
CAIRNGORMS NATIONAL PARK AUTHORITY

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

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(DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED: **PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF A HOUSE AT LAGGAN No 1 CROFT, KINGUSSIE**

REFERENCE: **10/186/CP**

APPLICANT: **NICOLA BYRNE, LAGGAN No 1 CROFT, KINGUSSIE**

DATE CALLED-IN: **16 APRIL 2010**

RECOMMENDATION : **GRANT SUBJECT TO SECTION 75 AGREEMENT/CONDITIONS**

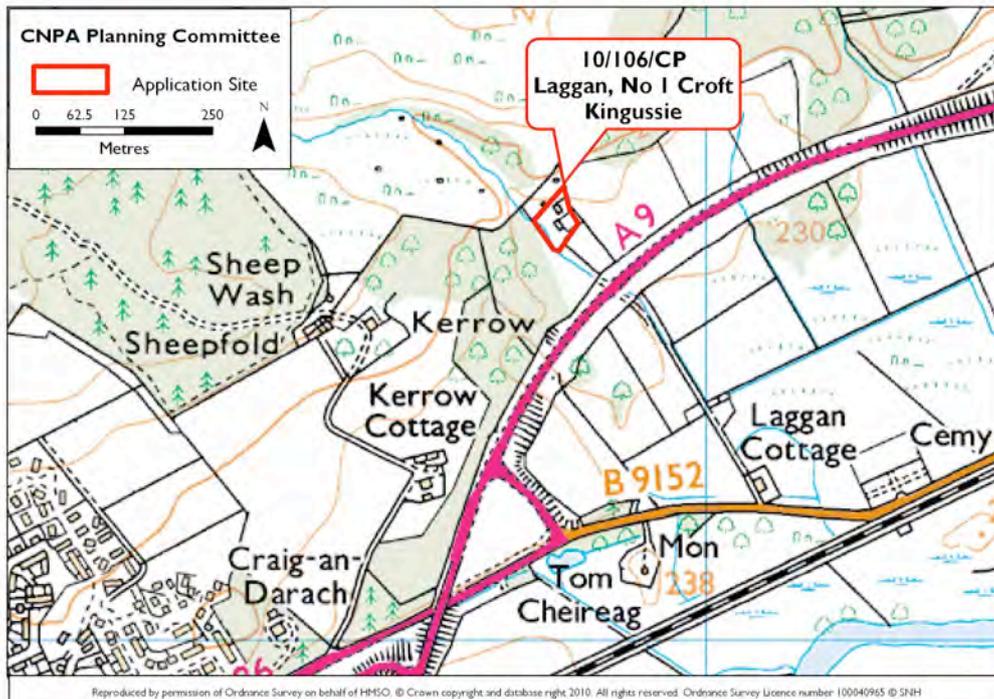


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Planning Permission in Principle is sought by this application for the erection of a dwelling house. The development is proposed on land which lies approximately 50 metres to the north west side of the A9 just north of Kingussie (see fig. 1- Location Plan). The site is accessed directly from the A9 with the access track leading to a yard area with a number of storage buildings with paddocks surrounding (see figs. 2 & 4). The site forms part of a registered croft with the holding spread over 4 parcels of land (fig.5).



