HIE is now picking up the pieces for the disaster it created at Cairn Gorm

Description

On Friday, Highlands and Islands Enterprise announced that they had reached agreement with the Adminstrators to take back Cairngorm Mountain Ltd into public ownership (see here):

"We are very pleased to have worked with the administrators to achieve a really positive outcome from a highly challenging situation. The deal that we've reached will protect jobs and bring stability to the business, which plays an important role in the wider local economy." (Charlotte Wright Chief Executive)

What Charlotte Wright did not explain was her role in creating this "challenging situation". Over the last two and a half years Parkswatch has been raising questions about the mismanagement of Cairn Gorm and the enormous debts of Natural Assets Investment Ltd, the parent company of Cairngorm Mountain Ltd (CML) before that went into administration three weeks ago. NAIL's net liabilities at 31st December 2017 stood at £34,228,906. So, how did HIE ever allow this to happen?

Recently, I have been taking a closer look at the tender process which HIE used to sell Cairngorm Mountain Ltd to NAIL and their finances back in 2012-14. It turns out that HIE appears to have ignored their own rules to sell CML to NAIL while using those same rules to exclude the Cairngorm Ski School from the tender process. Not only that, when HIE sold CML to NAIL in May 2014 it was effectively a bankrupt company.

Who was in charge of this flawed and bungled process? Charlotte Wright, now Chief Executive of HIE.

The financially flawed procurement process

The tender process was partially outsourced to Ernst and Young. Its questionable whether its ever a good idea to pay private companies, which have different interests to the public sector, to oversee public tenders. Whether this was because HIE did not have the skills to conduct a tender process or because of the ideology that "private does better" is unclear. Whatever the case, the boomerang HIE launched has cut a swathe through the business and HIE have been left to pick up the pieces.

The tender that put Cairngorm Mountain Ltd up for sale was advertised in May 2013 and required interested parties to fill in what is known as a Pre-Qualification Questionnaire. This is used to determine whether bidders are fit to continue any further in a tender process (e.g to establish whether they have the right qualifications and experience). One of the requirements in the PQQ was:

"Minimum turnover £500,000 as reported in the most recent set of audited accounts".

The wording of the PQQ however appeared to allow some leeway on this requirement and Cairngorm Snowports, generally known as the Cairngorm Ski/Snowboard School, submitted a bid. Their turnover in the year to 31st July 2012 had been £472k (as a small company they were exempt from showing turnover in their accounts) but their turnover in the year before that had been c£750k. The explanation for this variance lay in sound financial management. Cairngorm Snow Sports employed more staff in good snow years, fewer in poor snow years and used any surpluses to help carry them through hard times.

Ernst and Young and HIE excluded them from the tender process. Tough, you might say – until you looked at NAIL's accounts at the time.

11 Jan 2015	**Group of companies' accounts** made up to 31 March 2014
28 Nov 2014	**Registration of charge** 075416430001, created on 28 November 2014
24 Feb 2014	**Annual return** made up to 24 February 2014 with full list of shareholders Statement of capital on 2014-02-24 GBP 1,000
04 Jan 2014	**Group of companies' accounts** made up to 31 March 2013
09 Apr 2013	**Group of companies' accounts** made up to 31 March 2012
27 Feb 2013	**Compulsory strike-off action has been discontinued**
26 Feb 2013	**First Gazette** notice for compulsory strike-off

Extract from list of documents lodged by NAIL at Companies House. The First Gazette strike off not to warn companies who have failed to submit legally required information – a warning sign.

In May 2013 at the time of the tender, the last set of accounts NAIL had lodged at Companies House were to March 2012. These accounts showed a turnover of £326,233 (see below). This was less than the £500k threshold and considerably less the turnover of Cairngorm Snowsports. So why did HIE exclude Cairngorm Snowsports, the sound local company, but proceed with NAIL, which was owned by David Michael Gorton who had been a hedge fund manager?

There appear to be two possible explanations. Either HIE ignored their own rules or they agreed to accept information from NAIL based not on their last set of accounts. Let us suppose the second explanation, that Ernst and Young and HIE exercised "a degree of discretion", that financial information possibly in the form of a draft set of accounts to 31st March 2013 was available and that on the basis of this they entered into discussions with NAIL. Based on the information that was eventually submitted (late) on 4th January 2014 (see above) PQQ requirements were met:

Natural Assets Investments Limited
GROUP PROFIT AND LOSS ACCOUNT
for the year ended 31 March 2013

	Notes	For the year ended 31 March 13 £	Period from 24 Feb 11 to 31 Mar 12 £
GROUP TURNOVER	2	1,321,589	326,233
Cost of sales		(497,244)	-
GROSS PROFIT		824,345	326,233
Operating expenses		(6,162,481)	(1,884,734)
Other operating income	3	-	401
OPERATING LOSS		(5,338,136)	(1,558,100)
Attributable to			
Operating loss before exceptional items	4	(2,181,975)	(1,481,421)
Exceptional items	4	(3,156,161)	(76,679)
		(5,338,136)	(1,558,100)

These account show that NAIL had turnover of £1,321,589 for the year to 31st March 2013. They therefore met the turnover requirement by the time the contract for sale was concluded in May 2014, albeit not at the time of the tender.

