
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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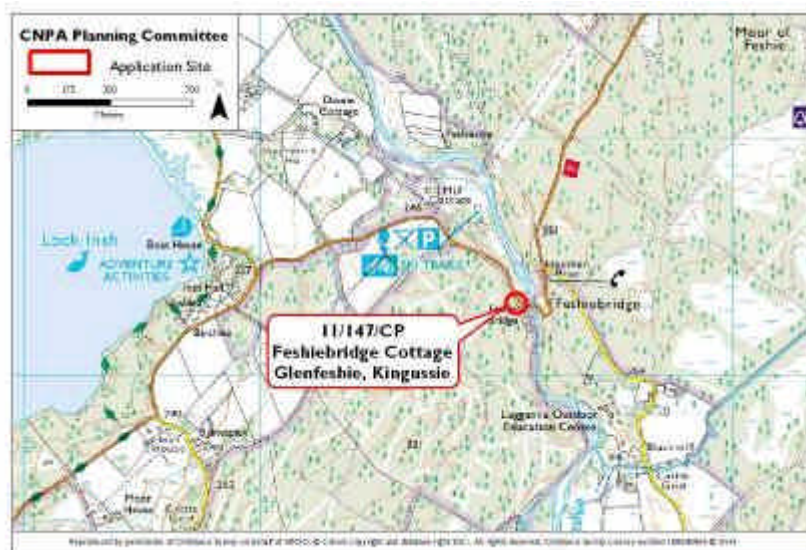
DEVELOPMENT PROPOSED: PLANNING PERMISSION FOR ERECTION OF BOUNDARY FENCE AND SCREENING TO GROUND RETENTION SYSTEM AND CHANGE OF USE FOR PART OF SITE FROM FORESTRY TO RESIDENTIAL USE AT FESHIEBRIDGE COTTAGE, FESHIE BRIDGE

REFERENCE: 11/147/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. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Planning permission is sought in this application for the erection of a boundary fence and screening of a ground retention system, together with a change of use for part of the site from forestry to residential use. Planning permission was originally granted by the CNPA in January 2009 (CNPA planning ref. no. 08/312/CP refers) for the demolition of an existing dwelling house and the erection of a replacement house and garage, within a smaller curtilage than the current application (Figs. 4 and 5). In addition to this application, the identified site area is also the subject of a further application in which planning permission is being sought retrospectively for the relocation of a garage. CNPA planning ref. no. 11/146/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 Bridge¹ 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 course of construction at present. 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.² 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

3. As evidenced by Fig.3, the ground retention system referred to in the description of this current application is already in place. This element of the proposal, together with the change of use of part of the site from forestry to residential use is retrospective.

¹ Category B Listed Structure.

² Highland Council granted planning permission for the development in 2002 with design amendments permitted in 2003.

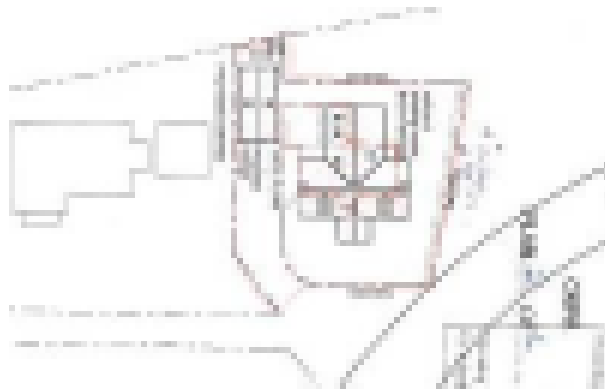


Fig. 4: Originally approved site layout plan (CNPA ref. no. 08/312/CP) with site boundary identified in red



