
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: ERECTION OF DWELLINGHOUSE, LAND AT TOM DHU, CRATHIE, BALLATER (FULL PLANNING PERMISSION)

REFERENCE: 03/061/CP

APPLICANT: MR. & MRS. SKAKLES, PER AGENT, ROBB:KEIR:DESIGN, BRIDGEND, BRIDGEVIEW ROAD, ABOYNE

DATE CALLED-IN: 24 OCTOBER 2003



Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. **Members of the Committee will recall that this application was reported to the Planning Committee on 8 October 2004 at Aboyne (Paper 1). Following extensive discussion, the Committee resolved to defer the application to allow further investigation into the affect the proposed house would have on landscaping and parking for the whole site, and the exact situation with regard to possible enforcement issues which had been raised by representees. Amendments to the previous report to cover these matters are typed in bold.**
2. Full Planning Permission is sought for the erection of a house on land immediately adjacent to an existing steading, which is currently being converted into a shop and coffee shop, at Tom Dhu, Crathie.
3. The site is located on the north side of the A93 on the eastern edge of Crathie. It is accessed by a track which passes an existing 2 storey (attic) traditional house and continues through the site into Crathie Wood. The proposed house is to be "cut in" to a partially treed hillock on the west side of the steading and access to it will be through the proposed car parking area for the new shop and coffee shop development. Further to negotiations, the proposed 4 bedroom house design has been amended to reduce its height and scale. The finishing materials are slate, wet harl, timber linings, and timber framed windows. The accommodation also includes a private gymnasium.
4. The applicants reside at present in a single storey bungalow which is located to the west of the site. Two reasons are put forward as justification for the proposed house. The first relates to an operational need for a house immediately adjacent to the applicant's proposed business which is being developed in the steading. This business development (shop and coffee shop) was granted permission in June 2000 by Aberdeenshire Council and the conversion works are nearing completion. Although the applicants currently reside in a house adjacent to the site, it is stated that they are not the legal owners of the house. The proprietor is one of their sons who wishes to sell the property. Legal evidence has been submitted which confirms that they are not the owners. Permanent residence on the site is seen as essential to the efficient operation of the business. It is stated that the new house will provide security, allow easy receipt of deliveries which are likely to be early morning and allow efficient use of time for daily cleaning and on-going maintenance of the business premises.
5. The second reason is a private one and relates to the health of one of the applicants (Mrs. Skakles). She suffers from multiple sclerosis and is confined to a wheelchair 100% of the time. It is stated that the applicant's existing house is now not suitable for Mrs. Skakles. She has increased difficulty in negotiating her wheelchair within the house with its narrow passageways and doors. The house layout and type

also provides difficulties in achieving modifications for showering, toilet and bedroom facilities. She is almost totally reliant on Mr. Skakles for help in most domestic situations.

6. It is also stated that the business is a family concern and that Mr. Skakles will be involved in its day-to-day operation but at the same time he needs to be on hand to administer to Mrs. Skakles needs. The quality of their life together, as a couple, is important to them and he does not regard the use of a carer as an option. It may also be possible for Mrs. Skakles to spend some time helping in the business. As such, it is stated that the business and personal needs for a house here go hand-in-hand.

