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# CAIRNGORMS NATIONAL PARK AUTHORITY

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## MINUTES OF THE BOARD MEETING held at The Albert Hall, Ballater on Friday 3<sup>rd</sup> November 2006 at 2.00pm

### PRESENT

Eric Baird	Anne MacLean
Stuart Black	Alastair MacLennan
Duncan Bryden	William McKenna
Nonie Coulthard	David Selfridge
Basil Dunlop	Sheena Slimon
Douglas Glass	Richard Stroud
David Green	Susan Walker [part of meeting]
Marcus Humphrey	Ross Watson
Bruce Luffman	Bob Wilson
Eleanor Mackintosh	

### In Attendance:

Murray Ferguson	Andy Rinning
Andrew Harper	Hamish Trench
Jane Hope	Francoise van Buuren
Fiona Newcombe	

### Apologies:

Angus Gordon	Andrew Rafferty
Lucy Grant	Gregor Rimell
Sandy Park	

### Minutes of Last Meeting – approval

1. The minutes of the last meeting held on the 6<sup>th</sup> October 2006 were approved with one minor amendment. Paragraph 11(e), last sentence to read: “This was a view expressed by many, while still acknowledging the need for new housing”.

### Matters Arising

2. None.

## Declarations of Interest

3. Basil Dunlop recorded an interest in relation to Paper 5 about the extension of the Strathspey Railway; he advised that he was not a member of the Strathspey Railway Company but was a member of the supporters group. His interest was noted. Ross Watson recorded in relation to paper 2 on Community Planning that he was a member of the Cairngorms Local Action Group (LAG). His interest was noted.

## National Park Plan (Paper 1)

4. Hamish Trench introduced the paper which sought the Board's agreement to significant changes to be made to the National Park Plan following the public consultation. The Board's agreement was also sought to the revised vision for the National Park Plan as well as the revised structure. The paper also looked forward to the implementation of the National Park Plan and highlighted the need to engage with a range of partners as part of the process of delivering the National Park Plan once approved. Although further discussion would be needed on this particular issue, the paper sought the Board's agreement to a review of the existing Advisory Forums as part of the process of establishing effective and efficient working arrangements for delivering the National Park Plan in partnership. It was noted that the final approval by the Board to the National Park Plan would be at the next Board meeting on the 1<sup>st</sup> of December 2006.
5. In discussion the following points were made:
  - a) It was noted that following an informal discussion earlier in the day, any approval of the vision set out in the paper would be subject to some minor changes still to be made. These would be seen by the Board when their approval for the final version of the Plan was sought on the 1<sup>st</sup> December.
  - b) It was noted that the references in the covering paper to the two annexes were the wrong way round (i.e. the revised vision was at annex II, and the revised structure for the Plan was at annex I).
  - c) The point was made that the consultation on the draft National Park Plan had been very productive, and a large number of changes had been made as a result.
  - d) The proposed change to the Plan as outlined at paragraph 15 of the paper, namely to give the strategic objectives for cultural heritage more prominence, was welcomed and it was noted that this needed to be reflected in the Cairngorms Local Plan which was still under preparation.
  - e) The recommendation at paragraph 32 asked the Board to agree that the Advisory Forums set up by the National Park Authority in previous years should be reviewed in order to establish the most effective mechanisms to inform delivery of the National Park Plan. There were currently 5 Advisory Forums: Integrated Land Management, Economic and Social Development, ViSIT, the Cairngorms LOAF and the Advisory Panel on Joined Up Government. It was confirmed that these Advisory Forums were only part of the mechanism for informing delivery of the Park Plan, not the entirety. But in the interests of effectiveness and efficiency, it made sense to ensure that these forums set up by the National Park Authority were fit for purpose. It was noted that the Cairngorms Local Outdoor Access Forum (CLOAF) was actually set up under statute for a particular

purpose. There was no intention to change this and the question remained as to whether any additional forum would be needed to act in an advisory capacity on access and recreation issues in the delivery of the National Park Plan.

