
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: ERECTION OF DWELLING, LAND SOUTH EAST OF RYNUAN, NETHY BRIDGE (FULL PLANNING PERMISSION)

REFERENCE: 06/377/CP

APPLICANT: DP TINDALL, C/o BENJAMIN TINDALL ARCHITECTS, 17 VICTORIA TERRACE, EDINBURGH, EH1 2JL

DATE CALLED-IN: 22ND SEPTEMBER 2006

RECOMMENDATION: REFUSAL

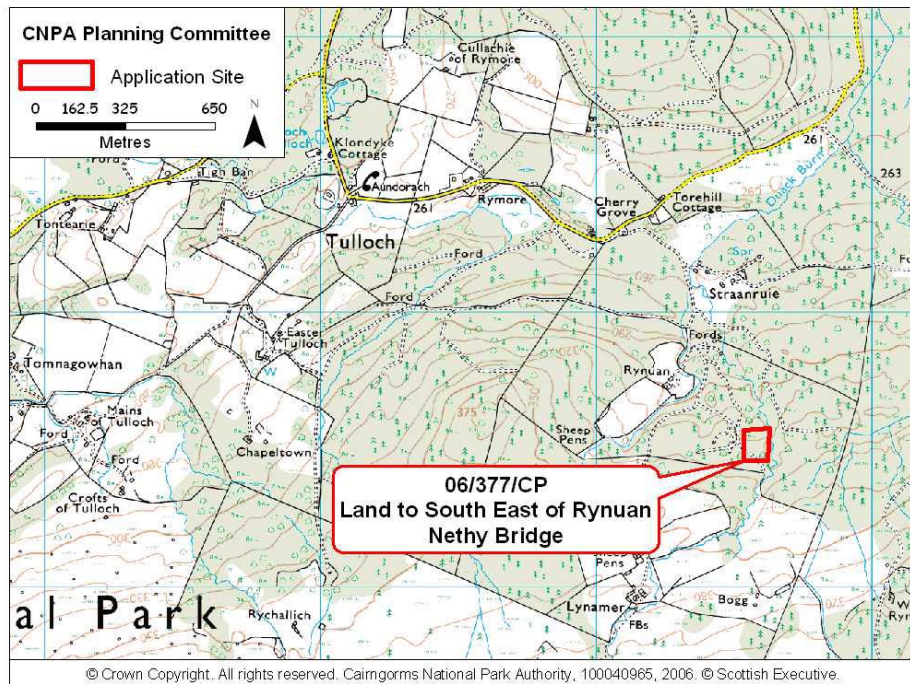


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Full planning permission is being sought for the erection of a private dwelling within the heart of woodland at Straanruie. The proposed site lies south east of Rynuan, Nethybridge immediately to the west of a burn (see fig 1). The site is located within 250 metres of the Abernethy Forest Special Protection Area (SPA), Special Area of Conservation (SAC), National Nature Reserve (NNR) and Site of Special Scientific Interest (SSSI).
2. A contemporary, individually designed 5-bedroom house is proposed for the site. The design utilises a narrow plan form with large elements of glazing and untreated timber to the faces of the building. The roof is a shallow curved design and will essentially be a green roof utilising turf/heather. A timber balcony is proposed (see fig 2 and photomontages in Design Statement at back of report)).



Fig 2 Elevations

3. The house is designed with high levels of sustainability in mind a wood chip boiler with chip storage building are also proposed. The Design Statement suggests that materials will be locally sourced where possible.

