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## CAIRNGORMS NATIONAL PARK AUTHORITY

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**Title:** REPORT ON APPEAL AGAINST NON-DETERMINATION OF CALLED-IN PLANNING APPLICATION

**Prepared by:** NEIL STEWART (PLANNING OFFICER, DEVELOPMENT CONTROL)

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**DEVELOPMENT PROPOSED:** ERECTION OF NEW DWELLINGHOUSE, AT LAND AT CORNER OF A86 AND BALGOWAN ROAD, BALGOWAN, NEWTONMORE (APPROVAL OF RESERVED MATTERS)

**REFERENCE:** 04/590/CP

**APPLICANT:** MR & MRS J GROVER, GLENFAIRN, KINGUSSIE ROAD, NEWTONMORE

**DATE CALLED-IN:** 30 DECEMBER, 2005



**Fig. 1 - Location Plan**

## STATUS OF APPLICATION

1. On 10 March 2005, we received notification from the applicant's agents, that they have lodged an appeal with the Scottish Ministers against the Cairngorms National Park Authority's failure to determine this planning application within the statutory 2 month determination period. They are exercising their right under Section 47 of the Town and Country Planning (Scotland) Act 1997. The statutory time period for the determination of this planning application expired on 21 February 2005. As such, the determination of the application now rests with the Scottish Ministers. This report therefore provides a recommendation and seeks the view of the Committee on the application. This view will then inform the stance to be taken by the National Park through the appeal process.

## SITE DESCRIPTION AND PROPOSAL

2. The application site is situated at the easternmost junction of the A86 trunk road and the Balgowan Road, approximately 7km south west of Newtonmore. There is a crofting township at Balgowan, which consists of a mixture of traditional and more modern houses, and associated outbuildings and steadings, positioned along the Balgowan Road which forms a loop on the north side of the A86. The application site is within an agricultural field, which gently rises up from the A86 and is open to public view from the road and from longer distances across the Spey Valley from the south. The site has no existing natural features, although there is a treed hillock on the south side of the A86 to the south west of the site. The site (0.2HA) has been de-crofted. Immediately to the north side of the site lies "Cluny Croft" which is a traditionally styled one and a half storey house situated on a raised area. Also to the north is another one and a half storey house known as "Swallow Cottage".
3. The proposal is to erect a large house with direct access off Balgowan Road, a short distance from its junction with the trunk road. Outline Planning Permission was granted on appeal by the Scottish Executive Inquiry Reporters Unit for a house on the site and this application is for the Approval of Reserved Matters. The actual site boundaries are not the same as for the Outline Planning Permission, the site area having been reduced by almost one third and the application site no longer bounding the A86. It is however, contained within the boundaries of the Outline Permission. The building will have a 26 metre frontage, facing down the slope towards the A86. The house is variously one and a half, one and three quarters and two storeys in height, and there is a two storey turret on the front elevation. The house will accommodate 6 bedrooms (or 5 bedrooms and a study), a lounge, dining room, kitchen and breakfast room, store and utility room. There will be 7 bathrooms/en-suite facilities/WCs, and there will be an

attached double garage. For external finishes, the walls will use Bradstone, and the roofing will have slate. Drainage is to be by septic tank and soakaway.

4. There is a considerable planning history to the immediate area and this site. As stated above, this application follows an Outline Planning Permission that was granted following an appeal against a refusal of planning permission by Highland Council in September 2003 (03/243/OUTBS). Highland Council Planning Officers had recommended approval (the site lies in Fragile Countryside in the Local Plan where new housing is encouraged in principle, subject to appropriate siting and design). However, the Badenoch and Strathspey Area Committee refused the application. The Committee felt that a house at the location represented a development of a nature which would detract from the existing settlement pattern in the area, and as such failed to comply with policy. In sustaining the appeal the Reporter attached 10 planning conditions to the permission. These included the need to submit detailed plans on the siting, design and external appearance of any buildings, the means of access and the landscaping, including the design and appearance of boundary enclosures. Cross sectional details were required, the house should be positioned towards the south-eastern corner of the site, and the floor level of the house should be as low as possible. The developer was required to demonstrate a sufficient and wholesome water supply for the development. The design of the house was to be no more than one and a half storeys in height with roof pitches of no less than 40 degrees and no more than 45 degrees, with walls of stone or wet harl (of a grey, white or off-white colour). Windows were to have a vertical emphasis, and the overall width of the gable should not be less than the height of the wall from the ground to eaves level. Another condition required a combined service bay/passing place and visibility splays to be provided, and the provision of parking and manoeuvring space for at least 2 cars. No water should discharge onto the public road.
5. In the Reporter's decision letter, a summary of the applicant's submissions on the development includes, "*The land around the appeal site would be worked as a croft. The proposed house would have a small pool and integral garage, but not be of excessive size.*" And later, "*The planning officer's suggested conditions restricting the development to a height and scale in keeping with the existing dwellings at Cluny Croft and Swallow Cottage are acceptable to our client.*"
6. In addition to the above, there are two other adjacent sites which relate to this application. The applicants own land to the west and north west of the current site and Full Planning Permission exists for a house and garage on a site to the north west of "Cluny Croft" adjacent to the Balgowan Road. This was granted by Highland Council in May 2004 (04/0181/FULBS) following two successive Outline approvals in 1999 and 2002 (99/0215/OUTBS & 02/0270/OUTBS). Following the original

