
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: REBUILDING, ALTERATION AND EXTENSION TO THE RUINED KILBO BOTHY TO FORM HILL SHELTER, INCLUDING DRAINAGE, KILBO BOTHY, GLEN PROSEN

REFERENCE: 2011/0410/DET

APPLICANT: GLENPROSEN ESTATE C/O ABC PLANNING & DESIGN LTD

DATE CALLED-IN: 23 DECEMBER 2011

RECOMMENDATION: APPROVE, SUBJECT TO CONDITIONS

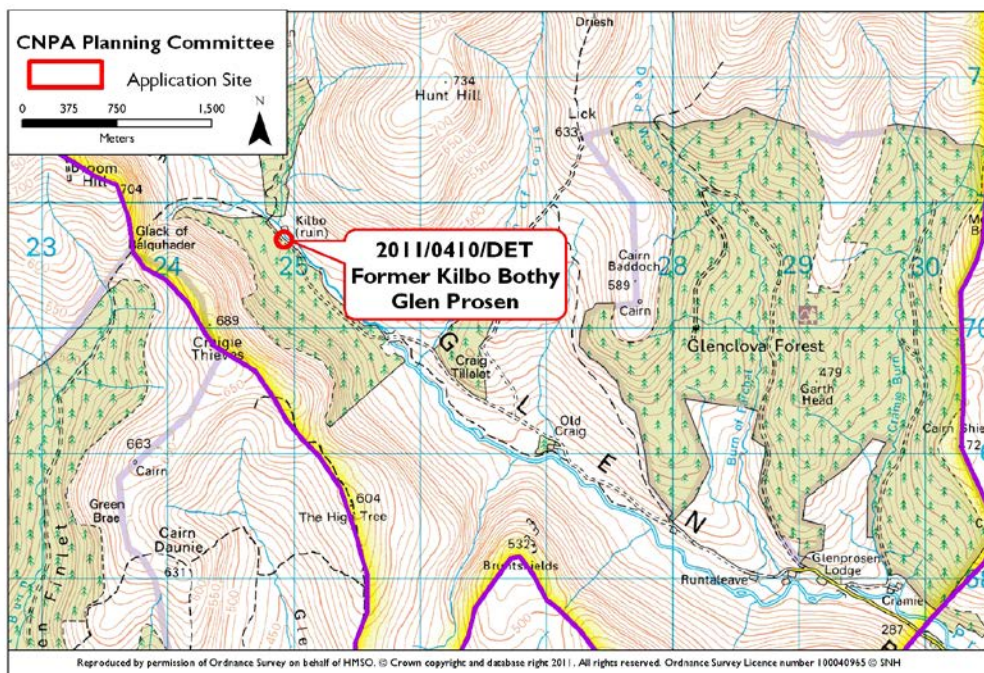


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The application site is located in a remote upland area at the head of Glen Prosen, at the confluence of the Prosen Water and the Burn of Kilbo. It comprises the stone ruins of a bothy known as the Kilbo Bothy and a sheep enclosure (see Fig. 2). The site is close by to an existing conifer plantation while the remainder of the adjacent area is rough open moorland. The River South Esk is nearby and is a designated Special Area of Conservation (SAC).



Fig. 2 – Photo showing Kilbo Bothy context



Fig. 3– Kilbo Bothy standing remains

2. The bothy appears partly intact in terms of its existing walls, with both gable ends and most of the wallheads still apparent (see Fig. 3). Despite this, it is evident that the structure is badly dilapidated. It is thought that the Kilbo Bothy was last used as a shepherd's shelter.
3. Planning permission is sought for the re-building, restoration and extension of the Kilbo Bothy to form a hill shelter (see Fig. 4). The hut would be used for shooting and stalking parties for shelter and a lunch stop. It would be reconstructed faithfully, using the original stonework from the walls and salvaged from around the site where possible and have a building form as

close to its original as possible (with a marginally deeper footprint). Chimneys, timber (shuttered) windows and door, along with a natural slate roof would finish the bothy. In addition a small lean-to would be added (with toilets, cloaks and a small kitchen) constructed with larch timber cladding and lead metal roof.

