

**CAIRNGORMS NATIONAL PARK AUTHORITY**

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**MINUTES OF THE PLANNING COMMITTEE**

held at The Albert Hall, Ballater  
on 6<sup>th</sup> January 2012 at 10.30am

**PRESENT**

Peter Argyle	Eleanor Mackintosh
Duncan Bryden	Willie McKenna
Angela Douglas	Martin Price
Jaci Douglas (Arrived Late)	Gordon Riddler
Katrina Farquhar	Gregor Rimell
David Green	Brian Wood
Marcus Humphrey	Allan Wright
Gregor Hutcheon	

**In Attendance:**

Don McKee	Andrew Tait
Mary Grier	Pip Mackie
Robert Grant	Alison Lax

**Apologies:**

Dave Fallows	Ian Mackintosh
Kate Howie	Mary McCafferty

**Agenda Items 1 & 2:**

**Welcome and Apologies**

1. The Convenor welcomed all present and advised that Jaci Douglas would be arriving late at the meeting.
2. Apologies were received from the above Members.

## APPROVED COMMITTEE MINUTES

### **Agenda Item 3:**

#### **Minutes & Matters Arising from the Previous Meeting**

3. The minutes of the previous meeting, 9<sup>th</sup> December 2011, held at The Community Hall, Boat of Garten were approved.
4. Duncan Bryden advised Members that the session on Natura legislation (in discussion with SNH) would be incorporated in to the Members training programme for 2012.
5. The Convener provided an update on the Action Points from the previous meeting:
  - Action Point at Para. 5: Officers were in discussion with SNH and will bring forward during the year.
  - Action Point at Para. 61: Planning Officers to further investigate by ascertaining methods other Planning Authorities use to screen sites. The information would be presented to Members once received.

### **Agenda Item 4:**

#### **Declaration of Interest by Members on Any Items Appearing on the Agenda**

6. Duncan Bryden advised, for information only, that the Applicant for Planning Application No. 2011/0415/ADV was the CNPA.
7. Gregor Rimell declared a direct interest in Planning Application No. 2011/0418/DET on the Call In Report, due to being a Highland Councillor.

### **Agenda Item 5:**

#### **Planning Application Call-In Decisions**

**(Oral Presentation, prepared by Robert Grant, Planning Officer)**

8. 2011/0414/DET - No Call-in
9. 2011/0415/ADV - No Call-in

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10. 2011/0416/DET - Creation Of All-Abilities Footpaths, Pond And Associated Works To Woodland Area  
At Village Hall, Nethy Bridge PH25 3DA

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

- This proposal relates to the formation of new sections of woodland paths, a pond and various other works within Nethy Bridge. It is considered that the proposal raises some issues in relation to promoting the enjoyment of the area, natural heritage and the social and economic development of the area.

11. 2011/0417/DET - No Call-in

12. 2011/0418/DET - Construction of New Storage/Office Buildings and Associated Site Access, Drainage and Landscaping Works  
At Highland Folk Museum, Aultlarie Croft, Kingussie Road,  
Newtonmore PH20 1AY

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

- The proposal represents a sizeable development within an area allocated for economic development purposes associated with the folk museum but outwith the settlement boundary. It is considered to raise issues of general significance with regard to the socio-economic growth of the area, landscape and visual impact.

### **Commenting on Applications Not Called-In by the Committee**

13. The planning officers noted Members' comments and were delegated with the responsibility of whether or not to submit the comments to the Local Authorities. The following comments were passed on to the Local Authorities.

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14. 2011/0414/DET - Erection of a new garage with storage area at first floor level  
At Glenifer, 3 Craig Na Gower Avenue, Aviemore PH22 1RW

- The CNPA would ask that Highland Council assure themselves that the size, scale and massing of the proposed garage is appropriate for the curtilage of the property and that of the immediate area. In addition we would ask that a condition is attached in the event of permission being granted ensuring it is ancillary to the dwellinghouse.

15. 2011/0415/ADV - Display of advertisements: 8 Wooden directional path signs  
At Curr Wood & Skye Of Curr Woodland, Dulnain Bridge

- Members requested clarification why the CNPA was the Applicant and if this had implications for the maintenance and management of the signage. Robert Grant responded that the ownership and maintenance wasn't strictly a planning matter. Nonetheless, the CNPA were the Applicant, not COAT, due to the size of the project. Concerns expressed regarding the CNPA being the Applicant would be passed on.

