

Agenda Item 8

Appendix 2

2025/0075/DET

Section 75 legal agreement

MINUTE OF AGREEMENT

between

CAIRNGORMS NATIONAL PARK AUTHORITY, established by and acting under the National Parks (Scotland) Act 2000 and the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003 as Planning Authority in terms of Article 7(3) of the 2003 Order and Section 46 of the Town and Country Planning (Scotland) Act 1997 and having a place of business at Albert Memorial Hall, Station Square, Ballater (who and whose successors are hereinafter referred to as "the National Park Authority")

and

ALEXANDER DONALD GRANT, residing at The Caravan, Drumullie, Boat of Garten, Inverness shire ("the Proprietor")

---oOo---

CONSIDERING THAT:

- (i) The National Park Authority has responsibility for determining planning applications within the National Park area in terms of Article 7 of the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003 and Section 46 of the Town and Country Planning (Scotland) Act 1997 (hereinafter referred to as "the Act").
- (ii) The National Park Authority is entitled in terms of Section 75 of the Act to enter into an Agreement with any person interested in their area (in so far as the interest of that person enables them to bind the land) for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be described by the Agreement.
- (iii) The Proprietor is the heritable proprietor of ALL and WHOLE the subjects known as Lot 5 and Lot 7, Drumullie, Boat of Garten, in the Parish of Duthil and Rothiemurchus and County of Inverness, shown delineated in blue on the plan annexed and signed as relative hereto ("the Plan") all as more particularly described (IN THE FIRST PLACE) and (IN THE SECOND PLACE) and shown delineated in red and coloured partly pink and partly blue and marked "Lot 5" and "Lot 7" on the plan annexed and signed as relative to the Feu Disposition by Ronald Kenneth Watson and Others as trustees thereinmentioned in favour of William Sinclair and John Sinclair dated 12th and 18th December 1980 and recorded in the Division of the General Register of Sasines

REGISTERS OF SCOTLAND
GENERAL REGISTER OF SASINES
COUNTY OF INVERNESS

YEAR 2010
YEARLY RUNNING NUMBER

PRESENTED AND RECORDED ON

2013

01 OCT 2010

applicable to the County of Inverness on 20th January 1981 UNDER EXCEPTION OF ALL and WHOLE those two areas of ground extending to 2,663 square metres or thereby and 996 square metres or thereby lying respectively generally to the northwest of the A96 public road leading from Kinveachy to Dulnain Bridge and forming part of the subjects known as Drumullie Lot 5 and Drumullie Lot 7, Boat of Garten, in the said Parish and County, being the subjects shown coloured pink and marked Plot No. 3 and Plot No. 5 respectively on the plan thereof annexed and signed as relative to the Conveyance by Elsie Fetch Sinclair as executor of the late John Sinclair in favour of The Highland Regional Council dated 7th and recorded in the said Division of the General Register of Sasines on 14th, both September 1993 ("the Site")

- (iv) The Proprietor has submitted a planning application to The Highland Council ("the Council"), having a place of business at Glenurquhart Road, Inverness for planning permission for the erection of a dwelling house on the Site (hereinafter referred to as "the Dwelling") and the said planning application was called in by the National Park Authority (under the National Park Authority's reference 07/414/CP) in terms of its powers under Article 7(3) of the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003 which makes reference to Section 46 of the Act.
- (v) The Site is registered as a croft with the Crofters Commission;
- (vi) The National Park Authority has resolved to grant full planning permission for the Dwelling subject to certain conditions and has requested that certain other matters pertaining to the Dwelling be regulated in a written Agreement between the parties under the provisions of Section 75 of the Town and Country Planning (Scotland) Act 1997 for the purposes of restricting or regulating the Dwelling or use of the Site.
- (vii) The Proprietor is to erect the Dwelling on that part of the Site shown outlined in red on the Plan.
- (viii) The Proprietor has agreed to enter into such Agreement with the National Park Authority.

NOW THEREFORE the National Park Authority and the Proprietor DO HEREBY AGREE as follows:

(One) **Preliminary Matters**

On recording or registration of this Agreement, the National Park Authority shall forthwith issue to the Proprietor the Decision Notice in respect of approval of the application. This Agreement (other than Clause Seven hereof) shall not come into effect until the date the Decision Notice is implemented. The word "implemented" shall be taken in the context of this Clause to mean the carrying out of a material operation as defined in Section 27(4) of the Act.

(Two) **Restriction on Occupancy of the Property**

The Proprietor, for himself and his successors in title, hereby undertakes that the Dwelling, once erected, may only be occupied by someone engaged or last engaged in crofting work (meaning work of an agricultural nature as set out in Section 277(1) of the Act) on the Site, and by a dependant of such a person residing with him or her. In the event that the Proprietor ceases to be engaged in such work for any reason whatsoever, the National Park Authority may determine that some or all of the conditions, restrictions, obligations and others contained in this Agreement may be modified, varied or discharged.

