
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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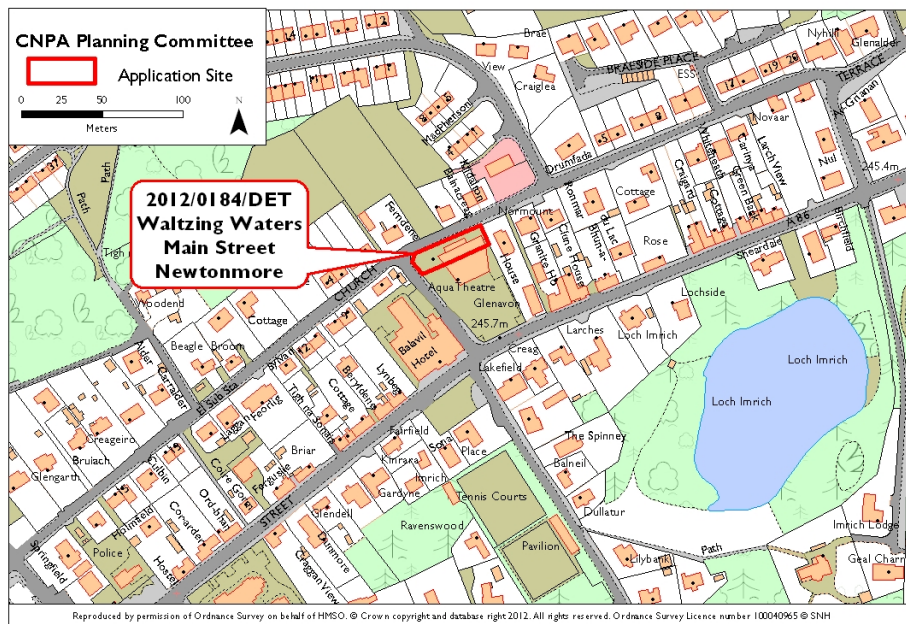
DEVELOPMENT PROPOSED: PLANNING PERMISSION FOR FORMATION OF ADDITIONAL WINDOWS AND EXTERNAL MATERIAL VARIATIONS TO REAR FLATTED DEVELOPMENT AT WALTZING WATERS, NEWTONMORE

REFERENCE: 2012/0184/DET

APPLICANT: MR. ALEX DONALD, NEWTONMORE C/O DW HARLEY PARTNERSHIP

DATE CALLED-IN: 8 JUNE 2012

RECOMMENDATION: REFUSE



Grid reference : 271797 799382

Fig. I - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Planning permission is sought in this application for the “formation of additional windows and external material variations” to residential properties which are in the course of construction in the rear of the former Waltzing Waters building in Church Terrace, Newtonmore. Construction work is on-going on the site at present. Many of the changes for which permission is sought have already been implemented and much of the proposal is retrospective.
2. The additional windows are proposed in the side elevations (east and west) to serve unit no’s 1 and 5. The originally approved development included a double window at ground floor level in the side elevation of each of the units, to serve an open plan kitchen and lounge area. Three additional window openings are now proposed in the side elevation of each of the outer units. The internal layout has been altered, resulting in the creation of a separate kitchen area at the rear of the property, instead of the combined kitchen and lounge space identified on the approved plans. A second window is proposed at ground floor level to serve the separate kitchen. The window which is proposed on the western elevation is 1 metre wide and would have standard glazing. The equivalent window which is proposed in the eastern elevation is 800mm wide and is proposed to have obscure glazing panels in an effort to restrict “visibility but maintain natural light.” This has been proposed in light of the fact that the new window would be 7 metres from the neighbouring property and is set at a higher level than that existing property.

