
CAIRNGORMS NATIONAL PARK AUTHORITY

MINUTES OF THE PLANNING COMMITTEE held at The Duke of Gordon, Hotel, Kingussie on 30th April 2010 at 10.00am

PRESENT

Peter Argyle	Bob Kinnaird
Eric Baird	Mary McCafferty
Stuart Black	Willie McKenna
Geva Blackett	Eleanor Mackintosh
Duncan Bryden	Ian Mackintosh
Jaci Douglas	Anne MacLean
Dave Fallows	Alastair MacLennan
Lucy Grant	Fiona Murdoch
David Green	Andrew Rafferty
Drew Hendry	Gregor Rimell
Marcus Humphrey	Richard Stroud

IN ATTENDANCE:

Don McKee	Andrew Tait
Mary Grier	Bill Stewart
Pip Mackie	Derek Manson

APOLOGIES:

Susan Walker

AGENDA ITEMS 1 & 2: WELCOME AND APOLOGIES

1. The Convenor welcomed all present.
2. Apologies were received from the above Members.

AGENDA ITEM 3: MINUTES & MATTERS ARISING FROM THE PREVIOUS MEETING

3. The minutes of the previous meeting, 16th April 2010 held at The Village Hall, Kincaig were approved with an amendment to the list of apologies given to reflect that Lucy Grant was not present at the meeting.
4. There were no matters arising.

AGENDA ITEM 4: DECLARATION OF INTEREST BY MEMBERS ON ANY ITEMS APPEARING ON THE AGENDA

5. Geva Blackett declared an indirect interest in Item No. 15 (Paper 5) on the Agenda, due to the development taking place on Invercauld Estate, where her husband is the Factor.

6. David Green declared indirect interests in Item No. 13 (Paper 3), Item No. 14 (Paper 4) and Item No. 18 (paper 13) on the Agenda. Due to the Reports receiving information and consultation responses from the SAC, for which he is a member, and the Crofters Commission, for which he was Chairman.
7. Bob Kinnaird declared an indirect interest in Item No. 6 (paper 9) on the Agenda, due to being a resident of Kingussie.
8. Andrew Rafferty declared a direct interest in Item No. 6 (Paper 9) on the Agenda, due to owing a house in Dunbarry Terrace, Kingussie. Andrew Rafferty also declared a direct interest in Item No. 8 (Paper 6), due to his Brother-in-law being the tenant of Rothiemoon Farm.
9. Willie McKenna declared a direct interest in Item No. 11 (Paper 8) on the Agenda, due to being employed by Rothiemurchus Estate, owners of the land on which the development is proposed.

**AGENDA ITEM 5:
PLANNING APPLICATION CALL-IN DECISIONS
(Oral Presentation, Derek Manson)**

10. 10/108/CP - No Call-in
11. 10/109/CP - No Call-in
12. 10/110/CP - No Call-in
13. 10/111/CP - No Call-in

14. 10/112/CP - The decision was to call-in the application for the following reason :
- This application is for several amendments to an existing planning permission 08/147/CP at the Strathspey Hotel, Grantown on Spey which is within the Conservation Area of Grantown on Spey and involves works on the Strathspey hotel which is a Category B Listed Building. The application is considered to be of linked significance to the previously called in application 08/147/CP and therefore continues to raises issues in relation to the cultural and built heritage, the character of the streetscape and the social and economic development. The proposal is therefore considered to raise issues of general significance to the collective aims of the National Park.
15. 10/113/CP - No Call-in
16. 10/114/CP - No Call-in
17. 10/115/CP - No Call-in
18. 10/116/CP - No Call-in
19. 10/117/CP - No Call-in
20. 10/118/CP - The decision was to call-in the application for the following reason :
- The application seeks to remove a condition which restricts the occupancy of the dwellinghouse to a person solely or mainly employed or last employed in the locality in agriculture. The dwelling is located in an area designated by the Badenoch and Strathespey Local Plan as Restricted Countryside where dwellings would not normally be allowed without a land management justification as such the removal of this condition raises issues with regard to the principles of housing policy and issues with regard to the social and economic development of the area. Consequently, the proposal raises issues of general significance for the Cairngorms National Park.
21. 10/119/CP - No Call-in
22. 10/120/CP - No Call-in
23. 10/121/CP - No Call-in

