
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: **REPORT ON CALLED-IN PLANNING APPLICATION**

Prepared by: **NEIL STEWART (PLANNER, DEVELOPMENT CONTROL)**

DEVELOPMENT PROPOSED: **OUTLINE PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE, LAND WEST OF KEEPERS COTTAGE, EAST CROFTROY, GLEN ROAD, NEWTONMORE**

REFERENCE: **03/108/CP**

APPLICANT: **MR. ALEXANDER CAMPBELL, C/O AGENT**

DATE CALLED-IN: **21 NOVEMBER 2003**

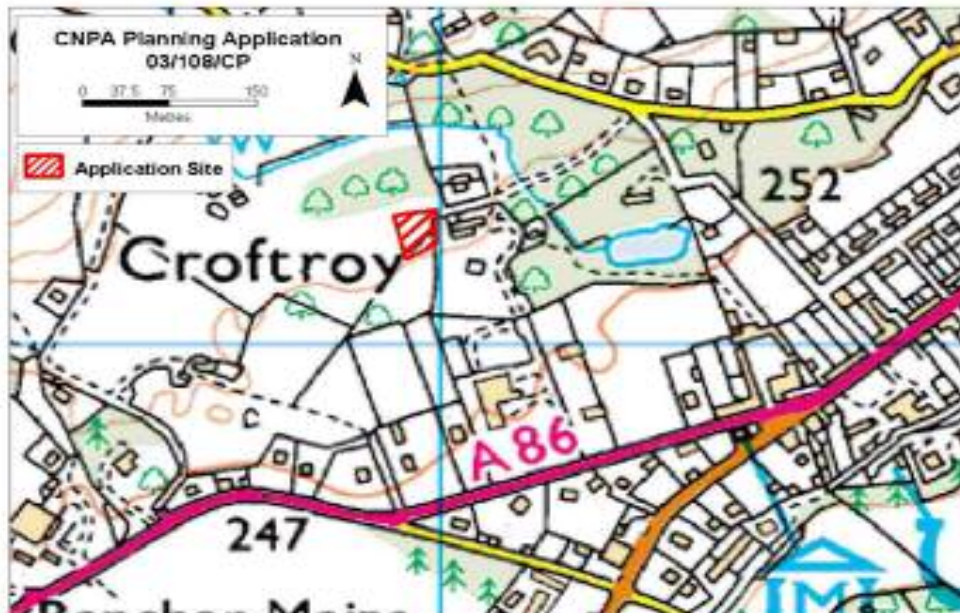


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Outline planning permission is sought for a dwellinghouse in a countryside area on the north west edge of the settlement of Newtonmore. The site forms a portion of a former larger croft at East Croftroy (the original has been split into 3 smaller crofts), and the croftland in the ownership of the applicant extends to 2.4HA, or thereby. The site of the proposed house is located in the south east corner of a flat open field area which lies to the west side of an existing house known as "Keepers Cottage". There is a group of trees between the proposed house site and "Keepers Cottage" and trees also exist on the western boundary of the applicant's croftlands. There is a significant drop in level to the south with the ground sloping down towards an area which is currently being developed for housing in line with a local plan residential allocation.
2. The applicant is the registered owner of the croft at this location, and he is submitting the house application on the basis of crofting need. It is submitted that he lives in a touring caravan on the croft and that he works the croft alone, managing a flock of sheep which he tends morning and evening. Owing to the size of the croft, it is submitted that there is insufficient income for this work to be on a full time basis at present and to date the croft has been operated on a part time basis. It has been confirmed that there are no other dwellings on the croft and the general shortage of suitable accommodation in Newtonmore, at an affordable price, has led to the submission of the application. Although an outline application, the applicant has indicated that the house would be of a single storey, 2 bedroomed, traditional design with finishing materials of slate, natural stone and wet harling. The proposed house site and the croftlands are accessed from an existing private access which passes "Keepers Cottage" on its north side and joins Old Glen Road very close to Glen Road.

DEVELOPMENT PLAN CONTEXT

3. **Highland Structure Plan Policy H3 (Housing in the Countryside)** states that new 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. In crofting townships, new housing will need to respect the existing pattern of development. **Policy L4 (Landscape Character)**, states that the Council will have regard to the desirability of maintaining and enhancing the 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. These include service provision (water and sewerage, drainage, roads, schools, electricity); accessibility by public transport, cycling, walking and car; energy efficiency in terms of location, layout and design (including the utilisation of renewable energy sources); impact on resources including habitats, landscape, scenery etc. **Policy H8 (Access Arrangements for New and Existing Development)** states that development proposals

which involve new or improved access to serve more than 4 houses shall be served by a road constructed to adoptive standards.

