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## CAIRNGORMS NATIONAL PARK AUTHORITY

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

**Prepared by: ANDREW TAIT PLANNING OFFICER (DEVELOPMENT CONTROL)**

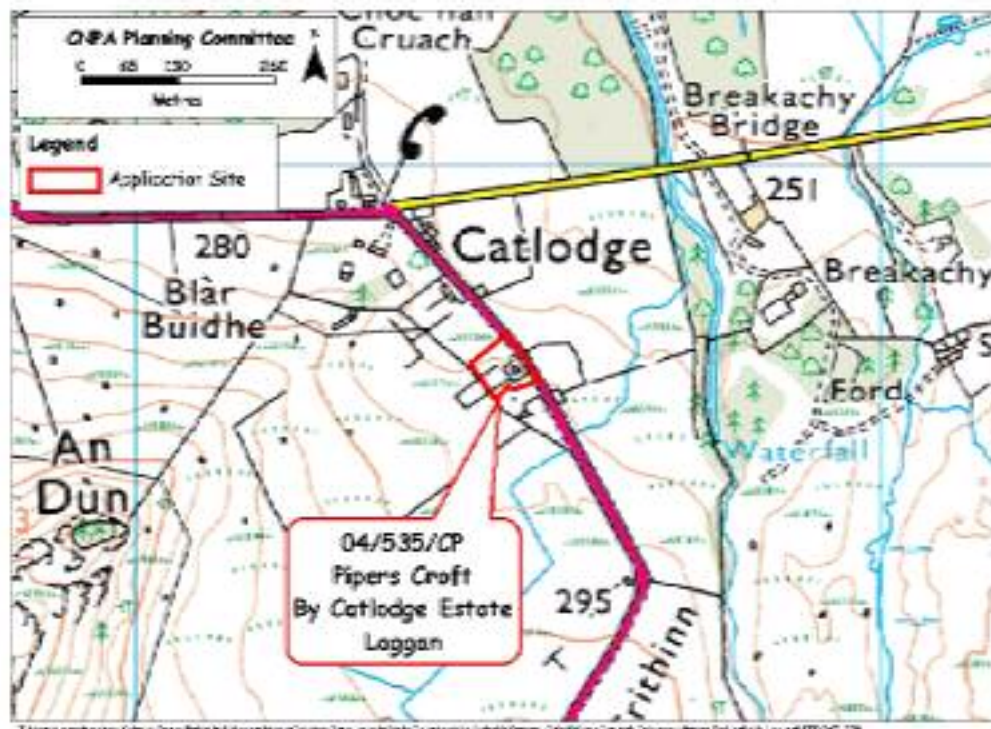
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**DEVELOPMENT PROPOSED: NEW ACCESS AND EXTENSION TO GARDEN AREA, AT PIPERS CROFT, LAGGAN, INVERNESS-SHIRE**

**REFERENCE: 04/535/CP**

**APPLICANT: CHARLES TAYLOR, RAMSAY CROFT, DALKEITH, EH22 1JD**

**DATE CALLED-IN: 3 December 2004**



**Fig. 1 - Location Plan**

## SITE DESCRIPTION AND PROPOSAL

1. The proposed development consists of a number of elements, including a new access to Pipers Croft site from a rough track onto the moorland. This track has a bellmouth junction with the A889 Laggan to Dalwhinnie road, and is sometimes used as an informal layby for a memorial cairn situated about 35 m back from the public road's edge. The current access to the site is directly off the A889, is narrow and has drystone dyking on either side. This existing access is to be closed off with dyking, and it is proposed to erect a new shed in the driveway. The new access will be on the southern frontage to the site, with relocated gates, and a new turning area will be constructed with hardcore, resulting in the removal of 8 tall spruce trees. The maturing trees are to the south of the cottage, a small stone built, white-washed house with tin roof, and therefore cast a significant shadow over the house and garden a lot of the year. Some of the spruce trees closer to the public road, along with some birch and larch trees are to be retained. New steps from the turning and parking area in a retaining wall, connect to the former driveway and provide a new path access to the cottage.
2. New fencing is to be erected around a significantly extended garden area. The present garden area is approximately 28 metres wide by 27 metres deep; the proposed garden area becomes 56 metres wide on the site frontage (23m at the rear of the site) and 62 metres deep. The garden will extend into open moorland with heather and stands of birch. It is proposed to extend the drystone dyking along the main road frontage of the site, building it up to a height of 1.3 metres in front of the property, tapering to 1.0 metre at the ends. Some of the higher and rising ground to the rear (west) of the house will be excavated to form a more level area of garden ground (and to improve the drainage around the building) with a new retaining wall using existing and matched stone. The excavated material will be redistributed within the enlarged garden area in the northern most corner. Some of the drystone dyking works have already been carried out and also the applicant has planted some scots pine and rowan trees. This does not of itself require planning permission.

