
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

Prepared by: NEIL STEWART, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)

DEVELOPMENT PROPOSED:

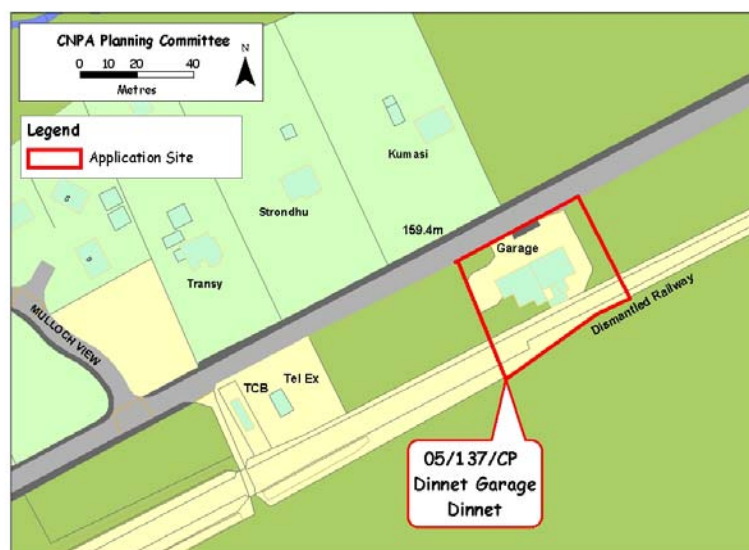
FULL PLANNING PERMISSION FOR DEMOLITION OF EXISTING GARAGE, INCLUDING REMOVAL OF FUEL SERVICES, AND REDEVELOPMENT INCORPORATING CAFETERIA, RETAIL/DISPLAY SPACE, CONFERENCE ROOM, AND POST OFFICE, AND INCLUDING PARKING AND FOOTPATH PROVISION, EXTERNAL CHILDREN'S PLAY AREA AND ALTERATIONS TO ACCESS, DINNET GARAGE, DINNET

REFERENCE: 05/137/CP

APPLICANT: MR. I. HALIFAX, PER AGENT (MICHAEL RASMUSSEN ASSOCIATES, THE STUDIO, STATION SQUARE, ABOYNE, AB34 5HX)

DATE CALLED-IN: 8 APRIL 2005

RECOMMENDATION: REFUSAL



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Fig. 1 - Location Plan

Background

1. This application was reported to the Committee on 8 September 2006. At that time, the recommendation given was for refusal. This was based on the applicant's failure to demonstrate that the proposed development would not be affected by contamination on the site, or that the site could be made suitable for the proposed use without risk to human health and the surrounding environment. Granting permission would have been contrary to national advice and Aberdeenshire Local Plan policy. In addition, the applicant had failed to demonstrate that the site and the proposed development could be adequately served by a Sustainable Urban Drainage System, without risk of pollution or flooding. Again this was considered contrary to national advice and Structure and Local Plan policy.
2. The Committee discussed at some length, the merits of the overall proposal, as well as the situation surrounding the two outstanding issues (contaminated land and surface water drainage). While finding general favour with the principle of the redevelopment proposals, the Committee agreed that the technical matters of contaminated land investigation/remediation and drainage were important issues which required resolution before any consideration of overall approval could be given. The Committee's decision was therefore to defer the application, pending further consideration of these specific issues.
3. The applicant's agent was advised, in writing, immediately following the Committee, of the position. There was a need for them to instruct further contaminated land investigative work and thereafter provide any necessary remediation scheme, all to the satisfaction of Aberdeenshire Council's Scientific Officer. In addition, there was a need to carry out a full drainage impact assessment and provide information on proposed SUDS, in line with the requirements of SEPA.
4. In October of 2006, I received a letter from the applicant's agent which advised that experts had been appointed to carry out the contamination work, and that it was hoped that the report would be produced within 4-6 weeks. The aim therefore was to take the application back to the Committee in December 2006.
5. At the beginning of December 2006, the applicant's agent advised that they would forward the required information when available but were awaiting instructions from his client for its commission.
6. On 9 January 2007, further clarification of the scope of the required works, as confirmed by Aberdeenshire Council's Scientific Officer, was provided at the request of the applicant's agent.

