

CAIRNGORMS NATIONAL PARK AUTHORITY

MINUTES OF THE PLANNING COMMITTEE

held at The Albert Memorial Hall, Ballater
on 1 March 2013 at 10.30am

Members Present

Duncan Bryden
Katrina Farquhar
Gregor Hutcheon
John Latham
Bill Lobban
Eleanor Mackintosh

Willie McKenna
Martin Price
Gordon Riddler
Gregor Rimell
Brian Wood

In Attendance:

Don McKee, Head Planner
Mary Grier, Senior Planning Officer, Development Management
Katherine Donnachie, Senior Planning Officer, Development Management
Hamish Trench, Strategic Land Use Director
Gavin Miles, Strategic Planning Project Manager
Murray Ferguson, Strategic Rural Development Director

Apologies:

Peter Argyle	David Green
Angela Douglas	Kate Howie
Dave Fallows	Mary McCafferty
Jeanette Gaul	Fiona Murdoch

Agenda Items 1 & 2:

Welcome & Apologies

1. The Convenor welcomed all present.
2. Apologies were received from the above Members. The Convenor noted that to have so many apologies was disappointing, particularly given the important nature of the agenda with the Local Development Plan due to be approved for consultation.

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Agenda Item 3:

Minutes & Matters Arising from the Previous Meeting

3. The minutes of the previous meeting, 1 February 2013, held at Boat of Garten Community Hall were approved.
4. Page 6 refers to guidance on the floor area of affordable housing, it is part of the Pre-Application process but should also have an explanation in the Information Notes. This was noted.
5. The Convener provided an update on the Action Points from the previous meeting:
 - Action Point at Para. 4: Still awaiting a response from the Scottish Government on the Granish Caravan Park. It is expected to be very soon
 - Action Point at Para 9: There were a number of amendments to the Affordable Housing Guidance which is still being worked on. It will be circulated via e-mail to Members before it goes live on the website.

Agenda Item 4:

Declaration of Interest by Members on Items Appearing on the Agenda

- There were no declarations of interest.

Agenda Item 5:

Report on Approval of Proposed Local Development Plan for Consultation (Paper 1)

6. Gavin Miles presented a paper recommending that the Committee approve the Proposed Local Development Plan for public consultation and endorse the supporting documents.
7. The Committee were invited to ask general points of clarification in the first instance:
 - a) A question was raised on Core Paths and in particular whether there is a significant difference between the situation at the Bridge of Dee to the Lion's face route which is not included and the Thieves Road which is included. It was confirmed that the significant difference is that the Thieves Road exists and is used by approximately 5000 people pa, whereas the Bridge of Dee route does not currently exist. There has not yet been sufficient work undertaken to identify potential impacts on the Special Protection Area from establishing a Bridge of Dee route so it cannot be included in the plan.
 - b) Communities would like to be provided with a large scale map for the consultation period.
 - c) It was queried whether reporter's decisions have to be based on the Local Plan once it is in place. Gavin Miles said that the reporter will use the Plan in order to make recommendations on Appeal decisions. Hamish Trench clarified that after the public consultation the Plan itself goes to the reporters who carry out the public

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examination of the Plan. At that point any recommendations they make about what should be in the Plan are binding on the CNPA.

8. It was decided that The Committee would take the documents one by one and discuss them in the order that they were presented.
9. The Committee discussed the Supplementary Guidance and the following points were raised:
 - a) When Affordable Housing was discussed at the previous Planning Committee the wording was discussed in detail. It should be ensured that the documents dovetail and are consistent in the language used.
 - b) Could there be a pointer in this Supplementary Guidance that points to the Affordable Housing guidance? Hamish Trench said this Supplementary Guidance is intended to be brief and outline how to comply with the policy. It would sit alongside more detailed helpful information published on specific areas.
 - c) The wording in some areas of the guidance, for example in the section on Supporting Economic Growth, focuses on proving there are no negative or adverse implications to a project. Where possible we should be encouraging developers to demonstrate the positive impact and effects that a project will have rather than the negative.
 - d) The detail is excellent but in areas the language used across guidance uses differing adjectives which are not consistent and are not quantified, such as adequate, well chosen, good and high quality. Guidance should be checked for consistency. Gavin Miles agreed that the wording would be looked at but said that sometimes the guidance is following on from a policy which is specific in its wording and could change the context of the wording.
 - e) The point was raised that it would be hard for a developer to prove that a project had no adverse or detrimental impact, given the lack of baseline information we have about settlements. Would it not be better to have a business plan looking at the positive results to Park economy that could be expected from a business? Gavin Miles agreed that it would but explained that the policy behind this says that we look favourably at a business proposal, we don't ask for proof on how beneficial the development will be. The CNPA does not take decisions based on how the market operates but rather whether development can happen. In retail terms there is a clear national policy on what you need to consider with retail applications, typically the CNPA does not have many planning applications of that nature and so has a lighter policy in this area.
 - f) The point on p11 says a developer must, "demonstrate the project will have no adverse impact on neighbours or the economic success of local settlements" this could be misunderstood. It gives the impression that if someone was to open a specific type of retail business for example that they must not have an impact on the shop next door, which is not what it means.
 - g) The importance of ensuring the Supplementary Guidance would be produced in a way that could be utilised and understood by the people it is intending to help was reiterated, such as providing checklists or tick boxes.
 - h) The Landscape Supplementary Guidance (p36) refers to projects that have 'national importance'. It was queried whether the plan needs to include this provision. Gavin Miles said that the landscape policy reflects the national planning policy position, in which we must acknowledge that there may be projects of national importance.
 - i) Murray Ferguson reminded Members that with all these points it is important to read the Supplementary Guidance in conjunction with the policy.