4. Within the **Badenoch and Strathspey Local Plan 1997**, the site is located within the “inset” proposals map for Newtonmore. However, it would not be classed as being within the settlement envelope. The designation on the site and most of the croft, under **Policy 8.5.1. (Trees and Woodland)** is amenity woodland. This states that the Council will safeguard, and encourage suitable management of semi-natural and amenity woodland and trees throughout Newtonmore. The area is also subject to **Policy 8.3.3. (Open Space)**, which states that the Council will safeguard important open spaces, including Loch na Leoba, which lies approximately 200m to the south east of the site, and there will be encouragement for improved woodland walks and management, seating and picnic facilities. The rest of the croftlands at East Croftroy extending to the west of the applicants portion of the croft, are designated under **Policy 8.5.6.(Landscape Conservation)** where there is a presumption against development of open land adjoining Newtonmore which is important for, amongst other things, agriculture or crofting, or diversification of these activities, or recreation and amenity. The clause on design contained within **Policy 2.1.2 (Housing in the Countryside)** states that single houses outwith recognised settlements will require to be (amongst other things), compatible with the scale and character of local buildings where appropriate, and properly located in harmony with the landscape.
5. Highland Council’s **Development Plan Policy Guidelines (April 2003)** provides more detailed guidance on the interpretation of specific policies contained in the 1997 Local Plan, in the light of the subsequently approved Structure Plan of 2001. This document states that new housing within the open countryside will be exceptional, and will only be permitted (in accordance with National Guidance and the approved Structure Plan policy) where, amongst other specific circumstances, it is required for the management of land, or it is required for family purposes related to the management of land (retired farmers and their spouses). It also considers that there is no justification for housing in the countryside associated with forestry. For justification based on croft management it is recognised that a degree of flexibility will be required, for example, in such circumstances it may not be possible to sustain full time employment and this will be taken into consideration. Any application for a house associated with crofting should be accompanied by confirmation from the Crofters Commission of the bone fides of the crofting application. Regard would also be had to the history of the previous housing development on the croft and the density of development. Any new housing must support and respect the traditional settlement pattern and not compound sporadic suburban type development.

CONSULTATIONS

6. **The Crofters Commission** have confirmed that their records show the owner of a part of the croft, at this location to be Alexander Campbell (the applicant), who lives in a caravan sited on his portion of the croft. They state that when

they consider planning applications for housing they look firstly at the crofting requirements, the family requirements, and then community requirements, in that order. In all cases they address these issues in their assessment for crofting need particularly in their response to single house applications. They state that the applicant will continue to work the croft, which is currently stocked with sheep. This being the case, the Commission, recognises the need for a new house on this croft and they consequently support the application.

7. **The Highland Council's Planning Officers**, under delegated powers, have outlined the local plan policies which are relevant to the site and have stated that unless there is an agricultural justification, it would seem that the proposed house would be contrary to the provisions of the Development Plan. Without any justification, the house would represent a sporadic intrusion into an area of largely undeveloped croftland. The adjoining property "Keepers Cottage" is clearly of some considerable age and no doubt relates to a previous settlement pattern in the area. Other than the property adjacent, the locale, is generally characterised by well spaced property. They feel that this would breach that established grain of development. In addition, they would be concerned about the possible precedent which might be established by an approval on the site, if there is no justification, and they note that the Area Roads Manager has been concerned for some time about the capacity of Old Glen Road.
8. **The Area Roads and Community Works Manager** originally objected to the application on the basis that the private access serving the site connects to Old Glen Road, which is an unadopted road and already serves more than four dwellings. Old Glen Road is also of a poor standard in terms of construction and geometry. The proposal would fail to comply with Council Policy H8 in this respect. However, following discussions, he has withdrawn his objection, provided that there is a Section 75 Legal Agreement, linking the new house to the existing croft. Some conditions for improving the access are still required.
9. **SEPA** initially raised an objection on the basis that the site appeared to be in the Newtonmore settlement envelope and as such foul water disposal arrangements should constitute a connection to the mains system. If the mains system in Newtonmore is at capacity, then they felt that further development should not be permitted until such time as Scottish Water had upgraded the system. However, when advised that the site is not classed as being within the settlement, they removed their objection and accepted the septic tank and soakaway system as proposed, subject to it complying with the Building Regulations and a means of secondary treatment being installed.
10. **Scottish Water** have advised that private water and drainage arrangements will be required. They have also advised that the nearest sewer is about 250m away but that there is no capacity at present even if connection to the mains was required. At the time of their response (February 2004), they confirmed that they have no scheme to increase capacity although there are discussions in progress. For a location such as proposed, given its distance to the public sewer, they are not surprised that the application has been made on the basis of private drainage.

