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## CAIRNGORMS NATIONAL PARK AUTHORITY

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

**Prepared by: ROBERT GRANT, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)**

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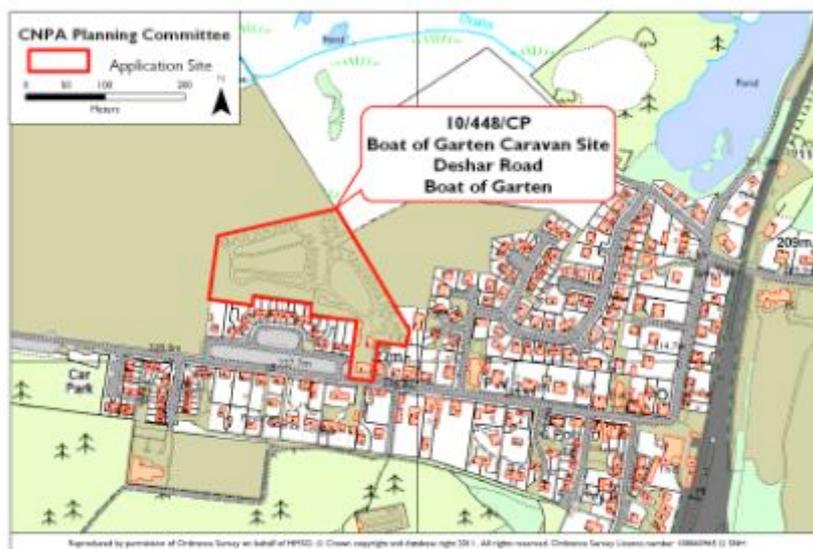
**DEVELOPMENT PROPOSED: PLANNING APPLICATION UNDER SECTION 42 - DEVELOPMENT OF STATIC AND TOURING CARAVAN SITE WITHOUT COMPLYING WITH CONDITIONS OF PREVIOUS PERMISSIONS PROHIBITING OPENING IN NOVEMBER (REF BS/1976/96 AND 10/041/CP) AT CARAVAN SITE, DESHAR ROAD, BOAT OF GARTEN**

**REFERENCE: 10/448/CP**

**APPLICANT: MR DURANT C/O CHARLES F JONES AND SON LLP**

**DATE CALLED-IN: 24<sup>TH</sup> DECEMBER 2010**

**RECOMMENDATION: APPROVE WITH CONDITIONS**



**Fig. 1 - Location Plan**



question of the conditions subject to which planning permission should be granted.” Therefore in the context of this application, the only matter which is required to be considered is the appropriateness and acceptability of deleting the respective conditions from the two planning permissions requiring the site to close each November.



**Fig. 3 - Static holiday caravans on site**

### **Supporting Information**

5. The applicant’s agent has submitted background information stating that the applicant purchased the site in September 2005 and did not have sight of the decision notice for the planning permission (BS/1976/96) which placed a requirement for the closure of the site each and every November. The applicant states that since purchasing the site, it has been open all year round and suggests that longstanding holidaymakers to the site confirm that this practice predated the applicants purchasing the site. The site licence did not specify that the site should close.
6. The applicant’s agent states that this application would regularise the operation of the site allowing for a uniform 12 month season across the whole of the site and that they have a proven need for people holidaying on site during November, current trends point to shorter but more frequent trips across the tourist market. They further confirm that the application is not a back door route to allow for residential use of the caravans and would accept a condition which restricts the occupation of the site solely for holiday purposes and for the caravans not to be a person’s sole or main residence. The application would not diminish the number of touring and tent pitches on the site.

## DEVELOPMENT PLAN CONTEXT

7. Part 2, Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006, requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan covering the application site comprises the Highland Council Structure Plan 2001 and the CNP Local Plan 2010.

### **National Planning Policy**

8. **Scottish Planning Policy 2010** is the statement of the Scottish Government's policy for the land use planning system, supporting the central purpose of increasing sustainable economic growth. In addition it includes subject policies with regard to Economic Development (para 47) which requires planning authorities to support small businesses including high quality tourism related development. In the section titled **Rural Development** (para 92 onwards) states that policies should promote economic activity and diversification in rural areas, including development linked to tourism, whilst ensuring that the distinctiveness of these areas is protected and enhanced. All new development should respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards.
9. Scottish Government planning **Circular 4/1998 - The use of conditions in planning permissions** states that conditions can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission.