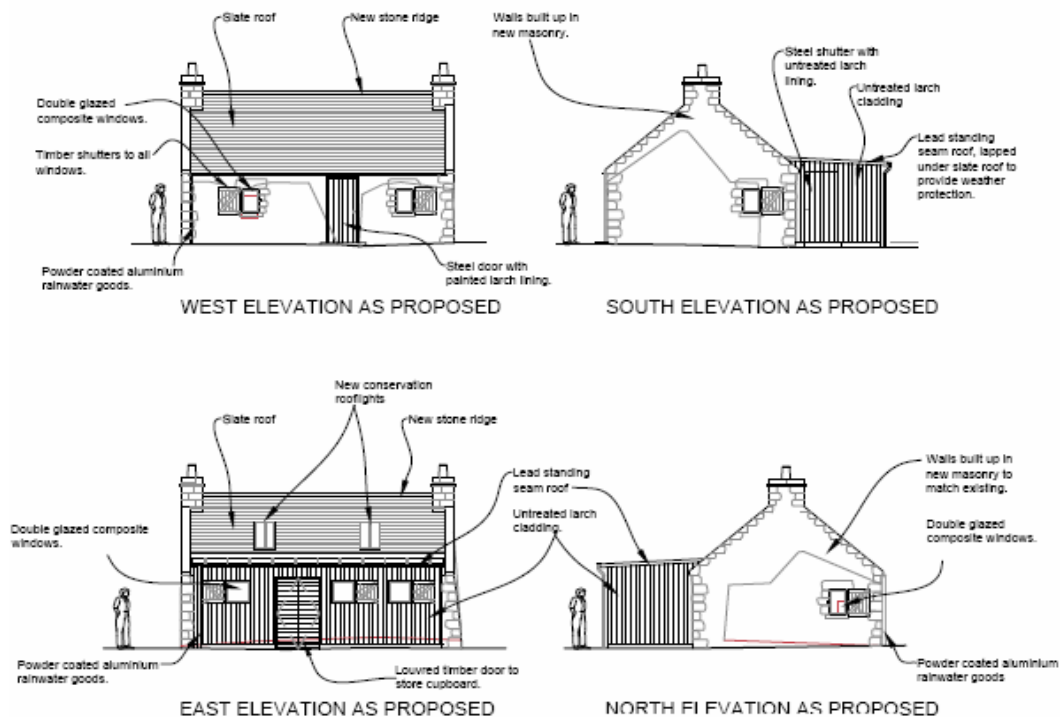


Fig. 4 – Restored bothy elevations

Background

4. The application is accompanied by a detailed amount of supporting information including a Planning and Design Statement, Flood Risk Assessment and various Ecology and Bat Surveys. For background, the Glenprosen Estate is an 8,500 acre mixed agricultural, forestry and sporting estate that has recently been brought into new ownership. Significant investment and development of the existing buildings and lands are proposed to 'create a premier shooting and wilderness destination.' One of the main priorities is 'to elevate the quality of grouse shooting and deer stalking to a very high standard.'

DEVELOPMENT PLAN CONTEXT

5. 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 Dundee & Angus Structure Plan 2001 and the Cairngorms National Park Local Plan 2010.

National policy

6. **Scottish Planning Policy¹ (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.
7. **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.
8. 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.”
9. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes ‘subject policies’, of which many are applicable to the proposed development. Topics include open space and physical activity, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.
10. Rural development: Para. 92 of **Scottish Planning Policy** states in relation to rural development that the “aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.” All new development is required to respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards.

¹ February 2010

11. Landscape and natural heritage: The **SPP** document recognises the value and importance of Scotland's landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.
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.² 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."