REPRESENTATIONS

11. The application was advertised by Highland Council, following registration, as a “Development Not in Accordance with the Development Plan”. Two letters of representation have been received. The matters raised include:-
 - a. *The house will compromise the amenity of the neighbouring property which is within an unspoilt wooded agricultural area.*
 - b. *Encouragement of new dwellings such as this outwith the existing development will lead to the further expansion of Newtonmore and cause a sprawling effect.*
 - c. *The erection of the house should take place elsewhere on the applicants land.*
 - d. *Concerns about where the water supply will be sourced.*
12. Copies of these letters are attached for the consideration of the Committee.

APPRAISAL

13. There are several issues which require assessment in the determination of this application. The first relates to whether or not there is a justification, in terms of need, for a house at this site and if so, what mechanism can be used to ensure that a planning permission can be issued on this basis. The second is the acceptability of the access to the site. The means of draining the site is the third issue and finally the fourth is the acceptability of the site itself in terms of visual impact, settlement pattern and amenity of the neighbouring property.
14. The Local Plan designations imply that the general area of the development should be safeguarded because it represents open space and/or semi-natural amenity woodland where improvements to the quality of walking opportunities and management of the area are encouraged in the general public interest. However, the actual site of the house, and the applicant’s croftlands constitute agricultural land outwith the semi-natural woodland areas, which extend around Loch na Leoba to the south east of the site and north eastwards towards Glen Road. Existing footpaths do not extend into or across the applicants croft (although the access to the croft is shown as being a footpath in the Local Plan). The character of the site is therefore agricultural, similar to the character of the croftlands which extend to the west side of the applicant’s site. These other areas are designated in the Local Plan as open land where the open landscape should be maintained because it is important for agricultural or crofting activities. I therefore do not feel, that the principle of a house on this site, if justified in terms of crofting need, would conflict with the aims and objectives of the Local Plan designations because these designations do not accurately represent the character of the on site situation.
15. Highland Council policy requires an application for a house on the basis of crofting management, to be supported by confirmation from the Crofters Commission that it is a bona fide case. The consultation response from the Crofters Commission has confirmed that the applicant is the registered owner

of the croft and that, in relation to the operational need of the croft, they would support the application. While it is the case that the applicant does not operate the croft as a means of full time income, Highland Council policy recognises that a degree of flexibility is required in the assessment of such applications where it is clear that it may not be possible to sustain full time employment. As such, I cannot find any significant reason to resist the principle of a house on this croft site in terms of operational need and policy. This, of course, is reliant on a mechanism for ensuring that the house is occupied by a person operating the croft and that the house is not disposed separately from the lands that make up the croft. I therefore feel that, in this instance, a Section 75 Legal Agreement is the mechanism that is appropriate for achieving this security.

16. The Area Roads and Community Works Manager originally objected to the proposal on the basis that the access track to the croft and the proposed house site, connects to a section of Old Glen Road that is unadopted, of a poor standard in terms of construction and geometry, and already serves more than four dwellings. To permit the development he felt, would not comply therefore with Council policy. However, this has been discussed with the Area Roads Manager, and it has been made clear that the application is being made on the basis of crofting need and that if the house is to be supported in planning terms, then it would be “tied” to the croft. He has therefore withdrawn his objection provided that there is a Section 75 Legal Agreement linking the new house to the existing croft. It is accepted that the new development could add to vehicular movements in and out of the site, and that technically it represents a breach of policy, but the track adjoins Old Glen Road, only a few metres short of Glen Road which is adopted. Taking account of the fact that the access use could be increased without any degree of control, if for example the crofting activities increased, and the fact that the Area Roads Manager’s concerns have been withdrawn, I am persuaded that the situation that could arise from permitting another house, served by the existing access, would not be significantly detrimental to road safety. Nor would it significantly compromise the current policy situation because it is a unique case.
17. With regard to drainage, SEPA had some concern about the proposal to drain to a septic tank and soakaway, despite the fact that test pits had been dug and the ground conditions found to be acceptable. This was on the basis that they thought the site, being within the “Newtonmore Inset” map in the Local Plan would be classed as being within the settlement and therefore any house should be connected to the mains system. However, as discussed in paragraph 14 above, the character of the on site situation is such that I feel it would be difficult to class it as an urban location. SEPA have been persuaded that this is the case and they therefore have removed their objection.
18. The final consideration relates to the acceptability of the site itself in terms of impact and amenity. The representations received raise some concerns about the proximity of the proposed house to “Keepers Cottage” and the fact that as proposed, it would represent sprawl in this edge of settlement location. However, the site will not be seen as isolated in the landscape because of the