### **Strategic Policy**

#### **Cairngorms National Park Plan (2007)**

10. Under the strategic objective enjoying and understanding the Park the one of the objectives is to strengthen and maintain the viability of the tourism industry in the Park and the contribution that it makes to the local and regional economy.

#### **Highland Structure Plan 2001**

11. **Section 2.7** of the Highland Structure Plan discusses the economy and tourism in particular, noting that tourism is a vital element of the Highland economy. The identity of the Highlands includes "it's built heritage, rich wildlife, scenic beauty, history and culture" which are described as the foundations on which tourism and recreation activities are based. The Structure Plan strategy aims to build on the Highland identity and to "take a proactive approach to the wise use of the natural environment as a primary resource" for tourism. The Structure Plan notes that tourism makes major demands on infrastructure and facilities and also notes that there is scope for improvement in the quality and level of provision.

12. **Policy T2 on Tourism Development** confirms Highland Council's support for high quality tourism development proposals, particularly those which extend the season, provide wet weather opportunities, spread economic benefits more widely and provide opportunities for the sustainable enjoyment and interpretation of the area's heritage.
13. On the specific topic of tourist accommodation, section 2.7.8 refers to a growth trend in recent years in the self-catering sector. In anticipation of further applications for chalet and other self contained accommodation, the Structure Plan advises that they must be designed for minimal impact on services, road infrastructure and the environment. **Policy T3 on Self catering tourist accommodation** expressly states that permission will only be granted for tourist accommodation proposals on the basis that the development will not be used for permanent residential accommodation.

### **Cairngorms National Park Local Plan (2010)**

14. The subject site is within the settlement area and the whole caravan and camping site is shown as ED2, wherein enhancement opportunities will be supported.
15. **Policy 25 Business Development** proposals which foster economic development will be supported where it enhances the vitality and viability to rural business activities
16. **Policy 33 Tourism Related Development** which has a beneficial impact on the local economy through enhancement of the range and quality of tourism attractions and related infrastructure including accommodation will be supported provided that the development will not have an adverse impact on the landscape, built and historic environment, or the biodiversity, or the geodiversity, or the culture and traditions of the National Park which, in the judgement of the planning authority, outweigh that beneficial impact.
17. **For Information:** the CNP Local Plan is the subject of an appeal under Section 238 of the Town and Country Planning (Scotland) Act 1997 against the decision of the CNPA to adopt the CNP Local Plan 2010. The Appeal will be decided by the Court of Session and is a material consideration. Therefore, account has been taken of the Appeal in the determination and the recommendation made in respect of this application.

### **CONSULTATIONS**

18. **Boat of Garten and Vicinity Community Council** were consulted but returned no comments.
19. **Scottish Water** were consulted but returned no comments.

20. **SEPA** state that currently a private drainage system exists on site with a limited capacity for treatment for part of the caravan site. They request the inclusion of planning conditions requiring that the site is connected to the public sewer and a private system (when capacity is available), along with the caravans being only for temporary and seasonal occupation only.
21. **CNPA's Visitor Services** have no objections provided the number of pitches available to touring caravans, motor homes and tents in the busy summer months is retained.

## **REPRESENTATIONS**

22. The application was advertised in the *Badenoch and Strathspey Herald* on the 22 December 2010. No letters of representation have been received.

## **APPRAISAL**

23. In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. The current statutory plans are those listed above, with the planning policy applicable outlined in paragraphs 12 – 17 of this report. When considering the appropriateness of altering or removing a condition, the discretion of the planning authority is typically limited to assessing the necessity of the condition and considering it in line with the guidance contained within Scottish Government Planning Circular 4/1998 - The use of conditions in planning permissions.
24. The Cairngorms National Park Local Plan promotes tourism with the site allocated within the plan as BG/ED2 on the proposals map and states that “the existing caravan and camping site provides continued support to the provision of tourism accommodation within Boat of Garten and will be protected from adverse development. Where appropriate, enhancement opportunities will be supported. Therefore it is considered that as the static caravans are to be used purely for holiday accommodation only, the proposal is not contrary to the relevant planning policies. This appraisal section only considers the use of the static caravans for short term holiday lets/occupation and the implications of removing the requirement for the site to close every November.

### **Applicant's Justification**

25. The applicants have submitted a letter (appendix 1) to confirm that the site has always been open during November both before and since they purchased it in 2005 and that as a result of this, would be immune from enforcement action (the breach of planning control requires enforcement to be undertaken within 4 years otherwise the development will become lawful). They have elected to submit an application to remove the condition as the recent permission reaffirmed the need to close in November.

