFFICER, DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: ERECTION OF DWELLINGHOUSE, GARAGE, AND ONE PRODUCE GROWING HOUSE, LOT 8, DRUMUILLIE, BOAT OF GARTEN (FULL PLANNING PERMISSION)

REFERENCE: 04/152/CP

APPLICANT: MR. & MRS N. MACGEOCH, MULLINGARROCH COTTAGE, BOAT OF GARTEN, PH24 3BY

DATE CALLED-IN: 26 MARCH 2004



Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The site to which this application relates is located on the south side of the A95 on croft land, within the loose grouping of houses and buildings known as Drumuillie which lies to the north of Boat of Garten. The croft extends to approximately 2.12HA (5.24 acres) and was formerly part of a larger croft. The croft is bounded by the A95 to the north, an access track and rising agricultural land to the south and rough uncultivated ground which extends towards the Drumuillie Saw Mill to the west. At present the site is heavily treed with only the south west corner, which is lower in level, cleared. This area was cleared and levelled by the previous croft owner who used it as an area for jumping horses. Several houses run along the south side of the A95 to the east of the site. There are also some houses to the north across the A95.
2. The proposal comprises two elements. The first is to construct plastic covered produce growing houses on the land which has been cleared and partly excavated in the south west corner of the croft. In total, there are to be three growing houses built but two have already been approved by Highland Council under a previous Prior Agricultural Notification. These have not been constructed yet. The third growing house, which will adjoin the other two, is considered under this planning application. It could not be dealt with under the Prior Agricultural Notification process because the total floor area of the growing houses exceeds the limits that can be dealt with under this procedure. The growing house being considered under this application is to adjoin and match the other two, and is 8m by 26m in size with an arched profile. It is stated that the surface water from the growing houses will be channelled so that it can be used as part of the proposed irrigation system.
3. The growing houses are to be used to grow soft fruit, bush fruit and asparagus on a commercial basis. The applicant has submitted a statement which explains the applicants experience in the horticultural industry. There is also a business proposal. These reports are attached to this report. In addition to the horticultural enterprise on the croft, the applicants intend to apply for a sheep quota, with a view to renting part of a neighbouring croft for grazing, or apply to become a shareholder in some common grazing.
4. The second element of the proposal is the construction of a 4 bedroomed house for the applicants and their family (3 children). The house is proposed in a central position on the croft on an area which is higher than and therefore overlooks the proposed growing houses. There is also to be a detached garage with pitched roof and storage space in the attic floor. A new track will be formed to access the house from the existing track which leads from the A95. Several trees (it is stated 6 for the house) will be felled. However, the applicants propose to retain virtually all the trees on the croft. They have also already planted some additional deciduous trees/hedging along most of the northern boundary of the croft adjacent to the A95. The house is to be on two floors and will be finished in slate and vertical timber cladding. A chimney will be constructed externally in random rubble stone. A decking area is also proposed surrounding the front (south west facing) elevation.

DEVELOPMENT PLAN CONTEXT

5. **Highland Structure Plan (approved March 2001) Policy H3** 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. This is to strengthen the role of the existing settlements and to safeguard the character of the countryside for both residents and visitors. In areas where communities are experiencing difficulty in maintaining population and services some housing may be acceptable. **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 compatibility with service provision (water and sewerage, drainage, roads, schools, electricity); accessibility by public transport, cycling, walking and car; maximisation of energy efficiency in terms of location, layout and design (including the utilisation of renewable energy sources); and impacts on resources such as habitats, species, landscape and cultural heritage. **Policy A2 (Farm Income Diversification)** encourages proposals for the diversification of farm incomes through adding value to products and through non-farming enterprises. **Policy B7 (Business Development in Rural Areas)** encourages small-scale business development in rural areas.
6. The site lies within an 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, and adherence to the principles of good siting and design will be required. **Policy 2.1.2. (Housing in the Countryside)** states the single houses outwith recognised settlements will require to be, compatible with the scale and character of local buildings where appropriate, properly located in harmony with the landscape, and designed to a high standard with particular emphasis on proportions, roof pitch, fenestration and selection of materials. **Policy 2.2.1(a) (Economic Development)** encourages new economic development where this is consistent with the maintenance of a clean environment. **Policy 2.2.1(b) (Agricultural Diversification)** encourages diversification, innovative land management and development schemes, embracing specialised farming and other businesses, small woodlands, tourist and recreational provision. **Policy 2.5.4. (Woodland and Trees)** protects existing trees and established woodland areas which are important landscape, wildlife and amenity features of the countryside.
7. 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 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 where 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). In certain areas, some housing in the countryside may be permitted to support the viability of rural communities experiencing difficulties in maintaining population and services. For justification based on croft management it is recognised that a degree of flexibility will be required, for example, in such circumstances it may not be possible to sustain full time employment and this will be taken into consideration. Any application for a house associated with crofting should be accompanied by confirmation from the Crofters Commission of the bones fides of the crofting application.