7. **Nothing further was received. On 2 April, further clarification of the situation and the reasons for the delay were sought. It was suggested that, if the reports were not to be forthcoming, the application should be withdrawn, or alternatively it would be reported back to Committee. The applicant's agent subsequently advised that the expert reports had been completed but not released due to non-payment of fees. It was hoped that the reports would be released soon.**
8. **On 28 May, a formal request for the submission of the reports by 18 June, was made. To date the reports have not been received.**
9. **The applicant's agent has now confirmed that the reports will not be submitted and therefore he is content to allow the determination process to proceed. This report is therefore presented with the purpose of bringing this application to a final determination. As such, the contents below are a repeat of the previous report to the Planning Committee on 8 September 2007. Any additions are in bold print.**

SITE DESCRIPTION AND PROPOSAL

10. This site lies within the Dinnet settlement envelope on its east edge. It is located immediately adjacent to the A93 North Deeside Road on its south side. The garage use, which incorporated fuel sales, repair and maintenance workshop, and small village shop and post office ceased operating earlier last year. Until then it had been a long established enterprise at this location. On site there are some buildings of varying construction types and finishes, as well as the fuel pumps, parking and turning hardstanding areas, outbuildings and open yard areas. Access is taken directly from the A93. The site is surrounded by woodland to its east, south and west sides. Also, on the south boundary but within the site, is the former Deeside Railway Line. Across the A93 on the north side is a one and a half storey detached house set back from the road. **(Figs. 1, 2 & 3).**



Fig. 2. Site viewed from A93 looking south west (taken in 2005 when garage use still operating)

11. The redevelopment proposal that is considered in this report is the fourth scheme to be submitted under this planning application. For various reasons the applicants have changed their proposals throughout the assessment of the application. The initial proposal, called-in in April 2005, removed all the existing buildings and replaced them with one building incorporating cafeteria and display area accommodation, with ancillary external parking and play area space. The intention at that time was to retain the existing fuel services and bus/minibus hire facilities but remove the vehicle repair operations. It was promoted as a tourist related eco-friendly development which also retained the local post office. In October 2005, the second scheme was submitted. This retained the main repair workshop building on the site and extended it to form the coffee shop and tourist related uses proposed initially. Again fuel, bus/minibus hire, and post office/local shop services were retained. In February 2006, a third scheme was submitted. This once again removed the repair and maintenance workshop uses and all existing buildings. It also removed the bus/minibus hire services but retained the fuel sales. A new smaller building was proposed incorporating the catering and tourist uses, and the post office. Finally, in June 2006, the fourth and final proposal was received. This is the one which remains the subject of this report.



Fig. 3. Rear of site viewed from the woodland to the south

12. The proposal is therefore now to remove all existing buildings. They will be replaced by a new building which will incorporate a self-service cafeteria, retail and display space, a conference room, and ancillary toilet, office, staff and kitchen facilities. The post office use will be retained. Externally, there will be access to a children's play area and a footpath route from the rear of the building to the former Deeside Railway Line. Parking for 15 vehicles (including disabled spaces) is provided on the west side of the building and the service yard area is shown on the east side. Access arrangements are to be rationalised with one existing access being removed and the other retained as the sole point of entry and exit. The building is single storey with a feature of shallow curved roofs finished in red corrugated iron cladding. The walls are to be finished in larch timber cladding with glass feature windows (**Fig. 4**). The proposal now though removes the fuel sales and its associated infrastructure, as well as the vehicle repair and vehicle hire services. Please also note that the drawings indicate as a phase 2 proposal, the reinstatement of fuel sales at a potential new petrol station on an adjacent site on the east side. However, this does not form part of the proposal under consideration.



