

SITE DESCRIPTION AND PROPOSAL

1. This site lies to the rear of a single storey bungalow property known as “Hillcrest” which sits above and on the north side of the public road to Nethybridge in Boat of Garten (Fig. 1.). The site slopes upwards from the back of “Hillcrest” in a northerly direction and constitutes partly garden ground for the existing house, and partly sparsely planted birch woodland which has been purchased by the owners. This birch woodland area extends beyond the site northwards and eastwards towards the River Spey. To the east side of the site, is a large detached traditional house known as “Tomboyach” which sits in a sizeable garden area and is set back from the road in an elevated position. To the west side is another house known as “Ballachrosk” which sits approximately on the same building line as “Hillcrest”. The Boat of Garten golf clubhouse is located across the public road on the south side. A single point of vehicular access to “Hillcrest” is taken off the public road and passes to the east side of the existing house to access garaging and parking areas to the rear. There is also a narrow, overgrown strip of land between the boundaries of “Hillcrest” and “Tomboyach” which provides access to the birch woodland beyond (Photos at Figs. 2, 3, & 4).



Fig. 2. “Hillcrest” and access – site to rear

2. The proposal is to erect a new one and half storey dwellinghouse (5 bedrooms) into the sloping land to the rear of "Hillcrest". The house will have finishes of slate and wet harl with a single storey wing (kitchen) of timber walls and corrugated metal roof sheeting. Following a request for more information on impact on trees, a revised plan shows that two trees will be felled, but that they will be replaced elsewhere on the plot. Access will be from the existing access, with parking created between the existing and proposed properties. The original plan proposed the house in a position located further up the slope to the north on birch woodland and on land outwith the curtilage. The revised proposal shows the house now moved further down the slope towards the existing house and now within the existing domestic curtilage. However, the garden area for the new house will still extend into the birch woodland area (Figs. 5 & 6).



Fig. 3. Rear of "Hillcrest" viewed from the site

3. The house is for the daughter and son-in-law (plus two children – 10 and 6) of the owners of "Hillcrest". Both applicants work locally (currently live in Aviemore) and they enjoy the support of the grandparents who help take care of the children during the day. Mr. Rourke is employed at the family painting and decorating business which is based at "Hillcrest".



Fig. 4. Site viewed from the north looking down towards rear of "Hillcrest"

