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## CAIRNGORMS NATIONAL PARK AUTHORITY

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

**Prepared by: MARY GRIER, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)**

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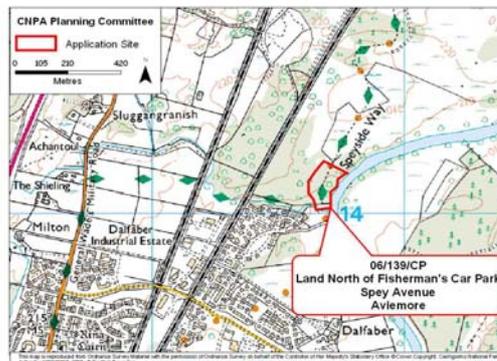
**DEVELOPMENT PROPOSED: FULL PERMISSION FOR THE SETTING ASIDE OF CONDITIONS 7 (EXTERNAL MATERIALS) AND 11 (PATH SIGNING) ON PERMISSION FOR A MAINTENANCE SHED ON LAND NORTH OF FISHERMAN'S CAR PARK, SPEY AVENUE, AVIEMORE.**

**REFERENCE: 07/058/CP**

**APPLICANT: MACDONALD RESORTS LTD., C/O G.H. JOHNSTON BUILDING CONSULTANTS LTD., STONEYFIELD BUSINESS PARK, INVERNESS.**

**DATE CALLED-IN: 23<sup>RD</sup> FEBRUARY 2007**

**RECOMMENDATION : REFUSE**



**Fig. 1 - Location Plan**

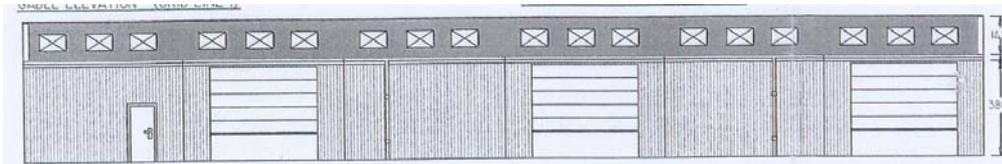
## SITE DESCRIPTION AND PROPOSAL

1. Full planning permission was granted in 2006 by the Cairngorms National Park Authority, acting as Planning Authority for the erection of a maintenance shed and the construction of an access road on land to the north of a small car parking area known as Fisherman's Car Park at Spey Avenue, in the Dalfaber area of Aviemore (CNPA planning ref. no. 06/139/CP refers). The site forms part of the Spey Valley golf course which was opened in 2006 and is adjacent to the River Spey. MacDonald Resorts Ltd., the applicants and site owners, are seeking permission in this current application for the setting aside of conditions 7 and 11 of the existing permission for the maintenance shed.<sup>1</sup>
2. Permission for the maintenance shed was granted in an area which had already been cleared and is in active use as a yard associated with the operation of the golf course. The overall site area includes the cleared area and also the wooded areas to the east and west and measures approximately 3.82 acres. The eastern boundary of the site is flanked by a belt of mature trees adjacent to the riverbank and a well defined informal riverside path winds its way through the trees. The ground rises to a further wooded area on the western side of the cleared area. The land is lower lying in a southerly direction, with the track leading from the yard area into a lower lying, open area which merges with the golf course. One of the developed areas of the golf course forms the northern boundary of the site and the track which currently runs through the site leads directly towards the second tee. A vehicle track from Fisherman's Car Park leads to the subject site. The track also links with a number of internal paths on the golf course, several of which have been created to facilitate access by motorised golf buggies. The Speyside Way also traverses through the golf course and runs close to the western boundary of the site.
3. It was proposed in the previous application to clad the maintenance shed in PVC coated box profile steel sheets. Condition 7 of the permission instead required the use of timber cladding and stated that *"Notwithstanding the details shown on the submitted drawings the walls of the building hereby permitted shall be clad in vertical timber and the roof shall be clad in box profile steel sheeting. Prior to the commencement of development details of the timber cladding and the proposed box profile steel sheeting shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority, and shall either be in the form of samples or, in the case of the box profile steel sheeting, an original copy of the manufacturers catalogue with the proposed colour indicated thereon."*

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<sup>1</sup> The description of the development proposal has been transposed directly from the notification of the application which was received from Highland Council. For the purposes of clarity, it should be noted that the description of the proposed development as detailed by the applicants in response to part 4 of Highland Council's planning application form refers to the "variation of conditions 7 and 11 of planning consent 06/139/CP for erection of golf maintenance shed."