(Three) **Obligations in relation to Disposal of the Property**

The Proprietor, for himself and his successors in title, undertakes that the Dwelling, once erected on the Site, may not be disposed separately from the remainder of the Site.

(Four) **Obligations in relation to Securities**

In the event of any loan secured over the Site and any property built thereon being called up by the lender, the Proprietor or his successor in title is under an obligation to give written notification to the National Park Authority of this event.

(Five) **Discharge**

In the event that the planning permission granted by the Decision Notice is revoked or in any way falls prior to commencement of the construction of the Dwelling, then these presents (other than Clause Seven hereof) shall fall and be deemed *pro non scripto* and the National Park Authority shall forthwith grant a Discharge of this Agreement.

In the event of a change to the planning or other circumstances of the Site, which appears to any party to the Agreement or to their successors in title to render any of the conditions, restrictions, obligations and others contained in this Agreement no longer relevant, the parties or their successors in title shall consider whether the said conditions, restrictions, obligations and others should be modified, varied or discharged.

In considering any such modification, variation or discharge, both parties will be required to act reasonably having regard to said changed circumstances. Any variation shall be effective as from the date of recording of the relevant Deed of Variation in the relative Register of Sasines or Land Register and this Agreement shall be deemed to be amended with effect from such date. The Proprietor shall reimburse the National Park Authority in respect of all reasonable legal expenses incurred by the National Park Authority in connection with such further agreement.

(Six) Arbitration

Any dispute arising between the parties hereto as to the interpretation or application of this Agreement, or any part of it, shall be referred for the purpose of arbitration to an Arbiter to be mutually agreed by the parties, and failing agreement appointed by the Sheriff of Grampian Highland and Islands at Inverness, and the decision of the Arbiter, including any award of expenses, shall be final and binding on the parties, and failing such award the cost of any such arbitration shall be borne equally by the parties.

(Seven) Legal Expenses

The Proprietor agrees to reimburse the National Park Authority in respect of all reasonable legal expenses incurred by them in connection with the negotiation, drafting, adjustment, conclusion and registration of this Agreement.

(Eight) Validity of Provisions

Each of the provisions of this Agreement is agreed independently of the others and in the event that any of them are held to be or become invalid or unenforceable for any reason, then the remaining provisions shall continue in full force and effect.

(Nine) Burdens

The terms and conditions of this Agreement are created real and preferable burdens upon and affecting the Site and binding on the Proprietor and their successors as proprietors of the Site from time to time and as such are appointed to be recorded or otherwise to be validly referred to in terms of law in all future conveyances, Dispositions and other deeds relating to the Site.

(Ten) Restriction on the Disposal of the Subjects

The Proprietors undertake not to convey the Site or any part thereof prior to registration of this Agreement in the General Register of Sasines


(Eleven) Jurisdiction


This Agreement shall be governed and construed in accordance with the laws of Scotland.

(Twelve) Consent to Registration

The parties hereto consent to registration hereof for preservation and execution as well as for publication: IN WITNESS WHEREOF these presents consisting of this and the preceding four pages together with the plan attached are subscribed as follows:-


For and on behalf of the said CAIRNGORMS NATIONAL PARK AUTHORITY at ~~GRANTOWN-ON-SPEY~~ ^{GRANTOWN ON SPEY} on the ~~16th~~ ^{16th} day of ~~August~~ ^{AUGUST} 2010

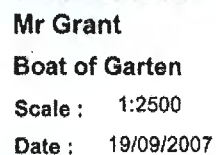
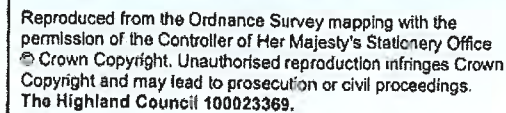
 Authorised Signatory
..... JANE HOPE Full Name

 Witness
..... MARGARET SMITH Full Name
..... 14 The Square Address
..... GRANTOWN-ON-SPEY
..... P.A. Occupation

By the said ALEXANDER DONALD GRANT at  on the 16th day of August 2010



 Witness
..... NEIL FRASER MASSON Full Name
..... SOLICITOR AND NOTARY PUBLIC Address
..... STRATHSPEY HOUSE
..... GRANTOWN-ON-SPEY Occupation
..... PH26 3EQ



01 OCT 2010
YEARLY RUNNING No.

21422

MINUTE OF AGREEMENT

Under s 75 of the Town and Country Planning (Scotland) Act 1997

between

CAIRNGORMS NATIONAL PARK AUTHORITY

and

ALEXANDER DONALD GRANT

2010 / DSS

Subjects: Lots 5 & 7 Drumullie, Boat of Garten

ledingham|chalmers_{LLP}

Johnstone House
52-54 Rose Street
ABERDEEN AB10 1HA
DX AB15/LP39 - ABERDEEN
FAS 5588

SE1533000001