
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: ERECTION OF 2 DWELLINGS (OUTLINE)
LAND TO NORTH OF BALNASTRAID,
DUTHIL, CARRBRIDGE

REFERENCE: 06/230/CP

APPLICANT: Mr & Mrs PALMER, PER AGENT
PRECISION PLANS, DINGWALL

DATE CALLED-IN: 30 June 2006

RECOMMENDATION: APPROVE SUBJECT TO APPROPRIATE
TRAFFIC ORDER AND CONDITIONS

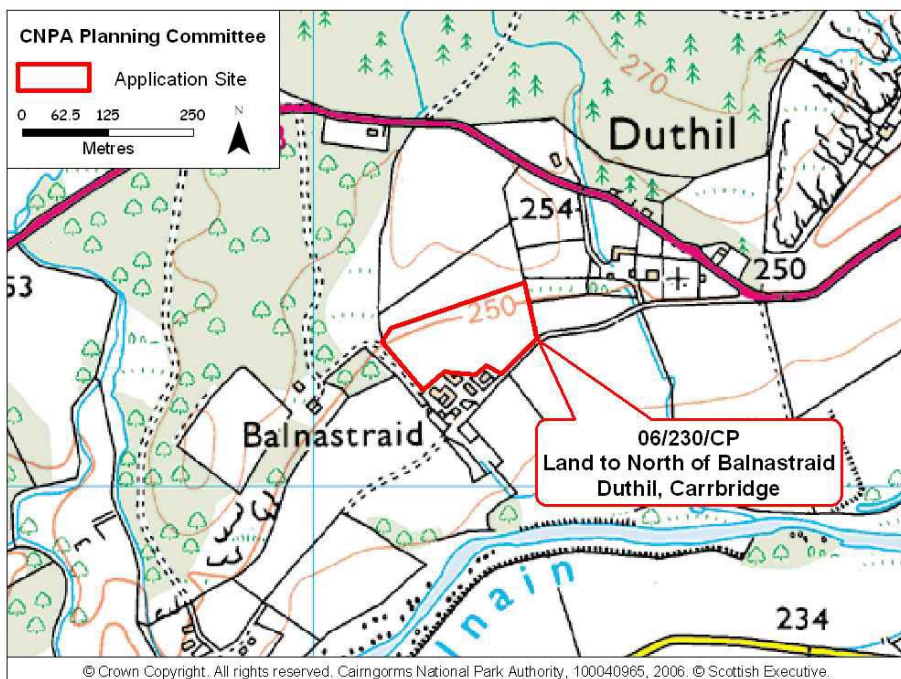


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. This site is located off the A938, Carrbridge to Duthil Road just to the north of Balnastraid farm (see fig1). The site would be accessed from an existing track that has been built to service a single house development that the CNPA granted permission for in November 2005. This permission resulted in the closure of a poor access leading to the applicant's property at Tigh na Bea.



Fig 2 View over site looking south west Fig 3 Looking north east

2. The current application seeks outline permission for two detached houses on the basis of two plots as illustrated on the indicative layout plans submitted (see fig 4).

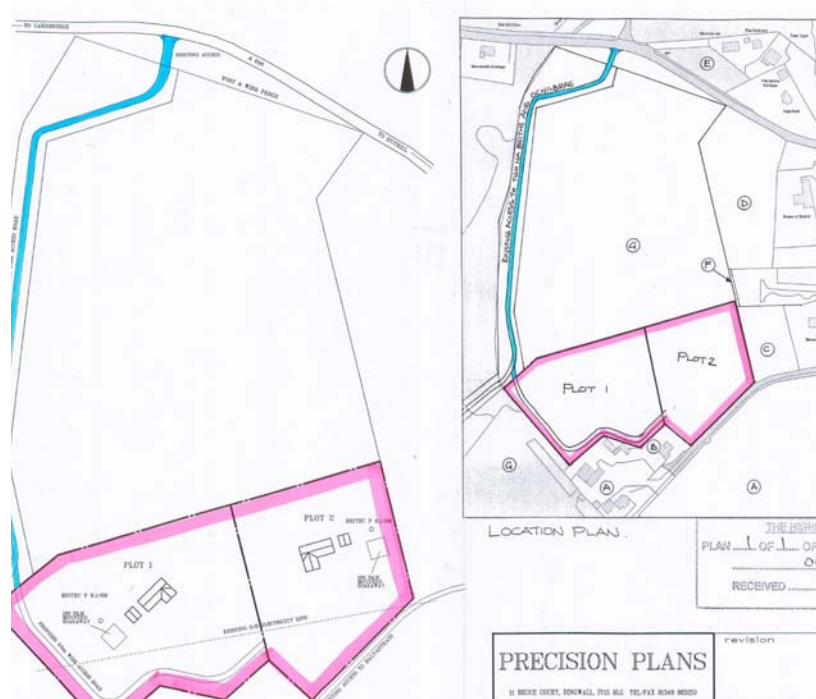


Fig 4 Indicative Layout Plan

3. In terms of foul drainage, because of poor ground conditions this would be dealt with by means of a Biotec Treatment Plant and a mound

soakaway for each plot. Surface water drainage would be to separate soakaways.

