

**CAIRNGORMS NATIONAL PARK AUTHORITY**

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**DRAFT MINUTES OF THE PLANNING COMMITTEE**

held at The Community Hall, Boat of Garten  
on 1 February 2013 at 10.00am

**Members Present**

Peter Argyle  
Duncan Bryden  
Angela Douglas  
Dave Fallows  
Katrina Farquhar  
Jeanette Gaul  
David Green  
Kate Howie

Gregor Hutcheon  
John Latham  
Bill Lobban  
Eleanor Mackintosh  
Willie McKenna  
Gordon Riddler  
Gregor Rimell  
Brian Wood

**In Attendance:**

Don McKee, Head Planner  
Murray Ferguson, Sustainable Rural Development Director  
Katherine Donnachie, Senior Planning Officer, Development Management  
Di Alexander, Affordable Housing Officer  
Rachel Danemann, Development Planning Officer  
Charlotte Milburn, Planning Systems Officer

**Apologies:**

Mary McCafferty  
Martin Price  
Fiona Murdoch

# APPROVED COMMITTEE MINUTES

## **Agenda Items 1 & 2:**

### **Welcome & Apologies**

1. The Convenor welcomed all present and introduced Rachel Danemann who has just joined the authority as Development Planning Officer
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, 11 January 2013 held at The Cairngorm Hotel, Aviemore were approved.
4. The Convenor provided an update on the Action Points from the previous meeting:
  - Action Point at Para. 20 : The Mammal Survey, including Wildcats, is still to be undertaken and the applicant is being advised on what is required.
  - The Convenor reported that the Badenoch and Strathspey Conservation Group has written to the Scottish Government requesting that they call in application 2012/0188/DET for the caravan site as they do not think the Mammal Survey undertaken was adequate with respect to wildcat which are a European Protected Species. The CNPA will not issue a Decision Notice until Scottish Government has confirmed if the application is to be called in. Don McKee told Members that the CNPA officers consider the Mammal Survey that was undertaken was adequate. The CNPA is liaising with the Scottish Government to ensure there is an early resolution
  - Don McKee updated the Committee on Para. 43 in AOCB with regard to the Tesco application. Tesco submitted a flood risk report to SEPA in December 2012, outlining how they would deal with an outstanding flood risk objection from SEPA. However the report does not meet SEPA requirements and the CNPA is continuing to urge Tesco to resolve this as a matter of urgency. Tesco has also stated that it wants to pay developer contributions as part of a legal agreement under Section 75. A legal agreement has been drafted by the CNPA solicitors and is awaiting approval by Tesco and The Highland Council (who will also be signatories for the agreement as they will receive the public transport contribution). When the flood risk objection is resolved and the legal agreement is approved, the CNPA will be able to issue the planning permission

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## **Agenda Item 4:**

### **Declaration of Interest by Members on Items Appearing on the Agenda**

5. There were no declarations of interest

## **Agenda Item 5:**

### **Report on Assessing Applications for Single Affordable Houses Outside Settlements (Paper I )**

6. Katherine Donnachie and Di Alexander presented a paper recommending that the Committee approve the proposed information note for assessing such applications.
7. The Committee were invited to ask points of clarification and discuss the Paper, the following were raised:
  - a) The term 'reasonable quality' was questioned as to what it actually meant. Di Alexander replied that it would mean built to current Building Standards.
  - b) It was suggested that the paper would restrict people to a very small house. A question was raised about a past policy which allowed affordable housing to be built with room for expansion in the future. Di Alexander explained that the past policy was tied in with a Rural Home Ownership Grant which allowed for high roof trusses so the house could be extended into the roof, however the grant is no longer in existence. Katherine Donnachie clarified that there would be no restriction on permitted developments rights to extend houses in the future.
  - c) A Scottish Quality Standard is used for Council Houses, could that be applied here? Di Alexander said that any new builds were already covered by Building Standards which are improving year on year so it would not be necessary. Katherine Donnachie added that any house built to Building Standards would be more affordable to run going forward as the specifications are so high.
  - d) It was suggested that the CNPA are always seeking to raise quality standards and perhaps the words 'Reasonable Quality' could be changed to reflect that. Katherine Donnachie replied that the words 'Reasonable Quality' have been taken directly from the Scottish Government's definition of Affordable Housing.
  - e) A question was raised about the first point on Appendix 2. In defining affordability the development costs should be less than purchasing or building a modest house in the same locality, otherwise it would be market value and therefore not affordable. Di Alexander replied that this process was about judgement, if the costs for an application were borderline between affordable and market value it would be down to a balance of judgement depending on the case presented by the applicant. However it could be that greater clarity is needed on this point.