Fig. 2- Entrance track to site for house

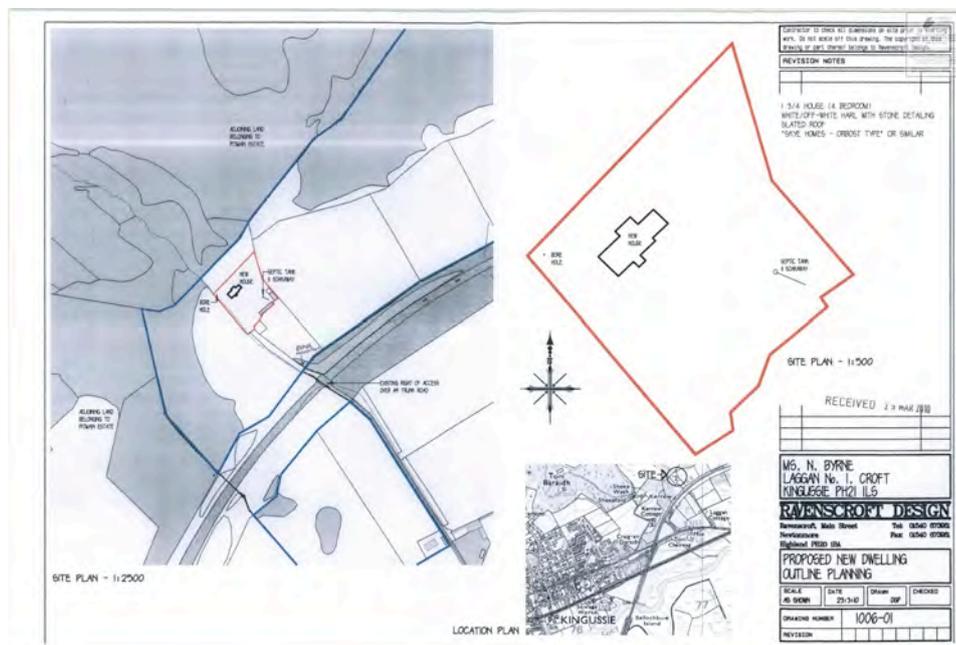


Fig. 3 -Site Plan



Fig 4- View of proposed site for house

2. In policy terms the site is located in an area of restricted countryside under the Badenoch and Strathspey Local Plan where a presumption against new housing is held unless there is a land management justification for a new house. Consequently, the applicants were asked to provide a justification and have subsequently submitted a Scottish Agricultural College (SAC) Report to support the application. The application is in the name of Nicola Byrne who has a house approximately 350 metres from this site on the opposite side of the A9. The house proposed by this application is intended for applicant. Her daughter (Claire Anderson) who helps on the croft would occupy the existing house. The request for the justification also asked the applicant whether they would be willing to enter into a Section 75 Legal Agreement to tie the house to the croft.

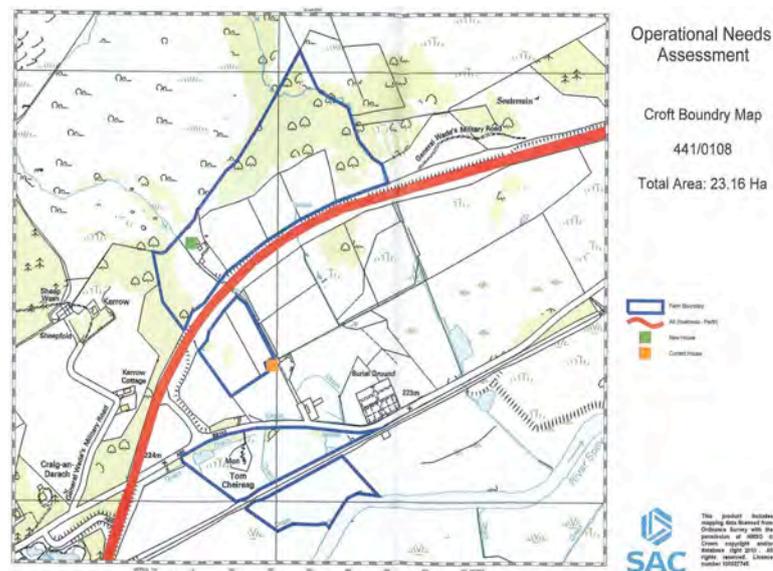


Fig. 5- Operational needs assessment plan showing existing (orange) and proposed house (green).

The Applicants' Case

3. The SAC Report submitted forms an independent operational needs assessment considering the landholding, the stock and the management requirements in terms of labour hours required to manage the Croft.
4. The SAC report is attached at the back of this planning report and notes that the holding is a registered croft extending to 23.16 ha. The stock held at the time of the report consisted of 33 sheep and 13 hogs. Two Aberdeen Angus cattle are kept on the croft. There are also 10 horses and 18 laying hens. At present the applicant and her daughter live on the croft. They both have full time jobs and work on the croft during the evenings and weekends and on holidays. A range of conservation priorities in the management of the croft includes woodland creation, enhanced biodiversity of water margins and management of species rich grassland.
5. The report works out the labour requirement based on the size of the croft and its management requirements including stock management. The calculation considers that there is a requirement of 1.02 labour units to carry out the operations necessary to support the croft at present.
6. On the issue of access the report points out that building a house on what is the north part of the croft (see fig. 5) will significantly reduce the number of times the A9 has to be crossed, particularly at peak times when winter feeding is required and also at lambing and foaling time.
7. In conclusion the report considers that the croft can support the equivalent of just over one full time worker. Both the applicant and her daughter have full time jobs and it is for this reason that 0.51 labour units each merits a second house on the croft. The report considers this to be a modest assessment of the labour requirement.

