
CAIRNGORMS NATIONAL PARK AUTHORITY

FOR DECISION

Title: Approval to proceed to the next stage in the preparation of the Local development Plan – submission of outstanding objections and CNPA response to those to Scottish Ministers

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Purpose

This Report sets out the representations received to the publication of the Proposed Cairngorms Local Development Plan and the proposed responses to those which remain as unresolved representations. The report recommends that the Committee proceeds to the next stage without further formal modification and consultation. It recommends that the Proposed Plan the summary of issues (Schedule 4s) raised by the unresolved representations, and the CNPA response to these by submitted to the Scottish Ministers for their formal consideration.

The Schedule 4 documents appended to this report set out the issues raised in the unresolved representations and the response by the Authority. They include points which the Authority wish to see retained in the finalised Plan and points where the Authority would support a modification should Scottish Ministers see fit.

The report also recommends approval of revisions to the environmental Reports including the Habitats Regulation Appraisal Record, the Proposed Action Programme, Statement of Conformity with the Participation Statement and Minor Drafting Matters.

Recommendations

That the Planning Committee, having taken account of the representations received in respect of the Proposed Cairngorms Local Development Plan, together with the matters arising out of statutory consultation and any minor drafting and technical matters:

- approves the content of the Schedule 4 documents;
- agrees to retain the underlying aims and strategy of the Proposed Cairngorms Local Development Plan ;
- approves the proposed minor drafting and technical matters to the Proposed Cairngorms Local Development Plan;
- approves the Statement of Conformity with the Participation Statement for submission to Scottish Ministers;

- approves the updated information in respect of the Habitats Regulations Appraisal Record for submission to Scottish Ministers;
 - approves the revised Action Programme for submission to Scottish Ministers;
 - approves that all such information is submitted to Scottish Ministers, together with the Statement of Conformity, Schedule 4 documents, Environmental Report, Habitats Regulations, Appraisal Record, the Monitoring Report, Action Programme and other required documents.
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APPROVAL TO PROCEED TO THE NEXT STAGE IN THE PREPARATION OF THE LOCAL DEVELOPMENT PLAN – SUBMISSION OF OUTSTANDING OBJECTIONS AND CNPA RESPONSE TO THOSE TO SCOTTISH MINISTERS

1. Background

- 1.1 The Scottish Government has introduced a programme of modernisation affecting the planning system in Scotland. As part of this, a new system for development planning has been introduced. Planning Authorities are required to prepare a Local Development Plan as soon as practicable.
- 1.2 This involves a number of formal stages, which have included the preparation and consultation on a Main Issues Report (summer 2011) and preparation and consultation on a Proposed Local Development Plan (April - July 2013). Further to that formal consultation, an informal stage was included to allow consideration of detailed settlement maps. The consultation on this was carried out during the summer of 2012, closing on 28th September 2012. The results of these stages of consultation have been used to inform the preparation of the Proposed Local Development Plan.
- 1.3 Further details of the publicity and general public awareness measures are contained in the Statement of Conformity with the Participation Statement. The Authority is required to demonstrate how it has carried out the publicity and participation, as set out in the Statement, and submit it to the Scottish Ministers along with the Proposed Plan.

2. Legislative requirements

- 2.1 The Cairngorms National Park Authority was established in September 2003. The Designation Order for the Park (S.S.I. 2003/1) conferred the duty to prepare Local Plans under the Town and Country Planning (Scotland) Act 1997 to the Park Authority. This duty was continued and updated through the Planning etc. (Scotland) Act 2006 to prepare a Local Development Plan as soon as practicable after the coming into force of section 2 of the 2006 Act.
- 2.2 We must therefore prepare at least one Local Development Plan to cover the whole of the Park, including the part of Perth and Kinross introduced into the Park, under modification to this Designation Order in 2010, since the adoption of the current Local Plan. On completion of the Local Development Plan there

will then be one plan covering the whole of the Park which provides the policy framework to be used by the five local authorities and by CNPA in determining planning applications.

3. The role of the Local Development Plan

- 3.1 The Local Development Plan is a key tool in delivery the National Park Partnership Plan, setting the growth strategy for the National Park for the next 5 years, and beyond. It articulates the National Park Partnership Plan's long term vision and strategy in a way which sets out opportunities for investment and growth during the Plan period and creates a spatial and policy framework to guide the right type of development to happen in appropriate places. The Local Development Plan sits alongside five other strategies that set out in detail how the National Park is managed, including the Sustainable Tourism Strategy and Cairngorms Nature. An Economic Development and Diversification Strategy are currently being prepared for the Park through the Cairngorms Economic Forum which will promote investment in priority areas.

