

SITE DESCRIPTION AND PROPOSAL

1. The site lies on the west side of Kinchurdy Road in Boat of Garten approximately mid way along that road. The road generally has residential development on both sides with detached houses in considerable grounds. On the western side of the road there is a gap in the frontage of residential curtilages and this is effectively the application site. This gap includes a footpath, which provides access to woodland and a link with the sports pitch and future community hall site off Deishar Road, there is also a public bench. The footpath also provides access to a range of woodland walks. The gap also appears to provide limited parking. The northern half of this gap site contains the footpath and an area that could be used for parking. The southern half (approx 9 metres in width) contains a large scots pine and birch trees. This is the area that the applicant would like to take into the garden of his property known as Creag Beag. It should be noted that the Speyside Way runs along Kinchurdy Road.



Fig2. Trees are behind footpath to be included in garden curtilage

2. Creag Beag is basically a detached bungalow setback and above the road frontage. The boundary of the garden with the area proposed to be taken in is formed by a post and wire fence. The plan is to enclose a strip of land 9 metres in width to include the scots pine and birch trees. The applicant has confirmed that the intention is in part to provide protection for the scots pine tree as he notes that builders have been using the area for the storage of building materials and mixing of

cement. However, in addition the applicant points out that they may want to extend/re-build the house as a permanent dwelling.

DEVELOPMENT PLAN CONTEXT

3. **Policy L4 Landscape Character**, states that the Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals. **Policy G2 Design for Sustainability** lists a number of criteria on which proposed developments will be assessed. These include service provision (water and sewerage, drainage, roads, schools electricity); accessibility by public transport, cycling, walking and car; energy efficiency in terms of location, layout and design (including the utilisation of renewable energy sources).
4. In the **Badenoch and Strathspey Local Plan** the gap site is allocated as amenity woodland. **Policy 5.10.1 'Landscape Corridor'** of the Plan recognises the wooded knolls between Deishar Road and Kinchurdy Road as a major landscape feature that will be safeguarded from development. This corridor is recognised as important in terms of recreation, amenity and as a wildlife habitat. The Council will seek agreement with the landowner, together with assistance from the District Council and appropriate community groups, to secure management of native woodlands, commercial forestry, and footpaths. The whole Kinchurdy Road frontage on the western side, apart from this site is allocated by the Badenoch and Strathspey Local Plan as infill, where new housing proposals can be acceptable subject to a detailed range of criteria.

CONSULTATIONS

5. **Boat of Garten Community Council** object to the application comment that in the Local Plan the ground referred to is designated as amenity ground. The Council does not wish to lose any amenity ground in the village. Also the ground is sited at the start of one of the woodland walks which has been used by members of the community for many years as well as by an increasing number of visitors to the village. The ground is also often used as a car park by those choosing this route into the woodland area. This site also helps to keep the fairly narrow road clear by providing parking off the soft verge. The Community Council notes that the Park Authority regards this application as an issue of "general significance" in planning terms and hope that the application is refused for the reasons stated.

REPRESENTATIONS

6. Four letters of representation have been received, two objections and two letters from the applicant summarised below (letters attached at end of report).

GH Deakin Kilrevin, Kinchurdy Road

site designated car park in Local Plan
site below a cliff that is a well-known local beauty spot
site has never been gardened
reason for application unclear

Mr A R Gunn, Kaim, Kinchurdy Road

could facilitate future development at the site including a second house
site shown in the local plan as amenity woodland
in an earlier plan site shown as possible car park
any future development could detract from visual amenity of this part of the Speyside Way and be contrary to discouraging unsympathetic development.

Applicant

other sites have been developed on the road, this is a minor change
enough room for footpath access would remain
site used by builders for mixing cement
car park area would not be affected and there are other areas in the village for parking.
wishes to rebuild the house in future.

APPRAISAL

7. The main issues to consider for this application are the acceptability of the proposal in policy terms and more detailed issues with regard to the effect of the proposal upon the general amenity of the site.
8. The clear starting point here is that the strip of land at the side of the applicant's house, which is the subject of this application, is allocated as amenity woodland by the Badenoch and Strathspey Local Plan. As noted in the development plan section the plan recognises that because of its amenity value the area should be safeguarded from development.
9. While the proposal is not development in the sense of buildings being proposed, the enclosure of this piece of land effectively changes its use from open amenity woodland to part of a private garden curtilage (this constitutes development in planning terms). The proposal takes in a 9 metre wide section of the gap site but still allows access via a footpath into the wider woodland. In addition a small flat section of the land that would appear able to accommodate two parked vehicles would not be included in the land to be taken in. The area to be enclosed includes a

number of trees including birch and a large scots pine fronting onto the road. The applicant points out that builders have used the site for parking of vehicles, storing of materials and cement mixing. In the applicant's view the enclosure of the land would help protect the trees and particularly the large scots pine from such activities.