DEVELOPMENT PLAN CONTEXT

8. **National policy**
Scottish Planning Policy (SPP) is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
 - The constraints and requirements that planning imposes should be necessary and proportionate;
 - The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.

9. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should “operate in support of the Government’s central purpose of increasing sustainable economic growth.” Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that “the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places.” Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
10. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the “aim is to achieve the right development in the right place.”
11. The **Scottish Planning Policy** document includes a number of subject policies, one of which is housing.
 - *Housing*: Para. 66 advises that the planning system should enable the development of well designed, energy efficient, good quality housing in sustainable locations. In further discussing the location and design of new development planning authorities are encouraged to promote the efficient use of land and buildings, and direct development towards sites within existing settlements where possible in order to make effective use of existing infrastructure and service capacity and to reduce energy consumption.
 - *Rural development*: The SPP states that the aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality. The policy document is clear that the aim is “not to suburbanise the Scottish countryside but to maintain and improve the viability of communities and to support rural businesses.” All new development is expected to respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards.
 - *Landscape and natural heritage*: the policy document recognises that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. Different landscapes have different capacities to accommodate new development, and the siting and design of new development should be informed by local landscape character. It is noted in para. 131 that landscapes and natural heritage are sensitive to inappropriate development and planning authorities are expected to ensure that potential effects, including the cumulative effect of incremental changes, are appropriately considered.
12. **Scottish Planning Policy** concludes with a section entitled ‘Outcomes’ in which it is stated that the “planning system should be outcome focused,

supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets.” Planning authorities are required to be clear about the standard of development that is required. Quality of place not only refers to buildings, but also how the buildings work together as well as the relationships between buildings and spaces. Design is highlighted as an important consideration and planning permission may be refused solely on design grounds. Finally it is stated that the planning system should be “judged by the extent to which it maintains and creates places where people want to live, work and spend time.”

Cairngorms National Park Plan (2007)

13. The Cairngorms National Park Plan sets out the vision for the park for the next 25 years. The plan sets out the strategic aims that provide the long term framework for managing the National Park and working towards the 25 year vision. Under the heading of ‘conserving and enhancing the special qualities’ strategic objectives for landscape, built and historic environment include maintaining and enhancing the distinctive landscapes across the Park, ensuring that development complements and enhances the landscape character of the Park, and ensuring that new development in settlements and surrounding areas and the management of public spaces complements and enhances the character, pattern and local identity of the built and historic environment. Agriculture is recognised as having a significant influence on the natural heritage and landscape of the Park and the Park Plan includes a variety of objectives to promote and support sustainable forms of agriculture and crofting. Some of the strategic objectives include managing agricultural production to be consistent with, and enhance, the special qualities of the Park; and maintaining a productive and viable agricultural sector.
14. Under the heading of ‘Living and Working in the Park’ the Plan advises that sustainable development means that the resources and special qualities of the national park are used and enjoyed by current generations in such a way that future generations can continue to use and enjoy them. Strategic objectives for economy and employment include creating conditions that are conducive to business growth and investment that are consistent with the special qualities of the Park and its strategic location and the promotion of green business opportunities.
15. The Park Plan aims to encourage sustainable development. One of the strategic objectives for sustainable communities is to “make proactive provision to focus settlement growth in the main settlements and plan for growth to meet community needs in other settlements.” The Plan recognises that the main settlements in the national park have the greatest range of existing services and infrastructure and can therefore best accommodate increased growth in a sustainable way.
16. The subject of ‘Housing’ is also discussed in the ‘Living and Working’ section of the National Park Plan. The need to ensure access to affordable and good quality housing is recognised. The quality and design of new housing is

required to meet high standards of water and energy efficiency and sustainable design and be consistent with or enhance the special qualities of the Park through careful design and siting.