6. **The Board agreed the recommendations of the paper as follows:**
  - a) **Approved the revised vision for the National Park Plan, subject to some minor changes to be agreed on the 1<sup>st</sup> December;**
  - b) **Approved the proposed revised structure for the National Park Plan;**
  - c) **Approved the proposed significant changes in response to the public consultation;**
  - d) **Agreed to review the CNPA's Advisory Forums as part of the process of establishing the most effective mechanisms to inform delivery of the National Park Plan.**

### **The CNPA's Role in Community Planning (Paper 2)**

7. Andrew Harper introduced the paper which was for information and sought to clarify the linkages between community planning and the National Park Plan. It also highlighted the opportunities for collaborative working, avoiding duplicating structures and activities.
8. In discussion the following points were made:
  - a) It was crucial that the CNPA and the relevant local authorities liaise closely so that communities were not consulted twice over and separately. In this context it was noted that the Park Authority was considering how to make more effective use of the open evenings it held for the local community prior to each Board meeting. It was considering whether a range of other public sector partners could join the Park Authority at these events to ensure a more fruitful meeting for the local community.
  - b) It was noted that there was potential for considerable duplication of activity and that the whole process of community planning was directed towards avoiding that. By getting partners around the same table, there was the opportunity to decide who was best placed to lead on particular issues. At its best, community planning should be a mechanism for avoiding duplication rather than causing it.
  - c) Paragraphs 12 and 13 made reference to possible arrangements for delivering the Scottish Rural Development Programme (SRDP). The Board had previously recorded its view that the Cairngorms National Park should in effect be a region for purposes of delivering the SRDP. The possibility that regional decision making would be linked to community planning seemed to be an unnecessary added complication. Having established National Parks, it would seem perverse to not use them as a basis for something like the SRDP. Nevertheless, if the decision was made to use community planning partnerships, the CNPA needed to start engaging with those partnerships now and establishing effective working relationships.
  - d) There was no intention that the Panel on Joined Up Government (which met once a year to consider the National Park Plan) would replace community planning partnerships.

*[Sue Walker joined the meeting]*

- e) The whole basis of community planning was that communities must be able to influence public service delivery around them. It was the community level engagement that was crucial. However, not all partnerships were working well currently. There were essentially three groupings that were important: Community Councils, Business Associations, and Activity Groups (volunteers). The best way of developing partnerships was through associations of these groups. Some were already making the move to becoming limited companies (and one good example of this was the Grantown Initiative). However, the money for funding the development managers/officers who coordinated these initiatives was beginning to dry up. This funding was essential if the community planning partnerships were going to effectively represent their communities and deliver what communities wanted. Having someone at a local level coordinating the complex set of needs in the local communities was essential; recent moves to have a coordinating officer working over an increasingly large area would not be effective.
- f) It was noted that in putting together community plans the presence in the National Park could be an argument in attracting in resources.
- g) In respect of paragraph 15 and the four local groups that covered the CNP area, it was noted that there was no standard or statutory timescale for the development of community plans. Different local authorities were working to different timescales for refreshing their plans. These partnerships and the National Park Authority needed to work closely together to influence each others' plans as they were refreshed.
- h) Many local people did not understand community planning, viewing it as yet another layer of bureaucracy. More work was needed to explain the existence and function of community planning.
- i) Although the effectiveness of community planning partnerships was questioned by some, an alternative view was that it provided an effective way of bringing together organisations which normally would not necessarily liaise very closely. Locality planning in Badenoch and Strathspey had brought together health, social work, housing, the voluntary sector, and local councils in a very effective dialogue.
- j) It was essential that strategic partnerships were able to relate to local partnerships. There was always a danger that the strategic level planning could be very detached from what happened at a local level. The CNPA needed to put its effort into the area of overlap in the diagram at paragraph 18, namely those issues of interest to both the National Park Plan and the local community plans. It was essential that the CNPA continued to work closely with local authorities to ensure the strategic alignment of the plans.