refusal of the Outline application on the current site by Highland Council, as well as lodging an appeal the applicants submitted an Outline application for a house on a site immediately adjacent to the current one on the west side (03/0359/OUTBS). This application was "called-in" by the Cairngorms National Park Authority Planning Committee on 10 October 2003 (Our Ref:03/046/CP) but remains undetermined. The applicants advised that following the granting of the appeal on the current site, they would withdraw it from the planning register. Formal confirmation of this has never been received.

## DEVELOPMENT PLAN CONTEXT

7. At national level, **Scottish Planning Policy 3 (Planning for Housing) (February 2003)** considers design in new housing developments to be an important issue when planning for housing development in both urban and rural areas. **Planning Advice Note 44, (Fitting New Housing Development into the Landscape) (March 1994)** states that *"In seeking to protect and enhance the quality of the environment, developers should aim for a high standard of design and landscaping in new housing development."* Particular emphasis is given to; the shape, layout and form of the development and its impact on the surrounding area; the choice of materials, with colours and textures that complement development in the locality; well designed schemes that respect both the local environment and the landscape setting; and the visual impact of new developments as seen from major roads and rail routes.
8. **Planning Advice Note 67 (Housing Quality) (February 2003)** emphasises the essential role the planning process can play in ensuring that; the design of new housing reflects a full understanding of its context in terms of both its physical location and market conditions; the design of new housing reinforces local and Scottish identity; and new housing is integrated into the movement and settlement patterns of the wider area. It refers in the main to more urban housing developments but it does emphasise the importance of issues such as landscape and visual impact, topography, building height, relationship with adjacent development, and views into and out of a site. **Planning Advice Note 72** is the new advice from central government on **Housing in the Countryside, (February 2005)** and on design it states *"High quality design must be integral to new development and local area differences must be respected"*. It also states *"In some areas, such as National Parks, National Scenic Areas and Conservation Areas, there may be a case for more prescription and a preference for traditional design, but it is also important to encourage the best of contemporary designs. There is considerable scope for creative and innovative solutions whilst relating a new home to the established character of the area. The overall aim should be to ensure that new housing is carefully located, worthy of its setting, and is the result of an imaginative, responsive and sensitive design process."* In its

concluding remarks, it states *“Every settlement should have its own distinctive identity. This is determined in part by the local characteristics of the area's architectural style of individual buildings and the relationship of these buildings to each other.”*

9. **Highland Structure Plan (approved March 2001) Policy H3 (Housing in the Countryside)** states that housing will generally be within existing and planned new settlements. New housing in the open countryside will not be permitted unless it can be demonstrated that it is required for the management of land and related family purposes. **Policy L4 (Landscape Character)**, states that the Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals. **Policy G2 (Design for Sustainability)**, lists a number of criteria on which proposed developments will be assessed. These include service provision (water and sewerage, drainage, roads, schools electricity); accessibility by public transport, cycling, walking and car; energy efficiency in terms of location, layout and design (including the utilisation of renewable energy sources). This policy also states that proposed developments will be assessed on the extent to which they demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials. Developments which are judged to be significantly detrimental in terms of such criteria shall not accord with the Structure Plan.
10. The site is within the boundary identified for Balgowan in the **Badenoch and Strathspey Local Plan**, under **Policy 2.1.2.2 (Fragile Countryside Areas)**. This policy encourages new housing in areas which are continuing to experience depopulation, or require further development to maintain their viability. It also says that there will be close attention to the principles of good siting and design. **Policy 2.1.2 (Design)** states that single houses outwith recognised settlements will require to be; properly located in harmony with the landscape; compatible in scale and character with local buildings, where appropriate; and designed and constructed to a high standard with particular emphasis on proportions, roof pitch, fenestration and selection of materials.