COMMENTING ON APPLICATIONS NOT CALLED-IN BY THE COMMITTEE

24. The Members wished to make comments to the Local Authorities on the following Planning Application No's 10/109/CP, 10/115/CP & 10/120/CP. The planning officers noted these comments and were delegated with the responsibility of whether or not to submit the comments to the Local Authorities.

**AGENDA ITEM 6:
REPORT ON CALLED-IN PLANNING APPLICATION FOR MASTER PLAN FOR
PHASED DEVELOPMENT OF 300 HOUSES; ECONOMIC DEVELOPMENT USES;
COMMUNITY USES INCLUDING ALL INFRASTRUCTURE, LANDSCAPING
ETC. AT LAND TO NORTH-EAST OF KINGUSSIE - NORTH OF ACCESS ROAD,
KERROW DRIVE, DUNBARRY TERRACE & A86, KINGUSSIE
(09/048/CP) (PAPER 9)**

25. Andrew Rafferty declared an interest and left the room.
26. Duncan Bryden advised Members that several late letters of representation had recently been received (within the required timescales) and to be mindful that the Applicants had not had time to properly consider any new information raised in the letters.
27. Duncan Bryden informed Members that Gary Johnston & Alan Ogilvie, Agents, and Ailsa Schofield, representative from Kingussie & Vicinity Community Council had requested to address the Committee. The Committee agreed to the requests.
28. The Committee were also advised that Russell Gribb from Cameron & Ross and Andy McMullen, Environmental Assessor, were also available for questions on behalf of the Applicants.
29. Duncan Bryden advised that a further request to address the Committee had been received from a Representee, however, it had not been received within the required timescales and therefore their request would not be considered.
30. Andrew Tait presented a paper recommending that the Committee approve the application subject to the conditions stated in the report. He stated that the application was for Outline Permission and emphasised that the permission would be for upto 300 houses.
31. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
 - a) The lack of reference to the increased demand on health infrastructure and community care needs that the new development would create.
 - b) The number of houses already built on the allocation in the Badenoch & Strathspey Local Plan (Hillside Ave, Croila Rd, Croila View & Kerrow Drive).
 - c) The location of the proposed construction haul road to the development.
 - d) Clarification of the total site area in Hectares.
 - e) The Scottish Government planning policy that a long term vision should be taken for sites, upto a period of 20 years.
 - f) A requirement that the design of buildings on the site should be 'in keeping' and reflect the existing structures already in Kingussie.
 - g) The existing Badenoch & Strathspey Local Plan Environmental designation covering part of the site area.
 - h) Land ownership issues at the junction of Dunbarry Road and High Street, Kingussie.
 - i) The ownership of the Shinty Pitch.
32. Gary Johnston, Agent, addressed the Committee.
33. Alan Ogilvie, Agent, addressed the Committee and presented a PowerPoint presentation.
34. The Committee were invited to ask questions of the speaker(s) and the following points were raised:
 - a) The density of housing proposed on the site.
 - b) The practicality of a single access road from the A86.
 - c) The number of house plots to be accessed from Dunbarry Road.
 - d) Considerations for play areas and community growth areas.
 - e) Safeguarding community amenity during the various construction phases.
 - f) The apparent 'scattergun' approach to the indicative phasing of the development.
 - g) The potential cost savings of accessing the development through an existing road network.
 - h) The integration of affordable housing throughout the development.
 - i) The Masterplan referred to and if any points were not covered in the Planning Report.
 - j) The potential for Wildcat interest on the site, as raised in a late letter of representation.
 - k) The Mammal and Red Squirrel surveys carried out for the site and the findings.