DEVELOPMENT PLAN CONTEXT

7. **Aberdeen and Aberdeenshire Structure Plan 2001-2016 (NEST) Policy 12 (House Building in the Countryside Beyond the Green Belt)** states that there will be a presumption against new houses in such areas except for a new house which is essential to the efficient operation of an enterprise which is itself appropriate to the countryside. **Policy 19 (Wildlife, Landscape and Land Resources)** states that development which would have an adverse effect on national designations such as a SSSI (Site of Special Scientific Interest) and an NSA (National Scenic Area) will only be permitted where the overall integrity of the area will not be compromised or any significant adverse effects are clearly outweighed by social and economic benefits of national importance.
8. **In the Finalised Aberdeenshire Local Plan** there are a number of relevant planning policies. **Policy HOU4 New Housing in the Countryside** states that the erection of a single new house in the Countryside will be approved, in principle, if, a) it is for a full time worker in an enterprise which itself is appropriate to the Countryside; b) the presence of that worker on-site is essential to the efficient operation of the enterprise; c) there is no suitable alternative to a new house e.g. through conversion of an existing building or properties for sale or rent in the area, which could fulfil the required function; d) the proposed house is within the immediate vicinity of the worker's place of employment; AND e) it conforms with Appendix 1 (The Design of New Development in Aberdeenshire). **Policy ENV/2 (National Nature Conservation Sites)** states that development that would have an adverse effect on a SSSI will be refused unless, a) any significant adverse effects on the quality for which the area has been designated are clearly outweighed by social and economic benefits of national importance; b) the objectives of the designation and the overall integrity of the area will not be compromised; and c) there is no alternative site for the development. **Policy ENV/5 (National Scenic Areas etc.)** states that development within or adjacent to a NSA will not be permitted where its scale, location or design will detract from the quality

or character of the landscape. In all cases, the highest standards of design will be required.

9. Other policies include **INF\4 (Drainage and Water standards)** which ensures the adequacy of drainage facilities, and water supply; **GEN\1 (Sustainability Principles)** which is to ensure all new development is as sustainable as possible and that developers give increasing consideration to sustainability aspirations in their proposals; **GEN\2 (The Layout, Siting and Design of New Development)**, which is to achieve high quality new development particularly of buildings, which respects the environment and provides a sense of place; and **Appendix 1, (The Design of New Development in Aberdeenshire)** which provides more detailed design guidance.

CONSULTATIONS

10. **Scottish Natural Heritage** have advised on the potential impacts of the development on the Crathie Wood SSSI, and the Deeside and Lochnagar NSA. Provided there is no encroachment of development activities beyond the development site boundary, SNH considers there will be no detrimental effect on the nature conservation interest of Crathie Wood SSSI. Conditions should be imposed in this respect. With respect to the NSA, they state that at the proposed location there is nearby built development and the immediate landform and tree cover would serve to reduce visual impacts from main, nearby public viewpoints. However, they state that bearing in mind the sensitivities of the location, within both the NSA and the National Park, the highest standards of design and landscape works will be required. The comments provided by SNH in relation to the NSA are non-statutory.
11. **Scottish Water** have stated that a public water supply is available. There are no public sewers.
12. **SEPA** have accepted the proposal to have one septic tank for the proposed house and one for the adjacent coffee shop/shop premises but to have both tanks draining to a shared soakaway. In this respect, porosity tests results have been submitted which indicate that the ground conditions are quite poor and that a substantial soakaway is required (280sqm). This is positioned under the car park on the adjacent site.

REPRESENTATIONS

13. A total of eight letters of representation were received before presenting the application to the Committee in October. Four of these are in support of the application and the other four raise concerns.

14. In support, the points raised include:-
- *Mrs. Skakles is severely disabled with Multiple Sclerosis which is deteriorating and has left her wheelchair bound.*
 - *Present accommodation is unsuitable for her needs.*
 - *Mrs. Skakles is very much reliant on her husband for the simplest of domestic tasks and therefore needs to be near to the business where he will be working.*
 - *Mr. & Mrs. Skakles are committed to living and working in the area and they wish to remain and develop their business in more suitable accommodation.*
 - *The house has been designed to not only meet the functional requirements of Mrs. Skakles condition but also to provide a reasonable quality of life.*
15. The matters of concern raised include:
- *The applicant's current house has recently been altered to suit her needs.*
 - *History of unauthorised works at the site including the partial removal of a bank for the proposed house which has caused concern to a neighbouring property.*
 - *There has been failure to comply with conditions imposed on the previous permission for the coffee shop/shop business, including the carrying out of landscaping.*
 - *Proposal represents overdevelopment of the site.*
 - *There are question marks about the motive for the proposal and who actually owns the applicant's existing house.*
16. **In December a further letter from a representative of the Ballater & Crathie Community Council was received. This requests that the CNPA take a sympathetic view.**
17. Copies of these letters are attached for the Committee's consideration. **A letter has been received from the applicant's doctor which puts forward a request to address the Committee. Letters have been sent to the representees inviting their attendance.**

APPRAISAL

18. This application has raised considerations relating to the principle of a house in this part of the National Park's countryside in terms of need and planning policy, its impact on designations and neighbouring properties, and its design.