4. The structure has a floor area of approximately 576 square metres and extends to a height of 3.8 metres.



**Fig. 2 : western elevation of proposed maintenance shed (with profile sheeting)**

5. Condition number 11 of the permission, which the applicants now also wish to have set aside, relates to access issues in the vicinity of the subject site. The condition stated that “prior to the commencement of development a scheme shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority identifying the curtilage of the building hereby approved, the routes of all footpaths through and adjoining the site, and measures for signing and maintaining those footpaths.”



**Fig. 3 : Steel frame of maintenance shed (March 2007)**



**Fig. 4 : cleared yard area (August 2006)**

6. The steel frame of the maintenance shed has recently been erected on the site. In the course of a recent site visit, it was evident that the structure is being utilised in its current form, as a roofed storage area

for a variety of lawnmowers and other machinery associated with the maintenance of the golf course. The associated yard area also appears to be in use as a car parking facility for golf course personnel.



**Figs 4 and 5 : steel frame in use as a roofed storage area, and yard utilised for staff vehicle parking.**

### **The applicant's case**

7. A statement has been submitted on behalf of the applicants in support of their proposal to set aside the two conditions detailed (please refer to the copy of the document attached to the rear of this report). In place of the timber cladding required by condition 7 of the planning permission, the applicants propose to use PVC coated box profile steel sheets. The following points have been raised in the supporting statement prepared on behalf of the applicants –
- (a) there was no prior indication by the case officer that the cladding material for the building was an issue and “this would suggest that officials were satisfied that the proposed material was suitable, subject to agreeing details of colour and profile”;
  - (b) a similar box profile steel sheeting clad building, in a more prominent location, was granted planning permission by Highland Council in July 2006, after the CNPA had determined not to call in the application. The case is advanced that the subject site north of Fisherman’s car park is “more secluded and therefore less obvious”;
  - (c) The seclusion of the site raised issues of security for the proposed building. Reference is made to acts of vandalism that occurred at the golf course in July 2006 prior to the official opening. It is stated that there is a risk to the security of the maintenance shed and the example is given that “unlike timber, box profile steel sheeting would not be at risk of being set on fire with consequential damage to the structure and the equipment housed within”;
  - (d) The building is to have metal roller shutter doors, which were not the subject of the revised condition requiring timber finishes. It is stated that it would be easier to match the colour of the roller shutter doors with box profile steel sheeting clad walls than timber;
  - (e) The applicant maintains strong reservations about the security and extra cost of constructing the walls in timber. Reference is

made to the fact that the contractors have clarified that it is possible to hang timber on to the reinforced steel framework. Significant emphasis is placed on the cost involved in such works and it is suggested that “the cost of doing so would be three times that for cladding it in box profile steel sheeting.” The economic aspect of the applicants argument is concluded with a comment that “combined with the cost of the additional works to comply with other conditions would place this project significantly over budget and seriously threatens the feasibility of the proposed building. This would have a knock on effect for the efficient management and maintenance of the golf course.”

8. In relation to condition 11 of the original permission regarding the provision of signage and maintenance of the routes of footpaths through and adjoining the site, the applicants supporting statement concentrates on two particular issues – (a) the signage and maintenance of a path which forms part of National Cycle Route 7 / Aviemore Orbital Path and (b) the riverside path.
9. In relation to the cycle route / orbital path and the advice provided by the CNPA in relation to the extent of works necessary to achieve compliance with condition no. 11 of the original planning permission,<sup>2</sup> the applicants accept that there is a need for directional signage of the route. It is their contention however that the requirement to upgrade a section of track from the branch off the buggy track to meet the Speyside Way, to a standard similar to the existing buggy track (or a standard of works to be agreed with Sustrans) is excessive. MacDonald Resorts advance the opinion in their submission that the section of path in question would require upgrading over a distance of approximately 200 metres and that it “extends some distance away from the curtilage of the proposed maintenance shed.” The applicants consider it unreasonable to expect this section to be upgraded in relation to the permission for the maintenance shed and they contend that such works should have been “covered by a condition attaching to the consent for the golf course.”
10. MacDonald Resorts in their submission also raise concerns regarding the requirements relating to the riverside path.<sup>3</sup> Reference is made in