## DEVELOPMENT PLAN CONTEXT

3. **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. 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).

4. **The Badenoch and Strathspey Local Plan (September 1997) Policy 2.1.2.3 for Restricted Countryside Areas**, has a strong presumption against the development of houses in all sensitive areas, and where acceptable, adherence to the principles of good siting and design will be required. The current application site lies on the borderline between the Restricted Countryside policy area, and the **Fragile Countryside Policy Area 2.1.2.2**, where new housing will be encouraged subject to the principles of good siting and design. **Policy 2.5.4 Woodlands and Trees** states that existing trees and woodland areas will be protected – this includes small groups of trees. Measures needed to ensure continuity and regeneration of these features will be encouraged. In **Policy 2.5.10, Landscape Conservation**, development proposals are to be considered carefully in respect of their impacts on conservation and the environment.

## CONSULTATIONS

5. **Highland Council's Area Roads Manager** has no comments to make.
6. **Highland Council's** planners consider the main issues are to do with the annexing of a relatively large area of moorland (compared with the current cottage's feu). This extension area is higher ground and there is the potential for structures to be placed in this area, under permitted development rights and for these to be visually intrusive within the rough moorland setting. Also there is concern about the visibility of the parking and turning area from the public road, given that the proposed ground level of the parking area would appear to be higher than the public road. Provided certain safeguards are met, there is no objection to the application. Removal of permitted development rights is recommended.
7. **Scottish Natural Heritage** have been consulted upon the proposal and note that the site is within 250 metres of the River Spey Site of Community Importance (SCI) and it is noted the proposal is not in connection with the nature conservation management of the SCI site. However, it is unlikely that any qualifying feature will be affected either directly, or indirectly. Therefore, SNH have no objection to the proposal. SNH have also considered the proposal in landscape terms and consider that the changes would not be significant.
8. **The CNPA Visitor Services and Recreation Group** comments that there is no indication that this land is used to access the hills and moorland behind the house. It is noted that anybody doing so would almost certainly use the moorland track. In the light of this, it is highly unlikely that the erection of the fence would represent a block to any existing access, especially if the moorland track remains. The fencing of the site would not of itself necessarily prevent access to the site under access legislation.

## REPRESENTATIONS

9. The applicant has indicated that on the purchase of this site there have been conditions attached that there will be no demolition of the existing building, there will be no building on the additional ground purchased, and any development is restricted to an extension which is to be in keeping with the existing cottage and its scale. With this application the applicant wishes to create a safer access and a secure boundary, and also to retain the natural quality of the wild garden. He wishes to carry out some native tree planting on the site in February and March, and to provide a good habitat for wildlife.

## APPRAISAL

10. The main issues to consider for this application are firstly the suitability of the access arrangements, secondly the loss of significant trees from the site, and finally the extension of the garden into a moorland area.
11. The change to the site access arrangements is certainly an improvement to the current situation. Instead of a very tight direct access out onto the A class road, there will be access via a junction with a bellmouth, allowing easier movements onto and off the public road. For any family with children living on this site, having the current direct access (although gated) is undesirable, and the new arrangement also allows for cars entering and leaving the site to park off the main road while gates are opened or closed by the residents or visitors. In addition, the Area Roads Manager has no objection.
12. A significant number of trees are proposed to be felled as part of this development – some in order to set out a turning area for cars and a parking area, but also to allow for less overshadowing of the cottage and rear garden area. The line of spruce trees form a significant landscape feature on this site, and almost completely screen the cottage from the south. This however does limit the amount of daylight getting to the house and its immediate garden area, particularly in the winter months. More native tree species are growing in other locations around (and outwith) the garden area. Some of the spruce closest to the public road, are to be retained, and the applicant has stated that new, native tree species are planned to be planted in the spring months. There is an argument that the existing line of trees, and the spruce species are not natural to the area, and it would be preferable to have at least some of these trees replaced with more native species, such as scots pine, birch, and rowan. If the replacement was significantly greater than on a one for one basis then there would be a positive enhancement for the site over the medium to long term. Some tree and shrub planting adjacent to the parking area would help to alleviate the visibility concerns.