The jump in turnover from £326,233 the year before, the first year NAIL had provided accounts, should however have been a warning sign to HIE. What's more, in waiving the requirement (as allowed for in the tender) that any company tendering for CML should have three years accounts, HIE should have taken a very close look at NAIL's finances.

What is financially striking about NAIL's accounts to May 2013 is not that turnover requirements were met but that they incurred an operating loss four times turnover at £5,338,136. While some of that loss covered "exceptional items", the remaining loss was still far greater than turnover. In effect this was a company which would have been bankrupt from the start had it not been for assurances from its hedge fund owner, David Michael Gorton, that it was a "going concern":

GOING CONCERN

As part of its going concern review the Board has followed the guidelines published by the Financial Reporting Council entitled "Going Concern and Liquidity Risk Guidance for UK Companies 2009" The Board has prepared detailed financial forecasts and cash flows looking 12 months ahead from the date the accounts are signed In drawing up these forecasts the Board has made assumptions based upon its view of the current and future economic conditions that will prevail over the forecast period

The group is currently in its development phase with the balance sheet showing net current liabilities of £2,758,283 (2012 £5,800,312) and net liabilities of £9,780,133 (2012 £2,886,549) Certain of the group's property are still currently under development and so the group is reliant on support to cover its working capital requirements

The group has support from the loan holder who is also the main shareholder He is considered to have adequate capabilities to provide support as required and has formally confirmed that he will support the group for at least the next 12 months from the date of approval of the financial statements

Now, probably the most basic financial principle underpinning public sector procurement is that companies offered contracts should be of sound financial standing. To put it bluntly, you don't contract with a company that is in effect bankrupt. Yet that is precisely what HIE and Ernst and Young appears to have done. HIE needs to explain itself.

Put it another way, NAIL's net liabilities at 31st March 2013 were £9,780,133 whereas Cairngorm Snowsports' account show net assets at 31st July 2013 of £138,559. Yet HIE rejected Cairngorms Snowsports and contracted with NAIL. Why?

Perhaps Ernst and Young and HIE were beguiled by the promises of future investment by NAIL which were trumpeted when they took over CML in May 2014. While NAIL's accounts to March 2014 were only lodged in January 2015, it would have been prudent before concluding the contract for HIE to have demanded sight not just of turnover but the overall financial position.

	Notes	2014 £	2013 £
Loss for the financial year		(4,335,462)	(7,618,920)
Unrealised surplus on revaluation of certain fixed assets	18	2,433,554	725,336
Total recognised gains and losses since the last financial statements		(1,901,908)	(6,893,584)

While the loss recorded till March 2014 was well down on the previous year, this was partly because the accounts had revalued assets by c£2.5m. Operating losses were over £4m less than the previous year but still significant. Net liabilities over assets increased to £11,682,041.

What should really have woken up Charlotte Wright and HIE however was the letter from Mike Shepherd of the Cairngorm Ski/Board School after they had been excluded from the tender process. This is essential reading for anyone who is concerned about what has gone wrong at Cairngorm:

The Snowboard School
The Ski School

26th May 2013

Charlotte Wright
Sector and Business Development Director
Highlands and Islands Enterprise
Cowan House
Inverness Retail & Business Park
Inverness
IV2 7GF

Dear Ms Wright,

Re. PQQ regarding procurement of a new operator for Cairngorm Mountain

I am a Director of Cairngorm Snowsports, who operate the ski and snowboard school on Cairngorm Mountain and employ around 90 office staff and ski and snowboard instructors and coaches. I recently submitted a pre-qualification questionnaire to be considered for continued dialogue regarding the procurement of a new operator. We were the 4th respondent to the pqq, and have been rejected as we did not meet the pass/fail requirement to have a minimum turnover of £500,000 last year. I have made two appeals against this decision to Ernst and Young, within the 10 days allowable within the rules as detailed below

1. Appeal against this decision based on the pass/fail component of Part G (question 57) requiring "Minimum turnover £500,000 as reported in the most recent set of audited accounts". Our last turnover is put at £472,000, and so close to the stated requirement. It is very clear from our business model and the pqq, that we could choose to increase this turnover, but this would potentially result in a loss of profitability, and so would be poor business sense. In fact our strength (a similar policy that needs to be applied to Cairngorm in the future) is the ability to grow and maximise profitability on strong season, and shrink and minimise debts on a poor season (and not to just increase turnover which would be daft and against most current sane business thinking). The pqq states "Under the qualitative moderation process, the Authority reserves the right to amend the score derived from the minimum financial standing threshold test in the light of the information used", and so although this is ambiguous as to whether they can also accept an application that fails the pass/fail element, it seems to me this is what it allows, and of course would be sensible.