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<sup>2</sup> Further to discussions with the CNPA’s Visitor Services and Recreation Group to establish the extent of works necessary in order to comply with condition no. 11 of the planning permission 06/139/CP, the following works were required to be undertaken : provision of a bi-directional signage at four locations indicating the line of the National Cycle Route & and the Aviemore Orbital Path; a requirement that MacDonald Resorts (the applicants) improve the cycle route and orbital route from the western buggy track to the junction of the Speyside Way either to the same standard as the buggy track or to a standard and works agreed with Sustrans; MacDonald Resorts to take responsibility for maintenance of the route from Fisherman’s car park up to the point where it branches off from the golf course buggy track; the creation of a gap (at least 1.5 metres wide) beside the existing vehicle gate at Fisherman’s car park in order to meet the range of access needs in the vicinity; and the upgrading and maintenance of the riverside path.

<sup>3</sup> In order to comply with the provision of condition no. 11 of the permission, the CNPA’s Visitor Services and Recreation Group advised that MacDonald Resorts have responsibility for maintaining

their submission to the path lying outside the original application site. They express concern about the “steep bank down to the River Spey on the highest section of this path” describing it as “a danger to users.” It is stated that MacDonald Resorts are very concerned about encouraging the use of the path through upgrading and signage. The applicants also suggest that the cost of bringing the path to a suitable standard would be excessive and it is their preference that walkers are directed to use the buggy track which runs to the west of the application site.

11. The applicants conclude their supporting statement with the view that conditions 7 and 11 are unreasonable and state that they are inconsistent with the consent for a similar proposal in a more prominent location, “with related security, cost and operational implications for the golf course.” It is suggested that this in turn would hamper efforts to attract more visitors to help benefit the economy of the National Park area.

## DEVELOPMENT PLAN CONTEXT

### **Highland Council Structure Plan (2001)**

12. The maintenance shed is proposed in conjunction with the operation of the golf course in the midst of which it is to be positioned. As such **Policy SR3** of the **Highland Council Structure Plan (2001)** on golf developments is of relevance. The policy states that “golf developments that are consistent with the aims of the Highland Golf Development Strategy and which are accompanied by a satisfactory golf course management plan will be supported.”
13. Further structure plan policies on the topic of ‘Sport and Recreation’ that of relevance to this site relate to informal recreation and access. **Section 2.5.10** of the Plan highlights the importance of informal recreational access to the countryside, underpinning a range of recreational pastimes and their associated quality of life benefits, as well as being a key component of the tourism industry.
14. In relation to nature conservation, **Policy N1** of the Structure Plan is of relevance, stating that new developments should seek to minimise their impact on the nature conservation resource and enhance it wherever possible. In relation to sites and species of international importance the Structure Plan advises that “development which would have an adverse effect on the conservation interests for which a site has been designated will only be permitted where there is no alternative solution and there are imperative reasons of over-riding public interest,

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and as part of that, upgrading, the riverside path. The requirements set out included the upgrading of the route from the old wooden bridge to where the route emerges onto the new golf buggy track; the removal of a broken stile, fencing and old gate that are not required as part of the route; the replacing of the old wooden footbridge over the burn; and the signing of the route in two places (at Fushman’s car park and as it emerges onto the golf buggy track).

including those of a social and economic nature.” A similar policy applies within sites of national importance where development will only be permitted where the objectives of designation and the overall integrity of the area will not be compromised or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits of national importance.