existence of the trees to the east side. These trees also provide a natural barrier between the proposed house and “Keepers Cottage” and there is adequate distance between the two properties (approximately 20m). It is also the case that to site the house elsewhere on the croft would mean that the access track would require significant extension and its formation would have negative visual and landscape impacts on the character of the area. I therefore feel that the provision of a modest sized traditionally designed dwelling, in this position would not impact negatively on the settlement pattern, the character of the area, or “Keepers Cottage”.

19. To conclude, I am persuaded that, in terms of policy, there is no justification for resisting this proposal for a crofting house, provided that a Section 75 Legal Agreement (between the CNPA and the applicant) is completed which would secure the retention of the house for crofting purposes at East Croftroy. I am satisfied that the access to serve the site is adequate for its purposes, and that satisfactory drainage arrangements can be provided. I am also satisfied that the house site will not have any adverse impacts on the character of the locality and that in this respect there are no policy contraventions.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

20. The provision of a house at this location will not have any adverse impacts on the natural or cultural heritage of the area.

Promote Sustainable Use of Resources

21. At this stage, it is not apparent that there will be any contribution to this objective. However, at the detailed stage, the use of sustainable materials in the house design can be promoted.

Promote Understanding and Enjoyment of the Area

22. The development makes no contribution to this objective.

Promote Sustainable Economic and Social Development of the Area

23. In this instance, justification of a need for a house has been submitted on the basis of crofting need. Retaining crofting uses can be seen as a positive step in retaining not only the traditional identity of the area but also as a means of retaining economic and social development opportunities. The provision of a modest sized house on this croft, where a need has been identified, may also help provide affordable housing for a local person.

RECOMMENDATION

That Members of the Committee support a recommendation to:

Grant Outline Permission for the Erection of a Dwellinghouse at Land West of Keepers Cottage, East Croftroy, Newtonmore, subject to the completion of a Section 75 Legal Agreement which ensures the house is occupied by a person working the croft and which does not permit the house to be disposed separately from the croftlands at East Croftroy, and the following conditions:-

- i. 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 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.
- ii. The development shall be limited to 2 storey (attic) development ie. 2 storeys of accommodation is permissible with the first floor (upper storey) accommodated in the attic or roofspace by utilising rooflights, gable windows or dormer windows.
- iii. The development shall be of a traditional architecturally sympathetic design in respect of building form, detail and finishing materials.
- iv. Prior to the commencement of development, the developer shall submit full details of the means of foul and surface water drainage for the further written approval of the Planning Authority in consultation with the Highland Council Building Control Service and the Scottish Environment Protection Agency. Unless otherwise agreed in writing with the Planning Authority, the foul water drainage proposals shall include a means of secondary treatment of foul effluent.
- v. Prior to the commencement of development on site, a report, which shall demonstrate that the proposed private water supply is adequate in terms of quantity and quality, shall be submitted for the further written approval of the Planning Authority.
- vi. Prior to the occupation of the development hereby approved, the first 6 metres of the access, measured from the nearside edge of Old Glen Road, shall be constructed to a minimum of 40mm thick Close Graded Wearing Course on 60mm Dense Basecourse on a minimum thickness of 350mm Type 1 sub base, all on a sound formation, all to the satisfaction of the Planning Authority.
- vii. That no surface water shall be allowed to discharge on to the public road, and measures shall be taken to prevent ingress of water to the site access from the public road, all to the satisfaction of the Planning Authority.
- viii. Prior to the occupation of the development hereby approved, the length of the access shall be upgraded, as required, to enable safe and easy access for larger emergency vehicles, all to the satisfaction of the Planning Authority.

Neil Stewart

14 June 2004

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