### **Agenda Item 6:**

#### **Report on Called-In Planning Application for Improvement & Alterations to Existing Footpath/Roadway**

**At Land 40m SW of Laurel Bank, Grampian Road, Aviemore  
(Paper 1) (2011/0324/DET)**

16. Andrew Tait presented a paper recommending that the Committee approve the application subject to the conditions stated in the report. Andrew Tait advised that although the Applicant was not officially required to remove the fence until works had started in the resort, the Agent had intimated that should permission be granted, they would seek to remove the fence as soon as possible.

17. The Committee discussed the application and the following point was raised:

- a) The huge amount of time and resources spent on this issue by both the Applicant and the CNPA.

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

19. **Action Points arising:** None.

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### **Agenda Item 7:**

#### **Report on Called-In Planning Application for Erection of Temporary Anemometer Mast**

**At Land 1400m SW of Belbec, Dirdhu, Grantown-On-Spey  
(Paper 2) (2011/0317/DET)**

20. The Convener informed Members that a request to answer questions had been received, within the given timescale, from:
  - Applicant – Sandy McCook, Nethy Bridge Community Development Company
21. The Committee agreed to the request.
  
22. Andrew Tait presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
23. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
  - a) The missing attachment of the Zone of Theoretical Visibility (ZTV) map referred to in the Appendix. Andrew Tait advised that the ZTV was with regard to wind turbines not anemometer masts and the map would be included as part of an Advice Note for the Applicant.
  
24. The Committee were invited to ask questions of the speaker. No questions were asked.
  
25. The Committee agreed to approve the application subject to the conditions stated in the report.
  
26. **Action Points arising:** None.

### **Agenda Item 8:**

#### **Report on Called-In Planning Application for Convert Existing Garage to Form Games Room with WC; Change of Use of Open Space at North & East to Residential Garden Area**

**At 4 Old Meall Road, High Burnside, Aviemore  
(Paper 3) (2011/0350/DET)**

27. Mary Grier presented a paper recommending that the Committee refuse the application for the reasons stated in the report.
  
28. Jaci Douglas arrived at the meeting.

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29. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) The existing doors on the garage and the possibility of these being changed to garage doors. Mary Grier responded that the permitted design was for a garage with doors as seen on neighbouring properties. There had been a degree of acceptance by the CNPA of the existing doors at the garage as it is temporarily in use as the show house and the garage as the sales office. However, it was understood that the property had recently been sold and would cease to be used as the show house. At this point it would be appropriate to investigate the changing of the garage doors.
  - b) Strengthening the reasons for Refusal by having a separate Condition regarding the contravention to the National Park Plan. Mary Grier advised that this could be done.
  - c) The danger in this proposal further suburbanising a woodland setting and having a detrimental impact on the view from the A9.
  - d) Clarification of the application covering 2 separate planning issues, the conversion to the games room and the change of use of the woodland. Mary Grier advised it was the Applicants choice to submit both proposals on one application as they were both within the curtilage of the property.
  - e) Concern about the statement that 'the proposal may set a precedent', given that each application is meant to be judged on its own merits. Mary Grier responded that all applications would be judged on their own merits, but given that there were a number of houses within the development with the same features / layout, the application could set a precedent which could diminish the overall design concept of the development.
  - f) Concern about woodland becoming annexed.
  - g) Instances of existing garages being used as a Games Room, with garage doors in place. Mary Grier advised that what owners used individual rooms for was not a planning issue.
  - h) Concern was expressed that garages in the development may be used a granny annexes.

30. The Committee agreed to refuse the application for the reasons stated in the report as amended in Para. 29 below.

### 31. **Action Points arising:**

- Amendment to Reason 2 – to refer only to the contravention to the CNP Local Plan
- An Additional Reason – referring to the proposed development being contrary to the CNP Park Plan.

