

A REVIEW
OF
THE PROCESS OF COMMENTING ON PLANNING
APPLICATIONS
TO THE LOCAL PLANNING AUTHORITIES,
BY
THE CAIRNGORMS NATIONAL PARK AUTHORITY
AND
A REVIEW OF THE CALL-IN PROCESS.



Summary of Findings

- The call-in process is working well.
- The National Park's commenting process could work more effectively - there are issues of timing and clarity.
- The local authorities' planners find the comments can assist in getting revisions to development proposals.
- Local authority planners would welcome the justifications for commenting to be more explicit.
- The National Park's Aims are only occasionally used to justify planning conditions, or used in reasons for refusal.
- Local Authorities and the Cairngorms National Park Authority need to establish monitoring systems for call-ins and commenting.

Context for the Reviews.

1. The Cairngorms National Park Designation Transitional and Consequential Provisions (Scotland) Order 2003 sets down how Planning will be delivered within the National Park. Development control decisions covering planning applications and other applications such as listed buildings or signs, can be made either by the relevant local authority, or through call-in powers by the CNPA. The CNPA can exercise its call-in power where it is considered that an application raises a planning issue of general significance to the National Park aims, as set out in Section 1 of the National Parks (Scotland) Act 2000.
2. A Development Control Protocol was agreed between the Park Authority and the 4 Local Authorities about the exercise of development control functions within and adjacent to the Cairngorms National Park. A liaison group of nominated officials from the CNPA and the local authorities (the Protocol Group) exists to review the efficiency and effectiveness of the administrative arrangements for dealing with planning applications in the Park on a regular basis.
3. Until the Cairngorms National Park has its own Development Plan, there is a tension for the planning system over the Park Area - operating with 4 Development Plans of different ages, levels of detail and ranges of policies. With its statutory Aims, the CNPA is using its call-in and commenting powers to develop a consistent approach to planning issues of general significance across the Park Area.
4. The remit given was initially to look at the effectiveness of the system whereby the Cairngorms National Park Authority (CNPA) chose to comment on planning applications to the local planning authorities (Angus Council, Aberdeenshire Council, Moray Council or Highland Council) where they felt that particular National Park interests should be taken account of. Subsequently, a request to look at the effectiveness of the current call-in processes was added to the study.

The Review Process.

5. Information was provided on an extensive range of planning applications where the National Park Authority had submitted comments to the local Councils. The range of applications and the comments submitted were studied. Local authority staff involved in the handling / management of the applications were interviewed and some application files were examined to establish how the National Park Authority's comments were incorporated into the assessment, processing and determination of these planning applications. Views of the staff in each organisation were sought on the working of both the commenting and call-in systems.

The Comments on Planning Applications.

6. The comments passed to local authorities vary in length, number of issues raised and the suggestions for action. On most applications the comments are brief. The comments come from both officers (in recommendations to Committee) and from the Committee (following discussion on the applications). The style / format of the commenting statements vary widely between applications, varying between single sentence comments on a particular aspect (eg quality) of an application, to a longer reasoned range of statements with comments and recommendations for change.

The Effectiveness of Comments.

7. The comments are welcomed by each of the local planning authorities, and the comments are generally seen to help reinforce the views and ideas of the local authority planners as they assess the individual planning applications. There are a number of aspects of the commenting system that can be identified for closer examination.
8. **Timing** – Comments from the CNPA are not always expected, and therefore on occasion they arrive late in terms of maximising their effect. This may be after a planning application has been determined, or after an initial letter has been sent to an applicant/agent to recommend changes to a proposal. The former circumstance is rare, and can occur when the date between validating an application and notifying the CNPA is significantly longer than the expected 5 working days in the Protocol (due to administrative difficulties/delays from the Local Planning Authority (LPA)). The latter circumstance is more common, and is likely to occur where there has been no need to carry out consultations on an application and planning officers are ready to commence negotiations/discussions on a planning application from an early date. Both the above circumstances arise from the planners' targets to determine as many applications within the statutory time periods as they can, and in particular the applications that can be

determined by officers under delegated powers will proceed more quickly.