4. While this is an outline application materials including natural slate, with a harl finish for facings are suggested.
5. Members will recall that an application for retention of a pond to the south west of this site was not called in earlier this year, but the CNPA made comments. This application has not yet been determined by Highland Council but is unconnected with this application.

DEVELOPMENT PLAN CONTEXT

National Guidance

6. **Scottish Planning Policy 3 Planning for Housing 2003** notes that where possible, most housing requirements should be met within or adjacent to existing settlements. This prevents the sprawl and coalescence of settlements, makes efficient use of infrastructure and public services and helps to conserve natural heritage and rural amenity. The guidance goes on to note that in more remote areas, new housing outside of settlements may have a part to play in economic regeneration and environmental renewal.
7. **Scottish Planning Policy 15 Planning for Rural Development 2005** advances a more positive policy in respect of housing in the countryside, but recognises that such approaches should be dealt with through the Local Plan process.

Highland Structure Plan

8. **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. **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. **Policy G2 Design for Sustainability**, lists a number of criteria on which proposed developments will be assessed - including 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). **Policy H8 of the Plan Access Arrangements for New and Existing Developments** notes that development proposals which involve new or improved access to serve more than 4 houses and/or to serve a development which would generate vehicular traffic equivalent to more than 4 houses shall be served by a road constructed to adoptive

standards. The adopted road shall normally serve all of the new development and any existing development.

9. **Policy 5.11.1 of the Local Plan** identifies the area as allocated for 11 houses in total in clusters suggesting traditional design, set back at the foot of the escarpment and orientated to the south. This is subject to adequate drainage. The absence of a foul drainage system for these plots is one of the main constraints preventing the site from coming forward.
10. Policy **5.14.3** considers that the Council will encourage planting along the escarpment west of the Manse and reinforcement of trees of substantially native species around Balnastraid.
11. For information purposes only, **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 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.**
12. Again, for information purposes only, **the CNPA Consultative Draft Local Plan**, locates the site in a General Policy 1 Area. General Policy 1 indicates that development will be permitted if it is unlikely to have a significant adverse effect on the aims of the National Park or any of its special qualities. Where it is concluded that there would be adverse effects on the aims of the National Park, or any of its special qualities, or public health or amenity from a development, it will only be permitted where it is considered that these would be outweighed by social or economic benefits of national importance or of importance to the aims of the National Park and where appropriate measures are taken to minimise and mitigate the adverse effects of the development.
13. **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.

14. The site is located outside of the village development boundary of the CNPA Draft Local Plan. **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.
15. **Policy Recommendation H6** of the Draft considers that the small settlement of Duthil, while not specifically zoned for housing, will be able to absorb number of single house developments; any proposals should reflect the existing house positions and spacing/density/scale

CONSULTATIONS

16. **Highland Council Area Roads and Planning Manager** has provided comments on the application and raises no objection subject to conditions that parking and manoeuvring space for at least 2 cars shall be provided within the curtilage of each property. In addition, a turning area suitable for larger vehicles shall be formed close to the junction of the two house access road with the recently constructed access road. One other key condition is that in the general interests of road safety, and subject to there being no un-resolved objections to the making of an appropriate Traffic Order, a 40 mph speed restriction shall be established on the A938 public road between agreed limits either side of the access to the site.
17. **Scottish Water** does not object to the application. However, do point out that there may be issues with water connection if consent is required for a line through neighbouring land not in the ownership of the applicant.
18. **SEPA** note that that the foul drainage plan for each plot indicates a Biotec treatment plan. This is acceptable providing that any plant or soakaway is a minimum distance of 10 metres from any soakaway to any watercourse and 50 metres from any water abstraction.

19. **Highland Council Building Control** was consulted in this case because of specific concerns raised by a neighbour in relation to foul drainage. The proposal shown on the site plan indicates each plot being served by a Biotec, small sewage treatment plant followed by secondary treatment or polishing by means of a raised mound infiltration system. This is considered a perfectly acceptable means of effluent disposal provided the plant and soakaway are located so that they are not within 5 metres of a building or boundary; 10 metres from a watercourse or road and 50 metres from a spring or watercourse. If the proposal for effluent disposal is as per indicated on the plan then there is no objection.