- 9. The Board noted the work taking place with local authorities and other community planning partners to achieve a more integrated approach to specific activities. The challenges facing local authorities with community planning partnerships were similar to those facing the National Park Authority with the National Park Plan – there was clearly scope for close working.**

## The Future Development of CNPA Grant Mechanisms (Paper 3)

10. Andrew Harper introduced the paper which sought the Board's approval for proposals to further develop the Park Authority's approach to providing grant funding. This was currently done through two main mechanisms, the Integrated Grants Programme (IGP) and the LEADER+ Programme. Both of these were due to come to an end in the next twelve months and given that grant funding was likely to play an important role in the delivery of the National Park Plan, it was appropriate that the CNPA should be considering how to build on the successes of these grant schemes. The recommendations were set out at paragraph 20 of the paper and essentially proposed that the IGP should continue for another year with some refinements but with an independent evaluation during 2007/08 which would then inform a decision on the future of the programme. For LEADER+ similarly there would be an evaluation during 2007/08 but regardless of the future of LEADER+ itself, the CNPA should consider a pan-park investment programme bringing together a variety of funding sources.
11. In discussion the following points were made:
  - a) Various vehicles already existed at a local level for delivering grants programmes. One good example was the Mar Area Partnership which was already doing precisely this. Similarly, VABS (Voluntary Action Badenoch and Strathspey) already delivered small grants on behalf of HIE. There was clearly mileage in pursuing strategic approach but with service level agreements for local delivery. This would be picked up during the evaluation of the IGP.
  - b) The importance of grant schemes providing for direct interaction between communities and the CNPA should not be underestimated. There was huge benefit in terms of public relations in the CNPA funding projects and although difficult to quantify, if this direct interaction with the Park Authority and what it stood for was beneficial, then it needed to be picked up in the evaluation. While it was important that grant giving bodies secured recognition, this should not be the top criterion for any future grant schemes. The most important factor was to ensure that the right end product was produced for the communities being supported.
  - c) The idea of naming a future grant scheme as the Cairngorms National Park Investment Programme was good as it made the link with the National Park quite explicit, regardless of who all the funders were and who was providing the delivery mechanism.
  - d) The table at paragraph 20 set out some refinements to the IGP for the following year; this included at paragraph 3 inviting comments on applications from local community planning partnerships. This made perfect sense but with the caveat that in the short-term everyone had to recognise that the strategic alignment of objectives between community planning partnerships and the National Park Plan might not be there. Clearly the intention was to get that strategic alignment in the long-term, but in the short-term the objective of the IGP would be very clearly focused on delivering the National Park Plan.
  - e) The independent evaluation of the IGP needed to include an evaluation from the view point of applicants. The evaluation also needed to consider whether or not the IGP was delivering the aims of the National Park.

- f) In response to a question it was clarified that the intention behind the proposed Cairngorms National Park Investment Programme was that the programme would secure funding from outside sources (e.g. the Lottery Fund) which would then be distributed through the Park grant scheme. The alternative would be to simply encourage applicants to apply for these other sources of funding separately but this would be complex and not particularly helpful to applicants. The idea was to streamline and simplify grant schemes within the National Park so that applicants only made one application. It was recognised that there may be some external sources of funding which were not amenable to this approach but that would need to be dealt with on a case by case basis.
- g) Processes were essential for ensuring collaborative working between potential grant givers. For example, it made no sense to have to draw money down from one funder to another to support initiatives. One answer was to look at bringing different grant programmes together under one heading; another was to use processes like community planning to identify local community needs and then use the planning process to ensure that different funding partners could all contribute to the same outcome. However, it was noted that there may be a raft of grant support mechanisms available through local authorities that were not necessarily covered by the community planning partnerships. Further thought was needed to ensure that the full extent of grants had been considered.