10. Creag Beg is currently a second home and the applicant does not wish to hide the fact that they may wish to build the house in the future when it would become his permanent home. These justifications are recognised. However, it is unlikely that the small area that has been used by builders once would be likely to be used for this purpose on a regular basis and the grounds of the house are considerable and relate well in terms of the relationship between the house and the plot boundaries. This relationship is similar to other properties in the area. There is already some room on either side of the house for future extensions and it is my view that the curtilage does not necessarily have to be extended to accommodate any future building proposals. Given this, it is my view that the proposal does not provide a strong justification or need for the development when the area is designated by the Local Plan as amenity woodland and supported by the Community Council to be protected as such.
11. In terms of detail the application proposes a small post and wire fence to enclose the tree area so it would not be hidden from view from neighbours or passing walkers. However, one must recognise that this could alter the character of the area as the strip of land would effectively become garden and benefit from certain permitted development rights such as the erection of certain outbuildings without the need for planning permission. If the Committee wished to approve the application it would be possible to include conditions removing permitted development rights for such buildings. However, in my view that because the proposal is basically contrary to the development plan, this approach should not be considered.
12. While accepting that this may appear to be a relatively minor application in its own right I would argue that this proposal would set a local precedent and perhaps encourage further applications of this nature to the further detriment of amenity woodland in the area. In addition, from the Local Plan maps and maps of the area generally the frontage that is the subject of this application is a key section of land along Kinchurdy Road which forms a break in a continuous frontage of residential development. The applicant points out that there has been much recent housing development along this side of the road. However, the key difference is that the whole of the western side of Kinchurdy Road is allocated by the Local Plan for infill development, with the sole exception of this gap site. The site is also a key point where public access is available to woodland to the west and north. While I recognise that the application does not restrict access to the woodland, and beyond, it does effectively reduce the setting and emphasis of this access. The route also provides access from

Kinchurdy Road through to Deishar Road, the sports pitch and the site for the Community Centre, which the Planning Committee granted approval for earlier this year. I also note that this access route is included in a walks leaflet produced by the local community and these walks link in well with the Speyside Way which runs along Kinchurdy Road.

13. In my view, the proposal does not provide sufficient justification for departing from the local plan policy which seeks to safeguard amenity woodland from development, the proposal may also set an undesirable precedent and consequently, my recommendation is one of refusal.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

14. Part of the reason for the application is to protect a large pine tree from builder's activities. However, it would appear that this was a one off case that would not of itself justify taking in a piece of land that is important in visual terms and forms a break in development along the west side of the Kinchurdy Road. The proposal may result in a precedent encouraging further applications of this type to the detriment of amenity woodland.

Promote Sustainable Use of Natural Resources

15. Proposal not directly relevant to this aim.

Promote Understanding and Enjoyment of the Area

16. The small piece of land is a key break in residential development along Kinchurdy Road and is therefore important both in terms of access and the setting of that access but also in terms of the enjoyment of the small tree area by locals and visitors alike, access to which would be lost as a result of this proposal. The site also provides a connection between the Speyside Way and the wider footpath network around the village.

Promote Sustainable Economic and Social Development of the Area

17. The proposal would do little to promote the social and economic development of the area, but conversely would bar access to a small tree area, which is adjacent to a walk/access route promoted by the community for both local people and visitors.

RECOMMENDATION

18. That Members of the Committee support a recommendation to:
REFUSE Full Planning Permission for the change of use of open land to part of dwelling curtilage at Creag Beg, Kinchurdy Road, Boat of Garten for the following reason/s
1. The proposal would be detrimental and result in the fragmentation of the limited open space and landscape character at a key access site along the west side of Kinchurdy Road to a wider area of woodland that forms an important strategic link between the southern and western parts of the village. The proposal would be contrary to the Badenoch and Strathspey Local Plan Policy 5.10.1, which seeks to safeguard the site from development and to the collective aims of the Cairngorms National Park. ms
 2. The proposal would set a precedent for further developments of this type which cumulatively would have a negative impact upon the wider character and amenity of the Cairngorms National Park.

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