Principle and Need Case

19. The site lies in an area designated as "Countryside" where Policy 12 of the Aberdeen and Aberdeenshire Structure Plan (NEST) and Policy Hou\4 of the Aberdeenshire Local Plan (ALP) are applicable. These policies restrict new houses in countryside areas except in certain circumstances. One such circumstance is where the house is for a full time worker in an enterprise which itself is appropriate to the countryside and where the presence of that worker on site is essential to the efficient operation of the enterprise. In this instance, the proposed house is for the owner of a new coffee shop/shop business which is nearing completion in an adjacent former steading building. A need case has been put forward for the house on the basis of this business (see paragraph 3 above). While supporting the principle of a new house if required for the efficient operation of a business, ALP Policy Hou\4 also states that to be acceptable, there should be no suitable alternative to a new house, such as the conversion of an existing building. This brings into consideration the second reason for the house.
20. The applicants already stay in a house nearby which has easy access to the business. In the first instance then, it would seem that there is no need for a new house. However, it is stated that they do not own this property, and that there is the personal health of Mrs. Skakles which must be considered. The case, submitted in relation to this, is stated in paragraphs 4 and 5 above and it is clear from some of the letters submitted in support of the application, that the house is now not deemed satisfactory for the needs of Mrs. Skakles. It is the case that the existing house has had some alterations in order to accommodate some facilities for Mrs. Skakles. However, I have visited the property and witnessed the problems that Mrs. Skakles has in carrying out the simplest of domestic tasks, including simply manoeuvring around the house.
21. Taking these two reasons for the house together, I am satisfied that a case has been made which not only meets the terms of planning policy but also takes account of the social well-being of the applicants and the economic development of the Crathie community. It would be necessary to impose an occupancy restriction by a Section 75 Legal Agreement. The house would also not be able to be sold separately from the business. The applicants have indicated that they are willing to accept this.

Impact on Designations and Neighbouring Properties

22. The site lies within the Deeside and Lochnagar National Scenic Area and partly within the Crathie Wood SSSI. The proposed site of the house is immediately adjacent to the steading which is to be the coffee shop/shop business, and it is proposed to "cut" the house into an existing embankment which forms the north slope of a partly treed

hillock. Following receipt of further information, it is the case that 10 trees will be removed from the north slope, to allow the construction of the house. However, the majority of the trees, which will be retained, are on the top and south slope of the hillock. The combination of this tree retention and the fact that there are existing buildings nearby, mean that the new house will be seen in an established context of trees and buildings, especially when viewed from the A93. The landscape impact of the house on the NSA is therefore deemed acceptable and this is supported by SNH.

23. In relation to the SSSI, the proposed house and its curtilage are within the boundaries of the approved development site for the previous steading conversion permission and only part of the garden and parking area for the house will be within the SSSI boundary. The previous approval had this area designated as car parking for the business and prior to that the area formed part of the yard that went with the steading. Its natural heritage worth is therefore limited and provided there is no encroachment of development activities beyond the development site boundary to the north, including vehicle intrusion and storage of materials, SNH are satisfied that the development will have no significant detrimental effect on the nature conservation interests of this part of the Crathie Wood SSSI. SNH have also confirmed that the positioning of the large shared soakaway is acceptable because it is within the already established development site boundaries. The terms of planning policy in relation to these issues are therefore satisfied.