12. Summing up the Convener noted that it made sense to look for a single hub for disbursement of grant monies from a whole range of public bodies including the CNPA. While it was important that grant giving bodies were given due recognition it was more important to focus on the end product; this meant dovetailing what communities wanted and what was needed to deliver the National Park Plan. In creating a hub for as many sources of grant as possible, there was an additional task to look for the best mechanisms for local delivery of that funding.

13. **The Board agreed the recommendations of the paper as follows:**

- a) **The principles set out at paragraph 12 were agreed;**
- b) **The proposals set out at paragraph 20 for action in 2007/08 were agreed;**
- c) **The general approach set out at paragraph 20 for 2008/09 was endorsed, subject to a paper being brought back to the Board before a final decision on the way forward with the two grant schemes was made.**

#### **Cairngorm Estate Transfer: Consultation Response (Paper 4)**

14. Fiona Newcombe introduced the paper which sought the Board's agreement to the CNPA's response to the consultation on the transfer of the Cairngorms Estate from Highlands and Islands Enterprise (HIE) to Forestry Commission Scotland (FCS). The proposed response broadly agreed the proposals set out in the consultation paper subject to continuing delivery of a wide range of public benefits and an inclusive approach to management. The proposed response also expressed some concern about two proposals: firstly the proposal for some environmental improvements, which the response suggested should be deferred until further information, could be provided and further consultation could take place. Secondly, the response suggested that stakeholder

arrangements as proposed could be modified to work better. The CNPA would wish to meet the FCS to discuss these two elements further.

15. In discussion the following points were made:

- a) The CNPA were supportive of the general proposal that FCS should take over responsibility for the estate, but there were concerns locally about the proposed changes to the ski infrastructure. The term “environmental improvements” as applied to the ski infrastructure was premature in that it seemed to imply that the ski lifts were already judged to be an environmental problem. That sort of judgement should await a more detailed consideration and consultation.
- b) It was likely that the ski tows were seen as being a financial liability, given that they had lasted well beyond their original predicted lifespan, and now probably carried a high maintenance cost. On the other hand, one could argue that if the original lifts were still operational after 45 years there was no need to rush into a decision. It might prove more sensible to find money for reinvestment. It was a difficult decision which could not be rushed simply on the basis of the public agency needing to minimise its liabilities.
- c) There was something perverse about the consultation paper proposing to develop a management plan involving stakeholders on the one hand, but on the other proposing to take precipitative action on one particular element. It was important that the CNPA consultation response should emphasise the need to take more time on the “environmental improvements”. Indeed paragraph 10 of the response referred to the short-term environmental improvements being considered through a full management planning process and through consultation with a wide range of stakeholders. That needed to be strengthened to say the decision on the proposed environmental improvements needed more time and fuller discussion, and should be deferred.
- d) Paragraph 9(c) of the covering paper suggested that all groupings and meetings should be transparent. It was important to be explicit that for effective stakeholder engagement such meetings should be in public.
- e) Paragraph 9(f) of the covering paper referred to a mountain core liaison group. While it was sensible to have such a group the proposal was that it should only be for part of the mountain core. The CNPA’s response was right in suggesting that this proposal needed to be looked at more widely from an interest as well as a geographical point of view.
- f) Paragraph 14 of the covering paper referred to there possibly being some implications for the CNPA as potential planning authority; this needed to be picked up in the consultation response itself. It was important to note that the CNPA were not the planning authority for the existing Section 50/49A agreement relating to the funicular railway; but the CNPA could be the planning authority for planning issues that arose in the future (and if called in).
- g) The point made at paragraph 9(a) of the covering paper was endorsed, namely that the roles and responsibilities proposed for the various stakeholder groupings needed to be made clear (as proposed at paragraph 6 in the consultation response).
- h) In paragraph 10 of the consultation response a reference to paragraph 67 should be to paragraph 68.

