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## CAIRNGORMS NATIONAL PARK AUTHORITY

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

**Prepared by: MARY GRIER (PLANNING OFFICER, DEVELOPMENT MANAGEMENT)**

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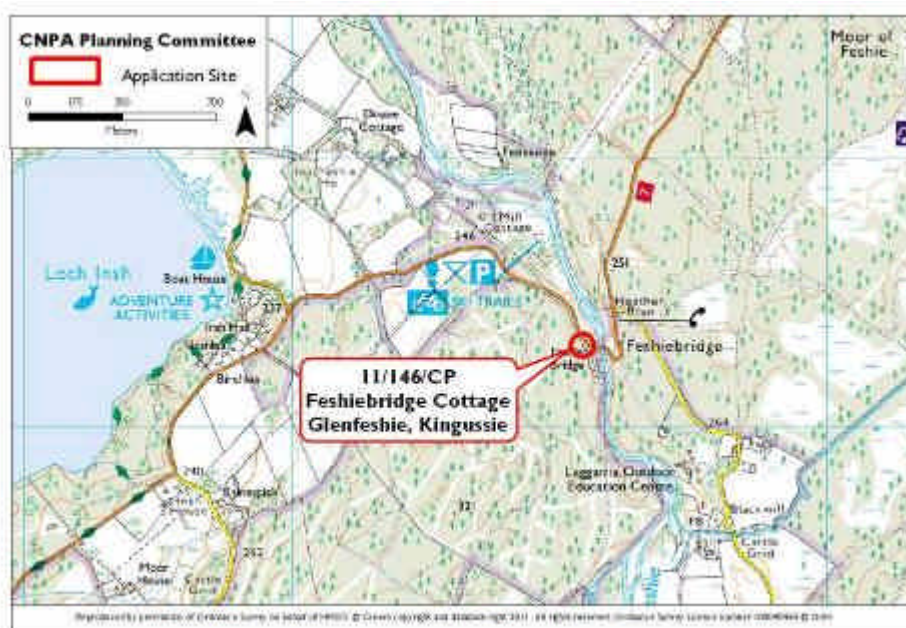
**DEVELOPMENT PROPOSED: PLANNING PERMISSION FOR RELOCATION OF GARAGE FROM APPROVED SITE PLAN (CNPA REF. NO. 08/312/CP) AT FESHIEBRIDGE COTTAGE, FESHIE BRIDGE, GLENFESHIE**

**REFERENCE: 11/146/CP**

**APPLICANT: MR. JOHN ARDILL C/O GRAMPIAN DESIGN ASSOCIATES, ROSEMOUNT PLACE, ABERDEEN**

**DATE CALLED-IN: 27 MAY 2011**

**RECOMMENDATION: REFUSE**



Grid reference: 285103 804294 (easting northing)

Fig. I - Location Plan

## SITE DESCRIPTION AND PROPOSAL

1. Planning permission is sought, retrospectively, in this application for the relocation of a garage from the position approved on the site plan, which was part of a permission granted by the CNPA in January 2009. CNPA planning ref. no. 08/312/CP refers, and was for full planning permission for the demolition of an existing dwelling house and the erection of a replacement house and garage. In addition to this current application, the identified site area is also the subject of a further application in which planning permission is being sought for the erection of a boundary fence and screening to ground retention system and change of use of part of the site from forestry to residential use. Elements of the proposal are also retrospective. CNPA planning ref. no. 11/147/CP refers and the application will be discussed in a separate planning report.
2. The subject site is known as Feshiebridge Cottage, and is located immediately to the west of Feshie Bridge<sup>1</sup> on the B970 public road, approximately 2.5 kilometres to the south east of Kincaig. The subject site is at the junction of the B970 and a private access track - the track provides access to a path which links the western and eastern side of the National Park, through Glen Feshie and on to Linn of Dee. The gravelled section of track provides access to 'Feshiebridge Cottage' and three other neighbouring properties, one of which is in the subject of construction activity at present.<sup>2</sup> The neighbouring property immediately to the south of the subject site is known as 'Feisidh' and is a dormer dwelling with a double garage, which was built within the past decade.<sup>3</sup> Vehicular access to Feshiebridge Cottage and Feisidh is taken from a partially shared gravel drive which ascends from the aforementioned access track. The land generally rises in a westerly direction, from the access track towards the rear of Feshiebridge Cottage and the other properties. The land to the rear is part of a Forestry Commission woodland plantation.



