
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: RETENTION OF TIMBER BOTHY AT LAND 130M WEST OF CUCHANLUPE, STRAANRUE WOOD, NETHYBRIDGE

REFERENCE: 09/089/CP

APPLICANT: MR & MRS J.Y.L HAY

DATE CALLED-IN: 3rd APRIL 2009

RECOMMENDATION: APPROVAL WITH CONDITIONS

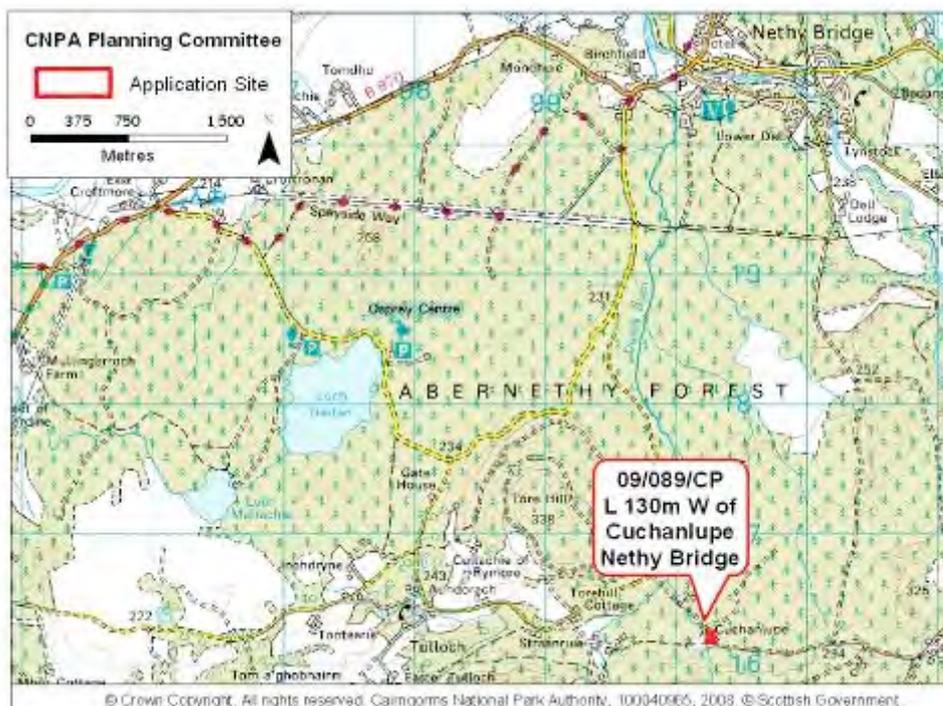


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Straanruie Wood is a 26.5 ha. section of the Abernethy Forest, bounded by the public C Class road to Tulloch to the West and the private road to Forest Lodge along the North East boundary. To the South is a loose grouping of houses at Straanruie (c.600 metres from the bothy and a further private section of forest. The remainder of the forest East and South of Straanruie Wood is part of the Abernethy RSPB Reserve. The Duack Burn runs through the western sector of Straanruie Wood. The site of the bothy is 4km South of Nethybridge and 200 metres West of Forest Lodge road. The nearest house is at Cuchanlupe, a holiday let cottage 135 metres from the bothy.
2. The site is located within an area of Semi-natural and Ancient Woodland that is part of the Abernethy Forest Special Protection Area (SPA) and SSSI. It is within the Cairngorms SPA and is 450 metres from the Duack Burn which comprises part of the River Spey Special Area of Conservation (SAC). Immediately to the East of Straanruie Wood, 85 metres from the bothy site lies the National Nature Reserve and RSPB Reserve of Abernethy Forest. Public paths bound the South and North East side of Straanruie Wood and other paths run through the area.
3. The applicant acquired the wood in 1989 with the purpose of managing and improving its conservation value. This was the third of similar projects, others being at a croft on Donside and at Mullardoch, Glen Affric. The management of the wood has been on-going for 18 years and a meticulous approach based on expert advice has been followed. The bothy is required to provide shelter, storage and a place to dry out. It is used by the applicant and his son for around 25 days per year. The applicants wife and grandchildren occasionally visit, plus an odd friend, but the useage is very limited.



