
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REQUEST FOR (A) AMENDMENTS TO TERMS OF SECTION 75; (B) AMENDMENTS TO DESIGN; AND (C) VARIATION OF A PLANNING CONDITION ASSOCIATED WITH THE PROPOSED KINRARA SPORTING LODGE

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REFERENCE: 09/376/CP

APPLICANT: THE KINRARA PARTNERSHIP C/O HARRY TAYLOR AND CO., PERTH

PLANNING APPLICATION DETERMINATION DATE: 25 JUNE 2010

RECOMMENDATION : (A) APPROVE THE REQUEST TO AMEND THE TERMS OF THE REQUIRED SECTION 75 LEGAL AGREEMENT; (B) APPROVE DESIGN AMENDMENTS; (C) REFUSE VARIATION OF A PLANNING CONDITION.



Grid reference : 286705 810446

Fig. 1 - Location Plan

BACKGROUND TO THE REPORT

1. This planning application, seeking permission for the erection of a sporting lodge, new access road, landscaping including the formation of ponds and a gateway feature on land to the north of Ballinluig Farm, Aviemore, came before Members for determination at the meeting of 25 June 2010. Members resolved to approve the development, subject to the completion of a Section 75 legal agreement to restrict the sale, lease or any other form of disposal of the sporting lodge separate from the estate lands, and also subject to a number of conditions.
2. For ease of reference a copy of the planning report originally presented to the CNPA planning committee, together with an extract from the minutes of that meeting are attached in Appendix I. Copies of the report are also available to view on the CNPA website at <http://www.cairngorms.co.uk/resource/docs/boardpapers/25062010/CNPA.Paper.3659.Planning%20Committee.Planning.paper..pdf>
3. Having considered the conditions which would be attached to the planning permission, and having considered the content of the draft Section 75 legal agreement, the applicant's representatives have now requested that consideration be given to various amendments to the legal agreement, as well as the conditions that would be imposed on the planning permission. Design amendments have also been put forward in respect of the proposed sporting lodge.

DEVELOPMENT PROPOSAL

4. The following is a summary of the various aspects of the planning application as considered by the Planning Committee in June 2010. More detailed information is contained in Appendix I (copy of the original planning report).
 - Planning permission was sought for the erection of a sporting lodge, new access road, and landscaping including the formation of ponds and gateway features;
 - The sporting lodge is proposed on a 4,051 hectares;
 - The applicants purchased this land area in recent years. It was formerly part of the Kinrara Estate;
 - The land was purchased with the objective of establishing a sporting and agricultural business;
 - The originally proposed sporting lodge has a floor area of approximately 1,500 square metres and includes 14 en suite bedrooms and a variety of public rooms (drawing room, orangery, library, sitting room, formal and informal dining rooms, games room, estate room and bat area);
 - The lodge design is a two storey elongated form, classical in design, with strongly emphasised symmetrical elevations;
 - Proposed finishes in the original design included a rendered off white / cream finish; dark grey natural slate on the roof; timber double glazed doors and sash and case windows; and reconstituted stone on features

such as chimney copes, pediment columns, window surrounds, corner margins and the orangery;

- A business case was advanced in support of the proposed sporting lodge, based on the on-going development of the estate for sporting purposes, with the lodge being necessary to provide on-site accommodation for sporting clients;
- The planning application was presented for determination at the CNPA planning committee on 25th June 2010;
- The planning recommendation which was accepted by the CNPA planning committee involved consideration of policies in the then existing Badenoch and Strathspey Local Plan (1997), with the CNPA Local-Plan Post Inquiry Modifications (2010) also regarded as a material consideration;
- The CNPA planning committee resolved to grant planning permission, subject to the completion of a Section 75 legal agreement and subject to a number of conditions;
- The Section 75 legal agreement would restrict the sale, lease or other form of disposal of the proposed sporting lodge separate from the estate lands;
- Some of the conditions of the planning permission included the undertaking of various surveys in the area around the new section of access track and the site of the lodge prior to the commencement of development; a requirement for the submission of samples of window frames, roofing and external wall materials prior to the commencement of development; and a condition stipulating that no reconstituted stone shall be used on the exterior of the lodge, that natural stone shall instead be used and that a sample of such stone is submitted for the agreement of the CNPA prior to the commencement of development.



