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# CAIRNGORMS NATIONAL PARK AUTHORITY

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## MINUTES OF THE PLANNING COMMITTEE

held within The Village Hall, Dalwhinnie  
on 3<sup>rd</sup> December 2004 at 10.30am

### PRESENT

Eric Baird	Anne MacLean
Stuart Black	Alastair MacLennan
Duncan Bryden	Sandy Park
Basil Dunlop	Gregor Rimell
Douglas Glass	David Selfridge
David Green	Joyce Simpson
Marcus Humphrey	Sheena Slimon
Bruce Luffman	Richard Stroud
Willie McKenna	Andrew Thin
Eleanor Mackintosh	Bob Wilson

### IN ATTENDANCE:

Don McKee	Andrew Tait
Neil Stewart	Pip Mackie

### APOLOGIES:

Sally Dowden	Andrew Rafferty
Angus Gordon	Susan Walker
Lucy Grant	

### WELCOME AND APOLOGIES

1. The Convenor welcomed all present.
2. Apologies were received from Sally Dowden, Angus Gordon, Lucy Grant, Andrew Rafferty and Susan Walker.

### MATTERS ARISING FROM THE PREVIOUS MEETING

3. The minutes of the previous meeting, 19th November 2004, held at Glenlivet were approved.
4. Andrew Thin confirmed that as noted under item 64 there would be a review of the Planning Committee Standing Orders.
5. Andrew Thin advised the Committee that item 65 had been brought to the attention of staff who were to pursue the matter of deer culling further.

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

6. Douglas Glass and Marcus Humphrey declared interests in Planning Application No. 04/542/CP.
7. Willie McKenna declared an interest in Planning Application No's. 04/544/CP, 04/545/CP & 04/546/CP.
8. David Green declared an interest in Item 9 on the Agenda (Paper 2).

## **PLANNING APPLICATION CALL-IN DECISIONS (Oral Presentation, Andrew Tait)**

9. 04/529/CP - No Call-in
10. 04/530/CP - No Call-in
11. 04/531/CP - No Call-in
12. 04/532/CP - No Call-in
13. 04/533/CP - No Call-in
14. 04/534/CP - No Call-in
  
15. 04/535/CP - The decision was to Call-in this application for the following reason:
  - This proposal is for the change of use of moorland into residential curtilage in an area of open countryside that consists of heather and scattered birch with a memorial cairn close by that is included in the national monument record. The proposal raises issues in relation to the natural and cultural heritage and therefore may raise issues of general significance in relation to the collective aims of the Cairngorms National Park.
  
16. 04/536/CP - No Call-in
17. 04/537/CP - No Call-in
  
18. 04/538/CP - The decision was to Call-in this application for the following reason:
  - The proposal involves major infrastructure improvement works to a water mains system, including relining the existing trunk main, replacement of minor sections of the trunk main and the realignment and reinstatement of tracks. The works are located in an area designated as a SSSI, SPA, CSAC, NNR, NSA in an area that is popular for mountain recreation. Given this the proposal may raise issues of significance for all four aims of the Cairngorms National Park.
  
19. 04/539/CP - No Call-in
20. 04/540/CP - No Call-in
21. 04/541/CP - No Call-in

Douglas Glass and Marcus Humphrey declared an interest and left the room.

22. 04/542/CP - No Call-in

Douglas Glass and Marcus Humphrey returned.

23. 04/543/CP - No Call-in

Willie McKenna declared an interest in the following three applications and left the room.

24. 04/544/CP - No Call-in

25. 04/545/CP &  
04/546/CP -

The decision was to Call-in this application for the following reason:

- The proposal is for two houses on a small estate layout. The outline approval is understood to have included a condition that these plots were to be for affordable housing. However, the current application does not indicate this. Consequently, this raises issues in relation to social and economic development and may raise issues of general significance for the collective aims of the Cairngorms National Park.

Willie McKenna returned.

26. 04/547/CP - No Call-in

27. 04/548/CP - No Call-in

28. 04/549/CP - No Call-in

29. 04/550/CP - No Call-in

30. 04/551/CP - No Call-in

31. 04/552/CP - No Call-in

32. 04/553/CP - The decision was to Call-in this application for the following reason:

- The proposal would result in the loss of a commercial use in the centre of Carrbridge and its replacement with 12 residential units on a site that contains several trees. The proposal raises issues in relation to economic and social development and the natural heritage, the combination of these factors means that the proposal may raise issues of general significance for the collective aims of the Park.