CONSULTATIONS

8. **The Boat of Garten and Vicinity Community Council** have no objection to the proposal.
9. **The Area Roads and Community Works Manager** has stated that, from an area roads perspective, provided safe access and egress will be available for a larger emergency vehicle, between the trunk road and the site, they have no objections.
10. **The Scottish Executive Trunk Roads Network Management Division**, following receipt of information from the applicants about the nature of the commercial aspect of the development in relation to vehicle movements, types and times, do not require the imposition of any conditions, or propose to advise against the granting of permission.
11. **The Crofters Commission** have advised that their records show the owner of the croft to be Mrs. C. MacGeogh who lives with her husband and family in unsecured, temporary rented accommodation in the area. They state that, when considering planning applications for crofter housing, they look at the crofting requirements, the family requirements, and then the community requirements, in that order. In this instance, they state that the applicants proposed horticultural business activity requires intensive husbandry including multiple and daily inspections during the growing season. The crops are of a high value and security is important to prevent pilfering of crops. As such, they recognise the need for a new house on this croft and consequently they support the application.
12. At our request, the applicant has carried out percolation tests to assess the suitability of the on-site ground conditions for the installation of a septic tank and soakaway foul drainage system. **SEPA** have noted that these test results indicate good permeability, although at the bottom end of the scale. They also note that the winter table has not been established. However, they raise no objections provided the proposals meet the Building Regulations and that Building Control Officers are satisfied. With regard to the small burn which traverses part of the croft, they wish to see the imposition of a condition preventing culverting, channelising, diversion or other engineering operations on the burn.

13. **Highland Council's Building Standards Co-ordinator** has confirmed that the results of the percolation tests indicate a satisfactory percolation value and that there is space on the site to accommodate the soakaway without breaching required distances to watercourses, site boundaries or buildings. He therefore has no objection to the foul drainage proposals.
14. **The CNPA's Head of Economic and Social Development** has advised that the applicant has a successful track record in running similar operations and that Mr. N. MacGeogh was formerly a business advisor for the Rural Development Commission. This provides a degree of comfort in this respect.
15. **The CNPA's Access Officer** has advised that the access track from the A95, which runs the whole length of the south east boundary of the croft and provides the access to the development, forms part of an old military road which runs between Drumuillie and Boat of Garten. Beyond the site the route is still visible as it passes through grazing land, but it has fallen out of use, apart from occasional use by locals. It is stated that the route is still of importance to the community where it is recognised for its potential to offer a decent off road link to Boat of Garten avoiding the hazards of the A95. In 2000, a community "wish list" survey indicated that there was considerable support for turning this old route into a proper footpath link between the two communities. From the perspective of the CNPA, they state that this is just the sort of route that it may be desirable to reinstate as a path, offering as it does the possibility of a safer, more attractive link between the communities, and utilising an existing, albeit defunct route. It is important that the option to reinstate the route is kept open and that the developer is made aware that this option may well be explored in the future. The applicants have confirmed, in writing, that they are aware of the importance of the track as a historical route and that there are no alterations to its use in their proposals. They will not impede its use by walkers or any other legitimate users. The Access Officer is content with this as long as there is some provision in terms of a condition or Section 75 Legal Agreement for keeping the route open.
16. **Scottish Water** have advised that off site works may be required to effect a connection to the public water supply. Further to this, the applicants have confirmed that they have agreed a connection to the public water supply for both the business and house developments.

REPRESENTATIONS

17. The application has attracted one letter of representation. While not objecting to the proposal, the writer wishes to ensure that the house proposal is legitimately required for overseeing the business and that the business is not just an excuse to get a house in the countryside. There is also a concern about the access track and how and if it will be retained as a potential footpath route from Drumuillie to Boat of Garten.
18. A copy of this letter is attached to the report.

