

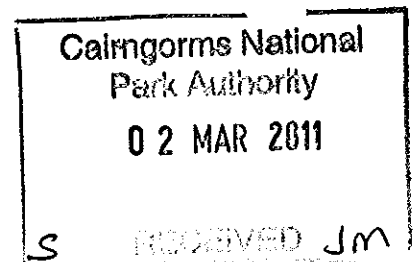
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27<sup>th</sup> February 2011

SENT BY RECORDED DELIVERY

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



FAO. Mr Robert Grant

Dear Sirs

**Ref. 11/024/CP (APP/2011/0033)**

**Planning Application for Erection of Dwellinghouse at Tomintoul Croft, Braemar  
Applicant. Mr & Mrs Innes**

We write further to your letter of 18<sup>th</sup> February advising that in accordance with the CNPA Standing Orders, we are obligated to provide any further representations or request to address the Planning Committee within the stipulated timetable.

Firstly, we advise that we would wish to be afforded the opportunity to address the Planning Committee with regard to this application when it is listed for hearing.

Turning to the matter of providing representations and having regard to the procedures set out in the Standing Orders. We set out below the pertinent issues which we consider relevant and which we would respectfully ask the Committee to take cognisance of in giving consideration to this planning application.

### **Background**

We purchased Tomintoul Croft in 2007 with the benefit of detailed planning permission (APP/2006/1124) which allowed for the alteration and extension of the existing croft house to provide a substantial dwellinghouse. Development in relation to this planning permission has been enacted.

On reflection following acquisition we considered that the original house was in such a state of preservation that it would be unfortunate to completely destroy the original historic interior of this building in implementing the consented scheme and an alternative

development proposal was commissioned which sought to reduce intervention in relation to the existing house. This application has been sisted, pending determination of the current application

Historic Scotland was invited by us to provide input and advice at an early stage when we realised the potential importance of the croft house.

At the time of purchase the croft house was in a structurally fragile state. Subsequently an initial phase of work to provide for the consolidation and reconstruction of the structural fabric of this croft house building has been completed by specialist contractors using traditional methods and materials as recommended by Historic Scotland. Following the completion of this work further discussion has been undertaken with Historic Scotland regarding possible future proposals for this building and they have indicated their support for such and advised Aberdeenshire Council of their preference to secure a solution which would allow for the new build element to be separated.

In illustration of this we reproduce below the concluding paragraph from an email communication from Dr. Ann MacSween, Historic Scotland's Principal Inspector to Jan Regulski, Aberdeenshire Council's Planning Officer (dated 1<sup>st</sup> October 2010):

*"As we discussed, physically linking the proposed new building to the croft would require significant intervention. Taking account of the quality of the croft, and the care being taken in its restoration, we hope that a solution can be found which leaves the new build separate from the croft."*

Historic Scotland has indicated that they consider the property to be of 'listable quality' and have issued a Provisional Listing Notice in respect of Tomintoul Croft.

## **Planning Policy**

Following discussion with the Council's Planning Officer and more recent liaison with the National Park's Planning Officer, it is apparent that the granting of planning permission for a new house which does not comprise an extension to the existing dwelling will require careful interpretation of current policy. However, we believe that adopted CNPA Local Plan provides support for the development strategy being proposed.

Consideration has been given to the 'Replacement Houses' policy as contained in the adopted CNPA Local Plan (Policy 23). We note that whilst application of this policy should not normally increase the number of dwellings on the site; there would appear to be scope within this policy to allow for divergence from the norm where it can be demonstrated that the original house is of '*significant cultural heritage merit*'.

Alternatively, we note that the Policy 9 of the CNPA Local Plan contains reference to enabling development as a means of safeguarding a building of significant importance. We are therefore of the opinion that the principal of this policy would appear to be relevant having regard to this application.

We appreciate that the Committee is required to give careful consideration to the proper application of planning policy in the determination of any application. Having regard to the

particular circumstances pertaining to the application site, we consider that there is support within adopted policy.

Furthermore, we would suggest that the particular circumstances relating to this application are at best uncommon, perhaps unique and therefore granting of the permission sought is unlikely to create any unwanted precedent.

### **Concerns regarding potentially unacceptable Planning Conditions/S.75 Obligations**

We have sought advice with regard to the appropriate treatment of VAT in relation to our development proposals and whilst we accept that such is not a matter of direct concern to the Planning Authority, we would respectfully draw these issues to the attention of the Committee as we believe that it is of significant relevance in relation to whether or not the proposals to protect and preserve the croft house are ultimately achievable.

For information, at the present time works to restore the croft house attract VAT at 5% as it has been unoccupied for a considerable period and such would subsist in the event of our progressing with our extant planning permission or that proposed in our sisted application to alter and extend this property.

The current application seeks to develop a separate detached dwellinghouse which would allow for the preservation of the croft house in accordance with Historic Scotland's preferred strategy. In usual circumstances the development of a new dwellinghouse is zero rated for VAT purposes. However, this relief can be denied where its separate use or disposal are restricted. This could mean that the construction of the new dwellinghouse attracts VAT at the standard rate of 20%.

In light of the above we would point out that any planning condition or obligation which would restrict the separate use or disposal of the new house would be unacceptable as the financial implications are simply too onerous.

### **Services and Infrastructure**

In the course of determining how the site at Tomintoul may be physically developed, a number of ecological and environmental issues have required to be addressed. We have sought professional advice at all stages to ensure that technical solutions are acceptable to Scottish Natural Heritage and other consultees in relation to these matters.

Where required, formal applications for planning permission have been submitted and we consider that we are now in a position where all potential constraints to development of the site have been resolved.

We summarise these elements below:

- Vehicular access for construction materials – resolved per Planning Permission Ref. APP/2010/2370
- Water supply – resolved per Planning Permission Ref. APP/2010/2810
- Drainage – resolved per consultant's report by Soil and Water, Scotland which has been submitted for consideration with this application.

- Electricity – A mains electricity supply serves other properties in the vicinity of Tomintoul Croft and the utility company has confirmed that with some network reinforcement an adequate electrical supply can be provided to serve both the existing croft house and the proposed new dwellinghouse.

## Summary

Following the purchase of Tomintoul Croft, we recognised that the original croft house was unusual in its state of preservation and retention of original features. Accordingly, we have pursued a conservation based approach to the development of the subjects, commissioning professional expertise to address issues raised by SNH as a consequence of local site sensitivities and inviting Historic Scotland to inspect the property and advise as to their preferred approach.

We accept that whilst we believe this application has support in terms of adopted policy within the CNPA Local Plan, approval of the application submitted without unacceptable covenants in relation to use or disposal may require some departure from the usual application of this policy. Notwithstanding, we hope that in our actions to date we have proven our commitment to preserving Tomintoul Croft as part of the National Park's cultural heritage in accordance with one of the Park's principal aims. Accordingly, we would seek sympathetic and pragmatic consideration of this application by the Planning Committee.

Yours faithfully

The image shows two handwritten signatures in black ink. The signature on the left is a stylized, cursive 'C' followed by a horizontal line and a loop. The signature on the right is a more complex cursive signature, possibly 'J. Innes', with several loops and a long horizontal stroke.

Calum & Jacqueline Innes