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## **Agenda Item 9:**

### **Update Report on Delegation of Authority to Refuse Applications Due to Lack of Information**

#### **(Paper 4)**

32. Don McKee presented an update report on the Delegation of Authority to Refuse Applications Due to Lack of Information.
33. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
  - a) Should full plans / information not be required at the validation stage of the application. Don McKee advised that the CNPA were working with the Local Authorities on this issue. However, although there was a strong steer, there were no prescribed criteria from the Scottish Government as what comprised full information.
  - b) Local Authorities were starting to address the issue of lack of information, as an incomplete application delayed all parties involved.
  - c) The style of language used when writing to Applicants / Agents, so that they receive a clear steer on the information required to progress the application. Don McKee advised that the CNPA were currently looking at the use of language in all correspondence with the public and this issue would be addressed.
  - d) The timescale set for determining applications by the Scottish Government and the fact that various required surveys may take longer than this set period. Don McKee advised that the CNPA encouraged face to face discussion with Applicants and they would be pointed in the right direction of the appropriate guidance. Don McKee highlighted the importance of Applicants having pre-application discussion with both the Local Authority and CNPA.
  - e) Concern that refusing an application due to lack of information may mean that the Applicant appeals on the grounds of non determination. Don McKee advised an appeal in these circumstances was unlikely to succeed as there would be insufficient information for the application to be properly assessed.
  - f) Clarification of whether an Applicant would hold pre application talks with the Local Authority or the CNPA. Don McKee advised that in the first instance Applicants would be directed to the Local Authority and then (if required) the Local Authority would involve the CNPA Planning Staff.
  - g) Concern about Consultees responding outwith the required timescale. Don McKee advised that this highlighted the need for pre application discussion. If environmental issues this should be raised and addressed at the pre application stage, in conjunction with Consultees.

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34. The Committee accepted the report and agreed that Members delegate authority to the Head Planner to refuse applications where the applicant has not provided all requested information within one month of the date of the request for that information or such other date as may be agreed in writing.

35. **Action Points arising:** None.

### **Agenda Item 10:**

#### **Update Report on Planning in the Current Economic Climate (Paper 5)**

36. Don McKee presented an update report on Planning in the Current Economic Climate.

37. The Committee discussed recommendation A, the following points were raised:

- a) The need to communicate positively with the public via the developer's forum and planning surgeries.
- b) The need for Applicants to be aware of the need for good design of developments.
- c) The possibility of providing positive case studies on the website of developments which have been through the CNPA planning process. Don McKee advised that work was currently being done through the CNPA Communications Team to be more proactive regarding planning.
- d) The need for the CNPA to be visible and seen as approachable, by holding events in the community, even if only a few people attend.
- e) The need for the CNPA planning statistics to be publicised more widely and published on the website.
- f) The low number of housing applications subject to a Section 75 Legal Agreement (S75) compared to the overall approved housing applications.
- g) Care required with statistics as figures can be interpreted in many different ways.
- h) Clarification required that the statistics cover all housing in the CNP both in rural areas and settlements.
- i) The need for a simple explanation of the CNPA planning service to be included on the website, in order to demystify the process.
- j) Planning having a very minor contribution to the current economic crisis, other factors such as access to funds having a more important role.

38. The Committee discussed recommendation B, the following points were raised:

- a) If the CNPA planned to respond to the letter. Don McKee advised that the CNPA were not obliged to respond but it would be advisable to do so.

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- b) Section 75 Legal Agreements being predominantly used for farmers and crofters.  
Don McKee responded that the policy was worded to give considerable scope to workers involved in all aspects of rural activities, not just farmers and crofters. Don McKee stated that the CNPA had not turned other rural workers away, but that no one had yet come forward with a proposal of this type.
- c) Concern that a considerable amount of time had been spent publicly consulting on and subsequently adopting both the CNP Local Plan and the National Park Plan.  
However, being presented was a letter from the Scottish Government which had no consultation and was to be treated as a planning material consideration.
- d) Section 75's being seen as a positive tool, as they allowed planning permission to be granted where normally it would have been refused.
- e) Concern that S75's are seen as onerous by financial lenders and that the cascade mechanism has gone some way to address this.
- f) The need for a consistent approach to S75's to be applied by Local Authorities throughout Scotland. Duncan Bryden advised that the letter from the Scottish Government had been sent to all Heads of Planning in Scotland.
- g) Clarification that other Planning Authorities have used S75's to approve housing for plumbers / roofers whose work relies on a rural location.
- h) More work required with mortgage lenders at a national level and be led by the Scottish Government.
- i) Concern that an application could be approved subject to S75, then appealed and the Reporters Unit uphold the appeal based upon this letter from the Scottish Government.
- j) The need for a response to be sent stating that there appears to be a failure to understand when S75's have a positive role in granting applications.
- k) The need for section 42 to be phrased in more positive language.
- l) The need for positive communication and key facts on this issue.
- m) Querying if any S75's have been appealed and upheld.
- n) Querying instances where a S75 has been used and then the Applicants circumstances have changed.
- o) The letter referring to Green Belts but not other sensitive rural areas or National Parks. Don McKee advised that this issue had been picked up by colleagues in other Local Authorities. However, the reference to green belts was in a sentence that could be interpreted as applying to all sensitive rural areas and as a National Park the CNPA would require a more restrictive approach.
- p) An alternative to not using S75's would be to be more restrictive and to refuse more planning applications.