16. The Board approved the consultation response set out at annex 1 of the paper subject to:

- a) Recording that it was premature to decide on the proposed environmental improvements and the consultation response should therefore recommend that a decision on this was deferred pending further information and further consultation.
- b) Noting that the Forestry Commission had a good track record in managing land and delivering public benefits. The Board therefore approved the general principle of the transfer of the estate to the FCS.

#### **Extension of the Strathspey Railway (Paper 5)**

17. Andrew Harper introduced the Paper which considered the implications of the planned extension of the Strathspey Railway and sought the Board's approval to the principle of the extension. The Strathspey Railway Company had formally approached the CNPA seeking a letter of support for the scheme in order to help them secure funding. On balance the planned extension appeared to be positive in relation to the Park's aims and so it was recommended that a letter of support should be forwarded.

18. In discussion the following points were made;

- a) In relation to paragraph 1 and as a point of clarification it was noted that in 1971 it had always been intended that the railway should go from Aviemore to Grantown-on-Spey. However the whole line could not be purchased at that point, and when eventually it was purchased in 1975 British Rail had already pulled up the track between Boat of Garten and Grantown-on-Spey.
- b) In relation to paragraph 5 and the planning permission already granted it was noted that this was for a station in the industrial estate. It was recognised that this was not ideal and the possibility of locating the station nearer the caravan site was being considered. No decision had been reached but any proposed change would need a new planning application.
- c) An additional benefit of the railway extension was the potential to create a path for bikers and walkers.
- d) The paper before the Board was being considered without prejudice to any further planning applications. The point was made that the relevant planning permissions were already in place, and while there may be some modifications to the details which would require further applications, the principle had already been established through the extant planning application.
- e) It would be useful if in discussions with the Strathspey Railway, the point could be made that while accessibility of old trains was obviously limited, it would be helpful if on occasions the company could run a train that was accessible to people with disabilities.
- f) The recent transport audit of the Park had revealed a demand for better public transport between Aviemore and Grantown-on-Spey. With this in mind, it would be useful if the proposed extension of the Strathspey Railway could offer concessions for local people. It was noted that other concessions were also



available (e.g. those on low wages). It was also noted that diesel cars were in operation as well as the normal tourist steam trains.

- g) A caveat should be added to the Board support in principle for the railway extension, to the effect that this did not imply any funding commitment.
- h) In relation to paragraph 11 it was noted that the railway would contribute to delivering sustainability but only if railway use displaced car use. There was no hard data to back up this conclusion, but it was known that the railway was currently used predominantly by visitors (and was therefore unlikely to be displacing car use). However, it was felt that if the railway was extended to Grantown and became a viable alternative for transport between Grantown and Aviemore, then there would be some displacement of car use. Feasibility studies had been done in the past addressing the issue, and a business plan was currently being put together which would consider this.

**19. The Board agreed the recommendations of the paper as follows:**

- a) Agreed to support in principle the planned railway extension but subject to 2 caveats;**
- b) Without prejudice to the detailed consideration of any future planning applications related to the development; and**
- c) Without implying any future funding commitment.**

**Visitor Safety and Land Managers Legal Liability in Relation to Outdoor Access (Paper 6)**

20. Murray Ferguson introduced the paper which was for information. It set out the legal position relating to visitor safety and land managers' legal liabilities in relation to outdoor access in the National Park.