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- f) A concern was raised about applicants being asked for detailed financial information to assess their ability to afford the house. It was pointed out that the Planning Committee does not ask for financial information when assessing a business planning application. Don McKee reminded the Committee that the CNPA already have policies that allow for building within and outwith settlements, this paper is referring to a very specific situation where other possibilities have been exhausted. There is a need to set the bar high and the applicant has to prove there is a need to be in a particular locality and that they cannot afford other available options. The Planning Officer does not need to know about an applicant's personal financial circumstances but whoever is carrying out the assessment would need that information available. Katherine Donnachie added it is also intended to help the applicants as costs can escalate if they have not taken everything into consideration, the assessor who is experienced in Affordable Housing could help advise on whether they really can afford the project.
- g) A question was raised about who decides whether there are other suitable sites or houses locally and how it is proved. The concern was that it could be an onerous task for an applicant, would there be help from the Planning Department? Katherine Donnachie advised that the independent assessors would consider this when reporting back to the Planning Service. The Planning Service can provide advice on designated land available.
- h) There was a query about why there is a reference to local rented availability if people are looking to build a house, how is the rental market relevant? Katherine Donnachie said the aim was to make sure that the person is in housing need and a rental house may be available to alleviate that need. It was agreed that on reflection perhaps it is not relevant if they are trying to build a house and the point could be removed.
- i) The final point of Appendix 2 refers to the applicant demonstrating that they need affordable housing by means of various assessments; as this would be a difficult task for most applicants it was hoped that the Planning Department would be assisting with this. Katherine Donnachie replied that the applicants will be advised they can also go to the Housing Service of the Local Authority to get help with housing needs and demand information . A note could be added with contact details.
- j) Clarity was needed as to whether an applicant must meet all three tests and are all tests of equal status? Katherine Donnachie answered that all three tests must be met and they were all of equal status. It was suggested the paper should clarify what the answers need to be.
- k) It was suggested that in order to bring down future running costs of a house it requires more capital to be invested at the building stage, this may take it out of the affordable bracket, but it would make it more affordable to live in going forward. This assessment process does not allow for that to be taken into consideration. Di Alexander suggested that a simple acknowledgement could be added to the paper that this point would be taken into consideration when an applicant made their case.

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- l) If we are trying to make it easier for the applicants then perhaps some case studies could be included. It was agreed this was a good idea.
- m) It was suggested that the paper could be used as a loophole and people may try and build the smallest house to the lowest specification possible just to get the permission, then look to expand it the future taking the house out of the affordable housing bracket. Murray Ferguson reminded Members that this discussion is not about agreeing policy, but rather about agreeing guidance that enables people to submit information so that their applications can be assessed. This paper is about a very specific set of circumstances, if Members have strong views on Policy they will have the opportunity to voice those on 1 March 2013 when the Local Development Plan is discussed. Katherine Donnachie said that current policy of the Local Plan stands and an application would still have to meet all current requirements including design and siting. There would also be ongoing monitoring on any properties that are granted planning permission to see if the approach is working.
- n) The word 'modest' is used in Appendix 2, point 1 and this needs clarification as to what is meant by the word in this context. Di Alexander said the word modest relates directly to the cost of the development. The CNPA do not have a system to judge that but we can use the Highland Small Communities Housing Trust for this as they have their own system and are very experienced in this area.
- o) Can we ensure that costs are kept fair by suggesting the applicant get competitive quotes? It was suggested that this could be included in any pre-application discussions.
- p) The need to reside in an area needs to be established, but is the fact that an applicant's friends reside in the area relevant to their need to reside in the area?
- q) Is there a way to ensure that houses are kept in the affordable market? Officers advised that Scottish Government advice is that if a robust case is made for new development future restrictions
- r) The words 'Reasonable Quality' can be a derogatory term, can the word 'reasonable' be deleted and just use 'Quality'?
- s) Building Standards are the same countrywide and the Cairngorms are significantly colder than other parts of the country, applicants could be made aware of this at the design stage to ensure that adequate insulation is included.
- t) It was suggested that most people who are in the affordable bracket would not be able to afford to extend a house on top of mortgage costs in the future.
- u) With five Local Authorities how can we ensure consistency on this matter and who will carry out the pre-application discussions? Don McKee replied that he has shared the paper with the Local Authorities and the intention is to meet with them once the paper is agreed to take them through what processes would be needed. There are joint pre-application discussions at present, the CNPA always advise the local authority at that stage.

