
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: SUB-DIVISION OF CRAIGMORE COTTAGE INTO 2 DWELLINGHOUSES, AT NETHY BRIDGE (FULL PLANNING PERMISSION)

REFERENCE: 05/034/CP

APPLICANT: MRS SHIRLEY BATEMAN, CRAIGMORE COTTAGE, NETHY BRIDGE PH25 3ED

DATE CALLED-IN: 11TH FEBRUARY 2005

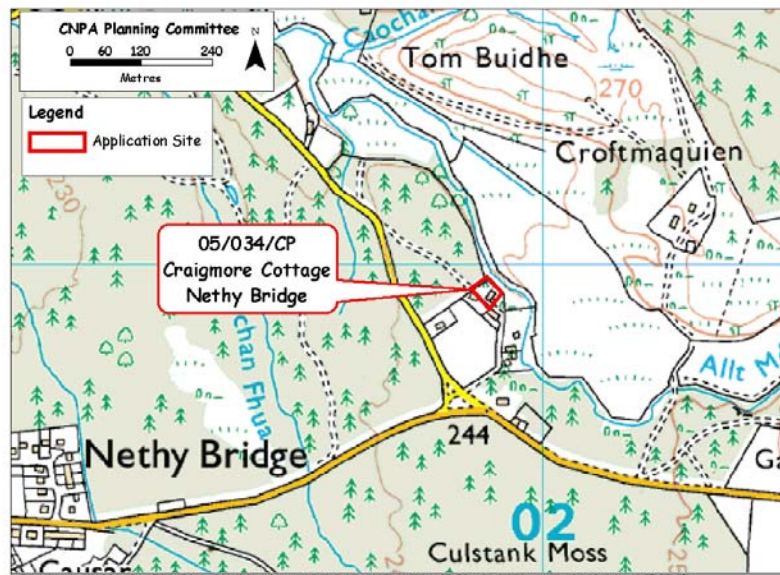


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The application is for the subdivision of a dwelling house into two residential units. The original building on the site is known as Craigmore Cottage and is believed to have been built circa. 1859, with some additions at the turn of the 20th century. The applicant acquired the property in 1979 and in addition to refurbishment works on the original structure, a large extension was built in 2000.
2. Planning permission was granted by Highland Council in 1980 for the renovation of, and the provision of self catering accommodation at Craigmore Cottage. A portion of the property was used on a slightly longer term let, accommodating young local workers, after the construction of the aforementioned extension in 2000. In a submission from the applicant relating to the current proposal, it is stated that *“the aim is to now completely separate the original cottage from the main house by blocking up the doorways, to create an affordable home for a young family working locally.”*
3. Craigmore Cottage is located approximately one kilometre east of Nethybridge and is accessed via a private laneway that serves five residential properties. Work carried out since the current owners acquired the property in 1979 to extend and modernise the property has resulted in an L-shaped building with white-washed walls, traditionally shaped dormers and modern concrete roof tiles. To the front of the main part of the existing dwelling house is lawned area, open to the private laneway. A portion of the front garden area associated with the smaller part of the structure i.e. the area which is proposed to form an independent dwelling unit, is currently demarcated by mid height shrubbery and other foliage. There are two other residential properties located directly opposite Craigmore Cottage and its grounds, one of which is a two storey property of solid construction, and the other a single storey log cabin type structure.