## CONSULTATIONS

11. **SEPA** have commented that the applicants need to demonstrate that the site conditions are suitable for septic tank and soakaway drainage, by submitting percolation tests and a location plan of the trial pit investigations. The location of the septic tank and soakaway will have to be at least 50m from any private wells. The application forms indicate that percolation tests have been carried out at the site but no details of the results have been submitted.

12. **Highland Council's Principle Environmental Health Officer** has noted that the proposed water supply is from a borehole (although its location is not specified) and that the proposed drainage arrangements are by a septic tank. He is concerned that the water supply could be at risk of contamination not only from the septic tank but also from those which he suspects, serve the neighbouring properties of Cluny Croft and Swallow Cottage. He therefore asks that the applicant demonstrate how this supply can be protected from such contamination.
13. Under their delegation to officers, **Highland Council's Area Planning and Building Control Manager** has commented that the Reporter did not specifically control the scale of the house to be erected. He advises that, whilst the proposed house is a large one, it does not seem to adversely breach the terms of the outline conditions. His comments also include the statement that "*condition 8 states that unless otherwise agreed in writing by the Planning Authority the dwelling should be no more than one and a half storeys in height. There are certainly elements of the proposal which go beyond that. Given the general scale and layout of the house these would seem to me to be appropriate.*" He concludes by stating that "*Clearly the principle of development has been established by the Appeal Decision and in the absence of any reason to the contrary, I would suggest that approval is the appropriate course of action in this case.*"

## REPRESENTATIONS

14. Four letters of objection to the development have been received. The issues that have been raised are to do with the scale, massing and design of the proposed development. It is felt that the size and positioning of the development would be out of context with the scale and pattern of the existing village/settlement and has been compared to a suburban type of development. There is concern that the submitted plans do not comply with the planning conditions or what the applicant had agreed with the Reporter in terms of limiting the scale of the development. There are other issues raised relating to water supplies for existing properties, and the future intentions for the remainder of the croft. A planning condition required the applicant to demonstrate a wholesome and sufficient water supply for this development, and there has been no evidence provided on this to date. There is a history of water supply shortage in the area, and such a sizable property will require a higher than normal supply. Conditions to remove permitted development rights and to control the occupation of the property have been suggested.

15. The applicant's agents have submitted a report in support of their proposals. This report states that the development does not compromise the National Park's aims, or planning policies and that the Park Authority should be considering applications of a greater scale and significance than a single dwelling against these aims, leaving matters of detail to Highland Council.
16. It is claimed that the applicants' proposals are not excessive in scale to the extent that the first Park aim is compromised, and the contribution the proposal would make to promote the economic and social development of the area is viewed as a significant factor in its favour. There has been consultation with Highland Council and the designs have followed approved policy guidance. These offer more weight to approve the application than those grounds given by the CNPA regarding appropriateness of scale of the proposal. A diverse range of single houses have been approved by Highland Council in the surrounding area, in terms of scale, form and appearance. The design is stated to be in keeping with PAN67 which encourages the development of housing with a traditional Scottish design as a means of ensuring new residential development has a strong identity. The supporting statement states *"The dwelling will not look out of place"* and would *"significantly improve the landscape panorama comprising the Balgowan Road Loop."* Precedents for larger properties have been set by the CNPA in other locations (eg. Uvie Farm).
17. The representations and the supporting statement are attached for the Committee's information.