35. Ailsa Schofield, representative for Kingussie & Vicinity Community Council, addressed the Committee.
36. The Committee were invited to ask questions of the speaker and the following points were raised:
- a) The community view on a single access to the development from the A86.
 - b) Clarification for the potential of Wildcat using the land corridor between the Wildlife Park and the application site.
 - c) Other housing developments in Badenoch & Strathspey.
 - d) The proportion of residents in Kingussie who commute to work outwith the area.
 - e) Numbers of houses potentially required over the next 20 years in Kingussie.
 - f) Clarification if the Community Council had objected to the housing land allocation in the CNP Local Plan.
 - g) The level of community consultation taken place regarding the application.
 - h) The amount of Affordable housing required for people currently residing in Kingussie.
37. Duncan Bryden thanked the speakers.
38. The Committee discussed the application and the following points were raised:
- a) The number of houses specified in the planning application.
 - b) The need for further community involvement in the development brief.
 - c) The level of proposed Affordable Housing on the site.
 - d) Scottish Government legislation requiring a timeous decision on applications.
 - e) Contentment with the principle of development on the site, but the need for it to be kept in proportion to housing density levels currently in Kingussie.
 - f) Concern over the application being determined prior to the discussion scheduled for May regarding the CNP Local Plan.
 - g) The length of time the housing land allocation has been included in Local Plans covering the area.
 - h) The requirement for houses on the site to be designed to reflect those existing already in Kingussie.
 - i) The phasing of the development.
 - j) The need for stronger wording in the conditions regarding design, layout, roads and access.
 - k) Concern that planning gain conversations had taken place without community consultation.
 - l) The involvement of the CNPA in facilitating any consultation between the Applicants and the Community.
 - m) The requirement for the Applicants to be cognisant of the Community's wishes in assessing any consultation outcomes.
 - n) The potential for the Applicants to appeal any decision or deferment.
 - o) Concern about specifying the number of houses on any approval.
 - p) The lack of reference to sustainability, energy efficiency and renewables in the proposed conditions.
39. Dave Fallows proposed a Motion to Refuse the application on the grounds that although the principle of development is accepted, the application fails to demonstrate adequate consultation and as an outline application in the form of a Masterplan it is not appropriate in respect of SPP 2010 Paragraph 66 onwards; paragraph 83 and Paragraph 125 onwards. The application also fails to demonstrate that it meets PAN 67 and represents substantial overdevelopment in relation to the Badenoch & Strathspey Local Plan. This was seconded by Gregor Rimell.
40. Peter Argyle proposed an Amendment to Approve the application subject to a Section 75 Legal Agreement and Conditions as stated in the report – plus:
- The addition of planning gain and community care needs in the Section 75 Legal Agreement.
 - Stronger worded conditions regarding Community consultation and a high standard of quality, design and layout for the development.
 - An additional condition regarding energy efficiency, sustainability and renewables.
- This was seconded by Alastair MacLennan.

41. The vote was as follows:

	MOTION	AMENDMENT	ABSTAIN
Peter Argyle		✓	
Eric Baird		✓	
Stuart Black		✓	
Geva Blackett	✓		
Duncan Bryden		✓	
Jaci Douglas	✓		
Dave Fallows	✓		
Lucy Grant		✓	
David Green		✓	
Drew Hendry	✓		
Marcus Humphrey		✓	
Bob Kinnaird	✓		
Mary McCafferty		✓	
Willie McKenna		✓	
Eleanor Mackintosh		✓	
Ian Mackintosh		✓	
Anne MacLean		✓	
Alastair MacLennan		✓	
Fiona Murdoch		✓	
Gregor Rimell	✓		
Richard Stroud		✓	
TOTAL	6	15	0

42. The Committee agreed to approve the application subject to the conditions stated in the report – plus:

- The addition of planning gain and community care needs in the Section 75 Legal Agreement.
- Stronger worded conditions regarding Community consultation and a high standard of quality, design and layout for the development.
- An additional condition regarding energy efficiency, sustainability and renewables.