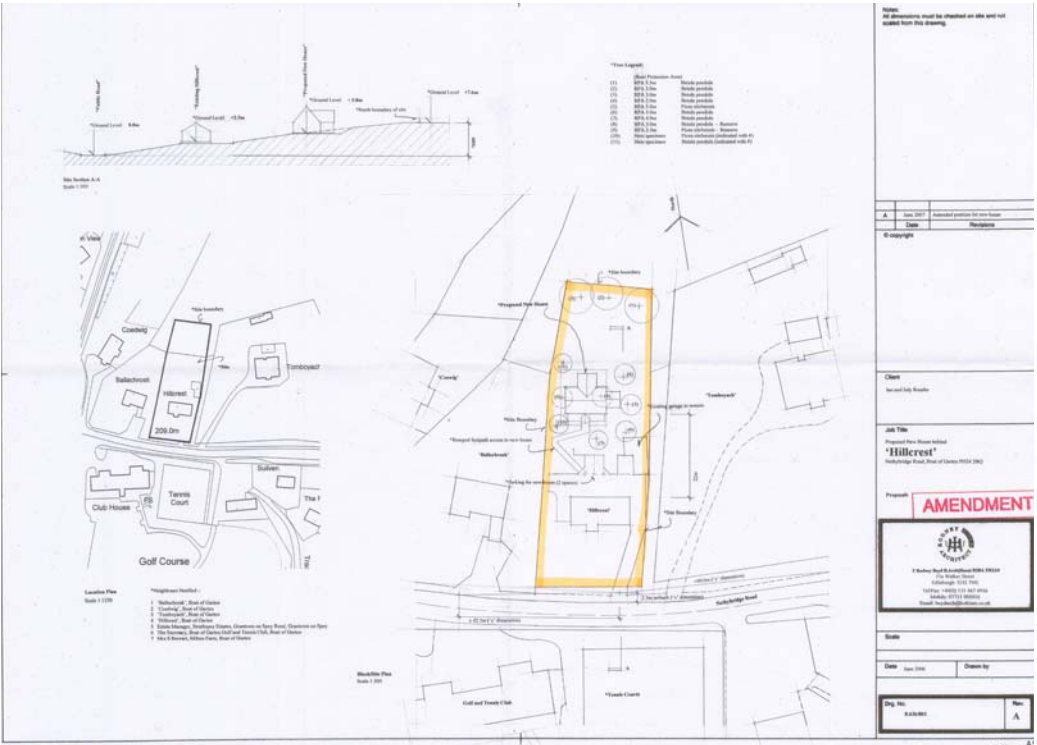


Fig. 5. Location plan, site plan and site section

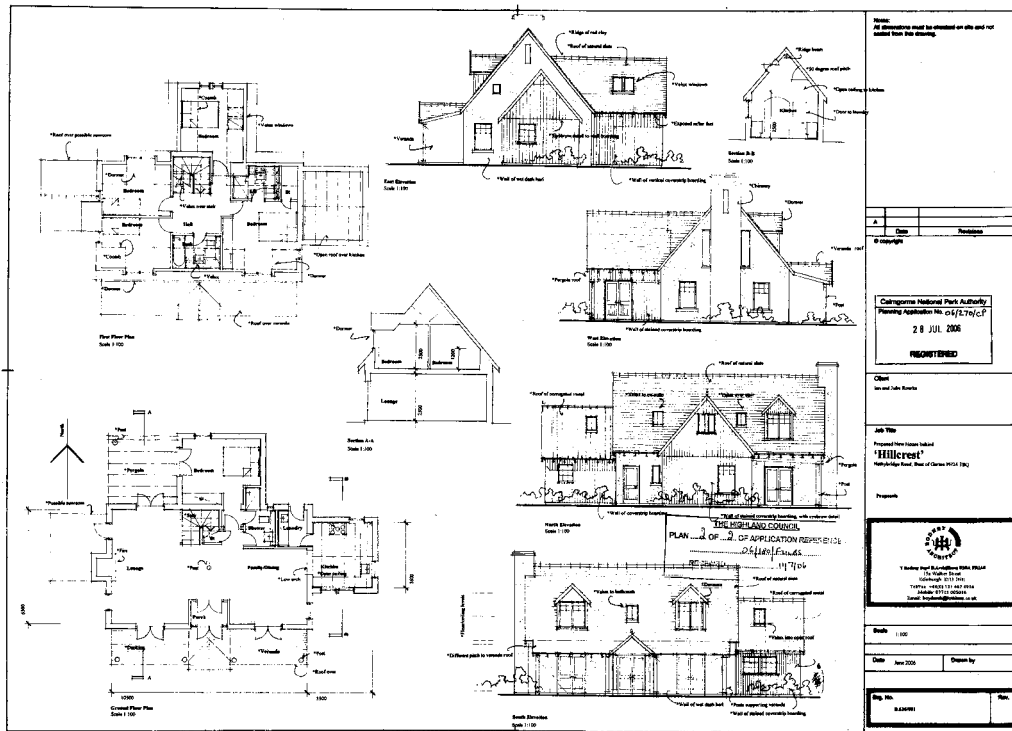


Fig. 6. Elevations and Floorplans

DEVELOPMENT PLAN CONTEXT

Cairngorms National Park Plan 2007

- Strategic objectives for housing contained within the approved Park Plan, include: increasing the accessibility of rented and owned housing to meet the needs of communities throughout the Park; and improving the physical quality, energy efficiency and sustainable design of housing in all tenures throughout the Park. Strategic objectives for Landscape, and Built and Historic Environment, include; ensuring development complements and enhances the landscape character of the Park; and new development in settlements complementing and enhancing the character, pattern and identity of the built and historic environment.

Highland Structure Plan 2001

- To accord with the structure plan's objectives and strategic themes, policies for housing development aim to steer demand to appropriate locations within existing settlements. **Policy L4 (Landscape Character)** advises that regard will be had to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals. **Policy G2 (Design for Sustainability)** sets out criteria against which development proposals will be assessed. These include, the extent to which they; are compatible with service provision; are accessible by public transport, cycling and walking as well as by car; maximise energy efficiency in

terms of location, layout and design; make use of brownfield sites; impact on individual and community residential amenity; demonstrate sensitive siting and high quality design; and contribute to the economic and social development of the community.