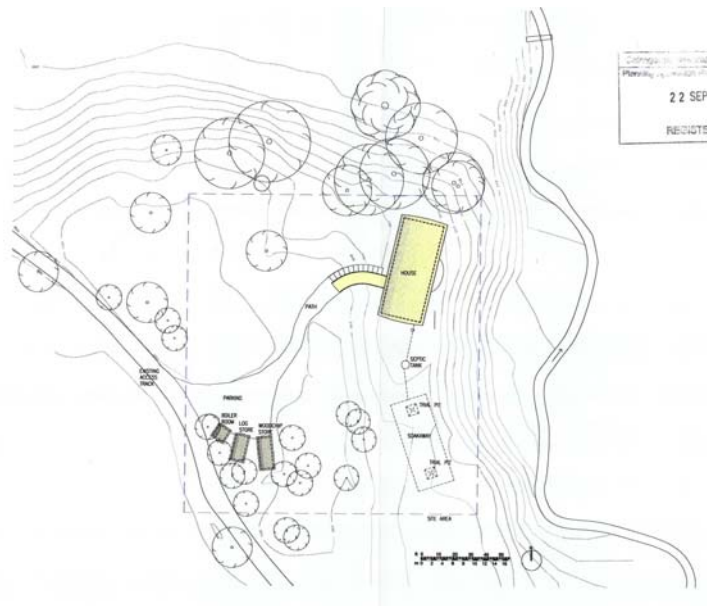


Fig 3 Site Layout

4. Access will utilise an existing forest track with parking area being formed against the track with ancillary buildings away from the dwelling itself, a winding path leads to the entrance to the dwelling. (see fig 3).
5. In terms of planning history there was planning consent for a house in 1993 but this subsequently lapsed three years later. A further outline proposal at the site for a single house was submitted to Highland Council but this was never determined.
6. The Design Statement attached at the back of this report makes reference to the brief for the project. The woodland was bought by the applicant's family in 1979 and since has been managed to a very high standard. The woodland would be managed from the new dwelling, which is designed to enable working from home for the applicants in their current line of business. Reference is made to former dwellings in the Design Statement these are to the north of the site but no longer exist as such.

DEVELOPMENT PLAN CONTEXT

National Guidance

7. **Scottish Planning Policy 15 Planning for Rural Development** para 23 considers that there is an unmet demand for plots on which unique, individually designed houses can be built in rural locations. Consideration should be given by planning authorities to formulating supportive policies in local plans where such developments may be justifiable for economic reasons. Para 29 of SPP15 notes that the intention is that the proactive thrust of the SPP should apply throughout Scotland. However, it should be recognised that Scotland's National

Parks have been designated because of the national importance of their natural and cultural qualities.

8. **Paragraph 13 of NPPG 14 Natural Heritage** recognises that the scale siting and design of new development should take full account of the character of the landscape and the potential impact on the local environment. Particular care is needed in considering proposals for new development at the edge of settlements or in open countryside.
9. **Planning Advice Note 72** is the new advice from central government on **Housing in the Countryside, (February 2005)** and on design it states “High quality design must be integral to new development and local area differences must be respected”. Furthermore it states “In some areas, such as National Parks, National Scenic Areas and Conservation Areas, there may be a case for more prescription and a preference for traditional design, but it is also important to encourage the best of contemporary designs. There is considerable scope for creative and innovative solutions whilst relating a new home to the established character of the area. The overall aim should be to ensure that new housing is carefully located, worthy of its setting, and is the result of an imaginative, responsive and sensitive design process.”
10. **Highland Structure Plan (approved March 2001) Policy H3 (Housing in the Countryside)** 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 or where it supports communities experiencing difficulty in maintaining population and services. This policy points out that housing should be appropriate in location, scale, design and materials. **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); use of brownfield sites, existing buildings and recycled materials; demonstration of sensitive siting and high quality design; contribution to the economic and social development of the community; and the impact on resources such as habitats, species, landscape, scenery and freshwater systems.
11. Proposals which will result in suburbanisation, ribbon and backland development, involve excessive infrastructure or loss of prime agricultural land or important areas of woodland, will not be considered acceptable.

Highland Council Development Plan Policy Guidelines 2003

12. These guidelines consider that **open countryside** is **all** land outside the boundaries of defined settlements. New housing in the Countryside will be exceptional and will only be permitted, in accordance with national policy and approved structure plan policy where it is required for the management of land or related family purposes (retired farmers and their spouses); provided by a social housing provider; involves the conversion/re-use of a traditional building; involves the replacement of an existing dwelling which does not meet the requirements for modern living and where the costs of upgrading are not justified on economic and environmental grounds (subject to the existing dwelling being demolished); or is part of a comprehensively planned new settlement.