43. Andrew Rafferty returned.

44. The Committee broke for lunch at 12:30hrs.

45. The Committee reconvened at 13:30hrs.

AGENDA ITEM 7:

REPORT ON CALLED-IN PLANNING APPLICATION FOR HYDRO ELECTRIC SCHEME INCLUDING INTAKE WEIRS, HEADER TANK, PIPE WORK, TURBINE HOUSE AND TAIL RACE CHANNEL AT LAND NORTH OF CLOVA HOTEL, GLEN CLOVA (09/117/CP) (PAPER 10)

46. Duncan Bryden informed Members that Jamie Wallace, Agent was available to answer any questions Members may have
47. Andrew Tait presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
48. The Committee discussed the application, the following points were raised:
 - a) The application was welcomed as a positive step in small scale energy production.
 - b) Tourism in the area not being adversely affected by the application.
 - c) Clarification of the materials to be used on the walls of the Turbine House.
49. The Committee agreed to approve the application subject to the conditions stated in the report.

**AGENDA ITEM 8:
REPORT ON CALLED-IN PLANNING APPLICATION FOR CONVERSION OF
STEADINGS TO FORM 6 HOUSES; ERECTION OF 5 AGRICULTURAL
BUILDINGS AND RELOCATION OF SHED AT STEADINGS 50M SOUTH WEST
OF ROTHIEMOON FARM, NETHYBRIDGE
(08/438/CP) (PAPER 6)**

50. Andrew Rafferty declared an interest and left the room.
51. The Committee paused to read a late letter of representation which had been received (within the required timescales).
52. Duncan Bryden informed Members that Fiona McLaren, Representee, had requested to address the Committee. The Committee agreed to the request. Duncan Bryden also advised that Paul Devlin, Agent, and John Kirk, tenant of Rothiemoon Farm, were available to answer any questions Members may have.
53. Andrew Tait presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
54. Fiona McLaren, Representee, addressed the Committee.
55. The Committee were invited to ask questions of the speaker and the following points were raised:
 - a) The distance of the proposed farm buildings from Dornoch Cottage.

56. The Committee were invited to ask questions of Paul Devlin, Agent, and John Kirk, tenant of Rothiemoon Farm, the following points were raised:
 - a) The pitch of the roof on the proposed agricultural buildings being able to cope with extreme winter weather conditions.
 - b) The scope for methane collection to protect neighbouring amenity.
 - c) Sewage and Septic Tank provisions for the farm associated buildings.
57. Duncan Bryden thanked the speakers.
58. The Committee discussed the application and the following points were raised:
 - a) Confirmation that the CNPA Heritage & Land Management Group had responded to the consultation request sent to them.
 - b) Clarification why the farm buildings were not classed as permitted development.
 - c) Clarification of the policy regarding existing agricultural buildings being re-used for a different purpose.
 - d) The distance and visibility of the site from the B970.
 - e) The pitch of the roof on the proposed agricultural buildings being able to cope with extreme winter weather conditions.
 - f) Clarification if there was any guidance on distances between residential properties and farm buildings / working areas.
 - g) The access junction with the B970 and the potential for increased traffic flow.
59. The Committee agreed to approve the application subject to the conditions stated in the report with additions to the following condition/reason:
 - Reason 15 – ‘...including occupiers of Dornoch Cottage’.
 - Condition 16b – ‘...and existing farm buildings...’
60. Andrew Rafferty returned.