Fig. 2 : Location of proposed sporting lodge

PROPOSED AMENDMENTS

Section 75 legal agreement

5. A written request was received from CKD Galbraith 26th October 2010 on behalf of the applicants, relating to requested amendments to the terms of the drafted Section 75 legal agreement. It was emphasised at the outset of the correspondence that the applicants “understand the reasons for the Cairngorms National Park Authority requiring a Section 75 consent.” They suggest that any Section 75 “should fairly and reasonably relate in scale and kind to the proposed development and also be reasonable in all other respects.”
6. The following is a summary of the points which the applicants requested be reconsidered in relation to the terms of the Section 75 legal agreement.
 - A request that the Section 75 legal agreement should not cover the entire estate, as the business case for the proposed sporting lodge links the accommodation to the sporting asset. The sporting assets to be employed in connection with the lodge comprises of the grouse moor, deer forest, salmon fishings on the River Dulnain and a certain amount of low ground woodland in connection with the pheasant shoot.

In a submission from CKD Galbraith it is pointed out that the Section 75 as currently drafted would include the entire estate. As the overall estate management in the future is intended to be varied and could include the granting of grazing licenses, agricultural tenancies, short term lets, mineral leases, forestry leases, film location agreements, or the disposal of any development land etc., the currently drafted terms of the Section 75 would require the applicants “to seek a variation on each and every occasion that one of these estate management objectives were to be met.”

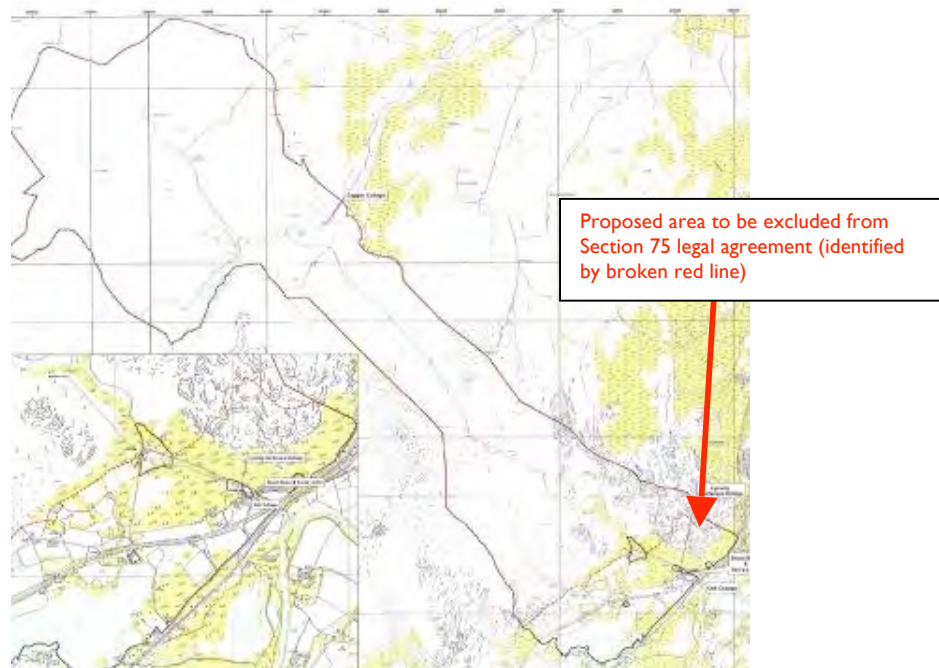


Fig. 3 : Proposed extent of landholding to be included in Section 75 legal agreement

CKD Galbriath request on behalf of the applicants that the proposed sporting lodge is tied to a smaller area of land than the entire estate. The area to be excluded is in the southeastern area of the estate, and included the area of land around Loch Alvie between the B9152 and the A9 roads, and also an area of agricultural land on the western side of the A9 trunk road. The area which is proposed to be excluded is approximately 390 hectares. In order to ensure that accommodation is available for current and future estate workers, it is also proposed to bind a number of existing properties on the Estate into the Section 75, including Lynwilg Gardener's Cottage, Oak Cottage and Caggan Cottage. A number of other structures associated with the operation of the estate would also be included. Properties include the existing shoot room, game larder and estate workshop. A number of other properties exist on the Estate are not proposed to be included within the Section 75 legal agreement. The submission from CKD Galbraith suggests that the proposed sporting lodge and the three residential properties named above are sufficient to bind to the development proposal, as they "would ensure delivery of the business objectives."