Fig. 4. Proposed site plan and elevations

DEVELOPMENT PLAN CONTEXT

13. **Aberdeen and Aberdeenshire Structure Plan 2001-2016 (NEST)** advises in **Policy 3 (Other Employment Opportunities)**, that proposed employment uses on unallocated sites shall be considered acceptable providing they respect relevant structure and local plan policies, and take reasonable account of certain criteria including (amongst other things) the proposal; being well integrated with the existing land use pattern; not adversely affecting the amenity of neighbouring land uses; taking account of the availability of infrastructure and the need for access; being located close to existing population; making use of derelict, despoiled, unused and under-used land and buildings; and minimising the impact of pollution. **Policy 6 (Tourism)** encourages tourism and tourist related developments where they are compatible with policies to safeguard and enhance the built and natural environment.
14. **Policy 17 (Countryside and Open Space Access)** states that Local Plans should encourage and protect responsible access to the open space and countryside of the north east, by protecting and promoting a network of routes and facilities. **Policy 19 (Wildlife, Landscape and Land Resources)** requires all new development to take into consideration the character of the landscape in terms of scale, siting, form and design. **Policy 21 (Design)** seeks to improve the general standard of design and promotes environmental friendly layouts, energy and thermally efficient buildings, habitat enhancement, use of sustainable materials and mixed use development where appropriate. **Policy 22 (Water Management)** requires developers to deal with surface water treatment in a sustainable manner and in ways that avoid flooding and pollution.
15. **The adopted Aberdeenshire Local Plan 2006**, allocates the site and adjoining land to the west as a redevelopment area suitable for uses meeting the Plan's policies. **Policy Emp\1 (Allocated and Existing Employment Land)** states that new employment uses will be approved, in principle, on allocated and existing employment land. There is a presumption in favour of retaining existing sites for industry and business use. **Policy Emp\9 (Tourist Facilities and Accommodation)** states that new or improved tourist facilities will be approved, in principle, if; they respect the character, amenity and scale of development in the surrounding area; they are reasonably accessible by public transport, cycling, and on foot; and they are well related to existing settlements and avoid dispersed patterns of development. **Policy Env\22 (Public Access)** advises that development that would have an adverse effect on any existing or potential public access for walking, cycling or horse riding, will be refused unless it retains existing or potential public access while maintaining or enhancing its amenity value; or it makes alternative access provision that must be no less attractive and is safe and convenient for public use.

16. **Policy Inf4B (Surface Water Drainage Standards: SUDS)** states that development will be approved, in principle, if surface water is dealt with in a sustainable manner and in ways that avoid flooding and pollution. The best available SUDS will be required as a means of achieving sustainable disposal and/or re-use of surface water. **Policy Env\1 (Sustainability Principles)** sets out a series of sustainability indicators against which development proposals will be assessed. **Policy Gen\2 (The Layout, Siting & Design of New Development)**, sets out a series of general principles for the layout, siting and design of new development. **Policy Gen\7 (Contaminated Land)** states that development on land that is contaminated, or suspected of contamination, will be approved, in principle, if; necessary investigations and assessments are undertaken to identify any actual or possible significant risk to public health or safety, or to the environment, including possible pollution of controlled waters that arise from the development; and effective remedial action is taken to ensure the site is made suitable for any new use, in scale with the planning permission given for that particular use. **Policy Gen\11 (Redevelopment and Mixed Use Areas)** states that development in areas identified in the Local Plan for redevelopment or mixed use will be approved, in principle, if; it conforms with Policy Gen\4 (Infill) if in a settlement; and it does not jeopardise the ability of the site to be redeveloped successfully.
17. **The Cairngorms National Park Plan** sets out strategic objectives. For the Landscape, Built and Historic Environment, these include, amongst others; ensure development complements and enhances the landscape character of the Park; and new development in settlements and surrounding areas and the management of public spaces should complement and enhance the character, pattern and local identity of the built and historic environment. For Economy and Employment, these include amongst others; promote “green business” opportunities; and promote opportunities for economic diversification across all areas of the Park. For Sustainable Tourism, these include, amongst others; strengthen and maintain the viability of the tourism industry in the Park and the contribution that it makes to the local and regional economy.

CONSULTATIONS

18. Throughout this process, due to the number of changes that have been made to the proposal, a number of consultations have been carried out and some consultees have been asked for responses on several occasions.