**AGENDA ITEM 9:
 REPORT ON CALLED-IN PLANNING APPLICATION FOR ERECTION OF 3
 LETTING CHALETs AT LAND 600M SOUTH EAST OF INVERLAIDNAN,
 CARRBRIDGE
 (07/399/CP (PAPER 1))**

61. Duncan Bryden informed Members that Paul Devlin, Agent, was available to answer any questions Members may have.
62. Mary Grier presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
63. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
 - a) The justification provided by the Estate in support of the application.
 - b) Where services to the site would be sourced from and if they would be undergrounded.
 - c) The sustainability of the development.
 - d) The possibility of tying the application to the Estate via a Legal Agreement.
 - e) The impact of the development on the landscape.
 - f) The distance of the development from Carrbridge.
64. The Committee were invited to ask questions of Paul Devlin, Agent, and the following points were raised:
 - a) The sustainability plans associated with the development.
 - b) How electricity would be provided to the site and the distance of the nearest electricity transformer.
 - c) Clarification regarding the water supply and septic tank.
 - d) Reasons for selecting this particular site.
 - e) The environmental designations covering the site.
65. Duncan Bryden thanked the speaker.
66. The Committee discussed the application and the following points were raised:
 - a) The improvement made to the application from the original proposal.
 - b) The requirement for a sustainability statement.
 - c) Differences between residential dwellings and tourist accommodation in Local Plan policies.

67. Marcus Humphrey proposed a Motion to Approve the application with an additional condition requiring details of the insulation and heating of the development. This was seconded by Geva Blackett.
68. Dave Fallows proposed an Amendment to Defer the application to allow for a sustainability statement to be prepared and the exploration of alternative sites so that the development could be located outwith environmental designations.
69. The vote was as follows:

	MOTION	AMENDMENT	ABSTAIN
Peter Argyle	√		
Eric Baird	√		
Stuart Black		√	
Geva Blackett	√		
Duncan Bryden	√		
Jaci Douglas		√	
Dave Fallows		√	
Lucy Grant	√		
David Green	√		
Drew Hendry	√		
Marcus Humphrey	√		
Bob Kinnaird	√		
Mary McCafferty		√	
Willie McKenna		√	
Eleanor Mackintosh		√	
Ian Mackintosh	√		
Anne MacLean		√	
Alastair MacLennan		√	
Fiona Murdoch	√		
Andrew Rafferty	√		
Gregor Rimell		√	
Richard Stroud	√		
TOTAL	13	9	0

70. The Committee agreed to approve the application subject to the conditions stated in the report with an additional condition requiring details of the insulation and heating of the development.
71. Bob Kinnaird left the meeting.

**AGENDA ITEM 10:
REPORT ON CALLED-IN PLANNING APPLICATION FOR EXTENSION OF
PLANNING CONSENT 05/02365/OUT TO DEMOLISH STEADING AND REPLACE**

WITH DWELLINGHOUSE AND FOR SEPTIC TANK AND SOAK-AWAY FOR FURTHER 2 YEARS AT BLAIRNAMARROW, TOMINTOUL (09/190/CP) (PAPER 2)

72. Duncan Bryden informed Members that Andrew Thomson, Agent, was available to answer any questions Members may have.
73. Mary Grier presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
74. The Committee were invited to ask questions of the Agent. No questions were asked.
75. The Committee agreed to approve the application subject to the conditions stated in the report.

**AGENDA ITEM 11:
REPORT ON CALLED-IN PLANNING APPLICATION FOR FORMATION OF
WALK/CYCLEWAY; FORMATION OF PASSING PLACES AND ADDITIONAL
CAR PARKING AT SPEYSIDE TRUST, BADAGUISH OUTDOOR CENTRE,
GLENMORE, AVIEMORE
(09/295/CP) (PAPER 8)**

76. Willie McKenna declared an interest and left the room.
77. Duncan Bryden informed Members that Andrew Mackenzie, Applicant, was available to answer any questions Members may have.
78. Mary Grier presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
79. The Committee were invited to ask questions of the Applicant. No questions were asked.
80. The Committee discussed the application and the following point was raised:
 - a) The application being well thought out and presented.
81. The Committee agreed to approve the application subject to the conditions stated in the report.
82. Willie McKenna returned.