Fig. 2 The Bothy at Straanruie



Fig. 3 The rear storage shed



Fig. 4 Setting from access **Fig. 5 The access from Forest Lodge road**

4. The bothy is located at the edge of the wood in a discrete position barely visible from the road. There is an open clearing to the South and mainly pine forest to the North. Regenerating pine and Juniper partially screen the bothy. Access to the bothy is along a narrow track usable by 4x4 vehicles only. The track is also a Right of Way.
5. The bothy comprises a single room with an externally entered storage shed attached at the rear. The bothy sits on timber supports on the ground and has no foundations. There are 4 windows and a single entrance. The bothy is very well maintained inside and out. There are no mains services, no electricity supply and no toilet. There is a wood burning stove, a cooker powered from a gas bottle, a kitchen work top and separate plastic washing-up bowl, table and chairs, easy chairs and a pair of bunk beds. Lighting is by oil or gas. Wiring for a generator was installed but is not used. Water is collected from the local burn. Toilet arrangements make use of the forest and are sustainably managed by the applicant.

Planning History

6. The bothy was placed on site in 1993 to replace a touring caravan, on the understanding that it was not development requiring planning permission. This was later retracted by Highland Council and an enforcement notice served in 1996, requiring removal of the shelter from the site. At appeal, the enforcement notice was quashed and planning permission was granted subject to conditions:
 - 1) Restricting the use solely as a forestry bothy and not to be used as a dwelling house or for holiday lets;
 - 2) Planning permission to enure solely for the benefit of Mr and Mrs Hay and their children and for no other persons;
 - 3) The bothy to be used solely by persons directly engaged in the management of the adjoining woodland known as Straanruie;
 - 4) A temporary permission for 10 years from the date of the planning permission (1st July 1997 – 1st July 2007), unless further approval is obtained.

The Proposal

7. The applicant has not sought renewal of planning permission until now due to an oversight. The on-going management of the wood continues and the need for a shelter and storage remains. The ownership has not changed and it is intended that Mr Hay and his son will continue the same activity at the site for the foreseeable future. The application seeks full planning permission for the retention of the bothy. The applicant is prepared to accept a personal permission similar to that imposed by the Reporter. He has applied for a permanent permission but would accept a temporary approval, preferably for a longer time period of 15 – 20 years.

DEVELOPMENT PLAN CONTEXT

Cairngorms National Park Plan 2007

8. Strategic objectives for biodiversity include: conserving and enhancing the condition and diversity of habitats and species present throughout the Park through a landscape-scale approach to habitat networks, ensuring all designated nature conservation sites are in a favourable condition, engaging all sectors in meeting or exceeding international, national and local biodiversity targets and ensuring that populations of protected species are stable or, where appropriate, increasing.
9. Strategic objectives for Landscape, Built and Historic Environment include: maintaining and enhancing the distinctive landscapes across the Park, conserving and enhancing the sense of wildness in the montane area and other parts of the Park and ensuring that development complements and enhances the landscape character of the Park.
10. Strategic objectives for Forest and Woodland Management include: promoting multi-objective forest and woodland management that delivers environmental, economic and social benefits and enhancing the condition of existing woodland cover and expanding to develop habitat networks that compliment the landscape character and other land uses.

The Highland Structure Plan 2001

11. **Policy G2 Design for Sustainability:** Amongst other things, developments will be assessed on the extent to which they impact on the following resources, including pollution and discharges, particularly within designated areas; habitats, species, landscape, scenery, freshwater systems, air quality.
12. **Policy F3 Native Woodlands:** The Structure Plan encourages the expansion of native woodlands, including in Strathspey and the Cairngorms.

Major long term woodland restoration and regeneration projects appear particularly desirable, including in the Cairngorms.

