
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

Prepared by: MARY GRIER, PLANNING OFFICER,
(DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: ERECTION OF NEW DWELLINGHOUSE,
AT LAND ADJACENT TO CHURCH PLACE,
DULNAIN BRIDGE

REFERENCE: 04/486/CP

APPLICANT: TRUSTEES OF NIALL CALTHORPES
1959 DISCRETIONARY SETTLEMENT,
c/o FPD SAVILLS, 55 YORK PLACE,
PERTH PH2 8EH

DATE CALLED-IN: 22ND OCTOBER 2004

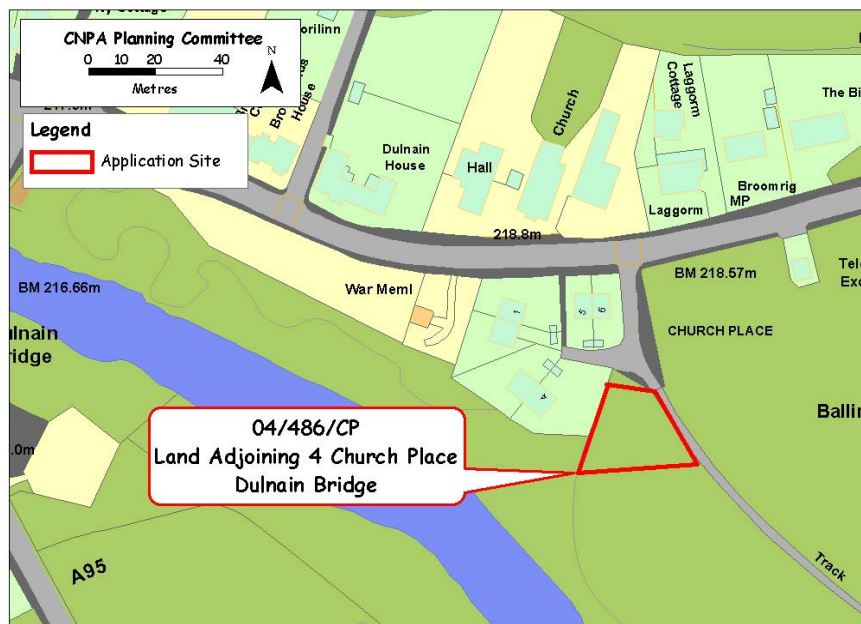


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. This application was discussed at the Planning Committee meeting of 26th August 2005 and was deferred to allow investigation of a number of issues, including the background to the need for the proposed dwelling house and whether or not there was any 'employment justification', determination of the exact number of trees that would require felling in order to accommodate the proposed dwelling unit on site and also clarification on the proximity of existing dwellings to the south of the proposed site. The matters are dealt with at various stages in this report and all changes to the original report are highlighted in bold print.
2. The application is for outline permission for the erection of a dwelling house in an area of ground that lies adjacent to a group of houses at Church Place, off the A938 at the eastern end of the settlement of Dulnain Bridge. The creation of six car parking spaces to facilitate Church Place residents and also other users of the adjacent woodland area is also proposed in a separate area of land. The area of ground associated with the proposed housing site is approximately 0.07ha (0.172 acres). It is surrounded by woodland primarily of exotic origins (sitka spruce) to the south-west, south and east and the area is accessed via a private track adjoining the eastern boundary of the site that leads to the woodland area beyond. The proposed housing site includes some mature trees, primarily along its western and south-western periphery, together with an area of open ground adjacent to the access track. The majority of the area in which the car parking spaces are proposed is open ground where some tree felling has occurred. It is backed by mature coniferous trees. The areas of the proposed site and car parking bays appear to be used at present for informal play and minor wood cutting activity. There was also evidence of some discarded rubbish in the vicinity at the time of a site visit. A short distance to the south of the site the land slopes steeply down towards the River Dulnain. The development proposal also involves upgrading of the existing access track. The lands that are the subject of this application are part of Muckrach Estate.
3. To the south of the proposed site the access track continues through the existing woodland. At the Planning Committee meeting of August 26th there was some discussion regarding the location of existing residential properties within the woodland area and their proximity to the proposed site. The properties in question (known as Ballintomb Cottage, Broombank and Pine Ridge) are located approximately 260 metres to the south east of the subject site and in the past access to the properties was apparently taken from the aforementioned track that traverses past the site through the forest. However, the creation of the new section of the A95, by-passing Dulnain Bridge, has resulted in the termination of the forest track approximately 210 metres to the

south east of the subject site. A pedestrian access route leads from the termination of the track down an embankment to the A95. The existing properties are now accessed via a new opening directly off the diverted A95.