REPRESENTATIONS

20. Two letters of objection have been received, one from the nearest neighbour to the east of plot 2 and one from the neighbour to the south of both plots. Concerns are raised regarding potential flooding, foul drainage, that the field is often waterlogged in winter, position of soakaway; that an earlier application was purely to screen this development; and concern about water supply. Both letters are attached at the back of the report. Attached is a letter from the agent addressing issues raised by the objectors and also discusses the siting of the plots in relation to the Local Plan allocation.

APPRAISAL

21. This is an outline application so the key issue relates to the principle of the development proposed set against the Local Plan; this is followed by discussion in relation to neighbouring amenity, drainage and finally highways issues.

Principle

22. The site lies close to the hamlet of Duthil and the two plots proposed are partly on a site allocated for future residential development by the Badenoch and Strathspey Local Plan under allocations 11.1b and 11.1c (see fig 5) which suggests clusters with up to 11 houses. The remaining part of the land on which the plots are allocated is described as amenity/woodland where policy 5.14.3 considers that the Council will encourage planting along the escarpment west of the Manse and reinforcement of trees of substantially native species around Balnastraid.

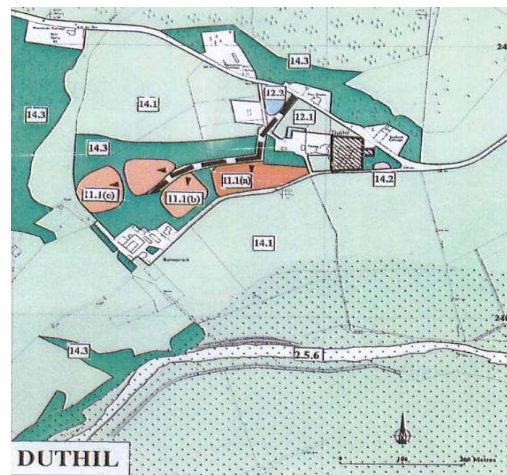


Fig 5 Policy Map Extract from Badenoch and Strathspey Local Plan

23. This application has been advertised as not in accordance with the development plan. It is not in accordance in three ways. Firstly, the plots are only partly on the site of the housing allocation and the access is not from where the Local Plan envisaged. In relation to this the agent has provided a detailed overlay of the plot sites in relation to the actual allocation 'blobs' on the plan itself (see back of report). The two plots are sensibly positioned on the lower, largely level ground. By comparison the overlay of the Local Plan shows the allocation actually in the middle of and partly topping the escarpment. The Local Plan text clearly refers to any residential development being set back at the foot of the escarpment, whereas the map indicates it in the middle of the escarpment and partly on top. Given that the map does not indicate what the text seeks to achieve I am relying in my assessment upon the text as this would seem the most pragmatic approach. In addition, for the plots to be located where the map indicates and from the access indicated would result in considerable earth works to the escarpment resulting in detrimental landscape impact from both the groundworks and the resulting houses, I am sure that this is not what the Plan intended. Consequently, I am of the view that the plots are most sensibly located in their current position. The second key point is that the access envisaged in the Local Plan has not been upgraded in the way in which it should have been, any upgrading of this route now would result in inconvenience for existing residents and it is understood that this route is effectively blocked by a ransom strip in any case.
24. The third reason why the application is not in accordance with the development plan is because the plan indicates a total of up to 11 houses in the areas shown whereas this application proposes just 2. This could be considered as underdevelopment and the application could be rejected on this basis.
25. Balanced against the above the site specific circumstances must be taken account of and there are 3 particular reasons why I would consider that it is acceptable in this instance to effectively under-develop the site against the expectations of the Local Plan.