Fig. 2 – Craigmore Cottage

4. The proposed subdivision of the property would result in the “main dwelling” consisting of three bedrooms, with a large kitchen / lounge area and an integrated garage, while the proposed new residential unit (denoted as “The Cottage” on the site layout plan submitted) would have a smaller floor area but also includes three bedrooms and an open plan kitchen, dining and living area. The plot area associated with the proposed ‘new’ residential unit is in excess of 300 sq.m. and the site layout plan submitted includes a proposal for the creation of a formalised access drive to serve the proposed unit, as well as identifying two on site car parking spaces and an associated small extension of the driveway to assist in vehicular turning movements. The drive is proposed across the existing lawned area over which there is currently evidence of vehicular traffic traversing across (see Fig. 2).
5. The entire property of Craigmere Cottage is currently served by a septic tank. Initial proposals associated with this current application included the provision of a new septic tank within the site boundaries of the proposed ‘new’ dwelling. However, in the intervening period, the foul drainage proposals were altered to have the two proposed independent properties served by the existing septic tank. The applicant has engaged in discussions with representatives of SEPA, independent of the CNPA’s consultation procedures, details of which are provided later in this report.
6. As referred to in para. 2 of this report, the applicant and owner of the property intends to sell the ‘new’ residential unit to “a young family working locally.” Information was sought in respect of the prospective purchasers of the property, and that party, Mr. and Mrs. Edmondson have written to set out their circumstances and their desire to purchase the property (see copy attached). The prospective purchasers work for the Abernethy Trust, and as such Mr. Edmondson is required to work for various times throughout the year at the Abernethy Trust head office and outdoor centre at Nethybridge. The remainder of the prospective purchasers time is spent operating the Abernethy Trust centre at Fort William, where they are currently required to live on site in rented accommodation. Mr. and Mrs Edmondson in their submission outline their hopes that once it is no longer a necessity to live in Fort William that they would move permanently to Nethy Bridge and the development proposal at Craigmere Cottage would put them on “the first rung of the housing ladder.” In the meantime, the prospective purchasers intend to live in the property during periods of employment at the outdoor centre at Nethybridge, and they have stated categorically that it is not their intention to “rent out the house as a holiday home.” Mr. and Mrs. Edmondson have however stated that they would be “unable to accept the imposition of any occupancy conditions” and urge that “discretionary powers” are used in not imposing such a condition in the event of a grant of planning permission, referring to the recently permitted development proposal at Coulnakyle Cottage, also in the Nethy Bridge area, without any form of occupancy restriction.

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. 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. 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). The **Highland Structure Plan** in its policy on housing does not however contain any specific policy relating to the subdivision of existing properties to form a number of residential units.
8. Policy H8 of the **Highland Structure Plan** addresses the issue of access arrangements for new and existing development. The standard of access road normally required where a road is intended to allow access to several users is expected to be accordance with the stipulations of Road Guidelines for New Development. Section 2.2.23 of the Structure Plan recognises however that it is not always justified or possible to require such standards for development that involves a limited number of users and is of a relatively low density. To take account of this, Highland Council operate a policy known as the "4 House Rule". Policy H8 states that "*development proposals which involve new or improved access to serve more than 4 houses and / or to serve a development which would generate vehicular traffic equivalent to more than 4 houses shall be served by a road constructed to adoptive standards.*"
9. 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, and adherence to the principles of good siting and design will be required. The site lies extremely close to a Dispersed Communities policy area, to the north, where in accordance with the provisions of Policy 2.1.2.4 new housing will normally be acceptable subject to detailed siting and design.

10. Similar to the **Structure Plan**, the **Badenoch and Strathspey Local Plan** does not include a specific policy on the sub-division of existing properties in countryside areas. However, the proposed circumstances of sub-dividing a property to create two residential units may be likened to proposals to sub-divide existing plots, and it may perhaps be of benefit to mention the policy that applies in relation to Infill Housing. The policy states that there will be a presumption against further infill housing including sub-division of existing plots where development would involve amongst other things, inadequate plot sizes or spacing between properties, the loss of privacy or amenity to neighbouring occupiers, or substandard access.
11. Highland Council's **Development Plan Policy Guidelines (April 2003)** provide 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 new housing within the open countryside will be exceptional, and will only be permitted (in accordance with National guidance and the approved Structure Plan policy) where, amongst other specific circumstances, 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). There is another exception which allows for the conversion / reuse of a traditional building, where the building is substantially complete.
12. The **Development Plan Policy Guidelines** also provide some guidance in respect of private open space provision, requiring the provision of private garden space equating to 2.5 x ground floor area of the dwelling, with a minimum requirement of 100m² for detached and semi detached dwellings. The Guidelines also recommend that there should be a minimum of 10m from the back of the house to the rear boundary.

CONSULTATIONS

13. **Highland Council Planning Officers** under delegated powers, have commented that "*the Housing in the Countryside Policy is not in principle against the creation of new houses in restricted countryside by sub-division of existing properties but other technical, amenity and policy considerations have to be considered.*" Reference is made to the fact that the curtilage of the proposed separate house "appears rather restricted" and alludes in particular to the "need to maintain some form of turning facility for the mutual access, and the provision of parking", and also raises concerns regarding the standards of residential amenity and outlook which would arise for both dwellings as a consequence of the proposed sub-division.

14. The most significant concern raised by Highland Council planning officers is Policy H8 of the Structure Plan i.e. the requirement that developments of more than four dwellings, or of equivalent traffic generation levels, has to be served by a road capable of being adopted as a public road, and it is stated that “this is clearly not the case at Craigmore.” Reference is also made to the infill policies (see para. 9 of report for many of the settlements in the Local Plan and there is a suggestion that the application of infill policies in this instance may raise a question mark over the suitability of the proposed development.
15. The **Area Roads and Community Works Manager** of Highland Council in his report refers to the existing access situation where the existing premises at Craigmore Cottage, together with a further four dwellings are currently served by a private road. It is stated that in accordance with Council Policy, no additional dwellings should be served by the road until it has been upgraded to a suitable standard for adoption and he is “unable to approve subdivision of the existing property.”