APPRAISAL

Principle of Business

19. Part of the proposal is to create a horticultural enterprise. In general terms, the principle of this type of business is deemed to be acceptable and appropriate in countryside areas. The use of land for the commercial growing of soft and bush fruits etc. is seen as being sustainable in its use of the natural resources of this part of the Park. A Prior Agricultural Notification to Highland Council for two of the three proposed growing houses has already been successful and while these have not been constructed yet, the principle of having this form of rural enterprise has been, to a degree, established. The site for the business forms part of established croft land where planning policies within the Structure and Local Plans encourage agricultural/crofting diversification in order to help sustain the viability of these traditional, rural land-based operations. Viability of any business is often an issue and the business proposal states that in Year 1, the net profit is envisaged at £18,650. This is, however, purely indicative. The CNPA's Head of Economic and Social Development has advised that the applicants have a successful track record in running similar but larger operations. This, plus the fact that Mr. MacGeogh was a former business advisor for the Rural Development Commission, he says, provides some reassurance about the viability of the project. The business proposal report also states the markets for the products, which include farmers markets, wholesalers, retail outlets, and others such as summer fetes, open days and local people. On the basis that the principle of establishing the commercial element of the development does not offend planning policies, and that it will provide a land-based business which represents agricultural/crofting diversification, it is supportable in terms of the economic development of this part of the Park.

Principle of House

20. The applicants currently reside in unsecured, temporary rented accommodation at a location away from their croft land. They wish the proposed house on the basis that they will be undertaking the horticultural operation as well as the more traditional crofting business of some sheep grazing. The Crofters Commission are fully supportive of the applicant's proposal for a house in order to operate the croft and the horticultural business. The business proposal report states that soft fruit is susceptible to frost regardless of where it is grown, and at specific times of the year, especially in the spring and early summer. If they are not protected and monitored at all times, day and night, then damage to the crop can occur. There is also a high labour input over a long working day and work is required for almost the whole year. In addition, there is the aspect of security for what can be high value crops. This is especially so, because of the site's position immediately adjacent to the track, which is required to be left open for the use of walkers etc. On the basis of the functional requirements of the horticultural business, albeit modest in scale, coupled with the fact that this is a registered croft, I am satisfied that there is a justifiable site specific land management need for a house on the site which complies with Structure and Local Plan policies.

However, it is necessary to ensure that the occupancy of the house is linked to the croft and the horticultural business. In this respect, the applicants are agreeable to the imposition of an occupancy condition. In addition, to ensure the timeous development of the business in relation to the provision of the house, it is appropriate to impose a condition that the construction and initial commencement of the business elements, are carried out prior to the occupation of the house.

Landscape Impact and Design

21. The croft is characterised by mainly birch woodland, although there are also some coniferous trees. This wooded character is not only important to the overall visual quality of the immediate area but it is necessary for providing a landscape context for the development. The site is located immediately adjacent to the A95 and without the tree cover, the development would become visually prominent. The applicants wish to retain this wooded context because it will protect their own amenity and it will provide a practical advantage in that it will shelter the growing houses from the wind. The “plasticizing” of the countryside is something that can cause concern and in many cases, “polytunnel” type structures can be visually obtrusive in countryside landscapes. However, in this instance, they are located in a low lying part of the site, which is screened by the trees to the north, west and east, and by the steeply rising agricultural ground to the immediate south. The house is sizeable in itself, and it is on higher lying ground. There will also be tree felling carried out to allow for its construction. It may also be visible from longer views towards the site from the south west and south east. However, the house will be viewed within the wooded context and it will therefore be related to existing landscape features. There are no natural heritage designations on or near the site, and provided conditions are imposed which require the retention of all trees except those that are required to be felled to allow the buildings etc, I am satisfied that there will be no significant visual or landscape impacts which would contravene any planning policies.
22. Following some negotiations, the design of the house has been amended. The timber cladding for the walls has been changed from horizontal to vertical and the chimney is now to be constructed in stone as opposed to brick. The sunroom design has also been amended, as have some of the window configurations. The original design also had a significant amount of external timber decking on three sides of the house. However, this has now been reduced to just one side. These changes have improved the design and within this wooded context, although visible from some directions, I feel that the proposal is acceptable from a sustainable design point of view.

Access and Drainage

23. Initially, the roads engineers at the Trunk Roads Division required further information about the level and types of traffic movements into and out of the site. The applicants have confirmed that they have no intention of selling directly to the public from the site. All sales will be made to local businesses and farmers markets by delivery using their own vehicles. This will minimise

the amount of traffic movements involving the A95. On this basis, Trunk Roads are now content that there will be no implications for the safety of users of the A95 or the proposed access. They therefore have no objections to the development.