17. Section 5.3 of the Plan concerns 'enjoying and understanding the park' noting that the Cairngorms National Park is known for its outstanding environment and outdoor recreation opportunities and advises that the vision for the Park seeks to "go further and develop a world class destination which plays a significant part in the regional and national tourism economy."

Highland Council Structure Plan (2001)

18. **Highland Council Structure Plan** is founded on the principles of sustainable development, which are expressed as –

- Supporting the viability of communities;
- Developing a prosperous and vibrant local economy; and
- Safeguarding and enhancing the natural and built environment.

A variety of detailed policies emanate from the principles.

19. **Policy H3 Housing in the Countryside** advises that housing development should generally be within existing and planned new settlements. New housing in the open countryside will not be permitted, unless it can be demonstrated that it is required for the management of the land and related family purposes.

20. Para 2.2.9 of the Structure Plan elaborates on the policy. The Plan recognises that there may be some circumstances when there is a need for new housing in the countryside. In discussing the exceptional circumstances in which housing may be permitted, reference is made to "those managing the land, or family purposes associated with this, such as retiring farmers and their spouses." The Plan also clarifies that in such circumstances permission would be subject to an occupancy condition.

21. Section 2.14 of the Structure Plan deals with the subject of Landscape. It is recognised that landscape is not a static feature and that many forces bring about change in it, whether immediately or subtly over a number of years. **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.

22. **Policy G2 (Design for Sustainability)** states that developments will be assessed on the extent to which they, amongst other things make use of brownfield sites, existing buildings and recycled materials; are accessible by public transport, cycling and walking as well as car; are compatible with service provision; demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environments; and contribute to the economic and social development of the community.

Cairngorms National Park Local Plan (2010)

23. The CNPA Planning Committee has resolved on 20 August 2010) that the CNP Local Plan now proceed to adoption (with the adoption date being 29 October 2010). The Cairngorms National Park Local Plan is consequently the most material consideration in determining this application. For CNP Local Plan text please refer to :
<http://www.cairngorms.co.uk/planning/localplan/pdf/19-Aug-10-Local-Plan-with-PIMs-included-for-web-23-Aug.pdf>
24. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
- Chapter 3 - Conserving and Enhancing the Park;
 - Chapter 4 - Living and Working in the Park;
 - Chapter 5 - Enjoying and Understanding the Park.
25. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The policies in the Local Plan are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the development proposal.
26. Policy 6 – Landscape: there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
27. Policy 16 – Design Standards for Developments : the policy encourages the design of all developments to
- Minimise the effect of development on climate change;
 - Reflect and reinforce the traditional pattern and character of the surrounding area, and reinforce the local vernacular and local distinctiveness, whilst encouraging innovation in design and use of materials;
 - Use materials and landscaping that will complement the setting of the development;
 - Demonstrate sustainable use of resources;
 - Enable the storage, segregation and collection of recyclable materials and make provision for composting;
 - Reduce the need to travel; and
 - Protect amenity enjoyed by neighbouring properties.
28. Policy 22 – Housing Developments Outside Settlements : developments for other new housing outside settlements will be permitted where :

- (a) The accommodation is for a worker in an occupation appropriate to the rural location; and
 - The presence of the worker on site is essential in order to provide 24-hour supervision of the rural business; and
 - There is no suitable alternative residential accommodation available, including reuse and conversion of other buildings on the site; and
 - The proposed dwelling is within the immediate vicinity of the workers place of employment; or
- (b) The dwelling is for a retiring farmer or crofter, on land managed by them for at least the previous 10 years or for a person retiring from other rural business where the previous accommodation is required for the new main operator of the farm, croft or rural business; or
- (c) The development is sited on rural Brownfield land.

Para. 4.72 of the Local Plan provides further guidance in relation to Policy 22 and advises that applicants should demonstrate that other sites, including those within settlements, open market dwellings in the area, and land within allocated sites contained in the local plan for housing, have all been considered and discounted. Para. 4.73 also advises in demonstrating a need for housing in connection with (a) above, that applicants must demonstrate a land management need for the accommodation through the use of independent experts, such as the Scottish Agricultural College.