- A request that the Section 75 legal agreement does not preclude the sporting lodge from various forms of letting consistent with the operation of the lodge as a business, but accepting that it would preclude the long term lease of the lodge as a private residence.

In support of this request, reference is made to the new lodge being a substantial investment, in which the owners would "require the ability to let the lodge to earn a commercial return, both from sporting parties and from other commercial uses outwith the shooting season or in the event of the shooting season being truncated.

- A request that the Section 75 legal agreement is not for an indefinite / infinite period of time and a suggestion that a mechanism is included in the agreement to allow for its review every seven years.

In support of this request, the submission from CKD Galbraith makes reference to wide ranging issues such as the climate change debate, increasing regulation of management of sporting estates, and the regulatory and natural environment being "subject to potential radical change and this in turn may impact on the future viability of the sporting enterprise." On the basis of all of the foregoing it is suggested that binding the lodge indefinitely to the sporting resource is not reasonable, and that the inclusion of a review period would be more "appropriate and reasonable" and would allow for consideration of the business and management objectives of the estate overall.

7. In recent e-mail communication from CKD Galbraith on 26th November 2010, some wider concern has been expressed on behalf of the applicants in relation to the imposition of a Section 75 legal agreement. It is stated that the applicants are "increasingly concerned about the restrictive nature of what is proposed by a Section 75 agreement" and are "seriously reconsidering

whether they will indeed commit to building the new lodge, should a Section 75 be insisted upon.” The CNPA Planning Committee are urged to reconsider the potential impact of insisting upon a Section 75 agreement, and it is requested that where it is used it is “reasonable and appropriate in securing the benefits sought.”

Design amendments

8. Amended drawings for the proposed sporting lodge have been received from Harry Taylor and Co, Chartered Building Surveyors, acting on behalf of the applicants. Reference is made in the submission documentation to the applicants wish to amend and downsize the sporting lodge.
9. The amended drawings show the omission of the orangery from the western gable of the lodge and a significant reduction in the size of the wing that was originally proposed to project from the rear of the lodge.



Fig. 4 Originally proposed front (southern) elevation



Fig. 5 Currently proposed front elevation

10. The proposed amendments have also resulted in internal changes to the proposed floor plan, including the omission of the orangery which led off the drawing room at the western end of the lodge. Other internal changes also result from the reduction in size of the rear wing, with ground floor changes including the omission of a large games room and bar at ground floor level (although with games room function is now incorporated into an enlarged estate room). At first floor level bedrooms 13 and 14 have been reduced in size in order to be accommodated in the substantially smaller wing. This area of the first floor is accessed by a repositioned lift shaft, as opposed to the previous layout which included a second staircase and a lift, both alighting in a spacious landing.

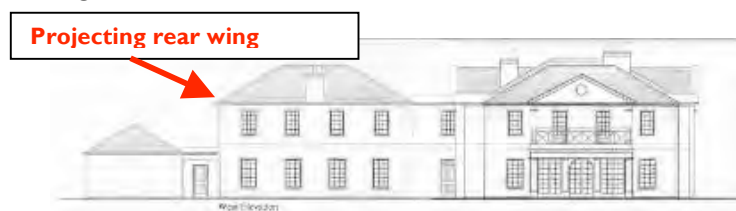


Fig 6 : Originally proposed western elevation



Fig. 7 : Currently proposed western elevation (showing the omission of the orangery and a reduction in the extent of the northern wing)