4. Results of consultation on the proposed Local Development Plan

- 4.1 Members will recall that the Authority published the Proposed LDP and consulted on its content from April to July 2013. This version of the plan set out the Authority's settled view as to what the final adopted plan should be. This approach is in line with the new way of drawing up Development Plans promoted across Scotland which has significantly 'front loaded' the process and minimised the potential for changes at later stages. We explained this new way of working to stakeholders throughout the process. A total of 142 individuals (including developers, land owners, interest groups, members of the public) made representations to the Proposed Cairngorms Local Development Plan 2012. This produced in excess of 350 comments to various parts of the Proposed Plan.
- 4.2 Having received representations the Authority has two options to progress the Plan towards adoption:
- 1) Where there are unresolved representations, but the Authority decides to make no notifiable modifications, they are to publish the Local Development Plan and submit it to Scottish Ministers.
 - 2) Where the authority decides to make notifiable modifications, they are to publish the modified Plan and specify a date (at least 6 weeks ahead) by which time further representations may be made. The authority may then further modify the plan or submit it to Ministers. (Notifiable modifications are modifications which (a) remove or significantly alter any policies or any proposals set out in the proposed local development plan; or (b) introduce new policies or proposals into the Proposed Local Development Plan)
- 4.3 Where the authority decides to make modifications that change the underlying aims or strategy of the proposed Plan, they are required to prepare and publish a new proposed LDP.

- 4.4 As set out above, the Proposed LDP set out the CNPA settled view as to what the final adopted plan should contain. Scottish Government is keen that authorities move as swiftly through the process as possible. To achieve this, they encourage authorities to only publish modifications to their plan if the representations received at this stage indicate the need for a significant change in direction. Possible changes which provide additional information, amplification and minor changes to text are to be set out within the information to be considered by the Reporters and passed directly to them rather than publish modifications to the plan (option 2 above). A summary of these changes is set out in Appendix 6 to this report. The appointed Reporters will then review the objection, the Authority's response to that and decide what if any modifications are required.
- 4.5 Having reviewed the representations received and set out our response to these it is not considered necessary to make significant changes to the Plan which would require the preparation and publication of a new proposed LDP (3.3 above). It is therefore recommended that the Authority proceeds with option 1 and does not seek to make any notifiable modifications to the Proposed Cairngorms Local Development Plan.

5. Unresolved issues and responses

- 5.1 The issues raised in the representations and the Authority's proposed response are covered in detail within the Schedule 4s (Appendix b).
- 5.2 It should be noted that, where representations indicated support, or made only a comment on an issue, then these are not defined as unresolved issues and are not referred to in a Schedule 4.
- 5.3 It should be noted that representations have been received to all parts of the Plan.

6. Submission to Scottish Ministers

- 6.1 The Authority must set out, under each topic, its response and reasons to the representations received. It is this statement which will form the basis of the work carried out by the Department of Planning and Environmental Appeals on behalf of Scottish Ministers.
- 6.2 The submission of the Proposed Plan under alternative 1 (para 4.2) to Scottish Ministers will then be followed by the Proposed Plan being passed to the Directorate for Planning and Environmental Appeals (DPEA) to hold an Examination into the unresolved issues.
- 6.3 The Authority is required to submit to the DPEA the following:
The Proposed Local Development Plan together with the associated environmental reports
- The unresolved representations submitted prior to the close of the period of representations.
 - The Authority's response to unresolved issues (Schedule 4s)
 - The Authority's Participation Statement and The Statement of Conformity

- The Proposed Action Programme
- Supporting evidence backing up either the representations or the Authority's responses.

6.4 In reviewing these, and following discussions with the DPEA, representations have been divided into 16 topic areas:

- General
- National Park Act Issues
- Housing Land Supply
- Policies – Housing
- Policies – Promoting Growth
- Policies – Protecting the environment
- Miscellaneous Policies
- Area Specific - An Camas Mor
- Area Specific - Aberdeenshire
- Area Specific - Badenoch and Strathspey North
- Area Specific Badenoch and Strathspey South
- Area Specific - Aviemore and vicinity
- Area Specific - Nethy Bridge and Carrbridge
- Area Specific – miscellaneous
- Communities Section (Introductory section)
- SEA and HRA

6.5 Each Schedule 4 provides:

- A list of those people and organisations who have submitted representations
- A summary of the relevant issues raised in representations
- The modifications sought by representees to the Proposed Plan
- The Authority's response to the representations including the reasons for not modifying the Plan.

7. ENVIRONMENTAL ASSESSMENTS

Strategic Environmental Assessment

7.1 The Proposed Plan has been subject to Strategic Environmental Assessment (SEA) throughout its development. EC Directive 2001/42/EC and the Environmental Assessment (Scotland) Act 2005 (preceded by the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004) require that development plans are assessed to identify potentially significant environmental effects. The SEA is a process that will continue throughout the further development and implementation of the Plan. The SEA of the Proposed Plan assesses the likely significant environmental effects of the plan. It identifies opportunities to strengthen the positive environmental effects of the plan and ensures environmental considerations are integrated

throughout. The SEA was subject to public consultation in parallel to the Proposed Cairngorms Local Development Plan. A total of three representations were received to the Environmental Report via the SEA Gateway.