## **COMMENTING ON APPLICATIONS NOT CALLED-IN BY THE COMMITTEE**

33. It was agreed that comments be made to the Local Authorities on Planning Application No's 04/536/CP & 04/549/CP.
34. The Aberdeenshire Councillors declared an interest and left the room.
35. It was agreed to submit the following comments to Aberdeenshire Council on Planning Application No. 04/536/CP:

The CNPA note that there are several trees close to the site and would suggest that these are retained and protection measures provided during any construction works. Any approved scheme should also include landscaping with particular strengthening of the aspect to the River Clunie Water. Measures should also be taken to ensure that any works associated with the dwelling have no impact upon the Clunie.

36. The Aberdeenshire Councillors returned.
37. The Highland Councillors declared an interest and left the room.
38. It was agreed to submit the following comments to Highland Council on Planning Application No. 04/549/CP:

The CNPA note that the site has outline planning permission for a dwelling and also note that the site is quite exposed in the local landscape, because of this the CNPA would suggest that a detailed scheme of landscaping is submitted to ensure that the new dwelling is well assimilated into the landscape. Given the exposed nature of the site the CNPA would encourage traditional design and suggest that an appropriate colouring for the building be achieved by planning condition.

39. The Highland Councillors returned.

## **REPORT ON CALLED-IN PLANNING APPLICATION FOR THE ERECTION OF DWELLINGHOUSE AT LAND EAST OF KIRKTON PARK, CRAGGAN, GRANTOWN ON SPEY**

### **(Paper 1)**

40. Andrew Thin advised the Committee that the planning officials had received a written request from applicant to address the Committee. The Committee granted the request.
41. Andrew Tait presented a paper recommending that the Committee refuse the application for the reasons stated in the report.
42. Fergus Laing addressed the Committee and questions were invited from the Members.
43. In response to questions, Fergus Laing clarified that the percolation tests had been carried out in accordance with Highland Council regulations and he was trying to ascertain why SEPA had believed them to be non-standard. He informed the Committee that as far as he was aware there was no risk of flooding on the site. He confirmed that the potential buyer for the dwelling knew about the High Ropes course which was to be constructed in front of the site and that the business to be operated from the dwelling was to be computer based and therefore would not involve the use of machinery at the site. He advised that

the site was chosen as the potential buyer was already involved in business in the Grantown on Spey and Aviemore areas.

44. Andrew Thin thanked Fergus Laing.
45. Basil Dunlop spoke in favour of approving the application as it would have little visual impact on the area as the site is concealed, and already has an access road and services. He felt the proposed dwelling would round off the existing developments in the locality. BD proposed an Amendment to approve the application subject to satisfactory percolation tests.
46. Stuart Black also spoke in favour of the application. He felt that it would not set a precedent to approve the application as there was a history of sporadic development in the area. He believed each application should be taken on its merits and that a family moving in to the area would be of economic benefit. He agreed the site was well screened and that it would fit the housing pattern of the area.
47. Richard Stroud advised the Committee that it would set a very difficult precedent should the application be approved and that the recommendation in the report was firmly based upon policy. He also advised that there were many other well screened sites within the Park which could possibly use the same arguments to gain planning permission should the Committee approve the application.
48. Bruce Luffman endorsed the planners recommendation and advised that the Committee must stand by policy. He stated that it was contrary to the Structure Plan and that Highland Council planners had also recommended refusal of the application.
49. Don McKee advised the Committee that the Local Plan policies contained specific guidance on development that might be approved as an exception to policy and that the application had not addressed any land management purpose for the proposed dwelling.
50. Joyce Simpson queried the validity of the current Highland Council Local Plan and felt that the dwelling would round off housing in the locality as well as bringing economic benefits to the area. JS felt that the Committee should go against the recommendation in the report.
51. Don McKee advised that the presented paper contained a reasoned recommendation and was surprised that Board Members were considering departing from adopted policy without justification or exceptional circumstances. DM stated that the Committee should adhere to prevailing policies in the current Highland Council Local Plan and address any issues of principle with which they disagreed in the forthcoming CNPA Local Plan.
52. In the light of what had been said and the general feeling of the Committee, Basil Dunlop decided reluctantly to withdraw his earlier amendment to approve the application, but did raise concerns about the process.
53. Andrew Thin advised the Committee that any tabled Motions or Amendments must have sound policy related reasons to make them justified in planning terms.
54. The Committee agreed to refuse the application for the reasons stated in the report.

