
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: FULL PERMISSION FOR THE ERECTION OF A DWELLING HOUSE ON A SITE 54 METRES EAST OF CORARNSTILBEG FARMHOUSE, KINGUSSIE

REFERENCE: 07/239/CP

APPLICANT: MR. & MRS. M. SLANEY, FORMERLY C/O PAUL DEVLIN ARCHITECT

DATE CALLED-IN: 15 JUNE 2007

RECOMMENDATION: REFUSE



Fig. 1 - Location Plan

BACKGROUND TO THIS REPORT

1. This planning application was 'called in' by the Cairngorms National Park Authority on 15th June 2007. The description of the application originally referred to full planning permission being sought for the erection of a replacement dwelling on land at Coraranstilbeg near Glen Feshie. The new dwelling house was proposed on land 54 metres to the east of the original farmhouse on the 136 hectare landholding. Based on information provided by the applicant the farmhouse was last inhabited in the 1970's. It has lain uninhabited since and has fallen into a state of considerable disrepair, with significant structural defects which would render any rehabilitation works very difficult. Having regard to the considerable period of time which had elapsed since the last occupation of the dwelling house, its use as a residence was considered to have ceased. On this basis, the development proposal was not considered to constitute a replacement dwelling house, but instead represented a proposal for a new dwelling house.
2. The proposed site is on land identified in the Badenoch and Strathspey Local Plan (1997) as a Restricted Countryside Area, where planning policy (section 2.1.2.3) states that there will be a "strong presumption against the development of houses" in such areas. Exceptions will only be made where a "house is essential for the management of land, related family and occupational reasons."
3. A case was advanced by the applicants, Mr. and Mrs. Slaney, to demonstrate that the proposal warranted consideration as an exception to the general presumption against housing in a Restricted Countryside Area. A planning report was subsequently prepared and considered by the CNPA Planning Committee at the meeting of 27th July 2007. The Planning Committee resolved to grant permission, subject to the completion of a Section 75 Legal Agreement restricting the occupancy of the new dwelling house to the applicants or any person employed (or last employed) in land based management activity on the 136 hectare landholding on which it is proposed, and restricting the sale of the dwelling house separate from the landholding. The resolution to grant planning permission was also subject to a number of conditions, including a requirement that the existing abandoned farmhouse would be demolished prior to the commencement of development of the new dwelling and that any salvageable material be re-used on the farm.
4. The process of preparing the Section 75 Legal Agreement commenced shortly after the resolution of the Planning Committee. Whilst it is usually the procedure that Ledingham Chalmers solicitors act on behalf of the CNPA in preparing a draft agreement, in this instance the applicants took a proactive approach, and instructed the solicitor acting on their behalf, to prepare a draft agreement in September 2007. The draft document was subsequently amended by the CNPA's representatives¹ to ensure consistency with other similar legal agreements which had been previously executed and also to accurately reflect the resolution of the CNPA Planning Committee. Despite

¹ MacArthur and Company, Solicitors and Estate Agents, 7 Ardross Street, Inverness, IV3 5PL.

the applicants' early activity and involvement in this element of the process, Mr. and Mrs. Slaney have since failed to sign the Legal Agreement.