Strategic Plan

Cairngorms National Park Plan (2007)

13. The **Cairngorms National Park Plan** sets out the strategic objectives that provide a long term framework for managing the National Park and working towards a 25 year vision. Under the broad heading of **Conserving and Enhancing the Park**, some of the strategic objectives include maintaining and enhancing the distinctive landscapes of the Park and also ensuring that development compliments the landscape character of the Park. Under the theme of **Living and Working in the Park**, the National Park is recognised as being a national asset and a place of recreation and enjoyment.
14. Under the final theme of **Enjoying and Understanding the Park** there is recognition that the Cairngorms National Park is known for its outstanding environment and outdoor recreation opportunities. The vision for the Park involves developing a world class destination and this requires a sustainable approach to developing tourism, and an excellent quality provision of outdoor access and recreation opportunities.

² Para. 256.

Structure Plan

Dundee & Angus Structure Plan (2001)

15. The Structure Plan has contains a development strategy for rural areas which seeks to support and enhance the countryside, maintain valued landscapes and the natural, built and historic environments, and biodiversity.
16. In a chapter on Environment Resources, there is recognition that the historic environment of Angus provides a distinctive sense of place. The Structure Plan therefore needs to balance the protection and conservation of these environments.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

17. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at:
<http://www.cairngorms.co.uk/planning/localplan/pdf/19-Aug-10-Local-Plan-with-PIMs-included-for-web-23-Aug.pdf>
18. 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.
19. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The policies 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 current development proposal.
20. *Policy 1 - Natura 2000 Sites:* development likely to have a significant effect on a Natura 2000 site (SPA, SAC etc) would be subject to an appropriate assessment. Where an assessment is unable to ascertain that a development will not adversely affect the integrity of the site, the development will only be permitted where,
 - (a) There are no alternative solutions; and
 - (b) There are imperative reasons of overriding public interest including those of a social or economic nature.
21. *Policy 2 - National Natural Heritage Designations:* development that would adversely affect the Cairngorms National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that:
 - a) the objectives of designation and overall integrity of the designated area would not be

compromised; or b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.

22. Policy 4 - Protected Species: development which would have an adverse effect on any European Protected Species will not be permitted unless there are imperative reasons of overriding interest, including public health or public safety; there is no satisfactory alternative solution; and the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The policy is intended to ensure that the effects of development proposals on protected species are fully considered by the planning authority. Developers will be required to undertake any necessary surveys for species at their own cost and to the satisfaction of Scottish Natural Heritage and the planning authority.
23. Policy 5 – Biodiversity: development that would have an adverse effect on habitats and species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, will only be permitted where
 - (a) The developer can demonstrate that the need and justification for the development outweighs the local, national and international contribution of the area of habitat or population of species; and
 - (b) Significant harm or disturbance to the ecological functions, continuity and integrity of the habitats or species populations is avoided, or minimised where harm is unavoidable, and appropriate compensatory and / or management measures are provided and new habitats of commensurate or greater nature conservation value are created as appropriate to the site.
24. 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.
25. Policy 8 – Archaeology: requires that impacts on any archaeological resources be considered, including the need for submission of survey reports where considered necessary.
26. Policy 11- The Local and Wider Cultural Heritage of the Park: development should protect, conserve and enhance the cultural heritage of the area.
27. Policy 12 – Water Resources: development must be free from the risk of flooding and not result in the deterioration of water body status.

28. *Policy 16 - Design Standards for Development:* requires that all development minimises the effects of climate change, reflects the local vernacular and uses materials and landscaping that compliments its setting.
29. *Policy 25 - Business Development:* proposals which support economic development will be supported where it supports the vitality and viability to rural business activities.
30. *Policy 34 – Outdoor Access:* the policy encourages development which improves opportunities for responsible outdoor access and adheres to the Cairngorms Outdoor Access Strategy.

Supplementary Planning Guidance

31. *The Sustainable Design Guide* requires development in the National Park to be well designed, sustainable and wedded to its location in this special place. It requires the design of all development to minimise the effect of the development on climate change; reflect and reinforce the local vernacular and local distinctiveness, whilst encouraging innovation in design and use of materials; and demonstrate sustainable use of resources.
32. *Wildness SPG* requires development to respond sensitively to existing areas of wildness and ensure it is protected and enhanced throughout the National Park.