**REPORT ON CALLED-IN PLANNING APPLICATION FOR THE ERECTION OF  
ERECTION OF DWELLINGHOUSE AND PRODUCE GROWING HOUSE AT LOT  
8, DRUMUILLIE, BOAT OF GARTEN  
(PAPER 2)**

55. David Green declared an interest and left the room.
56. The Committee noted that Andrew Thin was a Board Member of the Crofters Commission but had no knowledge of the comments submitted to the CNPA on the application.
57. Neil Stewart presented a paper recommending that the Committee approve the application subject to a Section 75 Agreement (S75) and the conditions stated in the report, plus an additional condition that drawings indicating site sections should be submitted prior to work commencing to ensure that the dwelling fit in with the existing contours of the site.
58. Bruce Luffman welcomed the application but felt that the business plan submitted was more of a proposal. He suggested two amendments to the conditions of approval - under condition 2 remove 'unless otherwise agreed in writing...' and that the landscaping plan in condition 4 be brought forward.
59. Stuart Black queried at what level a house is required to sustain a business. He also raised concern that growing houses can look unsightly if left to fall into disrepair should the business prove to be non-viable.
60. Richard Stroud queried if the S75 could specify a work time requirement that the applicant should carry out weekly to show a level of commitment to the business. He also asked if protection measures could be put in place for mature trees on site during construction and that a condition be included requiring continued maintenance for the growing houses. Don McKee responded that he did not feel it would be competent to specify the time an individual should spend on an activity on a croft.
61. Alastair MacLennan questioned if a landscaping and/or screening condition be included for the growing houses.
62. Sandy Park felt that condition 2 could be strengthened due to the fact that the applicant could erect the dwelling and then remove the growing houses and therefore the justification for the dwelling.
63. Richard Stroud proposed deferring the application for further examination of the business plan, and the level of time required to operate the business including the justification of the dwelling.
64. Eric Baird expressed reluctance to examine the business plan further as these issues had been addressed by the Crofters Commission who supported the application.
65. Duncan Bryden raised concern that the applicant worked for the Crofters Commission and therefore had a conflict of interests. Don McKee responded that an independent check could be carried out by the SAC if required.
66. Neil Stewart responded that all of the adjustments the Committee suggested to the conditions were reasonable and could be included.
67. Bruce Luffman proposed a Motion to defer the application to allow for a more detailed business plan to be submitted and for the conditions to include the amendments previously mentioned by the Committee. This was seconded by Marcus Humphrey.
68. Joyce Simpson proposed an Amendment to approve the application subject to a S75 agreement, the conditions stated in the report plus the additional amendments to the conditions previously mentioned by the Committee. This was seconded by Willie McKenna.

69. The vote was as follows:

NAME	MOTION (Defer)	AMENDMENT (Approve)	ABSTAIN
Eric Baird		√	
Duncan Bryden		√	
Stuart Black	√		
Basil Dunlop		√	
Douglas Glass		√	
Marcus Humphrey	√		
Bruce Luffman	√		
Willie McKenna		√	
Eleanor Mackintosh	√		
Anne McLean	√		
Alastair MacLennan		√	
Sandy Park		√	
Gregor Rimell		√	
David Selfridge		√	
Joyce Simpson		√	
Sheena Slimon	√		
Richard Stroud	√		
Andrew Thin		√	
Bob Wilson		√	
<b>TOTAL</b>	<b>7</b>	<b>12</b>	<b>0</b>

70. The Committee agreed to approve the application subject to a S75 Agreement, the conditions stated in the report plus additional conditions to include the requirement of site sections being taken to ensure the house fits in with the existing contours of the site, the strengthening of condition 2 and the removal of ‘unless otherwise agreed in writing...’, the landscaping being brought forward in condition 4, tree protection measures being put in place during construction of the dwelling, the requirement for continued maintenance of the growing houses and a condition for the landscaping/screening of the growing houses.

### ANY OTHER BUSINESS

71. Sandy Park raised the issue of third party rights of appeal and that he would be meeting with an MSP in the near future to discuss the matter. He asked that the Board Members make people aware to the subject of third party rights of appeal.
72. David Selfridge questioned that the planning officials were being asked during Committee to determine what was competent under planning terms. He stated that at Angus Council a Solicitor was present at all Committees to be asked these type of questions.
73. David Green asked if the Committee could revisit the Call-in process and perhaps look at the possibility of forming a sub-Committee to decide which applications would be called-in.
74. Andrew Thin advised the Committee that the previous two points would be picked up under the review of Standing Orders in the New Year.

75. Joyce Simpson asked if it would be possible for the Board members to receive training on crofting law.

**DATE OF NEXT MEETING**

76. Friday 17<sup>th</sup> December, Grantown on Spey.

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

78. The meeting concluded at 13.00hrs.