2. Appeal against the requirement for minimum turnover to be a pass/fail element of this decision. Current business thinking does not accept that turnover gives any indication of business success, as it does not take any account of any profit or debt, and in fact a high turnover can often hide huge operating deficiencies. The Public Contarcts (Scotland Regulations 2012 state "The contracting authority may require an economic operator to satisfy minimum levels of economic and financial standing". My understanding and research is clear that although turnover is sometimes included as an indicator, it is never used as the main indicator of economic and financial standing. It therefore seems that the use of it is discriminatory against a business such as ours, which is set up to actively reduce turnover to maximise profitability, based on snow and weather conditions, and continues to be successful on poor seasons. It is also clear that that this specific requirement made it impossible for the current management team to put in a response to the pqq, as well as any local community or social enterprise being set up to operate the business. This all not only seems mad but also discriminatory.

Scottish Tourist Board ★★★★ Activity Provider

Cairngorm Snowsports is a not for profit company registered in Scotland

registration no. 305117. Office: Lynphail, Carrbridge PH23 3AX.

www.theskischool.co.uk. Phone: 08455 191 191

Cairngorms National Park

Cairngorm Mountain

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On a different level I am really annoyed at the lack of consultation that seems to have been made with the local community, as the future of Cairngorm will significantly impact every resident and every business in the local area, as well as others further afield. In particular local clubs, schools associations, business associations and account holders seem to have been ignored. A professional way to conduct this would have been to engage with these bodies first to be sure to look after their best interests, but this did not seem to happen. I had hoped that HIE having a stated policy "to increase the role of communities in the ownership and management of land and assets, and the sustainable management of these resources for the benefit of the community" would mean this was an open and transparent procedure that ensured that decisions would be made in the best interest of local business, communities and people. However it seems this has not happened.

My contribution to the pqq was to get through to the dialogue stage as then we could suggest that Cairngorm could be successfully operated as a community or social enterprise. Unfortunately the way the pqq was set up it did not allow this to be suggested on its own, as it also did not give an opportunity for the current management team to make a bid. I think this is very short sighted and so restrictive that it is in fact discriminatory; against us in this particular situation, however also against other bodies locally which found that they could not give an input into the process due to these rules. My input into the previous consultation stage by Ernst and Young was a draft business plan that showed how a community enterprise could operate Cairngorm successfully. I had thought that part of HIE's remit was to support local communities and so I am very surprised that the PQQ has been structured in such a way that this is not even an option that can be considered. It is clear there is no legal reason why it had to be structured in this way, and so it inevitably raises the question of whether HIE are meeting their responsibilities to the local area, community and people.

As a Chartered Manager and Fellow of the Chartered Management Institute, a resident of Strathspey and Badenoch as well as an internationally qualified Ski Instructor who has worked on Cairngorm for over 25 years, I am absolutely passionate about retaining and developing snowsports on Cairngorm in the future. I am certain that a business model can be developed to ensure its future security but this must be developed in conjunction with the local community and the many people who are reliant on it for their livelihood. My appeals against this decision as well as my input to you in this letter is because of my deepest concern on how this is being run, as it really has to be got right.

I really hope that my comments can be taken on board, and that my appeals are dealt with fairly. However I will also be taking legal advice from the Federation of Small Businesses.

Best Regards,

Mike Shepherd CMgr FCMI
Director – Cairngorm Snowsports

CAIRNGORM SNOWSPORTS
Cairngorm Snowsports is a not for profit company, set up with specific aims to benefit local kids and instructors. We run the autumn dry slope programme for local kids, the schools programme in March for local primary school kids and the extremely successful Snowlimit programme for local kids. Our business model allows us to expand and contract as seasons change, and is the key to our continued success. We teach between 5000 and 7000 customers each winter. All surplus we make is reinvested in our kids courses, marketing and for continued development in the future

Published with Mike Shepherd's permission. NB Registered office and contact details Cairngorm Snowsports have subsequently changed.

I am not sure that anyone could have put the case against HIE's disastrous procurement process better.

