
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

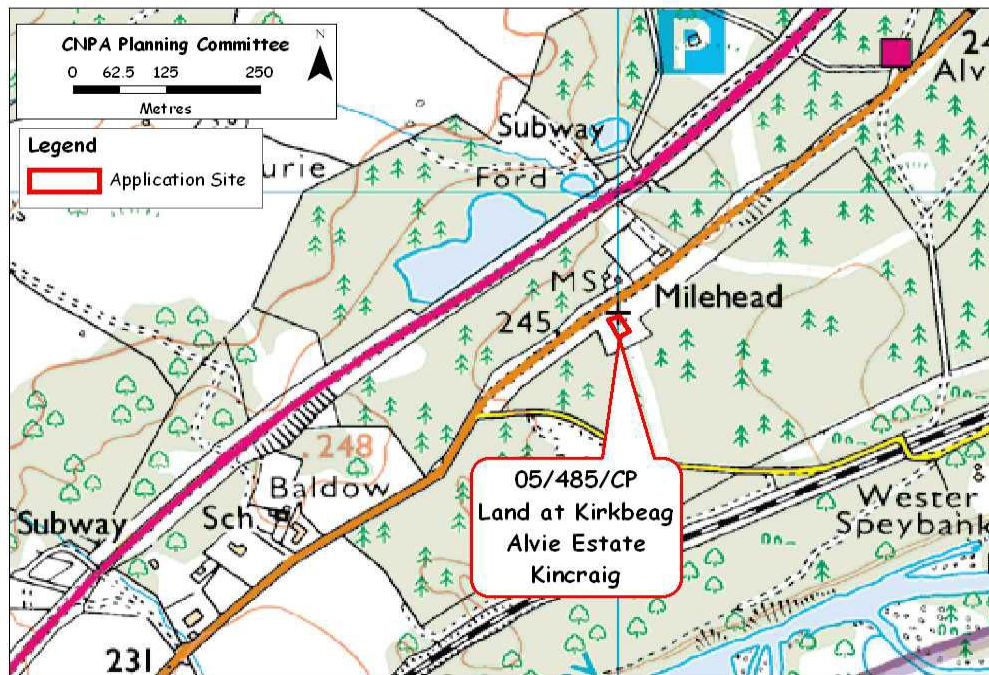
Prepared by: NEIL STEWART, PLANNING OFFICER
(DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: OUTLINE PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE (EXTENSION TO TIME LIMIT ON 02/00308/OUTBS), LAND AT KIRKBEAG, ALVIE ESTATE, KINCRAIG, KINGUSSIE

REFERENCE: 05/485/CP

APPLICANT: AUSTIN BURKE, KIRKBEAG, KINCRAIG, KINGUSSIE, PH21 1ND

DATE CALLED-IN: 2 DECEMBER 2005



This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office© Crown Copyright. Cairngorms National Park Authority, License# 100040965, 2004.

Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The site to which this application relates is situated adjacent to the B9152 approximately 1km north east of Kincaig (Fig. 1). On site at present is the former Alvie Free Church which has been converted to a house. This is the applicant's house. In the grounds of the former church is a self-contained timber clad, pitched roof bunkhouse/chalet which sleeps six. This building is used for holiday accommodation but currently demands very low rental rates and is not in great demand. The site sits above the level of the public road and is surrounded in mature woodland. Access is taken directly from the B9152. There is also an established footpath from the rear of the site, adjacent to the bunkhouse/chalet which leads directly through the woodland to the minor road to Speybank lying to the south east. There is currently hardstanding parking and turning areas within the curtilage. (see Figs. 2, 3, & 4 below)



Fig. 2. Kirkbeag from B9152



Fig. 3. Existing Structure to be replaced

2. In November 2002, Highland Council granted outline planning permission to the previous owners of Kirkbeag for the erection of a dwellinghouse to replace the existing bunkhouse/chalet (02/00308/OUTBS). Conditions were imposed requiring the submission of full design details, means of access, landscaping etc. as part of a Reserved Matters application, details of trees to be felled, the creation and retention of visibility splays, and parking and manoeuvring space on site. **There were no conditions requiring the new house to be used for holiday purposes only. This permission expired on 19 November 2002 but the current application for an extension of time for this previous permission, was submitted prior to the expiry date.**

3. Planning permission is therefore proposed to renew this previous outline permission. The proposal seeks to maintain the principle of removing the existing timber bunkhouse/chalet and replacing it with another dwellinghouse. Further information was requested and submitted. While only outline, the applicant has indicated a new timber chalet type building which would be larger in size than the existing one but which would accommodate the same number of occupants (six). An indicative plan shows the new building being located to the rear of the existing one. The intention is to use the new building for holiday lets. It would be the intention to retain as many trees as possible but there would be a need to remove several mature trees. There may also be a need to alter ground levels.