Fig. 2 : Proposed site (I) and also showing existing access track with views northwards to housing in Church Place.



Fig. 3 : Termination of vehicular access track; pedestrian access onto A95.



Fig. 4 : access to existing properties to the east of the A95

4. A similar planning application was submitted to Highland Council in July 2003 for a house on this site, but was withdrawn due to a number of unresolved issues regarding the access road and the provision of parking spaces for the existing housing. This current application was submitted with a view to addressing such issues.

5. The initial site layout submitted as part of this current application included a six bay car parking area to the north-east of the proposed dwelling house site, on the eastern side of the access track, close to its junction with the public road and opposite the existing residential properties in Church Place. The car parking area was proposed in an area of natural woodland, and the proposed works would necessitate extensive tree felling and also the demolition of an existing dry stone dyke that forms the boundary with the access track. As will be detailed in subsequent sections of this report that proposal raised a number of concerns, and was therefore amended in a submission made by the agents on 5th August 2005.
6. As the application is for outline planning permission it does not include any elevation drawings of the proposed dwelling house. However, details on the application form indicate that the dwelling would have an external finish of brickwork or harling, with slate roofing. The development is proposed to connect to the public sewer.
7. **The background to the need for the proposed dwelling house was further investigated with the agents. Members may recall that there was a suggestion from a local Member at the meeting of 26th August that the proposed dwelling unit may be intended to provide accommodation for a worker on the estate at Muckrach. The response received from the agents acting on behalf of the Estate, initially indicated that the dwelling unit was not intended for an estate worker, stating that there was no 'employment justification' for the residential unit and the "Estate would not be willing to enter into a Section 75 agreement restricting the occupancy of the proposed dwelling to persons with land management or some other local employment justification."**
8. **However, in recent weeks further consideration has apparently been given to the circumstances in which the dwelling house is being proposed and it has now been indicated that the Estate are now willing to progress the development proposal as an affordable property and consequently are willing to enter in a Section 75 agreement "binding them to transfer Church Place to a housing association or similar body."**
9. **It may perhaps be helpful for Members to have some information on the context in which the decision to propose the development at Church Place as an affordable plot has been taken by the applicants. Highland Council are currently dealing with an application for the 'formation of an access road and sewage pumping station and sub-division of land to form 10 house plots' at Waulkmill, Dulnain Bridge¹ (planning ref. no. 04/00118/BS) refers).² Affordable housing provision has been requested as part**

¹ Land to the rear of Rose Cottage on the western (Carrbridge) approach to Dulnain Bridge.

² The planning application was notified to the CNPA and discussed at the meeting of 23rd April 2004. CNPA planning ref. no. 04/196/CP refers. The application was not called in.

of that application, with a minimum of two plots being required, and in an effort to meet the requirements, Muckrach Estate wish to propose the residential unit on land near Church Place as an affordable plot, to be taken in part fulfilment of the overall affordable housing required in association with the Waulkmill proposal. This information is provided for information purposes only and any decision made by the CNPA on this current development proposal cannot be taken to influence or prejudice the outcome of any application being determined at a later stage by a different Planning Authority.

DEVELOPMENT PLAN CONTEXT

10. The **Highland Structure Plan 2001** states that policies for “housing development aim to steer demand to appropriate locations within existing settlements.”
11. Settlement policy objectives are discussed in more detail in the **Badenoch and Strathspey Local Plan 1997**, where the attractiveness of smaller settlement centres for house building is identified. It is stated that although a balanced population structure and good mix of accommodation would help to consolidate a basic range of services and facilities in such centres, “inappropriate scale or siting of development must be controlled.”
12. In relation to general conservation objectives in existing communities, the **Local Plan** highlights the need to achieve a balance between maintaining the social and economic viability of settlements and conservation of the environment. The Plan advises that expanding communities must relate well to their landscape setting and the adjoining countryside. Particular reference is made to the need to safeguard ancient and long-established woodland of semi-natural origin, although alongside this aspiration it is also stated “this should not preclude in exceptional circumstances limited encroachment into forest areas where settlements are otherwise tightly constrained.”
13. In terms of specific policies relating to the proposed site, it is located within the general settlement area of Dulnain Bridge, but lies outside the areas identified for development in the **Local Plan**. The land is allocated as an Amenity / Woodland area, which extends to cover a significant area to the south and east, known as Ballintomb Wood. In accordance with this land use allocation, section 4.10.1 of the Plan highlights the policy of the Council to “safeguard remaining woodland and important groups of trees and encourage management necessary to secure varying age structure and species.” The plantations at Ballintomb are mentioned as being of significance.