13. **Policy F5 Amenity Woodlands:** The plan supports the maintenance and expansion of amenity woodlands throughout Highland, offering important visual amenity and biodiversity values in addition to an important local recreational resource.
14. **Policy N1 Nature Conservation:** Development should seek to minimize its impact on the nature conservation resource and enhance it where ever possible. Development on or affecting designated sites will be considered in accordance with the Habitats Directive (enacted in the Conservation (Habitats etc.) Regulations 1994), such that developments that would have an adverse impact on the interest will only be permitted where there is no alternative solution and there are imperative reasons of overriding public interest, including those of a social and economic nature.
15. **Policy N2 Interpretation and Enjoyment**

Proposals for interpretation, enjoyment and otherwise positive management of the nature conservation resource will generally be supported.
16. **Badenoch and Strathspey Local Plan 1997**

The site is located in amenity woodland as well as the designations identified in the SNH consultation comments below. The plan strategic objectives include seeking to safeguard all significant aspects of the natural and cultural heritage, including outstanding landscape and conservation sites. Conservation objectives include making provision for the restoration and expansion of the core Caledonian Forest, protection of native and semi-natural woodland and in more robust locations better able to absorb visitor pressure, for upgrading of recreational and visitor facilities. Multiple use of forest areas in particular is encouraged. Management of existing and future recreational activities shall be improved in sensitive rural areas, including designated areas.
17. **At Para. 2.5.3 Forestry,** the plan seeks the consolidation and expansion of native forests in the Cairngorms and recognises the amenity, conservation and recreational value of forest areas.
18. **Nature Conservation policy at Para. 2.5.5** maintains a presumption against development that would have a significant detrimental effect (leading to an adverse impact) on Nationally designated sites. Para. 2.5.6 states that the plan will have regard to the wildlife conservation value of the Abernethy RSPB Reserve.
Housing in the countryside is controlled in the interests of the environment.

CONSULTATIONS

19. **Scottish Natural Heritage:** Comments relate solely to any adverse impacts on designated sites and protected species in the area. The bothy lies within Abernethy Forest SSSI and SPA and the Cairngorms SAC. It is 450 metres from the River Spey SAC (Duack Burn). SNH advises that the development would have no significant effect on the qualifying features of interest (pinewood and upland habitats and associated species such as Capercaillie, Osprey, Scottish Crossbill) of the designated sites or on European Protected Species (Otter and Atlantic Salmon). The bothy has been established at this location for at least ten years and SNH raises no objection to its retention.
20. **Heritage and Land Management:** As the bothy is already present and in good condition there are no comments from a landscape perspective and the ecologist reports that there are no ecological issues of concern.
21. **Nethybridge Community Council:** no objection

REPRESENTATIONS

22. One letter has been received from the Royal Society for the Protection of Birds who own and manage the Abernethy Reserve on neighbouring land. The RSPB supports the application on the grounds that the applicants are excellent neighbours who regularly use the bothy on their management visits to the wood. They assist with keeping open tracks and paths on their own land and along shared boundaries.
23. The applicant has provided a resume, describing his management of the woodland in support of the application. His activities include removal of Sitka and Lodge Pole Pine, encouraging natural regeneration of natives including Juniper, planting of Holly and Juniper, thinning, opening and maintenance of paths, removal of fencing, creation of wetland, recording wildlife, availing public access and visiting school and student parties. The agent has provided a planning statement describing the circumstances of the applicant and a planning justification for renewing planning permission.

APPRAISAL

The Principle of the Development

24. The existing bothy at the site is intended for short term shelter and limited over-night stays. It does not have the kitchen and bathroom facilities ordinarily found in a dwellinghouse, other than a gas cooker. It is therefore not a dwelling house (or a holiday chalet with the same facilities for living as a dwelling house) and is in the same condition and has the same status as a bothy, as found by the Reporter in 1997. It is therefore not subject to the

housing in the countryside or tourist accommodation development policies in the Development Plan, but is subject to the policies listed above.

History

25. In considering the particular circumstances of the application, the Reporter gave weight to the committed and informed management of the woodland by the applicant and the relevance of this to the wider conservation, habitat restoration and recreational enjoyment objectives of the Development Plan. These are reinforced by the aims and strategic objectives of the Cairngorms National Park Plan. He also recognised the planning status of the bothy and the inappropriateness of the site for more general residential or holiday chalet occupation. He applied conditions which restricted the use of the bothy to the very specific requirements of the applicant and his family, allowing for a review of the situation in the future and preventing any evolution to form a dwellinghouse or conventional holiday chalet. These factors and the related issue of preventing a precedent for the spread of scattered chalets in a sensitive forest area, remain relevant today.

