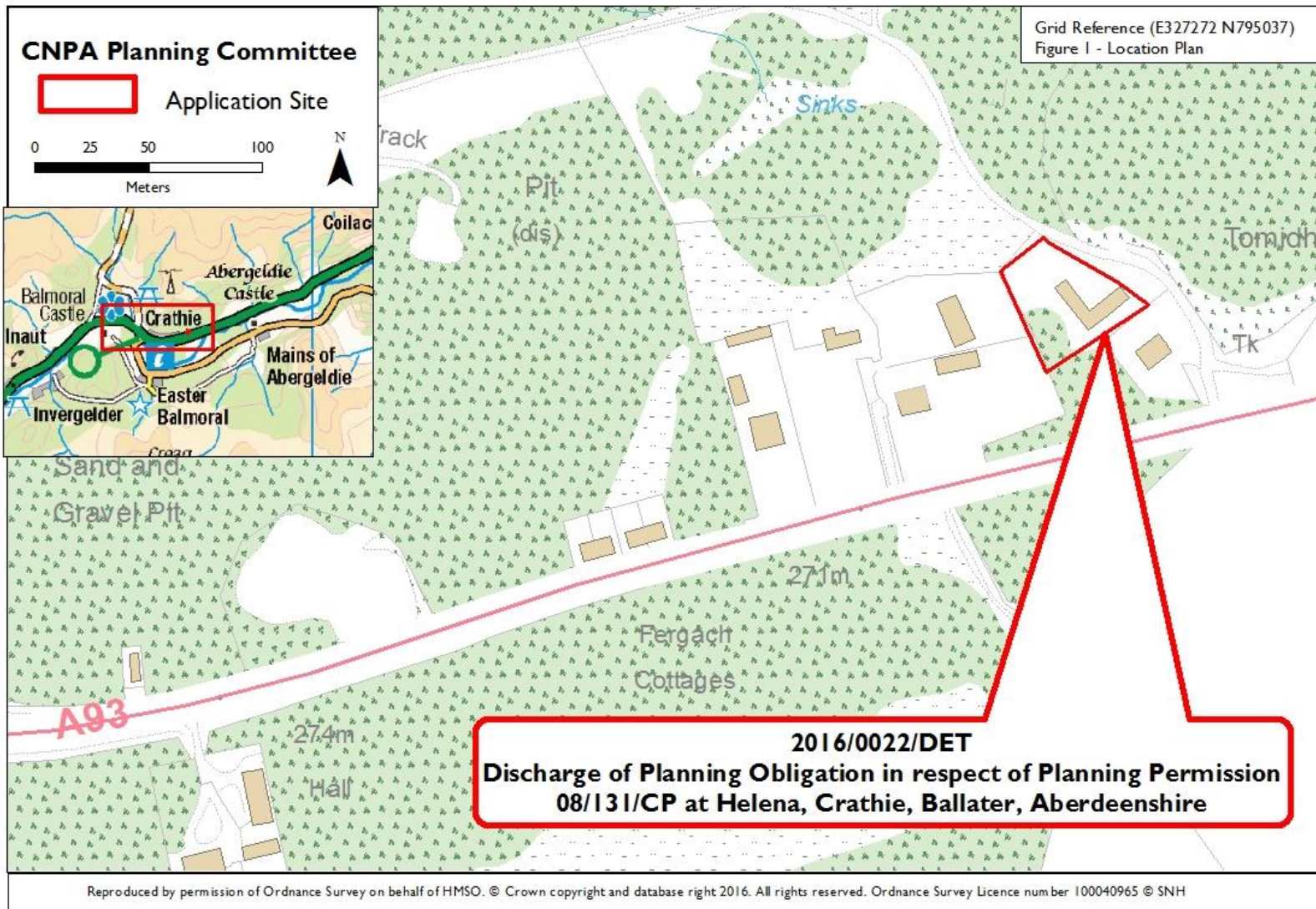

CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:	
Discharge of planning obligation in respect of planning permission 08/131/CP at Helena, Crathie, Ballater.	
Restriction on occupancy of the property and obligations in relation to the disposal of the property.	
REFERENCE:	2016/0022/DET
APPLICANT:	Mr Alistair Skakles
DATE CALLED-IN:	25 January 2016
RECOMMENDATION:	Approve
CASE OFFICER:	Matthew Taylor, Planning Officer



SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The property subject to this planning application, being a 1.5 storey detached dwelling house, is located on the north side of the A93 and to the eastern side of the Crathie settlement. The dwelling house is located adjacent to the converted steading building which houses the associated bed and breakfast business, and there are other residential properties, bed and breakfast, self-catering accommodation, and buildings of domestic scale nearby.
2. The property is accessed via an existing track from the A93 with the wider land use of the area being woodland and grazing.

