

SITE DESCRIPTION AND PROPOSAL

1. Fords of Avon Refuge lies in a remote position in Glen Avon approximately 2 kilometres to the east of Loch Avon. The refuge lies at the junction of a number of walking routes including the Lairig and Laoigh which connects Glenmore with Deeside at Linn of Dee. This path is bisected by a route from Tomintoul which passes the refuge heading towards Loch Avon and the Shelter Stone. This provides a connection between Tomintoul and Deeside via the Lairig an Laoigh. Both of these long distance routes are recognised by the Scottish Rights of Way Society.
2. The refuge is sited next to but above the River Avon adjacent to a point in the river where stepping stones carry the Lairig and Laoigh route over the river. The structure is basically a timber shed measuring 3.6 by 1.7 metres with boulders and moss piled around it (see fig 2). The intention is to rebuild the refuge with a new timber structure, damp proof membrane with timber flooring and horizontal timber boarding. The roof will be replaced with steel corrugated roof sheeting and would have some insulation and damp proofing. To all intents and purposes the re-build will resemble the existing hut with the same boulders re-piled around the timber structure. The one exception would be a small polycarbonate triangular fanlight in the upper gable of one elevation. The RAF Sea King helicopter will be used to remove the existing timber structure. The panels for the new structure will be constructed off-site and airlifted in. The construction is timetabled for late summer to avoid disturbance to birds.
3. The purpose of the refuge is as a basic shelter for hill walkers and mountaineers and given its limited size is more used for emergency purposes rather than a bothy, this is particularly the case when the River Avon is in spate and impossible or difficult to ford. The refuge was constructed in 1960 and it is understood to have little or no repair work done since.