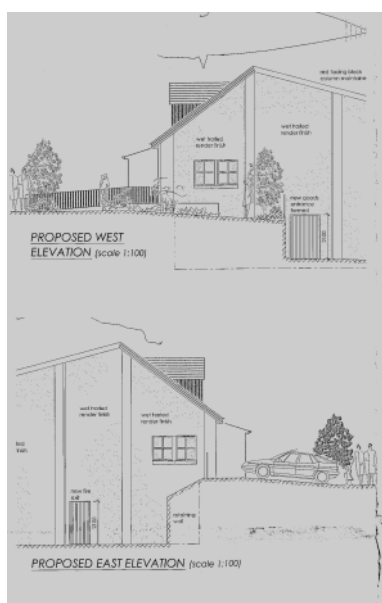


Fig. 2 : Approved side elevations

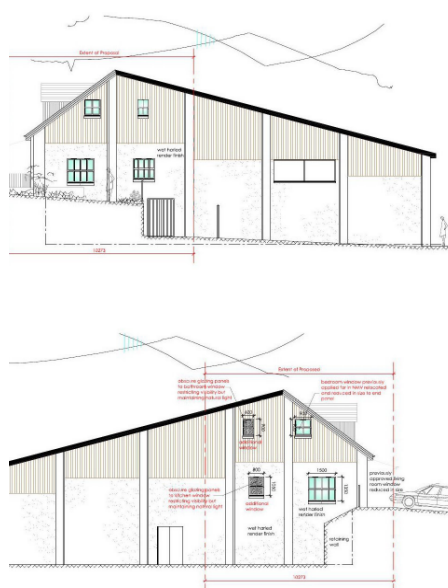


Fig. 3 : Proposed side elevations¹

¹ The timber cladding shown on the currently proposed plans does not form part of this current proposal. The extent of timber cladding has been agreed in the course of achieving compliance with condition no. 6 of the original consent (CNPA ref. no. 11/179/CP).

3. In addition, two windows are proposed on the upper floor of the eastern and western elevation of the end residential units. Again, this appears to have arisen due to a change in the internal layout. The previously approved development included a bedroom on the upper floor of each of the end units, with natural lighting being provided by a pitched roof dormer window in the front elevation. The currently submitted plans show the omission of the dormer windows in the outer units, and an internal layout which includes a smaller bedroom and the addition of a bathroom on the upper floor. Two windows are proposed on the side elevation of each unit to serve the bedroom and bathroom area respectively. The window serving the bathroom on the eastern elevation is proposed to have obscure glazing panes.
4. As detailed in paragraph 1, construction activity is on-going at the site, and on a recent site visit, it was noted that the window openings have already been created in the eastern and western elevation. The slating of the roof at units no's 1 and 2 has also been completed, without the inclusion of the approved pitched roof dormer window to serve those properties.



Fig. 4 : Omitted dormer window



Fig. 5 : Omitted dormer and new openings in the western elevation



Fig. 6 : Openings in eastern elevation



Fig. 7 : Limited distance between Neighbouring property

5. Consent is also being sought for a variety of other changes, under the generic description of 'external material variations.' This aspect is retrospective, with most of the works already being undertaken and in the course of completion. The material variations specified in a recent submission from the agent include:
- the aforementioned omission of the two outer pitched roof dormers at upper floor level in the front elevation of unit no's 1 and 5;
 - design changes to the remaining dormers, resulting in a shallower dormer construction and an associated reduction in the size of the window opening, as well as a window design which no longer matches the geometric panes of the ground floor windows; and
 - design alterations to the entrance porches in each of the units, resulting in the original roof line being continued directly over each porch and the omission of the vertical timber clad porch finish and its replacement with the same wet harl finish that has been used on much of the remainder of the building.
6. Although not referred to in the agents list of material variations, other changes have also been undertaken which differ from the approved plans, including the omission of the main window in the front elevation of each of the end units and their replacement with a solid wall and changes in the proportions and positions of all windows at ground floor level in the front elevation.

Justification for design changes

7. In response to queries raised in the course of the assessment, the agent has provided details of the background to some of the changes which have been undertaken. The removal of the dormer windows from units no's 1 and 5 has arisen due to structural issues. Recent structural inspections and surveys have found that large structural elements in the main steel frame of the original Waltzing Waters building could not be removed. Due to this, the approved dormer window openings could not be installed. This is also put forward in explanation of the additional window openings which have been created in the eastern and western elevation of the building, as an alternative to the approved dormers in those units.
8. The reduction in the size of the remaining dormers on the front elevation is also explained as having arisen in response to the findings of further structural investigations. A structural steel roof purlin was found to be located at a height below the approved dormers and the height of the dormer windows was subsequently reduced to be fixed above this height.

DEVELOPMENT PLAN CONTEXT

National Policy

9. **Scottish Planning Policy² (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
- The constraints and requirements that planning imposes should be necessary and proportionate;
 - The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.
10. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should “operate in support of the Government's central purpose of increasing sustainable economic growth.” Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that “the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places.” Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
11. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the “aim is to achieve the right development in the right place.”
12. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes ‘subject policies’, of which many are applicable to the proposed development. Topics include economic development, rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.
13. Economic development : Planning authorities are expected to respond to the diverse needs and locational requirements of different sectors and sizes of businesses. The planning system is encouraged to support economic development in all areas by supporting development that will provide new employment opportunities and enhance local competitiveness, and promote the integration of employment generation opportunities with supporting infrastructure and housing development.

