
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE, 10A ABERGELDIE ROAD, BALLATER

REFERENCE: 05/402/CP

APPLICANT: RICHMOND PROPERTIES

DATE CALLED-IN: 23 SEPTEMBER 2005

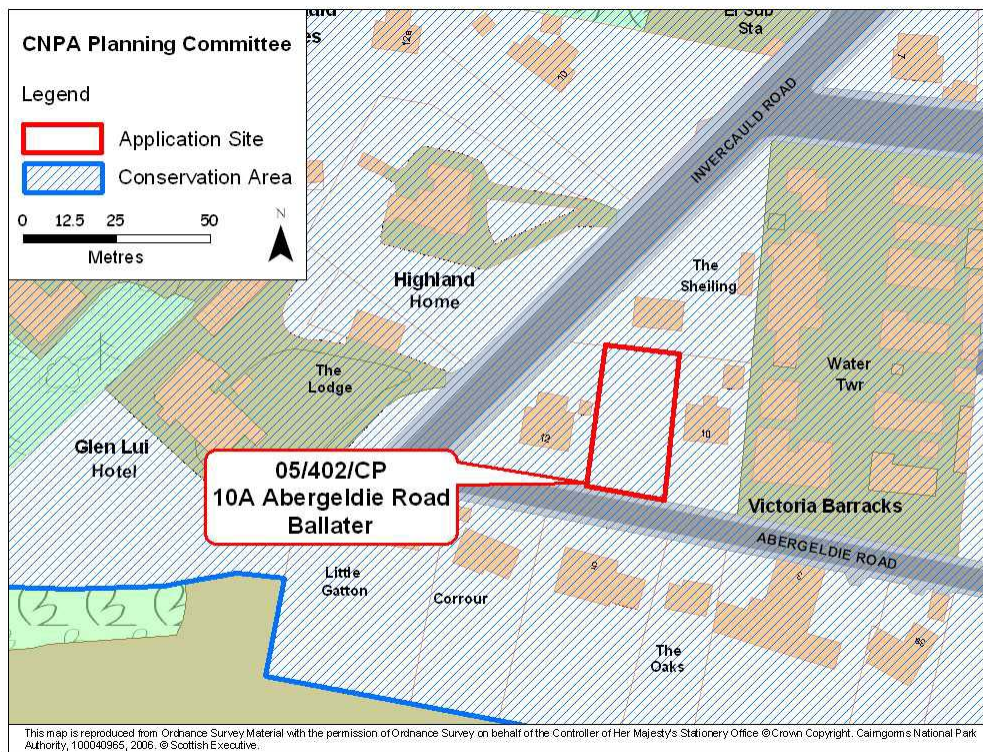


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The site lies close to the junction of Abergeldie with Invercauld Road within the village of Ballater close to the Victoria Barracks and Glen Lui Hotel. The site is located within the Ballater Conservation Area, the boundary of which runs along the rear garden boundary of houses on the opposite side of Abergeldie Road from the site (see fig 1).
2. The plot that is the subject of this application was formerly side garden ground for 12 Abergeldie Road. This property was sold last year and its curtilage has been divided to create a development plot between 10 and 12 Abergeldie Road. The site is bounded to the west by 12 Abergeldie Road to the east by No 10 and to the north by the boundary of a bungalow (The Sheiling). The site has a small timber fence fronting onto Abergeldie Road to the south.



Figs 2 & 3 showing site from Abergeldie Road

3. As background to this application it should be noted that the site is subject to enforcement action by Aberdeenshire Council. On July 1st last year reports were made to Aberdeenshire Council that a large number of trees were being felled at the site. There was no record of any consent (the site being within the Conservation Area notice must be provided to the relevant Local Planning Authority before works are carried out). Given the distance from the Aberdeenshire Office I received a call from Aberdeenshire's Enforcement Officer and went out to inspect the site. A large number of trees had been felled and I told the contractors to stop work immediately, which they did. Unfortunately, the vast majority of trees had been felled. However, a very large Wellingtonia in the corner of the site and some smaller pine trees in the front south east corner of the site were intact.
4. Subsequently, this issue has been investigated by Aberdeenshire Council Enforcement Officer's and the matter has been placed in the hands of the Procurator Fiscal with a view to prosecution.

