
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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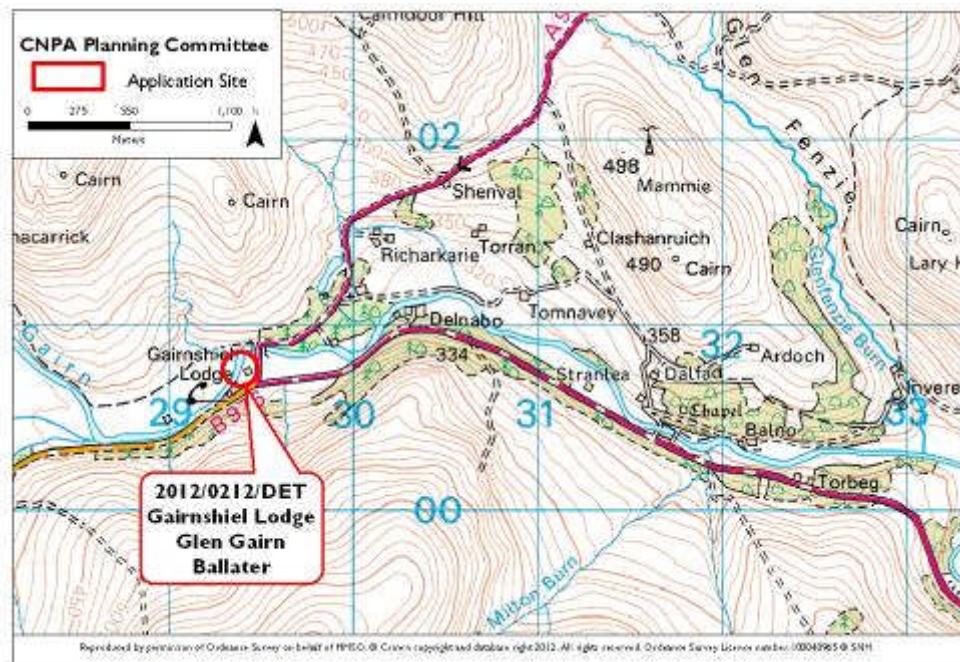
DEVELOPMENT PROPOSED: PLANNING PERMISSION FOR THE FORMATION OF VEHICULAR ACCESS AT GAIRNSHIEL LODGE, GLEN GAIRN, BALLATER

REFERENCE: 2012/0212/DET

APPLICANT: MR. AND MRS. BUCHANAN, GAIRNSHIEL LODGE C/O STEWART ANDERSON, BALLATER

DATE CALLED-IN: 22 JUNE 2012

RECOMMENDATION : REFUSE



Grid reference : 329424 800750

Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Planning permission is sought for the formation of a new vehicular access on land at Gairnshiel Lodge, Glen Gairn, approximately 6 miles to the north west of Ballater. Gairnshiel Lodge is a former Victorian hunting lodge.¹ The application is partially retrospective in nature, as the access has already been opened, although it has been temporarily fenced off and is not in use. The access point has been created by breaking an opening in the drystone wall, which runs adjacent to the roadside boundary which forms the entire extent of the western and southern boundaries of the lands associated with Gairnshiel Lodge.
2. The new opening has been formed on the southern boundary of the site. Although the description of the proposal refers only to the formation of a vehicular access, the accompanying site plan also shows the access serving a new driveway and parking provision in the vicinity of two structures which are currently under construction. The new structures are two single storey, timber clad, self catering units which the CNPA granted planning permission for in February 2010 (CNPA ref. no. 09/324/CP refers). The site boundaries identified in that previous application encompassed all of the Gairnshiel Lodge lands. The site layout which was approved as part of that consent indicated that the two new self catering units would be served by the existing vehicular access and part of the existing driveway towards the Lodge, with a new section of driveway leading from this to the rear of the units and a parking and turning area. Condition no. 2 of the planning permission also stipulated that the self catering units would be retained in the ownership of the Gairnshiel Lodge business in perpetuity.



