
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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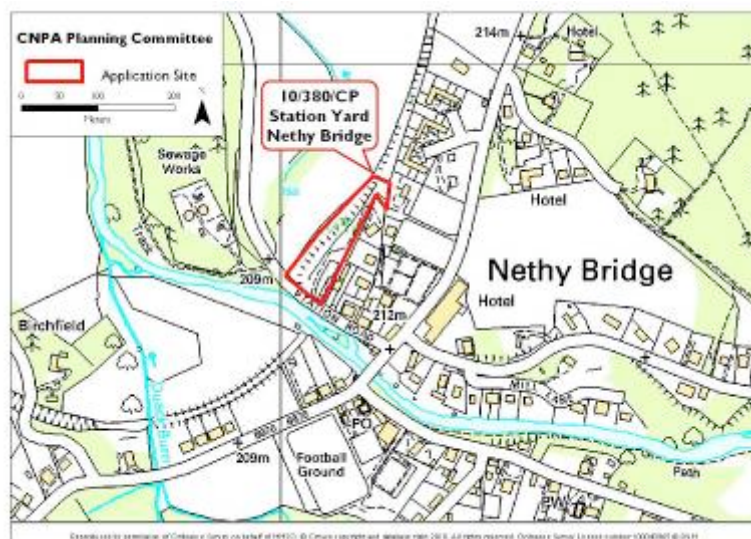
DEVELOPMENT PROPOSED: SECTION 42 APPLICATION TO DEVELOP LAND WITHOUT COMPLYING WITH THE TIME LIMITS IN CONDITION 1 OF PLANNING PERMISSION 04/318/CP (SIX MONTHS EXTENSION OF TIME LIMIT) ON LAND AT NETHY BRIDGE STATION YARD, STATION ROAD, NETHY BRIDGE.

REFERENCE: 10/380/CP

APPLICANT: MR. RICHARD ECCLES,
ABERNETHY BUNKHOUSE,
NETHY BRIDGE STATION.

DATE CALLED-IN: 12 NOVEMBER 2010

RECOMMENDATION : APPROVE WITH CONDITIONS



Grid reference : 300050 820740 (easting northing)

Fig. 1 - Location Plan

PROPOSAL AND SITE DESCRIPTION

1. This application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997. Permission is sought to develop land without complying with the time limits stipulated in condition no. 1 of the planning permission originally granted on the site under CNPA planning ref. no. 04/318/CP.
2. The CNPA Planning Committee granted planning permission for the erection of a visitor centre (including craft workshops, retail and cafeteria), 6 no. dwellinghouses and garages, and associated access road and parking areas. The decision notice was issued on 17th November 2005, with condition no. 1 of the permission stipulating that the development must be begun within five years from the date of the permission.

Background to the application

3. Mr. Eccles, the current applicant, is the owner of the subject site and was also the applicant who initiated the submission of the original planning application in 2005. Mr. Eccles is currently working with third parties in order to progress the development of the site, and has in recent months been working to purify a number of suspensive conditions attached to the original planning permission. A number of the conditions have warranted further investigation and work which is taking a longer timescale than originally envisaged by the applicant.
4. In support of this Section 42 application reference is made in the submission to obligations to fulfil the terms of condition no. 4 of the planning permission. This required the submission of a scheme to deal with potential contamination on the site and its agreement by the Planning Authority and Highland Council's Contaminated Land section prior to the commencement of development. Work in preparing this has resulted in the need to carry out a variety of laboratory tests and may also warrant remedial action. In order to have time to deal with this matter and discharge the condition as required prior to the commencement of development, the applicant is seeking to extend the time period referred to in condition no. 1 of the permission by a further six months.

Section 42 applications

5. Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with conditions subject to which a previous planning permission was granted. Section 42 of the Act stipulates that in this type of application "the planning authority shall consider only the question of the conditions subject to which planning permission should be granted." Therefore in the context of this application, the only matter which is required to be considered is the appropriateness and acceptability of carrying out the development without complying with the time limit for the commencement of development as stipulated in condition no.1 of the original planning permission. This application does not warrant a re-assessment of the principle of the development.

Site history and site description

6. As referred to in paragraph 2, full planning permission was granted by the CNPA in November 2005 for the erection of a visitor centre, 6 dwelling houses and garages, and associated access road and car parking areas (CNPA planning ref. no. 04/318/CP refers). The subject site is located to the rear of the former station in Nethy Bridge and is accessed off Station Road. There are remnants of the former railway use in evidence, including the original platform and the former station building immediately adjacent to the site. The land is unused and in some places overgrown. The Speyside Way passes through the site, as it follows the line of the former railway line. To the west side of the site there is open agricultural land at a lower level. Several houses are located on the eastern side of the site, one of which is accessed through the site.



