
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: ERECTION OF LUNCH HUT, LITTLE ALLT BHEITHACAN, TOMINTOUL

REFERENCE: 2012/0037/DET

APPLICANT: ANDRAS LTD. c/o BIDWELLS, INVERNESS OFFICE

DATE CALLED-IN: 2 MARCH 2012

RECOMMENDATION: APPROVAL

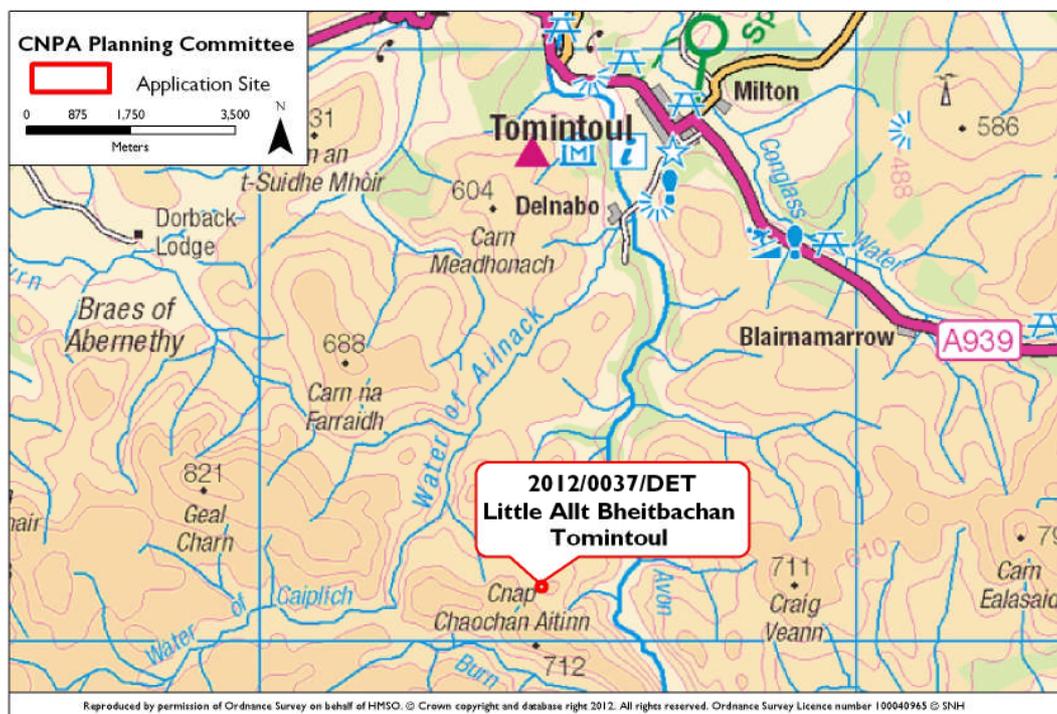


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The site is located on a remote hillside several kilometres to the south of Tomintoul and to the west side of the River Avon on the Inchrory Estate. The site for the lunch hut is located in the gully of the Little Allt Bheithachan adjacent to an existing estate track (see fig. 2)



Figure. 2- Site (arrow) for lunch hut, parking either side of track.



Figure. 3- Site for Lunch Hut

- This application proposes a lunch hut for those taking part in traditional sporting activities on the estate. The hut is 9.5 metres long and 4 metres wide and would contain a table and a toilet facility. The building would be finished in vertically boarded larch with a profiled metal roof and timber framed windows (see fig 6). The works would also require an extension to the culvert which takes the burn under the track.