Fig. 2 : Proposed site plan

Background and justification

3. In response to queries raised by the CNPA about the need for the new entrance, the applicant has detailed a number of reasons for a separate road access to serve the new chalets. The applicant's submission acknowledges that "the original plan was to use the main lodge entrance as access to the new self

¹ Built in 1764.

catering chalets.” However, the submission indicates that the applicants have contacted all guests that have future bookings at Gairnshiel Lodge to inform them of the shared driveway and a number² of those future guests have raised concern that this access passes by the children’s play area. Reference is made to one group booking in August cancelling as they consider that the arrangement would affect their exclusive use of the grounds.



Fig. 3 : currently blocked opening in drystone wall

4. The submission from the applicant also refers to advice received from the agency that deals with the booking of Gairnshiel Lodge, with the agency advising that a separate entrance from the main lodge is needed to serve the chalets, or the bookings of the lodge would be seriously affected. A letter from the letting agency, Large Holiday Houses Ltd., has also recently been provided by the applicants. The letter details the type of criteria sought by their customers in booking large holiday properties, stating that “key features sought by almost all is privacy and exclusive use of the surrounding grounds.” Examples are cited of large properties let by the agency, where there are cottages within the grounds, but where a shared access is a substantial distance from the property. In other instances, where shared access is in close proximity to the larger house, associated cottages are not let separately so as not to compromise bookings of the larger house.
5. In relation to Gairnshiel Lodge, the submission from Large Holiday Houses Ltd. refers to the existing access road passing immediately in front of the lodge and it is suggested that if it were to become the access road for the cottages that “the lives of children staying in the lodge would be put in danger” as tenants in the lodge would have no control over the passing traffic from those in the chalets. Customers of Large Holiday Houses Ltd. hire large properties “because of their private grounds so that the children can play unhindered and safely.” The submission also states that tenants in the new self catering properties would “be passing immediately in front of the windows of the Lodge and this would be unacceptably intrusive.” It is also stated that the potential

² No details have been provided on the numbers involved.

shared access arrangement is preventing further bookings as it is necessary to make the situation known prior to booking.

6. The applicant has also provided details to explain the retrospective nature of the application. The opening of an entrance in the existing dry stone wall arose “due to a misunderstanding” with the digger driver involved in drainage works for the new chalets and a request to minimise the disruption to guests at the lodge. The opening was subsequently created when the applicant was not on site. The applicant has apologised for this in his submission and has also stated that the drystone wall would be reinstated if he is required to do so. In addition, as an interim measure, the new opening has been blocked with a wooden fence and “will not be used until permission is granted or otherwise.”

DEVELOPMENT PLAN CONTEXT

National Policy

7. **Scottish Planning Policy³ (SPP)** is the statement of the Scottish Government’s policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
 - The constraints and requirements that planning imposes should be necessary and proportionate;
 - The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.
8. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should “operate in support of the Government’s central purpose of increasing sustainable economic growth.” Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that “the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places.” Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
9. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the “aim is to achieve the right development in the right place.”

³ February 2010

10. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes ‘subject policies’, of which many are applicable to the proposed development. Topics include economic development, rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.
11. Economic development : The planning system is expected to support economic development. At para. 47 it is recognised that the tourism industry is one of Scotland’s largest business sectors and planning authorities are encouraged to high quality tourism related development.
12. Rural development : It is expected that a positive approach is taken to new development, with planning authorities helping to create the right conditions for rural businesses and communities to flourish. Developments which provide employment or community benefits are to be encouraged.
13. Landscape and natural heritage : The **Scottish Planning Policy** document recognises the value and importance of Scotland’s landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.
14. **Scottish Planning Policy** concludes with a section entitled ‘Outcomes’ in which it is stated that the “planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets.”

