
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

Prepared by: DEREK MANSON, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)

DEVELOPMENT PROPOSED: USE OF LAND FOR TEMPORARY SITING OF CARAVAN; INSTALLATION OF SEPTIC TANK AND FORMATION OF NEW ACCESS ON LAND 100M NORTH WEST OF BIRCH COTTAGE, DRUMULLIE, BOAT OF GARTEN

REFERENCE: 08/086/CP

APPLICANT: MR ALEXANDER D GRANT

DATE CALLED-IN: 20th MARCH 2008

RECOMMENDATION: REFUSE



Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Retrospective planning permission is being sought for the use of land for the temporary siting of a caravan; installation of septic tank and formation of new access at land 100m northwest of Birch Cottage, Drumullie, Boat of Garten. The site to which this application relates is located on the north side of the A95 (T) on croft land, known as Lot 5, within the loose grouping of houses and buildings known as Drumuillie, which lies to the north of Boat of Garten. The immediate area surrounding the proposed site is approximately 3.1ha, and the land rises up gently from the main road (Fig.2).



Fig. 2 – Photo taken looking north showing Lot 5.

2. The southern part of the croft land is currently being used as a grazing paddock, with the caravan having been placed to the northern part of the site and a septic tank having been installed (Fig 3 and 4). A new access road has also been formed which will access onto the A95. (Fig 5).



Fig. 3 – Site of temporary caravan



Fig. 4 – Site of temporary caravan
and septic tank



Fig. 5 – photo showing the access and junction with A95 (T)

HISTORY AND RELEVANT CONSIDERATIONS

3. The static caravan was first brought to the attention of the CNPA by Highland Council on 6 February 2008. The applicant and his wife currently reside in the static caravan as they have sold their property in Boat of Garten. The static caravan has also been connected to the Septic Tank on site. The applicants say that the caravan would be temporary until the new house was built on the croft. There is currently an application (07/414/CP) for outline planning permission for a dwelling on this site which has been called in by the CNPA. There has not been a specific agricultural justification made for this application, however, given that the application is closely related to application 07/414/CP, the supporting information provided for application 07/414/CP has been used.

4. The following planning application is considered to be material in the determination of this proposal. The application type and interpretation of Highland Council's planning policy by the Reporter are very pertinent to this planning application. The application was for outline planning permission for the erection of a dwellinghouse and the temporary siting of 2 caravans. The application was initially refused by Highland Council and subsequently the appeal was dismissed by Scottish Executive Inquiry Reporters Unit (SEIRU) on 19th December 2006. The site was on a 19.4ha croft and was refused because the site was located outwith any defined settlement or housing group and no land management justification or related family purposes had been adequately demonstrated, and none of the listed policy exceptions apply.
5. In support of the appeal the applicants claimed that they had proved an operational need for the proposed house. An assessment was carried out by the Scottish Agricultural College, which concluded that the croft will develop a long-term requirement for 0.43 labour units and that – in terms of operational efficiency and discharging the duties of livestock managers as well as fulfilling the cultural aspect of crofting – it was desirable to live on the unit.
6. The reporter decided that it was the needs of the holding itself rather than personal preference and circumstances which are the key determining factors. He concluded that although the required assessments had been undertaken by the Scottish Agricultural College and they had the support of the Corfters' Commission he was not convinced that a proper case has been made to justify an exception to policy in this case. He was concerned that to allow this appeal would allow for the possibility of a less stringent approach being taken in future – to the detriment of the countryside and said that as there was no justification for the proposed house and the same consideration applied to the caravans.

DEVELOPMENT PLAN CONTEXT

7. **Highland Structure Plan (approved March 2001) Policy H3** 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. This is to strengthen the role of the existing settlements and to safeguard the character of the countryside for both residents and visitors. In areas where communities are experiencing difficulty in maintaining population and services some housing may be acceptable.
8. **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.