CONSULTATIONS

33. **Kirriemuir East Community Council** was consulted but returned no comment.
34. **Angus Council Archaeology Service** has no objection but requires that a Photographic Condition Survey is undertaken prior to any works commencing.
35. **Angus Council Countryside Access Officer** has no comments to make on the application.
36. **Angus Council Conservation Planner** has no comments to make on the application.
37. **Angus Council Planning & Transport** has no objection in relation to flood risk noting that the structure would be located within the 1:200 flood event area but not permanently habitable. A number of conditions are suggested, including that the restored bothy is not to be used as a dwelling.

38. **SNH** has no objection to the proposal. As the proposal is to build the bothy and install a sewage plant with soakaway as per the stated construction method statement, there should be no affect on the River South Esk SAC.
39. **Scottish Water** confirms no public water supply or sewers are in the vicinity.
40. **SEPA** has no objection given that the bothy would not be used for residential accommodation.
41. **CNPA Landscape Advisor** has no objection and confirms that the glen does not have a strong sense of wildness, nor would the proposals have an adverse effect on the sense of seclusion. It is considered that the restored bothy would enhance the landscape and visual appearance of the area.
42. **CNPA Ecologist** has no objection and requests conditions ensuring pollution prevention measures are put in place.
43. **CNPA Access Officer** has no objection and notes that the proposal has no access issues.

REPRESENTATIONS

44. No representations have been received in respect of this application.

APPRAISAL

45. 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.
46. The main issues to consider in this application relate to the nature of the proposal including its impact on the natural and cultural heritage of the area, its proposed design, and any associated implications, particularly on landscape and visual amenity. Flood risk is also briefly analysed.

Principle of development

47. In assessing the principle of development it is recognised that lunch huts and shelters are often an essential part of a sporting estate's functional requirements, therefore the need for such a building is acknowledged. In general terms, the development proposal should be looked at positively in terms of Policy 25 - Business Development. This policy is favourable towards development which is complementary to current rural business activity and supports the vitality and viability of a rural business. In doing this, it is considered that the current proposal brings the bothy back into an appropriate and viable use.

Natural and Cultural Heritage

48. Looking first at natural heritage, a Bat Survey confirms that the lack of a roof ensures that the bothy structure is unsuitable for bats. An Ecological Survey confirms otters may be present in the Prosen Water but that works are unlikely to impact on the watercourse. A further report to inform an Appropriate Assessment in terms of the impact on the nearby SAC includes a construction method statement and confirms that no residual impacts are anticipated from any site works. SNH are agreeable to its finding and confirm that an Appropriate Assessment is not required. Suspensive conditions ensuring adherence to the statement and pollution prevention measures are recommended.
49. In terms of cultural heritage it is noted that the Kilbo Bothy is currently in a dilapidated and ruinous state. While its remains are apparent at present, and possibly could be so for some time to come, its condition will ultimately deteriorate further and be at risk of collapse and complete loss. It is understood that the existing structure has no foundations or structural integrity remaining to allow for purely restorative proposals. Therefore it is considered that the current proposal for the rebuilding and reuse of the bothy structure would sympathetically replace the building. It is considered that the proposals are sufficiently faithful and sensitive, both conserving and enhancing the immediate area. This meets with the needs of Policy 11 - The Local and Wider Cultural Heritage of the Park.
50. The rebuilt bothy would result in a traditional building typical of the area, retaining a strong connection with the working nature of the landscape, and one which would maintain the sense of seclusion and remoteness.

Design and landscape

51. The design of the bothy is both faithful and sensitive, aimed at providing a building which is both fit for purpose and which maintains the style and character of the original building. The sympathetic and unobtrusive nature of the reconstruction and extension ensures the effects of the development would not be readily apparent in landscape and visual amenity terms.

Technical issues

52. Finally, in terms of flood risk, it is considered that due to the measures put forward and the proposed use of the bothy, the rebuilding of the bothy is acceptable. Both SEPA and Angus Council, as flood prevention authority, are content.

