

**CAIRNGORMS NATIONAL PARK AUTHORITY**

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**DRAFT MINUTES OF THE PLANNING COMMITTEE**

held at The Albert Memorial Hall, Ballater

on 7 December 2012

at 10.30am

**Members Present**

Peter Argyle

Duncan Bryden

Angela Douglas

Dave Fallows

Katrina Farquhar

Jeanette Gaul

David Green

Gregor Hutcheon

John Latham

Bill Lobban

Eleanor Mackintosh

Willie McKenna

Fiona Murdoch

Gordon Riddler

Brian Wood

**In Attendance:**

Don McKee, Head Planner

Mary Grier, Senior Planning Officer, Development Management

Andrew Tait, Senior Planning Officer, Development Management

Katherine Donnachie, Planning Officer, Development Management

Murray Ferguson, Sustainable Rural Development Director, Development Management

Hamish Trench, Strategic Land Use Director, Strategic Land Use

**Apologies:**

Kate Howie

Mary McCafferty

Martin Price

Gregor Rimell

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## **Agenda Items 1 & 2:**

### **Welcome & Apologies**

1. The Convenor, Eleanor Mackintosh, welcomed all present and thanked Duncan Bryden for his six years hard work as the outgoing Convenor of the Planning Committee
2. Apologies were received from the above Members.
3. Items number 15 and 16 were moved to the end of the agenda as they related to matters for the Committee in private. The Convenor advised that to have them earlier would have resulted in members of the public waiting in the lobby whilst they were discussed, which is not a suitable waiting area.

## **Agenda Item 3:**

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

4. The minutes of the previous meeting, 2012, held 9 November 2012 at Boat of Garten were approved.
5. There were no matters arising.
6. The Convenor provided an update on the Action Points from the previous meeting:
  - Action Point at Para. 25: Completed

## **Agenda Item 4:**

### **Outcome of Electronic Call-In**

7. The content of the Outcome of the Electronic Call-in held on 23 November 2012 was noted.

## **Agenda Item 5:**

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

8. Katrina Farquhar declared an interest in:
  - Item No. 7 (Paper 2) - Indirect interest as the applicants were customers of the shop

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9. Bill Lobban declared an interest in:
  - Item No. 8 (Paper 3) - Direct interest as has been an objector to various applications at the proposed site over past 10 years.
  - Item No. 12 (Paper 7) - Direct interest as a member of the Highland Council South Area Planning Committee which will be looking at the item as well.
  
10. Dave Fallows declared an interest in:
  - Item No. 12 (Paper 7) - Direct interest as a member of the Highland Council South Area Planning Committee which will be looking at the item as well.
  
11. Gordon Riddler declared an interest in:
  - Item No. 7 (Paper 2) - Indirect interest as a customer well known to the applicants
  
12. Fiona Murdoch declared an interest in:
  - Item No. 11 (Paper 6) - Direct interest due to her anti-windfarm stance
  - Item No. 12 (Paper 7) - Direct interest due to her anti-windfarm stance

### **Agenda Item 6:**

**Report on Called-In Planning Application for Erection of house & double garage and installation of sewage treatment plant, sample chamber & infiltration field At Land 310M South Of Pollowick Cottage, Cromdale**

**(Paper 1 ) (2012/0237/DET) (Detailed Planning Permission)**

13. The Convener informed Members that this application was deferred at the previous planning meeting on 9 November to allow applicants time to submit accurate information on the floor area of the house.
  
14. Katherine Donnachie presented a paper recommending that the Committee refuse the application for the reasons stated in the report.
  
15. The Convenor advised the Committee that the applicants Mr and Mrs Drummond and their agent were present to answer questions and asked if there were any. No questions were asked.