Fig. 5: Site plan as currently existing

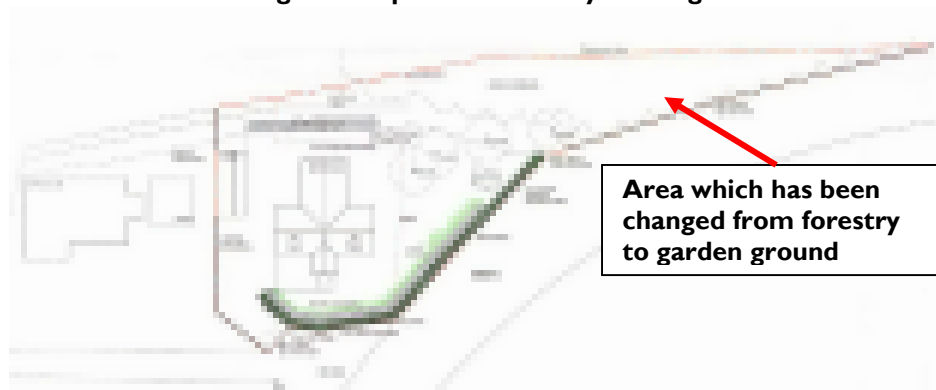


Fig. 6: Proposed site layout plan

4. The site boundaries identified in the approved permission extended to approximately 0.063 hectares. The enlarged site area in the current application is stated as being 1,516 square metres (0.15 hectares). Notwithstanding the position of the garage, which is the subject of a separate application, the following is a summary of changes which have been implemented on the site and which differ from the approved plans :
- Enlargement of the site area from 0.063 ha. to 0.15 ha., with the enlarged area resulting from the incorporation of areas of land to the front, rear and right hand side (north) of the new dwelling ;
 - The change of use of forestry land to the north of the dwelling house, to garden ground;
 - The raising of ground levels on the site and the associated introduction of a ground retention system, in the form of large boulders, on the eastern and northern boundaries;

- The development of the aforementioned ground retention system in a position further forward of the originally identified front boundary of the site; and
 - The creation of an additional access point on the northern site boundary, in the area of land on which the use has been changed from forestry to residential.
5. As already detailed, part of the current proposal for which planning permission is being sought relates to the erection of a boundary fence and screening to the ground retention system. The proposed site layout plan includes proposals to reposition the existing boulders further back into the site (at their closest, being approximately 5 metres from the protruding front porch of the new dwelling), with new beech hedging to be planted forward of this, and a new 1000mm high fence erected outside this, to form the roadside boundary.³
6. In addition to the proposed 'triple' boundary system i.e. boulders, hedging and timber fencing along the eastern and part of the northern site boundary, the proposed site layout plan and elevation drawings also identify the proposed provision of new stock proof fencing along the remainder of the northern site boundary, 1000mm high timber fencing on the southern boundary (extending from the access track at the front of the site to the south eastern corner of the domestic garage) and also extending from the south western corner of the garage to the rear site boundary. The rear (western) boundary is proposed to be demarcated by a combination of post and wire chain link fencing and an existing stock proof fence. Two new 1000mm high access gates are also proposed – one at the approved drive leading from the access track at the front of the property, and the second at the new access which has been created on the northern boundary.

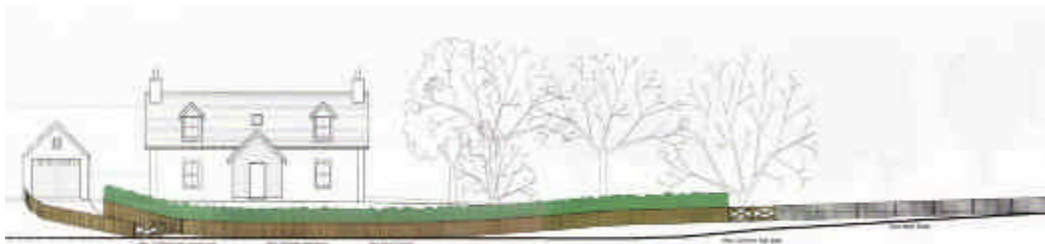


Fig.7: Elevation drawing showing proposed boundary treatment

Planning history

7. As highlighted at the outset of this paper, the CNPA granted planning permission in 2009 for the demolition of an existing house and the erection of a replacement house and garage on the subject site. The permission was subject to four conditions (please see attached Appendix 2 for a copy of the decision notice). In the context of the works which are the subject of this current application, condition no's 2 and 3 of the original permission are of particular relevance, with both relating to required boundary treatments at the site.