² February 2010

14. Also in the context of economic development, planning authorities are expected to ensure that new development safeguards and enhances an area's environmental quality and where possible also promotes and supports opportunities for environmental enhancement and regeneration. Authorities are also encouraged to adopt a proactive approach to encouraging the reuse of buildings and previously developed land.
15. *Housing* : The planning system is required to enable the development of well designed, energy efficient, good quality housing in sustainable locations. In a section entitled 'Location and Design of New Development' it is advised that new housing development should be integrated with public transport and active travel networks rather than encouraging dependence on the car.
16. **Scottish Planning Policy** concludes with a section entitled 'Outcomes' in which it is stated that the "planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets."

Strategic Policies

Cairngorms National Park Partnership Plan 2012 - 2017

17. The Cairngorms National Park Partnership Plan 2012 – 2017 is the management plan for the National Park for the next 5 years. It sets out the vision and overarching strategy for managing the Park and provides a strategic context for the Local Development Plan. Three long term outcomes have been identified to deliver the vision for the Park, to continue the direction set out in the first National Park Plan and to together deliver the four aims of the National Park. The outcomes are:
 - A sustainable economy supporting thriving businesses and communities;
 - A special place for people and nature with natural and cultural heritage enhanced; and
 - People enjoying the park through outstanding visitor and learning experiences.
18. A number of policy priorities have been identified to help deliver each of the outcomes. Policies to secure the outcome of 'a special place for people and nature with natural and cultural heritage enhanced' are of particular relevance to the current proposal. Policy 2.8 seeks to enhance the design and sense of place in new development. The Plan sets out a number of means by which policy 2.8 can be achieved, including enabling new development which contributes positively to a sense of place; promoting a high standard of sustainable design, energy efficiency, sustainably sourced materials and construction in new development; and supporting the retention and enhancement of the local character.

Structure Plan Policy

Highland Council Structure Plan (2001)

19. **Highland Council Structure Plan** is founded on the principles of sustainable development, which are expressed as –
- Supporting the viability of communities;
 - Developing a prosperous and vibrant local economy; and
 - Safeguarding and enhancing the natural and built environment.
- A variety of detailed policies emanate from the principles.
20. The following provides a brief summary of the policies applicable to a development of this nature. **Policy G2 (Design for Sustainability)** states that developments will be assessed on the extent to which they, amongst other things make use of brownfield sites, existing buildings and recycled materials; are accessible by public transport, cycling and walking as well as car; are compatible with service provision; demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environments; and contribute to the economic and social development of the community.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

21. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
22. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
- Chapter 3 - Conserving and Enhancing the Park;
 - Chapter 4 - Living and Working in the Park;
 - Chapter 5 - Enjoying and Understanding the Park.
23. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the current development proposal.

24. *Policy 16 – Design Standards for New Development* : this is one of a number of policies which is intended to encourage developers to consider how they can best include the principles of sustainable development in their proposals, and consider the impact on the environment, economy and community. Policy 16 requires that all proposals are accompanied by a design statement which sets out how the requirements of the policy have been met. The design of all development is encouraged to :
- Reflect and reinforce the traditional pattern and character of the surrounding area and reinforce the local vernacular and local distinctiveness, whilst encouraging innovation in design and materials;
 - use materials and landscaping that will complement the setting of the development;
 - protect the amenity enjoyed by neighbouring properties and all proposals will be designed to help create environments that can be enjoyed by everyone;
 - demonstrate sustainable use of resources; and
 - be in accordance with the design standards and palette of materials as set out in the Sustainable Design Guide.

Supplementary Planning Guidance

25. In addition to the adoption of the Cairngorms National Park Local Plan (2010) on 29th October 2010, a number of Supplementary Planning Guidance documents were also adopted.

Sustainable Design Guide

26. The guide highlights the fact that the unique nature and special quality of the Cairngorms National Park and the consequent desire to conserve and enhance this distinctive character. The guidance has at its core the traditional approach to design which aims to deliver buildings which provide a resource efficient, comfortable and flexible living environment.
27. One of the key sustainable design principles referred to in the document is that “future development in the Park should be sensitively located, reflect existing development pattern and setting, and respect the natural and cultural heritage of the Park.” Developments are also required to reflect traditional materials and workmanship, and take on board innovation, contemporary design and the emergence of modern methods of construction.