14. In the assessment of the proposed development reference should be had to Section 4.6.3 of the **Local Plan** which states that in the interest of safeguarding the character of established residential areas, there will be a presumption against further infill housing, including sub-division of existing plots, where development would involve – inappropriate scale, design or orientation; inadequate plot size or spacing between properties; breaching established building lines; felling significant trees; loss of privacy or amenity to neighbouring occupiers; or substandard access.
15. **For information purposes only : the Consultation Draft of the Cairngorms National Park Local Plan includes the subject site within the settlement boundary of Dulnain Bridge. The proposed site is identified as being in General Policy Area 2. This general policy thrust suggests that development will only be permitted where it is demonstrated that there is no alternative and the aims of the National Park or objectives of designation will not be compromised. (It is worth noting that two of the existing adjacent properties within the development at Church Place are also on land identified as being in General Policy Area 2). Policy 38 of the Consultation Draft of the Cairngorms National Park Local Plan details the proposed policy for Housing within Defined Settlements.**

CONSULTATIONS

16. The **Area Roads and Community Works Manager** of Highland Council was consulted on the proposed development and advised that his comments remain essentially the same as for the previous similar application submitted, but later withdrawn, in 2003. In the course of the earlier application, a number of conditions were recommended to be attached in the event of a grant of planning permission. The conditions included a requirement to upgrade the existing access road, the necessity to provide and maintain adequate visibility splays at each side of the access road with its junction with the public road, and the provision of at least 2 no. car parking spaces within the curtilage of the proposed structure, to be provided in a manner that would allow each vehicle to enter and leave the site independently in forward gear.
17. The comments received from the **Area Roads and Community Works Manager** in connection with the current application refer to the fact that car parking provision is now included and stating that there is no objection to such, provided that it is built to a suitable standard, to the satisfaction of the Planning Authority in consultation with the Roads Authority.

18. The **Visitor Services and Recreation Group** of the CNPA examined the proposal, particularly in the context of its impact on access provision in the vicinity. The response referred to the fact that there is no evidence of the proposed site being used for leisure or access, with the only path in the area being on the existing access track that forms the eastern boundary of the proposed site. VSRG conclude in their report that the development proposal does not appear to be of general significance to the aims of the National Park in relation to access and visitor services “as long as this access track is maintained open and free from obstruction.”
19. A detailed response was also received from the **Natural Resources Group** of the CNPA, noting that the proposed dwelling house site is located in an area of exotic plantation. It is considered that the development of a dwelling in this area would have very limited impact on natural resources interests given the nature of the plantation, and also the fact that significant tree felling has already taken place on the site.
20. **NRG** raised greater concerns in relation to the original location in which the six car parking spaces were proposed i.e. in a woodland area close to the junction of the access lane with the public road. The proposed location was described as an area of “more native woodland” and the comments highlight the fact that the proposed development in this woodland area would have the potential to impact on the integrity of this natural resource through tree felling and increased disturbance. It was suggested by the **Natural Resources Group** that the impact would be significantly reduced in the event of the proposed car parking area being relocated.

REPRESENTATIONS

21. A letter of representation organised by Mr. Mark Adler of Church Place and signed by four other residents of Church Place was received raising concerns regarding the proposed car parking provision associated with development. The letter states that the residents currently have “space to park upwards of eight cars but if current proposals go ahead this would be reduced to six” and refer to the fact that there are six houses in the area.



Figs. 5 & 6: informal car parking alongside access track and also to the north of proposed dwelling house site, adjacent to Church Place.

22. Further to receipt of the amended proposal to relocate the proposed car parking area away from the natural woodland, Mr. Adler was forwarded a copy of the amended site layout plan and he was invited to comment on behalf of himself and the other signatories of the original letter. Although to date a written response has not been received, a telephone conversation was conducted with Mr. Adler on 11th August 2005, in which he outlined the residents original concerns, namely the potential loss of the use of areas of ground in the vicinity of the access track which has for quite some time been used informally for the parking of vehicles associated with existing properties in Church Place. Upon further discussion of the development proposal and the fact that the identified site boundaries of the proposed dwelling house site and the proposed car parking provision did not include the area used for informal car parking provision, Mr. Adler confirmed that he had no particular objection to the proposal and undertook to verify this in writing.