**AGENDA ITEM 12:
REPORT ON CALLED-IN PLANNING APPLICATION FOR CONVERSION OF
STEADINGS TO 5 HOUSES; DEMOLITION OF COTTAGE AND ERECTION OF
REPLACEMENT COTTAGE AT INVERTROMIE STEADING, KINGUSSIE
(09/355/CP) (PAPER 11)**

83. Duncan Bryden informed Members that Alan Baxter, Agent, was available to answer any questions Members may have.
84. Mary Grier presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
85. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
 - a) Clarification of what was to happen to the existing timber bothy on site.
 - b) The flood mitigation measures being proposed.
 - c) The junction from the farm track to the road and the height of the existing dry stone dyke.
 - d) Clarification if the access road was to be tarmacked.
 - e) The sustainability of the development.
 - f) The lack of consultation with the CNPA Housing Officer and Affordable Housing policy.
 - g) Whether planning gain had been considered for the development.
 - h) The boundary treatments being proposed.
 - i) The level of street lighting being proposed and the possibility of light pollution.
 - j) Clarification that the RSPB were content with the application and the possibility that the development would generate dog walkers on the nearby Insh Marshes.
86. The Committee were invited to ask questions of Alan Baxter, Agent, and the following point was raised:
 - a) The sustainability of the buildings including energy efficiency and levels of insulation.
87. Duncan Bryden thanked the speaker.
88. The Committee discussed the application and the following points were raised:
 - a) The requirement for a sustainability statement.
 - b) The boundary treatments being proposed.
89. The Committee agreed to approve the application subject to the conditions stated in the report with additional conditions covering:
 - The removal of permitted development rights regarding walls and fences.
 - The submission of a sustainability statement
 - An amendment to Condition 17 to include reference to boundary treatments.

**AGENDA ITEM 13:
REPORT ON CALLED-IN PLANNING APPLICATION FOR ERECTION OF
DWELLING (OUTLINE) AT LAND 100M NORTHWEST OF BIRCH COTTAGE,
DRUMUILLIE, BOAT OF GARTEN
(07/414/CP) (PAPER 3)**

90. Duncan Bryden informed Members that Mr Grant, Applicant, was available to answer any questions Members may have.
91. Derek Manson presented a paper recommending that the Committee refuse the application for the reasons stated in the report.
92. The Committee discussed the application and the following points were raised:
- a) The Committee's previous decision to defer the application to allow for the preparation of a business case.
 - b) The need to encourage crofters in the area.
 - c) Road safety issues and the subsequent withdrawal of the Trunk Roads objection.
 - d) A previous house application being granted for land management purposes in Drumuillie.
 - e) The need to assess each application on its individual merits.
 - f) The weighting to be given to the land management justification.
 - g) If approved, the need for a Section 75 Legal Agreement.
 - h) The small number of livestock requiring a very small number of working hours on the croft and there being no justification for house with the hours involved.
 - i) The applicant's current employment in the forestry industry.
 - j) The length of time the application has been pending decision and the applicants having had lots of opportunity to build the business and provide justification for a house.
93. The Committee were invited to ask questions of Mr Grant, Applicant. No questions were asked.
94. Dave Fallows proposed a Motion to Approve the application subject to a Section 75 Legal Agreement tying the house to the croft and planning conditions. The reason for approving the application were that the Applicant had identified business opportunities and had justified the residential need in order to take the plans forward. Additionally, the Trunk Roads Authority objection had been withdrawn. This was seconded by David Green.
95. Peter Argyle proposed an Amendment to Refuse the application as per the recommendation in the Report. This was seconded by Richard Stroud.
96. The vote was as follows:

	MOTION	AMENDMENT	ABSTAIN
Peter Argyle		√	
Eric Baird		√	
Stuart Black	√		
Geva Blackett	√		
Duncan Bryden		√	
Jaci Douglas	√		
Dave Fallows	√		
Lucy Grant	√		
David Green	√		
Drew Hendry	√		
Marcus Humphrey		√	

Mary McCafferty	√		
Willie McKenna	√		
Eleanor Mackintosh	√		
Ian Mackintosh		√	
Anne MacLean		√	
Alastair MacLennan	√		
Fiona Murdoch		√	
Andrew Rafferty	√		
Gregor Rimell	√		
Richard Stroud		√	
TOTAL	13	8	0

97. The Committee agreed to Approve the application subject to a Section 75 Legal Agreement tying the house to the croft and planning conditions.