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- j) The last paragraph on p40 talks about projects looking like they 'could always have been there'. This could contradict the design advice that proposed buildings should not necessarily try and look old?
- k) Can the term 'special qualities' be added to the Landscape Policy alongside landscape character? Hamish Trench agreed that this would be included.
- l) In the table for Sustainable Design (P13) it talks about minimising effects of climate change and also making sustainable use of resources, these mean the same thing and could be combined. The argument was also raised that they should stay as separate items as climate change is an appropriate consideration for developments of a certain scale.
- m) The map which shows 'wildness' in the Park (p41) has high, medium and low coloured areas which are not referred to in the text and need to be.
- n) It was suggested that it was not clear from the Sustainable Design table (p13) whether a developer had to comply with each item. Gavin Miles said that whilst all points are relevant to all developments, it would be proportionate dependent on the size and scale of the application.
- o) It was suggested that there is an argument for making specific reference to climate change in the introduction as it is a major public policy lever. Gavin Miles said that given that it is one of the cross cutting themes of the Partnership Plan it could be referred to in the diagram which shows the three long term objectives.
- p) It was suggested that there could be more emphasis on enforcement. Don McKee said that this was a framework under which decisions would be taken and it the terms of the decisions that are then enforced. Gavin Miles said that it could be added into the Action Programme or other information published about how the plan is implemented.
- q) A question was raised about the current use of the Thieves Road and the protection of Capercaillie. If the track is improved would it result in more use or could result in people using a different route that might benefit capercaillie? It was confirmed that these are the issues that need to be addressed through further work before any improvements are carried out.
- r) There was a suggestion that the intention to designate the Thieves Road as a core path, but not to upgrade the paths or signage to keep use to a minimum, was flawed. Use of the path would increase by inclusion alone. Gavin Miles disagreed and said that the route is already heavily promoted by third parties and designation as a core path in itself should not increase numbers of users.
- s) A query was raised about housing lists and how accurate they are, as many people do not want to put their name on a list although they are in need, because they want to build their own house. Gavin Miles said that this has always been a problem and we work with the best evidence and figures available, he also pointed out that the CNPA have always encouraged people to register on the waiting lists as the best way to register their need.
- t) The guidance on Developer Contributions (p72) seems to place the emphasis on the developer's need to overcome negative impacts, perhaps this is not the right tone to convey. The contribution should be seen to emphasise the positivity of the development. Hamish Trench said that the language could be looked at but needed to be straightforward and clear in this area, as contributions are required to address an impact.
- u) A question was raised with regard to the guidance on Development Briefs (p78). It is to be hoped that Development Briefs would include the creation of communities that are healthy, safe and pleasant to live in, not just be about providing houses. The

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Plan should inspire people rather than just provide a set of rules. Gavin Miles said it they could look to add more positive wording at the start of the section to reflect that. He also pointed out that the intention is to make the Supplementary Guidance succinct and avoid extra language which may confuse.

- v) There is a section on New Housing Developments (p10) about travellers, we should check with the Local Authorities as to what term is used to describe this people group so we are consistent.

10. The Committee agreed to approve the Supplementary Guidance subject to the changes discussed:

- Ensure consistency of language
- Ensure the tone is positive in nature
- Remove unnecessary words
- Include in the text an explanation of High, Medium and Low with reference to the 'Wildness' map.
- Include 'special qualities' alongside Landscape in the Policy
- Climate change to be highlighted in the introduction.