APPRAISAL

23. The issues relating to this proposal are the principle of a development on the edge of the settlement on land allocated as Amenity / Woodland, the impact of creating a new house site in a predominantly woodland area, and the implications of the proposals for improvements to the Church Place access road.
24. In terms of the land use allocation, a dwelling house on the proposed site would not appear to be immediately compatible with the Amenity / Woodland allocation. However, as has been detailed in para. 7 of this report, the Local Plan does not necessarily preclude development on Amenity / Woodland, with an intimation that some limited encroachment into forest areas may be considered, especially where there are exceptional circumstances and where settlements are otherwise tightly constrained. The application appears to be made on behalf of the trustees of a deceased landowner as part of the settlement of his estate. **The development is now being proposed as an affordable property, with the agents of Muckrach Estate**

agreeing on behalf of their clients to enter into a Section 75 agreement binding them to transfer the land to a housing association or similar body. In addition to this positive aspect, which in itself may be considered to constitute an exceptional circumstance, thereby allowing consideration to be given to a residential property on land allocated for Amenity / Woodland purposes, it is considered necessary in this assessment to take into account the physical condition of the land in question, and in particular to consider whether or not its current state contributes to the value, enjoyment or visual amenity of the surrounding lands allocated for Amenity / Woodland use, and whether or not a dwelling house in this location would be a positive addition, likely to result in the improvement of the visual quality of the area.



Fig. 7 : proposed site at present



Fig. 8 : proposed car parking area



Fig. 9 : Tree damage at proposed site

25. Although this current application must be judged on its own merits, it is perhaps necessary to have regard to the previous application made on the site in 2003. The history file indicates an acceptance on the part of Highland Council of the principle of the proposed development on the subject site, subject to the resolution of a number of infrastructural issues including achievement of sight distances and the upgrading of the access track to adoptable standards. The concerns raised by the residents of Church Place regarding the potential loss of car parking provision was also an issue which required to be resolved. A planning report contained in the history file states that "some erosion of woodland cover is inevitable if the village is to grow and develop" and also notes that several of the Local Plan housing land allocations are

on existing woodland. The report notes that although the proposed site forms part of Ballintomb Wood, "its situation lends itself to being treated distinct from the bulk of the wood, sitting as it does between the track through the woods and the top of the steep river bank slope."

26. **Further to the consideration of the development proposal by the Planning Committee of the CNPA in August of this year and the queries raised in respect of the extent of tree felling that would be necessary to accommodate a dwelling at the subject site, a 'woodland survey report' was carried out, with the purpose being to ascertain the health and condition of trees on the site and at the proposed car parking area (copy attached of site plan showing position of existing trees and tree condition survey report). The report notes that the proposed plot is part of a conifer plantation and states that although the trees found at the site are generally in good conditions for their age, none are of high amenity, historical, biodiversity or commercial value. The estimated age of the conifer plantation is 35 years. The main tree species are scots pine, norway spruce and sitka spruce, interspersed with small numbers of silver birch and rowan. Of the 52 trees identified on the site and in the proposed car parking area, the survey identified 10 trees that are in need of felling due to either their poor condition and / or evidence of existing stem damage, whilst a further 41 were classified as Category C i.e. that the trees are "in adequate condition or could be retained with minimal tree surgery but are not worthy for inclusion in the high or moderate categories" or where they are "immature trees or trees with no particular merit." Only 2 out of the 52 trees on site were identified as Category B i.e. moderate category where the retention of trees is desirable. A scots pine with a present height of 10.5 metres and a douglas fir extending to a height of 21 metres have been identified for retention as feature specimen. The 'woodland survey' report concludes with a statement that the trees growing within the plot have no particular rarity or historical or biodiversity value and that there may be better examples elsewhere in the well wooded locality.**
27. **In assessing the overall implications of the proposed development on the woodland, the details provided in the woodland survey have been examined in conjunction with an indicative site layout plan, showing the footprint of a dwelling house and on site car parking provision. The indicative plan illustrates a layout that positions the proposed dwelling house and associated access paths and hard standing / car parking areas in the northern area of the site, thereby necessitating minimal disturbance of the majority of trees on site, which are located in a more southerly position. Approximately seven trees would be either directly affected by the proposed layout or in very close proximity to the area in which construction work would be likely. Tree no. 22, the Scots Pine recommended for retention as a**

specimen tree, is extremely close to the indicative location of the proposed dwelling house. However, given that the footprint of the dwelling is indicative only and is a standard square format, it is cannot be taken as an accurate representation of the final footprint or position of a structure in relation to that tree. In the event of the development proposal progressing to a detailed design stage, the design could be, and indeed should be a unique response to the specific conditions of the proposed site, including the relationship of any building to the trees, particularly those identified as specimen features.