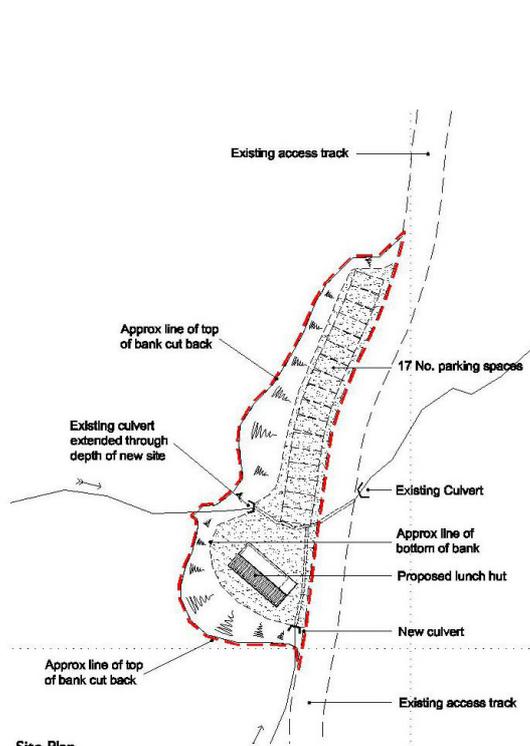


Fig. 4- Original proposals

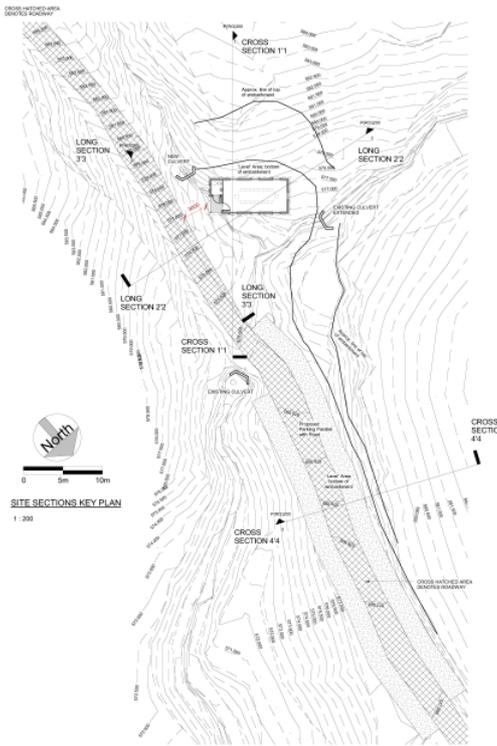


Fig. 5- Revised proposals

- The proposals have been revised. In particular officers raised concern about the degree of excavation of an embankment (right of figure. 2, see also fig. 4) that would be required to create 17 car parking spaces. Because of these concerns the agent has revised the plans to indicate parallel parking on either side of the existing track (fig. 5) which results in the need for much less excavation and disturbance.
- There has been a previous application adjacent to this site approved by Moray Council under agricultural notification procedures in 2011 for a storage bothy. This has not been constructed. The current proposal is in place of the previously approved building.