Badenoch and Strathspey Local Plan 1997

6. Part of the site extends into an area designated in the Boat of Garten settlement map, under **Policy 5.10.4. (Amenity)**. This states that there will be a presumption against further development not associated with existing recreational, agricultural or forestry activity, or the community's essential servicing requirements on remaining land surrounding the village. The rest of the site, including "Hillcrest" and the adjacent properties, are included in an area covered under **Policy 5.6.3.(Infill)**. This policy, advises that, in the interests of safeguarding the character of established residential areas, there will be a presumption against further infill housing including sub-division of existing plots, where development would involve; inappropriate scale, design or orientation; inadequate plot size or spacing between properties; breaching established building lines; felling significant trees; loss of privacy or amenity to neighbouring occupiers; or substandard access.

CONSULTATIONS

7. **Scottish Water** has no objections to the application but at this stage they cannot guarantee a connection to their water and waste water infrastructure. A separate application should be made to them for connection in the event that planning permission is granted. There may be some issues in the water and waste water networks but at present there is capacity to service the proposal at the Boat of Garten WWTWs and the Blackpark WTWs.
8. **SEPA** has no objections. However, they promote SUDS (eg. soakaway or filter trench) for the disposal of surface water.
9. **The Boat of Garten and Vicinity Community Council** have stated that they understand that no further applications can be considered for connection to the public water and waste water systems as there is no capacity. Regarding the building itself, they state that the use of corrugated metal appears to be at odds with other slated roofing materials in the area. They would prefer all roofing materials to be similar. They also raise an issue about the indication of a potential sunroom on the house drawings. An issue is also raised in relation to the "infill" policy in the Local Plan.

10. **Highland Council's Area Roads Manager** requires the existing access to be upgraded in terms of width and surfacing. There are also requirements for parking and manoeuvring space on site. In addition, there was a requirement to provide visibility splays at the junction of the existing access and the public road. Following confirmation from the applicant's agent that the required splay to the east could be formed but the one to the west could not (short by just over 15m) because of third party land involvement, the Area Roads Manager has advised that the dimension required in the west direction was already a relaxation (by 30m) on the usual requirement in a 30mph zone. However, for confirmation, given the short distance involved and the fact that the access has operated for some time with lesser splays, he does not think that this failing would in itself be grounds for refusal.

11. **The CNPA's Landscape Officer** has stated that the proposed house is sited in a hollow below the crest of the slope and that it is in accordance with the general housing pattern and density in the area. A house would not dominate the principle view for adjacent neighbours. It would be largely unseen from the north due to the level differences, although it would be visible from the adjacent footpath access. The design and finishing materials are reasonably sympathetic to the birch woodland setting and therefore there is no landscape objection to the proposed dwelling or its siting. There was some concern about the impact on trees at the site though.

REPRESENTATIONS

12. The application was initially advertised by Highland Council as a "Development Contrary to the Development Plan". Two letters of representation against the development have been received from the same neighbouring occupier. One was received on the original submission and another received on receipt of the revised plan. The issues raised include:
 - the site is a greenfield one (not a brownfield one), purchased in 2003, which is not in the Local Plan for housing.
 - the shared access is too narrow, cannot accommodate emergency vehicles and is steep.
 - the shared access is close to a bend in the road and any increase in usage will be dangerous for pedestrians, especially children and the elderly and infirm because of lack of visibility.
 - concern about the use of metal corrugated roof sheeting on part of the house.
 - there is limited space for parking and manoeuvring for both properties on the site – this is unsafe to the occupiers.
 - the new house may be used as a guest house – thus increasing the amount of traffic movements.

- the proportions of the house and its garden are not in keeping with others in the area and therefore constitutes overdevelopment.
 - some trees have been cut down already.
13. The letter from the applicants in support advises of their personal circumstances, employment in the local area, special childcare needs, and desire and need to stay close to their parents.
14. **Copies of these letters are attached to the report. Also attached is the letter from the Community Council.**

APPRAISAL

15. This application raises issues in relation to; adopted land use policy; impact on amenity and character of the area; design; and technical matters of road safety and infrastructure provision.