Fig's 3 & 4 : access lane serving Craigmore cottage and other properties.

16. **SEPA** initially objected to the proposal until further drainage details had been submitted. They required that trial pits be dug in order to demonstrate the suitability of ground conditions for the disposal of septic tank effluent. Confirmation was also required that the system would not contaminate water supplies.
17. The applicant subsequently undertook discussions with a representative of **SEPA** attached to the organisations Elgin office, and explored the possibility of the two proposed properties continuing to use the existing septic tank i.e. the situation that exists at present serving the main dwelling house and the area of the structure which has been in use as a holiday home. The applicant has stated that the prospective purchasers of the cottage are happy to continue with the existing arrangement. A response was received from the Elgin office of **SEPA** indicating that they have no objection to the continual use of the existing system and accept the applicants contention that “the current septic tank and soakaway has operated satisfactorily and was designed for the purpose of treating sewage from two properties.” I have discussed this recommendation with the author of the original consultation response from **SEPA** and acceptance of the

recommendation from representatives of the Elgin branch of **SEPA** has been confirmed.

18. Although stating that they had no objection to the proposed development, **Scottish Natural Heritage** expressed some concern at the initial proposal, particularly in relation to the potential drainage impact. Reference was made to the fact that the application site lies within approximately 50ft of the River Spey Special Area of Conservation, adopted by the European Commission as a Site of Community Importance (SCI), designated for its supporting Atlantic salmon and otter at this location. Consequently there was concern that a new septic tank at the proposed location could have a significant impact on natural heritage interests.
19. Having received details of the amended proposals i.e. that the two properties share the existing septic tank, and having received details of SEPA's agreement to this proposed arrangement, I contacted the author of the original consultation response from **Scottish Natural Heritage** and he confirmed that there were no further objections or concerns to be raised in relation to the proposal.

REPRESENTATIONS

20. No representations have been received in respect of the proposed development.

APPRAISAL

21. The issues relating to this site are the principle of a new house site in the countryside by the sub-division of an existing property, the physical implications of the sub-division on the amenity / privacy of each property, and the infrastructure needs of the development (drainage and access).
22. In policy terms there is no support for a new house in the countryside in this locality. The site is only a short distance from Nethybridge and any sporadic new house developments on the outskirts of settlements is regarded as being contrary to good planning principles as set out in national guidance, the Structure Plan and in terms of the Restricted Countryside Areas in the Local Plan. The Local Plan directs new house needs to the main settlements such as Nethybridge, and to Dispersed Communities identified in the Local Plan (in Policy 2.1.2.4). It should be noted that Craigmere Cottage is in very close proximity to an area identified as a Dispersed Community. To encourage new housing in the countryside between two relatively close recognised communities could create a precedent for other sporadic developments, to the detriment of the rural character of the countryside and the National Park. However the application is to subdivide an

existing property, and new building is not involved as part of the development. There is no direct policy dealing with the sub-division of properties within Restricted Countryside Areas, other than the reference to an exception to allow for the renovation of an existing rural property.

23. The more critical issues relate to the more specific details of the development – issues of privacy and amenity between the adjoining properties and the effects of the development on the neighbourhood in terms of the road access.
24. Further to concerns raised in a letter to the applicant regarding the limited extent of garden area and the lack of adequate access and car parking, a revised site layout plan was recently submitted to the Planning Authority identifying the proposed formal subdivision of the land /garden ground surrounding the existing overall structure. The site layout plan fails to include a scale and the following details of garden sizes are not therefore entirely accurate. However, an increased area of ground of approximately 300 m² is assigned to the proposed 'new' dwelling house, with the majority of that private garden space located to the front and side of the structure. A narrow strip of land runs between the rear of the structure and the proposed rear boundary of the proposed residential unit. The boundaries of the plot intended to be associated with the 'main house' extend to an area of approximately 540m², with ample space for on site car parking provision (as well as the fact that the existing structure includes an integrated domestic garage). Both the existing residence and the proposed new residential unit have the benefit of private open space areas that are well in excess of the minimum standard required in Highland Council's **Development Plan Policy Guidelines**. However, I remain somewhat concerned at the unusual configuration of the garden area associated with the new residential unit, where there would undoubtedly be a degree of overlooking from the garden area of the main dwelling into the new residential unit and vice versa. The proposed layout would consequently impact on the residential amenity and privacy of residents of both properties, although there are a number of measures that could be undertaken in an effort to resolve this issue, including for example the use of opaque glass in the two windows located to the rear of the proposed residential unit and / or the carrying out of easily maintained indigenous tree planting along the aforementioned boundary.
25. As regards drainage / infrastructure issues, as has been reported earlier, **SEPA** have expressed their agreement to the continuation of the current arrangement of the existing and proposed new residential unit sharing the existing septic tank. **Scottish Natural Heritage** have also confirmed their acceptance of the proposal.