³ In measuring directly east from the front porch, the new front boundary fence would be approximately 7.2 metres from the porch – a distance of 2.2 metres closer to the roadside than the originally permitted boundary.

8. Condition no. 2 stipulated that the “North, East and South garden boundaries shall be marked only by the existing hedge or by an alternative hedge in a native deciduous species, with or without a fence of equal height to the existing, unless an alternative is first approved by the Planning Authority.” This condition was included “in the interests of the visual amenity, character and biodiversity of the local area.”
9. Condition no. 3 of the permission stipulated that “boundaries other than those referred to in Condition no. 2, if marked, shall only be marked by traditional stone walling or native deciduous hedging or traditional vertically boarded fencing or stock fencing, and by no other means.” This condition was applied for similar reasons to condition no. 2, i.e. in the interests of the visual amenity and character of the local area. In the intervening period between the granting of planning permission and the present time, no alternative boundary treatment has been suggested to or agreed by the CNPA acting as Planning Authority.
10. In June 2009, the agent responsible for the original planning application contacted the CNPA, providing an amended site layout and elevation drawings. The CNPA advised that the alterations to the house, essentially resulting in an increase in the length of the principal elevation of the dwelling house by 1.2 metres, were of a minor nature and were therefore approved as a Non Material Variation.⁴ The site layout plan which was submitted at that time to show the enlarged footprint of the dwelling house also showed an extension of the site area. The agent was specifically advised in correspondence from the CNPA at that time that the Non Material Variation related only to the amendments to the dwelling house and that planning permission would be required for any change of use of land to garden ground.
11. In October 2010 the CNPA became aware of potential deviations from the permitted plans. The CNPA’s Monitoring and Enforcement Officer commenced investigations, which have culminated in the two current planning applications at the site.

DEVELOPMENT PLAN CONTEXT

National Policy

12. **Scottish Planning Policy⁵ (SPP)** is the statement of the Scottish Government’s policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
 - The constraints and requirements that planning imposes should be necessary and proportionate;

⁴ In a letter issued by the CNPA on 30 June 2009, the amendments approved as a Non Material Variation were detailed as an increase in the length of the front elevation to 13.2 metres and alterations to door and window openings on the north, south and east elevations.”

⁵ February 2010

- The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.
13. 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.”
14. 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.
15. *Housing*: **SPP** emphasises that the planning system is expected to enable the development of well designed, energy efficient, good quality housing in sustainable locations.
16. *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.
17. *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.
18. **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)

19. 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.
20. 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)

21. **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.
22. 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."
23. **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)

24. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
25. 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.
26. 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.
27. *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.
28. *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 setting out how the requirements of the policy have been met. The design of all development is encouraged to :
 - Reflect and reinforce the traditional pattern and character of the surrounding area and reinforce the local vernacular and local distinctiveness, whilst encouraging innovation in design and materials;

- use materials and landscaping that will complement the setting of the development;
- 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

29. 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

30. 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.
31. 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

32. The proposal has been considered by Highland Council’s **TEC Services** division and the consultation response refers to the requirements which were stipulated in connection with the development of the adjacent property, with particular attention being drawn to the visibility requirements at the junction of the access track and the B970 public road.⁶ It is suggested that the proposed boundary fence, screening and boulder retaining wall may require to be further set back in order to facilitate the access requirements and satisfy visibility requirements.