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16. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:

- a) Comments were made on affordability and what it actually means in relation to issues such as floor space or the amount of children in a family. Katherine Donnachie clarified that Highland Small Communities Housing Trust (HSCHT) use Scottish Government guidance to assess affordability, not solely based on floor space but on a case by case basis. CNPA's role is to be objective and allow an expert on the subject, namely the HSCHT to assess the case.
- b) Comments were made about the use of the word 'Precedent' for this case and it was noted that each case should be assessed on its own merits. Don McKee explained that 'Precedent' has been used as this is the first time an individual has come forward with an application for an affordable house under this policy.
- c) Queries on how the applicant would be able to source local granite if they used a different plot. Katherine Donnachie clarified that the client has never been expected to use granite. She pointed out that many of the commended designs in the recent CNP design awards reflected the local vernacular and were affordable houses.

17. The Committee discussed the application and the following points were raised:

- a) Suggestion that a property can be retained as affordable by a Rural Housing Burden. Don McKee explained that a Rural Housing Burden is not a planning tool and cannot be imposed by the Planning Authority. Katherine Donnachie added that the HSCHT specifically stated that this house would not be able to have a Rural Housing Burden attached to it as it does not meet with the criteria and is not an affordable house.
- b) Issues were raised regarding refusing the application based on design, as past applications have been refused on design and then won on appeal.
- c) It was pointed out that the HSCHT are, by their own admittance, only working from guidelines. Don McKee agreed, but said they were experts in assessing and delivering affordable housing. He also explained that officers proposed to bring forward a paper to the Committee in the New Year to clarify the process to be followed when assessing affordability until the new Local Development Plan is approved.
- d) Questions on what is the local vernacular with many examples of all manner of house designs in the CNP. Katherine Donnachie said there are examples of past developments that are not fully reflective of the local vernacular, but the drive is to improve design in the CNP going forward.
- e) It was commented that every decision has a bearing on future applications and we need to be consistent. This application has been put forward as an affordable house

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but it has been assessed and found not to meet the criteria. It does not fit with CNP design policies and guidance and there are issues with the siting.

18. Peter Argyle proposed a Motion to Refuse the application for the reasons stated in the report. This was seconded by Dave Fallows.

19. Bill Lobban proposed an Amendment to Approve the application on the basis that the criteria for affordability are only guidelines and believed this application does comply with policy for siting and design. This was seconded by Willie McKenna

20. The vote was as follows:

	MOTION	AMENDMENT	ABSTAIN
Peter Argyle	√		
Duncan Bryden	√		
Angela Douglas	√		
Dave Fallows	√		
Katrina Farquhar	√		
Jeanette Gaul	√		
David Green	√		
Gregor Hutcheon	√		
John Latham	√		
Bill Lobban		√	
Eleanor Mackintosh	√		
Willie McKenna		√	
Fiona Murdoch	√		
Gordon Riddler	√		
Brian Wood	√		
<b>TOTAL</b>	<b>13</b>	<b>2</b>	<b>0</b>

21. The Committee agreed to refuse the application for the reasons stated in the report.

22. **Action Points arising: None**

## **Agenda Item 7:**

### **Report on Called-In Planning Application for Erection of 5 No. Holiday Lodges At Inver Hotel, Crathie, Ballater (Paper 2)(2012/0198/DET)(Detailed Planning Permission)**

23. The Convener informed Members that the agent was present but had not requested to speak.
24. Mary Grier presented a paper recommending that the Committee approve the application in accordance with the details stated in the report.
25. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
  - a) A question was asked about disabled accessibility, Mary Grier confirmed that this was standard obligation for Building Regulations and would be complied with.
  - b) A query was raised about the aesthetics of the car parking and whether there are any alternatives to break up the car parking so that all cars are not parked in front of the lodges. Mary Grier explained that there was a requirement from Roads for a certain level of parking to accommodate the holiday lodges and the hotel. The site is limited on space and there are no viable alternatives to the proposed car park arrangement. However there is a condition included to agree the surface of the car park with planning first.
26. The Committee discussed the application and the following points were raised:
  - a) It was suggested that advice be included about how the CNPA could assist the applicants to promote understanding and enjoyment of the area to their customers and somehow use planning to promote the brand. Mary Grier confirmed that an advice note could be included to that effect.
  - b) A query was raised about the volume of water that could be used on the site with five extra holiday homes at the driest time of the year in the summer. Mary Grier confirmed that condition 6 covers this and pointed out there is a history of this size development being approved on this site and environmental health issues would always have been a consideration.
  - c) Concerns raised over the proposed storage building and whether it was actually a garage or a store. Mary Grier said the design had already been revised as the original design was a standard garage attached to one of the lodges. Now the