Fig. 2 : Formerly existing cottage



Fig. 3 : New dwelling and garage

### Garage

3. The garage which is the subject of this application is a single storey structure, with a footprint of 8.59m x 3.8m, with a ridge height of 4.7 metres. It has a single width vehicular opening in the front (east) elevation, and two small

<sup>1</sup> Category B Listed Structure.

<sup>2</sup> Highland Council planning ref. no. 08/00310/FULBS - permission for restoration, alteration and extension to dilapidated cottage (Ord Cottage).

<sup>3</sup> Highland Council granted planning permission for the development in 2002 with design amendments permitted in 2003.

entrance doors in the side (north) elevation.<sup>4</sup> A velux window has also been included on each roof slope. The external finishes on the garage include a render wall finish in a grey colour which matches that of the new dwelling house, and a profile metal sheet roof.

4. Fig. 3 demonstrates the position of the garage, as approved in CNPA ref. no. 08/312/CP. Fig. 4 demonstrates the existing relocated position of the garage, for which planning permission is now sought. The garage has been moved further southwards and now sits on the southern site boundary. The position is also further forward<sup>5</sup> (eastwards) on the site than originally approved.

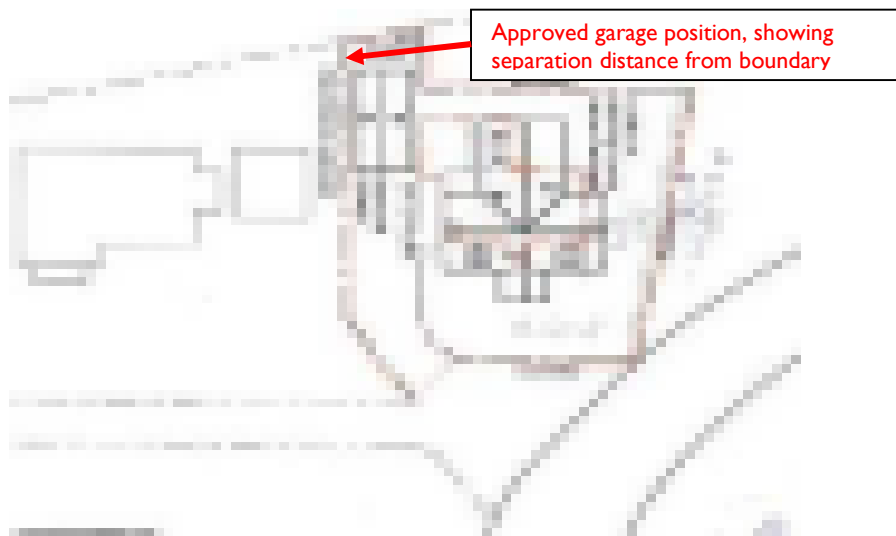


Fig. 3 : Approved site layout plan

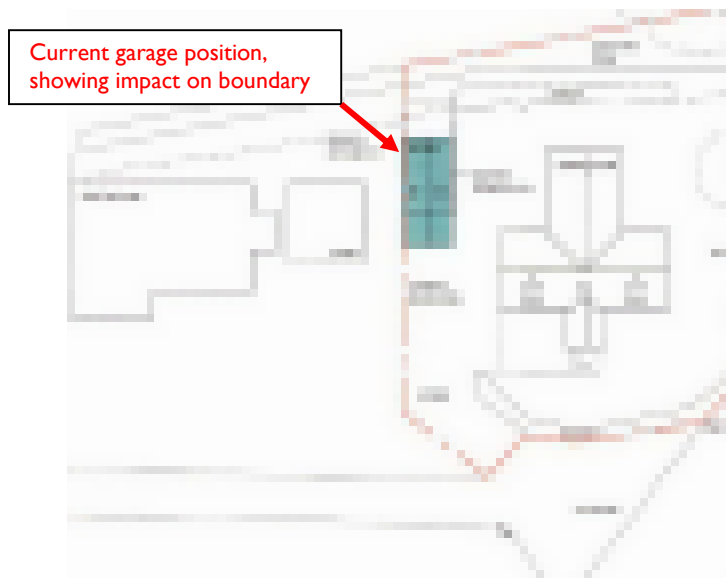


Fig. 4 : Proposed site layout plan

<sup>4</sup> Doors provide individual access to two areas of the garage - the main garage and a storage area to the rear.

<sup>5</sup> Approximately 2.8 metres further forward than the originally approved position.