**Badenoch and Strathspey Local Plan (1997)**

15. The majority of the subject site is identified as ‘recreation / open space’ in the Badenoch and Strathspey Local Plan (1997). A small portion of the southern area of the site is allocated as ‘Amenity Woodland.’ Policy 6.3.9 applies to the recreation / open space land use and refers specifically to the golf course, noting that it consists of “approximately 60 hectares of land north of the Dalfaber resort comprising the flood plain, other areas unsuitable for development and attractive woodlands to the north” allocated for an 18 hole golf course. Policy 6.5.1 applies to the Amenity Woodland designation where it states that it is the Council’s main objective to create a major landscape framework within and adjoining Aviemore in order to achieve extensive and robust improvements to the structure and amenity of the village, and also to achieve better integration with the surrounding environment.

**Cairngorms National Park Plan**

16. The recently approved **Cairngorms National Park Plan** recognises the outstanding environment and outdoor recreation opportunities in the Park and the need for an excellent quality provision of outdoor access. Section 5.3.3 of the Plan discusses ‘Outdoor Access and Recreation’ in detail. The Plan includes a number of Strategic Objectives for Outdoor Access and Recreation which are of relevance in assessing the current application. Objectives include encouraging people of all ages and abilities to enjoy and experience the outdoor environment; develop a co-ordinated approach to the sustainable management of high quality outdoor access and recreation by the public, private, community and voluntary sectors; plan for future outdoor recreation needs and opportunities in a co-ordinated way across sectors; and develop a high standard of responsible management of outdoor access based on a common understanding of the needs of access managers and users.

**CONSULTATIONS**

17. The consultation response from the CNPA’s **Visitor Services and Recreation Group** relates to the request to set aside condition no. 11 of the original permission, i.e. the condition which primarily dealt with access issues. **VSRG** provide a detailed rationale for the imposition of the condition in the first instance and also refer to the requirements

which were stipulated to the applicants in order to achieve compliance with the condition.

18. The condition came about as a result of a desire on the part of the National Park Authority to ensure that access to, and around the application site is protected, secured and enhanced in the course of the development, particularly due to the fact that there are two important recreational routes passing the site. The purpose of the condition is to improve the quality of the routes in order to increase the general public's enjoyment of the area. **VSRG** note that the paths in question were both identified as being important to the people of Aviemore in the course of the first round of public engagement for core path planning and have recently been proposed for inclusion in the Interim Draft Core Paths Plan.