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- v) It was commented that this paper is intended to help a very specific group of people and the way it is written and interpreted must be robust and free from challenge and possible loopholes.
  - w) The pre-application process is so important it was suggested that it appear at the top of the guidance.
  - x) There is a mention of floor area but little explanation, it was suggested that this could be clarified at the pre-application stage or even referred to in case studies.
  - y) It was suggested that requesting financial information was essentially a means test and the question was raised as to who decides what level of finance is too little or too much to qualify for an affordable house. Di Alexander said that Scottish Government have guidance that they apply to people who wish to participate shared equity schemes to ensure that whilst they are not able to buy on the open market they do have the means to finance their share of the equity.
8. The Committee agreed to approve the paper subject to the following amendments.
- Appendix 2, question 1 the last sentence is to be changed to 'greater or same as'.
  - The word 'reasonable' is to be deleted and instead read as 'a quality house that is affordable'.
  - Clarification that all three tests are of equal weighting and all three must be answered satisfactorily, with an explanation of what the answers should be.
  - The rental aspect to be deleted.
  - The pre application talks should be moved to the top of the appendix.
  - Part 2 of the recommendation should be made stronger with reference to the five councils and use the words 'inform and work closely with to ensure consistency' rather than 'advise'.
  - 'Modest' needs to have a reference to the Highland Small Communities Housing Trust.
  - Hypothetical case studies should be made available
  - 'Friends' as a reason for living in an area to be changed to 'social networks'
  - Some thought be given to the long term sustainability of retaining the affordability
  - A recognition that capital costs at the outset may be higher in order to achieve lower ongoing running costs.
  - Point of guidance about the floor area explaining why the information is required..
9. **Action Points arising:** The paper will be amended and sent to Members before it appears on the website.

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## **Agenda Item 6:**

### **Report on Scottish Government Programme of Action on Planning Reform**

**January 2013**

**(Paper 2 )**

10. Don McKee presented a paper for information.

11. The Committee discussed the report and the following points were raised:

- a) Is there a way to get affiliated with COSLA so that they recognise the CNPA are a National Park with quasi planning power? David Green could possibly facilitate this.
- b) The question was asked as to what a Charette was (Page 3 last bullet point) Don McKee said it is a term used for a short, focused consultation over a couple of days within a community taking a master plan approach to future development of an area.
- c) There is always a perception from Scottish Government that all the delays in the system are down to planning authorities, this is not the case and there is a need to make them aware of this.
- d) It was suggested that there is a worrying issue that with Ministers it all comes down to speed in the end.
- e) A request with regards to paras 7 & 8 (Hill Tracks and NSAs) that planners continue to log issues so we have an evidence base if this issue comes back in the future.

## **Agenda Item 7:**

### **Appeal Decisions for Information**

**(Paper 3 )**

12. Don McKee made comments on the decisions and covered the following points:

- Losing an appeal reflects on our statistics.
- With the Gairnshiel Lodge application, the CNPA quoted Policy 11 on 'Cultural Heritage' which may be used where something is of cultural importance, but is not formally designated. Some thought could be given to how that is interpreted going forward so there is a structured approach to use of the policy.
- On the Waltzing Waters application the reporter alluded to the quality of this area of Newtonmore and missed the fact that there is a duty to enhance in the National Park. There was an issue with the windows on this appeal where the Reporter did not appear to fully appreciate the impact on the neighbouring property.

13. The Committee discussed the decisions and the following points were raised:

- a) A suggestion was made that it would be beneficial to make time in the future for an informal discussion to review lessons learnt from Appeal decisions.
- b) The planning team worked extremely hard in the Waltzing Waters case to try and make it work before the decision was taken.

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- c) The Gairnshiel Lodge judgement refers to a condition which appears to be a way around a Section 75, is this something we can utilise when looking for ways to link houses to businesses? Don McKee replied that in this case it seems that this was a condition directly related to the business but it would be noted in case it could be used in future cases.
- d) Is the CNPA in regular contact with the reporters unit? Don McKee said that the CNPA along with Loch Lomond have been down to run training sessions with reporters and matters are raised with them on specific issues as needed. We will continue to meet with them.
- e) One of the fundamental flaws of the reporting system is that it comes down to a matter of judgement.

### **Agenda Item 8:**

**Any Other Business - none**

### **Agenda Item 9:**

#### **Date of Next Meeting**

- 14. Friday 1 March 2013 at 10.30am at The Albert Memorial Hall, Ballater. The first item on the agenda will be the Local Development Plan and seeking Members agreement to go to consultation.
- 15. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater. Angela Douglas gave her apologies. Kate Howie has to leave by 2.00pm on that day.
- 16. The public business of the meeting concluded at 11.55am