19. **Scottish Water** have advised that their sewer network assets have adequate capacity to accommodate this development at the present time. However, this will be dependent on the spare capacity at the time of connection. A totally separate surface water drainage system will be required with the surface water discharging to a suitable outlet. SW support SUDS. The water network infrastructure is not affected by this proposal at this time.
20. From the outset, **Aberdeenshire Council's Transportation and Infrastructure Service** has not raised any objections. On the current proposal, they state that the proposed access is good in terms of width, gradient, surface condition, and visibility. The car parking provision shown is adequate. They recommend conditions be imposed on provision and retention of visibility splays, surfacing of the access, and the provision of the minimum number of car parking spaces (15).
21. **Aberdeenshire Council's Environmental Health Officer** has confirmed that he has no observations to make.
22. **Aberdeenshire Council's Environmental Planner (Natural Heritage)** has confirmed that the proposal is within the existing site of the garage and associated yard areas and therefore there would be no impact on trees or nature conservation interests. However, attention is drawn to the former Deeside Railway Line to the rear of the site which may be required in the future to extend the long distance path for the Deeside Way. She therefore asks that the route, where it passes through the proposed site, is safeguarded for the provision of a 2m wide surfaced path. This is to ensure that any future development proposal in respect of the Deeside Way, is not prejudiced by the redevelopment proposal.
23. **The CNPA's Economic Development Officer** has advised that the petrol station and shop at Dinnet was a well-established business which formed part of a small commercial grouping in Dinnet which includes the Loch Kinord Hotel, Victoria Tearooms, various tradespeople, and an antique shop. As a gateway to the Park and the Highlands, Dinnet plays an important role. It is on the Deeside Way and is a popular stop for visitors, both general and specialist. However, it is expected that the vast majority of visitors to Dinnet are day visitors using the shop and tea room facilities. The proposed plan regenerates a closed vehicle repair workshop which may not have been viable due to the closeness of Ballater garages on one side and Aboyne garages on the other. It is disappointing that the petrol station is no longer part of the development. This was a positive aspect of the project which has now been taken away. However, the loss of the petrol pumps is an understandable, economic decision. The proposed cafeteria may negatively impact on the established tea rooms (and to a lesser extent the hotel) as visitors are unlikely to call at both. The counter argument is that such a development adds to the overall economic viability of Dinnet and is a new high profile addition to the Dinnet Business

Community. Such positive impacts are probably only possible if the village as a whole is willing to work as one visitor marketing unit.

24. **The CNPA's Access Officer (Core Paths Plan)** supports the request by Aberdeenshire Council, that the area along the dismantled railway line to the rear of the site, is safeguarded for non-motorised access. It is also noted that the applicant has been in contact and is willing to enter into agreements (in 2005) about the distribution of visitor information about the Park. This is generally welcomed.
25. **The CNPA's Senior Visitor Services Officer** has stated that VS&RG's priority position with Visitor Information is to work with existing Tourist Information Centres within the Park managed by VisitScotland and also with managers of facilities at the publicly funded ranger services, communities and then selected visitor attractions. However, the location of the proposed facility at Dinnet will be ideal for visitors entering the Park from the east and so they would be happy to supply a range of National Park publications. There are no plans for the creation of a particular visitor centre at Dinnet but there are now proposals for a Point of Entry Marker. This will involve, subject to local agreement and any permissions required, an upgrade of the car park at the village hall and the installation of Park Wide interpretation. It is stated that none of this will conflict directly with the applicant's proposals but there is potential for confusing the visitor because of the proximity between the two sites.
26. **Aberdeenshire Council's Petroleum Officer** has been involved throughout the processing of this application. To summarise, the redevelopment proposals, coupled with the continuation of fuel services and the use of outdated fuel infrastructure, did not comply with updated Petroleum Legislation. It was stated on several of the submitted schemes, that the proposal would affect the safe operation of the premises. The safety of people and protection of the environment are major concerns of petrol filling stations and the risks are significantly increased at sites where the general public have unrestricted access. There are hazardous zones throughout a petrol station and regard has to be taken to the operational factors particular to that petrol station. At Dinnet, the proposals did not take these into account with regard to the design and construction of the new replacement fuel sales, cafeteria and retail outlet. Although there were no proposals to physically alter or change any of the existing pumps, tanks or facilities, by proposing to alter the operational arrangements on site, and in doing so, increase the hazards, risks were increased and legislation was not being complied with. The final scheme does not now though have fuel services. The Petroleum Officer has therefore now removed his objection, provided the petrol installation is decommissioned and made safe before any demolition and building work take place. The installation shall be made safe in accordance with established procedures and guidelines. This entails the removal of all petrol pumps, suction lines, vent pipes or tanks. Filling the tanks with sand is

not a method which can be used if the tanks are to remain in situ. The decommissioning work should be carried out by a competent contractor.