Fig. 4. Existing structure to be replaced

4. Apart from the outline permission in 2002, there are other historical permissions which are of relevance. In November 1985, the church was granted permission for conversion to a house. Prior to that, it was used by the Alvie Free Church Congregation. It appears that the bunkhouse/chalet building was used as the church hall at that time but in January 1986, the then owners of the converted church, gained permission for re-siting it to its current position and changing its use to holiday accommodation. However, no conditions were imposed

restricting it to holiday use only. Then in September 1990, permission was granted to extend the building to the front and back. Again, no additional holiday use conditions were imposed. Since 1990 it seems that it has been in occasional residential use, albeit holiday lets.

DEVELOPMENT PLAN CONTEXT

5. **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. **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.
6. **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. **Policy N1 (Nature Conservation)** states that new developments should seek to minimise their impact on the nature conservation resource and enhance it wherever possible. **Policy T3 (Self Catering Tourist Accommodation)** advises that permission for tourist accommodation proposals will be granted only on the basis of the development not being used for permanent residential accommodation. This will be secured by means of an appropriate occupancy condition.
7. **Highland Council's Supplementary Development Plan Policy Guidelines (April 2003)** is founded on the Structure Plan and provides more detailed guidance for Local Plans, development control, developers and the public on the interpretation of specific policies contained within the Plan. It advises that new housing in the countryside within the open countryside will be exceptional and will only be permitted, in accordance with national guidance and the Structure Plan policy, where it is, amongst other things, 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 or environmental grounds, and subject to the existing being demolished.

8. **The Badenoch and Strathspey Local Plan (September 1997) Policy 2.1.2.3 (Restricted Countryside Areas)**, has a strong presumption against the development of 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. **Policy 2.2.9. (Tourism and Recreation)**, advises that these activities will continue to make a vital contribution to the economy. The priority is to ensure that broadening the range and quality of facilities and accommodation is balanced with protecting the areas exceptional scenic and heritage resources. **Policy 2.2.10 (Tourism)** encourages the development of tourist accommodation and facilities at suitable sites within or immediately adjoining communities. Development potential in parts of the countryside is limited by amenity and servicing factors. **Policy 2.5.4. (Woodlands and Trees)** seeks to protect existing trees and established woodland areas which are important landscape, wildlife and amenity features of the countryside. These include significant areas of ancient and semi-natural woodlands.

9. **For information purposes only, the Cairngorms Draft Cairngorms National Park Plan: Priorities for Action 2007-2012** puts forward 7 priorities for the National Park. One of these is “Conserving and Enhancing the Park’s Biodiversity and Landscapes”. Work within this priority includes enhancing the Park’s landscapes, identifying and enhancing habitat networks, enhancing the condition of designated sites within networks, and protecting biodiversity. Another priority is “Making Tourism and Businesses Sustainable”. Work within this priority includes supporting strong businesses with high quality standards, managing the impacts of tourism and business, improving environmental performance, and supporting entrepreneurship and business development. Finally a third priority is “Making Housing Affordable and Sustainable”. Work within this priority includes increasing supply and accessibility, promoting effective co-ordination and co-operation, and improving the quality and sustainability of design. **Please note the Draft Park Plan is not a land use development plan and carries no material weight at this stage.**

10. **Again, for information purposes only, the CNPA consultative Draft Local Plan**, locates the site in a **General Policy 2 Area**. This is because of the Ancient/Semi-natural Woodland status. This states that development will only be permitted where it is demonstrated that there is no alternative or the aims of the National Park or objectives of the designation and the overall integrity of the areas features or interests will not be compromised. **Policy 4 (Landscape)** advises that development that is likely to have an adverse impact on the special landscape qualities of the National Park, including: landscape character; scenic qualities; natural beauty; amenity; historic landscape elements; cultural components; or wild land character, will not be permitted. **Policy 30 (Tourist Accommodation)** states that

chalets/self-catering/bunkhouse developments should be sited to minimise their impacts, with developments screened by woodland settings preferred. Redundant or derelict buildings can often be utilised. Planning conditions will be attached to restrict their use for tourism purposes where appropriate. **Policy 27 (Access Rights)** states that development proposals which would result in a significant loss to the public of access rights, or loss of linear access such as core paths, rights of way, or other paths will only be permitted where an appropriate or improved alternative access solution can be secured.