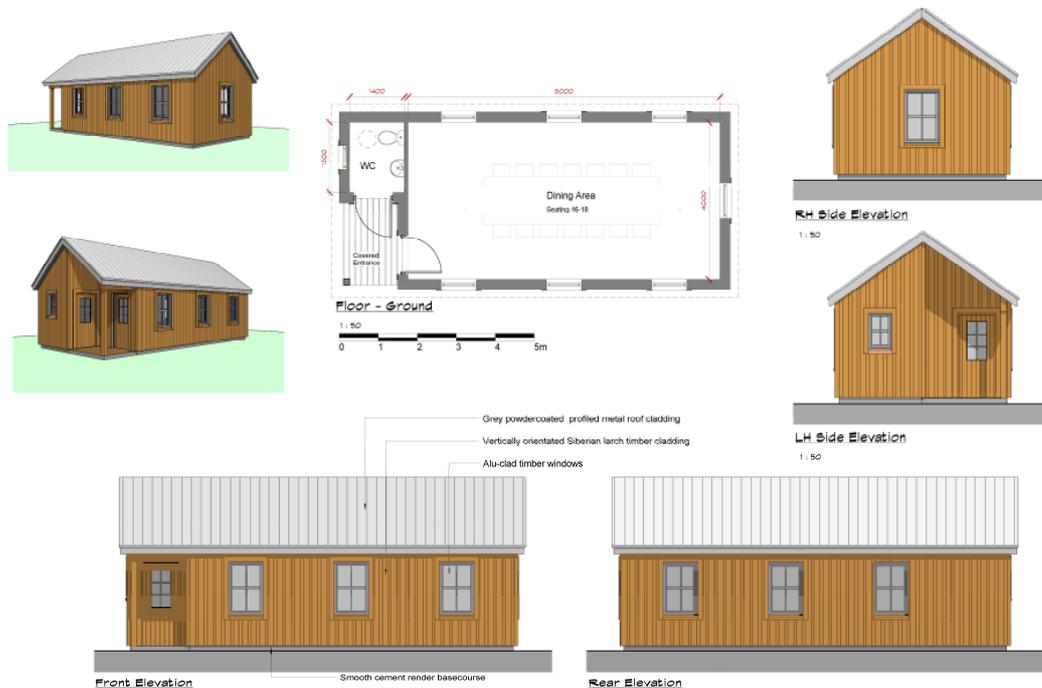


Figure. 6- Lunch Hut Elevations

DEVELOPMENT PLAN CONTEXT

National policy

5. **Scottish Planning Policy¹ (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.

6. **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

¹ February 2010

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.

7. 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.”
8. 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 rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.
9. *Rural development:* Para. 92 of **Scottish Planning Policy** states in relation to rural development that the “aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.” All new development is required to respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards.
10. *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.
11. **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.” Planning authorities are required to be clear about the standard of development that is required. Quality of place not only refers to buildings, but also how the buildings work together as well as the relationships between buildings and spaces. Design is highlighted as an important consideration and planning permission may be refused solely on design grounds.² Finally it is stated that the planning system should be “judged by the extent to which it maintains and creates places where people want to live, work and spend time.”

² Para. 256.

12. **Cairngorms National Park Plan (2007)**

The Cairngorms National Park Plan sets out the vision for the park for the next 25 years. The plan sets out the strategic aims that provide the long term framework for managing the National Park and working towards the 25 year vision. Under the heading of 'conserving and enhancing the special qualities' strategic objectives for landscape, built and historic environment include maintaining and enhancing the distinctive landscapes across the Park, ensuring that development complements and enhances the landscape character of the Park, and ensuring that new development in settlements and surrounding areas and the management of public spaces complements and enhances the character, pattern and local identity of the built and historic environment.

13. Under the heading of 'Living and Working in the Park' the Plan advises that sustainable development means that the resources and special qualities of the national park are used and enjoyed by current generations in such a way that future generations can continue to use and enjoy them. Strategic objectives for economy and employment include creating conditions that are conducive to business growth and investment that are consistent with the special qualities of the Park and its strategic location and the promotion of green business opportunities. Section 5.3 of the Plan concerns 'enjoying and understanding the park' noting that the Cairngorms National Park is known for its outstanding environment and outdoor recreation opportunities.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

14. 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/planning/localplan/pdf/19-Aug-10-Local-Plan-with-PIMs-included-for-web-23-Aug.pdf>
15. 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.
16. 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.

17. Policy 1 Natura 2000 Sites: development likely to have a significant effect on a Natura 2000 site would be subject to an appropriate assessment. Where an assessment is unable to ascertain that a development will not adversely affect the integrity of the site, the development will only be permitted where,
 - (a) There are no alternative solutions; and
 - (b) There are imperative reasons of overriding public interest including those of a social or economic nature.

18. Policy 2- National Natural Heritage Designations: development that would adversely affect the Cairngorms National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that: a) the objectives of designation and overall integrity of the designated area would not be compromised; or b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.