24. **The positioning of the new house means that there is a requirement to amend the layout of the parking and landscaping for the adjacent commercial development, and remove a timber shed which was to remain. There is also the change to the drainage arrangements which SEPA have agreed. These changes all lie outwith the proposed house site boundary. The fact that these matters were not part of the current application for the house was a concern of the Committee previously and as such they were part of the reasons why the application was deferred in October. Since that time, discussions have taken place with the applicant's agents and Aberdeenshire Council. The result has been the submission, to Aberdeenshire Council, of an amended layout for the parking and landscaping for the business development, the removal of the timber shed and the construction of the shared soakaway. Aberdeenshire Council have now considered these amendments in relation to the terms and conditions of the previous approval for the coffee shop. Written confirmation, that they have agreed to the changes as a non-material variation to the previous permission, has now been received. The basis of this decision has been made on the fact that the number of parking spaces is the same and that there remains adequate space for landscaping, especially around the northern boundaries. Landscaping will be of native species. In**

addition, the landscaping proposes supplementary tree planting within the proposed garden area of the house. With formal approval from the relevant authority for the coffee shop proposal for the changes, I feel that the concerns of the Committee in this regard have now been addressed.

25. Some of the representations raised concerns about the effect the on-going works for the steading conversion at the site have caused and whether existing planning conditions have been complied with. Again this was a concern of the Committee previously. As a result, discussions have taken place with the Aberdeenshire Council's Planning Inspector for the area. He has advised the following which clarifies the situation:
- a. There are no outstanding conditions requiring compliance at present. There are several conditions which remain "open" until such time as the development is complete. It is not yet complete.
 - b. Since the site is still part of an on-going development, what is perceived to be "general untidiness" is difficult to challenge. The service of a notice under Section 179 of the T & C P (Scotland) Act 1997 (Land Adversely Affecting Amenity of Neighbourhood) would be difficult to justify in this instance.
 - c. The removal of part of the embankment for the proposed house was investigated in June 2003, following the receipt of a complaint. The applicant gave assurances that no further development would take place in advance of an approval for the house. The application was subsequently submitted in October 2003. Bearing in mind there was, and still is, an undetermined application for the house, it was decided to take no further action pending the outcome of the application.
 - d. The site remains active within the Enforcement Monitoring System of Aberdeenshire Council.

Design

26. The Committee also previously queried the need for the size of house proposed. The house has been designed to benefit from the slope into which it is built, and to meet the needs of the applicants both in terms of their personal pastimes and the specific requirements of Mrs. Skakles. Space on site is restricted, and this has led to a design which requires to be on two floors but accommodates enough space to allow Mrs. Skakles to manoeuvre around the house, provides more space in the kitchen/dining area and accommodates a large en-suite facility. The layout will also allow Mrs. Skakles to have free access throughout the upper floor accommodation (master bedroom, ensuite, kitchen/dining and living room) and spend some time on an outdoor decking area. There is also a private gymnasium on the ground floor. Mr. Skakles and his son are both heavily involved in judo and the

gymnasium will also be useful for helping Mrs. Skakles' condition. A stair lift will be fitted to allow Mrs. Skakles access to both floors.

27. **The size and scale of the house has been reduced since its original submission. There was concern that the house would appear out of scale and character with the immediate area. However, the amendments have resulted in a reduced height and length and changes to some finishing materials. Although the house will still be higher than the steading, which is single storey, I am content that it has been designed to accommodate the restrictions of the site and its slope, and the needs of the applicant. It will not be out of keeping with other houses in the area in terms of its scale and size and is acceptable in its context within this part of the NSA and it does not offend any planning policy in this regard. Unless there is a planning reason for requiring a change in the size or type of the house, it is not appropriate to query the necessity for the house proposed and in this instance I am content to accept the proposal as now submitted.**

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

28. **This new house site within a NSA and partially within a SSSI will not necessarily enhance the local cultural or natural heritage. Nevertheless, its design and its positioning in a context of trees and buildings, are such that the landscape impacts will be kept to a minimum. Any potential negative impacts on the nature conservation interests of the SSSI outwith the site boundaries will be mitigated by the imposition of planning conditions.**