Strategic Policies

Cairngorms National Park Partnership Plan 2012 - 2017

15. The Cairngorms National Park Partnership Plan 2012 – 2017 is the management plan for the National Park for the next 5 years. It sets out the vision and overarching strategy for managing the Park and provides a strategic context for the Local Development Plan. Three long term outcomes have been identified to deliver the vision for the Park, to continue the direction set out in the first National Park Plan and to together deliver the four aims of the National Park. The outcomes are :
 - A sustainable economy supporting thriving businesses and communities;
 - A special place for people and nature with natural and cultural heritage enhanced; and
 - People enjoying the park through outstanding visitor and learning experiences.

Structure Plan Policy
North East Scotland Together, Aberdeen and Aberdeenshire
Structure Plan 2001- 2016

16. The Structure Plan's vision is the development of a sustainable community. Achieving this is based firmly on the principles of
- responsible management of natural, built and community resources;
 - fairness in allocation of these resources between competing demands; and
 - the need to benefit both existing and future generations.
17. Section 4 of the Plan is entitled 'Looking after the North East.' It highlights that the Structure Plan seeks to promote, protect and enhance the rich and varied environment of the North East. Policy 20 focuses on Built Heritage and Archaeology and notes that the built heritage of the north east will be conserved and promoted as a valuable non-renewable resource. Enhancement and conservation of the built heritage is encouraged.

Local Plan Policy
Cairngorms National Park Local Plan (2010)

18. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
19. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
- Chapter 3 - Conserving and Enhancing the Park;
 - Chapter 4 - Living and Working in the Park;
 - Chapter 5 - Enjoying and Understanding the Park.
20. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the current development proposal.
21. Policy 6 – Landscape : there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been

minimised and mitigated through appropriate siting, layout, scale, design and construction.

22. Policy 11 – The Local and Wider Cultural Heritage of the Park : There will be a presumption against development that does not protect or conserve and enhance a site, feature or use of land of local or wider or cultural historic significance, or its settings.
23. Policy 16 – Design Standards for New Development : this is one of a number of policies which is intended to encourage developers to consider how they can best include the principles of sustainable development in their proposals, and consider the impact on the environment, economy and community. Policy 16 requires that all proposals are accompanied by a design statement which sets out how the requirements of the policy have been met. The design of all development is encouraged to :
- Reflect and reinforce the traditional pattern and character of the surrounding area and reinforce the local vernacular and local distinctiveness, whilst encouraging innovation in design and materials;
 - use materials and landscaping that will complement the setting of the development;
 - demonstrate sustainable use of resources; and
 - be in accordance with the design standards and palette of materials as set out in the Sustainable Design Guide.
24. Policy 33 - Tourism related development : the policy supports tourism related development which has a beneficial impact on the local economy, provided that the development will not have an adverse impact on the landscape, built and historic environment, or the culture or traditions of the Cairngorms National Park.

CONSULTATIONS

25. Aberdeenshire Council Infrastructure Services : The proposal has been considered by Aberdeenshire Council's Roads department. There is no objection to the development, subject to compliance with a number of conditions. The conditions include a requirement to achieve visibility splays and the surfacing of the first 5 metres of the driveway.
26. Ballater and Crathie Community Council : The consultation response from Ballater and Crathie Community Council raised the following issues :
- reference to this being the second retrospective application on this development site;⁴
 - a suggestion that the change sought in this application constitutes "damage to the built environment (in the form of the iconic granite dry stone wall)";

⁴ Temporary planning permission was sought retrospectively in the application referred to for the erection of a mobile home. The application was not called in and was determined by Aberdeenshire Council. (CNPA planning ref. no. 11/188/CP and Aberdeenshire Council ref. no. M/APP/2011/1186 refers).