Amendment to Condition no. 8

11. Condition no. 8 of the planning permission which the CNPA planning committee resolved to approve stated that “no reconstituted stone shall be used on the exterior of the sporting lodge. All areas of the sporting lodge on which reconstituted stone was proposed shall instead be finished in natural stone. Prior to the commencement of above ground construction works a sample of the natural stone shall be provided for the written agreement of the Cairngorms National Park Authority acting as Planning Authority and the agreed stone shall be utilised thereafter.” The reason for the inclusion of the condition was “in the interests of the visual amenity of the area and in order to enhance the character of the sporting lodge.”
12. In the submission from Harry Taylor and Co, it is requested that the inclusion of this condition is reconsidered, and five points have been advanced in support of this request.
 - (i) “the quality of the reconstituted stone proposed is of a high standard, and is indistinguishable from natural stone;”
 - (ii) Reference is made to the distance of the proposed sporting lodge from the route of any public footpath, public highway or any viewpoint and as such it is suggested that it would be impossible for the general public to make a judgement as to the material used for the masonry features;
 - (iii) The performance and longevity of the reconstituted stone is not dissimilar to natural stone and also has a better frost resistance than some stone;
 - (iv) There are no quarries active in Scotland which are capable of producing stone of the required texture and colour – a light buff coloured smooth feature is referred to in the documentation, with the agent suggesting that an equivalent natural stone would be Bath sandstone. If using such a stone, it is suggested that transport costs from the south of England would greatly increase the cost of using stone features; and
 - (v) Cost is the final point raised, where natural stone features, cut and shaped to the required profiles, are described as increasing the overall cost of the development. Quantity Surveyor estimates predict that the additional cost of using natural stone instead of reconstituted stone would be in excess of £125,000. The submission on behalf of the applicants describes this as “a substantial financial burden, for no perceived benefit.” Reference is also made to the recently submitted amended design drawings, which have been submitted as the applicants are “unable to justify the construction of the original proposal and have reluctantly decided to downsize the Lodge on financial grounds.” It is suggested that if required to utilise natural stone “it is highly probable

that further savings will have to be considered, and if implemented will reduce even further the quality and size of the finished building.”



Fig. 8 : Natural stone



Fig. 9 : Reconstituted stone

13. Photographic samples of a potential natural stone finish and a reconstituted stone that is suggested by the applicants representative as being similar, have been submitted in support of their case. Actual samples are also intended to be provided, but their delivery to the CNPA offices has been delayed due to adverse weather conditions which are on-going at the time of preparing this report. In the event of receipt of the actual samples, they will be made available at the CNPA planning committee meeting.

DEVELOPMENT PLAN CONTEXT

14. Planning policy was detailed in the paragraphs 13 to 46 of the planning report which was originally presented to the CNPA planning committee when this application was considered on 25th June 2010. The following provides a brief reference to policies, previously referred to, which remain applicable in deliberating on the amendments proposed at the current time. Please refer to Appendix I for complete details of policy.

National Planning Policy

15. **Scottish Planning Policy 2010 (SPP)** is a 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. **Scottish Planning Policy** includes ‘subject policies’, of which many are applicable to the proposed development. Topics include economic development; rural development; and landscape and natural heritage.

Strategic Policies

Cairngorms National Park Plan (2007)

16. 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 complement and enhance the character, pattern and local identity of the built and historic environment.
17. 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. Section 5.2.3 of the Park Plan acknowledges that tourism is one of the primary forms of employment in the Park. 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.
18. 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 and advises that the vision for the Park seeks to "go further and develop a world class destination which plays a significant part in the regional and national tourism economy." The Plan includes a number of strategic objectives for sustainable tourism.

Highland Council Structure Plan (2001)

19. Relevant policies from the Highland Council Structure Plan include :
- Policy B7 – Business Development in Rural Areas;
 - Policy B8 – Adding Value;
 - Policy N1 – Nature Conservation;
 - Policy L4 – Landscape Character; and
 - Policy G2 – Design for Sustainability.

Local Plan Policy

20. At the time that this application was presented to the CNPA Planning Committee for determination in June 2010, a detailed account was provided of the policies in the Badenoch and Strathspey Local Plan (1997), which was the adopted local plan at that time. Its policies were therefore applicable in the assessment and consideration of the proposal. Reference was also made to the planning policies that were emerging as material considerations in the Cairngorms National Park Local Plan – Post Inquiry Modifications. The Cairngorms National Park Local Plan (2010) was formally adopted on 29th October 2010, and its policies therefore now supersede those of the Badenoch and Strathspey Local Plan.
21. Relevant Cairngorms National Park Local Plan policies include :
- Policy 2 – National Natural Heritage Designations;
 - Policy 4 – Protected Species;
 - Policy 5 – Biodiversity;
 - Policy 6 – Landscape;
 - Policy 16 – Design Standards for Development;

- Policy 22 – Housing Development Outside Settlements; and
- Policy 25 – Business Development.