13. The enlargement of the garden into an area of open moorland is perhaps the most difficult or controversial issue to determine. The land to the rear of the cottage rises away from the public road, and the area has less tree cover and is more open. The ground cover is largely heather, and if to be included within an enclosed / fenced off garden area, it would be expected that the character and the vegetation within this area would be altered significantly. If this were to happen, then this element of the planning application would have to be recommended for refusal, as the development would be detrimental to the protection and enhancement of the local biodiversity and the local landscape character.
14. However, the applicant has stated that he wishes to have a low maintenance garden area, to retain the quality of the natural garden. The fencing off from other moorland ground of this area of heather and scrub, may allow for some additional natural regeneration within the site – in addition to the new native tree planting on the site that the applicant proposes. The main difficulty then is how to ensure that the enlarged garden area has a 'natural' character, rather than becoming a cultivated and / or manicured formal garden area. This is not the sort of thing that can easily be covered by a planning condition. However, to achieve this I would recommend that all permitted development rights be removed to prevent any new buildings or other structures being erected on the site (without specific planning consent) and conditions could be used to prevent any further removal of trees, and to require the planting of not less than (say) 25 new native (specified species) trees on the site. A condition could perhaps be devised to specify an area of ground where the natural vegetation is maintained and conserved, but the most effective way to deal with this issue is perhaps through establishing a management agreement with the applicants, secured with a planning condition, or via a Section 75 Planning Agreement. The latter is rather excessive in terms of a binding legal document, and given the applicants intentions I would suggest that a planning condition is used.
15. It is a matter of establishing whether such a garden extension is acceptable, and whether the intentions of the (current) owners are genuine and long lasting. On balance, and without any policies in place to assess the current proposal against, or any relevant experience of similar implemented proposals in the Park area to take into account, it is not unreasonable to follow the route of granting full planning permission for the garden extension subject to some of the safeguards discussed above, including the provision of a management agreement with the applicant. In my view this should be achieved by the use of a planning condition, it is clear from my most recent conversations and in a letter from the applicant that they intend the new garden area to be as naturalised as possible and the applicant wanted the application to be determined as soon as possible so that he could start planting within the current season (and from his latest letter planting of native species has already started). However, as pointed out earlier permission is not specifically required for the planting of trees.

## IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

### Conserve and Enhance the Natural and Cultural Heritage of the Area

16. The expansion of a garden area into an area of limited human intervention and management would be contrary to the spirit of this aim, also the removal of trees existing on the site. However, should the area of ground be landscaped and managed in a way that protects and enhances the local biodiversity, then the proposal could be supported. In terms of cultural heritage the setting of the nearby monument would be unaffected as would access to it. In my view it is clear that the applicant intends the area to be as naturalised as possible and this is evidenced by the planting and dry-stane dyking work that has already been carried out.

### Promote Sustainable Use of Natural Resources

17. The rebuilding and extension of the dyking on the site frontage will enhance the character of the site and allow for the reuse of natural local materials.

### Promote Understanding and Enjoyment of the Area

18. The proposal involves the enclosure of a small moorland area. In terms of public access this is likely to have little effect. A track adjacent to the site allows for access to the hills and allows access to the nearby monument. Given this the proposal is unlikely to affect understanding and enjoyment of the area.

### Promote Sustainable Economic and Social Development of the Area

19. Upgrading the access to this site, and the re-contouring the ground around the existing cottage will mean a longer life for the existing cottage into the future.

## RECOMMENDATION

20. That Members of the Committee support a recommendation to: **GRANT full planning permission for the construction of a new site access, and for the extension of the garden area, at Pipers Croft, Laggan,** subject to the following conditions,

- i. The development to which this permission relates must be begun within 5 years from the date of this permission.
- ii. That no trees shall be felled, lopped or topped on this site, other than the 8 spruce trees marked on the approved plan, other than with the express written consent of the Cairngorms National Park Authority acting as planning authority.
- iii. That not less than 25 new native trees shall be planted within the application site, in accordance with a plan to be submitted to the

Cairngorms National Park Authority acting as planning authority prior to the new access first being brought into use. The plan shall specify the location, size, species and provenance of the trees to be planted. The plan shall also include planting to screen the car parking area from the public road. Any trees dying within the first 3 years following planting shall be removed and replaced to the satisfaction of the Cairngorms National Park Authority acting as planning authority. Planting shall be carried out in the first available planting season following the approval of this application.

- iv. Prior to the new access first being brought into use a management plan for the area outlined in green on the approved plan shall be submitted for the consideration and written approval of the Cairngorms National Park Authority acting as planning authority. This management plan will outline the annual management programme for this area of land, which maintains the predominantly heather and woodland mix and character. This management programme shall be followed by the site owners and shall only be departed from with the express written agreement of the Cairngorms National Park Authority acting as planning authority.
- v. Notwithstanding Schedule 1, Part 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 no buildings, structures or engineering operations shall be erected or carried out on this site, other than those hereby approved unless otherwise agreed in writing by the Cairngorms National Park Authority acting as planning authority.

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**13 April 2005**