⁶ Visibility splays were required to be provided and maintained on each side of the access. The splays are the triangles of ground bounded by the first 3.0 metres along the centreline of the access road (the X dimension) and the nearside edge of the main road (the y dimension) measured in each direction from the intersection of the access road with the main road. In an easterly direction the y dimension shall measure 50 metres and in a northwesterly direction it shall measure 70 metres.

33. Reference is also made in the consultation response from **TEC Services** to the standard requirements for set back of boundary fences from the public road edge, to generally provide a 2 metre wide verge. However, in recognising the closer proximity of the previously existing boundary fence to the carriageway, as well as the verge width on other sections of the B970, **TEC Services** are prepared to accept the provision of a minimum verge width of 1 metre between the road edge and the new fence. This minimum verge width between the road edge and the new fence is required to provide a suitable pedestrian safety zone. It is also noted that the new access gate which is shown on the northern boundary of the site would result in pedestrian access directly onto the live carriageway, with no pedestrian safety zone.
34. **Kincraig and Vicinity Community Council** expressed concern in their consultation response that the application is largely retrospective and also note that the word 'retrospective' does not appear anywhere in the paperwork. The Community Council state that they are "far from happy at the way due process has worked with regard to monitoring and enforcement." It is also stated in the response that the Community Council 'support' for the proposal "should be read as 'qualified support.'" The Community Council have "no problem with the change of use request for the acquired land released from the National Forest Estate." In reference to the erection of a boundary fence and screening to the ground retention system, the response notes that it is retrospective and suggests "had the original conditions been followed, would not have been necessary."
35. The CNPA's **Landscape Officer** considered the proposal and suggests that the proposed relocation of the ground retention system and the associated planting of a beech hedge and inclusion of a fence could reduce the adverse landscape and visual impact of the retaining boulders in what is a very prominent site. However, it is also stated that this is not likely to be easy due to the limited space, and it is also suggested that the stability of the building during works may be an issue.

REPRESENTATIONS

36. The planning application was advertised in the Badenoch and Strathspey Herald on 18th May 2011 and one letter of representation has been received in connection with the development proposal. The letter of representation is from Mr. and Mrs. N Dudgeon of 'Feisidh', Feshiebridge (the adjacent property) who object to the development. The following is a summary of the points raised in the letter of objection – a full copy is attached at the rear of the report.
- Surprise is expressed that the application has been "entered as a Full Planning Application as...the applicant has already developed and used that part of the site purchased from the Forestry Commission without Planning Permission";
 - Reference to the 'rock boundary' not just being a 'ground retention system' but was "the finished article until it was brought to the attention of the CNPA";

- The 'rock boundary' is not in keeping with the rural area;
- Reference to the original cottage garden of the former cottage gradually sloping down to the original hedge and fence, which was "only 1 metre high and did not obstruct visibility when pulling out of the drive in a vehicle;"
- Existing position of the boulders is "over 6ft high at road level and visibility is greatly reduced;"
- Pulling back of the boulders would create a gap of 1 metre between boulders and the hedge and fence, with the new garden having a huge drop and the house towering over the road;
- The existing position of the boulders on the eastern (front) boundary are over the boundary line and positioned on 'mutual access ground';
- Proposed erection of a fence on the northern boundary would be at the side of the road and could cause a danger to road users and walkers;
- Reference to the lack of pavements in the vicinity, and the use of the grass verge by pedestrians, and the associated suggestion that this should remain as an amenity;
- Traditional use of part of the land on the northern site edge as a passing place and lay by for up to 3 vehicles;
- Concern that the access gates on the northern boundary may be used by the applicant as a second vehicle access and driveway;
- The septic tank has a new raised cover, which makes it a feature instead of it being level with the ground;
- Disappointment at the removal of the formerly existing boundary hedge, which "was a haven for wildlife" and provided privacy on the north side of the house;
- The site builder's lack of awareness of this application and whether or not the changes are feasible;
- One of the objectors' main concern is in relation to the erection of a fence on the south boundary line and reference is made to the position of the garage on the objectors land;
- Reference is made to potential difficulties for vehicle users on the applicants land in the event of the boundary fence being erected from the front wall of the garage, resulting in vehicles having to reverse the length of the driveway and turn on the public road; and
- Reference is made to the character of Feshiebridge and its previous and potential future use as a filming location. There is concern about changes to the landscape and amenities and there is an associated suggestion that the quarried boulders should be removed.