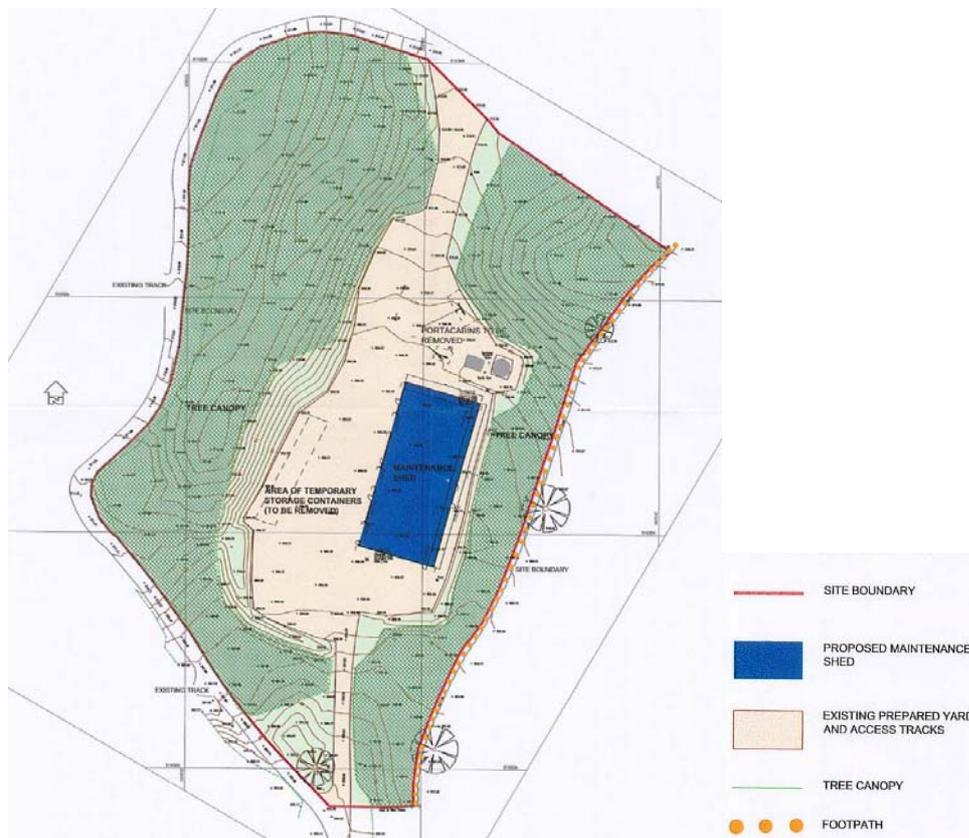


Fig.6 : Proposed site layout plan

19. **VSRG** acknowledge in their consultation response that the paths which have primarily become the subject of condition number 11 of the original planning permission, fall outwith the identified site boundaries of the application site. **VSRG** highlight the fact that the subject site would essentially consist of an industrial type complex, through which access rights would no longer apply. It has become a necessity therefore that the condition relates to paths outwith the site and the paths in question fall within the land owned and maintained by the applicants, MacDonald Resorts Ltd..

20. In relation to the required signing and upgrading of the National Cycle Route and the Aviemore Orbital Path and the case advanced by the applicants, which makes reference to the requirements in relation to the path not having been detailed by the CNPA's Outdoor Access Officer in the course of a site meeting with the agent, **VSRG** highlight the fact that the purpose of the site visit was to gain familiarity with the site and assess the works that could feasibly be achieved. **VSRG** clarify that the position of the CNPA in relation the works required to achieve compliance with the relevant condition was conveyed to the applicants agent in a formal letter,<sup>4</sup> following a comprehensive assessment and reflection on the findings of the site visit.
21. The consultation response from **VSRG** makes several points in relation to the riverside path. It is noted that the path is quite clearly identifiable on the ground, although it is conceded that the path has probably been used less in recent times due to the fact that people have tended to take a direct line through the application site, following its levelling and surfacing. **VSRG** comment on the likelihood of this direct access route being closed as it would fall within the curtilage of the maintenance shed and general industrial type compound. It is stressed that access around the site is therefore of paramount importance.



Fig. 7 : Riverside path would provide opportunities for access away from the developed site

22. **VSRG** also point out the benefits in upgrading, maintaining and promoting the route of the riverside path, suggesting that the availability of the path to route people firmly away from the golf course could perhaps be a plus point from the perspective of golf course managers. It is however acknowledged that the option would still remain of people using the buggy track to the west of the site, but more so on the basis of it being an 'additional' as opposed to the 'alternative' route.

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<sup>4</sup> Letter from CNPA's Visitor Services and Recreation Group sent to the applicant's agent on 22 November 2006.

23. The response from **VSRG** considers it an overstatement on the part of the applicants to describe the current riverside path as constituting a 'danger to users.' It is pointed out by the **Visitor Services and Recreation Group** that the path contains a natural hazard, at a point where it comes close to the edge of a grass bank, which falls at an angle to the river and where it is dotted with birch trees. This naturally occurring hazard would be quite obvious to members of the public traversing the path. Reference is also made to the fact that the Scottish Outdoor Access Code advises that recreational users take access at their own risk. **VSRG** have not requested the erection of safety barriers, as implied in the applicants supporting statement, and the **Visitor Services and Recreation Group** are of the view that there are much simpler and cheaper options for managing this section of riverside path and the group remain willing to discuss such proposals with the applicants in order to achieve compliance with condition no. 11 of the original permission. In summary, it is the view of the CNPA's **Visitor Services and Recreation Group**, on the subject of condition number 11 of the planning permission, that the condition should remain in place.



Figs. 8-9 : Informal path through wooded area.