Site situation

26. The applicant manages the site and the bothy in a low impact manner as described above. This is recognised by SNH who note that the bothy has been on site for at least 10 years and has raised no objection to the proposal on the grounds that it would not have a significant effect on a designated site. At a more localised level the RSPB at Forest Lodge support the application in recognition of the applicant's work in the forest and his low impact approach. At the site, the exterior areas are tidy and closely contained around the bothy. There is no domestic "spread" and the surrounding vegetation maintains its natural appearance. The whole site and structure is well and thoughtfully maintained by the applicant.

Personal circumstances

27. The primary purpose of the applicant is his and his families' recreational enjoyment accrued from active, precise and informed conservation and management of the forest for its natural heritage and biodiversity value. This is an unusual set of individual circumstances and is unlike the more passive enjoyment of the forest and nature that would accrue to the occupants of a standard holiday chalet. Public recreation and enjoyment of the area is primarily drawn from visits to the forest for walking, cycling and wildlife watching and would be compromised by general chalet accommodation in inappropriate and scattered locations. This is not a robust location that can absorb large visitor numbers or tourism development and has a highly sensitive and protected natural heritage. It is not a location for visitor developments as envisaged in the Structure and Local Plans and retention of the bothy is only justified by the history of the site, the nature and purpose of the bothy and the specific circumstances and management practices of the applicant.

28. The applicant, his wife and his son have managed the site for at least 18 years with beneficial effects for the forest and public enjoyment. The shelter the bothy provides is claimed to be essential to the close management of the wood and related wildlife monitoring. The touring caravan was inadequate, damp and cold and was visually intrusive. Alternative accommodation e.g. in Nethybridge, is not available to the applicant and in any case would not provide the simple and particular recreational enjoyment practised by the applicant and provided by the bothy.
29. Despite the length of time that the bothy has been on site, a Certificate of Lawfulness is not appropriate as the bothy benefited from a past planning permission and is now in breach of the time limit condition placed on the permission. The applicant therefore seeks to remedy the situation by seeking a renewal of planning permission.

Conclusion

30. The applicant acknowledges that there is no essential need for accommodation to manage a forest for commercial purposes and there is no commercial activity at Straanruie. He also acknowledges that whilst his conservation activities are beneficial to the natural environment and wider public, his management work and use of the bothy are recreational in a very particular way. The Reporter acknowledged his commitment, skill and expertise as well as the unusual circumstances of the case. He strongly argued that the bothy is not a dwelling house capable of general habitation for either permanent or holiday let purposes and that planning permission should be granted, but on a restricted basis. This will avoid any precedent for general purpose holiday chalets dotted through the forest and will prevent this bothy from evolving as a dwelling. The particular circumstances of the applicant persist and a further permission for the bothy on a similar basis to the previous permission is recommended.

IMPLICATIONS FOR THE AIMS OF THE PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

31. The continued close management of the woodland for conservation will enhance its natural heritage value.

Promote Sustainable Use of Natural Resources

32. The bothy is sited and occupied in a manner that produces a minimal impact on the environment.

Promote Understanding and Enjoyment

33. The continuation of the activity concerned benefits the understanding and enjoyment of the woodland primarily by the applicant but also by passive visitors to the woodland.

Promote Sustainable Economic and Social Development

34. The unusual circumstances at the site have no implications for this aim whereas the site would not be a sustainable location for residential or holiday let use, as this would have adverse implications for the economic and social value of the surrounding forest as a biodiversity and amenity asset.

RECOMMENDATION

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

Grant Full Planning Permission subject to the following conditions: -

1. The building hereby permitted shall be used solely as a forestry bothy and shall not be used as a dwelling house or for holiday letting purposes.
2. This planning permission shall enure solely for the benefit of Mr and Mrs J. Hay and their children and grandchildren and for no other persons.
3. The building shall be used solely by persons directly engaged in the management of the adjoining woodland known as Straanruie Wood.
4. The building shall be maintained in a tidy condition, with a black stain to the timber work walls.
5. The building shall be removed from the site and the site shall be restored to its previous condition, within 10 years from the date of this planning permission unless the prior written approval is sought and obtained for its retention, from the Planning Authority.

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1st July 2009

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