CONSULTATIONS

28. The nature of the proposal, which is essentially about alterations to the design of the residential units, did not warrant any consultations. However, given that the residential units are to be leased by Highland Council as part of the Council’s residential leasing scheme, the Housing section was asked for background information in order to establish if changes to the structure may have arisen in response to any particular requirements of Highland Council. The response indicates that no changes have been requested.

REPRESENTATIONS

29. The development proposal was advertised in the Strathspey and Badenoch Herald on 31st May 2012. One letter of representation has been received, from Mr. Brian Hunt, who resides in a neighbouring property. Mr. Hunt objects to the inclusion of four windows on the east side of the building. Concerns are raised in the submission regarding overlooking, in particular overlooking a bedroom. It is acknowledged that opaque glazing is proposed to be used, but the representee also notes that one window is to serve a kitchen area and is likely to open. Reference is made to an acceptance of the originally approved plans which included a dormer window in the roof space at the front of the residential unit and only one window being included on the side elevation, to serve a lounge area.

APPRAISAL

30. The principle of development has been established through the granting of planning permission for a residential and retail development within the former Waltzing Waters building in 2011. The current proposal relates to design amendments, of which the majority have now been undertaken or are in the process of construction, without the benefit of planning consent. However, in assessing this application and establishing the acceptability or otherwise of the design changes, it is necessary to temporarily set aside the unauthorised nature of the works.
31. Reference has been made, as detailed in paragraphs 7 and 8, to the findings of 'further structural investigations' which have resulted in the omission of the dormer windows from two of the residential units and the associated creation of new openings in the side elevations of those units. No structural details have been provided to substantiate the explanation offered.
32. Notwithstanding the aforementioned lack of evidence on the structural issues, the creation of new openings in the side elevation of each of the outer units would have varying degrees of impact in the surrounding area. The window openings in the western elevation i.e. overlooking Balavil Brae, are an acceptable distance from neighbouring properties,³ with the nearest being the Balavil Hotel on the opposite side of the Brae and a domestic garage on the corner of Balavil Brae and Church Terrace. In this instance, the addition of windows at upper floor level, as well as an additional window on the ground floor level in the side elevation would not give rise to adverse impacts and would be generally acceptable from an aesthetic design point of view.

³ Approximately 33 metres from the Balavil Hotel.

33. The creation of additional window openings on the opposite side of the building would however give rise to significant difficulties due to the close proximity of the side elevation to the neighbouring residential property and that fact that the side elevation of the end unit is located on substantially higher ground than the neighbouring property, thereby exacerbating overlooking potential. Details of the letter of representation which has been received from the owners of the neighbouring property have been provided in paragraph 28. The concern regarding overlooking is pertinent. The creation of three additional window openings in the eastern side elevation is excessive and would give rise to an adverse impact on the residential amenity of the neighbouring property. As such this aspect of the development could not be considered to accord with Policy 16 (Design Standards for Development) of the CNP Local Plan which requires that the design of development protects the amenity enjoyed by neighbouring properties.
34. The proposal to use obscure glazing in the additional windows is not considered an appropriate or practical response to the adverse impacts that would be created by those openings. Occupants of the new dwelling could, as pointed out in the representation, choose to open the windows. Alternatively, the glazing could be replaced at some point in the future. Both situations would be extremely difficult to regulate or enforce against. In addition, the use of obscure glazing in windows serving habitable rooms within the new property would also have the potential to adversely impact on the living quality of inhabitants of the property. This would also fail to accord with Policy 16 (Design Standards for Development), part (g) which requires that proposals will be designed to help create environments that can be enjoyed by everyone.
35. It is also pertinent to note that the addition of the extra window openings in at ground floor level in both the eastern and western elevations has resulted from unexplained changes to the internal layout (changing from the open plan kitchen and living area on the approved plans to the separate kitchen and living rooms identified on the currently proposed plans) and the omission of the window in the front elevation of unit no's 1 and 5. The only opening now contained in the front elevation of each of those properties is the front entrance. The remainder of the front elevation is entirely solid, with a wet harl finish.



