
CAIRNGORMS NATIONAL PARK AUTHORITY

MINUTES OF THE PLANNING COMMITTEE

held at Albert Hall, Ballater
on 1st May 2009 at 10.30am

PRESENT

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

IN ATTENDANCE:

Don McKee	Bruce Luffman
Mary Grier	Hilary MacBean
Robert Grant	Marie Duncan

APOLOGIES:

Lucy Grant **Fiona Murdoch**

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 17th April 2009 held at The Community Hall, Kincaig were approved.
4. There were no matters arising.

AGENDA ITEM 4:

DECLARATION OF INTEREST BY MEMBERS ON ANY ITEMS APPEARING ON THE AGENDA

5. Alistair MacLennan declared an interest in Planning Application No. 09/110/CP.
6. Stuart Black, Jaci Douglas, Dave Fallows, Drew Hendry and Gregor Rimell as Highland Councillors declared an indirect interest in Planning Application No. 09/111/CP.
7. Stuart Black declared an indirect interest in Item No.6 on the Agenda.

AGENDA ITEM 5:

PLANNING APPLICATION CALL-IN DECISIONS

(Oral Presentation, Mary Grier)

8. 09/107/CP - No Call-in
9. 09/108/CP - No Call-in
- 10.09/109/CP - No Call-in
- 11.09/110/CP - Alistair MacLennan declared an interest and left the room
No Statutory Call-in Powers
Alistair MacLennan returned
- 12.09/111/CP - No Call-in
- 13.09/112/CP - No Call-in
- 14.09/113/CP - No Call-in
- 15.09/114/CP - No Call-in
- 16.09/115/CP - The decision was to call-in the application for the following reason :
 - The proposal is for tourist based accommodation, and is located in a prominent position at the entrance to Tomintoul village. The development is of significance to the cultural heritage of the National Park in terms of the setting of the village, as well as the social and economic development of the Park. The proposal is therefore of general significance to the aims of the National Park.
- 17.09/116/CP - The decision was to call-in the application for the following reason :
 - This proposal is for the extraction and processing of aggregate material in association with the construction of the proposed Beauldy Denny Overhead Line Upgrade

project. The forest access track leading to the site is also part of a promoted path which leads to Druim an Aird abandoned village. Due to the nature of the proposal in this sensitive location, the development is considered to raise issues in relation to the conservation of the natural and cultural heritage of the area, the sustainable use of resources, the promotion of informal recreation, and the economic development of the area. As such it raises issues of general significance to the collective aims of the Park.

18.09/117/CP - The decision was to call-in the application for the following reason :

- The proposed development would result in the introduction of a hydro energy scheme, involving the development of a turbine building. The proposal is of significance to the aims of the national park in terms of the natural heritage of the burn, and is also of significance in the context of promoting the sustainable use of natural resources. The development is also proposed in the vicinity of a candidate core path. It is of significance in terms of the social development of the local community as well as potentially having impacts on recreational opportunities in the vicinity. The proposal therefore raises issues of general significance for the collective aims of the Cairngorms National Park.

19.09/118/CP - No Call-in
20.09/119/CP - No Call-in
21.09/120/CP - No Call-in
22.09/121/CP - No Call-in
23.09/122/CP - No Call-in
24.09/123/CP - No Call-in
25.09/124/CP - No Call-in
26.09/125/CP - No Call-in

COMMENTING ON APPLICATIONS NOT CALLED-IN BY THE COMMITTEE

27. The Members wished to make comments to the Local Authorities on the following Planning Application No's 09/111/CP, 09/114/CP, 09/121/CP, 09/123/CP & 09/125/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 ERECTION OF 8 HOUSES
AT FORMER NURSERY SITE, DELL ROAD, NETHYBRIDGE
(PAPER 1)**

28. Duncan Bryden informed Members that Ronald Laing from AW Laing Ltd (Applicants) had requested to address the Committee. The Committee agreed to the request.

29. Hilary MacBean (Planning Officer) presented a paper recommending that the Committee refuse the application subject to the reasons stated in the report.

30. Hilary MacBean advised members that approval of the proposal;

- would be premature pending the imminent consideration of the Draft Deposit Cairngorms Local Plan (1st and 2nd Modifications) at the Local Plan inquiry in that it would prejudice due consideration of the proposal to define the area as Open Space (ENV) and also prejudice consideration an objection seeking the allocation of the site and the whole nursery area for residential development.
- would not meet the criteria set out with the land allocation in the Badenoch & Strathspey Local Plan 1997 and would therefore be contrary to the main strategy and the village strategy contained in the statutory B&S LP 1997 and does not comply with the land allocation envisaged in the CNP LP. It would also be contrary to all four statutory aims of the CNP.
- Is unsuitable in terms of its poor links to village services, unsuitability for family housing in the affordable sector and its impacts on the landscape, character of the village and tourism, all contrary to Policy G2 of the Highland Structure Plan 2001 and the aims of the CNP.
- and lack of a coherent master plan and arrangements for providing and maintaining common elements of the development is contrary to objectives of Policy G2 of the Highland Structure Plan 2001.
- would lead to destruction of an area of grassland and mixed woodland types breaching the duty of the CNPA under Nature Conservation (Scotland) Act 2004 and would be contrary to the first aim of the NP under the NP (Scotland) Act.

31. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:

- a) Clarification of the planning committee's position in determining the application.
- b) The importance of the planning committee's view in advance of the inquiry.
- c) Implications if the application is approved or deferred.

- d) Clarification on applications post LP inquiry.
- e) Definition of house allocation and size.
- f) Consequences for biodiversity.
- g) Clarification of the applicant's circumstances and weight given to those in making a decision.

32. Ronald Laing from AW Laing Ltd (Applicant) addressed the Committee.

33. The Committee were invited to ask questions of the speaker and the following points were raised:

- a) Clarification of plot size, allocated area and number of houses.
- b) Clarification of price range and local market priorities.
- c) Clarification if applicant made objection to the proposed allocation of the site in the CNP Local Plan.
- d) The potential for smaller sites.
- e) Clarification if first objection from Applicant to CNP Local Plan still counts.
- f) Clarification if affordable housing is achievable considering density.
- g) Implication of an appeal.
- h) Clarification of the potential for small builders in the National Park and provision within the CNP LP.

34. Duncan Bryden thanked the speakers.

35. The Committee discussed the application and the following points were raised:

- a) Relevance of the applicant's objection to the Local Plan process.
- b) Whether Nethybridge Community Councils comments can be considered.
- c) Clarification of which LP would be used post CNP LP inquiry if the proposal was deferred for site visit.
- d) Whether the number of proposed houses can be accommodated within the site allocation in accordance with the provisions of the Badenoch & Strathspey Local Plan.
- e) Clarification on responses from SNH and CNPA Heritage and Land Management.
- f) The extent of the effect development may have on wildlife corridors.
- g) The impact of approval on the four aims of the CNPA.

36. Richard Stroud proposed a motion to support the planners' recommendations. This was seconded by Geva Blackett.

37. Jaci Douglas proposed an amendment to defer the application for a site visit. This was seconded by Dave Fallows.

38. The vote was as follows:

	MOTION	AMENDMENT	ABSTAIN
Peter Argyle	√		
Eric Baird	√		
Stuart Black		√	
Geva Blackett	√		
Duncan Bryden	√		
Jaci Douglas		√	
Dave Fallows		√	
David Green	√		
Drew Hendry	√		
Marcus Humphrey	√		
Bob Kinnaird	√		
Mary McCafferty		√	
Willie McKenna		√	
Eleanor Mackintosh	√		
Ian Mackintosh	√		
Anne MacLean	√		
Alastair MacLennan	√		
Andrew Rafferty		√	
Gregor Rimell		√	
Richard Stroud	√		
Susan Walker	√		
TOTAL	14	7	0

39. The Committee agreed to refuse the application for the reason stated in the report.

**AGENDA ITEM 7:
REPORT ON CALLED-IN PLANNING APPLICATION FOR ERECTION OF 12 HOUSES
AT LAND TO SOUTH OF THE CROFT, DUACKBRIDGE, NETHYBRIDGE
(PAPER 2)**

40. Duncan Bryden informed Members that Geoff Laing from AW Laing Ltd (Applicant) had requested to address the Committee. The Committee agreed to the requests.
41. Hilary MacBean (Planning Officer) presented a paper recommending that the Committee refuse the application subject to the reasons stated in the report.
42. Hilary MacBean advised members that the same reasons for refusal applied to this application as in Paper 1 and that in addition approval of the proposal;
 - would represent a significant expansion of the village to the South in a manner that is expressly resisted in the strategy for the village as set out in the B&S LP.
 - Is contrary to the terms of the Highland Structure Plan 2001 in that no provision has been made for affordable housing in terms of Policy H5 Affordable Housing.
 - Would lead to the destruction of an acid semi-improved grass land of a type that is under threat and makes a significant contribution to the matrix of habitats.
43. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
 - a) Clarification of SNH no response status.
 - b) Clarification of how long an obligation of providing affordable housing will be offered to local people.
 - c) Definition of local as pertaining to (6).
 - d) Clarification of statutory consultees.
44. Geoff Laing from AW Laing Ltd (Applicant) addressed the Committee.
45. The Committee were invited to ask questions of the speaker and no points were raised.
46. Duncan Bryden thanked the speakers.
47. The Committee discussed the application and the following points were raised:
 - a) Clarification of the area of ground allocated in the B&S Local Plan.
 - b) Approval of the application and implications.
 - c) The issue of development and protection in agricultural fields.
 - d) Concerns about the possibility of piecemeal development.
 - e) The importance of clarifying the provision and maintenance of common elements within development.
 - f) The importance of process compliance in application determination.
48. The Committee agreed to refuse the application for the reasons stated in the report.
49. The Committee paused for lunch at 13.05hrs

David Green & Gregor Rimell left the meeting.