11. The Committee agreed to approve the Action Plan.

12. The Committee endorsed the Strategic Environmental Assessment.

13. The Committee discussed the Habitat Regulations Appraisal and the following points were raised:

- a) A question was raised about whether Scottish Natural Heritage has indicated the status of qualifying features within the Natura sites across the Park and whether that information was available for developers to access. Hamish Trench said that the first step in the process was to obtain information on the current status of qualifying species from Scottish Natural Heritage which is dated so we know how recent the information is. The information is available for developers to access, however we seek to turn the information into recommendations and requirements for mitigation on what developers are required to do in practice.
- b) A query was raised as to why SSSIs are not included. Hamish Trench said that the Natura requirements relate only the European designations. SSSIs are national designations.
- c) It was suggested that the reasoning in the Appendices that promotion and improvement of a path would be the factors that would lead to increased use was flawed because many other factors influence use of a path. Hamish Trench agreed that other factors play a part but our task is to assess whether adopting the plan would influence increased use of a path. The view is that inclusion of a path in the Plan would not.
- d) There was a query raised about Appendix E and whether technical issues in the appropriate assessments have been dealt with sufficiently. Hamish Trench said a lot of attention had been given to this to make it as rigorous and robust as it can be, using learning from previous assessment processes.
- e) The Convenor said that Members were being asked to be aware of the mitigation that has been identified and satisfied that it is sufficient in Natura terms and proportionate. The involvement of Scottish Natural Heritage in the assessment was queried. Hamish Trench said that they have been involved and provided advice at

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each stage and we can take a degree of comfort in that, but reminded members that Scottish Natural Heritage are advisors only and the responsibility rests with the CNPA to be confident that it is sufficient.

14. The Committee endorsed the Habitat Regulations Appraisal.
15. The Committee endorsed the Equality Impact Assessment.
16. The Committee endorsed the Transport Appraisal.
17. The Committee discussed the Evidence Report and the following points were raised:
 - a) A question was asked if there was any major material changes from the last one that Members needed to be aware of. Gavin Miles said the only main difference was that the housing numbers were more up to date and accurate.
18. The Committee endorsed the Evidence Report
19. The Committee discussed the Proposed Local Development Plan (Paper 1 Appendix 1) and the following points were raised:
 - a) A query was raised about the site in Newtonmore and the amount of houses being proposed being too many and more than originally envisaged, suggesting it should be cut to 60. Gavin Miles replied that the reason for the changes were laid out in the evidence report on p32 at table 22. He explained that 120 units does not necessarily mean 120 individual houses if flats or terraces were built, it is a guide to capacity. If the site was cut to 60 there would be a need to find another 60 units elsewhere.
 - b) The question was asked as to why High Burnside was not included in the Settlement Boundary. The original settlement boundary was well defined with the A9 down one side, the application came to the CNPA already agreed by Highland Council and as such the CNPA was not involved in the original permissions. However we are able to change the settlement boundary and draw it tightly round the settlement if the Committee wants to, it will not impact on the Plan.
 - c) It was suggested that by redefining the Settlement Boundary it gives a definitive indication to developers that permission will not be granted beyond that boundary, by leaving it as it is we could see development expanding. Gavin Miles said that a Settlement Boundary meant that there was a more positive approach to development within the boundary, but does not in itself stop development outwith the boundary.
 - d) A comment was made that the A9 could be a dual carriageway in the future and the boundary should remain as it is and other future development be resisted. A counter point of view was put forward that if the boundary is not tightly drawn around the settlement it could be used as a precedent. Gavin Miles replied that it would be unlikely for other permission to be granted with current policy.
 - e) Hamish Trench said that the CNPA view is that the boundary needs to be well defined, and officer's view is that the A9 is a defensible boundary. However, it would not make a significant difference to change it. It is a matter for committee to decide.
 - f) Willie McKenna proposed a Motion to redefine the boundary at High Burnside in this was seconded by Bill Lobban.
 - g) Duncan Bryden proposed an Amendment to keep the boundary as it is, this was seconded by Martin Price.