Badenoch and Strathspey Local Plan (1997)

29. Although still the adopted local plan until 29 October 2010, the **Badenoch and Strathspey Local Plan** has in practise been superseded by the Cairngorms National Park Local Plan.

CONSULTATIONS

30. **Transport Scotland** (Trunk Roads) has no objection to the proposal.
31. **Highland Council Environmental Health Officer** noted that the proposed house is not connected to the public water supply. Consequently, evidence will need to be provided that the house can be supplied with an adequate water supply in terms of quantity and quality.
32. **The Crofters Commission** has commented that they have no record of the applicant (Nicola Byrne) having an interest in any croft in any location (**note: the croft is registered in the name of Claire Anderson daughter of applicant**).

33. **Kingussie and Vicinity Community Council** note that the proposal appears to be for a quality dwelling, which would not be considered out of place in a National Park. Although not designated for building the Community Council (CC) can see the necessity of allowing a house to be built on this site, owing to the fact that it has been worked as a Croft by the applicant for many years. The CC does not consider that a dwelling at this location would have an adverse impact on the landscape or environment. There are also land management issues, as surely it is preferable that a crofter should be resident on the land that they care for? There is an existing access to the A9 from this croft which as far as the CC are aware, has not posed any particular problem. As it is part of the Park's remit to encourage the local economy, the CC feel that there is no reason to deny the applicant planning permission to erect a house on this site. Indeed, the CC wholeheartedly support the application.

REPRESENTATIONS

34. The proposal has been advertised in the Badenoch and Strathspey Herald and no representations have been received.

APPRAISAL

35. In considering the proposal for the development of a single dwelling house in this countryside area, there are a number of factors which need to be taken into account, including planning policy issues, the general principle of siting of a dwelling at this location, technical details and how the proposals performs against the aims of the Park.
36. As detailed in earlier sections of this report, the Cairngorms National Park Local Plan is due to be formally adopted on 29 October 2010. Its imminent adoption, together with the fact that the Badenoch and Strathspey Local Plan is quite dated means that the CNP Local Plan is the key determinant consideration in the assessment of this application. The policies contained in the CNP Local Plan have been guided by and accord with national planning policies.
37. In turning to consider the principle of proposed development in the context of local planning policy as outlined in the Cairngorms National Park Local Plan (please refer to paragraphs 23 - 28 of the report) one of the key policies against which to assess the proposal for a new dwelling is Policy 22 – Housing Developments Outside Settlements. The policy is intended to facilitate the provision of two types of new housing outside settlements – (i) affordable housing and (ii) 'other housing outside settlements'. The current development proposal comes within the latter category. The case is presented and justified as an application for a worker in an occupation appropriate to the rural location (in this case crofting). This section of the policy goes onto consider that the presence of the worker on site is essential

in order to provide 24 hour supervision of the rural business; and there is no suitable alternative residential accommodation available including re-use and conversion of other rural buildings and that the proposed dwelling is in the immediate vicinity of the workers place of employment. The need must be demonstrated through the use of independent experts such as the SAC. There is also a requirement that applicant's should demonstrate that other sites including those within settlements, open market housing and allocated sites within the local plan for housing have all been considered before new buildings will be permitted.

38. The SAC Report submitted considers that a second house on the croft is justified because the croft can support just over the equivalent of one full time worker. Given that the applicant and her daughter have full time jobs the 0.51 labour unit for each person is considered to merit a second house on the site. It must be recognised that in cultural terms crofting is often not a full time occupation and often crofters are involved in other forms of employment on a part or full time basis. Given the independent support that the SAC report provides a house at the site is considered to be acceptable in principle. However, it has been pointed out to the applicant that a grant of permission can only be made on the basis of the house being tied to the croft by a Section 75 Agreement. This stance is supported by the detail of Policy 22.
39. One important additional factor is the proximity of the site to Kingussie. Policy 22 requires that other housing opportunities for instance in nearby settlements should be discounted before new build will be permitted in the countryside. Given that the application was submitted in July before Policy 22 was in operation the applicant was not asked to carry out this exercise. However, the site is less than a kilometre from Kingussie where a range of housing options could be available including a site where the CNPA has resolved to grant planning permission for a significant number of houses. Another factor to be taken into consideration is the existing house on the south side of the A9 from where the croft is currently managed. With regard to this, it is important to note that the SAC operational assessment also sets out a locational justification for a second house on the croft. This is because the croft is divided by the A9 and it is argued that the addition of a house on the north side would allow lambing and foaling to be shifted over the A9 to reduce the number of potentially hazardous crossings of that busy road.
40. The general siting of the dwelling is considered acceptable in principle, has an existing access and is set in an open yard area that has a defined boundary with a number of small buildings. Consequently, the proposal is considered to accord with Policy 6 Landscape in that no unacceptable landscape or visual impact would result and the site can be enhanced by the landscaping details that would be a requirement of any future detailed proposal.