Highland Council Housing in the Countryside Development Plan Policy Guideline 2006

13. **Highland Council have produced a new Planning Development Policy Guideline Housing in the Countryside (March 2006) which sets out policy within and outwith (wider rural areas) the hinterland of towns (areas to be identified in Local Plans). The CNPA was not consulted on and has not adopted these guidelines.** The policy is more relaxed in relation to **wider rural areas** where local populations are experiencing difficulty in maintaining population and services and where proposals will be measured against the relevant Local Plan policies and the extent to which they support the viability of the wider rural community; demonstrate appropriate siting and high quality design; taking into account croft land and being in-keeping with settlement pattern. However this guideline, considers that even in 'wider rural areas' that settlements identified in Local Plans are the preferred areas for development. This document sets out the Council's approach to housing in the countryside, taking account of Structure Plan Policy and also more recently issued national guidance on rural development. The following paragraphs set out the more detailed approach in relation to **the hinterland of towns**.
14. **Land management or family purposes related to the management of the land (retired farmers and their spouses).** Any proposal for new housing in the countryside associated with land management activities must demonstrate that a sequential approach to the identification of the need for that house has been followed. This means that applicants must be able to demonstrate that: there is no potential to use existing accommodation in the area; there are no existing permissions (not time expired) for dwellings that have not been taken up or developed; there is no evidence of houses or plots having been previously sold off from the farm holding; and there is no land on the farm holding that has been identified within an existing settlement. New housing will only be regarded as essential where it is related to material planning considerations and meets the criteria specified. **The personal preferences or financial circumstances of any**

individuals involved are not material planning matters. Applicants must provide evidence of existing land management activities to justify a new house, as detailed below.

15. **Agriculture.** Applicants must provide an independent statement of the level of need related to the management of land. The Council reserves the right to validate any consultant's report and the applicant will be charged for this validation. Justification will be judged against both a functional test (scale and nature of enterprise) and a financial test (viability of enterprise).
16. **Croft Land 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 in the tests. Any application for a house associated with crofting should be on a registered croft or associated common grazing and accompanied by appropriate confirmation from the Crofters Commission of the bona fides of the crofting application. Regard should also be had to the history of the previous housing development on the croft and the density of development. Any new housing must support and respect the traditional settlement pattern, the better agricultural land of the croft and not compound sporadic suburban type development.
17. **Conversion or re-use of traditional buildings or the redevelopment of derelict land** The development of rural brownfield sites is supported by national policy, and Planning Advice Note 73 defines these as sites which are occupied by redundant or un-used buildings or land that has been significantly degraded by a former activity. It will be important through this policy to secure the retention of historically valuable buildings which are no longer required for their original use, as well as to offer the opportunity to remove former agricultural or industrial buildings which remain an eyesore in the countryside. The key is to achieve net environmental benefit through the conversion or re-use of traditional rural buildings or the redevelopment of derelict land.
18. **The replacement of an existing dwelling which does not meet the requirements for modern living and where the costs of upgrading are not justified on the economic or environmental grounds (subject to the existing dwellings being demolished)** The replacement of an existing dwelling may be supported where there is a clear case made that the costs of upgrading are not justified on economic or environmental grounds. Any proposal must meet the following criteria **1)** The existing building should exhibit all of the essential characteristics of a dwelling house, including the existence of reasonably sound and complete walls and roof. Exceptionally, where a recently inhabited or habitable dwelling is destroyed by fire or similar accident, planning permission may be granted for a replacement in situ. **2)** The application should be in detail and replacement house must be

exemplary in its design emphasising the character and style as well as materials of the original and absorbing the principles of designing for sustainability. **3)** The application should be accompanied by a certificate from an architect or surveyor that the existing house is not reasonably or economically capable of being reinstated/renovated to a habitable condition for occupation. This will be validated on inspection by a Planning or Building Standards Officer. **4)** The resultant footprint should ideally not exceed by 50% the floor area of the original or a maximum of 100 square metres whichever is the greater- thereby ensuring a supply of modest replacement houses reflecting the character and scale of houses in the countryside. **5)** The siting of the new house must be within the same curtilage as the original house. **6)** The property must have had no subsequent change of use since its last period of occupation as a house. **7)** The property must be in the ownership of the applicant.