11. **Policy 39 (Proposals for Housing Outwith Defined Settlements)** states that outwith established settlement boundaries proposals for new houses will be favourably considered where the proposal complies with at least one of three criteria. These are; the applicant has lived and/or worked in the area for at least 3 years, and is currently un-/inadequately housed; the proposal can be justified as essential to house worker(s) for long term economic activity which is specific to that locality, with a full reasoned case why housing elsewhere is not suitable – occupancy conditions will be required; or the proposal is for a new house which will be linked by a section 75 agreement to the active management of a crofting/agricultural unit or other land-based industry based in the specific locality. In each case, the application must be for a single house for permanent occupation and must either join an existing group of at least three houses; or be sited to complement the existing pattern and character of development.

CONSULTATIONS

12. Being an application which seeks to renew a previous permission, previous consultations carried out at that time remain relevant.
13. **Highland Council's Area Roads Manager** had no objections, subject to the imposition of planning conditions relating to the provision of parking and manoeuvring space for cars and a larger service vehicle on site, and the creation and retention of visibility splays.
14. **SEPA** wished to ensure that foul drainage proposals met with the usual requirements in terms of infiltration and distances to watercourses. However, it was confirmed that it was the intention to continue to use the existing septic tank and full soakaway system which served the main house and the bunkhouse/chalet. Following consultation with **Highland Council's Building Control Service**, it was agreed that, since the proposal was a replacement for an existing and that they had no knowledge of problems of failure or pollution, it was acceptable to continue to use the existing system.

15. On the current application, **Kincraig & Vicinity Community Council**, have confirmed that they realise that this extension application is a proposal essentially unchanged from an earlier application. They see no reason to alter their position of having no comments.
16. **The CNPA's Outdoor Access Officer** has advised that there is a well trodden path about 1.5-2m wide which approaches the rear of the property and leads almost right up to the door of Kirkbeag, once the entrance to the church. Considering its past use as a church, it is fairly clear that the path was established by people coming to church possibly from Kincraig itself or from Speybank. Approaching Kirkbeag along the path, about 30m short of the boundary of the property, a further track veers north east into the woods and picks up a forwarder track that leads to the B9152. It is not expected that the path through the Kirkbeag property is much used by the public – the fact that the other path veers off short of the boundary suggests that the public don't necessarily want to take access through their property. However, the route is not blocked in any way and is clearly still in use as it is well worn. The path does not though appear on the Scottish Path Record and is not an existing Right of Way – not claimed, asserted or vindicated. As such it is probably not a public access route of major importance and the church has been a house now for many years. It is unlikely that access rights would apply where the path passes into the Kirkbeag property due to the privacy zone around both the house and the existing bunkhouse/chalet. However, if there is a custom of access this should be respected and therefore it might be reasonable to ask the applicant to make provision for access to be diverted around their property.

REPRESENTATIONS

17. Attached to the report is a letter received from the applicant which I have treated as a representation in support of the application. It expresses concern about the possibility of refusal of the application or the imposition of new restrictions and how this would affect their hopes of providing economic betterment from a substandard holiday house. The letter also emphasises that the proposal is a replacement house and therefore it would not set an undesirable precedent nor is there a presumption against it in terms of policy. Detailed matters of siting and design would be dealt with at the reserved matters stage. The letter also advises how the applicant feels the proposal meets the aims of the National Park.
18. **No objections have been received.**

APPRAISAL

19. This application was called-in because, without extensive knowledge of what the existing structure to be replaced actually constituted in planning terms, it represented the erection of a new house in a Restricted Countryside Area. While the existence of the previous outline permission was acknowledged, the creation of the National Park, since that time, is a material change in the planning context of the area. It was therefore right to fully consider the implications of the proposal in this context, and to be consistent with other decisions to call-in similar applications for houses in such areas.
20. The starting off point therefore in the assessment of the proposal was what is the established planning use of the existing structure to be replaced, on what basis was the outline permission granted in 2002, and if acceptable in principle, do additional restrictions need to be imposed. Following this, other issues that require consideration include the implications for public access in the area, the impact on trees and the habitat value of the Ancient/Semi-natural Woodland, and the technical issues of road safety and drainage.