24. As far as drainage is concerned, following receipt of the percolation tests, both SEPA and Highland Council's Building Control Service are content that there will be no pollution as a result of the development. A ditch traverses part of the site. However, the proposed soakaway will be located a sufficient distance away.
25. The applicants have confirmed that they have no intention of restricting continued access along the track which serves the site. Its retention as a through route for walkers etc is viewed as being historically important and it is hoped that at some point in the future this route between Drumuillie and Boat of Garten can be formalised. Provided that a condition is imposed, the development will not prejudice this.

Conclusion

26. Although the site lies in a Restricted Countryside Area, I am satisfied that, with appropriate restrictions on occupancy of the house in perpetuity, there is a justification for this development on what is a registered croft. The matters raised by the representation are considered relevant planning considerations but they are addressed by the proposed restrictions and conditions on the planning permission, and by the applicants statements of agreement to these conditions. There are no planning policy contraventions.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

27. The development will involve some tree felling and the house will be visible from some viewpoints. However, there are no designations on the site and the tree felling is limited in terms of the number of trees that will be retained. The retention of as many trees as possible is important to the setting of the development and conditions will provide planning control. There are therefore no significant adverse implications for the natural heritage of this part of the Park. The retention of the historical route between Drumuillie and Boat of Garten for future recreational use is positive in terms of cultural heritage.

Promote Sustainable Use of Natural Resources

28. The proposal for the horticultural enterprise can be seen as being generally positive in terms of promoting the sustainable use of the natural land resources at this location. A large part of the house is to be finished in timber wall cladding and again this is positive in terms of the use of renewable materials.

Promote Understanding and Enjoyment of the Area

29. The development does not create any direct implications for this aim. However, maintaining the use of the access track for the possible future formalisation of a footpath link between the Drumuillie and Boat of Garten communities is necessary in order to promote the continued enjoyment of the area. The applicants willingness to allow this is positive in terms of this aim.

Promote Sustainable Economic and Social Development of the Area

30. The proposal represents diversification of crofting uses which are part of the social and economic fabric of this part of the Park. The development of this land based business will add to the economic growth of the community by providing a service to local businesses and markets.

RECOMMENDATION

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

Grant Full Planning Permission for Erection of Dwellinghouse, Garage and One Growing House, at Lot 8, Drumuillie, Boat of Garten, subject to the completion of a S75 Legal Agreement which restricts the occupancy of the dwellinghouse to someone working the croft and the horticultural business, and which does not permit the dwellinghouse to be disposed separately from the croft, at Lot 8, Drumuillie, and the following planning conditions:-

- i. The development to which this permission relates must be begun within five years from the date of this permission.
- ii. That the growing houses shall be constructed and the horticultural business commenced prior to the occupation of the dwellinghouse, unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority.
- iii. That, unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority, products from the horticultural business, shall not be sold directly from the site.
- iv. That from the date of this planning permission, only those trees required for the construction of the dwellinghouse, growing houses, garage, parking and turning area, access track, and water supply and drainage proposals, shall be felled on the site. Prior to the commencement of development on site for the construction of any of these proposals, the trees which are required to be felled, shall be marked, and the Cairngorms National Park Authority acting as Planning Authority, shall be informed, in order that a further site inspection can be carried out and written approval given for the felling of these trees.
- v. That, unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority, from the date of this planning

permission, the access track running along the south east boundary of the site, shall be kept free from any obstructions, and retained for the use of the public as a through route, at all times in the future, including during the construction of the development.

- vii. That prior to the commencement of works on the vertical timber wall cladding for the dwellinghouse, exact working drawings and specifications for the detailing of these works shall be submitted for the further written approval of the Cairngorms National Park Authority acting as Planning Authority. In addition, a sample panel of the proposed stain finish for the wall cladding, shall be prepared for the further written approval of the Cairngorms National Park Authority acting as Planning Authority, prior to the commencement of these works.
- viii. Notwithstanding the details shown on the approved drawings, the garage hereby approved shall be finished in slate, and stained vertical timber boarding, with timber garage doors, all to match the finishes on the adjacent dwellinghouse.
- ix. That, unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority (following consultation with SEPA), the existing small burn which enters and crosses the site from the north boundary to the west boundary, shall not be culverted, channelised, diverted or be the subject of any other engineering operations, at any time.

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29 November 2004
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