Fig. 5 : Position of garage relative to the neighbouring property



Fig. 6 : Existing garage

### Justification

5. In response to CNPA queries regarding the background to the existing position of the garage and the deviation from the approved plans, the agent has submitted a number of points. The agent suggests that the applicant “may have been poorly advised on the technicalities of the planning process which has meant retrospectively requesting planning permission for the new location of the garage.” The submission also makes a number of other points regarding the current location of the garage –
  - The garage was pulled forward to avoid breaking out the existing rock and undermining the existing embankment;
  - The ground conditions were not suitable for the drilling required to install the ground source heat pump which is located within the garage;
  - “The garage was relocated onto the boundary to make best use of the site” and it is suggested that the one metre strip of land to the side of the garage would have been “dead unusable space;”
  - The new position of the garage is still behind the building line of the neighbouring garage and “has little visual impact”;
  - Any overshadowing would not be very different from the originally approved location;
  - “the new garage would not affect the use of the neighbours land because if the garage had not been moved a fence would have been erected on the same line.”

## DEVELOPMENT PLAN CONTEXT

### National Policy

6. **Scottish Planning Policy<sup>6</sup> (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:

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<sup>6</sup> February 2010

- The constraints and requirements that planning imposes should be necessary and proportionate;
  - The system should .....allow 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.
7. 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.”
8. 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.
9. *Housing*: **SPP** highlights the Scottish Government commitment to increasing the supply of new homes. The planning system is expected to enable the development of well designed, energy efficient, good quality housing in sustainable locations. In discussing the ‘Location and Design of New Development’ the SPP advises that redevelopment of urban and rural brownfield sites is preferable to development on greenfield sites.
10. *Rural development*: Para. 92 of **Scottish Planning Policy** states in relation to rural development that the “aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.” All new development is required to respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards.
11. *Landscape and natural heritage*: The **Scottish Planning Policy** document recognises the value and importance of Scotland’s landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.

12. **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 Plan (2007)**

13. The Cairngorms National Park Plan sets out the vision for the park for the next 25 years. The plan sets out the strategic aims that provide the long term framework for managing the National Park and working towards the 25 year vision. Under the heading of 'conserving and enhancing the special qualities' strategic objectives for landscape, built and historic environment include maintaining and enhancing the distinctive landscapes across the Park, ensuring that development complements and enhances the landscape character of the Park, and ensuring that new development in settlements and surrounding areas and the management of public spaces complements and enhances the character, pattern and local identity of the built and historic environment.
14. Under the heading of 'Living and Working in the Park' the Plan advises that sustainable development means that the resources and special qualities of the national park are used and enjoyed by current generations in such a way that future generations can continue to use and enjoy them. Section 5.2.4 of the Plan focuses on housing and highlights the need to ensure greater access to affordable and good quality housing in order to help create and maintain sustainable communities. The Plan advises that the quality and design of all new housing should meet high standards of water and energy efficiency and sustainable design and be consistent with or enhance the special qualities of the Park through careful design and siting.

### **Structure Plan Policy**

#### **Highland Council Structure Plan (2001)**

15. **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.
16. The following provides a brief summary of the policies applicable to a development of this nature. Section 2.4 of the Plan concentrates on the subject of landscape, stating that "no other attribute of Highland arguably defines more the intrinsic character and nature of the area than its landscape." Similar to national policy guidance, there is a recognition that landscape is not a static feature and that the protection and enhancement of landscape and scenery must be positively addressed. **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.”

17. **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)**

18. The Cairngorms National Park Local Plan was formally adopted on 29<sup>th</sup> October 2010. The full text can be found at :  
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
19. 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.
20. 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.
21. Policy 6 – Landscape: there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
22. 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 should seek 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;
- demonstrate sustainable use of resources;
- protect the amenity enjoyed by neighbouring properties and all proposals will be designed to help create environments that can be enjoyed by everyone; and
- be in accordance with the design standards and palette of materials as set out in the Sustainable Design Guide.

### **Supplementary Planning Guidance**

23. 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**

24. The guide highlights 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. The **Sustainable Design Guide** requires the submission of a Sustainable Design Statement with planning applications. It is intended that applicants would use the Sustainable Design Statement to demonstrate how standards set out in the Sustainable Design Checklist will be achieved.
25. 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**

26. A variety of consultations were undertaken in connection with the original proposal for a replacement dwelling house and garage on the site when the application was being considered in 2008 (CNPA ref. no. 08/312/CP). As the current proposal relates purely to the relocation of the garage, no further consultations were necessary at this time.