41. With regard to technical issues no objection has been received from Transport Scotland (Trunk Roads) and the site has more than adequate parking space and space to provide an appropriate drainage solution which is required by planning conditions. A private water supply is proposed and Highland Council Environmental Health has recommended that further details are sought to deal with both the quantity and quality aspect of water supply. This can be dealt with by planning condition.
42. The crucial issue on whether the application proves acceptable in principle revolves around the independent SAC report. In this case, the conclusion of the report is that the dwelling is justified on an operational need both in relation to the labour hours carried out and in terms of the advantages of locating a new dwelling on the northern part of the croft. As with other approvals of this type the recommendation is subject to the need for the applicant to enter into a Section 75 Legal Agreement to ensure that the house is occupied by persons managing the croft and is not sold separately from the croft. The applicant has been made aware of this position several times.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

43. The proposed development is on land which is set in open countryside. However, and while recognising that this application seeks only permission in principle, the site is set in an existing enclosed area where there are a number of existing buildings which already create a focus in the landscape. The addition of a single house would be unlikely to have any detrimental landscape impact. There would appear to be positive management arrangements for biodiversity at the site under the management plan for the croft.

Promote Sustainable Use of Natural Resources

44. The detail in an application for Planning Permission in Principle is limited and does not contain sufficient information to establish whether or not the development proposal would assist in promoting the sustainable use of natural resources.

Promote Understanding and Enjoyment of the Area

45. The proposed development has little, or no bearing on this aim.

Promote Sustainable Economic and Social Development of the Area

46. The details provided have demonstrated that the proposed dwelling house is for a worker in a crofting business. This will contribute to the sustainable economic and social development of the area.

RECOMMENDATION

47. **That Members of the Committee support a recommendation to GRANT PLANNING PERMISSION IN PRINCIPLE for the erection of a house at Laggan No1 Croft, Kingussie subject to the following :**

A. Section 75 Legal Agreement to ensure that house is occupied by persons managing the croft and not sold separately from the croft holding and:

B. The following conditions:

1. A formal planning application and detailed plans indicating all matters relating to the siting, design and external appearance of the building, means of access thereto, site levels, car parking, 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 permission and the development must be commenced within 3 years of the date of this permission or within 2 years from the date of final approval of all the foregoing Matters specified in conditions.

Reason: To comply with Section 59 of the Planning Etc (Scotland) Planning Act 2006.

2. The layout, design and materials of the dwelling, hereby approved, should reflect the traditional design and styles typical of the vernacular of the area and the surrounding landscape, using a high quality design and sustainable design principles.

Reason: To ensure a high standard of design and sustainability which would contribute to the character of the National Park.

3. Prior to the commencement of the works on site, specific details of the private water supply and water test results are submitted to and approved by the CNPA acting as Planning Authority in consultation with Highland Council Environmental Health.

Reason: To ensure water supplies are adequate and suitable as required by The Private Water Supplies (Scotland) Regulations 1992.

- 4.** Details of the foul and surface water drainage systems for the dwelling hereby approved shall be submitted to and agreed in writing with the CNPA acting as Planning Authority, prior to any work commencing on site. Thereafter, the agreed system shall be operational prior to the development coming into use and shall be retained and maintained in accordance with the approved details into perpetuity.

Reason: To ensure that a satisfactory drainage solution is achieved and to prevent pollution of the nearby watercourse.

- 5.** Parking and manoeuvring space for at least 2 no. vehicles shall be provided within or close by the curtilage of the property such that all vehicles may enter and leave the site independently in forward gear.

Reason: To ensure that all vehicles may enter and leave the site safely at all times.

Andrew Tait

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5 October 2010

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.