50. The Committee reconvened at 13:40hrs

AGENDA ITEM 8:

REPORT ON CALLED-IN PLANNING APPLICATION TO VARY CONDITION 1 RELATING TO TIME LIMITS TO EXTEND FOR FURTHER 3YRS ON 04/211/OUTBS AT LAND NORTH OF CAIRNGORM HOTEL, AVIEMORE (PAPER 3)

51. Robert Grant (Planning Officer) presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.

52. The Committee were invited to ask the Planning Officer points of clarification, there were no points raised.

53. The Committee agreed to approve the application subject to the condition stated in the report.

AGENDA ITEM 9:

REPORT ON CALLED-IN PLANNING APPLICATION FOR ERECTION OF HOUSE AND GARAGE FOR ESTATE KEEPER AT LAND 190m NORTH EAST OF PITMAIN LODGE, KINGUSSIE

Withdrawn from agenda 27th April 2009

AGENDA ITEM 10:

REPORT ON CNPA PLANNING ENFORCEMENT CHARTER (PAPER 5)

54. Bruce Luffman (Planning Enforcement Officer) presented a paper recommending that the Committee accept the Planning Enforcement Charter as set out in Appendix 1 of the report.

55. Bruce Luffman advised members of some comments received prior to the meeting;

- Typos to be amended in 4.1 & 5.3.
- 3.4 - inclusion of further bullet point for digital photos.
- 3.10- inclusion of example besides boundary disputes and commercial competition.
- 4.2 - change 'inspector' to 'enforcement officer'.
- 4.2 - change wording of 'members of public' to 'those persons'.
- Inclusion of the Park map.
- 1.4 – inclusion of explanation of 'call-in' process.

56. Bruce Luffman advised members to contact him regarding any grammatical amendments or suggestions.

57. The Committee discussed the application and the following points were raised.

- a) Concerns of digital photo being mandatory.

- b) The need for clarification on CPNA 'call-in' process.
- c) The need for public perceptions of the Park to be managed effectively.
- d) Updating the CNPA Planning information leaflet.
- e) Inclusion of guidelines for representees.
- f) 6.6 - definition of 'unoccupied land'.
- g) Inclusion of an easy read option.

Eric Baird left the meeting.

- h) Clarification of CNPAs powers with regards to removing advertisements.
- i) Concerns with prosecution and penalties.
- j) The level of confidentiality available when making a complaint.
- k) Breach of conditions and the appeal process.
- l) The involvement of enforcement with the comments submitted to the Local Authorities.
- m) The details required to be included on the register.
- n) A specific contact for complaints.
- o) Following examples of other Authorities or bodies.

58. The Committee asked that the comments raised should be taken into consideration and a revised Planning Enforcement Charter be brought back to a future Planning Committee.

59. Bruce Luffman updated members in general terms on his role as the new Planning Enforcement Officer. He advised the Committee that there were concerns about the general attitude of ambivalence towards conditions on the Decision Notice that required compliance before development commences.

60. Bruce Luffman said that non-compliance was not confined to the smaller applications and expressed concern that public agencies were not complying with conditions in a number of cases.

AGENDA ITEM 11: ANY OTHER BUSINESS

61. Duncan Bryden informed members of the positive reports received about the CNPAs actions on ePlanning at the Scottish Planning Summit Scottish Government ePlanning website launch with John Swinney on the 29th April 2009

62. David Green advised members the Board meeting will now be on the Friday 12th June 09 (not the 15th June) with the usual evening meeting on the 11th June.

63. Jaci Douglas thanked Don McKee (Head of Planning) for attending the Badenoch & Strathspey Ward Forum.

64. Willie McKenna requested breakdown of infrastructure, building and land costs from the CNPA Economic and Social Development Group following the launch of the Milestone Kincaig.
65. Susan Walker spoke on behalf of Eric Baird requesting an agreed protocol regarding consultation responses within the report to include an explanation 'no response' and further clarification of designated areas.
66. Members requested a key be included on maps in future reports showing designated areas and that reports show what are included in responses.
67. Peter Argyle mentioned that planning authorities had suggested to Scottish Government that there be an increase in fees to cover the potential extra cost of ePlanning work and after work under the new Planning Act.
68. The convenor asked members to join him in thanking Neil Stewart (Planning Officer) for his excellence and calmness of thought in his time spent with the CNPA planning department and wishing him well in his new position, he will be greatly missed.

AGENDA ITEM 12:

DATE OF NEXT MEETING

69. Friday 10.30am 15th May 2009 at the Community Hall, Boat of Garten.
70. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.
71. The meeting concluded at 14:43pm.