## REPRESENTATIONS

27. The application was advertised in the Strathspey and Badenoch Herald on 18<sup>th</sup> March 2011. Three representations have been received, from Ms. Caroline Hayes of March House, Feshiebridge, Ms. Helen Sinclair of Stanley Street, Edinburgh and Mr. & Mrs. N. Dudgeon of 'Feisidh', Feshiebridge. Copies of the representations are attached to the rear of the report. The following is a summary of the issues raised :
- All three representations object to the application;
  - Queries are raised as to whether the proposal is to demolish the existing garage and rebuild or is a retrospective application, as the garage has already been built;
  - Queries are raised regarding the impact of the building being on the boundary of the neighbouring property;
  - Loss of a parking space associated with the neighbouring property;
  - A suggestion that the garage is moved to its approved location or at least 1 metres further north in order to allow a boundary fence to be built between properties;
  - Comments that the term 'retrospective' does not appear on the application, although the garage has already been built;
  - The incorrect siting of the garage in relation to the approved site plan;
  - The position of the garage on neighbouring land;
  - Reference to property rights and Land and Title Deeds;
  - Failure to comply with CNP Local Plan Policy 16(g) in failing to protect the amenity enjoyed by neighbouring properties;
  - Neighbours practise in using the space within their site adjacent to the garage which is the subject of this application; and
  - Details of various sets of differing plans seen by representees.

## APPRAISAL

28. Planning permission is sought, retrospectively, for the relocation of a domestic garage. The main issue to consider in this is the appropriateness of the identified location. In connection with that, factors to take into account in assessing the proposal include compliance with planning policy and the impact of the development on neighbouring property. In addition, although the application is retrospective in nature, in accordance with Scottish Government advice, such planning applications should be decided in the same way as all other applications.<sup>7</sup>
29. Fig. 3 in this report shows the originally approved position of the garage, which was **within** the site boundaries originally identified in the application for the demolition of Feshiebridge Cottage and the erection of a replacement dwelling house and garage on the site (CNPA planning ref. no. 08/312/CP). The approved plan also identified the position of the site boundaries and it can be seen from Fig.3 that the garage was located in a position to the north of the

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<sup>7</sup> A Guide to the Planning System in Scotland, August 2009.

southern boundary, with a clear separation between the boundary and the side elevation of the garage. In contrast, Fig. 4 shows the location of the garage as currently constructed, identifying it now on the southern site boundary and approximately 2.8 metres forward of the approved location.

30. Background information and justification for the repositioning of the garage, as provided by the agent responsible for the current applicant, has been detailed in paragraph 5 of this report. One of the reasons offered in defence of the need to site the garage in a position forward of the approved location refers to ground conditions and the need to break rock. It is to be expected that normal practise in organising a development project would involve a thorough investigation of site conditions prior to plans being prepared for the planning application process, and certainly prior to commencement of any development, thereby creating an opportunity to address ground condition issues etc. and gain all necessary consents to overcome any site specific difficulties. Notwithstanding the apparent deviation from this type of procedure and in considering the relocated position of the garage on its merits, its position further forward of the original approval (eastwards by approximately 2.8 metres) does not give rise to any significant adverse impacts.
31. The aspect of the relocation which is of most concern is the positioning of the garage on the southern site boundary. The development of the garage in this position gives rise to a variety of concerns, including the fact that the position precludes either the applicant or the owners of the neighbouring property from developing any form of boundary treatment along this area of the site boundary. In connection with this, it should be noted that a condition attached to the original permission on the subject site (CNPA ref. no. 08/312/CP, condition no. 2) required that the southern boundary<sup>8</sup> be marked by a hedge of native indigenous species. This condition was stipulated “in the interests of the visual amenity, character and biodiversity of the area.” In a rural location such as this, where the previous dwelling on the site had the benefit of a garden curtilage with extensive natural vegetation, the development of a hedge is an appropriate treatment to demarcate the boundary between residential properties. It would enhance the visual amenity of the area, be in keeping with the rural character of the surrounding area and would also have benefits for the biodiversity of the area. The current siting of the garage jeopardises the possibility of developing a boundary hedgerow along the southern boundary and as such is a contributing factor in detracting from the visual amenity of the area.
32. The lack of opportunity to provide natural boundary treatment between the subject site and the adjacent property also increases the prominence of the existing garage structure, which together with the associated new dwelling house and the neighbouring property on land immediately to the south, are all at an elevated siting relative to the adjacent access track and the B970 public road. The prominence of the garage, in conjunction with its closer proximity to structures on neighbouring land than previously approved, also creates the

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<sup>8</sup> Condition no. 2 of the permission also referred to the use of hedging to mark the western and northern site boundaries.

impression of a higher density development, resulting in a 'proximity relationship' of buildings that would more commonly be associated with a far more suburban setting than the rural setting of the Feshie Bridge area. In this context, the position of the garage is considered to give rise to a negative visual impact and to also detract from the rural character of the area.