**AGENDA ITEM 14:
REPORT ON CALLED-IN PLANNING APPLICATION FOR USE OF LAND FOR
TEMPORARY SITING OF CARAVAN; INSTALLATION OF SEPTIC TANK AND
FORMATION OF NEW ACCESS AT LAND 100M NORTH WEST OF BIRCH
COTTAGE, DRUMULLIE, BOAT OF GARTEN
(08/086/CP) (PAPER 4)**

98. In light of the decision taken to approve the previous application. The Committee agreed to Approve the application for a temporary period until 30th April 2012 or upon first occupation of the dwelling as detailed in 07/414/CP (Erection of Dwelling (outline) at Land 100m North West of Birch Cottage, Drumuillie, Boat of Garten) the caravan should be removed and the site re-instated. Visibility splays should also be provided and maintained on each side of the new access.

**AGENDA ITEM 15:
REPORT ON CALLED-IN PLANNING APPLICATION FOR IN-FILLING AND RE-
INSTATEMENT OF REDUNDANT RESERVOIR AND ASSOCIATED FILTER
BED TANK AT CASTLETON RESERVOIR & FILTER TANK, INVERCAULD
ESTATE, BRAEMAR
(10/030/CP) (PAPER 5)**

99. Duncan Bryden informed Members that Jamie Cowie, Agent from Bell Ingram, was available to answer any questions Members may have.
100. Derek Manson presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
101. The Committee were invited to ask questions of the Jamie Cowie, Agent, and the following point was raised:
- a) The draining of the water from the filter tank the possibility of the tank re-filling.
102. Duncan Bryden thanked the speaker.
103. The Committee agreed to approve the application subject to the conditions stated in the report.

**AGENDA ITEM 16:
REPORT ON CALLED-IN PLANNING APPLICATION FOR VARIATION TO
LOCHNAGAR HOUSE TYPE DETAILS (PLOTS 22, 23 AND 24) AT LAND AT
HIGH BURNSIDE, AVIEMORE
(10/031/CP) (PAPER 7)**

104. Mary Grier presented a paper, on behalf of Robert Grant, recommending that the Committee approve the application subject to the conditions stated in the report.
105. The Committee agreed to approve the application subject to the conditions stated in the report.

**AGENDA ITEM 17:
REPORT ON CALLED-IN PLANNING APPLICATION FOR ERECTION OF 4
HOUSES AT LAND 40M SOUTH-WEST OF WOODSIDE, INSH, KINGUSSIE
(09/140/CP) (PAPER 12)**

106. Duncan Bryden informed Members that the Applicants had officially withdrawn the application from the planning process, this had occurred after the Planning Papers had been issued.

**AGENDA ITEM 18:
REPORT ON REQUEST FOR REMOVAL OF SECTION 75 AGREEMENT
AT NEW CROFT HOUSE, STRONE ROAD, NEWTONMORE
(06/485/CP) (PAPER 13)**

107. Duncan Bryden informed Members that Alastair Mackenzie, Applicant, and his mother Mary Mackenzie had requested to address the Committee. The Committee agreed to the requests.
108. Don McKee presented a paper recommending that the Committee refuse the request for removal of the Section 75 Agreement and that Members agree to the CNPA working with mortgage lenders and others to resolve issues in relation to Section 75 Agreements and funding for croft houses and report back to the Planning Committee with the outcome of this process.
109. Don McKee informed Members that since the Planning Paper had been issued further developments had occurred. He advised that he and other Planning Officials had attended a meeting with Mortgage Lenders in order to try and find a way forward.