Fig. 8 : Unit no. 1



Fig. 9 : Unit no. 5

Conclusion

36. The creation of the five residential units within the shell of the rear area of the former Waltzing Waters building was always likely to raise some challenging issues, both in terms of the structural features of the building and the need to ensure that the design of the new units was appropriate to the area. Given the unique challenges associated with the retrofitting of the former industrial / commercial building, a detailed structural investigation and establishment of the capabilities of the structure to accommodate the new development would have been expected to be a key element in the preliminary design stages. The recent submission from the agent providing explanation on the current design changes indicates that 'further structural investigations' appear to have been more recent. The changes which have resulted, and are particularly significant on units no's 1 and 5, and the associated adverse impact of those changes on the property adjacent to the eastern unit cannot be countenanced purely on the basis of being a response to belated detailed structural investigations. The changes which have been undertaken or are part of the on-going work at unit no's 1 and 5 fail to accord with planning policy, including CNP Local Plan Policy 16 (Design Standards for Development), Highland Council Structure Plan Policy G2 (Design for Sustainability) and Scottish Planning Policy on housing where there is an expectation that developments should be well designed, and provide energy efficient and good quality housing.
37. A number of the other changes which have been undertaken contrary to the approved plans, including the omission of timber cladding from the front entrance porches, and changes to the proportions of the pitched roof dormers and also amendments to the windows in the front elevation at ground floor level, all cumulatively detract from the original design concept. The use of timber on the entrance porches would have complemented the overall development, would have visually related to other timber elements on the building including the partial cladding on the side elevation and the use of timber in the pitched roof dormer features. Timber clad porches are also a traditional feature on properties throughout the area. Instead, the wet harl finish which has been applied on the entire extent of the front elevation results in a façade which is lacking in visual interest or features which reflect the vernacular architecture of the area. In conjunction with the aforementioned amendments to the pitched roof dormers and the window sizes, the overall development has now lost its symmetry and is lacking in character. Having regard to the cumulative impact of the amendments, the development as currently proposed is unacceptable.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

38. The development proposal is not of relevance to this aim.

Promote Sustainable Use of Natural Resources

39. No details have been provided to demonstrate that the proposal would contribute to this aim.

Promote Understanding and Enjoyment of the Area

40. The combination of design changes proposed in this application could be considered to negatively impact on the overall design concept and could to a limited extent impact on the general public's enjoyment of the overall area. The additional window openings which have been created in the gable elevations have the potential to give rise to overlooking and would adversely impact on the residential amenity of neighbouring properties. As such the development is not considered to contribute to this aim.

Promote Sustainable Economic and Social Development of the Area

41. Whilst the development of the residential units would provide additional accommodation in the village, many of the design changes which are the subject of this application would adversely impact on the residential amenity of neighbouring properties and on the quality of the experience of future residents in unit no's 1 and 5 in particular.

RECOMMENDATION

That Members of the Committee support a recommendation to

(a) REFUSE planning permission for the formation of additional windows and external material variations to the rear flatted development at Waltzing Waters, Newtonmore for the following reasons :

- I. The development fails to accord with planning policy, including national level policy on housing as expressed in Scottish Planning Policy as the design amendments cannot be considered to constitute well designed and good quality housing. It fails to comply with Highland Council's Structure Plan policy G2 (Design for Sustainability) as the changes do not demonstrate sensitive siting or high quality design. In addition features which would have been consistent with the character of the local area have been removed and / or amended, including the omission of the approved timber cladding on the entrance porches, and amendments to the form and proportions of the pitched roof dormer windows. The amendments fail to reflect and reinforce the traditional pattern and character of the surrounding area and are

therefore contrary to the Cairngorms National Park Local Plan (2010), and in particular Policy 16 (Design Standards for Development).

2. The creation of additional window openings in the side elevations of the structure fail to accord with CNP Local Plan Policy 16 (Design Standards for Development). The new openings would give rise to inappropriate and excessive overlooking of neighbouring properties and as such would fail to accord with Policy 16 (g) which requires that developments are designed to protect the amenity enjoyed by neighbouring properties. In addition, the omission of the main window in the front elevation of unit no's 1 and 5 would also detract from the living quality of future residents of those properties and in this respect also fails to accord with Policy 16 (g) which requires developments to be designed to help create environments that can be enjoyed by everyone.

And

- (b) **Authorise enforcement action to ensure that the structure is developed in accordance with the approved plans.**

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9 August 2012

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.