APPRAISAL

37. There are a variety of issues to consider in this planning application, including the deviations which have occurred from the originally granted planning permission, the potential of the existing and proposed development to achieve compliance with the terms of existing planning permissions pertaining to the subject site and adjacent land, consideration of the development in the context of existing planning policy, and the impact of the development on the amenity

of the general area and neighbouring properties. Although aspects of this application are retrospective in nature, in accordance with Scottish Government advice, such planning applications should be decided in the same way as all other applications.⁷

Compliance with previously stipulated conditions

38. The various deviations from the consented development which have occurred at the site since the granting of planning permission in 2009 have already been outlined in paragraph 4 of this report, together with the proposed future changes detailed in paragraph 5. The conditions set down in the permission governing the development on the site are detailed in paragraphs 8 and 9. Condition no's 2 and 3 of the governing permission were specific and detailed, regarding the expected boundary treatments that would be developed at the site. The reasons for the imposition of the conditions clearly indicate that such stipulations were in the interests of the visual amenity, character and the biodiversity of the local area. The existing large boulders which have been put in place on the eastern and part of the expanded northern boundary currently represent an incongruous feature which has replaced a previously existing substantial hedgerow boundary.
39. While it must be acknowledged that the current proposal for which permission is sought involves measures which are intended to mitigate the impact of the boulders, including their repositioning further back into the site, with screen planting and a timber fence closer to the roadside, the proposed treatment is not considered to offer sufficient measures to mitigate the overall effects of the development as it has occurred. The proposed 'triple' boundary treatment on the eastern and northern boundaries of the site would fail to mitigate the impact of the elevated level at which the dwelling has been constructed and the associated significant level of ground raising which has taken place. The feasibility of repositioning the substantial boulders, which appear to be a key part of a necessary ground retention system, is unclear. In addition, the period of time that it is likely to take to mature to a sufficient level to provide an effective screen is likely to be considerable, and would be particularly exacerbated by its somewhat difficult growing position between the boulders and the proposed timber fence.
40. Despite the proposed repositioning of the boulders and the additional boundary treatments, the proposal is unacceptable and would fail to appropriately protect the visual amenity, character and biodiversity of the area. It is also a solution which is incompatible with the originally required boundary treatment. The conditions set down in the governing consent continue to represent the most appropriate boundary treatment solution at the site, and the acceptance of the current proposal would jeopardise any opportunity to achieve compliance with the terms of those conditions.

Access and traffic

41. Boundary treatments proposed in other areas of the site also give rise to a variety of concerns. One of the most pertinent issues to consider is in relation

⁷ A Guide to the Planning System in Scotland, August 2009.

to the position and form of boundary treatment, a 1 metre high timber fence, on the southern boundary of the site. Part of the proposed southern boundary treatment would extend to the south eastern corner of the site. Whilst being within the site boundaries, the timber fence would nonetheless be on land over which shared access rights are known to exist, providing access to the subject property and also to the neighbouring property. The erection of a timber fence and access gates as proposed in the south eastern corner of the subject site would unduly access movements in the vicinity of the site, particularly in relation to the neighbouring property and would therefore impact on the amenity of that neighbouring property, which is clearly in contravention of the requirements of Policy 16 (g) – Design Standards for Development. The impact of the development on the neighbouring access is a point which has also been highlighted in the letter of objection from the adjacent property owners.