Implications for Adopted Land Use Policy and Impact on Amenity/Character of the Area

16. The original proposal was for a house located on the higher slope of birch woodland, outwith the established domestic curtilage, at a distance of over 35m from the rear of "Hillcrest". Being in this location, the proposed house was sited in an area where Policy 5.10.4. (Amenity) of the Badenoch and Strathspey Local Plan provided a presumption against new development unless it was associated with existing recreational, agricultural or forestry activities. This policy also covers other areas of undeveloped land surrounding Boat of Garten and essentially aims to protect the natural setting of the settlement. This policy presumption against development led to the application being called-in by the CNPA.
17. Following discussions with the applicant's agent, a revised proposal was submitted which brings the actual siting of the proposed house further down the slope towards the rear of "Hillcrest" and outwith the restrictive "Amenity" policy designation. Although the site boundaries ie. the proposed domestic garden area for the new house, still extend into the "Amenity" area, I feel that the revised positioning of the house within the site provides two advantages. Firstly it takes it physically out of the restrictive "Amenity" policy area. Secondly, it moves it further down the slope and thus reduces its elevation in the landscape. However, the revised positioning, now puts the house in the "Infill" policy area. This policy covers substantial parts of the existing residential areas in Boat of Garten. Its aim is to protect the character of these areas and as such provides a presumption against infill development unless it can meet certain criteria – please refer to paragraph 6 above. Essentially, the proposal now needs to be assessed in relation to these criteria.

18. The proposed house will be sited in a “backland” location ie. behind an existing house but served off the same access. This can result in poor standards of amenity, loss privacy, disruption to the pattern of development, and substandard access arrangements. Essentially, these are the same criteria that are required to be met in Policy 5.6.3. (Infill). In this case, I find that the site does not generally have any significant adverse implications for the normal problems associated with “backland” development, mentioned above.
19. As also stated by the CNPA’s Landscape Officer, I do not see that the house position adversely conflicts with the pattern of development in the area. In this location there are four houses on the east side of the railway line (see Fig. 1.). Two of these, “Ballachrosk” and “Hillcrest”, are sited lower down the slope closer to the public road but the other two, “Coedwig” to the west and “Tomboyach” to the east, are set higher up and further back from the road, essentially in a line with the proposed house. The size of the site, with its extension northwards, does not create an inadequate size of plot and because the house will be cut into the slope, there will be no adverse visual or landscape impact. Although some trees will come down, the majority will remain. There will also be replacement tree planting. As such, the character of the area will not be significantly adversely affected. Its positioning will also not have an adverse impact on the residential amenity of neighbouring properties.
20. However there are some areas of concern. These relate to a potential substandard and reduced standard of amenity for “Hillcrest”. Although there remains a distance of over 20m between the properties, the proposed house will be higher than “Hillcrest” and overlook, down the slope, across land which would normally be considered to be private amenity ground belonging to “Hillcrest”. Indeed, the siting of the new house now removes any significant private rear garden space for “Hillcrest” and no formal sub-division of garden areas is proposed. In addition, the route of the shared access is very close to “Hillcrest” and the parking and manoeuvring space for each property is essentially shared on the land between the two properties and in close proximity to “Hillcrest”. It certainly could be argued that these arrangements would be inadequate and unacceptable, if the properties were to be in separate and unrelated ownership.
21. In relation to this, the applicants have explained the personal and family reasons for wishing to reside in close proximity to “Hillcrest”. In this respect, they have also confirmed that they would accept a requirement for a Section 75 Legal Agreement which “ties” the house to “Hillcrest” such that neither property could be sold separately from the other. By retaining both properties in the same overall control (needs to be a S75 rather than a condition because the new property is a family sized house and not an ancillary unit), this would overcome the concerns relating to amenity mentioned above.

22. In conclusion, I take the position that the house, as proposed, does not now conflict significantly with the terms of the land use policies for the area, but only if a S75 agreement is concluded, which does not permit the sale of either the new house or “Hillcrest” separately from each other. The applicants have agreed to this.

Design

23. Some concern has been raised about the design of the proposed house and in particular the proposed metal roof sheeting on the single storey wing. I have no such concerns about the design. I find it wholly acceptable for this site in terms of its character, appearance and finishing materials. As a single storey wing accommodating the kitchen, the proposed roof cladding complements the proposed timber cladding on this part of the house. A condition can be imposed requiring exact details prior to construction.