19. **Policy H8 (Access arrangements for new and existing development)** identifies development proposals which involve new or improved access to serve more than four houses and/or to serve a development which will generate vehicular traffic equivalent to more than four houses shall be served by a road constructed to adoptive standard. The adopted road should normally serve all of the new development and any existing development.
20. **Badenoch and Strathspey Local Plan Policy 2.1.2.3** classifies the proposed site as part of **Restricted Countryside Area**. A strong presumption will be made maintained against the development of houses in restricted countryside areas. Exception 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. Adherence to the principles of good siting and design will be required in such cases.

CONSULTATIONS

The CNPA's Natural Heritage Group:

Ecology

21. The ecological richness of the woodland in this area is underlined by a number of nature conservation designations applied to the immediately adjoining woodland. The application site is located approximately 250 m from the boundary of the Abernethy Forest SSSI, NNR, SAC and SPA. The Abernethy Forest SSSI is notified for its native pinewood habitat, wetland habitats, fluvial geomorphology, assemblages of breeding birds (especially crested tit), dragonflies, fungi, lichens, and beetles. The SPA is notified for capercaillie, osprey and Scottish crossbill while one of the qualifying features of the SAC is Caledonian forest. While the proposed development site is outwith the boundary of

the designated area, the continuity of habitat between them means that much of the interest will be shared, but possibly to a lesser degree.

22. While one of the park aims is to promote sustainable and social development of the area's communities, the site of the proposed house is not earmarked for housing in the Local Plan. Furthermore, the loss of an area of valuable Caledonian pinewood habitat, a special quality of the Cairngorms National Park, and for which the Park is renowned, runs counter to the first aim of the National Park which is to conserve and enhance the natural and cultural heritage of the area. The proposal should therefore be recommended for refusal owing to inappropriate location, and the likelihood of alternative and more appropriate locations being available.

Landscape

23. The quality of the landscape resource is clearly very high. The site forms part of the archetypal woodland of the Abernethy area, while the area is 'unspoilt' in that there is little or no development in the area and the other intrusions of road and mains services or other infrastructure are not at all apparent in the immediate area. Despite being in woodland, the sensitivity of the area to change is also high, due to the nature of the woodland and the overall tranquillity of the area. The unspoilt characteristic is, by definition, easily eroded simply by the presence of development of any kind. Consequently the magnitude of impact from the proposal is high. The area impacted upon will vary. Visually, it may be quite limited because of the screening of the trees, though the elevated position extends this across tree tops. Other impacts may be experienced from a wider area, for example the light intrusion at night, the noise from the dwelling and the increase in traffic.
24. Despite the quality of the architecture, which in many other locations would be seen as a very positive addition to the landscape, the combination of additions and changes to this special area render the overall impact as negative.
25. The negative impact upon the landscape character of the location means that the proposal neither conserves nor enhances the natural heritage and is thus contrary to the first aim of the park. Consequently it should be recommended for refusal.
26. **Scottish Environmental Protection Agency (SEPA)** has no objection in principle to the proposed development. However they note that the ground assessment and percolation test carried out by the agent indicates that the percolation value (Vp) is less than 15secs/mm. Therefore, an infiltration system must be designed and constructed in accordance with requirements by SEPA. In addition, SEPA requested two requirements to be confirmed to the CNPA in writing, prior to any planning decision being made. The first was confirmation that a secondary treatment would be provided and, that the minimum

'soakaway' size in square metres is confirmed. In relation to surface water drainage, SEPA has no objection to the development.

27. **Scottish Natural Heritage (SNH)** identifies the proposed development within Ancient Woodland of semi natural origin. The location of the site lies in close proximity to the Abernethy Forest SSSI. This SSSI is a designated Special Protection Area (SPA) and forms a component of the Cairngorms Special Area of Conservation (SAC). At its nearest point, the proposed development lies approximately 250m from the boundary of the adjacent designated site.
28. From the information available it appears to SNH that in this case the proposal is not connected with or necessary for the conservation management of the site. Hence further consideration is required. SNH considers that it is unlikely that any qualifying features within the adjacent European Interests will be affected significantly either directly or indirectly and in SNH's view an appropriate assessment is therefore not required. Therefore, SNH has no objection to the proposal.
29. **Highland Council Area Roads Department** refers to Policy H8 in the Highland Structure Plan, and recommends refusal of the development as the site is accessed via a private road which already serves more than four dwellings.

REPRESENTATIONS

30. Two letters of support have been received and are attached at the back of the report. The applicants have also provided an additional letter justifying the proposal and requesting that the Committee visit the site. This letter is attached.