Supplementary Planning Guidance

22. In addition to the adoption of the Cairngorms National Park Local Plan (2010) on 29th October 2010, a number of Supplementary Planning Guidance documents were also adopted. In the context of this planning application, the most relevant of the documents is the **Sustainable Design Guide**. The guide highlights the fact that the unique nature and special quality of the Cairngorms National Park and the consequent desire to conserve and enhance this distinctive character. The guidance has at its core the traditional approach to design which aims to deliver buildings which provide a resource efficient, comfortable and flexible living environment.
23. The **Sustainable Design Guide** requires the submission of a Sustainable Design Statement with planning applications. It is intended that applicants would use the Sustainable Design Statement to demonstrate how standards set out in the Sustainable Design Checklist will be achieved. Given that this planning application was submitted in December 2009, and was originally considered by the CNPA Planning Committee in June 2010, it is not considered appropriate to retrospectively request the submission of a Sustainable Design Statement. Notwithstanding this concession, all developments are expected to accord with the general thrust of the Sustainable Design Guide.
24. Section 2.1(b) of the Sustainable Design Guide focuses on the subject of 'Materials and Traditional Skills.' Traditional building materials contribute to the character of the Cairngorms National Park. In particular materials such as granite, blue whinstone, timber and corrugated metal are listed as providing a strong identity. While the use of local materials is encouraged, there is recognition of the necessity to strike a balance between sourcing materials locally and bringing in specialised products which will optimise the sustainability and long term performance of the building.
25. The Sustainable Design Guide advises that sustainable materials are those which have a low environmental impact. A list of the general attributes of such materials is also included –
 - Produced from a renewable resource or are re-used or recycled from a previous use;
 - Sourced locally to cut down on transport costs and to support the local economy;
 - Produced with minimum ecological damage and no exploitation of the workforce;
 - Non-polluting and non-toxic in manufacture, use and disposal;
 - Low in embodied energy i.e. they are unprocessed or use the minimum amount of energy possible in their production.

APPRAISAL

26. The principle of a sporting lodge has already been accepted, as evidenced by the resolution of the CNPA Planning Committee on 25th June 2010. The acceptance of the principle was based on the case advanced that the sporting lodge was required in connection with the operation of the applicants' estate primarily as a sporting estate. The Section 75 legal agreement was required to link the sporting lodge to the estate in order to ensure that it would remain in use in connection with the business on which it was justified. The basic case for the sporting lodge has not altered, despite the current request to consider amendments to the drafted Section 75 legal agreement. It is not therefore necessary to reassess the overall principle of the development, but rather to concentrate on three specific aspects, namely (i) the requested amendments to the Section 75 legal agreement; (ii) the proposed design changes; and (iii) consideration of the proposed use of reconstituted stone in place of natural stone as stipulated by planning condition.

Section 75 legal agreement

27. Paragraphs 5 to 7 of the report set out the applicants' current concerns in relation to various aspects of the Section 75 legal agreement. The request to exclude approximately 390 hectares of the Estate lands from the Section 75 legal agreement is considered reasonable. The land that would be excluded is the lower lying grassland, which is not generally utilised in connection with the sporting pursuits business. It represents less than 10% of the overall Estate lands and its exclusion would not therefore detract from the operation of sporting pursuits business, which the sporting lodge is required in connection with.
28. In terms of the request to allow for various forms of letting of the sporting lodge, the case advanced for letting opportunities that would be commensurate with the operation of the overall business has its merits and appears to be founded on an examination of the practicalities of operating the estate for commercial sporting purposes. Various scenarios have been referred to in the submission made on behalf of the applicants including potential practicalities of a shooting season being truncated and the consequent need to consider other commercial options to maintain the business through such periods.
29. The core intention in the CNPA requiring the inclusion in the Section 75 legal agreement of stipulations on the use of the sporting lodge derives from the acceptance of the proposal as a business enterprise, in a location in which other forms of development (such as a residential property unjustified in planning policy terms), would not normally be permitted. Information submitted on behalf of the applicant demonstrates an acceptance of this fact and consequent clarification that the applicants' accept that the terms of a Section 75 agreement would preclude the long term lease of the lodge as a private residence. A Section 75 legal agreement could be drawn up to exclude use of the lodge as a private residence, whilst facilitating the opportunity to lease the lodge other for commercial purposes, with the CNPA having the opportunity to confirm agreement on this, if necessary, when such an instance would arise. Having considered all of the foregoing the request to omit reference to complete prohibition of the lease of the sporting lodge is considered reasonable and acceptable.