9. **Policy G2 Design for Sustainability**, lists a number of criteria on which proposed developments will be assessed. These include compatibility with service provision (water and sewerage, drainage, roads, schools, electricity); accessibility by public transport, cycling, walking and car; maximisation of energy efficiency in terms of location, layout and design (including the utilisation of renewable energy sources); and impacts on resources such as habitats, species, landscape and cultural heritage.
10. The site lies within an 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. **Policy 2.1.2. (Housing in the Countryside)** states that single houses outwith recognised settlements will require to be, compatible with the scale and character of local buildings where appropriate, properly located in harmony with the landscape, and designed to a high standard with particular emphasis on proportions, roof pitch, fenestration and selection of materials.
11. Highland Council's **Development Plan Policy Guidelines (April 2003)** provides more detailed guidance on the interpretation of specific policies contained in the 1997 Local Plan, in 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 where 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). In certain areas, some housing in the countryside may be permitted to support the viability of rural communities experiencing difficulties in maintaining population and services. For justification based on croft 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. Any application for a house associated with crofting should be accompanied by confirmation from the Crofters Commission of the bona fides of the crofting application.

12. **Cairngorms National Park Plan (2007)** highlights the special qualities of the Cairngorms, stating that the “Cairngorms is widely recognised and valued as an outstanding environment which people enjoy in many different ways.” It recognises that there is a wide diversity of landscape, land-uses, management and community priorities across different parts of the Park. In a section entitled ‘Living and Working in the Park’ the subject of ‘housing’ is explored. The Plan refers to the need to ensure greater access to affordable and good quality housing in order to help create and maintain sustainable communities as one of the key challenges in the National Park. Reference is also made to the quality and design of new housing which is expected to meet high standards of water and energy efficiency and sustainable design and also to be consistent with or enhance the special qualities of the Park through careful design and siting.
13. The plan also seeks to ensure that development complements and enhances the landscape character of the Park. The Plan goes on to consider that new development in settlements and surrounding areas should complement and enhance the character, pattern and local identity of the built and historic environment.

CONSULTATIONS

14. **Scottish Environment Protection Agency (SEPA)** have no objection to the development and they note that the proposal is to continue utilising an existing septic tank discharging to conventional soakaway. In a planning context the proposals for foul drainage are acceptable providing the minimum distances to water required by Building Standards are achieved and the size of the existing system is adequate for any additional loading.
15. **The Crofters Commission** has advised that their records show the owner of the croft to be Mr Alexander D Grant. They state that, Mr Grant has been the owner of the croft since 1995 and since that time there have been no Decrofting Directions issued in respect of the croft. In conclusion the Commission support the building of croft housing to enable a crofter or owner of the croft to reside there and make best use of the land.
16. **Boat of Garten and vicinity Community Council** responded saying that although neighbour notification appeared to be inadequate, they had no objection to a temporary caravan provided that agreement was secured that when the application for a new house was resolved the caravan would be removed.
17. **Transport Scotland (Trunk Roads Network Management Directorate)** initially advised that they had no objection to the proposal provided that conditions were met. However, they have subsequently changed their advice as they initially understood that there existed consent for a residential caravan and the application was for a dwelling house to replace the caravan, as it transpired there was no such consent and Transport Scotland amended the response accordingly. They now advise that planning permission be refused. Their reasons for this recommendation are:

- The proposed development could result in an increase in the number and type of vehicles entering and leaving the traffic stream at a point where visibility is restricted thus creating interference with the safety and free flow of traffic on the trunk road;
- The development proposes to take access at a location where there has been a serious accident, thus the proposed development may result in increasing the likelihood of another accident at this location, consequently, creating interference with the safety and free flow of traffic on the trunk road.

REPRESENTATIONS

18. The application has been advertised by Highland Council in The Strathspey and Badenoch Herald as a potential Departure from the Development Plan. 3 letters of objection have been received, (APPENDIX 1). In summary the issues raised, include:

- The siting of the caravan and installation of septic tank, access, water and electricity all installed without obtaining planning consent
- Stables, with a concrete base, have been erected. Does this require planning consent?
- The applicant has recently sold his house in Boat of Garten and question whether this was an attempt to pressurise the Planning Committee to approve the application.
- The vehicle access onto the A95 trunk-road is sub-standard and the sight lines are inadequate
- Proposal contrary to development plan policies and granting planning permission could set a precedent in the area
- Insufficient justification on land management grounds as the applicant only uses ground for grazing

19. In response to these comments the septic tank and access are the subject of this retrospective application for planning permission. The applicants have stated that the stables have been there for more than 10 years, therefore are exempt from any enforcement action. The planning report has made members aware that the applicants have sold their house in Boat of Garten and currently live on site in the static caravan. The issue of the vehicle access is discussed in the report and Transport Scotland has been consulted as the vehicle access is taken onto a Trunk Road. The report will consider the proposal and the how it relates to the relevant development plan policies and also the report will also consider whether there is a sufficient land management justification for the proposal.