26. Information provided by the applicant in respect of the septic tank / servicing arrangements includes confirmation that she is amenable to the continuation of the existing sharing arrangement and in the event of the granting of planning permission is amenable to entering into a legal agreement in respect of this sharing arrangement and she has discussed the matter with her solicitor. The aforementioned prospective purchasers, Mr. and Mrs. Edmondson have in their written submission also indicated their willingness to enter into such an agreement in respect of the shared use, as well as the maintenance of the septic tank.
27. The other significant infrastructural concern relates to the roads issues, and particularly the fact that the creation of a new residential unit at the proposed location would technically fail to comply with **Policy H8 on Access arrangements for new and existing development**, as detailed in para. 8 of this report, relating to the “4 House Rule” whereby development in excess of 4 houses is required to be served by a road constructed to adoptive standards.
28. In considering the “4 House Rule” and the associated recommendation of the Area Roads and Community Works division of Highland Council where they are “unable to approve subdivision of the existing property unless the private road is to be upgraded to an adoptable standard”, it is pertinent and necessary to consider the specific, and indeed somewhat unique, development history of the actual property that is proposed for sub-division. The actual property in its entirety is part of a group of five residential properties, all of which derive access off a private road. Therefore, the level of development existing in the area is in excess of the limit normally imposed and has occurred without a requirement for the access road to be developed to adoptive standards is already in excess of the limits set by the “4 house rule”. Furthermore, the overall property at Craigmore, has for a significant period of time been in use as two units, one a permanent dwelling and the other a holiday home which was regularly rented out. The two units retained some internal linkages. Documentary evidence has been submitted by the applicant in support of the claim that the property has for quite some time had the level of usage normally associated with two units, and that the current proposal (which would essentially alter the status of one section of the property from a holiday letting unit to a permanent residential unit) would not generate significant levels of additional traffic to justify the need to upgrade the existing access road. The evidence submitted includes details of the planning permission granted for the development of a self catering holiday unit in 1980 in part of Craigmore Cottage, valuation reports compiled in 1982 and 1990 referring to the two units, a site layout plan prepared in relation to mortgaging arrangements in 1986 with the ‘domestic residence’ and ‘holiday home’ clearly identified as separate entities. In addition, separate electricity bills for each of the units dating back to 2002 were also submitted.

29. In view of the development history of the property, and in particular the fact that it has essentially been sub-divided in a less formalised manner and has had dual unit occupation at various times over the past twenty five years, I consider that in this instance the rigid application of Highland Council's "4 House Rule" is unwarranted.
30. The history of the property over the past twenty five years should also be taken into account in assessing the proposal in the context of its location within a Restricted Countryside Area. Although the proposal does not involve the creation of a new building, it is nonetheless creating a new residential unit, as distinct from the previous use of this part of the structure as a holiday rental property. In general, any new housing unit permitted in the Restricted Countryside Area would be the subject of restricted occupancy, and as has been detailed earlier in this report acceptance of such a condition or agreement has been rejected by the prospective purchaser of the proposed 'new' residential unit. A similar issue of sub-dividing property arose in the recent past in the case of Coulnakyle Cottage, to the north west of Nethy Bridge. In that instance Members requested that officers seek further legal advice in order to establish 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.
31. The advice received from the solicitors at that time is considered pertinent to this current application at Craigmores Cottage. It was advised that it would be **technically possible** to apply a condition or Section 75 Agreement to any approval. However, in the case of Coulnakyle Cottage the circumstances of the case were taken into account (where the property had in the past existed as two distinct units) and it was advised on balance there were not sufficient material considerations in relation to the scenario which justified planning conditions being imposed or the applicant being required to enter a planning agreement. This view was 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. In view of the lack of policy guidance on the matter of sub-division and the associated restrictive occupancy, the circumstances of this current proposal, and the prospective purchasers unwillingness to accept such restrictions, it is considered inappropriate and inconsistent with previous decisions, to consider imposing occupancy restrictions, either by way of condition or Section 75 agreement in the event of the granting of planning permission.
32. One of the implications of permitting this development would be the future possibility of new extensions to one or other of the divided properties. Due to the somewhat unusual configuration of the garden areas proposed in connection with each property, careful consideration would have to be given in the future to the development of extensions, from a scale, design and orientation perspective, and there is limited

