

AGENDA ITEM 7

SECTION 75

APPENDIX 2

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Mary Greer
Cairngorms National Park Authority
Albert Memorial Hall
Station Square
Ballater
AB35 5QB

Ref: SM.DSS.KD
Your Ref: 08/131/CP
Date: 29 May 2009

By fax 013397 55334

Cairngorms National
Park Authority

01 JUN 2009

RECEIVED

Dear Mary


Alistair Skakles
Section 75 - Tomidhu Steadings, Crathie, by Ballater

I refer to my letter dated 12 May and can confirm that the Section 75 Agreement has now been completed and registered at Registers of Scotland. Our fees in respect of this transaction have been paid, and therefore the planning consent can now be released to Mr Skakles.

Please let me know if you have any queries.

I am enclosing a copy of the completed agreement and Keeper's acknowledgement for your reference.

Yours sincerely


David S Scott
Associate, for and on behalf of
Ledingham Chalmers LLP

Ledingham Chalmers LLP, Solicitors

Johnstone House 52-54 Rose Street Aberdeen AB10 1HA (Registered Office) DX: AB15 Aberdeen LP-39 Aberdeen-1

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Ledingham Chalmers LLP is a limited liability partnership registered in Scotland, No. SO300843

A list of members is available for inspection at the above address

MINUTE OF AGREEMENT
Under S75 of the Town and Country Planning (Scotland) Act 1997

between

CAIRNGORMS NATIONAL PARK AUTHORITY

and

ALISTAIR JAMES SKAKLES

2009

Subjects: Tomidhu Steadings, Crathie, Ballater, Aberdeenshire, AB35 5UL

Gray & Kellas,
Solicitors,
Aberdeen

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

ALISTAIR JAMES SKAKLES, residing at Copper Beech, Crathie, Ballater, Aberdeenshire, AB35 5UL (hereinafter referred to as "the Proprietor")

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 (insofar as the interest of that person enables him 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 at Tomidhu Steadings, Crathie, Ballater, in the County of Aberdeen and registered in the Land Register of Scotland under Title Number ABN29703, ("the Site") being the subjects outlined in red on the site plan annexed and signed as relative hereto ("the Site Plan").
- (iv) The Proprietor has submitted a planning application to Aberdeenshire Council ("the Council"), having a place of business at Viewmount, Arduthie Road, Stonehaven, AB39 2DQ, for planning permission for the erection of a residential property on the Site (hereinafter referred to as "the Development") and the said planning application was called in by the National Parks Authority (under the National Park Authority's

reference 08/131/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 Proprietor intends to conduct a bed and breakfast business on that part of the Site (hereinafter referred to as "the Steadings") shown shaded in orange on the Site Plan.
- (vi) The National Park Authority has resolved to grant full planning permission for the Development subject to certain conditions but to withhold the issue of the planning permission ("Decision Notice") until an Agreement is concluded between the parties under the provisions of Section 75 of the Act for the purposes of restricting or regulating the development or use of the Site.
- (vii) The Proprietor is to erect the Development on that part of the Site shown shaded in green on the Site 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

- (a) 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 Development.
- (b) The conditions, restrictions, obligations, prohibitions and others contained in this Agreement other than Clause Eight hereof, shall not come into effect until the date the Decision Notice is implemented (hereinafter referred to as "the Effective Date"). 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.
- (c) The Minute of Agreement dated 11th and 18th January 2006, entered into between the National Park Authority, the Proprietor and his wife, the late MRS HELEN JANE SKAKLES, who also resided at Copper Beech, Crathie, Ballater, Aberdeenshire, AB35 5UL, is hereby formally discharged.
- (d) Planning Permission reference 03/061/CP dated 14th March 2006 for the erection of a dwelling on the Site is hereby revoked without liability for compensation.

(Two) Definitions

In this Agreement, "bed and breakfast business" shall mean the provision within the Steadings of overnight serviced accommodation for paying guests inclusive of breakfast and such other meals as the Proprietor may choose to supply and for which there is a demand.

(Three) Restrictions on Occupancy of the Property

The Proprietor, for himself and his successors in title, hereby undertakes that the Development once erected may only be occupied by someone working full-time in the bed and breakfast business. The Development may also be occupied by a dependant of such a person residing with him or her. In the event that the Proprietor ceases to operate the bed and breakfast business 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.

(Four) Obligations in relation to Disposal of the Property

The Proprietor, for himself and his successors in title, undertakes that the Development, once erected on the Site, may not be disposed separately from the remainder of the Site, which, for the avoidance of doubt, shall be taken to include the Steadings.

(Five) 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 successors in title is under obligation to give written notification to the National Park Authority of this event.

(Six) 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 Development, then these presents (other than Clause Eight 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.

(Seven) 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 Stonehaven 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.

(Eight) Legal Expenses

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

(Nine) 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.

(Ten) Burdens

The terms and conditions of this Agreement are created real and preferable burdens upon and affecting the Site and binding on the Proprietors and his successors in title 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 or other deeds relating to the Site.

(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, typewritten on this and the four preceding pages, together with the plan annexed, are subscribed by the parties as follows:- By the Proprietor at CRATHIE aforesaid on the TWENTY SEVENTH day of APRIL, TWO THOUSAND AND NINE, before this witness, Clive Andrew Hampshire, Painter Decorator, residing at 26 Aberdeen Terrace, Tarland, AB34 4UB; and by and on behalf of the National Park Authority by Elizabeth Jane Hope, its Chief Executive, at GRANTOWN ON SPEY on the NINETEENTH day of MAY in the year last aforementioned, before this witness, Margaret Smith, Personal Assistant to Chief Executive at 14 The Square, Grantown on Spey, PH26 3HG.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

REGISTERS OF SCOTLAND



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Date: 28/05/2009

Our Ref: F20090528_LRDW05700/09ABN09008/ABN referral office
Your Ref: CJD

Dear Sir or Madam,

Application for Registration of Title in Land Register Acknowledgment

Applicants: ALISTAIR JAMES SKAKLES, CAIRNGORMS
NATIONAL PARK AUTHORITY
Subjects: TOMIDHU STEADINGS, CRATHIE, BALLATER,
AB35 5UL

The Keeper acknowledges receipt of your application for registration and the accompanying deeds and documents.

Please note the following details which have been assigned to this application:

Title Number: ABN29703
Application Number: 09ABN09008
Date of Receipt: 28 May 2009

Yours faithfully
Create Section, Registers of Scotland