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structure is detached and is designed to be a store to serve the hotel and holiday lodge operations.

- d) Parking was discussed and whether there was an option for holidaymakers to park alongside each lodge rather than in a large central car park. Mary Grier responded that although there may be space between lodges to park, consideration must be given to the access to such parking. Also the Landscaping Officer had called for more landscaping between the lodges to provide a degree of privacy for users, which would reduce potential for car parking between the units.
- e) Lighting was raised as a potential issue and whether there could be a condition or advice note added to minimise the lighting used on the site. Mary Grier confirmed that a condition could be added so the lighting is agreed with the CNPA.

27. The Committee agreed to approve the application subject to the conditions stated in the report with the additions of a lighting condition and also an advice note about promoting understanding and enjoyment in the area.

28. **Action Points arising: None**

### **Agenda Item 8:**

#### **Report on Called-In Planning Application for Erection of Clubhouse At Dalfaber Village, Dalfaber Drive, Aviemore (Paper)(2012/0351/DET) (Detailed Planning Permission)**

29. Having declared a direct interest, Bill Lobban left the meeting.

30. Mary Grier presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.

31. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:

- a) Whether or not conditions could be used to control construction working hours? Mary Grier responded that is usually controlled by other mechanisms and it could not be regulated by a planning condition, however an advice note on working hours could be included.
- b) A query was raised about the proposed LPG boiler and how that accords with CNPA encouragement of sustainable power and whether alternative had been explored.
- c) Could the applicant revert to the permission granted in 2008 which is still live, if they wished? Mary Grier said they could but all indications in her conversations with the agent are that they wish to proceed with the current proposal.
- d) Is there an intention to widen the access road? Mary Grier said this had been considered extensively in 2008 and works that have taken place to date are

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considered sufficient. Highland Council Roads Department are satisfied with the provision.

32. The Committee discussed the application and the following points were raised:
- a) It was suggested that advice be included about how the CNPA could assist the applicants to promote understanding and enjoyment of the area to their golfing customers and use planning to promote the brand. Eleanor Mackintosh suggested this point was incorporated in all relevant applications going forward
  - b) Car parking was queried and whether 57 spaces and only 2 disabled spaces enough. A query was also raised about how the use of car park will be regulated. Mary Grier explained that detailed calculations have been done by the applicant to work out how many spaces would be needed for the development, factoring in the use of the golf course in conjunction the restaurant and bar, which resulted in the figure 57. During periods of potential heavy use such as tournaments there is an in-house mechanism for temporary signage to direct traffic flow. However regulating the use of the car park is outside of the control of the planning department.
  - c) Comments were made about the flues on the club house plans and what purpose they serve. Mary Grier confirmed that one was a woodburning stove and the other an extractor fan for the kitchen.
  - d) Lighting was discussed as being added to condition 9.
  - e) The panelled fence was raised as it was hard to see in the photo what purpose it serves. Mary Grier confirmed that there are other drawings that clearly show its purpose to create a courtyard between the buildings and the type of fencing used would be picked up in condition 9.

33. The Committee agreed to approve the application subject to the conditions stated in the report and the additional agreed condition on lighting, an advice note on the operational times of the building works and an advice note on promoting enjoyment and understanding.