24. The CNPA's **Natural Heritage Group** also examined the current proposal, from the perspective of landscape impact. The benefits of the use of timber cladding on the structure are outlined in the consultation response and reference is made to the ability of untreated timber to fade over time and produce a silver grey colour that would blend particularly well with the birch woodland around the shed. It is also pointed out that timber cladding is naturally more sustainable. The alternative proposal to timber cladding i.e. coloured preformed steel

sheeting is also assessed and NHG comment that a combination of two colours of sheeting on the large and simple shed would assist considerably in breaking up the mass of the structure. It is suggested that a suitable effect could be achieved by using pale and mid grey colours.

25. As this is an application seeking to vary / set aside some of the conditions attached to the original permission for the maintenance shed on the site, rather than an application on which the principle of new development is being assessed, consultations with previous consultees such as **Scottish Natural Heritage** were not carried out. In summary, at the time of the original application for the maintenance shed on the site, **Scottish Natural Heritage** highlighted the proximity of the River Spey SAC and SSSI. **SNH** considered the proposal unlikely to have an impact on salmon, sea lamprey or freshwater pearl mussels, "so long as there is no sediment input into the river."
26. Previous comments from **Scottish Natural Heritage** also made reference to the site being adjacent to the Cairngorm Mountains National Scenic Area but again did not consider the development likely to have an impact in view of the fact that it is small scale and outwith the boundary. The **SNH** response also referred to the woodland in part of the site being identified as ancient woodland in the 'Inventory of Ancient, Long Established and Semi-Natural Woodland.' It was also noted that outside the Ancient Woodland area there is a stand of mature aspen next to the river, which is regenerating very successfully. **SNH** commented that this is not common in Badenoch and Strathspey.
27. **Aviemore and Vicinity Community Council** was consulted on the proposal. However no response has been received to date.

## REPRESENTATIONS

28. No representations have been received in respect of the development proposal.

## APPRAISAL

29. The principle of a maintenance shed has already been accepted on the site, with the CNPA having determined to grant planning permission in September 2006 (planning ref. no. 06/139/CP). Members will recall that a detailed discussion took place at that committee meeting regarding the potential impact of the proposed structure and in particular the effect of the proposed profile sheeting finish juxtaposed with its woodland surroundings. As detailed earlier, in light of Members concerns regarding the potential negative visual impact that could result, members required that condition be included in the grant of planning permission setting aside the proposal to use box profile

sheeting on the external walls of the structure and requiring instead that the structure be clad in vertical timber. The reason that this condition was attached to the grant of planning permission was “in the interests of the visual amenity of the area and to assimilate the building into its woodland surroundings.”

30. A further point of concern which was discussed in detail by Members prior to determining to grant planning permission, was the issue of access in the vicinity of the subject site, with the Committee particularly having regard to the third aim of the National Park to promote the understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public. As reflected in the minutes of the meeting of 8<sup>th</sup> September 2006 “it was proposed that an additional condition be attached regarding a requirement to maintain and provide signage for the paths through and immediately adjacent to the site.”
31. In the months immediately following the CNPA’s decision to grant planning permission, the agents acting on behalf of MacDonald Resorts Ltd. engaged in discussions and correspondence with CNPA officials in order to achieve compliance with the conditions. With regard to condition number 7 requiring the use of vertical timber cladding on the external walls, a sample of the proposed timber boarding as well as photographic evidence of its use elsewhere on a similar type shed (together with a sample of profile sheeting for use on the roof), was submitted to the CNPA. The sample was deemed acceptable and a letter was issued to the agents on 22 November 2006 confirming compliance with condition number 7 of the permission.



**Fig. 10 : example of formerly proposed timber cladding**

32. As detailed in supporting information submitted on behalf of the applicants, a meeting was also held on site (in November 2006) with one of the CNPA’s access officers to discuss the requirements for signage and maintenance of paths in the vicinity in order to achieve compliance with condition number 11 of the permission. Based on the efforts of the agents to engage in discussions and achieve compliance with the conditions of the planning permission, it would seem that the

requirements set down by the CNPA, acting as Planning Authority were initially acceptable to the applicants.

