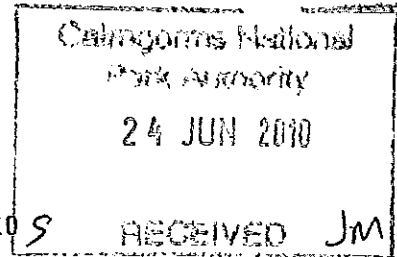


PRIVATE BANKING

Private Banking
2-6 Eastgate, Inverness, IV2 3NA

Mailing address:
PO Box 5727
Inverness
IV1 9BH

Mr David Huisman
Laggan Country House Hotel
Laggan
Newtonmore
Inverness shire
PH20 1BS



30th April 2010

Dear Mr Huisman

SECURED LENDING ON SECTION 75 TITLED LAND

I refer to telephone conversation this week and confirm that we are unable to lend on properties that have Section 75s in their Planning Permission and subsequent Title.

This is due to the fact that in the event of a forced sale we will have restrictions on the sale of this property.

Please do not hesitate to contact me should you have any queries.

Regards



Dianné Bellshaw
Private Banking Manager

**YOUR HOME MAY BE REPOSSESSED IF YOU DO NOT
KEEP UP REPAYMENTS ON YOUR MORTGAGE**

Sent: 09 June 2010 14:08

To: Planning

Subject: Section 75 Agreement – Erection of house at Laggan Country Hotel, Laggan, Newtonmore Ref : 06/336/CP

Mr Don McKee
Head of Planning
Cairngorms National Park Authority
Albert Memorial Hall
Station Square
Ballater
AB35 5QB
2010

9 June

Dear Mr McKee

Section 75 Agreement – Erection of house at Laggan Country Hotel, Laggan, Newtonmore Ref : 06/336/CP

I hope you don't mind me sending this communication via e-mail but I am experiencing some printer problems at the moment.

I refer to recent discussions between yourself and the applicant, Mr Huisman, concerning removal of the Section 75 Agreement in respect of the above development. I had been advised by your officers to lodge a formal application with Badenoch and Strathspey but have since been told the proper procedure is to contact you direct.

Construction of the new house has progressed well and is nearing completion but the presence of the Section 75 Agreement is proving an insurmountable obstacle in the applicant's attempts to secure final borrowings to finish off the project. The reluctance on the part of financial institutions to lend capital in the face of largely unprecedented economic conditions is well publicised and, in this instance, the applicant

finds himself short of funds by approximately 15% of the finished value of the property. He has approached over 30 separate institutions and none are prepared to provide a mortgage facility for a development subject to a Section 75 Agreement.

This situation could not have been foreseen by either the applicant or the National park as planning authority whilst the application was being determined. This is not to question the principle of the Agreement but to highlight the difficulties arising out of the practicality of completing the development whilst the legal burden remains in place. There is an added complication in that, for so long as the applicant is unable to progress the development, he continues to rely upon unsatisfactory temporary accommodation for his family, a situation already resulting in health problems for the younger family members. So resolution is not only sought but required quickly.

The site lies within a Restricted Countryside Area in the 1997 Badenoch and Strathspey Local Plan, where new housing is permitted by exception only. The house was considered essential for management, related family and occupational reasons and its approval on that basis reflected also national planning policy in both housing and tourism terms. As part of its tight control, the Local Plan seeks to govern future occupancy as well as adherence to principles of good siting and design. The latter was achieved through discussion and negotiation and the Section 75 Agreement, entered into reluctantly on the part of the applicant but as the only way in which planning permission could be secured, was intended to control the occupancy aspect. Accordingly, the house is restricted for occupation by persons engaged in the operation of the hotel and the applicant and successors in title undertake not to dispose of the house separate from the remainder of the site.

The physical presence of a house is now fact and the planning unit including the hotel remains the same. The applicant's intention is to continue his relationship and the development's link with the Hotel. In terms of planning constraint there is little if any opportunity for a further house on the planning unit and in any case such a proposal and its circumstances if it were ever to come about would require to be subject to the full planning process.

Scottish Planning Policy, published in February 2010, states planning conditions must be fair, reasonable and practicable and Planning Agreements can be used where conditions would not suit. It is reasonable to assume the same standards of fairness, reasonableness and practicability apply to Agreements also. In this case, there is no doubting the fairness or reasonableness, only the practicability of the Agreement in so much as its very presence is proving an onerous burden and insurmountable obstacle to the completion of this development.

In determining any planning application a planning authority is obliged to have regard for the Development Plan unless material considerations indicate otherwise. Planning Circular 4/2009 accepts the range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. The purpose of this application therefore is to ask that the planning authority consider the practicable problems being experienced with this Section 75 Agreement as a material consideration in a re-assessment of the proposal.


Part Five of the Agreement allows for modification or discharge of any aspect of the Agreement should any part be rendered no longer relevant, providing the parties act reasonably in considering any change in circumstances. It is submitted that the very presence of the Section 75 Agreement, by its impracticability in so far as it presents a barrier to funding thus denying completion of the development, renders itself no longer an appropriate or relevant control mechanism and it is respectfully requested it would be reasonable for it to be laid aside in this instance.

Should you require any further information in support of this request or clarification of any of the points raised, please to not hesitate to contact me.

Yours Sincerely

Dave Macdonald

Highland Planning
Tigh na Greine
Quebec Bridge
Tain
IV19 ING


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