Proposal

3. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:

<http://www.eplanningcnpa.co.uk/online-applications/#searchApplications>

Title	Drawing Number	Date on Plan	Date Received
Location Plan			25/01/2016
Supporting Information			25/01/2016
Supporting Information			26/02/2016
Supporting Information			28/02/2016

History

4. Planning permission for the dwelling house was granted subject to a S.75 restricting occupancy to those working full time in the associated bed and breakfast business and their dependents residing with them. The obligation also prevented the disposal of the domestic property separate from that of the business. Permission was granted under planning application reference 08/131/CP on 23 June 2009 following the entering into of the Legal Agreement.
5. The property is now fully constructed and occupied and the bed and breakfast is completed and operational. The planning permission was granted in association with the approval for a change of use of an agricultural building conversion from tearoom (Class 3 and which was partially converted but not completed), to a Bed & Breakfast (Class 7). The application was submitted on the basis that there was a need for a house to accommodate the applicant and family members in support of the running of the business, and other personal justifications relating to social support. This was a further application following the earlier approval

for a larger dwelling house associated with the tearoom in 2005 and which was also approved by the CNPA. The planning applications were approved in accordance with the Aberdeenshire planning policies at that time.

6. The Report on Called in Planning Applications relating to the earlier approvals is attached to this paper for reference, along with the S75 and decision notice for the house.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	Scottish Planning Policy 2014	
Strategic Policy	Cairngorms National Park Partnership Plan 2012 - 2017	
Local Plan Policy	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	X
POLICY 2	SUPPORTING ECONOMIC GROWTH	X
POLICY 3	SUSTAINABLE DESIGN	
POLICY 4	NATURAL HERITAGE	
POLICY 5	LANDSCAPE	
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	
POLICY 11	DEVELOPER CONTRIBUTIONS	

7. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at:

<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

Planning Guidance

8. Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	New Housing Development Non-Statutory Guidance	X
Policy 2	Supporting Economic Growth Non-Statutory Guidance	X
Policy 3	Sustainable Design Non-Statutory Guidance	
Policy 4	Natural Heritage Supplementary Guidance	
Policy 5	Landscape Non-Statutory Guidance	

Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	
Policy 11	Developer Contributions Supplementary Guidance	

CONSULTATIONS

9. A summary of the main issues raised by consultees now follows:
10. **Ballater and Crathie Community Council** had made no comment at the time of reporting. It is noted that the Community Council offered full support to the application for the house under the 2008 consultation.

REPRESENTATIONS

11. None

APPRAISAL

12. The applicant seeks to discharge a S.75 occupancy restriction tied to the residential property. In the event of a change to the planning or other circumstances of the site which appears to any party to the agreement or to their successors in title to render any of the conditions, restrictions, obligations and others contained in the agreement no longer relevant, the parties or their successors in title shall consider whether the said conditions, restrictions, obligations and others should be modified, varied, or discharged.
13. In assessing such applications the Planning Authority is to consider the intent of the imposition of the S.75 at the time of the consent being issued, and whether the removal of this control would be acceptable in planning terms at the current time. Adopted Development Plan Policies and material considerations that would warrant a review of the S75 should be considered, in this instance including policies relating to housing and economic development, and any advice or guidance issued in respect of occupancy restrictions from Scottish Government or through Scottish Planning Policy.

Applicants Justification

14. The original planning consent was granted on the basis that a house was required on site to support the efficient operation of the bed and breakfast business. The bed and breakfast business was to be provided through the change of use of the steading conversion. It was determined at the time that there was sufficient justification for this, and for the applicant to reside on site, with the occupancy of the house being restricted by S75 agreement to someone working in the B&B establishment.

15. As part of the current planning application, the applicant had provided an initial justification for the discharge of the S75 citing the difficulties of raising funding on the property in support of family commitments and the future transfer of the property from himself when he ages and may no longer be able to work full time on the business.
16. Following contact from CNPA Planning, the applicant has provided further details in support of the current application to discharge the S75 with clarification of the status of the bed and breakfast business and an explanation of how the business would be maintained as viable should consent be forthcoming.
17. The applicant states that all works to the B&B are completed with 25 reservations commencing from 12th March through to 5th September. He also describes the layout of the accommodation to the B&B explaining that all food will be prepared in the B&B, with all servicing of the business being provided within the building or nearby laundry in Ballater. The applicant also confirms that a number of local residents are available on a needs basis to support the running of the business and that full time residence in the separate dwelling is no longer needed to operate the B&B.
18. The applicant asserts that it is his intent to operate the B&B for as long as he is able, but has the optional provision of assistance from local residents who would be employed to provide for the running of the business. The supporting information also states that there is sufficient space within the B&B to provide modest staff accommodation if it were needed, with a further option that would provide for tourist accommodation through the conversion of the B&B into self-catering units.