Figure-2 Fords of Avon Refuge



Figure 3- Internal view

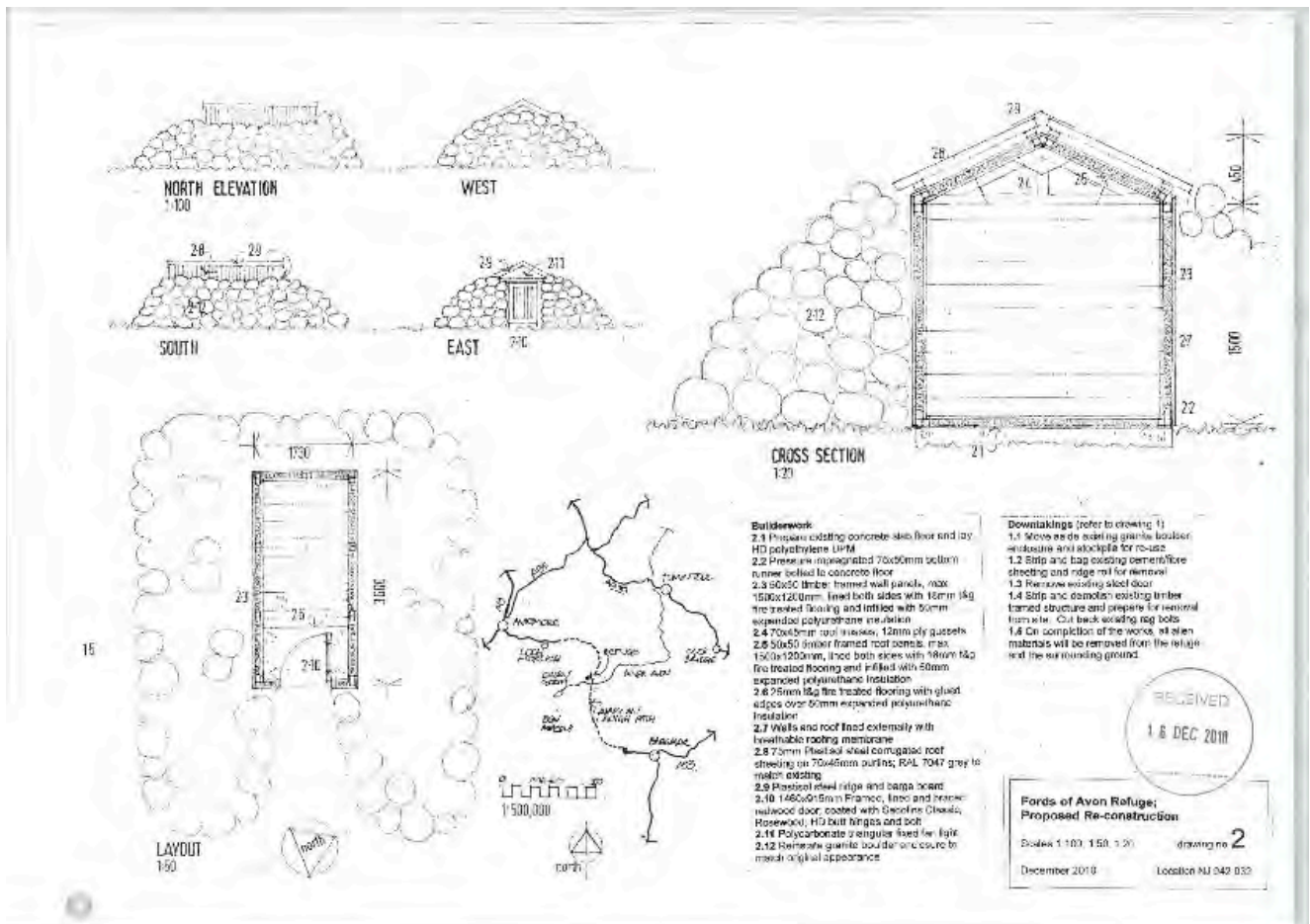


Figure 4 Proposed Re-construction plan/ elevations

DEVELOPMENT PLAN CONTEXT

National policy

4. **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.
5. **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.
6. 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.”
7. 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 rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.
8. 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

9. Landscape and natural heritage : The **Scottish Planning Policy** 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.

10. **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."

11. **Cairngorms National Park Plan (2007)**
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.

12. 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. 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.

² Para. 256.

Structure Plan

13. **Moray Structure Plan (2000)**

The **Moray Council Structure Plan** has four main aims –

- (i) To promote economic growth and development;
- (ii) Spread economic benefits of economic growth across the community;
- (iii) Maintain and improve the natural and built environment; and
- (iv) Underpin development by promoting sustainability.

The “central pillars of the strategy are to promote economic growth and to conserve the natural and built environment, and to promote overall sustainability.”

14. In a chapter on the Environment, there is recognition that the built and natural environment of Moray is one of its most important resources. The Structure Plan therefore needs to balance the protection and conservation of the environment with the need to support the economy and provide recreational opportunities. Structure Plan aims in relation to the Environment to protect the natural environment of nature conservation areas, landscapes, and special areas of the countryside.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

15. 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>

16. 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.

17. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other 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.

18. Policy 1 Natura 2000 Sites : development likely to have a significant effect on a Natura 2000 site 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. Policy 34 – Outdoor Access : the policy encourages development which improves opportunities for responsible outdoor access and adheres to the Cairngorms Outdoor Access Strategy. Development proposals which would result in a reduction of public access rights, or loss of linear access (such as core paths, rights of way, or other paths and informal recreation areas) will only be permitted where an appropriate or improved alternative access solution can be secured.
24. 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 recommendation made in respect of this application.

CONSULTATIONS

25. **Scottish Natural Heritage (SNH)** has no objection to the proposal. SNH note that the refuge is located within the Cairngorms Special Protection Area (SPA) and is within a Site of Special Scientific Interest (SSSI) and is situated close to the River Avon and although it is not within the boundary of the River Spey Special Area of Conservation (SAC) at this location, it flows into the River Spey SAC downstream at Faindouran Lodge.
26. SNH advise that disturbance from vehicular and building activity should be minimised, particularly if vehicles are likely to be used to access the site. Any vehicle movements should be limited. Care should be taken to keep material stored neatly to avoid damage to nearby habitats. The area immediately around the refuge is trampled grass due to foot passage, if materials can be kept within this area it will significantly reduce any short term impacts and also aid any cleaning and restoration of the site following completion of work. Special care should be taken when using cement products to ensure that there is no possibility of materials entering the watercourse or external environs.
27. It is likely that work would take place outside the winter months due to difficult weather conditions. This may mean that work would be done during the breeding bird season. Dotterel, peregrine and golden eagle are species that could occur within the wider area of Glenavon. These are species that are listed interests of the above designated sites. The nature of the work is however such that it would be unlikely to cause disturbance to these species. Otter may only occasionally present and the work will not prevent them from accessing the watercourses and enabling their passage.
28. **CNP Access Officer** welcomes the fact that this refuge has attracted the support of the Mountain Bothies Association who will reconstruct and

maintain the shelter and have good credentials in the upkeep of bothies and refuges. The Fords of Avon is an extremely basic shelter, the purpose of which is to offer short term, emergency accommodation to those needing protection from the elements. It is situated in a remote area approximately 10 miles from road ends to north and south. The route over the Lairig an Laoigh is a Right of Way, a designated core path and is well used. The shelter is situated close to a ford crossing the River Avon. The River can be difficult or impossible to cross during spate conditions and the refuge has been a life saver on occasions.