5. Ledingham Chalmers contacted the applicants solicitors on a number of occasions in 2008 in an effort to ascertain the applicants intentions with regard to the Section 75 Legal Agreement. Mr. and Mrs. Slaney's solicitor advised that they were awaiting instructions from their client. Having regard to the period of time which had elapsed since the CNPA Planning Committee resolved to grant planning permission in July 2007, further efforts were made by CNPA planning officials during the course of 2009 to progress the matter.
6. In March 2009 CNPA planning officials wrote to Mr. and Mrs. Slaney and also wrote to the planning agent who had acted on their behalf, regarding the status of the Section 75 Legal Agreement and querying whether or not it was intended to withdraw the application. The planning agent, Paul Devlin Architect, indicated that he was no longer acting on behalf of the applicants and in a letter dated March 12 2009 stated that it was his understanding that "the applicant may not wish to proceed with the agreement and / or the planning application." Mr. Devlin also provided details of the last known address of the applicant in Newtonmore, in an effort to facilitate direct communication between the CNPA and the applicants. A letter was also received from MacArthur and Company, Solicitors and Estate Agents for the applicants on 31 March 2009. The letter stated that they "are not in a position to advise at present whether it is our clients' intention to withdraw the planning application" and also undertook to revert to the CNPA further on the matter as soon as possible.
7. The CNPA's Monitoring and Enforcement Officer wrote to MacArthur and Company on 8th June 2009 expressing concern that the CNPA had heard nothing further concerning their clients intentions and again requesting an indication of whether or not Mr. and Mrs. Slaney intended to sign the Section 75 agreement. Due to the continued lack of communication the Monitoring and Enforcement Officer subsequently wrote to the applicants in January 2010 at their last known address in Newtonmore, and followed this with a visit to the address. Despite these efforts it has not been possible to make contact with Mr. and Mrs. Slaney and their whereabouts are currently unknown to the CNPA.
8. In the course of the CNPA's involvement in another unrelated planning application in the Glen Feshie area in 2009, information was provided which indicated that Mr. and Mrs. Slaney no longer own the landholding at Coraranstilbeg and that the property may now be within the ownership of Glen Feshie Estate.
9. On the basis of the lack of action on the part of the applicants in signing the Section 75 Legal Agreement and enabling the application to be drawn to a conclusion, and having regard to the difficulties in communicating with the applicants or their representatives, as well as the recent information which suggests a change in the ownership of the landholding, there is now a need to reconsider this application. This report is therefore being prepared as an

update on the situation, and is intended to consider the case that was previously presented and re-assess it in light of the situation as currently existing.

10. For ease of reference, a copy of the planning report which was originally considered by Members at the meeting of 27th July 2007 is attached. In addition, an extract from the minutes of that meeting, pertaining to the application is also attached.

DEVELOPMENT PROPOSAL

11. The following are the main details of the development proposal :
- Full planning permission was sought for the erection of a one and three quarter storey dwelling;
 - The proposed dwelling house was designed to have a traditional appearance. The design was on an L shaped footprint, with a centrally positioned timber clad porch on the front elevation. A wet harled finish was proposed on all the external walls, with a natural slate roof;
 - The dwelling was proposed on part of the 136 hectare landholding which was in the ownership of the applicants; and
 - The applicants indicated that they were willing to accept any appropriate conditions which might be imposed on the abandoned dwelling house, including any requirements to demolish the structure.

CASE FOR A NEW DWELLING HOUSE

12. As the new dwelling house was proposed in an area identified in the Badenoch and Strathspey Local Plan (1997) as a Restricted Countryside Area, the applicants were required to provide justification to support potential consideration of their proposal as an exception to the normal presumption against the development of new housing in such an area. The information provided referred to Mr. and Mrs. Slaney residing in Newtonmore at that time. Mrs. Slaney had recently ceased running a shop in the village, while Mr. Slaney travelled between Newtonmore and the landholding at Coraranstilbeg on a daily basis to carry out his agricultural duties. They intended to relocate permanently to the proposed new dwelling house.

13. An Operational Needs Assessment prepared by the Scottish Agricultural College, was submitted in support of the planning application, verifying the daily involvement of Mr. Slaney in agricultural activities on the landholding which was essentially described as an intensive livestock² farm, with some woodland. The SAC assessment calculated that the total labour hours required on the landholding per annum amounted to 2,308 which equated to approximately 1.20 labour units.³ Mr. Slaney was described as the primary worker on the farm, only using contractors on a limited basis at busy times of year. The SAC report concluded that Coraranstilbeg Farm was a fully functioning farm business and it was “deemed essential to the overall management of the business that someone resides full time on the unit.”

² Sheep.

³ A standard labour unit is accepted as 1,900 hours per annum.