28. In terms of the principle of the currently proposed development, it is possible to construct cases both for and against. Certainly on the basis of the provisions of the Development Plan alone, the proposal would appear to be contrary to policies applicable to the site. However, having regard to the relatively unobtrusive location of the proposed site adjacent to a built up area of the village and due to the particular physical attributes of this site which separate it from the wider woodland area of Ballintomb, it is possible that these factors could be taken to constitute material considerations.
29. It is also considered necessary to examine the potential benefits likely to accrue from the development proposal. As detailed in **para. 23** of this report, a dwelling house on the subject site could represent an opportunity for the visual enhancement of the immediate area. In addition, access provision would be improved due to the proposed upgrading of the existing access track from its junction with the public road to the site entrance. The infrastructural improvements include the creation of adequate visibility splays at the junction of the access track and the public road. The works proposed would therefore be of benefit, providing increased safety for all users of the existing track, including those using the junction to access the wider woodland area and the residents of the adjacent group of dwelling houses known as Church Place. The creation of the proposed six car parking spaces is also considered to be of benefit to users of the area, and contrary to the concerns raised by residents of Church Place regarding the loss of car parking provision, the proposal would in fact provide formal car parking available for their use, as opposed to a reliance on the informal arrangement which appears to have developed over time alongside the existing access track, on land which the residents of Church Place do not own or have any control over.
30. **In addition, the woodland survey report, as detailed in para. 25 of this report suggests that trees identified with defects pose a potential public risk. In light of this, in particular the fact that a number of the trees identified as being in need of felling are located in relatively close proximity to the access track, it could be considered that there are public safety benefits likely to accrue from the development of the site.**

31. In relation to the proposed car parking provision, it should be noted that in a request issued to the agents to consider relocating the car parking area in order to avoid the loss of natural woodland and significant disturbance to the natural resources of the area, specific reference was made to the need to relocate an existing vehicular gate on the access track, to a position south of the car parking area in order to ensure unrestricted access for residents of Church Place, and indeed for other potential users. The amended site layout plan submitted to the CNPA on 5th August 2005 shows compliance with this. Also on the subject of car parking provision for residents of Church Place, it is worth noting that four out of the six houses at Church Place have the benefit of driveways (either directly off the public road or from the access track) providing on site car parking provision, although admittedly this is quite limited in size at a number of the properties. The residents desire therefore to ensure the availability of adequate car parking provision in the vicinity without the necessity of encroaching on the public road is understandable. The proposal would achieve this as in addition to providing a dedicated car parking area, the proposed upgrading of the access road could assist and encourage the parking of vehicles in a more systematic manner than occurs at present along the eastern side of the access track.
32. Whereas the site layout plan originally submitted with this current application indicated the proposed car parking area in a position which would result in the loss of native woodland and would cause unacceptable disturbance to the natural resources of the area, in addition to creating an adverse visual impact particularly from the public road passing through the village, the amended site layout plan recently submitted eradicates this difficulty. Overall, taking into account the relatively unobtrusive position of the proposed site and its location adjacent to the built up area of Dulnain Bridge, the physical characteristics that distinguish the proposed site from the remainder of Ballintomb Woods, the potential to improve the visual quality of this particular area, the improved road safety aspects of the existing access lane and sight distances available at its junction with the public road, the minimisation of tree felling necessary to facilitate the proposed development and the fact that the proposal would not hinder any existing access provision in the area, it is considered that on balance the proposal is acceptable and the benefits to be accrued from a development of this nature at the proposed location would be likely to outweigh the loss of an area of land identified as Amenity / Woodland which has little natural heritage value in its present state.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

33. The proposed dwelling house site and the proposed car parking area are situated in proximity to exotic plantations, where tree felling has already taken place. Given the nature of the woodland immediately adjacent to the site and physical differing characteristics of the proposed development site from the wider area of Ballintomb Woods, it is not considered to have a significant impact on the natural heritage of the area.