110. Don McKee advised that the Lenders may agree to a 'Cascade' Section 75 Agreement which would ensure that in the event that an applicant defaulted on their mortgage the Lender could recoup their money. The 'Cascade' would involve the Lender initially trying to sell the property with the Section 75 attached to the property in its original form. After a period of time, if a buyer had not been found, the Section 75 would be opened up to a wider market e.g. workers in the CNP area. Should the property still not have a buyer, after 20 weeks, the Section 75 would fall away and the property would then be sold on the open market. He advised that details still needed to be ironed out and for Solicitors to be involved in the discussions. He informed the Committee that the Lenders had requested a draft 'Cascade' Section 75 to be drawn up so that they might assess it.
111. Don McKee advised that he hoped to have further information and a report to bring back to Members by 11 June 2010.
112. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) The Lenders timescale of 20 weeks potentially being quite short in a rural area.
 - b) The potential for Affordable Housing providers to be involved in the discussions. To explore that if an Applicant defaulted on their mortgage, the possibility of an Affordable Housing provider acquiring the property to ensure that it remained as affordable housing in perpetuity.
113. Mary Mackenzie, the Applicant's Mother, addressed the Committee on Alastair Mackenzie's behalf.
114. The Committee were invited to ask questions of the speaker(s) and the following points were raised:
- a) The length of time the Applicant had before the situation reached a critical point.
 - b) The Applicants current employment status.
 - c) The Mortgage Lender being aware of the Section 75 prior to the Applicant signing the standard security over the property.
 - d) Confirmation that construction of the property had not commenced before funding was in place.
 - e) The Applicant considering taking his case to the Banking Ombudsman as he had stated that the Lender had pulled out of the agreement after it had been completed.
 - f) The Applicant's status as a sole trader and whether he could then come under Highland Council supplementary guidance regarding housing in rural areas although this is not being adopted by the CNPA.
115. Duncan Bryden thanked the speaker(s).
116. The Committee discussed the application and the following points were raised:
- a) Acknowledgement of the huge amount of work the Planning Officials had undertaken.
 - b) The potential for a Section 75 to be seen as a refusal, due to the difficulties being experienced in obtaining funding.
 - c) The Mortgage Lender withdrawing the offer of funding at an extremely late stage of development.
 - d) The possibility of rescinding the Section 75 due to the unusually special circumstances with an attachment of strong wording stating that it did not set a precedent for future applications or those already subject to a Section 75.
 - e) The potential to defer the application for 2 weeks in order for the Planning Officials to progress talks with the Mortgage Lenders and allow the Applicants contact their Solicitor regarding lodging a case with the Banking Ombudsman and the potential for legal redress.
 - f) The current Section 75 tying the house to the entire croft.
 - g) A realistic timescale for bringing a further report back to Committee and the possibility of dealing with issues via e-mail with Members.
 - h) The legal status of a personal letter confirming that the Applicant intended to live in the house in order to work the croft and not sell it on.
 - i) The Committee being careful not to stray into non-planning issues regarding the Applicants financial matters.
117. The Committee agreed to Defer the application for a period of 2 weeks, until 14 May 2010, in order for the Planning Officials to progress talks with the Mortgage Lenders

and allow the Applicants contact their Solicitor regarding lodging a case with the Banking Ombudsman and the potential for legal redress. In the meantime, should any issues arise regarding the Applicants situation or progress with the Mortgage Lenders then Members and the Applicants are to be made aware of the situation as soon as possible.

**AGENDA ITEM 19:
ANY OTHER BUSINESS**

118. Duncan Bryden advised that at members request Historic Scotland had re-assessed Gairnshiel lodge, Glen Gairn, Ballater for Listed Building Status and had concluded that the building would not be Listed.

**AGENDA ITEM 20:
DATE OF NEXT MEETING**

119. Friday 14th May 2010, 9:30am, at The Grant Arms Hotel, Grantown on Spey.
120. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.
121. The meeting concluded at 17.05hrs.