19. Policy 4 Protected Species: development which would have an adverse effect on any European Protected Species will not be permitted unless there are imperative reasons of overriding interest, including public health or public safety; there is no satisfactory alternative solution; and the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The policy is intended to ensure that the effects of development proposals on protected species are fully considered by the planning authority. Developers will be required to undertake any necessary surveys for species at their own cost and to the satisfaction of Scottish Natural Heritage and the planning authority.

20. Policy 5 – Biodiversity : development that would have an adverse effect on habitats and species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, will only be permitted where
 - (a) The developer can demonstrate that the need and justification for the development outweighs the local, national and international contribution of the area of habitat or population of species; and
 - (b) Significant harm or disturbance to the ecological functions, continuity and integrity of the habitats or species populations is avoided, or minimised where harm is unavoidable, and appropriate compensatory and / or management measures are provided and new habitats of commensurate or greater nature conservation value are created as appropriate to the site.

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 34 – Outdoor Access*: the policy encourages development which improves opportunities for responsible outdoor access and adheres to the Cairngorms Outdoor Access Strategy. Development proposals which would result in a reduction of public access rights, or loss of linear access (such as core paths, rights of way, or other paths and informal recreation areas) will only be permitted where an appropriate or improved alternative access solution can be secured.
23. The CNP Local Plan is the subject of an appeal under section 238 of the Town and Country Planning (Scotland) Act 1997 against the decision of the CNPA to adopt the CNP Local Plan 2010. The Appeal will be decided by the Court of Session and is a material consideration. Therefore, account has been taken of the Appeal in the determination and recommendation made in respect of this application.

CONSULTATIONS

24. **Scottish Natural Heritage (SNH)** note that the site is within the Cairngorms Special Protection Area for Golden Eagles. However, this minor development is unlikely to disturb any birds. While not designated as part of the Special Area of Conservation (SAC) the burn flows into the River Spey SAC designated for Atlantic Salmon, Freshwater Pearl Mussel and Sea Lamprey. There is no objection to the extended culverting of the burn and simple construction measures such as depositing straw bales downstream of the works should prevent any sediment from progressing down the burn. Otter are European Protected Species and may use the burn but are unlikely to be impacted by the proposed development. SNH has no objection to the application.
25. **Moray Council Contaminated Land Unit** has no objection to the proposal
26. **Moray Council Environmental Health** has no objection to the proposal
27. **Moray Council Roads** has no objection to the proposal
28. **Glenlivet Community Council** has been consulted but has not commented on the proposal.

29. **Glenlivet Community Association** has been consulted but has not commented on the proposal.

CNPA Landscape Officer raised concerns about the degree of excavation for car parking spaces into a steep embankment. The revised proposals are considered acceptable providing conditions are used to cover:

- Drainage provision;
- Restoration and reinstatement of cut slopes;
- Stone facing of culvert headwalls;
- Restoration and reinstatement of previously disturbed area.

CNPA Ecologist has been consulted on the proposal and requests that a water vole survey is undertaken prior to construction and that a construction method statement is provided given the proximity of works to the burn.

REPRESENTATIONS

30. The proposal has been advertised in the Northern Scot, no representations have been received.

APPRAISAL

31. In principle, the addition of a lunch hut on the estate raises no principle policy issues, such huts being part of the infrastructure of grouse shooting and deer stalking operations on sporting estates throughout Scotland. Consequently, the key issues resolve around the potential environmental impacts of the proposal and the siting and design of the structure proposed in this case.

Environmental Issues

32. SNH are responsible for advising upon SPA, SAC and European Protected Species issues. The SNH Area Officer has visited the site and has no objections to the proposal considering that it would not have any significant impacts upon SPA, SAC designations or European Protected Species.
33. From the start of this application the key concern has related to the parking being applied for under the original proposal. A total of 17 formal car parking spaces were proposed in a layout that would have required significant excavations into an embankment that is already host to loose material. The embankment can be seen to the right of figure 2. Negotiations have resulted in the car parking being accommodated on either side of the existing track which will result in much less ground disturbance. The CNPA Landscape Officer and SNH support the improvements to the application. Certain conditions requested by the Landscape Officer to enhance the disturbed areas immediately around the site have been attached at the end of the report.