The letter obviously hit the mark because the then Chief Executive of HIE, Alex Paterson, replied as follows:

"To: *Mike Shepherd*
Cc: *Susan Smith ; Charlotte Wright <; Chris Roberts*
Subject: *RE: Procurement of a new operator for Cairngorm Mountain*

Dear Mr Shepherd

Thank you for your recent email regarding our current exercise to procure an operator for the funicular railway and associated visitor facilities at Cairngorm. I recognise the points you make about the importance of the funicular in the local community and economy, and I assure you that these are very much part of our dialogue with the current interested parties.

HIE's substantial investment in building and developing the funicular, and latterly operating the facility as well, has had the specific aim of underpinning the area's economy, particularly the tourism sector. HIE was able to step in and save the funicular through acquiring CairnGorm Mountain Ltd five years ago, but we have always been clear that this arrangement may not be a permanent solution. We believe that the best prospect of securing the future for the business lies in having an operator with the capacity to invest in its further development. That is the process which is now under way.

I don't agree that it would have been impossible for community or social enterprises to put themselves forward. We would have welcomed a collaborative submission, for example, either between community or social enterprises or involving a business partner. What we had to emphasise was the ability of any potential operator to develop and invest in the business over many years to come, including the prospect of some lean winter seasons as well as profitable ones. I believe that the route we are taking is the best way to secure not just the future of the funicular, but also those local businesses and organisations which it has successfully supported since we built the railway thirteen years ago.

Regarding the advice you have received from a procurement lawyer, I can only respond that the assessment of turnover is a widely accepted measure of a company's scale and capacity to invest. It was not the only criterion which we applied, but it is an important one.

Through our subsidiary CairnGorm Mountain, we already have close connections to many local stakeholders, and we plan further engagement as I previous indicated. We also have contacts through the DMO in the area and with businesses and others through a variety of means. In our discussions with the two interested parties, therefore, we are highlighting the range and nature of the relationships which the present operator has established with local businesses, suppliers/contractors and other organisations.

In addition, other interested parties in the area who have wanted to bring their specific activities to the attention of the two bidders, have taken up our suggestion of writing to Ernst and Young, who will in turn make it available to Serco and Natural Retreats. You may wish to do likewise.

I, or colleagues involved in the process, would be happy to meet you to discuss further if you feel that would be useful.

Alex

Mike replied to two inaccuracies in Mr Pateron's email but I don't think I need to quote that for most readers to work out who was right.

Responsibility for the HIE procurement fiasco

"The Authority's Dialogue Team will meet Participants during the Dialogue meetings. This core team is drawn from the Project Team and comprises of:
The Project Director (Charlotte Wright)
The Project Manager (Susan Smith)
The Dialogue Manager (Mark McLintock)
The Authority's Head of Property & Infrastructure (Keith Bryers)
Ernst & Young LLP (Lead contact: Philip Milne)
Harper Macleod LLP (Lead contact: James McMorrow)."

(Extract from tender documents).

Charlotte Wright, to whom Mike Shepherd addressed his letter, was the Project Director who oversaw the procurement process. She almost certainly too played a major role in drafting Alex Pateron's response. She is now Chief Executive of HIE while her Project Manager, Susan Smith, has also been promoted to Head of Business Development.

What needs to happen

The HIE news release on Cairngorm Mountain Ltd going into administration quotes Charlotte Wright as saying:

"Clearly, this is not the outcome that anyone wanted when CML became the operator."

To which the response should be:

"While no doubt genuinely felt, as the person responsible for the whole outsourcing process and the exclusion of the local community, the only honourable thing for you to do is step back until an investigation into the whole fiasco has been completed. Even better, recommend to your Board and the Minister that HIE does not have the skills necessary to manage/save Cairngorm and that lead government responsiblity should be transferred immediately with HIE paying whatever bills are necessary".

This post has demonstrated that there are very serious concerns about how HIE scrutinised and evaluated whatever financial information NAIL submitted as part of the tender process and their promises to invest in Cairngorm Mountain. Other, non-financial, aspects of the tender, which have not been examined here also need to be investigated. One aspect of this should be what evidence was submitted by NAIL, whose main businesses are property development and holiday lettings, to show that they or their fellow company Natural Retreats were fit to run a mountain business Another aspect is how companies that were fit to do this, were either excluded, as in the case of Cairngorm Snowsports, or pulled out, as in the case of Nevis Range.

There was something very very wrong with a procurement process that sold Cairngorm Mountain to “Natural Retreats” rather than to companies which had the experience necessary and financial standing to make a go of managing what is a very challenging business. Its time for Audit Scotland or, even better, the Scottish Parliament, to set up a formal investigation.

Category

1. Cairngorms

Tags

1. Highlands Island Enterprise
2. natural retreats

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Author
nickkempe