42. In discussing the impact of the development proposal on movement - both vehicular and pedestrian – the points raised in the consultation response from Highland Council’s **TEC Services** division is of key importance. Unequivocal requirements for the achievement of visibility splays at the junction of the access track and the public road were stipulated in the conditions attached to the granting of planning permission for the neighbouring property in 2002. The consultation response from **TEC Services** makes reference to those requirements and suggests that the proposed eastern boundary arrangement, including the proposed realigned position of the boulders, may not be sufficiently set back to facilitate the stipulated access and visibility requirements. Pedestrian safety issues have also been highlighted in the response from **TEC Services**. The proposed position of the northern boundary treatment is immediately adjacent to the public road and would fail to make provision for any public verge. The lack of an adequate verge could force pedestrians onto the public carriageway, resulting in conflict between pedestrian and vehicular traffic.

Change of use

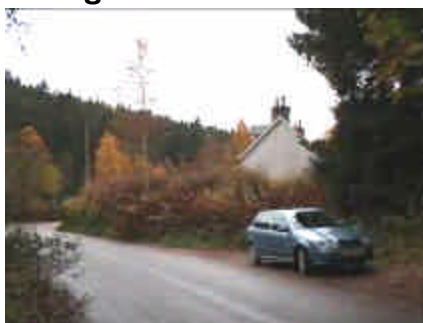


Fig. 8: Previous character, Oct 08



Fig. 9: Additional garden area, July 11

43. Permission is also being sought to enlarge the site area (from the original 0.063 ha. to the current 0.15ha.) and to change the use of some of the enlarged area from forestry to garden ground. This aspect of the proposal is retrospective, as work has already taken place as part of the ground works associated with the development, to integrate the additional area into the site. All previous demarcation boundaries, including a previously existing substantial hedgerow,

have been removed and the entire garden area is open to include the additional land. The work which has been undertaken to date has already resulted in the additional land taking on a somewhat domesticated appearance, and differs quite significantly from the previous heavily vegetated and rustic character that was evident in this roadside setting.

Conclusion

44. In conclusion, the cumulative impact of the unauthorised works which have taken place to date, together with the extent of further proposed works, is unacceptable at this site. While a sympathetic change of use of forestry ground to garden ground may on its own have some degree of potential acceptability, the works which have taken place in conjunction with this unauthorised change of use, including the removal of significant roadside hedgerows and changes in ground levels, render this change of use unacceptable. The various new boundary treatments proposed would give rise to a myriad of unacceptable effects, including adversely impacting access to neighbouring property, diminishing the visibility available at the junction of the access track and the public road and endangering pedestrian safety. While the landscape impact of the proposed 'triple' effect boundary treatment would represent some improvement on the current adverse visual impact created by the presence of the large boulders, it does not sufficiently address the overall adverse impact that has been created on the landscape character of the area. This impact has resulted from a combination of factors, including the significant changes which have been made to the ground levels of the original site and the consequence increase in the prominence of the new dwelling house and its garden ground. The boundary treatment currently proposed fails to offer a satisfactory solution.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

45. The change of use of land from forestry to residential (garden ground) has partially eroded the natural wooded character of the landscape in the immediate vicinity of the site. The construction of a ground retention system consisting of large boulders has also had a significant adverse impact on the visual amenity and landscape quality of the area, including adversely affecting views from Feshie Bridge, which is a Category B listed structure and an important cultural heritage feature in the area. The proposal to relocate the boulders and provide hedging and a fence adjacent to the roadside boundary is an insufficient method of mitigating the adverse impacts which have occurred and as such the development cannot be considered to conserve or enhance the natural or cultural heritage of the area.

Promote Sustainable Use of Natural Resources

46. No details have been provided in this application to suggest that the development works detailed would promote the sustainable use of natural resources.

Promote Understanding and Enjoyment of the Area

47. The adverse visual impact which has resulted from the development works that have taken place to date, including the change of use of former forestry land to garden ground, and the installation of unsympathetic boundary treatments, together with the proposed amended and additional boundary treatment, would cumulatively have a negative impact on the character and landscape quality of Feshie Bridge. In addition, the position of the new boundary treatment on the eastern and northern boundary would fail to facilitate the provision of a sufficient verge between the boundary and the public road, and would also result in the loss of an area that has traditionally been used as a parking bay / passing place for the public. The overall impact would detract from the general public's enjoyment of the special qualities of this area.