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h) The vote was as follows:

	MOTION	AMENDMENT	ABSTAIN
Duncan Bryden		√	
Katrina Farquhar		√	
Gregor Rimmell		√	
Gregor Hutcheon		√	
John Latham		√	
Bill Lobban	√		
Eleanor Mackintosh		√	
Willie McKenna	√		
Martin Price		√	
Gordon Riddler		√	
Brian Wood		√	
TOTAL	2	9	

- i) It was commented on that Strathspey Gardens (in front of the Four Seasons Hotel) was not part of the Master Plan and it has been indicated that planning would be refused on the site as it is an open place. Gavin Miles agreed that if possible the lawn space should be designated as an open space and that will be revisited,
- j) It was observed that there is no mention of geo-thermal energy within the section of design and energy efficiency. Gavin Miles replied that the term renewable energy covered all types, including geo-thermal.
- k) It was commented that the Map on p55 didn't show the Conservation area clearly enough and suggested that conservation areas should be added to the glossary. Gavin Miles agreed this it would be added to the glossary and that maps would be checked for clarity.

20. The Committee agreed to approve the Proposed Local Development Plan for public consultation 15th April – 5th July 2013

21. The Convenor noted the amount of work and time that has been put into the Plan, in particular the work done by Karen Major.

Agenda Item 6:

Report on Called-In Planning Application for Erection of 19 villas (plots 27 to 45) At Highburnside, Aviemore (Paper 2) (2012/0381/DET)

22. Mary Grier presented a paper recommending that the Committee approve the application subject to the conditions stated in the report and a further Advice Note highlighting the 2005 condition that each phase must be completed before works begins on the next phase.

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23. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) Previous permission was granted with a condition that a kick-about pitch be provided in the development, has this been completed? Mary Grier explained that it should have been completed before the 20th house was occupied, it had been started but not completed which is the reason for the additional advice note.
 - b) It was suggested that there has been an issue with perimeter fences since the last permission was granted, does this need to be reconsidered? Don McKee replied that a problem arose because the developer had not highlighted the conditions to house buyers prior to purchase. The Enforcement Officer is investigating this issue and the Planning Department are currently in dialogue with Tulloch Homes to find an overall solution.
 - c) Has Affordable Housing been included in this application? Mary Grier said Outline Planning Permission was granted by Highland Council prior to the establishment of the National Park, and that governing consent did not require any affordable housing provision.
24. The Committee discussed the application and the following points were raised:
- a) There is a proposal that holly is included in the landscaping close to the existing woodland. It was suggested that this is reconsidered as deer eat holly.
 - b) The problem with the fencing was discussed, it was suggested that an advice note is added stating that the developer is responsible for communicating conditions to house purchasers.
25. The Committee agreed to approve the application subject to the conditions stated in the report and with the inclusion of the two additional advice notes.
26. **Action Points arising: None**

Agenda Item 7:

Report on Called-In Planning Application for Erection of a House At Land 285m North West of Ailanbeg Lodge Nethy Bridge (Paper 3) (10/186/CP)

27. Mary Grier explained that the CNPA planning committee had already resolved to grant Planning Permission in Principle subject to a Section 75. The Section 75 had not yet been completed and in light of the Scottish Government's recent guidance on the use of Section 75 / planning obligations, it was now appropriate to reconsider the requirement for a Section 75. Mary Grier presented a paper recommending that the Committee approve the application subject to the conditions stated in the report and without a requirement for a Section 75 / planning obligation.
28. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) It was asked if this application means there will be a flood of applicants seeking to get a Section 75 removed from their properties. Don McKee agreed that this could be the case, but that the CNPA were not able to rescind a Section 75, it would be down to the Local Authorities to do this.

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29. The Committee agreed to approve the application subject to the conditions stated in the report.

30. Action Points arising: None

Agenda Item 8:

**Report on Consultation from Moray Council: Erection of 12 Wind Turbines
(Rotor diameter 71 metres height to tip 99.5 metres)**

**At Hill of Glaschyle, Dunphail, Forres, Moray
(Paper 4)**

31. Katherine Donnachie presented a report on the consultation and recommended that the Committee agree a response of no objection.

32. The Committee agreed that the response of no objection be submitted.

33. Action Points arising: None

Agenda Item 9:

Any Other Business

34. Tesco application at Aviemore is still ongoing whilst awaiting a SEPA agreement.

35. The Kingussie Masterplan application has been called in and Members will be briefed as soon as possible.

36. The Convenor said a farewell to Jane Hope on behalf of the Planning Committee as she leaves her post as CEO after ten years. She was thanked for all the work she has put into planning over the past decade.

Agenda Item 10:

Date of Next Meeting

37. Thursday 28 March at 10.30am at the Community Hall, Boat of Garten

38. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.

39. The public business of the meeting concluded at 13:22