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## CAIRNGORMS NATIONAL PARK AUTHORITY

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**Title:** REPORT ON CALLED-IN PLANNING APPLICATION

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

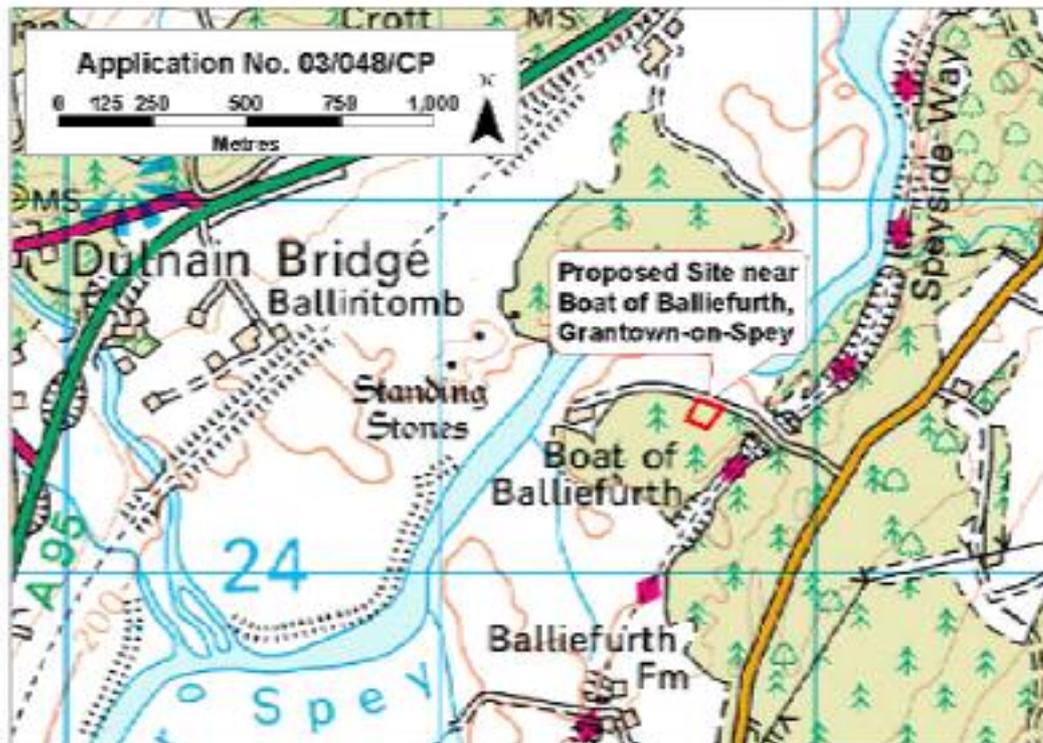
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**DEVELOPMENT PROPOSED:** OUTLINE PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE, LAND AT BOAT OF BALLIEFURTH, GRANTOWN-ON-SPEY

**REFERENCE:** 03/048/CP

**APPLICANT:** A. MACLENNAN, BALLIEFURTH FARM, GRANTOWN-ON-SPEY

**DATE CALLED-IN:** 24 OCTOBER 2003



**Fig. 1 - Location Plan**

## SITE DESCRIPTION AND PROPOSAL

1. The site to which this application relates, is located within a woodland area on the west side of the B970 approximately 4km south of Grantown-on-Spey (see Fig.1 above). The site, which forms a clearing within the conifer plantation (see Fig. 2 below), is positioned approximately 400m down an existing access track (see Fig. 3 below) which leads from the B970, across a dismantled railway line (part of the Speyside Way) and westwards to the property known as “Boat of Balliefurth”. This access track also serves another property known as “Abhainn-sith” which is located to the north east of the proposed site. The clearing lies on the south side of the track and to the north, grazing land extends towards the River Spey which is located approximately 120m away.



**Fig. 2 – Site from track looking South West**



**Fig. 3 – Looking towards site entrance**

2. The application seeks an outline approval for the erection of a single house. As stated above, a clearing in the trees has been formed with access taken from the track. The applicant owns a substantial area of ground adjacent to the site which extends westwards, southwards and eastwards. If successful, he proposes to sell the plot, and the proposed buyers have submitted, through an agent, an indicative house design. This indicates a modestly sized, one and a half storey, 3 bedroom house with a sun lounge. Finishes are shown as second hand slates and white wet dash.
3. The application site has been the subject of previous planning applications. In November 1999, an application for outline planning permission for a house was submitted by the same applicant (BS/99/0256). Against the recommendation of the planning officer, Highland Council's Badenoch and Strathspey Area Committee, approved the application, in April 2000, subject to planning conditions relating to the provision of an additional passing place on the access and visibility splays at the junction of the access with the B970. Conditions also restricted the house to a maximum of 2 storeys in height (traditional design), the position of the house to the southern side of the site and ensured retention of trees along the northern side of the site. In January 2002, an application for Approval of Reserved Matters for a house on the site was submitted (BS/02/021). This application proposed a sizeable 2 storey property with integral double garage. Approval was given, again subject to conditions relating to visibility splay and passing place provision, and restrictions on tree felling. This permission was granted on 19 November 2002 and remains extant until 25 April 2005. Work on this approved house can therefore be commenced at any time up until the expiry of this date.