33. Further concern associated with the current position of the garage includes the practicalities of future maintenance. The originally approved position provided separation distance between the side elevation of the garage and the nearby southern site boundary. In addition to being sufficient to facilitate the provision of boundary treatment, it was also sufficient to allow for circulation space, with the latter facilitating access for construction and maintenance activities. Access to the southern (side) elevation of the garage would not be possible in the current location, unless taken from land which is outside the site boundary, and which is known to be in the ownership of a third party. The lack of available space to facilitate maintenance of the structure could in the longer term become a concern, and could give rise to the deterioration of the structure.
  
34. The letters of representation which has been received and referred to in paragraph 27 raise concerns about the impact of the development on neighbouring land. The drawings provided in connection with this application demonstrate that the garage is **on** the southern site boundary. In addition to the structure being on the site boundary, the guttering which has been installed overhangs the boundary, onto the neighbouring land. As already alluded to, the development of the garage in its current position precludes the neighbouring property owners from installing any form of boundary treatment or planting along this part of the site boundary. The inability of either the applicant or the owners of the neighbouring property to develop appropriate boundary treatment could be considered to adversely impact the privacy and general amenity of the neighbouring property. Alternatively, in the event of the owners of the neighbouring property choosing to install boundary treatment in the area adjacent to the garage, it would be necessary to do so entirely within their site, thereby reducing the amenity space available to them. The overhanging gutter is also considered to have implications for the general amenity of the neighbouring property. In conclusion, the development of the garage in its current position would give rise to a variety of adverse effects on the neighbouring property, which render the development proposal contrary to Policy 16 (g) Design Standards for Development, which requires development to "protect the amenity enjoyed by neighbouring properties" and requires that all proposals are "designed to help create environments that can be enjoyed by everyone."

## IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

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

35. The current position of the garage precludes the development of appropriate boundary treatment along the southern site boundary and therefore eradicates the opportunity to introduce boundary treatment which could assist in enhancing the natural heritage of the area. In addition, the lack of boundary provision and the proximity of the garage to the adjacent property could be considered to cumulatively create an impression of higher density development, more commonly associated with a suburban area rather than its rural location. As such the development of the garage at this location has failed to conserve or enhance the cultural heritage of the area.

### **Promote Sustainable Use of Natural Resources**

36. No details have been provided in this application to suggest that the development works have promoted the sustainable use of natural resources.

### **Promote Understanding and Enjoyment of the Area**

37. The relocated position of the garage is considered to have a localised impact which would adversely affect the residential amenity of the neighbouring property. As such the development is not considered to assist in promoting the understanding of enjoyment of the area.

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

38. The development does not make any contribution towards achieving this aim.

## RECOMMENDATION

**That Members of the Committee support a recommendation to**

**(a) REFUSE planning permission for the relocation of the garage from the approved site plan (CNPA ref. no. 08/312/CP) at Feshiebridge Cottage, Feshie Bridge for the following reasons :**

1. The relocation of the garage from the originally approved position fails to adequately protect the amenity of the neighbouring property and also creates an environment which hinders enjoyment of the private space of the neighbouring property. As such the development fails to comply with Policy 16 (g) Design Standards for Development of the Cairngorms National Park Local Plan (2010).
2. The current location of the garage precludes the erection of appropriate boundary treatment on the southern boundary of the site. The proximity of the garage to neighbouring structures and the associated inability to provide appropriate boundary treatment in this area detracts from the visual amenity of the area, and also creates the impression of a higher density development more commonly associated with suburban development rather than development in a rural setting. Condition no's 2 and 3 of the original permission relating to the development (CNPA planning ref. no. 08/312/CP)

clearly stipulated the development of specific boundary treatments, in the interests of the visual amenity, character and biodiversity of the area. The current position of the garage would jeopardise the opportunity to achieve a development which accords with the aspirations associated with the conditions imposed on the original consent on the subject site.

3. The position of the garage, on the boundary of the site, would preclude access to the southern elevation of the structure for future maintenance purposes. This has the potential to lead to the deterioration of the structure in the future and could further adversely affect the visual amenity of the area.

**AND**

**(b) support a recommendation to pursue formal enforcement action against the unauthorised development.**

**Mary Grier**

[planning@cairngorms.co.uk](mailto:planning@cairngorms.co.uk)

**13 July 2009**

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.