27. At the start of the assessment process in April 2005, **Aberdeenshire Council's Scientific Officer (Contaminated Land)** advised that because of the historical use of the site as a filling station, with regard to the redevelopment proposal, contaminated land was a material planning consideration. A satisfactory site investigation to determine the extent of potential contamination was requested in line with policy. Thereafter, if required, a remediation strategy should be agreed. The applicants commissioned a site investigation and a report was submitted in February 2006. However, for various reasons the investigations and report did not meet requirements. In addition, following the final revision to the proposals which now involve complete demolition of all the buildings and the removal of fuel operations, the **Scientific Officer** updated the response on the submitted site investigation report. It was stated that, the investigation report was based on the previous development and therefore did not include any assessment of ground conditions adjacent to the underground tanks/fuel pumps or within the footprint of the existing buildings. As contamination may be present in these areas, a further full investigation of the site was required. This was to identify any risks posed to future site users and other potential receptors such as groundwater.
28. In a letter to the applicant's agent, the **Scientific Officer** advised that because the previous proposals indicated that the site was to continue to operate as a filling station and the majority of the existing buildings were to be retained, they did not require that fuel infrastructure or the ground conditions within the footprint of the buildings be investigated. This had changed, therefore there is a need to carry out additional site investigation works. In addition, it was stated that the tanks on site range from 36 to 47 years in age, and therefore there is a possibility that the integrity of the tanks has been compromised resulting in gradual leakage and potential contamination of soils. Furthermore, fuel lines and pumps are also potential sources of contamination. Also it is stated that not enough sample locations have been provided to demonstrate the levels of potential contamination and although the new building will sit within the footprint of the existing buildings, it is possible that past activities in this area have resulted in contamination of the ground. Depending on the type and level of contamination present, construction workers, the fabric of the proposed building, services, groundwater and future users of the building may be at risk. Any such risks need to be identified at this stage to ensure that the site is suitable for the use proposed. Due to the past use of the site and the nature of the underlying ground conditions, it is possible that diffuse contamination may also be present. It is stated that less destructive methods of site investigation are available, such as the installation of narrow boreholes which are routinely used in circumstances where access is limited or where services may be present. The letter

concludes by stating that the current policy of Aberdeenshire Council requires the extent of any contamination be determined and that a remedial scheme to mitigate any risks identified be agreed, **before planning permission is issued.**

29. As a follow up, **the Scientific Officer** has added that the policy to require the information prior to the issuing of planning permission is applied with consistency throughout the Aberdeenshire Council area, with very few exceptions. Where there are exceptions, these are not on high risk sites such as filling stations. A common statistic is that 95% of all underground tanks leak. Dinnet garage is an older site and without doubt, there will some contamination of the ground. It is the extent which is unknown. In circumstances such as this, and where it is an application that will be determined by the Planning Committee, they are happy to recommend "*delegated grant*" subject to satisfactory site investigation and remedial strategy if required. This provides the assurances for the applicant and leaves open the option to apply planning conditions which cannot be specified until investigations and scoping of remedial works are finalised. **If a "*delegated grant*" is not possible, or if the applicant is not willing to carry out the additional investigative works, a recommendation of refusal is supported.**
30. **SEPA** have also been involved throughout the consideration of this application. In relation to foul drainage proposals, they have no objections to the proposed connection to the public sewer system, provided Scottish Water are agreeable. From the start, they have advocated sustainable urban drainage for the treatment of surface water run-off from the development. They therefore required the submission of a Drainage Impact Assessment and detailed SUDS scheme. Some information was supplied by the applicant's agent. However, this did not meet the requirements of **SEPA**. On the various schemes submitted, they continued to request that a Drainage Impact Assessment in line with PAN 61 was required. However, in addition, when consulted on the latest proposal to remove the fuel services, **SEPA** noted that the application raised the possibility that a number of potentially contaminated activities have taken place at the site and that an assessment of the condition of the land and the risks posed by any contamination had not been fully carried out to meet the requirements of PAN 33 (Development on Contaminated Land). They recommend that the applicant be required to submit a risk assessment, and proposals to manage any risk identified **prior to any planning consent being granted.**
31. As a follow up, **SEPA** notes that the ground investigations undertaken were based on the previous proposals to continue the operation of the filling station and therefore did not include any assessment of ground conditions adjacent to or beneath the fuel tanks. They therefore note that the investigation works do not clearly relate to the development now proposed and do not constitute a risk assessment as per the

requirements of PAN 33. In addition, **SEPA** state that given that the required investigations have not been undertaken, and as they have no clear indication of how surface water on site will be dealt with, they continue to request that a Drainage Impact Assessment is submitted in order to ensure that sufficient land has been allocated on site for the discharge of surface water run-off without risk of pollution. They do not consider it appropriate that this matter is dealt with by planning condition. **They therefore recommend that the application is not determined until outstanding issues in this regard are resolved. For the avoidance of doubt, SEPA holds an objection on the basis of a lack of information (not an objection in principle). If the applicant is not willing to submit the additional information, they are content to support a recommendation of refusal**