## DEVELOPMENT PLAN CONTEXT

4. In the Highland Structure Plan, Policy H3 (Housing in the Countryside) restricts, in general, new housing in the countryside except where it can be demonstrated that it is required for the management of the land and related family purposes or where it is for social housing providers attempting to meet demonstrated local affordable housing needs that cannot be met within settlements. Also, housing in the countryside of an appropriate location, scale, design and materials may be acceptable where it supports communities experiencing difficulty in maintaining population and services. Policy G2 (Design for Sustainability), states that developments will be assessed on the extent to which they, amongst other things, are accessible by public transport, cycling and walking as well as car, impact on resources such as habitats, species, landscape, scenery, cultural heritage and freshwater systems, and demonstrate sensitive siting and high quality design in keeping with local character and the historic and natural environment.
5. In the Badenoch and Strathspey Local Plan, Policy 2.1.2.3. states that a strong presumption will be maintained against the development of houses in all sensitive areas and in areas where service restrictions become necessary. Exceptions will only be made where a house is essential for the management of land, related family and occupational reasons. Adherence to good siting

and design will be required in such cases. Policy 2.5.2. states that established commercial forestry plantations will be safeguarded for their value to the economy, including downstream activities and there will be a presumption against development within 20m of their margins in the interests of safety and amenity.

## CONSULTATIONS

6. Consultations carried out on the previous applications are relevant. Highland Council's Area Roads and Transport Manager required the provision of visibility splays at the junction of the access track and the B970. This required significant earthworks and tree felling. It was also necessary to form 1 additional passing place adjacent to the access track between the B970 and the site.
7. Scottish Water previously stated that they had no objections to the development and that private drainage arrangements were proposed. However off-site works will be required for a connection to the public water system. This may require wayleaves. The nearest acceptable point for connection to the public supply is at Balliefurth Farm.
8. SEPA had no previous objections to the proposal subject to satisfactory percolation tests being carried out. The Building Control Service of the Highland Council confirmed that a trial pit was dug at the time of the Reserved Matters application and that following an inspection the subsoil conditions appeared satisfactory.
9. Further to these previous consultations, Nethy Bridge Community Council has no objection to the proposal. Also, the Contaminated Land section of the Transport, Environmental and Community Services department of the Highland Council, have confirmed that no further action or comment is required in order for the application to proceed. They were consulted because of the existence of a former gravel pit nearby.
10. Highland Council Planners, have advised, verbally, and under delegated powers, that the original outline application in 1999, was approved by the Badenoch and Strathspey Area Committee against the recommendation of the planning officers. The proposal did not comply with local planning policy in relation to the provision of new houses in the countryside but the Committee approved it on the grounds that the site was less obtrusive than alternatives available and that it did not take up arable land. There was also scope for screening of the site. A Reserved Matters application for a proposed house design was subsequently approved and this permission can be implemented at any time prior to April 2005. Although still contrary to policy, it may be difficult to resist the current proposal bearing in mind the existing permission.

## REPRESENTATIONS

11. The application was advertised by Highland Council on 16 October 2003, as a “Development not in Accordance with the Provisions of the Development Plan”. Two letters of representation have been submitted. A summary of the matters raised includes:
- *Proposal is contrary to the Local Plan in respect of various policies, including 2.1.2.3. (Restricted Countryside Areas), 2.5.1. (Agricultural Land), 2.5.2. (Forestry), 2.5.4 (Woodlands and Trees), and 2.5.5. and 2.5.6. (both Nature Conservation).*
  - *Proposal would be harmful to the character and appearance of the area in that it can viewed from the A95 across the River Spey to the north west, and other properties in the area.*
  - *A house on this site would have the potential to interfere with the workings of the adjacent croft i.e. grazing of sheep and training of sheepdogs.*
  - *Concerns about potential interference to existing private water supplies in the area.*
  - *There are alternative locations for a house on the applicant’s land where planning policy supports new house building.*
  - *The applicant has breached conditions of the original permission in respect of tree felling on the site and the creation of visibility splays and a passing place.*
12. Copies of these letters are attached for the Committee’s consideration.