21. In discussion the following points were made:

- a) The paper was welcomed as a useful clarification of the law, given that many land managers were still unclear about liabilities arising from the access legislation. The challenge was making this sort of information available to land managers and the suggestion was made of producing a leaflet jointly with other organisations such as the SRPBA and SNH.
- b) The paper had been prepared on the basis of advice from the Park Authority's lawyers. The legal staff of the SRPBA had confirmed that they were content with the interpretation given.
- c) A distinction needed to be drawn between individuals and organised groups; there was no confusion over the rights of individuals, but organised groups often took out their own public liability insurance. This distinction was not brought out in the paper, but the point was made that the paper presented legal advice on the general right of access and as such applied to individuals and to groups of people. An organised event was a different matter and guidance was given in the Scottish Outdoor Access Code about the specific requirements for events.
- d) South of the border the law on legal liability differed according to whether or not an individual was on a bridle path. This was not the case in Scotland. These differences derived not from the Access legislation but from the relevant Occupiers legislation (the Occupiers Liability Act (Scotland) 1960). As a result

there was a difference between the two countries in the duty of care owed by land managers. In Scotland, because there was a general right of access there was no presumption that an individual had been “invited” onto the land, whereas in England (with no general right of access) the existence of designated bridle ways and footpaths was interpreted as the equivalent of an “invitation” onto the land.

- e) While the paper was welcome, if it was going to be helpful to land managers it had to go further than just the basics. For individual land managers, managing land and access was complex because of having to manage and balance several different pieces of regulation, for example the Access Legislation, the Health and Safety Regulations, Occupiers Liability, etc.
- f) There was very little case law at present, perhaps because insurance companies were prone to settle cases rather than take the risk of them going to court. It would be helpful if a case went to court and the Code was cited as saying that access takers needed to take responsibility. There was a guide available, published by SNH, summarising case law in the UK and this reinforced the message that the legal system reinforced the need to strike a balance of the respective rights and responsibilities of access takers and land managers.
- g) There was some discussion as to whether once the Core Path Plan was in place the CNPA as the relevant access authority would take on some aspects of liability. While this was not envisaged, this still required to be clarified.
- h) There was some discussion as to whether there was a need for any additional documentation picking up the points made in the information paper. General information was already available in the SNH publication on the subject (referred to at paragraph 3 of the paper). Paraphrasing a complex area of law was always fraught with danger and given that the existence of the National Park did not of itself create any special issues in relation to legal liability, there seemed to be no good argument for creating yet another publication on this subject. Nevertheless the imminent introduction of the Core Paths Plan did represent a new situation and it was suggested there would be merit in adding a flyer to the SNH publication, to be distributed along with copies handed out in the National Park summarising the new legal advice.

## **22. The Board noted the paper.**

### **Corporate Plan Report: Theme 3 (Paper 7)**

23. This paper was for information only. Points made in discussion were:

- a) The reports referred to in paragraph 7(a) and 7(b) were helpful and it was asked that reports were supplied to all Board members.
- b) Paragraph 14 referred to the Heather Hopper bus service from Grantown-on-Spey to Ballater. It was noted that the Stagecoach manager had been impressed with the number of passengers on the Heather Hopper during its trial period and was pleased with the linkages with the Stagecoach service. The point was noted that publicity for the service needed to go out earlier.
- c) In respect of paragraph 14 and the survey of the Heather Hopper service it was noted that 80% of people using the service were using a concessionary pass.

That did not necessarily lead to the conclusion at (k) that cost was not a factor; in fact it was quite likely that cost was a factor given that the majority of people using the service were not paying full price. The Heather Hopper service was clearly aimed more at travel for pleasure rather than business and this was reflected in the timetable for the service. It would be sensible to review the timetable for the following year to see whether there were opportunities to change the timing of the service to make it more attractive for business use rather than just pleasure. It was noted, nevertheless, that the Heather Hopper service had been very well received.

- d) In relation to paragraph 25 it was noted that the rate of "call-in" of planning applications had risen. This appeared to simply be a quirk of timing as the call-ins were largely on the basis of officer recommendation and did not reflect a change in approach by the Planning Committee. The rate of dealing with determinations had fallen in recent weeks but would rise again shortly and the new scheduling of Board meetings and Planning Committee meetings would provide the opportunity to deal with much larger number of planning determinations at a single sitting.

#### **AOCB**

24. None.

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

25. Friday 1<sup>st</sup> December 2006 at the Lonach Hall, Strathdon.