- 7.2 The representations raise a number of general and specific points which will help inform the final environmental assessment of the Plan which will be required once Scottish Ministers submit their report and modifications to the Plan are required as a result.
- 7.3 In particular however, it is noted that the SEA did not include an assessment of the potential impact of proposal H1 in Killiecrankie on the Inventory battlefield found there. It should be noted that the Authority, under its assessment of development proposals at Killiecrankie (Schedule 15 Miscellaneous Settlements) is agreeing with the objector that this site at H1 Killiecrankie be removed from the Plan.
- 7.4 In considering the most appropriate time to produce an updated environmental report, it is recommended that we do this once Scottish Ministers have considered all the representations and made their recommendations. This can then take into account all changes recommended by Scottish Ministers. This revised environmental report will then need to consider the impact of the final suite of policies and allocations prior to the formal adoption of the Plan.

Habitat Regulations Appraisal

- 7.4 We must also carry out a Habitats Regulations Appraisal (HRA) under the terms of European Directive 92/43/EEC, transposed into law in Scotland by The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). This appraisal looks at the likely significant effects on Natura sites. The process of carrying out this appraisal is a process that will continue and will not come to a conclusion until the Plan is due to be adopted. The HRA prepared to inform the Proposed Cairngorms Local Development Plan was also subject of consultation and four representations were received to this.
- 7.5 General and specific representations have raised a number of points which must be addressed in a further comprehensive review of this HRA. This will be carried out once the Authority is in receipt of the recommendations of Scottish Ministers and will then take into account the modifications required as a result.
- 7.6 However, representations from Scottish Natural Heritage note that there were a number of factual errors in the original appraisal. As a result the Authority has prepared an update note for Scottish Ministers (Appendix d)). Discussions with Scottish Natural Heritage have confirmed the preparation of this additional information, with a clear commitment to revise the HRA at the time of plan modification is the most prudent way forward.

Equalities Impact Assessment

- 7.7 We also carry out an Equalities Impact Assessment which analysed the Plan and identified any discriminatory or negative effects of impacts it might have as a result of people's race, disability, sex, age, religion or beliefs, or sexuality. One representation was received to this, specifically in regard to the impact of the consultation on certain residents. An assessment of this representation has therefore been included in Schedule xxx which looks at the consultation process in general.

8. The Supplementary Guidance

- 8.1 A suite of Supplementary Guidance to form a formal part of the Local Development Plan was prepared at the same time as the proposed Local Plan. The representations to this do not form part of the information to be considered by Scottish Ministers. It is for the Authority to consider these representations and amend the supplementary guidance accordingly. It is intended that the results of the consultation on the supplementary guidance will come before committee in Spring 2014. Final amendments may be necessary once the Authority is in receipt of Scottish Ministers recommendations regarding the Local Development Plan. It is proposed to adopt both the Local Development Plan and its supporting Supplementary Guidance at the same time.
- 8.2 Members will recall the work to review the Core Paths Plan and embed it within formal Supplementary Guidance as part of the LDP. This work is carried out under Section 20 of the Land Reform (Scotland) Act 2003 which gives the CNPA the power to review the adopted Core Paths Plan at such times as they consider appropriate and on Ministers requiring them to do so. Updated information regarding this is provided in Paper 2 to be considered by this committee.

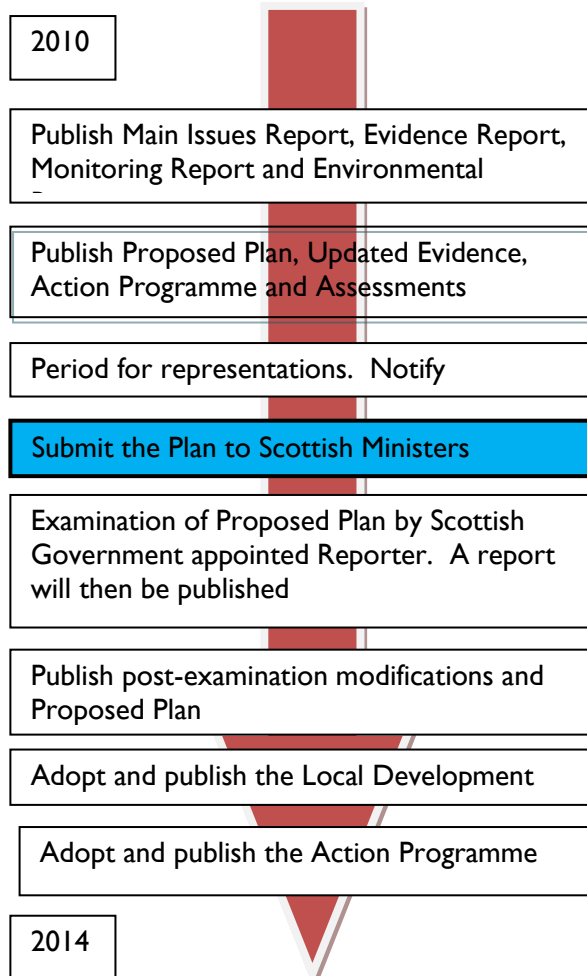
9. The Proposed Local Development Plan – as a material consideration