## PLANNING APPRAISAL

13. Section 25 of the Town and Country Planning (Scotland) Act 1997 states that “*where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.*” In this instance, the site is located in a countryside area where there is a presumption against new houses unless there is a justification for it as set out in policy. At the time of the original outline application, the development was found to be contrary to the policies of the development plan and as such the recommendation from the Highland Council Planning Service was one of refusal. The application was approved, against the recommendation, by the Badenoch and Strathspey Area Committee. Despite the existence of the previous approval which remains extant because of the existence of the Reserved Matters approval for the house type, this current outline application remains contrary to the development plan and it has been advertised as such. There is no justification for the house in terms of policy. However, the

existing extant approval for the site, is an important material consideration in this instance.

14. Through agents of the proposed occupiers of the site, despite the application being in outline format only, an indicative house type has been submitted. This indicates a modestly scaled 3 bedroomed house with traditional finishing materials. Although some modifications may be required to some detailed aspects of the design, it would seem that the potential occupiers of the site are keen to construct a house which is sympathetic in scale and design to its rural location. While this design is indicative only, and would not form part of any outline approval, it does provide an opportunity to impose conditions, which would be required to be met in any application for Reserved Matters, and which would control the scale and design of the house to a type which is appropriate to the surroundings and the site's status within the National Park. In comparison to the existing approved house type, work on which could be commenced at any time up until April 2005, the indicative house type submitted, is of a lesser size and scale. With the principle of a house on this site having already been established, if approval of the current submission is given, it does provide an opportunity to improve upon the existing approval in respect of the house type constructed.
15. With respect to the concerns raised by the representee, as stated above, it is agreed that the principle of a house here does not accord with the development plan in respect of Policy 2.1.2.3. (Restricted Countryside Areas). However, the existing approval, as detailed above, needs to be considered as materially affecting the determination process. With respect to the other policies mentioned, it is not possible to accept that the development of a single house here, will detrimentally affect the viability of the existing adjacent croft (Policy 2.5.1. Agricultural Land). The site is within a commercial plantation, and Policies 2.5.2. (Forestry) and 2.5.4. (Woodlands and Trees) seek, in general, to safeguard such areas in the interests of amenity, conservation, recreation and safety. However, a clearing has already been cut, and again the principle of a house site here has already been established. Policies 2.5.5. and 2.5.6. refer to protection of nature conservation sites. The proposed site does not lie within any designated area and the reference in Policy 2.5.6. to the protection of a site at Balliefurth refers to the Balliefurth marsh/bog located further to the south.
16. In terms of visual and landscape impact, it is accepted that the site, and any proposed house, will be seen from across the Spey valley to the north and north-west. However, there is a setting of a mature woodland plantation, and although trees have already been felled on the site, there were conditions imposed at the time of the original Outline and the Reserved Matters permissions which required the retention of a belt of woodland along the north boundary and additional replacement tree planting. Until such time as the permission for Reserved Matters is implemented, it is the case that these conditions cannot be enforced. In this instance, the representee has been concerned about the tree felling and the fact that these works have been carried out. However, tree felling does not fall within planning control unless there are enforceable conditions requiring their retention. The conclusion is

that, in a similar way to the previous approvals, it will be possible to impose similar conditions restricting tree felling and requiring replacement planting. This will ensure that visual and landscape impacts are minimised.

17. The representee also makes reference to the fact that the Local Plan designates an area on the applicant's land at Balliefurth Farm, further to the south, as General Countryside (Policy 2.1.2.1.). In such areas, subject to compliance with certain criteria, single houses will normally be acceptable. This matter was examined at the time of the original outline permission. While it was the view of the Highland Council planners that the development of a house in this location should be directed to a site within this designated area, The Badenoch and Strathspey Area Committee felt that the proposed site in the plantation was more acceptable in terms of visual impact and did not involve the loss of arable land. Again, in relation to this, although contrary to policy, the existence of this previous permission plays a significant part in the determination of the current application and alternative sites are no being considered at present.
18. Finally, with reference to servicing the development, the requirements of the Area Roads Manager for visibility splays and a passing place can still be met on land within the control of the applicant. The matters of drainage and water supply were dealt with at the time of the previous applications.

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

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

19. There are no constraints on the site in terms of natural heritage designations. There are also no features of cultural interest in the vicinity. The existing woodland provides a setting and provided control is exerted over tree felling and replanting, especially with reference to the north boundary of the site, visual and landscape impacts will be minimised.