9. **Clarity** – two issues arise here, firstly the exact tone of the comment(s), and secondly the justification for the comment(s) being made. Most comments do not specify explicitly if the CNPA supports or objects to the proposal as it has been submitted. The assumption is sometimes made that if the CNPA disliked something it would call it in for determination. But the CNPA does not always call in applications which, from its reading of development plan policies should be refused or amended, or it considers is likely to be heading for a refusal.
10. There are applications which are not of “general significance” to the Park Authority but where the nature (eg. the design) is not considered to be good or of sufficient quality, or where up to date planning policies may not exist. In such cases CNPA may wish to object to the proposal, and support the LPA in making changes to improve the development to fit planning guidance and the Park’s aims.
11. The National Park (NP) has its own aims which can be significant material considerations in the assessment of planning proposals - in addition to the statutory development plans, interim policies and emerging new plans/policies. Whilst the NP aims are used to justify why planning applications are called in by the CNPA, they are not regularly used explicitly to justify CNPA’s comments to the LPA. This is a weakness in the commenting process.
12. General comments from the CNPA are left to LPA planning officers to interpret as best they can. If expressed simply, then they may not carry much weight in borderline, delegated cases. The planner is left to assess the application on the basis of policies and representations. Where comments submitted are explicit objections, then, for delegated items changes are often sought to overcome the objections, and the reasoning (or justifications) for the objections can be submitted to the applicant/agents to help persuade them of the need to change the proposal. In many cases CNPA’s comments will add weight to the LPA’s position. There is considerable evidence that when this happens, changes are made to the applications. Explicit CNPA objection can, where amendments are not made, result in a normally delegated decision becoming a Committee matter, or requiring some Councillor involvement.
13. Not all LPAs refer to the National Park in reasons for refusal or in reasons for planning conditions. Where it is clear from an assessment of a planning proposal that there will be a material impact on the National Park if a development is approved, or, where a condition is required to mitigate an impact, then there should be reference to the Park or its aims in the reason(s) for refusal or in the reason(s) for conditions. There is scope for more uniformity between LPAs in this respect, and further work on this could be initiated by the CNPA.

14. In order to tackle the above issues, CNPA's comments on a planning application should follow a number of tests,
 1. **Timing.** Make the LPA aware that the CNPA are commenting on a particular application as soon as possible (at the same time as immediate notification of call-ins).
 2. **Support/Object.** Make clear the level of significance of the CNPA's position. Within this test there will be a number of options – outright support, conditional support, serious objection, and objection unless changes are made.
 3. **Justification.** Make clear for the LPA the basis for the CNPA's position on the application, whether it is on the basis of the statutory planning policies, CNPA's interim/emerging policies, or the Park's own Aims (some of these may need some fuller explanation on occasions). Greater clarity in this respect would assist in incorporating the CNPA's Aims in reasons for refusal, and reasons for conditions.
 4. **Flexibility.** Make it clear if there is, in CNPA's view, scope for negotiating amendments or applying conditions to the proposed development that would overcome their objection(s), sufficient to withdraw or reconsider their position.

The Call in Process.

15. The call-in procedures have had a reasonable period of operation now, and the processes are embedded within the LPAs and the CNPA work practices. Call-ins are exercised widely, over an extensive range of development types of every scale, where the Park Authority has considered that the planning application is of general significance, or cumulatively could have a significant effect on the aims of the Park (irregardless of the expected final outcome).
16. The tight timescales involved do cause considerable pressures on staff workloads, and the determination of applications performance. The process of determining which applications to call in, and which applications to comment on is administratively cumbersome, especially where no officer or 'special group' system of delegation exists or can be devised. A delegated system could speed up the initial call-in / commenting assessment processes, giving more time to determining the called in applications within reasonable timescales.
17. While the applications to be called in are communicated to the LPAs almost immediately, the applications where CNPA are to comment on (from the Board Members and / or officers) are not following the same process. The same approach should be established for both – a prompt notification to the LPAs of action to be taken, followed up with the detailed statements as quickly as possible thereafter (by email).

Monitoring.

18. It is part of the agreed Development Control Protocol that the CNPA and local authorities will work together to ensure that monitoring of the development control process is undertaken. This would necessitate the commenting and call-in applications being identifiable, but initial discussions with planning authorities discovered a variable knowledge of numbers and types of applications involved. Equally the CNPA information systems could not easily identify the range of application types that were being called in or commented on. As monitoring is an essential precursor to reviewing the extent and effectiveness of the call-in and commenting processes, it is essential that all parties get together to agree coverage and responsibilities for collecting and presenting the most important statistics. The information is important, to monitor changes in workloads, or to look at the speed of responses / exchange of information, or may assist in the preparation of new planning guidance or in the review of planning policies. With a move into a period when the National Park is preparing planning policies covering the Park Area, a robust monitoring system will be necessary to track the implementation of the emerging and new statutory planning policies.

Conclusions.

- The call-in process is working well, but this is at the expense of the time available to the assessment of the called in applications.
- The National Park's commenting process could work more effectively - there are issues of timing and clarity where improvements could be made.
- The local authorities' planners find the comments can assist in getting applicants or agents to revise development proposals.
- Local authority planners would welcome the justifications for CNPA's comments being made more explicit, especially where these relate to the Park's Aims.
- The National Park's Aims are only occasionally used to justify planning conditions in decision notices, or used in reasons for refusal, by the Local Planning Authorities.
- Local Authorities and the Cairngorms National Park Authority need to establish monitoring systems for call-ins and commenting, linked also with the new Development Plan(s).

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