Siting and Design

34. The building itself would be sited on a small ledge on an embankment which would result in the need for some excavation. Some of the material removed would be used to culvert the burn which SNH has no objection to providing simple pollution prevention measures are put in place. As requested by the CNPA Ecologist conditions are recommended for a pre-construction water vole survey as well as a construction method statement.
35. The design of the building represents a simple rectangular hut with a pitched corrugated roof which is characteristic of this type of development that can be seen around the hills of Scotland.

Technical Issues

36. The only technical issue that raises concern relates to the installation of a toilet. If septic tank and soakaway infrastructure was required current site levels indicate that this could result in additional excavation immediately adjacent to the burn and or track. Consequently, the applicant has agreed that a chemical toilet will be installed and this would be managed by estate staff. This results in no requirements for water supply or drainage infrastructure. A planning condition requires information on how the chemical toilet will be managed.

Conclusion

37. In conclusion, the proposals have undergone considerable improvement through negotiations and are considered to comply with the policies of the CNP Local Plan resulting in a positive recommendation of approval.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

38. The proposal would have no significant impacts on designated sites or species and subject to conditions set out at the end of the report would provide to a small extent a degree of landscape enhancement.

Promote Sustainable Use of Natural Resources

39. There is no indication of where materials would be sourced from. However, it is likely that local builders and local estate staff would assist in the construction of the hut.

Promote Understanding and Enjoyment of the Area

40. The proposal would improve the facilities and consequently the enjoyment of the area for people taking part in traditional sporting activities.

Promote Sustainable Economic and Social Development of the Area

41. The provision of the hut should make the sporting offer of the estate more attractive and in a small way contribute to the economic development of the area.

RECOMMENDATION

42. That Members of the Committee support a recommendation to **GRANT** Planning Permission for the erection of a lunch hut, Little Allt Bheithachan, Tomintoul, subject to the following conditions:

1. The development to which this permission relates must be begun within three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. Prior to the commencement of the development samples of the external wall finish and roof material shall be submitted to and approved by the CNPA.

Reason: To ensure that materials are non-reflective and appropriate to the setting.

3. Prior to the commencement of the development a water vole survey, including mitigation measures should they be found present shall be submitted to and approved by the CNPA acting as Planning Authority. Any mitigation measures required shall be put in place within a timescale to be agreed by the CNPA acting as Planning Authority.

Reason: In the interests of protecting natural heritage at the site and in accordance with Policy 5 Biodiversity of the CNP Local Plan.

4. Prior to the commencement of the development a construction method statement setting out how the building would be constructed and, in particular how the water environment would be protected shall be submitted to and approved by the CNPA acting as Planning Authority.

Reason: In the interests of preventing pollution.

5. Prior to the commencement of the development details indicating how the previously disturbed area on the east bank of the burn and restoration and reinstatement of cut slopes would be carried out shall be submitted to and approved by the CNPA acting as Planning Authority. The agreed measures shall be put in place within 12 months of the completion of the hut.

Reason: To ensure that the proposal accords with Policy 6 Landscape of the CNP Local Plan.

6. Culvert faces shall be faced with natural stone within 6 months of the completion of the hut

Reason: To minimise any landscape impact from culvert pipes.

7. Prior to the installation of the chemical toilet/handwash facility details of the future management of the toilet/handwash facility shall be submitted to and approved by the CNPA acting as Planning Authority. The toilet/handwash facility shall be managed in accordance with the approved details.

Reason: In the interests of preventing potential for pollution to the environment.

8. This permission shall not be implemented in combination with approved planning application Moray Ref No 11/0557/AGR.

Reason: To prevent a proliferation of buildings at this site and to protect the adjacent burn.

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13 June 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.