26. Planning conditions are used, requiring a period of closure during November within the respective permissions and are intended to prohibit or reduce the likelihood of the caravans being used as permanent residences and restricting them to be solely for holiday accommodation. However the applicants claim that the site has operated on an open all year-round basis for some considerable time and at least since 2005. This statement was at odds with comments made within the previous application determined by the CNPA (10/041/CP) in August 2010 when the applicants stressed that the site had always closed in November. They have now clarified the position, providing information to demonstrate the site has been always been open but maintain that none of the caravans are full-time residences.
27. Looking at the static caravans being used as principle places of residence, the supporting statement suggests that none of the caravans are full-time residences and that they are all used as holiday accommodation only (albeit the duration of stays isn't known but in some instances quoted to be up to 3 months). The applicant has also addressed concerns about the possible loss of touring caravan and tent pitches stating that a total of 26 mixed touring pitches would still be available on site.
28. It is considered that the seasonal restriction could be lifted to allow for year round opening, giving the applicant more flexibility while putting in place, alternative and appropriate measures that ensure that the caravans could not be used as permanent residences. Such a condition could stipulate that all caravans shall be occupied for holiday purposes only and shall not be a person's sole or main residence. As a method of monitoring and enforcing this, it would stipulate that the operators of the site shall maintain an up-to-date register of the names and addresses of all owners of caravans on the site and their main addresses and make this information available at all times to the planning authority. This is a fairly typical approach now used and the CNPA's Enforcement and Monitoring Officer considers that it would be suitable and enforceable approach for the CNPA to utilise.
29. Finally, it is considered that this would address SEPA's consultation response requiring that the static caravans should be for short term holiday lets / occupation only, required as a result of private and public drainage constraints on the site. Planning permission was recently granted for the upgrading of the wastewater treatment works in Boat of Garten so capacity is expected to increase shortly.
30. To conclude, the proposal does not raise any significant implications for the terms of the extant planning permissions, planning policy or have any other issues. It is considered that the site would be able to operate with more flexibility, would regularise its previous activities but crucially still ensure that the caravans would not be used as full-time residences and solely as holiday home accommodation. It is therefore recommended that the conditions are removed allowing for year round opening of the site but requiring an alternative condition which restricts occupation to holiday purposes only.

## IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

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

31. There are no significant negative impacts associated with the proposed development.

### Promote Sustainable Use of Natural Resources

32. There are no significant negative impacts associated with the proposed development.

### Promote Understanding and Enjoyment of the Area

33. The proposed development would provide year round self-catering holiday accommodation extending the tourist season and which would be of benefit in attracting visitors to the area and could thereby encourage greater understanding and enjoyment of the area.

### Promote Sustainable Economic and Social Development of the Area

34. The development would be likely to have positive benefits in promoting economic development in the area by encouraging visitors to holiday in the area and potentially extending the season into the winter months. The economic benefits cannot however be definitively quantified at this stage.

## RECOMMENDATION

35. **That Members of the Committee support a recommendation to remove condition number 8 of planning permission BS/1976/96 and condition 2 of 10/041/CP to allow for year round opening at Boat of Garten Caravan Site subject to**

**A.** the following conditions:

- I. All caravans at Boat of Garten Caravan Site shall be occupied for holiday purposes only and shall not be a person's sole or main residence. The operators of the site shall maintain an up-to-date register of the names and addresses of all owners of caravans on the site and their main addresses and shall make this information available at all times to the planning authority. The register shall be complete within 3 months of the date of this permission.

Reason: To ensure the caravans on the site shall not be person's sole or main residence and are for holiday use only.

2. This approval relates solely to the variation to condition 8 of planning permission BS/1976/96 and condition 2 of 10/041/CP. Nothing contained in this shall be deemed to affect or vary the other conditions imposed on the extant planning permissions BS/1976/96, and 10/041/CP.

Reason: To ensure the conditions imposed by the previous applications are still applicable.

3. An area of the site as per drawing L(PL)011A is to be retained for touring and tented camping totalling 24 pitches.

Reason: To ensure an adequate mix of accommodation on site.

- B. That a letter be sent to the applicant's indicating the Planning Committee's disappointment at the retrospective nature of this application.

**Robert Grant**

**19 March 2011**

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