Fig. 2 : proposed site, to the rear of the former Nethy Bridge station

7. The planning permission on the site includes the formation of an access road in a central position onto Station Road. One of the six dwelling houses would be positioned on the eastern side of the access, with the Visitor Centre on its western side. The access road would then continue to the north to serve the other five dwelling houses, all of which would be positioned along the western side. Each of the six dwellings are detached, with the designs being a mix of one and a half storey and one and three quarter storeys in height. The Visitor Centre at the entrance to the site would accommodate a combination of uses, with the floor plan including two craft workshops, retail space, and cafeteria space. The design of the building includes extensive use of larch cladding on the external walls, with a slate roof finish.

DEVELOPMENT PLAN CONTEXT

8. Planning reference no. 04/318/CP was considered and determined in the context of the policies detailed below.

Highland Council Structure Plan

9. Housing policy strategy directs housing development generally to existing settlements. Other Structure Plan policies that were considered in assessing the original application included :

- Policy G2 Design for Sustainability;
- Policy B7 Business Development in Rural Areas;
- Policy T2 Tourism Development; and
- Policy L4 Landscape Character.

Badenoch and Strathspey Local Plan (1997)

10. The site was included within the Nethy Bridge settlement area as identified in the Badenoch and Strathspey Local Plan. The entire site was allocated for Business (wholly business / industry uses), although section 4.2.1 of the Plan included a provision that the site could accommodate service enterprises, related accommodation and storage; or tourist uses including self-catering, hostel, other accommodation, or related commercial activity. The Plan also required that uses and activities would be compatible with neighbouring residential amenity.

11. Other Local Plan policies of relevance in the assessment and determination of the planning application on the site included :

- Policy 2.2.1 (a) Economic Development;
- Policy 2.2.9 Tourism and Recreation; and
- Policy 2.2.10 Tourism.

Current planning policy

12. The current Section 42 application is essentially seeking an extension of the period of time in which the development permitted on the site is required to start. The principle of the development has been accepted on the site, when considered by the CNPA Planning Committee in the context of policies that were applicable at the time of the original decision in November 2005. Policies have however altered in the time since the application was originally considered. While the Highland Council Structure Plan policy remains applicable, the Badenoch and Strathspey Local Plan policies have been superseded by the adoption of the Cairngorms National Park Local Plan on 29th October 2010. The full text can be found at :

<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>

13. The Cairngorms National Park Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:

- Chapter 3 - Conserving and Enhancing the Park;

- Chapter 4 - Living and Working in the Park;
 - Chapter 5 - Enjoying and Understanding the Park.
14. Policy 6 – Landscape : there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
 15. Policy 20 – Housing development within settlements : The policy advises that new housing should be contained within the identified settlement boundaries. Housing proposals within the settlement boundaries will be considered favourably where the development (a) occurs within an allocated site identified within the proposals’ maps; or (b) is compatible with existing and adjacent land uses, and comprises infilling, conversion, small scale development, the use of derelict or underused land or the redevelopment of land. All housing proposals are required to reinforce and enhance the character of the settlement, and accommodate appropriate amenity space, and parking and access arrangements within the development.
 16. Policy 25 – Business Development : Proposals which support economic development will be considered favourably where the proposal is compatible with existing business uses in the area, supports or extends an existing business or is located within an allocated site identified in the settlement proposals maps.
 17. Policy 34 – Outdoor Access : the policy encourages development which improves opportunities for responsible outdoor access. Development proposals which would result in a reduction of public access rights, or loss of linear access will only be permitted where an appropriate or improved alternative access solution can be secured to the satisfaction of the planning and access authorities.
 18. Nethy Bridge is identified in the Local Plan as an intermediate settlement in the settlement hierarchy. The proposed site is within the Nethy Bridge settlement boundary. It is ‘white land’ and as such does not have a specific land use allocation. Therefore a wide variety of uses are open to consideration.

Strategic Policy

Cairngorms National Park Local Plan (2007)

19. The Cairngorms National Park Plan sets out the vision for the park for the next 25 years. The plan sets out the strategic aims that provide the long term framework for managing the National Park and working towards the 25 year vision. Under the heading of ‘conserving and enhancing the special qualities’ strategic objectives for landscape, built and historic environment include maintaining and enhancing the distinctive landscapes across the Park, ensuring

that development complements and enhances the landscape character of the Park, and ensuring that new development in settlements and surrounding areas and the management of public spaces complements and enhances the character, pattern and local identity of the built and historic environment.

20. Under the heading of 'Living and Working in the Park' the Plan advises that sustainable development means that the resources and special qualities of the national park are used and enjoyed by current generations in such a way that future generations can continue to use and enjoy them. Section 5.2.3 of the Park Plan acknowledges that tourism is one of the primary forms of employment in the Park, although many jobs in this and other sectors are highly seasonal and with little long term security. Strategic objectives for economy and employment include creating conditions that are conducive to business growth and investment that are consistent with the special qualities of the Park and its strategic location and the promotion of green business opportunities. Section 5.3 of the Plan concerns 'enjoying and understanding the park' noting that the Cairngorms National Park is known for its outstanding environment and outdoor recreation opportunities and advises that the vision for the Park seeks to "go further and develop a world class destination which plays a significant part in the regional and national tourism economy."