26. Firstly, the Local Plan allocates the site for 11 houses on the basis that it would be accessed from the lane leading to the objector's property known as 'Ardu'. As noted above there was an expectation that the road would be constructed up to adoptable standard and adopted by Highland Council. For whatever reason this has not happened and the end of the lane is effectively in private control. This is why the access for the single new house to the south in the woodland clearing required a completely new access onto the A938. This new access is not to adoptable standard because it does not break the 4 house rule and this is why only two dwellings are being applied for in this instance. The applicant would appear not to want to create a larger housing group on this site as this would involve considerable additional works to the new un-adopted access that would in turn have significant landscape implications. It is clear because of these landownership constraints that the site would be most unlikely to ever come forward for the full 11 house allocation.
27. Secondly, there are constraints in relation to drainage at this site. Another reason why the site has never come forward is because of the lack of a publicly accessible sewer network. This factor has not changed since the publication of the Local Plan in 1997 and is unlikely to change, hence the current proposals where the 2 houses need to be served by treatment plants and mounded soakaways. I have difficulty in envisaging how such private systems would cater for 11 houses given the size of the area involved and the topography, and while now not been able to veto the principle of private systems in my view it is likely that SEPA may seek to resist such intensive use of private systems in an area such as this.
28. The third, and perhaps most important reason relates to the general character of the hamlet. Again, the Local Plan map indicates development on the escarpment and above it. This would have considerable negative landscape impact and as mentioned previously, and is not what the text of the plan is seeking to achieve. This means that in reality any 11 house development would have to be accommodated on the lower (flat) part of the site. This would, consequently, result in a high density development, presumably using an estate type layout that would be out of character with the scattered, linear development of the existing hamlet, bringing effectively a suburban approach to what is essentially a countryside area.
29. In addition to the above it must be recognised that Duthil has no community facilities in the sense of a village shop, meeting hall, public house, bus stop etc. Because of this, the choice of the site for a large allocation must be questioned in terms of sustainability and the reliance upon the private car to access any services that would result from the construction of 11 houses on the site. The two larger plots proposed would to some extent reflect the scatter of development at the hamlet more appropriately than any larger development. In addition, and while not being a material consideration at this point it is worthy of mention

that the CNPA Consultation Draft of the Local Plan does not make any allocations for housing in Duthil but does recognise that the settlement may be able to absorb a number of single house developments that are characteristic of the existing spacing/density and scale. In my view, what is proposed here by the two house plots is much more reflective of that approach and much more appropriate to the existing character of the settlement.

30. Given all of the above discussion I am clear that the principle of the 2 units on the site is acceptable, as in all reality proposals for 11 houses on the site are unlikely to come forward. In addition, the discrepancy between the requirements of the text of the Local Plan and the allocation map cause concern that the development of 11 houses on this site may result in considerable harm in terms of landscape impact. Further, as mentioned by the agent the large plots proposed will ensure that adequate amenity planting can be achieved around the perimeter of the plots to achieve the Local Plan's other aim in this area of increasing amenity planting.

Neighbouring Amenity

31. Several concerns have been raised by objectors either side of the site.
32. One key concern is that the properties will overlook Balnastraid Cottage. However, it is important to note that this is an outline application and the footprints of the two properties on the plan are for indicative purposes only. As mentioned in the agent's letter the house can be re-orientated and it has been suggested that a mound is constructed to help screen the houses from the neighbour. Given the indicative footprint of the nearest house facing Balnastraid Cottage the distance between windows would be something in the region of 120 metres, as a general standard a distance of around 20 metres is normally deemed sufficient to prevent direct overlooking of windows, this is massively exceeded in this case so can form no reasonable case for rejecting the application. The writer would prefer that the existing status is retained. However, as mentioned these sites have been in the Local Plan since 1997 so there can only be a reasonable expectation that some development would come forward eventually. The writer has raised concern regarding water supply. However, it has been confirmed that adequate supply exists, although there may be ownership issues in terms of bringing water to the site.
33. The other objector considers that the single house application and access track granted by the CNPA were a screen for this application. However, at the time it was correctly noted that each application should be dealt with on its own merits. The application for the house and access track was deemed acceptable on its own terms and also resulted in the closure of an unsafe residential access. In any case, it would not be un-reasonable to expect a developer to seek a means of accessing and utilising land that is allocated in the Local Plan.

Drainage

34. Much concern has been raised by neighbours regarding drainage from the site which has been regarded as being waterlogged in winter. However, the agent points out in his letter that the wet areas referred to were as a result of a broken field drain. SEPA have been consulted, have no objection in principle and the site is not within any area of flood risk on SEPA's indicative flood risk maps.
35. With regard to foul drainage proposals the agent approached SEPA prior to the application being submitted and their response in relation to the application now is as it was then that a Biotec treatment plant with mounded soakaway would be appropriate. Because of the grave concern expressed by one objector in relation to this solution I have had detailed discussions with Highland Council Building Control. Their response is that they consider this to be a perfectly acceptable means of effluent disposal provided the plant and soakaway are located so they are not within 5 metres of a building or boundary; 10 metres from a watercourse or road and 50 metres from a spring water source. The plans are only indicative at this stage but do indicate that these distances can be achieved with ease. Given that this approach is acceptable to both SEPA and Area Building Control there are no justifiable or defensible grounds for me to recommend refusal on this issue despite the concerns of the neighbour.