REPRESENTATIONS

32. No representations have been received.

APPRAISAL

33. The considerable period of time that has passed since this application was first submitted has been as a result of extensive and complex consultation processes but also because the applicant has altered his proposal three times since in its original submission. The current submission is the one that requires a determination.
34. The issues that the proposal raise include, the principle of the loss of the garage facility at this location and the redevelopment of the site for the proposed use, planning policy for the area, the design of the proposal and its impact on the surrounding area, and the technical issues of access, parking, contaminated land and drainage.

Removal of Garage Facilities and the Principle of Redevelopment

35. The site has had a long established use as a garage and filling station. From information provided by the Council, it appears that some of the fuel tanks were established in the late 50's and early 60's. It is logical to assume therefore that the use has been existence since at least this time. Over the years no doubt the business will have diversified but latterly it has also provided a local point of service for the post office and a small village shop. The applicant has been keen from the start to retain fuel services at the site. It would appear also from some of the earlier schemes that there was an intention to retain some of the other services that the garage operated such as vehicle repair and maintenance, and bus and mini-bus hire. However, it has been stated that the bus hire aspect is no longer an option because the contract has been lost and the bus fleet was reaching the end of its life. Similarly, the economics of providing the vehicle repair and

maintenance aspect was considered to be no longer viable. This part of the business closed some time ago. In the interests of maintaining important rural services, the retention of fuel services was one aspect though that I was keen to see retained if at all possible.

36. A letter submitted in March 2006 from the applicant's agent explains that no rural garages can continue to sell small quantities of fuel. The fuel systems at Dinnet are approaching the end of their design life. The applicant was persuaded by local opinion and by a desire to provide eco-friendly fuel options, to try and retain the fuel services at the site, in conjunction with the new uses proposed. This is where the matter of the Petroleum Legislation has introduced problems relating to the economic viability of the whole project. As a result of introducing the new uses and the physical works to achieve that, the updated Petroleum Legislation, for obvious health and safety reasons, requires extensive upgrades of the existing infrastructure and would have impacted upon the potential redevelopment proposals in terms of compromising the layout and the design of the new building, as well as how the development would be operated. Figures quoted for the physical upgrade work go into the hundreds of thousands. Reluctantly therefore, the applicant has removed the sale of fuel from his proposals. He has indicated a desire to reintroduce fuel services at Dinnet in a potential future development nearby but this is purely indicative and cannot be considered in the assessment of this proposal.
37. So what are the issues in relation to this? From an economic development point of view, clearly the loss of a historical rural fuel service, and the other associated vehicle related garage uses is negative. However, it is the case that similar services are readily available along the A93 tourist route, both within and outwith the Park. Services are available at Braemar, Ballater, Aboyne, Kincardine O'Neil and Banchory. There are also other local vehicle repair businesses scattered about the area. The CNPA's Economic Development Officer is disappointed in this respect but understands the decision from an economic viability point of view. The economic impact of the loss of the garage uses, however, can be offset, by the redevelopment proposals. The provision of the new facility, incorporating visitor type uses, at this location, will generate income into the community, and it is still proposed to retain and expand the sub post office and village shop services. The applicant has stated that he envisages creating employment opportunities for upwards of seven people. It may be that some competition with existing visitor type businesses in Dinnet and the surrounding area will arise but no representations have been received in this respect. It is not for the planning system to interfere in the competitive business market but the proposals, I believe, are mutually compatible with existing ones in the area, and if they work together as one marketing unit, it could be a boost for the local economy.

38. The site is also a prominent one, on a main tourist route and at one of the main entrances to the National Park. It is also well placed to take advantage of any future proposal to develop the former Deeside Railway Line as a long distance walking and cycling route. There is a danger that the site, now that it has ceased operating, will become derelict. At this location, this would have the potential for detrimental impacts.

Planning Policy

39. The site is located within the settlement envelope of Dinnet as defined in the Aberdeenshire Local Plan (ALP). It is also specifically earmarked as a site suitable for redevelopment for uses meeting other policies of the Local Plan. This policy context therefore effectively promotes the site as a “*brownfield*” opportunity. The uses proposed are related to tourism and the community, and they will generate a degree of economic growth. General planning policy contained within the structure and local plans for the area are supportive of such developments in principle, provided they meet with all other requirements and policies. I can find no policy contraventions in relation to the principle of the project.