Promote Sustainable Use of Natural Resources

34. As the application is for outline permission no detailed drawings of the proposed dwelling house have been provided and it is not therefore possible to assess whether or not the proposal would involve the sustainable use of Natural Resources.

Promote Understanding and Enjoyment of the Area

35. The proposed development would not hinder access to the woodland area, and it has the potential to visually enhance this particular area which is currently in an unkempt state. It is therefore considered to have the potential to enhance the enjoyment of the area by the general public.

Promote Sustainable Economic and Social Development of the Area

36. The proposal for a new house here is based on the potential to “round off” this small grouping of houses in an established rural community, where limited expansion could be supported for the betterment of the social and economic future of the community, **particularly where the proposed dwelling unit is proposed as an affordable unit.**

RECOMMENDATION

37. That Members of the Committee support a recommendation to:

Grant outline planning permission for the construction of a dwelling house, the upgrading of the current access and the provision of car parking on land adjacent to Church Place, Dulnain Bridge, *subject to the completion of a S75 Legal Agreement to ensure the retention of the proposed development as an affordable housing unit via a Registered Social Housing Landlord*, and in accordance with the following conditions -

1. The existing access road shall be upgraded to a standard suitable for adoption by the Roads Authority prior to the commencement of any building operations on the proposed dwelling house site. Prior to the commencement of development, detailed specifications for the upgrading of the access road shall be submitted for the agreement of the Planning Authority in consultation with the Roads Authority.
2. The proposed car parking area shall be developed to a suitable standard details of which shall be submitted for the agreement of the Planning Authority in consultation with the Roads Authority prior to the commencement of any development.
3. The proposed car parking area shall be provided for the use of residents of Church Place and shall be maintained free from obstruction. No access gates or other means of restricting access shall be placed between the Church Place area and the proposed car parking area.
4. Visibility splays shall be provided and maintained on each side of the access at its junction with the public road. These splays are the triangles of ground bounded by the first 2.5 metres along the centreline of the access road (x dimension) and the nearside edge of the main road (y dimension) measured in either direction from the intersection with the access road. In an easterly direction the y dimension shall measure 90 metres and in a westerly direction 70 metres. No operations shall commence on the dwelling house site until the above detailed roads requirements have been met.
5. Within the visibility splays required as per condition no. 2 nothing shall obscure visibility between the driver's eye height of 1.0 metres positioned at the x dimension and an object height of 1.0 metres anywhere along the y dimension.
6. Any gates that are provided on the subject site shall open into the proposed dwelling house site only.
7. An application for approval of reserved matters shall include a site layout plan showing
 - (i) the proposed dwelling located in a position that would minimise the loss of existing trees on the site;
 - (ii) the provision of parking and manoeuvring for at least 2 no. vehicles within the curtilage of the dwelling house such that each vehicle may enter and leave the site independently in forward gear.
8. An application for approval of reserved matters shall include comprehensive details of the siting, design, external treatment of, and means of access to the dwelling house, and the landscaping of the dwelling house site and the separate car parking area. For the avoidance of doubt "landscaping" includes the treatment of all surfaces

whether with soft or hard materials, and all boundary enclosures and treatments.

9. No water shall discharge onto the public road.
10. The proposed dwelling house shall connect to the public sewer.
11. The proposed dwelling house shall be designed in accordance with the traditional vernacular architecture of the area and shall be a maximum of 2 storeys in design, and shall incorporate the use of external materials that visually compliment existing properties in the vicinity as well as taking account of the proposed woodland setting.
12. An application for approval of reserved matters shall be accompanied by a detailed tree survey and landscaping plan indicating the position of all trees within and adjacent to the proposed development areas, and specifying the ages, heights, species and branch spread of all the trees, and also identifying the exact number and location of trees to be retained or felled.

Determination background :

The application was called in by the Cairngorms National Park Authority in October 2004. Due to the volume and complexity of applications with the CNPA at that time, in conjunction with limited staff resources, it was unfortunately not possible to progress this until more recent times. A planning report was presented to the Planning Committee of the CNPA at the meeting of 26th August 2005 following which a decision on the application was deferred. The issues raised by the Committee were investigated with the agents and various items of information were provided to assist in the further assessment of the proposal on 25th October and 7th December 2005.

Mary Grier

planning@cairngorms.co.uk

12th December 2005

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.