APPRAISAL

Principle

31. The starting point for this proposal relates to the principle of what is proposed in the location that it is proposed in. Following on from this the report considers the design detail of what is proposed then technical issues such as highways and drainage.
32. In terms of Structure Plan Policy the site is within a countryside area where there is a general presumption against the development of new housing unless there is some form of land management justification. If a house can be considered as a replacement or a proposal constitutes affordable housing exceptions to the general policy of restraint can be made.

33. The Structure Plan policy is explored in detail by the more recent (2006) Highland Council Guidelines on New Housing in the Countryside. This identifies 'hinterland between towns' and the 'wider rural area'. Policy in the wider rural area where this site is indicatively located is intended to be more relaxed towards new dwellings where communities are experiencing difficulty in maintaining population and services. However, this policy also refers back to applications being measured against the Local Plan. The site is within a restricted countryside area where there is a presumption against new housing without a land management (agricultural) justification. There is a General Countryside Area to the west centred on Tulloch where the Local Plan adopts a more relaxed approach to housing in principle subject to detailed criteria. However, this particular site is clearly within restricted countryside for housing.
34. As noted, within a restricted countryside area new dwellings would not normally be accepted without a land management justification or the proposal involves replacement. Mention is made of dwellings to the north of the site. However, these were removed some time ago and on the ground there is little evidence of their existence. In addition, they are on an essentially different site from the one proposed here. Consequently, the application cannot be considered under the replacement policy.
35. There is some limited land management justification but this relates to the management of the woodland rather than an agricultural justification. The Highland Structure Plan Guidelines define land management in policy terms as relating to agriculture and not forestry/ woodland management. The Plan makes no exception for dwellings being justified on the basis of forestry. I would recognise that the application indicates a strong emphasis being placed on working from home for the occupants. However, this does not form a justification in favour of the scheme in the eyes of the development plan.
36. There was permission for a house at the site dating from 1993 which lapsed in 1996. However, this was under an earlier development plan and in my view can be afforded very little weight in the determination of the current application.
37. The starting point is that this is a restricted area for housing. More recent guidance in the form of SPP15 Rural Development and PAN 72 Housing in the Countryside outlined earlier in this report nurture a more positive approach to housing in the countryside and indeed reference is made to the demand for plots for high quality individually designed houses in the countryside. However, such positive policies should essentially be pursued via the Local Plan process rather than individual ad-hoc decisions on the ground that can undermine a planning system that is intentionally plan-led to avoid inconsistency. It is the case that the proposal could be described as an innovative, individually designed house of high quality. However, the proposal cannot be considered out

of context but must be considered within the local plan policies and the environmental context that the site that is located in.

38. In this case, as noted by the response from our Natural Heritage Group this is a sensitive site and in a way the applicants should be commended for the sensitive way in which the woodland has been managed over the years. However, ultimately, in terms of its character in both ecological and landscape terms the site exhibits little difference from the quality of the Abernethy Forest SSSI, NNR, SAC and SPA which are located just 250 metres from the site. Again, while the house is of a high quality design the context for the site is of a very high natural heritage quality in a quiet and relatively remote area. The introduction of a dwelling with its associated infrastructure, curtilage, movements and sound would be likely to disturb the tranquil character of the area.

Siting and Design

39. Issues regarding the principle of the site have been dealt with in the previous section of the report. In terms of its micro-siting dwelling would be sited so that only the upper section would be likely to be visible from the rough track that leads further up into the woods. However, some ground works and removal of trees would be likely to be required. The parking and wood chip boiler area would be visible and would form a significant intrusion into an area where there is little evidence of development, this would also result in the removal of some trees.
40. In terms of design this is clearly a high quality building with sustainability in mind; the shallow nature of the turf roof would help the building blend in to its background to some extent as well as slowing surface water run-off from the roof. The timber would be untreated larch, again allowing the building to blend into its woodland background. The glazed panels essentially face away from the entrance elevation and overlook views across the forest to the north and a burn to the east. The boiler room and woodchip store are indicative of the intention to employ a wood chip boiler for heating of the building.
41. In conclusion to this section I would positively endorse the overall concept of the design both in terms of aesthetics and sustainability. However, as discussed the location and siting is not considered to be appropriate.