## APPRAISAL

18. The principle of a house on this site has been set by the granting of the Appeal. However, the principle of the development was accepted by the site's location in a Fragile Countryside Area as defined in the Local Plan. While accepting new houses, this policy does though, also require new houses to be sited and designed appropriately. As such, significant planning conditions have been attached to the planning consent following the Reporter's assessment of the proposal, the site, and taking into account the concerns expressed by Highland Council and the various representations submitted from the local community. It is significant that the Reporter in his conclusions says,

*"In this scenic area, it would be particularly important for the design of the house (and the finish materials) to satisfy national and local guidance, but that would be capable of resolution in a reserved matter application. I am, however, a little concerned that the scale of house as described in a submission to the council might be over-large in relation to the others in the township. Nevertheless, you have accepted that a condition could be attached restricting the dwelling to the height*

*and scale of the two nearest existing dwellings, and that would address that issue satisfactorily.”*

19. In addition, it is relevant to mention that, notwithstanding Highland Council’s Area Planning and Building Control Manager’s comments on the current application, the planning officer’s report to the Badenoch and Strathspey Area Committee on the outline planning application stated,

*“I would suggest, however, that an over large dwelling at such an exposed location and when viewed in relation to the existing settlement could appear incongruous and out of character.”*

20. The main issues to be examined in this application therefore relate to how the applicants have sought to comply with the thrust of the Reporter’s decision and the subsequent planning conditions imposed on the outline permission, particularly with regard to the issues of scale, siting, design, materials and setting.

21. I feel that the scale of the proposed house is significantly greater than most of the other properties in this township. This has been a small crofting township with the majority (but not all) of the houses, one or one and a half storeys in height. The Reporter’s condition 8 quite specifically requires the dwelling to be no more than one and a half storeys. The two nearest houses to this site (Cluny Cottage and Swallow Cottage) – referred to by the Reporter in the quotation above – are one and a half storey with accommodation in the roofspace. There is a mixture of single, one and a half, one and three quarter, and 2 storey sections in the proposed house design. This does not wholly comply with the outline condition where the intention was clearly to provide a house which respected the scale and height of others in the area. On such an open, prominent and sloping site, the new development will appear as a sizeable building, of a scale that does not relate to others, and which has little regard to the topography, character and context of its surroundings. The submitted plans indicate that much of the surrounding garden area will be paved or will form access, parking and turning areas. This leaves a restricted amount of space within the feu to carry out landscaping.

22. Planning condition 5 of the outline required the dwelling to be located towards the south-eastern corner of the site – to ensure that the development had a satisfactory relationship with the dwellings to the north and to reflect the characteristic settlement pattern of Balgowan. Planning condition 6 required the finished floor level of the house to be as low as possible. The Reporter’s intention therefore had been to locate the new house close to the A86 junction in the field corner, and to ensure that the floor level of the house was kept down, in order to set the new building into the natural slope thus reducing its impact. The current application site has been revised to bring the south boundary further northwards up the field and as a result, the proposed



house position, which is central to its boundaries, is higher than what was intended by the condition. Apart from not complying with this condition, the result is that the house will appear higher in the landscape and will be closer to the two existing houses to the north. It appears therefore that the application site has evolved from a field corner site, at an acceptable distance away from other properties, to a plot half way up the east side of the field boundary. I feel this also emphasises the inappropriate scale of the proposed building in relation to its surroundings.

23. As has been commented before, there is a mixture of styles in the external design of the building. The south frontage faces the trunk road and includes a full 2 storey projecting gable as well as a full 2 storey turret. While the individual windows have a vertical proportion, there are varying configurations across the frontage, some of which have a horizontal emphasis. The rear elevation, which will be visible to Balgowan Road has a mix of single storey, one and three quarter storey and 2 storey elements and again with different window configurations. Throughout, there are different gable widths and proportions. None of the other crofting township houses have such a diverse range of building proportions and elements. These factors, along with the overall bulk and length of the building render it inappropriate, in design terms, in this location.
24. Planning condition 2 required that the plans submitted for the approval of reserved matters should include cross sectional details through the site showing existing ground levels and finished floor levels. Condition 6 required the floor level of the house to be as low as reasonably practicable. No drawings have been submitted to assess these aspects, and ensure that the Reporter's desire to have the building set into the site can be achieved. For such a substantial building, there will have to be some regrading of the site or underbuilding to maintain the single level of the ground floor plan. Again this could have significant impacts on the visual and landscape character of the area.
25. Planning condition 1 specified the submission of details covering the landscaping of the site, including the design and appearance of boundary enclosures. There are no details for these aspects supplied, but a report submitted by the applicant's agent does refer to landscaping plans. With the reduction in the size of the site, any significant landscaping to create an appropriate setting for a house of this scale, will be extremely difficult. Any landscaping proposals will take some considerable time to become established, leaving this large development exposed and open to view for a long period.
26. In conclusion it is apparent that the application does not comply with several of the planning conditions. The Reporter, in approving the principle of a house at the site at the outline stage, expressed concerns about the scale, the positioning, and the design of a house because of the nature of the site and its surroundings. The applicants have