**34. Action Points arising: None**

35. Bill Lobban returned to the meeting.

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### **Agenda Item 9:**

#### **Partial Demolition and Retention of Existing Building as Ancillary Storage and Erection of Dwellinghouse including Change of Use of Land to Domestic Garden Ground**

#### **at Braeview, Braemar**

#### **(Paper 4 ) (2012/0243/DET) (Detailed Planning Permission)**

36. Katherine Donnachie presented a paper recommending that the Committee approve the application subject to the conditions stated in the report. She also clarified that drainage arrangements were now proposed by underground soakaway and suggested that condition 6 be amended to include a requirement for the submission of revised drainage plan.
37. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) Clarification on whether the property had ever been lived in permanently and is it a bothy or a cottage? Katherine Donnachie said that to her knowledge it is a cottage.
  - b) Reference to Tomintoul Croft being listed, and querying if Braeview is also listed? Katherine Donnachie confirmed it was not.
38. The Committee discussed the application and the following points were raised:
- a) The plans include finials and complex decking. Are these on other buildings in the area, and is the embellishment needed? Katherine Donnachie pointed out that the approved new house at Tomintoul Croft includes finials. It was noted that the existing cottage also has a finial on the entrance porch.
  - b) The direction of the building was discussed as it is north facing and is it taking advantage of natural light and residual heat? Katherine Donnachie replied that it is orientated to take advantage of the views and the applicant is looking at energy efficiency measures.
39. The Committee agreed to approve the application subject to the conditions stated in the report and the amendment to condition 6 outlined earlier.
40. **Action Points arising: none**

## **Agenda Item 10:**

### **Report on Called-in Planning Application: Erection of three holiday homes at Kila, 79 Grampian Road, Aviemore (Paper 5) (2012/0249/DET) (Detailed Planning Permission)**

41. The Convener informed Members that the applicant was present to answer any questions that may arise.
42. Katherine Donnachie presented a paper recommending that the Committee approve the application subject to the conditions stated in the report. She also explained that a site layout plan satisfactorily addressing the points raised in paragraph 45 (a) of the report had now been submitted.
43. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
  - a) When the access is widened will the beech hedge be replanted? Katherine Donnachie confirmed that it would.
  - b) The possibility of an additional condition restricting construction hours due to its central location? Don McKee suggested an advice note to that effect which was agreed.
  - c) Concern over the Community Council comments on the quality of design of the homes. Katherine Donnachie confirmed that the design is acceptable however the applicant has agreed to finish the roofs in slate and that will be a condition.
44. The Committee discussed the application and the following points were raised:
  - a) Section 9 of the report mentions a bat survey for a refused previous application, was that satisfied? Katherine Donnachie explained the previous application was for the demolition of Kila and a bat survey would not be required now as Kila was not being demolished.
45. The Committee agreed to approve the application subject to the conditions stated in the report and with an additional advice note on construction hours.
46. **Action Points arising: none**

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### **Agenda Item 11:**

#### **Report on Called-in Planning Application:**

#### **Erection of 1 wind turbine (rotor diameter 7.54)**

#### **at Corrunich, Chapelton**

#### **(Paper 6) (2012/0293/DET) (Detailed Planning Permission)**

47. Having declared a direct interest Fiona Murdoch left the room

48. Katherine Donnachie presented a paper recommending that the Committee approve the application for the reasons stated in the report. The recommendation was subject to an Ecology report being submitted, which has now been provided and it is recommended there are further conditions added. The additional conditions require that any bird strikes are recorded, and also an appropriate noise condition, following discussions with Environmental Health Officers at Moray Council.

49. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:

- a) Querying condition 2 and whether the turbine would disrupt breeding birds and if restrictions are needed on construction timings? Katherine Donnachie agreed it was unlikely to, but pointed out the agents are happy with the condition and that it includes the wording 'unless otherwise agreed' which could be brought in if timing was an issue.