30. The final Section 75 related request that the legal agreement is not for an indefinite period of time and that a mechanism is included to allow for its review every seven years, is not considered a necessary clause. In the event of any change in the circumstances of the applicant, the Section 75 process affords any applicant the opportunity to request that the legal agreement be revoked or its terms altered at any time. Any facts put forward to support such a request would be considered on their merits at the appropriate time. Given that this opportunity exists, it is not considered necessary to introduce any particular review measures or limit the time period of its validity and to do so would be inconsistent with other already completed Section 75 legal agreements.

Design amendments

31. The design amendments would result in the proposed sporting lodge being scaled down, particularly due to the significant reduction in the rear wing that was proposed to project to the rear of the structure. The reduced scale of this element of the design would not impact on the overall character or stature of the structure. It is also proposed to omit the orangery feature from the gable end of the lodge. It is a design feature which would have introduced quite an ornate element onto the classical and symmetrical main part of the structure. While having the potential to act as type of bookend feature and introduce visual variety, its omission is acceptable and will not unduly detract from the overall design of the sporting lodge.

Omission of condition no. 8 regarding the use of natural stone

32. Efforts have been made in the design of the proposed sporting lodge to reflect the architectural heritage of traditional large estates houses in the area in terms of scale, character and stature. As such it is expected that every detail of such a proposal would be an exemplar in all respects, including reflecting the traditional heritage of buildings of this nature, and reflecting best practise in terms of construction quality and materials used, including demonstrating compliance with the criteria outlined in the recently adopted Sustainable Design Guide.
33. The case advanced in support of the request to use reconstituted stone instead of the required natural stone focuses to a large extent on financial matters. Paragraph 12 provides details of the estimated cost differentials in the two materials. Despite much of the focus of the case put forward being on this, financial circumstances are not a planning matter. A decision on the material that is considered most appropriate must therefore be based purely on the merits and appropriateness of the material proposed by the applicants.
34. Reconstituted stone is a manufactured product and its sustainability credentials are inferior to that of natural stone. Reference is made in the submission from Harry Taylor and Co. to the potential long distance transportation if required to use natural stone. Transport is a factor to be considered in assessing the overall sustainability. However, the case advanced is based on the premise that the type of natural stone which would be used in the building is not available at any quarry within reasonable distance and would have to be sourced from

Bath. The applicants' representative appears to presume that the use of "light buff coloured smooth" stone will be acceptable and in doing so overlooks the fact that one of the conditions of the planning permission that the CNPA Planning Committee originally resolved to grant, required the submission of samples of materials for the agreement of the CNPA prior to the commencement of development. No information has been provided or agreement reached on this matter. It could be reasonable to suggest that the CNPA preference would be for the use of stone which is more traditionally found in the Cairngorms / north of Scotland as opposed to a stone which is more reflective of the built heritage of south west England. In this respect a definitive argument from the applicants representative on the lack of availability of an appropriate natural stone from a location closer to the site than Bath, is perhaps premature, prior to agreement being reached (or at the very least discussions being had) with the Planning Authority on the overall finishes. It is also worth noting that the quantity of stone required is limited, as the use of stone is only proposed on key features (chimney copes, pediment, columns, window surrounds and corner margins, and was also proposed on the orangery which has now been omitted from the design proposal).

35. In conclusion, the use of natural stone is considered to be more appropriate than reconstituted, is consistent with the CNPA's efforts to promote increased sustainability throughout developments, and offers greater potential to reflect the traditional building materials used on properties of this type in the area and in so doing would assist in conserving and enhancing the cultural heritage of the area. In the event that the applicants remain unhappy with the inclusion of this condition, the option to appeal against the inclusion of the condition is open to them.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

36. It was previously determined that the sporting lodge, although significant in scale, would be sited within grazed grassland, and in a relatively well screened location, with the existing landforms providing a natural backdrop, and would not therefore give rise to adverse landscape impacts. The currently proposed design amendments which have resulted in a reduction in the scale of the structure are consistent with minimising the landscape impact.
37. The proposed use of reconstituted stone, rather than natural stone, on various elements of the building is not however considered to assist in conserving or enhancing the cultural heritage of the area. Where stonework is a feature of traditional properties of this scale in the area, it is generally natural stone. The use of reconstituted stone on a building of this stature would be inconsistent with the cultural heritage and traditions of the area. The use of a generic manufactured stone would fail to reinforce local distinctiveness.

Promote Sustainable Use of Natural Resources

38. The use of reconstituted stone on the relevant features of the structure is not considered to contribute towards promoting the sustainable use of natural resources.