CONSULTATIONS

21. The original application for the mixed use development of a visitor centre, housing and associated access and parking provision was assessed by a wide variety of consultees. External consultees included Scottish Water, SEPA, Highland Council Area Roads Manager, Highland Council's Scientific Officer and Nethy Bridge Community Council. CNPA consultees included the Access Officer and the Natural Heritage Group (ecology and landscape). The consultation responses were generally in support of the planning application, subject to the inclusion of a number of conditions in any planning permission granted. As the subject of this Section 42 application concerns a 'time limit' condition, it is essentially a procedural matter and further consultations were not initiated in relation to this application.¹

REPRESENTATIONS

22. This Section 42 application was advertised in the Strathspey and Badenoch Herald on 3rd November 2010. No representations have been received in connection with the application.

APPRAISAL

23. As this is an application made under Section 42 of the Town and Country Planning (Scotland) Act 1997 the matter on which the Planning Committee are

¹ Nethy Bridge Community Council was notified that the CNPA had called in the application.

being asked to decide is very specific, concerning only the time limit stipulated in condition no. 1 of the original planning permission (CNPA ref. no. 04/318/CP) and whether or not to allow the already approved development to proceed without complying with that condition.

24. The principle of a mixed use development of housing, a visitor centre and associated access and car parking has already been accepted through the granting of planning permission by the CNPA in November 2005. Matters including planning policy compliance, access arrangements, the Speyside Way passing through the site and also consideration of the proposal in the context of the aims of the National Park, were all explored in the course of the previous application on the site. The principle of the development continues to remain acceptable. The current application is essentially a procedural issue, with the applicant wishing to extend the period of validity of the original planning permission for a further six months. The background to the need for this time extension has been detailed in paragraphs 3 and 4.
25. The case advanced in support of this Section 42 application is considered reasonable. The complexities and associated timescales which have arisen in the course of the applicant working to purify the suspensive conditions attached to the original permission (particularly in relation to satisfactorily resolved contaminated land issues), were underestimated by the applicant. Information which has been submitted to the CNPA in connection with purifying the original conditions demonstrates that the required work is nearly complete. There is also a strong indication of commitment to commence the development of the site as soon as possible. It is therefore considered reasonable to facilitate the request to allow the development to proceed without complying with the time limit imposed in the original permission. Approving this application would extend the time period within which the development must be commenced for a further six months. In the event of the Section 42 application being refused, it would result in the immediate expiry of the existing planning consent. This could be considered to have negative impact on the settlement of Nethy Bridge and the wider area, as it would result in this overgrown brownfield site remaining in its current state.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

26. The site at present consists of largely overgrown ground which in parts has exposed hardcore or low walls that formed part of the Station Yard. The site has no significant natural heritage value at present and the development may provide an opportunity for natural heritage enhancement on what is essentially a brownfield site. Allowing the already approved development to proceed to commencement outwith the originally stipulated time period would not hinder achieving compliance with this aim.

Promote Sustainable Use of Natural Resources

27. A "Design Statement" was submitted in support of the original planning application on the site (CNPA ref. no. 04/318/CP) and it detailed the use of sustainable design principles in terms of the environmental performance of the

proposed buildings. The approved development would also include the considerable use of timber as a finishing material. The development would also result in the redevelopment of a brownfield site, within a settlement rather than in a more remote area where reliance on the car would be necessary. Allowing the already approved development to proceed to commencement outwith the originally stipulated time period would not hinder achieving compliance with this aim.

Promote Understanding and Enjoyment of the Area

28. The layout of the approved development would continue to make provision for the Speyside Way to run through the site, and would also make provision for new signage / interpretation material within the site. Allowing the already approved development to proceed to commencement outwith the originally stipulated time period would not hinder achieving compliance with this aim.

Promote Sustainable Economic and Social Development of the Area

29. The approved development would provide new housing and a new commercial facility within the village, on a currently disused brownfield site. The approved development has the potential to contribute positively towards the social and economic development of the area. Allowing the already approved development to proceed to commencement outwith the originally stipulated time period would not hinder achieving compliance with this aim.

RECOMMENDATION

That Members of the Committee support a recommendation to APPROVE a Section 42 application develop land without complying with the time limits of Condition no. 1 of planning permission 04/318/CP on land at Nethy Bridge Station Yard, Station Road, Nethy Bridge, subject to the following condition :

- I. The development to which this permission relates must be begun within 6 months from the date of this permission. With the exception of condition no. 1 of CNPA planning reference no. 04/318/CP, nothing contained in this proposal or this notice shall be deemed to affect or vary the conditions imposed on the original planning permission (CNPA ref. no.04/318/CP).

Reason: This permission pertains to the period of validity of the CNPA planning ref. no. 04/318/CP and the conditions imposed on that planning permission remain applicable in undertaking the development.

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20 December 2010

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.