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

20. There are no direct implications in respect of this aim. However, the site is in a countryside location and will create additional traffic movements, particularly by car, to and from nearby settlements and services. This has potentially negative effects on air pollution, but taking account of the circumstances of the case, in this instance, it is not significant enough to merit resisting the proposal.

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

21. With the proposal being for a private house, there are no opportunities for promoting the special qualities of the National Park. The Speyside Way runs along the former railway line to the east of the site but the access road crosses this by a bridge and therefore there will be no adverse affect on the quality or character of this route.

### **Promote Sustainable Economic Development of the Area's Communities**

22. The existence of an area nearby where planning policy supports the siting of new single houses, in principle, indicates that the provision of housing in some countryside areas, is viewed as being acceptable in the interests of sustaining some rural communities. Although not within the designated area, it could be argued that the proposal will help retain a population in this community. However, the accumulation of single houses in the countryside may put added strains on rural infrastructure and servicing provision.
23. To conclude, it is important to emphasise that, if this proposal had been submitted as a new house in the countryside where there were no existing permissions, there is little doubt that an unfavourable recommendation would be given. This would be on the basis of national, regional and local policy on new houses in the countryside and the precedent that approval would have for an accumulation of similar developments throughout the National Park. However, in this instance, the material consideration of the existing permission, which can be implemented at any time prior to April 2005, indicates that the provisions of the development plan can be set aside. This is in line with Section 25 of the Town and Country Planning (Scotland) Act 1997. In recommending approval of the application, it in no way acts as a precedent for other similar developments within the National Park. The recommendation is also made, in the context that any decision of refusal requires to be capable of being sustained at an appeal and my judgement is that the existing permission would play a significant part in any determination of such an appeal.

### **RECOMMENDATION**

That Members of the Committee support a recommendation to:

#### **Grant Outline Planning Permission for the Erection of a Dwellinghouse at Land at Boat of Balliefurth, Grantown-On -Spey, subject to the following conditions:**

- i. A formal planning application and detailed plans indicating all matters relating to the siting, design and external appearance of all buildings, means of access thereto, means of enclosure and landscaping proposals shall be submitted for the prior approval of the Planning Authority within 3 years of the date of this consent and the development must be commenced within 5 years of the date of this permission or within 2 years from the date of final approval of all the foregoing Reserved Matters.
- ii. Prior to the commencement of any building operations on site, there shall be formed, and thereafter maintained in perpetuity, visibility splays measuring 3 metres by 150 metres on both sides of the junction of the private access track leading to the site with the B970 such that, within the visibility splay so defined, there is no obstruction to visibility exceeding 1

metre in height as measured from the adjacent carriageway, all to the satisfaction of the Planning Authority, in consultation with the Roads Authority.

- iii. Prior to the commencement of any building operations on site, there shall be provided 1 additional passing place between the B970 and the application site. Details of the precise location, dimension and construction of this passing place, shall be submitted for the further written approval of the Planning Authority, in consultation with the Roads Authority, prior to the works being undertaken.
- iv. Unless otherwise agreed in writing with the Planning Authority, the dwellinghouse hereby approved, shall be located in the southern half of the site and no part of the dwellinghouse shall be constructed within 40 metres of the northern boundary of the site.
- v. That from the date at which this permission is granted, no trees on the approved site, or any trees within a 20m zone around the boundaries of the approved site, shall be felled, unless otherwise agreed in writing with the Planning Authority. Prior to the commencement of building operations on site, there shall be submitted to and approved by the Planning Authority, details of proposed new tree planting on the site. All new tree planting shall be carried out within the first planting season following completion and occupation of the dwellinghouse hereby approved and any trees removed, or which in the opinion of the Planning Authority, are dying, being severely damaged, or becoming seriously diseased within three years of planting, shall be replaced by trees of similar size and species to those originally required to be planted.
- vi. Unless otherwise agreed in writing with the Planning Authority, the dwellinghouse hereby approved shall be limited to 2 storey (attic) development ie. 2 storeys of accommodation is permissible with the first floor (upper floor) accommodated in the attic or roofspace by utilising rooflights, gable windows or dormer windows.
- vii. The dwellinghouse hereby approved shall be of a traditionally architecturally sympathetic design in respect of building form, detail and finishing materials. For the purposes of this condition, this shall mean walls finished in natural stone, a wet harl of a subdued colour or dark coloured timber or a combination of these, and a pitched roof of between 35 and 45 degrees finished in natural slate, or a good quality slate look-alike roof tile, and door and window openings of vertical proportions distributed evenly across facades.

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**22 January 2004**

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