5. A retrospective application for a 2 metre high fence around part of the boundary of 12 Abergeldie Road was approved, subject to conditions by Aberdeenshire Council in January this year.
6. The application proposes a large, two-storey detached four bedroom house with a granite frontage and natural slate roof, timber sash and case windows with access and parking from Abergeldie Road, an attached single garage is included. The original plans have been amended so that the house is set back with a different access point and repositioned away from the large Wellingtonia, additional car parking is proposed and the roof of the house has been changed to a hip roof rather than a gable to match the existing house (No 12). A tree report has been provided (attached at back of this report) large numbers of semi mature trees are now proposed to be planted.

DEVELOPMENT PLAN CONTEXT

7. **Aberdeen and Aberdeenshire Structure Plan 2001-2016 (NEST).** In the structure plan, **Policy 11 (General Housing Considerations)** seeks to direct housing preferentially to brownfield sites within settlements and ensure new housing developments; make a positive contribution to sustaining the community through sensitive siting and design; offer a choice of residential environments and house types; and take account of the availability of infrastructure, services and facilities.
8. **Policy 20 (Built Heritage and Archaeology)** seeks to conserve and promote the built heritage of the North East as a valuable non-renewable resource. Local Plans should protect the integrity and setting of Listed Buildings and protect and enhance Conservation Areas. **Policy 21 (Design)** seeks to improve the general standard of design, including, amongst other things, environmentally friendly layouts, energy efficient designs, habitat enhancement, and the use of sustainable materials.
9. **Appendix 1 of the Aberdeenshire Local Plan “The Design of New Development in Aberdeenshire”** in relation to neighbouring property considers that the privacy of both existing and prospective residents should be protected, ensuring a common property boundary separation distance of at least 9 metres for ground floor windows and 12 metres for upper floor windows.
10. **Appendix 4 of the Aberdeenshire Local Plan 2. General Development** makes a range of recommendations regarding general development in Conservation Areas considering that development should conform to conventional building lines, use natural slate or clay pan tiles, use windows of traditional size and proportion with timber materials for windows and doors

11. **Policy Env\17 (Conservation Areas)** seeks to protect the special character and setting of Conservation Areas from detrimental development. New development must be of the highest quality, and respect and enhance the architectural and visual qualities that give rise to their actual or proposed designation. **Policy Gen\4 Infill Development** notes that infill proposals within settlements will be approved in principle, if the nature of the development does not erode the character or amenity of the surrounding area.
12. **Policy ENV8 (Trees and Woodlands)** considers that development that would cause the loss of, or serious damage to, trees or woodlands, which are EITHER covered by an existing Tree Preservation Order OR of significant ecological, recreational, historical, shelter or landscape value, will be refused unless a) its public benefits at the local level clearly outweigh the value of the habitat; b) the development will be sited and designed to minimise adverse impacts on the bio-diversity of the site, including its environmental quality, ecological status.

CONSULTATIONS

13. **Aberdeenshire Council Transport and Infrastructure** has no objection to the application in principle but note that parking standards indicate that 3 spaces would be required for a 4 bedroom house. The site has adequate space to accommodate this.
14. **Aberdeenshire Council Natural Heritage** commented on the original proposals that no information was provided regarding the impact of the proposal on the remaining trees on the site, which include a group of Scots Pine on the south east corner and a very significant Wellingtonia, in the south west corner. These trees should be surveyed and measures for their protection and retention submitted, in accordance with British Standard 5837- Trees in relation to Construction.
15. Given the semi natural woodland character of the site prior to the unauthorised felling, the planting proposals are wholly inadequate.
16. With regard to the amended layout plan and tree survey subsequently provided **Aberdeenshire Council Natural Heritage** comment that they would confirm that the amended proposals have been discussed with Brian Saunders, The Councils Arboriculturalist. Natural Heritage are of the view that there should be no detrimental impact on the important trees which remain within the site. In particular, the Wellingtonia situated in the south west corner of the site. Provided there are appropriate tree protection measures put in place, ie: Wellingtonia requires a total exclusion zone of 10m using substantial static fencing: the 4 No. Scots Pine in the south east corner also require an exclusion zone which should be erected from the edge of the proposed driveway, again using substantial static fencing.

17. Please note these comments are based on an evaluation of the existing characteristics of the site and are made without prejudice to Aberdeenshire Councils action on the matter of the unauthorised felling. No additional representations to revised plans have been received.