Principle

21. The existence of the previous outline permission is a material consideration, particularly when it had not expired before the submission of the current application. There is no committee report on the previous application in Highland Council's previous file. Nor is there evidence of queries into the established use of the existing building to be replaced at that time. I can therefore only assume that it was viewed as a replacement house proposal that did not raise conflicts with policy, and as such, it was not a proposal which required Badenoch and Strathspey Area Committee consideration.
22. From a trawl of historic records, I have established that the existing bunkhouse/chalet to be replaced appears to have been the former church hall but then, with planning permission, was re-sited and converted to residential use, albeit holiday lets. It seems that this occasional holiday let use has continued for some 20 years or so. However, at no stage has there been a restrictive planning condition on holiday use imposed. In planning terms therefore, the bunkhouse/chalet, which is to be replaced, has an established permanent residential use. If someone wished to move into the property on a permanent residential basis, or sell it independently of Kirkbeag, then there would be no planning reason to resist this or indeed a requirement for a planning application. With planning policy supporting the principle of replacement houses, even in Restricted Countryside Areas, I am sure that this was why the previous outline permission was granted.

23. To the extent of seeking the applicant's agreement, I have considered the imposition of a holiday use restriction condition on the basis of the National Park's aims. However, the applicant has advised that he would not wish to have such a condition imposed. While it is his intention to retain ownership of the new property and operate it as a holiday let business, he feels that such a condition would devalue the property and he would have difficulties financing the project. However, it is not possible to consider these reasons as planning considerations. The application must be assessed on what it represents in relation to policy. **In this case, my conclusion is that, in planning terms, the proposal represents the replacement of an existing house, which has unrestricted established residential use rights, and one on which a previous application accepted the principle of replacement without restriction. Without the benefit of planning policy back-up, I do not feel that it is sustainable to insist on imposing a restrictive holiday use condition.**
24. In addition, it should also be noted that the proposal provides the opportunity to remove a building which is not of architectural worth, with potentially something that is more appropriate to its setting, will be of higher quality and could deliver sustainable design objectives.

Public Access

25. The existence of an established footpath through the woods into the Kirkbeag site, at a location immediately adjacent to the proposed building plot, has raised an issue of potential impact on public access. Following receipt of the CNPA's Outdoor Access Officer comments, the applicant has advised that from his time at the site and from information provided by the previous owners and others, there is no custom of access through the property. However, he also confirms that the siting of the new building would not impinge upon the track within the property boundaries and he would continue to use it to access the woodland to the rear of his property. He also has no issues with people passing through the property, although he has no experience of this happening since he took ownership over a year ago.
26. The CNPA's Outdoor Access Officer has advised that it is unlikely that access rights would apply where the path passes onto the Kirkbeag property but that it would be of benefit to ensure that the potential for continued access is not prohibited by the new proposal. Nothing that the applicant has said, leads me to believe that there is a real and regular usage of this track, especially where it enters the Kirkbeag property. There is already a diversion of the track to the north east outwith the curtilage which users are more likely to take to access the B9152 from the Speybank road. It is possible through the imposition of a condition and through consideration of the exact siting of the new building at the Reserved Matters stage, to ensure that whatever access may occur through Kirkbeag at present is not changed from what exists at present.

Trees and Ancient/Semi-natural Woodland Habitat

27. The site does lie within an area designated on the Ancient and Semi-natural Woodland Inventories. It is therefore necessary to give some initial assessment to potential impacts. The indicative plan provided by the applicant shows the new building to the rear of the existing where there would be some tree removal. The applicant has also indicated that he would wish to retain as many trees as possible but he would envisage the removal of two hardwood trees and several smaller softwood trees. These trees are part of a much larger area of designated woodland at this location, but they are all within the domestic curtilage of Kirkbeag which extends to the west and east and which is marked by a simple post and wire fence. I do not view the loss of a small number of trees or small amount of ground cover, within a domestic curtilage, as having a significant impact on the features or integrity of the wider designated woodland area at this location. Tree removal can be minimised by careful consideration of siting and design at the time of the Reserved Matters application. A tree survey can also be required, by condition. In this way, I see no conflict with planning policy.