20. The applicant has also submitted a letter in reply to the objections (APPENDIX 2). The applicant states in response to the issues raised that;
- Septic Tank issues were put to planning at Kingussie such as soakaway tests
 - The stables have been there for years
 - The sale of my family house was not sold to force consent
 - Access from the road to my gateway is the same as it was when the road was built. I have worked on my land entrance to take away the steepness for vehicles such as horse box and cars.
21. Two of the letters of support for the house application (07/414/CP) make reference to this application. The first letter states because the applicant already lives in an unauthorised caravan it would regularise the situation if he were granted planning permission to build a house and undertake to remove the unauthorised caravan on taking up residence in the house. The second letter of support from the constituency MSP wishes to express his support for the wish to develop his croft and points out that they have lived in a caravan on this site for two years in all weathers. (APPENDIX 3).

APPRAISAL

22. This application relates to application 07/414/CP. The applicant states that the caravan is temporary until he gets planning permission to build a house. The applicants currently reside in the caravan having sold their property in Boat of Garten. This appraisal section of the report will first consider the principles of the development proposed and how it 'fits' with planning policy and the aims of the Cairngorms National Park. The assessment will also consider issues such as access and roads issues and the septic tank. Although no specific land management justification has been made for this application after discussing this with the applicant and given that it is closely related to application 07/414/CP, the supporting information provided for that application has been used.

Principle and Policy

23. Caravans/mobile home units are not usually considered to be suitable for locating in open countryside. The design, materials and colour of such units are not generally seen as being sensitive to such areas. In terms of design quality, the proposal does not meet the general thrust of planning policy. In addition, in terms of the overall sustainability objectives of the Highland Structure Plan, the use of the caravan for habitation is not seen as maximising the quality of housing, the standards of health, the use of renewable resources or the efficient use of energy. In relation to the aims of the National Park such accommodation seems even less appropriate, other than for exceptional circumstances such as an agricultural justification.

24. One of the key issues to assess in this application is the principle of the siting of a caravan on this site in relation to the development plan policies. Applications for the temporary siting of caravans which may act as a precursor to applications for permanent dwellings will be subject to the same policy considerations as a new housing development in the countryside. Highland Council's Development Plan Policy Guidelines 2003 recognises that for a justification to be based on croft management it is accepted 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 account. It also says that any application for a house should be a registered croft or associated common grazing and be accompanied by appropriate confirmation from the Crofters Commission of the bona fides of the crofting application. As noted in the consultation sections of this report, the Crofters Commission has expressed general support for applications of this nature. However, the proposed development is also identified in the Local Plan as in an area of Restricted Countryside where there is a strong presumption against residential development unless there is a land management (agricultural or crofting) justification for allowing otherwise. The policy is based on the premise that there should be protection in the countryside from sporadic development and to that end permit development only where a clear justification exists.
25. For the presumption against new housing development to be overcome, a genuine land management justification must be demonstrated. Policy H3 of the Highland Structure Plan refers to a house being required for the management of land and Policy 2.1.2.3 for Restricted Countryside Areas in the Badenoch and Strathspey Local Plan allows for the possibility of exceptions only where a house is essential for that purpose. The justification which has been provided stated that the total number of stock on the croft comprises 5 sheep, 2 horses and 4 hens and the applicant has stated that the typical hours worked on the croft per day is two. In terms of man hours and the level of economic dependency these are insufficient to support the need for a house on land management grounds. I therefore consider that, despite the **Crofters Commission** general support for croft housing, an insignificant justification has been demonstrated to comply with the terms of the Restricted Countryside Areas policy.
26. The sale of the applicants former house in the expectation that they could then build a new house on the croft could be considered a reckless act on the part of the applicant in light of the applicants site being located in the Restricted Countryside Area where there is a strong presumption against residential development unless there is a land management (agricultural or crofting) justification for allowing otherwise. The applicants previously lived in Boat of Garten which is less than 10 miles from the croft and therefore the applicant was living within the 10 mile radius the Crofting Commission requires crofters to reside within not to be considered an absentee crofter.
27. It is also important to note that an application for a house and two temporary caravans on a considerably larger croft was refused by SEIRU for reasons stated in paragraph 6 of the report.