33. The case before Members in this current application is only in relation to the appropriateness of condition numbers 7 and 11 which were attached to the original permission. I acknowledge the concerns of Members in relation to the potential visual impact of the originally proposed box profile steel sheeting and I am mindful of the fact that the decision to require the use of timber cladding was taken in the best interests of ensuring that the building would assimilate into the surrounding wooded setting. However, given the relatively well screened nature of the site, the fact that appropriately coloured profile sheeting could be selected for use on the structure and also having regard to the acceptance of finishes of this nature on many industrial and agricultural buildings of similar scale, often in more exposed locations, I remain of the view, as expressed in the planning report relating to the original permission on the site, that the use of profile sheeting, would be acceptable at this site.
34. I do not consider that its use would be detrimental to the visual amenity of the area, nor would it detract from the general public's enjoyment of the special qualities of the area. In addition, it is my view that it would be extremely difficult to sustain a case for the use timber cladding in the event of any planning decision being appealed. It is necessary to question whether the condition requiring the use of timber cladding instead of the proposed timber steel sheeting would be viewed as reasonable, particularly as there is a precedent for accepting the use of this material on similar structures in other, more prominent areas within the National Park.
35. I therefore maintain the view that the condition which was originally recommended would be sufficient to address concerns regarding the visual impact in particular. The condition stated that "Prior to the commencement of development a sample of the proposed box profile sheeting shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority, and shall either be in the form of a sample or an original copy of the manufacturers catalogue with the proposed colour indicated thereon."
36. With regard to condition number eleven of the original planning permission, which the applicants are also seeking to set aside, I share the view of the CNPA's **Visitor Services and Recreation Group**. As detailed in the comments from that group Members stipulated the inclusion of the condition in order to ensure that access to and around the application site is protected, secured and enhanced in the course of the development and in order to increase the general public's enjoyment of the special qualities of the area, particularly through an improvement in the quality of the established routes which pass in and around the site. As pointed out in the response from **VSRG**, once developed, the subject site would essentially consist of an industrial

type complex through which access rights would no longer apply. Consequently there is a necessity to ensure that remaining opportunities for access around the site, including along the riverside path, are safeguarded and that those remaining paths are maintained and upgraded where necessary to an appropriate standard to secure their continued use and that appropriate levels of signage are incorporated.

37. In conclusion, given that this application deals collectively with a proposal to set aside two conditions relating to the planning permission granted on the site, it is necessary to make a recommendation on the collective proposal. Although I do not have an objection to the setting aside of condition number 7 of the original planning permission, which would then effectively allow the use of box profile steel sheeting, my concerns regarding the potential abolition of condition number eleven relating to access requirements remain. In light of the concerns expressed and my view that the requirements of this condition remain extremely pertinent and necessary, I recommend a refusal of the planning permission being sought for the setting aside of the two conditions collectively.

## **IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK**

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

38. The principle of the development has already been accepted on the subject site and the conditions which are sought to be set aside in this current application would not have an impact on the natural or cultural heritage of the area.

### **Promote Sustainable Use of Natural Resources**

39. The construction materials proposed do not contribute to the sustainable use of natural resources.

### **Promote Understanding and Enjoyment of the Area**

40. The setting aside of condition number eleven of the original planning permission which relates to access provision, would not assist in promoting the understanding and enjoyment of the area by the general public, as it would lessen access opportunities in the area.

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

41. Given that the principle of the development has already been established and the development is in the process of construction, the two conditions which are the subject of this application would not have a direct impact on this aim.

## RECOMMENDATION

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

**Refuse planning permission for the setting aside of conditions 7 (external materials) and 11 (path signing) on permission for a maintenance shed on land north of Fisherman's Car Park, Spey Avenue, Aviemore for the following reason : -**

1. The setting aside of condition 11 of the original planning permission (CNPA planning reference 06/139/CP) would be contrary to the third aim of the Cairngorms National Park as it would result in diminished access opportunities in the vicinity of the subject site and would therefore fail to promote the understanding and enjoyment of the area by the general public. It would also be inconsistent with the **Highland Council Structure Plan** policies on Sport and Recreation, which highlight the importance of informal recreational access to the countryside.

**Mary Grier**  
**28 March 2007**

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