reduced the size of the site, but have not significantly changed the scale of the proposed house from the sketched footprint on the outline plans. Several matters of detail about the proposed development have not been submitted. National Planning Advice Notes provide guidance on good design principles and although the Local Plan does not give detailed guidance on design, Policy 2.1.2 (Design of Houses in the Countryside) does provide basic requirements. The Structure Plan expresses the expectation of quality and care in the siting and design of new developments. The new national advice in Planning Advice Note 72 encourages each settlement to develop its own distinctive identity. I concur with some of the representees and feel that the new house is not sympathetic, in terms of its design and scale, to this existing rural township. I feel it does not represent the quality of siting and design expected by current planning policies or for development in the National Park, particularly in such a prominent location. In addition the National Park's aims include reference to conserving and enhancing the natural and cultural heritage of the area. I do not feel that the proposal fits with this aim.

27. Finally, there is the issue of drainage and water supply. On the basis of the information submitted, there has been no demonstration that the ground conditions can accommodate the proposed septic tank and soakaway, nor has there been a demonstration that development can be served by a wholesome private water supply which will not affect other supplies in the area. Representees and Highland Council's Environmental Health Officer remain concerned about the potential for adverse impacts on water supplies and contamination of those supplies from the drainage proposals. The Reporter's condition 7 states that no development shall take place until it is demonstrated that a wholesome water supply can be achieved. This effectively makes it a further Reserved Matter. However, I feel that these are material planning considerations at this stage, because of the issues raised in relation to potential for pollution, impacts on natural heritage and risks to public health. While concerns may well be overcome, I advocate a precautionary approach and therefore on the basis of the information supplied, I cannot support the proposal in this respect

## **IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK**

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

28. A building of this scale and design will not conserve or enhance the natural or cultural heritage of the Park in this area. The nature and scale of the design and the mixture of styles and elements will have an adverse impact on the established character of the area. There is not a uniformity in design styles, but the proposed development brings a significant and unacceptable change in scale and character to the area, in a very prominent position. If this township wishes to continue to appear as a crofting township in character, this development would be

at variance and detrimental to the local heritage of such a community. A more appropriate scale and design could be achieved that would enhance the natural and cultural heritage of the township.

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

29. The design of the development does not promote the sustainable design in the use of natural resources in terms of its materials, energy efficiency and scale.

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

30. The construction of this proposal would have negative affects on visual amenity for visitors/tourists using the area and the adjacent trunk road.

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

31. The principle of developing a house in this "Fragile Countryside Area" is positive in terms of stabilising population and social and economic development of this area. The applicants' consultant has stated that the remainder of the croft land will be used by the applicants' son to raise alpacas, providing wool for local spinners/weavers. While this would be beneficial, it is not relevant to the proposal for a house of this scale and design.

## **RECOMMENDATION**

32. **That Members of the Committee support my view that, if the Cairngorms National Park Authority was determining this application, the decision should be one of refusal, for the following reasons:-**
  1. Due to its siting, scale, bulk, height and overall appearance, the proposed dwellinghouse, on this prominent, open, sloping site, adjacent to a trunk road, will have a significant adverse impact on the landscape setting and appearance of this part of the Cairngorms National Park. The proposed dwellinghouse is also of a scale, character and design which is considered to be incompatible with the scale, character and design of other houses sited in the Balgowan township and therefore fails to recognise the cultural identity, and overall settlement characteristics of its rural surroundings. As such it fails to comply with national, regional, and local planning policies and guidance, as contained in, PAN44 (Fitting New Housing Development into the Landscape), PAN67 (Housing Quality), PAN72 (Housing in the Countryside), Highland Structure Plan Policies L4 (Landscape Character) and G2 (Design for Sustainability) and Badenoch and Strathspey Local Plan Policies 2.1.2.1 (Fragile Countryside Areas) and 2.1.2 (Design). For the same reasons the proposal is considered to have negative implications for the aims of the National Park, in

particular, the first aim which is to conserve and enhance the natural and cultural heritage of the area.

2. The applicants have failed to demonstrate that the development can be served by a wholesome water supply and a workable drainage system, which would be without detriment to other water supplies in the area or which would not create the potential for pollution and contamination.

**Neil Stewart**

**17 March 2005**

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