Impact of Development

40. As mentioned above, this is an important site. My view is that the existing buildings carry no architectural merit and indeed, if left unused, they will continue to deteriorate creating a negative visual appearance at this eastern gateway to the Park. The site, although a brownfield one, is set in a wooded context and therefore is semi-rural in nature. The design of the new building is single storey and relatively simple in form. It therefore will have quite a low impact. However, for a building of this type to promote its use, it is beneficial to have added architectural interest. In this case, I believe the introduction of the curved roofs and feature trusses, combined with the glazing areas, and the use of larch timber cladding and red corrugated iron roof sheeting, provides the right balance between maintaining a respect for its semi-rural surroundings and providing an architectural statement. It also provides a balance between traditional materials and more contemporary design forms.
41. In addition, the development promotes sustainable design principles. The applicant’s agent has stated that the building is to be constructed in larch from a locally sourced saw mill and that the larch will not need preservative treatment or generate use of carbons in its supply and manufacture. The roof is designed to accommodate a turf and sedum planted finish but costs are prohibitive. There would be an intention to carry this out at a later date. The glazing areas and roof lights are designed to provide passive solar gain and assist heating in winter. The eaves are designed to admit the sun in winter and provide shade in the summer, and the heating will be thermostatically controlled under

floor heating. There was an intention to utilise a woodchip boiler using forest waste but this was removed on cost grounds. However, again they would hope to reintroduce this at a later date. In all its aspects, I fully support the design concept.

42. There are no impacts on the surrounding trees and there are no natural heritage designations covering the site. The uses proposed will not cause adverse impacts on the amenity of nearby properties, the nearest of which is a detached house set back from the road on the north side of the A93. It is important to ensure that the proposal for extending the former Deeside Railway Line as a route into the Park is not compromised by the development. However, the introduction of this route would be mutually beneficial to the proposal and indeed the design and layout reflects this. The proposed line of the route through the site will be safeguarded and the layout shows access to and from the new building to the Line. The terms of planning policies relating to the retention of public access are therefore met.

Access, Parking, Contaminated Land and Drainage

43. Aberdeenshire Council's Transportation and Infrastructure Service have confirmed that the parking and revised access proposals are acceptable. This then leaves the outstanding matters of contaminated land and drainage.
44. These technical matters are covered extensively in Paragraphs 18 -22. To summarise, for any redevelopment of a site such as a filling station, especially one where existing on site infrastructure is outdated, the issue of potential contamination and how this can be satisfactorily remedied is an essential material consideration. PAN 33 (Development of Contaminated Land) advises in its introduction that:

"Land can be contaminated by a variety of substances that pose immediate or long-term risks to human health and the environment. Such contaminants may escape from the site to cause air, land, surface water or ground water pollution, and in some cases may even damage buildings and underground services, or contaminate the food chain.

As part of the Government's commitment to sustainable development, the legacy of contamination has to be dealt with, and additional contamination prevented. Improvements in scientific understanding of the potential harm caused by contaminants, allied to the determination to re-use previously developed land wherever possible, have served to highlight the importance of tackling contaminated land.

The planning system has a key part to play in addressing the problem of historical contamination. In pursuing policies to re-use and redevelop sites, developers and planning authorities need to be aware

of contamination issues, and the role of the planning system in dealing with them.”

45. In this instance, the former filling station use, in combination with the redevelopment proposals which hope to generate increased visitor numbers to the location, categorise the site as high risk. As stated in Paragraphs 18-20, in this instance, investigative works carried out on behalf of the applicant, have not been found to be thorough enough to meet the requirements of PAN 33, ALP Policy Gen\7 or Aberdeenshire Council's Scientific Officer.
46. In addition, the applicant has not carried out a full Drainage Impact Assessment for the disposal of surface water from the site, in line with the requirements of PAN 61 (Planning and Sustainable Urban Drainage Systems) and as required by SEPA and structure and local plan policies. In this instance, because of the potential contamination of the ground, the issue of how surface water will be dealt with is even more important. If contamination is found to be widespread, without a clear knowledge of what exists and what remedial work is required, the risk of pollution to ground waters is high.
47. PAN 33 does advise that *“applications need not be delayed pending contaminated land investigations by the developer, unless there is good reason to suppose that the land is actually contaminated, or that there is potentially only slight contamination. In such instances, planning permission could be granted on condition that development does not start until a site investigation and assessment has been carried out and that the development itself will incorporate remedial measures”*. While appreciating that this site was potentially high risk, in the interests of taking a proactive approach to a development that has, in my view, many positives, I considered moving forward to an approval recommendation, with the issues of contaminated land and surface water being dealt with by planning conditions. However, both Aberdeenshire Council's Scientific Officer and SEPA have voiced strong concerns about this approach, and they would be willing to support a recommendation of refusal on these grounds, if the applicant was unwilling to carry out the further work.