Highways Issues

36. The Area Roads Manager does not object to the application but raised several issues that can easily be dealt with by conditions on what is an outline application. The one issue that cannot be dealt with by conditions relates to the applicant funding the provision of a 40 mph speed limit through a stretch of Duthil to be agreed.
37. The Planning Committee will recall at the time of the granting of the single house plot much debate took place on the nature of the road through Duthil and whether proposals could be brought forward to reduce the speed limit on this stretch of road. The single house plot was accepted on the basis of a visibility splay that was not up to the regular standard required, because it would still result in a significant improvement on the access to the applicant's cottage known as Tigh na Bea and the house granted by the Planning Committee. However, given that the access is below normal standards the Area Roads Manager is not prepared to countenance **any further** residential development from this access unless a 40 mph speed limit is put in place through a section of Duthil to be agreed. I have discussed this with the Area Roads Team and they have confirmed that without the limit this application would be recommended for refusal. This shows a clear need for the speed limit to be reduced as a result of the additional 2 houses proposed. Because of this, I am clear that this is justified and should be sought from the applicant. However, this would be under

legislation separate to the planning process. Should members wish to approve this application no decision notice would be issued by officers until the appropriate Traffic Order reducing the speed limit was in place. This means no development would take place until an agreed 40 mph limit is in place on the A938.

Conclusion

38. As noted at the beginning of the appraisal the application has been advertised as not being in accordance with the development plan. However, in the above analysis a number of reasons have been identified as to why this allocation has never come forward in the form of 11 houses accessed as indicated by the Local Plan and is extremely unlikely to. Balanced against this, are several benefits including two single plots being more appropriate to the existing character and growth patterns of the settlement. This would allow considerable opportunity for landscaping without the associated considerable groundworks that would be required to accommodate 11 houses on this site at a density, with an access as shown in the Local Plan, and in a manner that would be significantly out of character with the existing scatter of development. In addition, the two plots proposed offer an opportunity for a 40 mph speed limit to be put in place through Duthil which should be a considerable benefit for the local community and wider road users.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

39. The relatively low density of the development helps to conserve the existing character of the area to a much greater extent than envisaged by the Local Plan allocation. The scheme allows considerable scope for planting and environmental works in the consideration of any future detailed application.

Promote Sustainable Use of Natural Resources

40. This is an outline application and there are no details as to where materials would be sourced from or whether any renewable energy resource would be utilised. However, the extensive nature of the plots and potential orientation of houses would offer opportunities for solar power and ground source heat pumps, capture of surface water run-off etc. Included in condition No 1 is a requirement to help ensure that the houses would be constructed in a sustainable manner, harvesting renewable energy where practicable.

Promote Understanding and Enjoyment of the Area

41. The proposals have little relevance to this aim.

Promote Sustainable Economic and Social Development of the Area

42. The proposals would add two houses to the stock of the area, but would also, more crucially, provide an opportunity for a 40 mph speed limit through Duthil for the benefit of the local community and other road users.

RECOMMENDATION

43. That Members of the Committee support a recommendation to: **GRANT** Outline Planning Permission for the erection of 2 dwellings on land north of Balnastraid, Duthil subject to the following:

A The applicant's funding an appropriate Traffic Order along a section of the A938 through Duthil to be agreed with the Area Roads Manager. No permission would be issued by the CNPA until this is in place.

B 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, sustainability statement including potential for renewable energy harvesting, construction materials and landscaping proposals 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. Any application for approval of reserved matters as mentioned in condition 1 shall be accompanied by a detailed landscaping plan, including details of all proposed boundary treatments and how screening will be achieved between plots and existing neighbouring property. The landscaping shall be implemented and maintained in accordance with the approved plan. The plan shall include details of the siting, numbers, species (which shall be appropriate to the rural setting) and heights (at the time of planting) of all trees, shrubs and hedges to be planted and to the extent of any areas of earthmounding, and shall ensure:-
 - (a) Completion of the scheme during the planting season next following the completion of the development, or such other date as may be agreed in writing with the CNPA acting as Planning Authority.

- (b) The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the CNPA acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.
3. A turning area suitable for a larger vehicle shall be formed at or close to the point of access to the two new house sites. Construction of this area shall consist of 350 mm Type 1 sub base on a sound formation.
 4. Parking and manoeuvring space for at least 2 no cars shall be provided within the curtilage of each property such that each vehicle may enter and leave each site independently.
 5. Any reserved matters application submitted shall be submitted with full details including drawings of treatment plants and mound soakaways. Treatment plants and soakaways must not be located within 5 metres of a building or boundary, within 10 metres of a road or watercourse or within 50 metres of a spring or water source used for drinking water.

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10 November 2006

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.