Promote Understanding and Enjoyment of the Area

39. Despite a reduction in the scale of the property and the associated internal rearrangement which has resulted from the amended design proposals, the proposed sporting lodge would provide opportunities for guests of the facility to understand and enjoy the area. In a wider sense, the actual development would not provide any direct benefits to the general public. The sporting lodge has largely been designed and sited to ensure that its visual and landscape impact is minimised, and to reflect the classical appearance of similar estate properties which are accepted features of the landscape of the general area and as such should not detract from the general public's enjoyment of the visual amenities of the area. The issue of the proposed use of reconstituted stone rather than natural stone on various property features would not be commensurate with this.

Promote Sustainable Economic and Social Development of the Area

40. The case has previously been advanced and accepted for the need for the sporting lodge in conjunction with the operation of the Estate for sporting purposes. In addition to economic benefits which may be generated by employment generation during the construction of the development, it would also provide employment opportunities in the longer term. The nature of the development also has the potential to attract affluent guests, which would in turn has the potential to result in increased economic spend in the local area.
41. The request to reduce the extent of the estate lands that would be tied to the sporting lodge through a Section 75 agreement would continue to ensure that an adequate area of land (which contains all of the sporting interests of the estate) is available to justify the need for a sporting lodge in conjunction with the operation of the business as a sporting estate. As such, the potential for the development to be of benefit to the economy of the area remains.

RECOMMENDATION

That Members of the Committee, support a recommendation to :

- (a) **Agree to amend the terms of the drafted Section 75 legal agreement to link the sporting lodge to a smaller area of Estate lands (as identified in Fig 2 of the report) and in doing so restrict the sale, residential lease or any other form of disposal of the proposed sporting lodge separate from those estate lands, with the inclusion of a clause to allow any other form of lease to be considered by the CNPA ;**
- (b) **Approve the amended design of the sporting lodge; and**

- (c) **Refuse to remove condition no. 8 of the schedule of conditions originally approved by the CNPA planning committee, requiring the use of natural stone on all areas on which reconstituted stone has been identified.**

In the interests of clarity, the following is the schedule of conditions which Members previously approved. Part (c) of the above recommendation involves the same schedule of conditions being recommended in response to the amendments currently requested :

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 or amended by the Planning etc. Scotland Act 2006.

2. The lodge shall be used for purposes connected with the operation of the Estate (the extent of which is identified on the Location Plan, ref. 1951, dwg. no. 7) as a sporting estate.

Reason : In accordance with the application detail and to ensure that in accordance with the social and economic development aim of the Cairngorms National Park the lodge is used in connection with operation of the estate for sporting purposes.

3. Prior to the commencement of development, a mammal survey and phase I habitat and notable plant survey shall be undertaken along the extent of the proposed new section of access track and on the lodge site, including within a 50 metre buffer zone. The surveys shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority. No work shall be undertaken until the surveys have been verified and where necessary agreement has been reached on any modifications to the position of the sporting lodge and / or the line of the proposed access track. All works shall thereafter be undertaken in accordance with the agreed measures.

Reason : In the interests of ensuring that natural heritage interests in the area are appropriately protected.

4. Prior to any works starting in connection with the development the following works shall be completed and approved by the Cairngorms National Park Authority acting as Planning Authority, in conjunction with Highland Council as Roads Authority –

- (a) the existing access shall be upgraded such that construction for at least the first 6 metres measured from the nearside edge of the public road shall consist of 40mm thick Close Graded Wearing Course on 60mm Dense Basecourse on 350mm thick Type I sub base all on a sound formation;

- (b) visibility splays shall be provided and maintained on each side of the shared access to the site. These splays are the triangles of ground bounded by the first 3.0 metres along the centreline of the access (the X dimension) and the nearside edge of the main road (the Y dimension) measured at least 150 metres in each direction from the intersection of the access with the main road;
- (c) within the visibility splays nothing shall obscure the visibility between a driver's eye height of 1.0 metre positioned at the X dimension and an object height of 1.0 metre anywhere along the Y dimension;
- (d) any gates provided shall open inwards and shall be set back at least 25 metres from the nearside edge of the main road;
- (e) no water shall discharge onto the public road and the applicant shall be responsible for any measures necessary to prevent road water entering the proposed site. Such measures shall be to the satisfaction of the CNPA acting as Planning Authority, in conjunction with Highland Council as Roads Authority.

Reason : In the interests of traffic safety and to ensure that all vehicles may enter and leave the site safely at all times.