Promote Sustainable Economic and Social Development of the Area

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

RECOMMENDATION

That Members of the Committee

- (a) support a recommendation to REFUSE planning permission for the erection of a boundary fence and screening to ground retention system and change of use for part of the site from forestry to residential use at Feshiebridge Cottage, Feshie Bridge for the following reasons :**

1. The boundary treatments which have been erected to date, and the proposed amended boundary treatments, are unacceptable and represent an inadequate response to the need to protect the visual amenity of the area. The development, as existing and proposed, also fails to protect or adequately restore the former rural, rustic character of the immediate area. In addition it has not been demonstrated that the boundary treatments would conserve or enhance the biodiversity of the area. 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 proposal 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.
2. The development fails to comply with Policy 16 (Design Standards for Development), part (c) of the CNP Local Plan (2010) as materials and landscaping occurring in the prominent ground retention system and the proposed additional boundary treatments fail to adequately complement the setting of the development. The boundary treatments and the change of use of former forestry land to garden ground also fails to reflect or reinforce the traditional pattern and character of the surrounding area and erodes the local distinctiveness which had previously existed at this site, particularly as viewed from the approach across the culturally important Feshie Bridge.

3. The proposed erection of a 1000mm high timber fence on the southern boundary of the site, and in particular its extension to the south eastern corner of the boundary and the associated proposed erection of entrance gates, would encroach on land which forms part of a shared vehicular access which serves the subject property and the adjacent neighbouring residence. The development would therefore hinder access and fail to protect the amenity of the neighbouring property and as such would be contrary to Policy 16 (part g) – Design Standards for Development of the CNP Local Plan (2010).
4. The existing boundary treatments on the site, in particular the boulders / ‘ground retention system’ on the eastern and northern boundaries, adversely affects the setting of the property, has eroded the opportunity that previously existed to conserve the traditional character of this site and also adversely affects the landscape character of the immediate vicinity, including the setting of the Category B Listed Structure of Feshie Bridge. The works which are proposed to the site boundaries, including the repositioning of the boulders, and the associated planting and additional boundary treatments, are insufficient in mitigating the adverse effects on the landscape character of this area. As such the development is contrary to Policy 6 (Landscape) of the CNP Local Plan (2010).
5. The boulder treatment which has been developed on the eastern and northern areas of the site extends beyond the site boundaries identified and approved under CNPA planning ref. no. 08/312/CP and the proposed amendments to the boundary treatments would also extend beyond the original site boundaries. Both the existing and proposed position of the eastern and northern boundary treatments and their proximity to the public road fail to allow for the provision of an acceptable verge width in order to facilitate pedestrian movement in the area. In addition, the proposed site layout and associated boundary treatments would give rise to the introduction of an additional access point which would result in pedestrian activity directly onto a live carriageway with no pedestrian safety zone. The lack of adequate space to provide adequate verge width to serve as a pedestrian safety zone, together with the subsuming of an existing passing place into the site boundaries, all have the potential to impact negatively on the safety of pedestrians and other road users in the vicinity of the site. The development would therefore endanger public safety by reason of a traffic hazard.
6. The proposed amended position of the boulders on the eastern and northern elevation, and the associated proposal for the provision of screen planting and a boundary fence fail to demonstrate that adequate visibility could be achieved at the junction of the access track with the B970 public road. The potential interference with the achievement of the visibility splays would also jeopardise the potential of a third party, who utilise the same access track from the public road, to comply with Condition No. 4 of the planning permission associated with the adjacent property (Highland Council planning ref. no. 02/00173/FULBS). The proposed development would therefore endanger public safety by reason of a traffic hazard.

And

(B) support a recommendation to pursue formal enforcement action against the unauthorised activities.

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