- 9.1 The proposed Local Development Plan set out the CNPA settled view on what the adopted Local Development Plan should contain. The Schedules appended to this report confirm this position, with statements set out of CNPA response to the outstanding objections for the consideration of Scottish Ministers during the examination of outstanding representations. As the work to prepare the Local Development Plan moves towards its final stages, it is important to consider how much, if any, of the Plan can now be used to influence the decision making process.
- 9.2 Should committee approve this report and its recommendations, a further report will be presented to set out those parts of the Plan which have not attracted outstanding representation, and a view can then be taken on how much materiality can be applied to them. The adopted Local Plan will however remain the key policy document in the decision making process. As applications come before planning committee any issues arising from this process and work to move the Local Development Plan towards adoption will be highlighted. Information regarding this will also be highlighted with the

constituent local authorities to inform the decisions made on those applications not called in by CNPA.

10. The next steps

- 10.1 A summary of the process to be followed in preparing a Local Development Plan is set out in Planning Circular 1/09: Development Planning.
- 10.2 If the recommendations in this paper are approved by Committee the formal requirements of submitting information to Scottish Ministers will now be followed. This work will be complete prior to Christmas. On satisfactory receipt of this information, Scottish Ministers will appoint a person/s to conduct a Development Plan examination. It is noteworthy that there is no provision for those who have made representations or for the Authority to submit any further material to the examination, unless required to do so by the appointed person. It is the intention of the process that the appointed person has the relevant information up-front to inform the examination of the Plan. Planning Circular 1/09 clarifies that the majority of issues are expected to be dealt with without any need for further information to be submitted, but where further evidence is requested, this will normally be in written form.
- 10.3 Subject to the Planning Committee agreeing the recommendations of this paper the next steps will be:
- Complete works to finalise the formatting of the Schedule 4 documents;
 - Prepare the necessary paperwork in support of the Schedule 4 documents;
 - Finalise the formatting of the Statement of Conformity with the Participation Statement report
 - Compile the necessary core documents which will support the statements made in the Schedule 4 documents.



11. Implications

Financial Implications

11.1 The examination process conducted by the Department of Planning and Environmental Appeals (DPEA) will be charged in full to the Authority. All costs associated with the submission of the Proposed Local Development Plan to the Scottish Ministers have been programmed in the operational budgets set by the Authority.

Presentational Implications

11.2 The development of the Proposed Local Development Plan is a complex process and is a key tool to achieve the vision of the Park as set out in the National Park Partnership Plan. It is important that we use the progress towards the adopted LDP to illustrate our continual improvement of the Planning Service, and that we are striving to make our documents and decisions as robust as possible.

Implications for Stakeholders

11.3 The completion of the consultation stages of work to prepare the Local Development Plan mark a significant stage in the process. Its continued development has implications for many of our partners in delivery and other stakeholders. There are implications for all developers as the proposed Local Development Plan makes clear there is a greater emphasis on them providing sufficient and accurate information, adapting to sites and designing sensitive schemes. Some of the requirements will have financial implications.

11.4 The emerging Local Development Plan also has implications for the Local Authorities in their development management work. As the Plan nears adoption CNPA staff must ensure all those involved in the Development Management process, both officials and councillors are aware of the changes in direction from the adopted Local Plan and interpretation of the Plan is done in a consistent manner across the Park.

12. Recommendations

That the Planning Committee, having taken account of the representations received in respect of the Proposed Cairngorms Local Development Plan, together with the matters arising out of statutory consultation and any minor drafting and technical matters:

- approves the content of the Schedule 4 documents;
- agrees to retain the underlying aims and strategy of the Proposed Cairngorms Local Development Plan ;

- approves the proposed minor drafting and technical matters to the Proposed Cairngorms Local Development Plan;
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12 November 2013

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Appendices

Appendix 1 - Statement of consultation

Appendix 2 - Schedule 4 templates

Appendix 3 – Updated Action Programme

Appendix 4 – Updated information regarding HRA

Appendix 5 – Summary table of non notifiable modifications (minor drafting matters)

Appendix 6 - Summary table of objections raised where CNPA will suggest to Scottish Ministers that a change to the Plan would be appropriate should they see fit.