Septic Tank

28. This application seeks retrospective permission for a septic tank. The septic tank has been installed and is connected to the static caravan. Percolation tests have been carried out and SEPA have been consulted and have no objection to the proposals.

Access and Roads Issues

29. The negative response to the application from Transport Scotland is noted in paragraph 15. Their response reinforces the objections raised from neighbouring properties, on the concerns about the increased traffic flow the proposed development would have on the trunk road, which has witnessed a serious accident. The members of the planning committee had deferred the application for a house (07/414/CP) at a previous planning committee and had asked for clarification to be sought from Transport Scotland regarding their objection to the planning application which would use the same access road.
30. Transport Scotland has provided a response detailing their reasoning for the recommendation for refusal for both applications. The additional response states *“when considering the suitability of an access to serve a development, this is based on the requirements of the Design Manual for Roads and Bridges (DMRB), Volume 6 TD 41/95 and TD 42/95 combined with recorded accident statistics. The DMRB provides the minimum geometric and visibility requirements expected in relative to the design speed of the Trunk Road, in this case 60 mph, against which Transport Scotland compares ‘on site’ measurements to determine the level of compliance with standards. In circumstances that the existing visibility does not meet these requirements then consideration is given to the extent of works required by the applicant to meet the standard. As an example should it transpire that with minor alteration visibility is achievable then Transport Scotland would recommend to the Planning Authority that a condition be attached to reflect this, the same goes for the geometric layout of the access. In conclusion it was considered that the restrictions to visibility could not reasonably be overcome and combined with the accident history and improvements required to the general access arrangement the application is recommend for refusal on the basis that the intensification in use of the existing access would be detrimental to the safe and free flow of traffic on the Trunk Road.”*
31. Transport Scotland have also attached a copy of the site report written by the Operating Company, BEAR Scotland Ltd., which identifies the visibility shortfall and concerns regarding the accident history and includes the photos taken during the site visit. (APPENDIX 4).
32. The Committee should note, if approval is deemed appropriate, the refusal recommendation from Transport Scotland would mean the application would require to be notified to the Scottish Government for a final decision.

Conclusion

33. There has been a lack of a land management justification provided by the applicant for either this application or the erection of a dwelling on this site, and also a recommendation of refusal by **Transport Scotland** on the basis of increased vehicular activity where there is restricted visibility, therefore the application is recommended for refusal.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

34. Although there are no natural heritage designations, a new unjustified temporary caravan on this prominent site, together with the formation of its access, will have negative impacts on the character and quality of this part of the rural landscape of the National Park and would potentially set a precedent for additional development which could further erode the character of the area. It would not therefore promote the conservation or enhancement of the natural heritage of the area.

Promote Sustainable Use of Natural Resources

35. The use of a caravan for habitation is not viewed as being sustainable in the long term, due to its failure to maximise the use of energy and renewable resources.

Promote Understanding and Enjoyment

36. Not relevant to this application.

Promote Sustainable Economic and Social Development

37. The development proposal represents a residential caravan in the countryside, which has not been sufficiently justified as being necessary for land management purposes; therefore it does not demonstrate a sustainable form of economic development within the Park.

RECOMMENDATION

It is recommended to the member of the Committee that the application for the use of land for the temporary siting of a caravan; installation of septic tank and formation of new access on land North West of Birch Cottage, Drumuillie, Boat of Garten be REFUSED for the following reasons:

1. The proposed development is contrary to Regional and Local Planning Policy as contained in 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. It has not been sufficiently demonstrated that the proposed caravans related septic tank and access are required for the purposes of land management. If approved, the development would set a precedent for further unjustified development of this nature and 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 proposed development will result in the intensification in use of the existing access which would be testimonial to the safe and free flow of traffic on the A95 (T), at a point where visibility is restricted and where there has been a serious road traffic accident in the past.

Derek Manson
14th September 2009
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.

APPENDIX I

3x objection letters

APPENDIX 2

Letter of reply

APPENDIX 3

Letters of support

APPENDIX 4

Copy of BEAR site report