Promote Sustainable Use of Natural Resources

29. **The application proposal will not increase the sustainable use of natural resources, although some timber is to be used in the house design. The provision of a house immediately adjacent to the applicants business is positive in terms of minimising travel to work distances.**

Promote Understanding and Enjoyment of the Area

30. **The track which serves the development leads into the Crathie Wood and is used for recreational purposes. However, the provision of this house will not impact on this. The track requires to be kept available to users at all times.**

Promote Sustainable Economic and Social Development of the Area's Communities

31. The commercial enterprise that the applicants are undertaking will provide some employment and economic activity within the Crathie community. The provision of a house to support this business will also help in this regard. Coupled with the personal circumstances of Mrs. Skakles in terms of her social well-being and quality of life, the proposal is viewed as being positive in terms of this aim.

RECOMMENDATION

That Members of the Committee support a recommendation to:

Grant Full Planning Permission for the Erection of a Dwellinghouse, at Tom Dhu, Crathie, subject to:-

- a. **the completion of a Section 75 Legal Agreement which restricts the occupancy of the house to a person operating/managing the adjacent coffee shop/shop business at Tom Dhu, Crathie, and prevents the disposal of the house separately from the adjacent business, and;**
- b. **the following conditions,**
 - i. The development to which this permission relates must be begun within five years from the date of this permission.
 - ii. **That prior to the occupancy of the dwellinghouse hereby approved, the works for the formation of the adjacent coffee shop/shop business shall be complete and its use shall be fully operational.**
 - iii. That notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, no house extension shall be formed, and no greenhouse, shed or garage erected without the prior written consent of the Cairngorms National Park Authority acting as Planning Authority.
 - iv. **The development shall be landscaped and maintained in accordance with the approved scheme as follows:-**
 - (a) **Completion of the scheme during the planting season next following the completion of the development, or such other date as may be agreed in writing with the Cairngorms National Park Authority acting as Planning Authority.**

- (b) The maintenance of the landscaped areas in perpetuity in accordance with a detailed maintenance schedule/table (to be submitted prior to the commencement of works on site). Any trees or shrubs removed, or which in the opinion of the Cairngorms National Park Authority acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.**
- v. That from the date at which this planning permission is granted, no trees on the site other than those shown on the approved drawings for removal, shall be uprooted or damaged. Trees to be retained, on the site shall only be felled, lopped or topped with the prior written approval of the Cairngorms National Park Authority acting as Planning Authority.
- vi. That no development shall commence on this site until the trees marked for retention on the approved plans, have been protected by chestnut paling fencing erected around the extremities of the crowns of these trees to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority, and in accordance with BS5837, Trees in Relation to Construction.
- vii. That no construction vehicles and/or storage and/or dumping of construction materials/debris shall be permitted outwith the boundaries of the approved site at any time.
- viii. Prior to the commencement of development on site, a vertical timber boarded fence of 2 metres in height, which shall be dark stained, shall be erected along the boundaries as shown in green on the approved drawings. Once erected it shall be retained in the approved position at all times in the future, unless otherwise agreed with the Cairngorms National Park Authority acting as Planning Authority.
- ix. That the dwellinghouse hereby approved shall be connected to a separate septic tank to that of the adjacent coffee shop and shop business at all times in the future, unless otherwise agreed with the Cairngorms National Park Authority acting as Planning Authority, in consultation with SEPA and the Local Authority Building Control Service.
- x. Unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority, the finishing materials for the dwellinghouse hereby approved shall be:-
(a) slate for the roof

(b) wet harl and dark stained timber cladding for the walls (samples shall be prepared on site for the inspection and further written approval of the Cairngorms National Park Authority acting as Planning Authority prior to the commencement of these works)

- xi. Prior to the commencement of works on site, specific details of all proposed new windows, which shall match in type and colour, those approved on the adjacent converted steading, shall be submitted for the further approval of the Planning Authority.

Neil Stewart
16 February 2005
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