14. The personal circumstances of Mr. and Mrs. Slaney were also mentioned in support of their case for a new dwelling house. Reference was made in supporting documentation to Mrs. Slaney suffering from arthritis and their consequent need for a new dwelling house which would “meet the needs of an ambient disabled person.”

APPRAISAL

15. In considering the planning application when originally submitted in 2007, the principle of a new dwelling house in this Restricted Countryside Area was accepted on the basis of the case presented. The proposal was also considered acceptable in the context of the dwelling house design, its siting and general landscape impact. The proposal did not meet with any objections from consultees. On the basis of the facts applicable at that time, the proposal was therefore recommended for approval, subject to the completion of a Section 75 Legal Agreement essentially restricting the occupancy of the dwelling house and precluding its sale separate from the landholding. The applicants accepted the restrictions - a fact which is evidenced by their instruction to their solicitors in 2007 to prepare a draft legal agreement.
16. As detailed in foregoing sections of this report and in the attached original planning report, the case as verified by the SAC assessment was specific to the applicants' involvement in the landholding. The facts pertaining to the proposal at the current time are however significantly different – the applicants have failed to sign the required Section 75 legal agreement; despite on-going efforts since 2008, the CNPA have been unable to make direct contact with the applicants; the former planning agent and legal representatives of Mr. and Mrs. Slaney no longer act on their behalf; and it is now the understanding of CNPA planning officials that the land is no longer in the ownership of Mr. and Mrs. Slaney. Having regard to all of the details, the case previously advanced in support of the proposal in 2007 appears to be no longer relevant. Therefore, the proposal for a new dwelling house in this Restricted Countryside Area is without justification and is contrary to section 2.1.2.3 of the Badenoch and Strathspey Local Plan and also fails to accord with the ‘Land Management Criteria for Housing in the Countryside’ as outlined in the Highland Council Development Plan Policy Guidelines (2003).

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

17. There are no natural heritage designations affecting the proposed site, and having regard to the locational relationship of the dwelling with existing farm structures it is not considered that a new dwelling house at this location would have an adverse impact on the conservation and enhancement of the natural and cultural heritage of the area.

Promote Sustainable Use of Natural Resources

18. No details have been provided on the sourcing of materials for the proposed new dwelling house and it is not therefore possible to assess compliance with this aim.

Promote Understanding and Enjoyment of the Area

19. It is not considered that the development would adversely effect the promotion of the understanding and enjoyment of the area by the general public subject to the claimed right of way on the existing farm track being maintained free of obstruction.

Promote Sustainable Economic and Social Development of the Area

The location of another single house in the countryside, which has not been justified in a land management context, has the potential to add to servicing costs for the local community in terms of services such as school transport, refuse collection, fire and health etc and would tend to promote reliance upon the private car.

RECOMMENDATION

20. That Members of the Planning Committee support a recommendation to :

Refuse full planning permission for a new dwelling house at Coraranstilbeg Farm, Glen Feshie, Kingussie for the following reason : -

- I. The proposed development is contrary to Regional and Local Planning Policy as contained in Highland Structure Plan Policy H3 (Housing in the Countryside), Development Plan Policy Guidelines 2003 and the Badenoch and Strathspey Local Plan Policy 2.1.2.3. (Restricted Countryside Areas), all of which restrict new houses in the countryside unless there are particular circumstances and special needs in relation to land management. The applicants have failed to

enter into a Section 75 legal agreement to restrict the occupancy of the proposed dwelling house to persons employed or last employed in the land management of the landholding and to restrict the sale of the dwelling house separate from the landholding. On the basis of all of the available information, the applicants no longer appear to be involved in land management activities on the landholding and the case previously advanced to support the proposal for a dwelling house is no longer applicable. There are no grounds to justify consideration of the proposal as an exception to the normal presumption against the development of new houses in this area. If approved the development would encourage the sporadic siting of other residential developments in similar rural locations, all to the detriment of the character of the countryside and the amenity of this part of the National Park.

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24 February 2010
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