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q) Clarification of the weighting of the letter as a material consideration. Don McKee responded that the letter was written on behalf of the Scottish Government and therefore was material. The Reporters Unit had previously confirmed that they would be treating the letter as material and considering it in the assessment of appeals. However, they had not specified how much weight would be attributed to the letter and it would eventually be tested on appeal. Don McKee stated that colleagues in other Planning Authorities had taken a similar view to that of the CNPA, that the letter could be seen as an edict without consultation and not a satisfactory way to make planning policy.

39. Duncan Bryden advised that the response letter be drafted by Don McKee and then circulated to all Members for feedback. The final version would then be signed off by the Convener and Vice Convener of the Planning Committee.

40. The Committee accepted the report and Members noted the important role of the CNPA Planning Service in the current economic climate. Members also noted the letter from the Scottish Government Chief Planner and confirmed that the current use of occupancy restrictions in certain specific situations within the National Park is necessary, proportionate and in accordance with Scottish Planning and Local Plan policy and the terms of the Chief Planner's letter.

41. **Action Points arising:** Don McKee to draft a response letter to the Scottish Government and circulate to all Members for feedback before being sent by the Convener and Vice Convener.

### **Agenda Item 11:**

#### **Update Report on Cairngorms National Park Design Awards**

##### **(Paper 6)**

42. Alison Lax presented an update report on the Cairngorms National Park Design Awards and recommended that:

- a) Agree the proposals for the Cairngorms National Park Design Awards to be launched in March 2012.
- b) Note progress on the Aviemore Design Framework and future programme of work involving the Task and Finish Group.
- c) Note links between the new Developers forum and the work set out in the current Planning Service Improvement Plan on engagement with the development sector on design issues.

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- d) Note progress on the development of an energy savings initiative as identified in the Planning Service Improvement Plan.
43. The Committee discussed Part A of the report and the following points were raised:
- a) Glad to see the Design Awards coming forward.
  - b) A fifth award category to be added for craftsmanship and quality of work.
  - c) A strong urge not to have an overall winner, but have highly commended and commended awards then more than one can be awarded.
  - d) The judging panel being too large, would recommend 4/5 people maximum and a panel of advisors.
  - e) The timetable being ambitious regarding the length of time allowed for the judging of the entries. May be advisable to consult Aberdeenshire Council with regard to the timetable that they have for their Design Awards.
  - f) Need to make it clear to the public that there are limited costs involved in holding the Design Awards and that there is no prize money.
  - g) Need to emphasize to the public that applications can be refused due to design and therefore design is an integral part of a planning application.
  - h) A sixth award category to be added, a People's Award, to be voted for by residents and visitors to the CNP.
  - i) The need for a local community member to be involved in the judging, as it's difficult to properly assess an entry if you are not familiar with the local area.
  - j) The possibility in the future of winners becoming a mentor for other projects and giving talks in communities regarding good design.
  - k) The need for the design training for Members to be progressed.
  - l) The Awards being an opportunity to work with a media partner, involve local papers, possibly with the shortlist for the People's Award and get a positive message out into the public arena.
  - m) The potential for the public to be engaged in the Awards through Flickr and Facebook.
  - n) The Awards being a chance to encourage innovation.
  - o) The possibility of involving a sponsor.
  - p) Look at links with Loch Lomond & The Trossachs National Park and potentially have an overall National Park Design Awards.
  - q) Clarification of how often the Awards would be held. Alison Lax stated that it was currently thought that they would be held every 2 / 3 years. Don McKee advised that given the level of development in the CNP it would be impractical to hold the Awards annually. It was envisaged that the first Awards would be held and then an assessment taken afterwards.
  - r) The level of staff time also need to be factored in to the frequency of holding the Awards.
  - s) Disappointment that more Board Members were not to be included on the judging panel. The need for the Convener / Vice Convener to be included on the panel.