Planning Policy Context

19. At the time of the planning permission for the house being granted Cairngorms National Park Plan 2007 strategic objectives for landscape, built and historic environment, housing, and sustainable tourism were utilised. However, in relation to the housing component the assessment was based on the provisions of Aberdeenshire Structure Plan Policy that presumed against new housing in the countryside except for a new house which is essential to the efficient operation of an enterprise which is itself appropriate to the countryside. This restriction was further cited in the Aberdeenshire Local Plan 2006 requiring justification for new housing in the countryside. On that basis the planning application was put forward for new housing and it was demonstrated that a dwelling was essential for the operation of the bed and breakfast business. Planning permission was subsequently granted with the S75 occupancy restriction.
20. Subsequent to the granting of the planning permission there has been a notable change in adopted planning policy within the National Park. Current adopted planning policies are now contained in the Cairngorms National Park Local Development Plan 2015 and assessments no longer rely on the Local Planning Authority Development Plan Policies. In respect of housing developments in existing rural groups, Cairngorms Local Development Plan Policy 1.2 states that

proposals for new housing development which adds to an existing building rural group (three or more buildings) will be considered favourably where:

- a) They connect to, reinforce and enhance the character of the group integrating with existing build form, pattern of existing development; and
 - b) Do not add more than one third to the existing number of buildings in the group within the plan period (based on the size of the group on the date of plan adoption).
21. The Crathie building group is relatively dispersed with local landform creating some visual separation between buildings and blurring their relationship with others. However, there are approximately 10+ dwellings or buildings of domestic scale within this Crathie group, with the house subject of this application being located adjacent to the converted steading buildings and other dwellings including self-catering and B&B accommodation. It is considered that when assessed against the provisions of adopted planning policy the dwelling complies with part 2 a) and b) of Policy 1: New Housing Development of the adopted Local Development Plan.
22. The current application has demonstrated that a flexible approach to business management and availability of adaptations to the bed and breakfast, are sufficient to ensure that tourist accommodation is protected and maintained. This is consistent with the relevant provision and intent of Cairngorms Local Development Plan Policy 2: Supporting Economic Growth.

Other Material Considerations

23. On the 4th November 2011 the Scottish Government (SG) issued a letter from the Chief Planner clarifying the Scottish Government's views on the use of conditions or planning obligations to restrict the occupancy of new rural housing.
24. The Scottish Government consider that a number of issues have arisen with the use of occupancy restrictions. Some people have found it difficult to get a mortgage to buy a house with an occupancy restriction. Others have found it difficult to sell the house, or have the restriction lifted, when they are forced by necessity to move. SG considers that any use of occupancy restrictions introduces an additional level of complexity (and potential expense) into the process of gaining consent for a new house. Occupancy restrictions can also be intrusive, resource-intensive and difficult to monitor and enforce.
25. Scottish Planning Policy (SPP) promotes a positive approach to rural housing. It states that development plans should support more opportunities for small scale housing development in all rural areas, including housing which is linked to rural businesses. SPP does not promote the use of occupancy restrictions. The Scottish Government believes that occupancy restrictions are rarely appropriate and so should generally be avoided.

26. In circumstances where there is potential for adverse impacts as a result of a new house, it is reasonable for decision makers to weigh the justification for the house against its impact, for example on road safety, landscape quality or natural heritage, and in such circumstances it may be appropriate for applicants to be asked to make a land management or other business case. Where the authority is satisfied that an adequate case has been made, it should not be necessary to use formal mechanisms to restrict occupancy.
27. The Scottish Government believes that a vibrant populated countryside is a desirable objective and that new housing to realise this aim should be well sited and designed, and should not have adverse environmental effects that cannot be readily mitigated. In areas where there is a danger of suburbanisation of the countryside or an unsustainable growth in long distance car-based commuting, there is a sound case for a more restrictive approach. In areas where new housing can help to support vibrant rural communities or sustain fragile rural areas, planning authorities should seek to support suitable investment in additional provision, focussing on the issues of location, siting, design and environmental impact rather than seeking to place restrictions on who occupies the housing.

CONCLUSION

28. The applicant has provided details in support of their application, including an adaptable building layout and the availability of flexible business management options such as local employment and site servicing. Such flexible options are capable of providing for the continued use of the site for tourist accommodation serving the local area in accordance with the intent of planning policies that support economic growth. It is demonstrated that the viability of the established B&B business would not be compromised should the occupancy restriction be lifted as it is no longer a requirement that on site full time staff accommodation be provided. Furthermore, the dwelling house is fully constructed and integrated into the existing built form and pattern of development and is in accordance with the provisions of adopted planning policy. The discharge of the S75 would remove unnecessary burdens on the applicant whilst maintaining an acceptable standard of development and is consistent with the Scottish Government guidance on occupancy restrictions and rural housing.

RECOMMENDATION

**That Members of the Committee support a recommendation to:
Approve the S75A for discharge for the following reasons:**

The discharge of the S75 would not prejudice the running of the established bed and breakfast business and a useful tourism and leisure enterprise within the area would be maintained. The S75 is no longer required to control the occupation of the dwelling house as a locational requirement no longer exists under current adopted planning policy. Furthermore the proposal accords with Scottish Planning Policy (SPP)

which promotes a positive approach to rural housing without the need for restrictive occupancy conditions in general.

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.