Technical Issues

42. In terms of highways issues, as noted by the roads response the site is accessed by a track that is not constructed to adoptive standards. There are more than 4 dwellings already served by this track. I would have concerns about the entire track up to the site being constructed to adoptable standard given the informal landscape character of the area, and this to some extent hints again at the un-acceptability of

developing the site in principle. The response from the Area Roads Manager in one sense could constitute a reason for refusal. However, in my view the construction of an access road to an adoptable standard up to the site would result in significant adverse impact on the quiet and secluded landscape character of the area. Because of this, Policy H8 is not cited as a reason for refusal and should members wish to approve the scheme I would not recommend any condition requiring the provision of an access to adoptable standard.

43. SEPA have requested that further details relating to drainage are submitted before the application is determined. The percolation rates would suggest that secondary treatment is provided and that the size of the soakaway is confirmed. At the time of writing this has not been confirmed and means that no positive planning decision notice should be issued. Any additional information received on this aspect will be reported at the meeting. SEPA has no objection to surface water drainage measures proposed.

Conclusion

44. In many respects this is a high quality proposal that would result in a building that would make a positive contribution to the cultural heritage of the Park and one that I would endorse if the site was located in an area where the development plan indicates in favour of housing and was less sensitive environmentally. However, there are two key aspects that lead to a recommendation of refusal. Firstly, in principle, this is a restricted countryside area for housing. To depart from this policy stance could set a precedent for further houses in such areas without a clear land management justification. The second aspect relates to the particular character of the site and the consideration that the introduction of a dwelling to this quiet secluded area would be detrimental to natural heritage.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

45. The introduction of a dwelling to this area would be unlikely to conserve or enhance the existing woodland character of the site which currently fosters a quiet and secluded atmosphere and this is evidenced by the response from the Natural Heritage Group. The building would provide a positive addition to the built cultural heritage of the Park; however, the location of the building is such that it would cause concern regarding the overall effect upon this aim. The woodland of the area is of a high quality due to the management practiced by the applicant's family. However, it is recognised that the woodland management of the area of itself is not a justification for the dwelling and this management has been carried out for many years without the need for a dwelling.

Promote Sustainable Use of Natural Resources

46. The building is clearly designed with sustainability in mind and includes proposals for a wood chip boiler and large panels of glazing that would help in terms of passive solar gain. Conversely, and while the scheme is also aimed at enabling the occupants to work from home it must be recognised that this is a site that is remote from services and accessing services such as shops, medical facilities etc would be heavily reliant upon the use of the private car.

Promote Understanding and Enjoyment of the Area

47. The scheme could potentially, to a small extent reduce visitors enjoyment of the woodland landscape. However, recognition must be made that the way in which the woodlands have been managed by the applicant does help to promote public enjoyment in an area where the public are encouraged to walk.

Promote Sustainable Economic and Social Development of the Area

48. The application is for a single house so it is difficult to envisage any specific benefits. However, it is intended that the house would enable the applicant's to work from home.

RECOMMENDATION

49. That Members of the Committee support a recommendation to: **REFUSE** Full Planning Permission for the erection of a dwelling, land south east of Rynuan, Nethy Bridge for the following reasons:
- 1. The proposed development is contrary to National, Regional and Local Planning Policy as contained in Scottish Planning Policy 3 (Planning for Housing), Scottish Planning Policy 15- Planning for Rural Development, 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 proposed dwelling house and associated garage is not required for the purposes of land management or related family or occupational reasons, and if approved 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.**

- 2. The proposal would introduce a new dwelling and its associated infrastructure and curtilage into a quiet secluded area that is remote and characterised by high quality woodland adjacent to the Abernethy Forest SSSI, NNR, SAC and SPA. The proposal is therefore contrary to NPPG 14 Natural Heritage, Policies G2 Design for Sustainability and L4 Landscape of the Highland Structure Plan and Policy. The proposal is also fails the Park's first aim of conserving and enhancing the natural heritage of the area.**

Additional Note

The proposal does not provide confirmation that secondary treatment would be provided for foul drainage; neither does the proposal confirm the size of the soakaway required for the development. No grant of permission notice should be issued until this information is provided.

Andrew Tait

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4 January 2007

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.