- the access shown in the original planning application for the holiday chalets i.e. the main entrance to Gairnshiel Lodge “was adequate for the stated purposes in the application.” Reference is also made for comparison, to the fact that 80 timeshare lodges at the Hilton Craigendarroch complex in Ballater is served by only one entrance;”
- concerns that road safety would be impaired “by what looks like a blind exit on a straight part of the approach to the road junction near the existing entrance to Gairnshiel Lodge.” It is suggested that traffic would be likely to pass the new entrance at speed due to it being on a straight section of road;
- it is suggested that if the entrance is approved, there may be a further extension to either build more chalets or possibly split the feu in order to sell the chalets as separate dwellings. Reference is made to the conditions of the approval for the self catering chalets which included conditions pertaining to the occupancy and ownership of the chalet buildings;
- reference is made to an awareness of the proposal raising significant concern at local level.

The response from Ballater and Crathie Community Council concludes that the application should be refused and that the reinstatement of the dry stone wall should be enforced.

REPRESENTATIONS

27. Two representations have been received. Copies of the representations are attached at the rear of the report. Both representations object to the development and the points of concern include :
- Knocking down part of the existing stone wall is “equivalent to despoliation of the areas built heritage;”
 - There is no apparent reason why access to the two new buildings could not be gained via the existing access. It is suggested that it is unnecessary for the functioning of the buildings;
 - Use of the existing access would lessen the potential visual impact of occupancy when viewed from the road;
 - Querying “why destroy the built heritage for apparently unnecessary reasons and for limited use”;
 - The previously approved consent for the two holiday lodges being a discreet development in a highly sensitive area, shielded by the drystone dyke and tree line;
 - Overspill from the lodge being part of the justification originally put forward for the holiday chalets;
 - The proposed entrance being an added hazard to passing motorists;
 - Cultural heritage value of the drystone dyke; and
 - Impacts on the overall appearance and feel of this historic junction.

APPRAISAL

28. Issues to consider in this application include the principle of the development, the impacts of the proposal on the immediate surroundings and on the aims of the National Park, and the potential impacts on the cultural heritage of the area.

Justification and alternative options

29. In considering the formal description of the development proposal i.e. 'the formation of vehicular access,' the impression could be formed that the proposal is relatively minor. However, the nature of the proposal, its association with existing and new development on the site, and its location amidst a historical setting, are all factors which heighten the significance of the proposal. The application was called in as it was considered to be of significance to the aims of the National Park, with specific reference being made to its relevance to landscape and cultural heritage.
30. In considering the principle of the formation of a new access at the proposed location, it was necessary to establish the background to the proposal. The information provided by the applicant on this matter has been detailed in paragraphs 3 to 6 of this report. Notwithstanding the retrospective nature of the proposal (and the explanation offered about why this occurred), the justification for the creation of a new entrance to serve the two new holiday lodges is based on the anticipated potential adverse impacts that might arise on the letting business at Gairnshiel Lodge due to the shared access arrangement. The details provided include a letter from the agency involved in letting the property. Much of the case put forward in the submission from 'Large Holiday Houses Ltd.' is based on experiences and guest requirements elsewhere and not specifically at Gairnshiel Lodge. In relation to the subject site, the submission refers to the existing access arrangement passing "immediately in front of the Lodge" and it is also suggested that "cottage tenants would be passing immediately in front of the windows of the Lodge and this would be unacceptably intrusive."