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- t) Clarification of the form that the Award would take – monetary or public recognition.
  - u) Innovation to be a more prominent feature of the Awards and examples made available through the website.
  - v) If the Awards were to be competitive, with only 1 winner, or criterion based, with clear demanding criteria and a completed building an Award would be granted.
  - w) The need to specify the timescale for when buildings would qualify for inclusion in the Awards. A criterion based system would not require a timescale as if the building met the standards an Awards could be given.
  - x) The possibility of setting up the Awards for 2013 to celebrate 10 years of the CNP being in existence.
  - y) The potential for some recognition of the Award at the location of the development e.g. a sign.
  - z) The need for energy efficiency to be included in the environmental credentials.
  - aa) Welcoming the creativity element of the Awards.
  - bb) A suggestion that the Awards are held biannually and this be announced at the outset of the Awards. Any development completed within the 2 year period could go forward to the next set of Awards.
  - cc) Advising caution against involving a sponsor, the Awards should be the CNPA doing something for the CNP.
  - dd) The possibility of a framed certificate given to the Architect as the prize.
  - ee) The need for a printed publication to accompany and support the Awards.
  - ff) Care that the Awards are not just for wealthy developers or Architects. An example was given of the Aberdeenshire Council Design Awards, where a small community gazebo had been commended.
  - gg) Concern that if the standard for a criterion based system was not very high, Awards could be seen everywhere. Clarification was given that for a development to be awarded Highly commended it would have to be exceptional.
  - hh) The level of entries expected.
44. The Committee agreed part A of the report with a number of issues to be addressed - The form the Award would take, timescale for the Awards, the make up of the judging panel, additional category – Craftsmanship, additional category – People's Award, Discussion to be held with LLTNPA, frequency of the Awards.

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45. Alison Lax turned to other design related matters within the report and recommended that:
- b) Note progress on the Aviemore Design Framework and future programme of work involving the Task and Finish Group.
  - c) Note links between the new Developers forum and the work set out in the current Planning Service Improvement Plan on engagement with the development sector on design issues.
  - d) Note progress on the development of an energy savings initiative as identified in the Planning Service Improvement Plan.
46. The Committee noted parts B, C & D of the report
47. Members were advised that training on design issues had been scheduled for 27 April 2012. It would be an opportunity for an open and frank discussion on design issues and if Members had any specific requests for inclusion in the training to let Alison Lax know as soon as possible.
48. **Action Points arising: Part A** - The following points to be clarified:
- The form the Award would take
  - The timescale for the Awards
  - The make up of the judging panel
  - Additional category – Craftsmanship
  - Additional category – People's Award
  - Discussion to be held with LLTNPA
  - Frequency of the Awards
- Design Training** – Members to inform Alison Lax of any specific requests for inclusion.

### **Agenda Item 12:**

#### **Election of Planning Committee Vice-Convenor**

49. Duncan Bryden advised that the position of Planning Committee Vice Convenor was due for election. He requested nominations.
50. Marcus Humphrey proposed Peter Argyle. This was seconded by Gordon Riddler.
51. There being no other nominations, Peter Argyle was elected as Planning Committee Vice Convenor.
52. The possibility of extending the term of the Vice Convenor, as reference in paragraph 3 of the paper.
53. Jane Hope advised that this could be done but it would require a change to Standing Orders.

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54. Duncan Bryden advised that given the small amount of time that the election took, it was best to leave the position for a term of one year.

### **Agenda Item 13**

#### **Any Other Business**

55. Don McKee advised Members that it had been envisaged that the Tesco, Aviemore application would be determined at the Planning Committee on 3 February 2012. However, due to lack of further information being submitted from the Applicant it was now anticipated that it would be determined at the 2 March 2012 meeting.

56. Duncan Bryden informed Members that the Highland Council had been presented with the application for the Allt Duine Wind Farm, which was due to be determined by Scottish Ministers. The Highland Council Planning Officer had recommended no objection but the decision had been deferred for a site visit. Duncan Bryden advised that CNPA Officers had submitted comments objecting to the application.

57. Duncan Bryden advised that at the same Highland Council meeting, an application for Moy Wind Farm had been refused. The Applicant had previously appealed the application on grounds of non determination. However, Highland Council had proceeded to carry on and determine the application and have submitted the refusal to the Reporters Unit. A decision would be expected in due course from the Reporters Unit. Duncan Bryden advised that the CNPA had not made any comments on the application.

58. Duncan Bryden informed members that the Reporters Unit had made a decision on the Dorenell Wind Farm application. The Reporters Unit had over ruled various objections and recommended approval of the application to Scottish Ministers. A letter from the Scottish Ministers was received in between Christmas and New Year confirming the approval of the application.

59. Don McKee advised Members that the CNP Local Plan challenge was due to start on 9 January 2012 at the Court of Session, Edinburgh. The Objectors, the CNPA and other interested parties would all present their cases. The Judge would consider all the information and report a decision in a few months time.

60. Jane Hope informed the Committee that fellow Board Member, Mary McCafferty, was currently in hospital. Duncan Bryden stated that all Members wished Mary McCafferty all the best for a swift recovery.

61. **Action Points arising:** None.

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## **Agenda Item 14**

### **Date of Next Meeting**

62. Friday 3 February 2012 at The Community Hall, Boat of Garten.
63. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.
64. The public business of the meeting concluded at 1.10pm.