29. The CNP Access Officer supports the like for like replacement of the refuge with one small exception relating to the plans indication of a fan light above the door, presumably to let in light- something that is not characteristic of the existing structure. It is important that the re-build does not add any enhancements that would attract people to 'plan' a stay at the refuge beyond those that relate to it being wind or water tight, it is suggested that this window feature is removed.
30. Limited, targeted and sensitive information about the refurbishment needs to be placed at appropriate key access points, the road end at Glenmore Lodge, Lin of Dee and Forest Lodge, Abernethy as well as information on the Mountaineering Council website.

REPRESENTATIONS

31. The proposal has been advertised in the Northern Scot on 14 January 2011, no representations have been received.

APPRAISAL

32. The principle of the refuge at the site is well established given the long existence of the existing structure from the early 1960s. In addition the refuge is at a strategic location, marked on Ordnance Survey Maps and from a safety aspect, as noted by the CNPA Access Officer provides emergency accommodation at the Fords of Avon where the river can be difficult to cross in spate conditions.
33. The site is located in a very sensitive location and is subject to a number of environmental designations including being within an SPA and adjacent to the Avon, a tributary of the River Spey SAC. The works involve the like for like re-build of the hut so the only real impacts would come from the construction works. Any environmental impacts from what are relatively minor building works would be very limited and SNH have expressed no objection to the works in relation to the SPA and SAC designations. It is important to note that the refuge is set back from and above the River Avon which ensures no effect upon this SAC tributary river. Given the nature of the works the proposal is not considered to conflict with Policy 1 Natura Sites, Policy 2 National Natural Heritage Designations or Policy 4 Protected

Species of the CNP Local Plan. The site is located within the Cairngorms NSA but there would be virtually no landscape or visual impacts from the refuge as it is intended to be re-built like for like the only difference being the addition of a fan light in the west gable of the refuge. Some concern is raised by the CNPA Access Officer who considers that because the structure is essentially an emergency shelter nothing should be added that would make the refuge more attractive for a 'planned' stay. This has been put to the applicant who has agreed to the removal of the fan light and this is secured by planning condition.

34. The removal of and transportation of materials to such a remote site could be of some concern if new tracks were needed for this purpose. However, material movements will use a helicopter thereby addressing any concerns about damage to vegetation on paths to the site. An advice note is attached at the end of the report to recommend that all materials and construction works are carried out on the eroded grass area that immediately surrounds the refuge.
35. Overall, and while recognising the sensitive nature of the site what will be constructed will in effect be near identical to what is already there. This is a positive proposal that will continue to provide a refuge in poor weather conditions, accordingly the application is recommended for approval. A number of advice notes are attached to this permission to assist in protecting the environment at the site.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

36. This is a highly designated area in environmental terms but the works are relatively minor and as such very unlikely to have any effects upon those designations. The refuge is part of the cultural heritage of the area and the re-build with additional insulation should help to ensure its longevity.

Promote Sustainable Use of Natural Resources

37. With the exception of the timber and insulation to be brought in the structure will be finished with the existing rocks that clad the existing shed structure.

Promote Understanding and Enjoyment of the Area

38. The proposal has only limited relevance to this aim. The re-build will improve the longevity of the shelter to be used by those requiring shelter in the area while taking part in hill walking and climbing.

Promote Sustainable Economic and Social Development of the Area

39. The re-build will help with the longevity of the refuge ensuring a place of safety for users in future.

RECOMMENDATION

40. That Members of the Committee support a recommendation to **GRANT** Planning Permission for the re-build of refuge on a like for like basis, Fords of Avon Refuge, Glenavon, Moray subject to the following conditions:

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

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. All material to be transported to and from the site by helicopter unless otherwise agreed by the CNPA acting as planning authority. The granite boulder enclosure should be reinstated so that the boulders are replaced 'weathered side out.'

Reason: To prevent disturbance to ground vegetation at and around the site and to reduce visual impact of the structure.

3. Notwithstanding the details on approved Drawing No2 no fan light shall be inserted in the gable elevations of the refuge.

Reason: To ensure that the refuge remains an emergency shelter and that additions are not made that would make it more attractive as a 'planned' stopover.

ADVICES

1. Storage of material and construction should be confined to the eroded grassy area immediately around the refuge. This will prevent disturbance to more sensitive vegetation.
2. During re-building when the refuge is not available notices should be placed at strategic access points including Glenmore, Linn of Dee, Forest Lodge Abernethy as well as notice on the Mountaineering Council of Scotland website.

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22 February 2011

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

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Planning Paper 4 4 March 2011

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