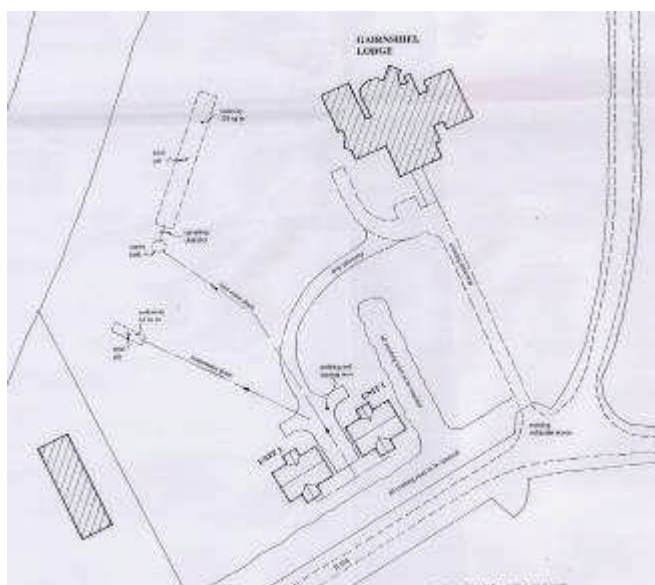


Fig. 4 – Holiday cottages and access arrangement : approved site plan

31. In considering the matters raised in the submission, it is important to note that the access drive included on the approved plans for the holiday chalets (CNPA ref. no. 09/324/CP) demonstrates that the access leading specifically to the chalets would be at least 10 metres from the front elevation of Gairnshiel Lodge. The actual chalets would be almost 50 metres away the Lodge at their nearest point. In addition to the 10 metre separation distance between the new drive and the Lodge, the extent of the existing driveway which would be shared by occupants of Gairnshiel Lodge and the two holiday cottages, is quite extensive, at 40 metres. Given the extent of area available within the overall site at Gairnshiel Lodge and the generally open nature of much of that, there would appear to be ample potential to modify the access arrangements within the site, in order to utilise a lesser extent of the shared drive and achieve a greater separation distance between the new section of drive and the front of Gairnshiel Lodge. Such modifications would have to be undertaken sensitively in order to ensure that they would not adversely impact on the existing mature trees in the vicinity, but are achievable. Together with the undertaking of appropriately positioned landscaping, such modifications could present a solution to many of the concerns alluded to in the letter from the holiday letting agency.

32. In a separate submission directly from the applicant as detailed in paragraph 3, reference is made to guests raising concerns that the access passes by the children's play area. The play area, which includes a selection of timber play equipment, has been developed immediately adjacent to the west of the existing access drive and in this location it is already segregated from the Lodge by the flow of traffic to and from the building. Similar to the points in paragraph 31 above, there is ample land available to facilitate the play equipment in an alternative position, where it would not remote from traffic movements associated with either the Lodge or the holiday cottages.

33. The case currently presented by the applicant and the holiday letting agency appears to treat Gairnshiel Lodge and the new holiday cottages as two separate and distinct entities. This contrasts significantly to the justification which was advanced in the 2009 planning application for the chalets, in which the submission from the applicants stated that the "chalets would not only be used as self catering holiday lets but for overspill for the Lodge." Reference was also made to the "downside" of Gairnshiel Lodge was that "some delegates need to be put up in separate accommodation in Ballater" and the chalets were intended to meet that extra demand. Reference was also made to the catered house party business accommodating large groups of friends or families at Gairnshiel Lodge, where "many individual families within those groups enquire about self catering accommodation in upper Deeside." The case for the two new chalets, including their intrinsic link and benefits to the overall business at Gairnshiel Lodge was accepted and planning permission was granted with a condition which stipulated that "the self catering units (collectively) hereby approved shall be retained in the ownership of the Gairnshiel Lodge business in perpetuity." The current proposal for the formation of a separate access to serve the self catering units could be considered a form of separation which would be at variance with the

requirement to retain and operate all of the on-site accommodation as a single enterprise.

Cultural heritage and the immediate surroundings

34. The area surrounding Gairnshiel Lodge is noted for its landscape qualities and its unique rural setting. Gairnshiel Lodge is the most prominent of a group of traditional buildings, and it is complemented by a number of smaller, predominantly stone built properties immediately to the south west of the site, as well as the Category A listed Gairnshiel Bridge, and the traditional drystone wall which emanates from it. The various components all make an interlinked contribution to the overall setting.
35. The drystone wall is traditional, historic and is a particularly prominent feature. It extends southwards from the bridge and with the exception of the entrance to Gairnshiel Lodge, which occupies a pivotal corner position, the wall continues in an unbroken run westwards towards a property known as Rinloan. The drystone dyke is a defining feature of this localised area and the opening of an additional entrance would significantly detract from the historical value and traditional appearance. It has the potential to give rise to an excessively domesticated appearance in the vicinity of the new chalets, whereas the original concept of that development involved the discreet siting of the two units, with the benefit of the retained mature trees and drystone boundary wall being significant features in minimising the impact of the new development in this traditional grouping.