potential for an appropriate extension to the properties, particularly the proposed 'new' residential unit. It is therefore considered appropriate in the event of the granting of planning permission to impose a condition removing permitted development rights and thereby ensuring that any further development proposals would be comprehensively assessed by the relevant Planning Authority in the course of a planning application.

33. In conclusion, whilst I am mindful of the difficulties associated with this proposal, including its location within a Restricted Countryside Area (although immediately adjacent to a Dispersed Settlement Area in which new housing development would normally be permitted), its failure to comply with the "4 House Rule" in relation to roads issues, and the precedent which development of this nature may set, I consider on balance that the past and indeed current use of the property as two units, albeit one a permanent residence and the other a holiday rental property, sets it apart from the standard proposal for a new dwelling house in the countryside. The proposal is essentially changing the use of the structure from a holiday rental property to a permanent residence. It has therefore existed for quite some time as a residential unit and has not resulted in any adverse effect in the area, particularly in relation to infrastructural issues, and indeed the use of the existing private access road. The proposal does not involve any new build element and would not give rise to any adverse visual impact, nor would it give rise to the appearance of overdevelopment or suburbanisation in the immediate vicinity of this Restricted Countryside Area.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

34. The proposal represents the formation of a permanent residential property by way of a change of use from a holiday rental property, and the proposal is not therefore considered to prejudice the first aim of the National Park to conserve and enhance the natural and cultural heritage of the area.

Promote Sustainable Use of Natural Resources

35. The proposal does not involve any building work and is not therefore regarded as presenting an opportunity to promote the sustainable use of natural resources.

Promote Understanding and Enjoyment of the Area

36. The development proposal does not involve any physical external alterations to the property, and it is not considered that the use of the property as two residential units would interfere with understanding and enjoyment of the area by the general public.

Promote Sustainable Economic and Social Development of the Area

37. The applicant has expressed her desire to provide accommodation for a young local family, but unless the ownership is retained by the applicant the property may not always fulfil this objective. The current proposal will result in the loss to the local market of a holiday unit to let. 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

That Members of the Committee support a recommendation to:

Grant full planning permission for the subdivision of a house into two properties at Craigmores Cottage, Nethybridge, subject to the conditions listed hereunder -

1. Prior to the first occupation of "The Cottage" as a permanent residential unit details of all proposed new boundary treatments, together with details of the surfacing of the proposed access drive and on site car parking area shall be submitted for the agreement of the Planning Authority. In addition proposals shall also be submitted for the provision of a belt of semi mature indigenous tree planting on land between the rear elevation and the rear boundary of "The Cottage".
2. Prior to the first occupation of "The Cottage" as a permanent residential unit, evidence of a legal agreement between the owners / occupiers of the two properties regarding the shared use of the existing septic tank, shall be submitted for the agreement of the Cairngorms National Park Authority acting as Planning Authority, in consultation with SEPA.
3. The parking shall be provided in a manner to allow all vehicles to enter and exit the site independently in forward gear.
4. Prior to the first occupation of "The Cottage" the boundaries of the proposed garden grounds, as detailed on the site layout plan submitted to the Cairngorms National Park Authority on 5th September 2005 shall be demarcated, and the proposed driveway and on site car parking area, and the landscaping required in condition no. 1 of this permission shall be developed.

5. Prior to the first occupation of "The Cottage", revised first floor plans shall be submitted for the agreement of the Cairngorms National Park Authority acting as Planning Authority to accurately reflect the existing position of all windows in the overall existing structure.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, no house extension shall be formed, and no greenhouse, shed or garage erected without the prior written consent of the Planning Authority. This applies to both properties and the grounds within their curtilage.

Determination background

The application was called in by the Cairngorms National Park Authority at their meeting of 11th February 2005. Due to the volume and complexity of applications with the CNPA at that time, in conjunction with limited staff resources, it was unfortunately not possible to progress this until more recent times. Further to the receipt of initial consultation responses from external sources, a detailed request for further information was issued on 21st July 2005, and a response was received on 5th September 2005, and the preparation of this report was undertaken following an assessment of this information.

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30th September 2005

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