Conclusion

48. **In my view there were positive aspects to this proposal and these have been outlined previously. At the Committee in September 2007, there was a degree of acceptance by the Committee that the redevelopment could be a positive proposal for this site but there was also an acceptance that the technical matters of contaminated land investigation/remediation and drainage were important issues in this particular instance. The Committee did not feel that the outstanding issues could be detached from the overall consideration of the proposal, nor did the Committee feel comfortable with a “delegated approval” option.**

49. As covered in the introductory paragraphs (1-9), for reasons, as I understand it related to finance, the required information and reports have not been and will not be submitted. The application is now over 2 years old and it is over 8 months since the previous decision in September 2006. A deadline for submission of the information has passed. I must therefore seek the Committee's agreement to determine the application. Without the required additional work on the related issues of contaminated land and drainage, and in light of the strength of concern from two important consultees, it remains impossible for me to put forward a recommendation of approval. In the knowledge that the reports will not be forthcoming, I also do not believe that a conditional approval would be appropriate. There may also be further issues that need to be addressed following the additional investigative works and the risks of contamination are high. The recommendation of refusal continues to be a defensible one, and the consultees continue to confirm that they feel able to defend their stance.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

50. The proposed development, in my view, will enhance the appearance of this important location and no natural or cultural heritage features will be directly affected. However, without a clear understanding of the risks of potential contamination, there is a danger of pollution to the ground and ground waters.

Promote Sustainable Use of Natural Resources

51. The design of the proposed building is to encompass sustainable design principles. The use of locally grown timber is welcomed.

Promote Understanding and Enjoyment of the Area

52. The development may have some positives in this respect. The new facility could provide a location for the distribution of visitor information. It may also enhance the facilities on offer for future users of the former Deeside Railway Line.

Promote Sustainable Economic and Social Development of the Area

53. The loss of the garage use, particularly the removal of the fuel services is negative in terms of this aim. However, this would be offset by the economic and community based opportunities that the redevelopment proposals offer in terms of tourist facilities and retention and expansion of local services such as the sub post office and the shop. If the Dinnet

community works together, there could be mutual benefits to all the existing businesses in the area.

RECOMMENDATION

54. That Members of the Committee support a recommendation to:

Refuse Full Planning Permission for Demolition of Existing Garage & Redevelopment Incorporating Cafeteria, Retail/Display Space, Conference Room, Post Office, Parking and Footpath Provision and Children's Play Area, at Dinnet Garage, Dinnet, for the following reasons:

1. The applicant has failed to demonstrate that the proposed development will not be significantly affected by contamination on the site, or that the site can be made suitable for the proposed use without risk to human health and the surrounding environment. The site, because of its historical use as a fuel filling station, is considered to carry a high risk of contaminated land. To permit the proposal without a satisfactory scheme of investigative works, and any subsequent appropriate remedial strategy, would be contrary to the advice contained in PAN 33 (Development of Contaminated Land) and the requirements of adopted Aberdeenshire Local Plan 2006, Policy Gen\7 (Contaminated Land).
2. The applicant has failed to demonstrate that the site and the proposed development can be adequately served by a Sustainable Urban Drainage System, without the risk of pollution or flooding. To permit the proposal without a satisfactory scheme for the disposal of surface water would be contrary to the advice contained in PAN 61 (Sustainable Urban Drainage Systems) and the requirements of adopted Aberdeen and Aberdeenshire Structure Plan 2001-2016 (NEST), Policy 22 (Water Management), and adopted Aberdeenshire Local Plan 2006, Policy Inf4B (Surface Water Drainage Standards:SUDS).

**Neil Stewart
20 June 2007**

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