Conclusion

36. The development of the two holiday cottages on the subject site was previously approved on the basis of the contribution it would make to the operation of the existing business at Gairnshiel Lodge and its inextricable link to that enterprise, both in physical terms in sharing the setting, access and overall grounds, and in commercial terms in the business operation. The details provided to justify the proposed new entrance to serve a distinct element of the business are insufficient to warrant the acceptance of the proposal. The case advanced is based largely on an assumption about future business activity and guest expectations rather than on any body of concrete evidence of the impact of the shared access arrangement on the business. The new holiday chalets are still in the course of construction and the attitudes, behaviour and interaction between guests in those properties and the lodge are not yet known. To consider permitting the new entrance and accepting the resultant adverse impact on this historic landscape would be premature and unnecessary at this time. As alluded to in paragraphs 31 and 32, there are many options which the owners could explore within the confines of their site to address any anticipated difficulties arising from guest interactions.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

37. Although not a listed building, Gairnshiel Lodge and its curtilage, including the existing dry stonewall roadside boundaries, make an important contribution to the cultural heritage value of the area. The existing dry stonewall and its continuity on the eastern and southern site boundaries is an important feature which echoes the materials used on the nearby Gairnshiel Bridge, which is a Category A listed structure. The integrity of the boundary wall makes a valuable contribution to the cultural heritage of the area and the creation of a new opening would diminish this.

Promote Sustainable Use of Natural Resources

38. The proposal has no relevance to this aim.

Promote Understanding and Enjoyment of the Area

39. The proposal is of limited relevance to this aim. The opening of a new entrance would diminish the continuity and integrity of the dry stone wall roadside boundary, which is a prominent feature in this location and could detract from the general public's enjoyment of this historic and unique landscape. The purpose of the new vehicular entrance would also only benefit a small number of people i.e. those holidaying in the properties on the site.

Promote Sustainable Economic and Social Development of the Area

40. Other than providing an alternative access for the self catering lodges which are in construction on the site, the new vehicular entrance would not make any contribution to the achievement of this aim.

RECOMMENDATION

That Members of the Committee support a recommendation to

(a) REFUSE planning permission for the formation of a vehicular access for the following reasons :

I. The formation of a new vehicular entrance would adversely impact on the historic setting of the localised Gairnshiel landscape, to which the existing extensive drystone walling makes a significant contribution. The opening of a new entrance would result in an inappropriate fragmentation of the traditional drystone wall. The development would not accord with Policy 11 (The Local and Wider Cultural Heritage of the Park) of the CNP Local Plan (2010) which requires development to protect or conserve and enhance features of cultural and historical significance. The development would also fail to deliver the outcomes required by the Cairngorms National Park Partnership Plan 2012-2017, particularly as it would fail "to create a special place for people and nature with natural and cultural heritage enhanced." The proposal would also fail to accord with the first aim of the National Park as it would not conserve or enhance the cultural heritage of the area.

2. Adequate access provision exists on the site to serve Gairnshiel Lodge and the holiday chalets in accordance with the site layout approved under CNPA planning ref. no. 09/324/CP. Insufficient evidence has been provided to justify the formation of a new access to exclusively serve the holiday chalets. The formation of such an access would create the impression of segregation of elements of the overall enterprise on the site and would be inconsistent with the principles on which the holiday chalets were approved, with those chalets being intrinsically linked to the business operation of Gairnshiel Lodge.

And

- (b) Authorise any necessary enforcement activity in order to ensure that the unauthorised opening in the drystone wall is reinstated to a satisfactory condition.

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9 August 2012

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.