5. Prior to the commencement of development detailed specifications for all works proposed in the formation of the new section of access drive, as well as all upgrading and / or realignment details on existing sections of the access drive, within and outwith the identified site boundaries, shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority. All agreed works shall be implemented in full thereafter.

Reason : In order to control and regulate the nature of development.

6. Prior to the commencement of development, details shall be provided for the written agreement of the Cairngorms National Park Authority acting as Planning Authority, in consultation with the Forestry Section of Highland Council, of appropriate tree protection measures for every retained tree, before and for the duration of construction of the development. The tree protection measures shall accord with BS : 5837 (2005) and shall include fencing which is fixed to the ground outwith the root protection area and crown spread. All agreed protection measures shall be implemented in full thereafter and retained for the duration of construction activity.

Reason : In order to ensure that adequate protection is afforded to trees in the vicinity of the development site.

7. No trees shall be uprooted, lopped, topped, felled or damaged without the prior written consent of the Cairngorms National Park Authority acting as Planning Authority, in conjunction with the Forestry Section of Highland Council.

Reason : In order to conserve the natural heritage of the area.

8. For the avoidance of doubt no reconstituted stone shall be used on the exterior of the sporting lodge. All areas of the sporting lodge on which reconstituted stone was proposed shall instead be finished in natural stone. Prior to the commencement of above ground construction works a sample of the natural stone shall be provided for the written agreement of the Cairngorms National Park Authority acting as Planning Authority and the agreed stone shall be utilised thereafter.

Reason : In the interests of the visual amenity of the area and in order to enhance the character of the sporting lodge.

9. Prior to the commencement of above ground construction works samples of window frames, roofing and all external wall materials shall be submitted to and approved by the Cairngorms National Park Authority acting as planning authority. All agreed materials shall be utilised in the construction thereafter.

Reason: To ensure that the detailed finishing materials are appropriate for the building and its setting.

10. Prior to the commencement of development, a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development, including a timetable for the investigation, all in accordance with the attached specification, shall be submitted to and agreed in writing by the Cairngorms National Park Authority acting as Planning Authority, in consultation with the Archaeology Section of Highland Council. The agreed proposals shall be implemented in accordance with the agreed timetable for investigation.

Reason : In order to protect the historic interest of the site.

11. In conjunction with the provision of a new access gate at the junction of the access drive and the B9152 public road, a gap between 1.5 and 2 metres wide shall be provided at the side of the gate, in order to allow for non vehicular access. The gap shall be kept free of obstruction at all times.

Reason : In order to ensure that adequate freedom of access is maintained and in accordance with the third aim of the National Park, to assist the general public in enjoying and understanding the special qualities of the area.

12. Prior to the commencement of development a Construction Method Statement for the formation of the ponds shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning

Authority, in conjunction with SEPA. The Construction Method Statement shall ensure that there is minimal interference with the free flow of any existing watercourses, and no pollution of the watercourses during construction of the ponds and the overall Sporting lodge development. All works thereafter shall be undertaken in accordance with the agreed measures.

Reason : To ensure that all watercourses are appropriately protected during the construction process.

- 13.** Prior to the commencement of development
- (i) a landscape and construction method statement;
 - (ii) an amended landscaping plan; and
 - (iii) a landscape management plan

shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority. The landscaping shall be implemented and maintained in accordance with the approved plan. The plan shall include details of the siting, numbers, species (which shall be appropriate to the rural setting) and heights (at the time of planting) of all trees, shrubs and hedges to be planted shall ensure:-

- (a) Completion of the scheme during the planting season next following the completion of the development, or such other date as may be agreed in writing with the CNPA acting as Planning Authority.
- (b) The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the CNPA acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason : In the interests of protecting the visual amenity of the area and in order to enhance the natural heritage of the area.

- 14.** All public services for the development, including electrical, cable television and telephone cables, shall be located underground throughout the site.

Reason : In the interests of minimising the visual impact of the development.

- 15.** Native species shall only be used to stock the ponds.

Reason : In the interests of conserving and enhancing the natural heritage of the area.

Advice notes :

1. Prior to any work of excavation or surfacing starting within 2 metres of the public road edge a road opening permit shall be obtained from the Roads Authority.
2. The applicants are advised to contact Scottish Water to discuss the extent of information required in support of any application for connection to the public water supply.

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1 December 2010

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 determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.