REPRESENTATIONS

18. **Ballater and Crathie Community Council** object to the application considering that a second house would represent over development; that there have already been problems with cutting down of trees without authorisation and a flagrant ignoring of regulations. The original house in its own grounds was of a style in-keeping with a Victorian Conservation village. Inappropriate additions are out of keeping with the rest of the village.

John GB Bryce and Mrs Catherine C Bryce, Corroul, Abergeldie Road.

- Concern about undermining roots of large Wellingtonia
- Inconsiderate felling without permission
- Site was home to population of red squirrels
- Coach and horses driven through planning legislation
- Liability of planning authority should large tree be undermined and cause damage to neighbouring property.

DG Heighton Jackson. The Cottage, 8 Abergeldie Road, Ballater

- The landowner should be instructed to replant semi-mature trees

Mary B Mc Leman, 10 Abergeldie Road

- Concerns over destruction of around 18 mature trees
- Scale of the building relative to eastern boundary
- Loss of further trees
- Building should have hipped roof
- Potential root damage to Wellingtonia from driveway

Colin Cowie, 17 Queens Road, Ballater (owner of 3 Abergeldie Rd)

- Slash and burn approach of the developer is reprehensible
- Inconsiderate destruction of many fine trees

Sabine Muir (by e-mail)

- Concern about fence without planning permission and removal of 30 trees, again without permission.

Agents letter

Covering letter from applicant's agent is attached at the back of this report setting down changes that have been made to the scheme. Tree report also attached at back of report setting down summary regarding quality of trees and need for management of the trees.

APPRAISAL

19. There are a range of issues to deal with in determining this application. The issue that the trees on the site have been cut down without the relevant notice being given to Aberdeenshire Council is a separate matter in terms of procedure and this application should be assessed upon its merits. However, the degree of environmental change to the site that this has resulted in is part of the assessment of this application as it is key in determining the environmental impact of the siting of a house on the plot. Issues of design and neighbouring amenity must also be considered.
20. The original siting of the house resulted in the driveway being close to the large Wellingtonia in the corner of the site. This was considered not to be acceptable and revised plans have been provided showing the access positioned away from this tree. Aberdeenshire Council Natural Heritage are of the view that the siting of the dwelling and the driveway on the amended plans means that the remaining significant trees on the site should be adequately protected providing that the appropriate measures are put in place during construction.
21. While it may be the case that the remaining significant trees can be protected the degree of change from the felling of a large number of trees must be considered. Altogether a total of approximately 36 trees would appear to have been felled on the site as a result of the unauthorised operation. The applicant's tree report (see back of this report) provided with the amended plans considers that the felling has prevented a safety problem in the future, as none of the trees would have been allowed to mature in the space available between the houses and further notes that the garden was rapidly becoming occluded by the growth of alien fir trees.
22. The applicant's latest plans now propose planting more trees on the site than have been felled. However, to accommodate the house on the site they are of course generally planted in differing positions from those felled. In addition, while tree Nos 7, 8 and 9 are shown as being retained on the plan, they are so close to the new house and driveway that it is likely that they would in fact need to be removed. The replacement positions for the trees have sensibly been kept away from the house to reduce future pressure for removal. However, this results in a large number of trees being close to the northern boundary of the site 5 metres beyond which is the front elevation of a single storey dwelling with south facing windows. In my view, the number of trees being planted close to this boundary would be injurious for neighbouring amenity. While it is accepted that there was a large number of trees on the plot these were scattered more randomly with much less of a concentration upon the northern boundary of the site. This makes it difficult to support the re-planting scheme as proposed.