Access, Drainage and Water Provision

24. The site is served by a steep and narrow vehicular access. Highland Council’s Area Roads Manager initially required a splay of 60m in the westerly direction and 90m in the easterly direction. The applicant’s agent has shown on a plan that the splay to the east can be formed without involving land in the control of a third party. However, the splay to the west will fall 15 or so metres short, unless land within a neighbour’s property can be used. In considering their position further though, Highland Council advised that in itself, this slight failing, would not be sufficient for them to justify recommending refusal on road safety grounds but every effort should be made to work with the neighbour. There are two considerations here. Firstly, the site lies within a 30mph zone and secondly, there is an argument that the traffic using the site will not be significantly increased because the applicants already use the site on a daily basis for work and family reasons. Taking account of the fact that the Area Roads Manager does not feel there is justification to resist the proposal on these grounds alone, and that the S75 “tying” the properties together is necessary in any case, I see no merit in insisting on the provision of the full visibility requirement to the west side.
25. The Community Council has stated that there is no capacity in the public infrastructure systems to take the development. However, Scottish Water have confirmed that they have no objections to the issuing of planning permission in this case but that the applicants will be required to apply for connections thereafter. Recent planning advice states that in such a circumstance there should be no barriers to granting permission where Scottish Water have not objected.

Conclusion

26. **Taking account of all the issues, I feel that a recommendation of approval can be given but only subject to the completion of a S75 Legal Agreement ensuring that the properties are not sold independently of each other.**

Conserve and Enhance the Natural and Cultural Heritage of the Area

27. The development will not have any adverse impacts on any natural heritage designations or features of cultural or built heritage. Some trees will be removed but they will be replaced and the majority will remain. The landscape character of the area will not be significantly impacted upon.

Promote Sustainable Use of Natural Resources

28. There are no significant implications for this aim. Although it could be argued that there is the potential to reduce car travel journeys for the applicants.

Promote Understanding and Enjoyment

29. There are no implications for this aim.

Promote Sustainable Economic and Social Development

30. The development will allow a local family to have a new house in a location which will improve their family and work related needs.

RECOMMENDATION

31. That the Committee agree a recommendation to:

Grant Full Planning Permission for Erection of Dwellinghouse, at Land to Rear of Hillcrest, Nethybridge Road, Boat of Garten, subject to;

a. the completion of a Section 75 Legal Agreement which does not permit the new dwellinghouse or "Hillcrest" to be sold separately from each other; and

b. the following conditions;

1. The development to which this permission relates must be begun within five years from the date of this permission.

2. That from the date at which this planning permission is granted, no trees on the site, other than those shown on the approved plan for removal, shall be uprooted or damaged. Trees on the site shall only be felled with the prior written approval of the CNPA acting as Planning Authority.
3. That no development shall commence on this site until the trees marked for retention on the approved plan, have been protected to the satisfaction of the CNPA acting as Planning Authority, and in accordance with BS5837:2005, Trees in Relation to Construction.
4. Replacement tree planting, in accordance with the details shown on the approved plan, shall be carried out to the satisfaction of the CNPA acting as Planning Authority, within the first planting season following completion of the development. Any new trees which in the opinion of the CNPA acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted.
5. That prior to the commencement of the following individual works, exact details and specifications (samples may be required) shall be provided for the further written approval of the CNPA acting as Planning Authority;
 - i. the corrugated metal roof sheeting;
 - ii. the wet harl wall finish;
 - iii. the windows which shall be timber framed;
 - iv. the type and colour of the timber wall cladding; and
 - v. all proposed boundary enclosures.
6. Prior to the commencement of development, the developer shall submit full working details of the method of on-site disposal of surface water drainage. This shall be in accordance with the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland, CIRIA C521 2000, to the satisfaction of the CNPA acting as Planning Authority in consultation with the Scottish Environment Protection Agency.
7. Prior to the commencement of any other work in connection with the development hereby approved, the following road works shall be completed to the satisfaction of the CNPA acting as Planning Authority, in consultation with Highland Council's Area Roads Manager;
 - i. the existing access shall be upgraded at its junction with the public road and shall have a throat width of at least 4.5m at a point 6m from the nearside edge of the public road;
 - ii. the access shall consist of a minimum of 40mm thick Close Graded Wearing Course on 60mm Dense Basecourse on a minimum thickness of 350mm Type 1 sub base, all on a sound

- formation, for a distance of at least 6m from the nearside edge of the public road; and
- iii. visibility splays shall be provided and maintained on each side of the access road at its junction with the public road. These splays shall be a minimum of 2.5m by 90m in an easterly direction and a minimum of 2.5m by 42m in a westerly direction. These splays shall be maintained free from any obstruction greater than 1m above the adjacent road.
8. Prior to the occupation of the approved dwellinghouse, parking and manoeuvring space for at least two cars shall be provided within the curtilage of each property.
 9. Any gates provided shall be set back such that they will not extend beyond the roadside boundary of the site when open.

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11 July 2007

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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.