Access and Drainage

28. The Area Roads Manager's comments on the previous application remain relevant. There is ample space on site for parking and manoeuvring and if the new building is set back further from the location of the existing bunkhouse/chalet, more space could be created. At the time of the previous application, it was confirmed that the required visibility splays could be achieved on land within the road boundaries. Their retention would therefore not require land outwith the control of the applicant or the Roads Authority. In relation to drainage, it is the case that the existing septic tank and full soakaway which serve both existing buildings on the site will remain and be used for the new house. The applicant has confirmed that it was designed and installed to accommodate the capacities from both properties. Since the proposal is to build a new property of similar occupancy size there will be little or no additional capacity put on the system. There have been no problems with the system to date. With the applicant confirming his intention to retain ownership of the new property, and with no historical need to have two systems, I see no problem in continuing this approach.

Conclusion

29. **After a thorough assessment of the established planning usage of the site and the existing buildings, it is my conclusion that the proposal represents a replacement house, albeit in a Restricted Countryside Area, but where policy provides support in principle. It also provides the opportunity to improve the on site situation both visually and from a quality point of view. There are no other**

significant negative implications. The recommendation is one of approval.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

30. The proposal will have a slight impact on natural heritage because of the potential loss of some trees and ground cover within the wider Ancient/Semi-natural Woodland Area surrounding the site. However, this will not be significant in relation to the integrity of the larger woodland area. The proposal provides an opportunity to improve the building design quality of a site in a countryside area.

Promote Sustainable Use of Natural Resources

31. The use of timber is envisaged at the detailed design stage and matters in relation to sustainable design can be dealt with in the detailed submissions.

Promote Understanding and Enjoyment of the Area

32. The proposal will not change the current situation of potential public access to and through the Kirkbeag property, provided, the siting of the new building is carefully considered at the detailed stage.

Promote Sustainable Economic and Social Development of the Area

33. Although not possible to restrict its use to holiday occupation only, it is the applicant's intention to use the new house for that purpose. This would be positive in terms of the economic development of the area.

RECOMMENDATION

34. **That Members of the Committee support a recommendation to:**

Grant Outline Planning Permission for Erection of Dwellinghouse (Extension to Time Limit on 02/00308/OUTBS), Land at Kirkbeag, Kinncraig, Kingussie, subject to the following conditions:

- 1. A formal planning application and detailed plans indicating all matters relating to the siting, design and external appearance of all buildings, means of access thereto, means of enclosure, tree retention and replacement, and alterations to existing ground levels, shall be submitted for the prior approval of the Planning Authority within 3 years of the date of this consent and the development must be commenced within 5 years of the**

date of this permission or within 2 years from the date of final approval of all the foregoing Reserved Matters.

2. Unless otherwise agreed, the dwellinghouse hereby approved shall be of a size, in terms of potential occupant capacity, commensurate with that of the existing dwellinghouse which it is replacing.
3. The existing dwellinghouse hatched in green on the approved drawing, shall be demolished prior to the occupation of the new dwellinghouse hereby approved.
4. The developer shall submit a detailed survey of all trees on the site with any planning application for Reserved Matters Approval. This survey shall be displayed on a site layout plan and include an identification of the existing tree species, an estimation of their height and spread of branches, and their location within the site accurately plotted (any trees around the perimeter which overhang onto the site shall also be included). Those trees which it is proposed to fell or remove as part of the proposal, shall be separately identified.
5. Unless otherwise agreed, the existing path route as shown in blue on the approved drawing, where it passes through the site, shall be retained for public access at all times in the future. The new dwellinghouse hereby approved, shall be sited in a position which does not obstruct this path, unless an alternative route is agreed with the Planning Authority.
6. That prior to the completion and occupation of the new dwellinghouse hereby approved, visibility splays of 3 metres by 150 metres in each direction from the intersection of the existing access with the public road, shall be provided and thereafter maintained. There shall be no obstruction above 1 metre in height anywhere within the visibility splays so formed.
7. That parking and manoeuvring space for at least 2 cars and a larger service vehicle shall be provided within or close to the curtilage of the new dwellinghouse hereby approved.

Neil Stewart
9 June 2006

planning@cairngorms.co.uk

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.