23. While it is recognised that the site is now largely cleared I must ask the question as to whether planning permission would have been granted for a house on this site if the trees had still all been in position? The key policy to turn to here is **Env\8 Trees and Woodlands** which considers that development that would cause the loss of, or serious damage to, trees that are of significant ecological, recreational, historical, shelter or landscape value will be refused unless public benefits at the local level clearly outweigh the value of the habitat and that the development will be sited to minimise adverse impacts on the biodiversity of the site, including its environmental quality and that there will be no further fragmentation of habitats. While I only have a limited memory of the site before it was felled it did contribute strongly to the local landscape and townscape of the Ballater Conservation Area and the siting of the building cannot be sited to minimise effects upon the former treed character of the site as it has been practically clear felled. I am therefore of the view that the proposal does not accord with this policy, because of the landscape/townscape value that the site previously provided. Balanced against this there would appear to be little public benefit from the scheme at local level that would be required to justify the loss of trees under Policy ENV\8.
24. In relation to this proposal a second key policy is **Policy Env\17 Conservation Areas** which considers that all designated areas shall be protected against any development, including change of use that would have a detrimental effect upon their special character or setting, by the refusal of planning consent.
25. This part of the Conservation Area is generally characterised by large granite houses on spacious plots. The site is close to the edge of the settlement and a key character feature of the area is the many mature trees which act as a break between development, but also soften the edge of the settlement and the transition between the village and more open countryside. The sheer number of trees removed and the replacement built form proposed, would in this instance have a significant detrimental impact upon this character feature. Because of this, in my view the proposal (taken together with the removal of the trees) fails to protect the special character and setting of this part of the Ballater Conservation Area.
26. Concern has been raised above regarding the degree of change proposed at the site from a treed area to one in which a building would be prominent in the form of the front elevation of the house. As mentioned above this fails to protect the character of the conservation area given the removal of the important trees as outlined above. In terms of the design of the house itself this would generally appear to accord with the built character of the area. However, the development of a large house on this plot also results in a loss of garden ground to No 12 that in turn results in two large houses on small plots which is contrary to the existing character of this part of the Conservation Area. Amendments to the layout have been made to ensure that the large

Wellingtonia is not affected by the driveway which has been moved to the other side of the plot. The proposal originally had full gables at either end but the scheme has been amended to show full hips at each end. This reflects the character of the adjacent house to the west (12 Abergeldie Road) and also reduces the overall bulk of the house when viewed from Abergeldie Road. Materials for the house include a granite front with roughcast granite chip to the remaining elevations. The roof material consists of natural slate, windows are timber sash and case to be painted white. I have no particular concerns regarding design detail of the house which would appear generally in line with existing traditional buildings within the Conservation Area. However, as outlined above, I would express concern regarding the relative size of the plots that result from the development and how this affects the character of the Conservation Area, this directly affects the character and amenity of the area in more general policy terms and is considered contrary to **Policy Gen\4 Infill Development** of the Local Plan which accepts the principle of infill development but only if it does not erode the character and amenity of the area. The proposal can be considered as over-development and this is also clearly the view from the Community Council response.

27. With infill development careful consideration must be given to neighbouring amenity. The building's front elevation faces onto Abergeldie Road so I have no concerns here. The neighbour to the east whose house is set back from the building line has raised concern regarding the scale of the proposal close to the eastern boundary. However, it is noted that the design has been altered to incorporate a hipped roof rather than a full gable in line with the neighbours comments. In addition, the footprint has been sited further back in the plot and the re-positioning of the driveway means that the single storey garage is the nearest part of the new house to the eastern boundary. This relationship is considered acceptable and the relative position of the proposed house with the neighbour to the east does not raise any issues in terms of overlooking.
28. The building being set back further on the plot means that it is nearer to the rear boundary. However, there is still a 15 metre distance between the house rear elevation and the back garden boundary with the neighbour (The Sheiling) immediately to the north. This more than meets the distance requirements of the Aberdeenshire Local Plan in terms of window to boundary distances (see development plan context section of report). The neighbouring house to the north is a bungalow which has a main elevation facing onto the site, the bungalow is sited 5.5 metres from the boundary of the site, allowing a total distance of over 20 metres between directly overlooking windows. This meets the terms of Aberdeenshire Council guidance but also meets the terms of all other guidance regarding distances between overlooking windows that I have worked with in previous planning authorities. The building in isolation is therefore considered acceptable in terms of neighbouring amenity. However, as noted previously the tree planting proposed by

the amended scheme does concentrate itself close to the boundary with the Sheiling and this element in my view is un-neighbourly in its intensions, although the planting scheme could clearly be revised.