Conclusion

53. In conclusion, it is considered that the proposal is acceptable in design, landscape and visual amenity terms. The application also accords with the aims of the National Park notably conserving and enhancing the natural and cultural heritage of the area.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

54. The scheme of restoration, reusing the original salvaged materials is considered to conserve and enhance the cultural heritage of the area. The faithful reconstruction of the Kilbo Bothy is considered to bring about significant benefits to the cultural heritage of the National Park.

Promote Sustainable Use of Natural Resources

55. The applicant proposes the sustainable use of natural resources by reusing salvaged stone. Larch timber would also feature heavily. An accompanying Design Statement confirms environmental aspects are key using natural materials and high insulation.

Promote Understanding and Enjoyment of the Area

56. The restoration of the Kilbo Bothy would be a significant benefit to this aim. The bothy is strongly connected with the working nature of the landscape and is a traditional building typically found in the area. Information contained within interpretation panels would assist walkers in its current and previous uses. A number of existing rights of way paths exist within the estate lands – these would be retained as part of the proposals.

Promote Sustainable Economic and Social Development of the Area

57. Glenprosen Estate undertakes a number of activities associated with a traditional sporting estate including stalking, fishing and shooting alongside other rural land activities. The bothy would be used for shelter and for lunching. This would promote the reuse of the structure while providing the estate with a restored, yet modern and functional building.

RECOMMENDATION

58. **That Members of the Committee GRANT Planning Permission for Rebuilding, alteration and extension to the ruined Kilbo Bothy to form hill shelter, including drainage at Kilbo Bothy, Glenprosen subject to the following conditions:-**

1. The development to which this permission relates must be begun within 3 years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 or amended by the Planning etc (Scotland) Act 2006.

2. No demolition or development shall take place prior to a photographic survey being undertaken by the developer and approved by the CNPA acting

as planning authority. All elevations, both internal and external, together with the setting of the building, and any unusual feature/s, shall be photographed and clearly annotated on a plan. Photographs, which should be digital on CD, either jpegs or tiffs, shall be clearly marked with place name for identification, national grid reference and planning reference and deposited in the local Sites and Monuments Record.

Reason: To ensure a historic record of the building.

3. Prior to commencement of any development, exact details and specifications of all proposed external finishing materials (including roofing materials, timber and natural stone finishes) shall be submitted for the further approval of the CNPA acting as Planning Authority.

Reason: In order to ensure that the materials are appropriate to the character of the building.

4. Prior to the commencement of any development relating to the rebuilding, alteration and extension to the ruined Kilbo Bothy hereby approved, a scheme for the protection of the adjacent sheep enclosure shall be agreed in writing with the Cairngorms National Park Authority acting as Planning Authority. Thereafter, the agreed measures shall be put in place and remain until works are completed.

Reason: To preserve the historic remains nearby.

5. The rebuilding, alteration and extension to the ruined Kilbo Bothy hereby approved shall be constructed in accordance with the construction method statement dated October 2011. The construction and operation of the site shall comply with the relevant SEPA pollution prevention guidelines, PPGs 04-06, listed at www.sepa.org.uk/guidance/ppg

Reason: To ensure the development does not cause any environmental pollution of or sedimentation to the River South Esk SAC.

6. Details of the foul drainage systems for the rebuilt bothy 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 systems shall be operational prior to the units coming into use and shall be retained and maintained in accordance with the details into perpetuity.

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

7. Prior to the restored bothy hereby approved, coming into use, the measures set out in the FRA prepared by Ironside Farrar, dated November 2011 should be implemented. Thereafter any physical/agreed works should be retained. The restored Kilbo Bothy shall be used for persons mainly or solely connected with the operation and sporting activities of the Estate and not as a dwelling at any time.

Reason: In the interests of public safety and to ensure that the effects of flood risk to the bothy is reduced.

8. Prior to the restored bothy hereby approved, coming into use, interpretation details showing the buildings linkages with the working nature of the landscape historically and in the present day, highlighting and marking its restoration shall be agreed in writing with the Cairngorms National Park Authority acting as Planning Authority. Thereafter, the agreed interpretation shall be put in place and remain in perpetuity.

Reason: To provide interpretation and guidance on the cultural heritage of the Kilbo Bothy.

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10 February 2012
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