29. The detached granite house to the west of the site from which this plot is subdivided would not be affected in any significant way by the proposal which is largely in line with that building. In addition, the house proposed has no windows on the west elevation so no unacceptable levels of overlooking would occur.
30. In conclusion, I would comment with particular regard to Conservation Area policy and the Natural and Cultural Heritage aim of the Park which are closely linked in this consideration. The intention of the Conservation Area and Park designations are in part expressions of public interest as well as designations that seek to protect the intrinsic character of an area. The question must again be asked as to whether the application would have been recommended for approval if the trees had not been cut down on the site prior to submitting the application. Because of the emphasis that policy places upon the protection of the character of conservation areas including green spaces and trees as well as built form I am clearly of the view that a positive recommendation would not have been put forward for the scheme. This is because the overall change to the site does not protect the current character of the Conservation Area and is indeed detrimental, hence my recommendation of refusal. Ultimately, the proposal provides little public interest benefit (evidenced by objectors and Community Council responses) but has provided significant disbenefit in terms of the degree of detrimental environmental change to the character of the area. If the Planning Committee concur with these arguments and wish to refuse the application consideration must be given to enforcement action. Should the application be refused a further short report can follow at a subsequent meeting after consultation with Aberdeenshire Council to outline the potential enforcement options.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

31. The natural and cultural heritage interest here relates clearly to the part of the Ballater Conservation Area that this site is located within. While recognising that as a stand alone design the design of the building may, in principle, be appropriate to the area part of the character of this part of the Conservation Area relates to spacious plots broken up by a range of mature trees. As noted in the appraisal section of the report the proposal fails to protect or enhance the Conservation Area and therefore fails to conserve and enhance the natural and cultural heritage of the area. It is also important to point out that the site also

provided a habitat for red squirrels, the felling of the trees in such large numbers has failed to conserve this habitat.

Promote Sustainable Use of Natural Resources

32. The origins of the materials to be used are not given. The principle of an additional dwelling within an existing serviced settlement may contribute towards promoting sustainable use of natural resources in the widest sense. However, this would largely be determined by the lifestyle of any future occupier of the house.

Promote Understanding and Enjoyment of the Area

33. The proposal is perhaps not directly relevant to this aim. However, removal of the trees may reduce the enjoyment of the area to some extent given that the trees were part of the intrinsic, attractive character of the area on a street which offers accommodation for tourists.

Promote Sustainable Economic and Social Development of the Area

34. The proposal would provide an additional house of a relatively high value, there would be no indication as to whether this would house a local person or family, so it is not clear whether the house would contribute towards the social development of the Park. However, in economic terms it is likely that some benefits would accrue to local tradesman in the construction of the house. While the proposal would provide private benefits to the developer, the application is detrimental to the wider public interest invested in both the first aim of the Park and the Conservation Area status of the site.

RECOMMENDATION

35. That Members of the Committee support a recommendation to:
REFUSE Full Planning Permission for the erection of a dwelling at 10A Abergeldie Road, Ballater for the following reasons:-
 - I. The proposal has involved the removal of a significant number of trees on the plot to the detriment of the character of the Ballater Conservation Area which in the vicinity of the site is characterised by large spacious plots with significant mature treed areas within those plots. The proposal is therefore contrary to Policy 20 (Built Heritage and Archaeology) of the Aberdeen and Aberdeenshire Structure Plan, Policies Env\8 Trees and Woodlands, Policy Gen\4 Infill Development and Policy Env\17 Conservation Areas of the Aberdeenshire Local Plan. The proposal also fails the first aim of the National Park to conserve and enhance the natural and cultural heritage of the Cairngorms National Park.

- II. The necessity to provide compensatory tree planting for that which has been removed results in an over-concentration of tree planting close to the northern boundary of the site. This is to the detriment of the residential amenity of the bungalow known as the Sheiling to the north of the site.
- III. The proposal results in a loss of garden ground to an existing large detached house with a corresponding small curtilage for the proposed house. This results in an over development of the site that fails to protect, conserve or enhance the character of the Ballater Conservation Area. The proposal is therefore contrary to Policy 20 (Built Heritage and Archaeology) of the Aberdeen and Aberdeenshire Structure Plan, Policy Env\17 Conservation Areas and Policy Gen\4 Infill Development of the Aberdeenshire Local Plan. The proposal is also contrary to the first aim of the National Park to conserve and enhance the natural and cultural heritage of the Cairngorms National Park.
- IV. The proposal would set an undesirable precedent for the removal of large numbers of trees and over development of plots within the village. Cumulatively, such proposals would undermine the character and appearance of the Ballater Conservation Area and this part of the Cairngorms National Park.

Andrew Tait
Planning Officer, Development Control

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20 February 2006

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.