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

**51. Action Points arising: none**

### **Agenda Item 12:**

#### **Consultation from Scottish Government Energy Consents Unit:**

#### **Erection of 83 Turbine Windfarm at Stronelairg, Garrogie Estate, Highland**

#### **(Paper 7)**

52. Having declared a direct interest Bill Lobban and Dave Fallows left the room. Fiona Murdoch also remained out of the room due to her direct interest.

53. The Convenor informed members that there was a late letter of representation from the developer and it was normal practise not to accept these to be circulated. Don McKee further clarified that this item was a consultation only. The views of the developer would be considered by Scottish Government Energy Consents Unit when

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deciding on the proposal so it is not appropriate for the CNPA to consider a letter from the developer as part of the consultation process.

54. The Committee decided not to circulate the letter.

55. Andrew Tait presented a paper recommending that the CNPA object to the proposal for the reasons stated in the report.

56. The Committee discussed the application, the following were raised:

- a) The cumulative impact of windfarms is an issue that needs to be addressed strongly and the CNPA should contribute to that debate.
- b) All parts of the Park are equally important and the SSE argument that it only impacts on some parts of the Park is a false argument.
- c) This particular proposal is difficult to see from the Park however it impacts on the wildness and tranquillity of the Park which is a key quality. This should be looked at from a Park perspective.
- d) SSE have issued a statement about the damage to the landscape, can the CNPA comment on this even though it is outwith the Park? Andrew Tait responded that the CNPA can only comment on Landscape and Visual Impact with regard to the Park.
- e) Suggestion that as this is a document which is going to The Scottish Government we should clearly summarise our aims, reasons for objecting and how it has local adverse significant impact. Andrew Tait confirmed that the response would be bullet pointed pulling out the reasons from policy.

57. The Committee agreed to object to the proposal for the reasons stated in the report.

58. Fiona Murdoch, Bill Lobban and Dave Fallows returned to the room

### **Agenda Item 13: Report on Delegation of Planning Call In (Paper 8)**

59. Don McKee presented a report recommending that Call-In decisions are delegated to the Head Planner, with a review in 6 months time, for the reasons stated in the report.

60. The Committee discussed the proposal, the following were raised:

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- a) The Convenor expressed her surprise on discovering how labour intensive the existing system is, particularly when one looks at the figures of how few cases have ever been in dispute. A balance needs to be struck.
- b) The need to ensure that members are still made aware of the list of applications.
- c) Querying if members will continue to receive a list of applications. Don McKee confirmed that they would.
- d) If a mechanism would continue to exist for members to offer comments for consideration. Don McKee confirmed that as part of the Call In process it is currently delegated to the planning officers to decide what comments are passed on for consideration and it would continue in that way. He also commented that the new delegated system was to be reviewed in six months time and any problems would be picked up then.
- e) It was commented that there are three topics that consistently come up for comment and should be flagged as important; ancient woodlands inventory, natural woodlands and lighting.

61. The Committee agreed to the proposal

### **Agenda Item 14:**

#### **Report on Scottish Planning Policy and National Planning Framework Consultation (Paper 9)**

62. Hamish Trench presented a report for the Planning Committee. The objective is to agree what the key issues are for submission to the Scottish Government consultation on the review of Scottish Planning Policy and National Planning Framework. He introduced the significant opportunity this offers to clarify the national policy context for the National Park designation in planning terms. Some of the detailed wording will be agreed with Loch Lomond and the Trossachs National Park Authority in relation to a common policy test for impacts on the National Park designation, for final approval of the Convenor and Deputy Convenor before it is submitted to Government by the end of the month.

63. The Committee discussed the proposal, the following were raised:

- a) Item 11 says 'Economy and the environment'. It should also refer to an asset for communities.
- b) Page four, National Developments, mentioned improvements to the A9, it should be clarified that it is road and rail.
- c) This could be an opportunity for Scottish Government to think about how they are going to meet their energy targets for 2015 and 2020 with onshore wind farms

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without having the impact that we are already seeing in Highland and Aberdeenshire and we could use this as an opportunity to flag that up.

- d) It was commented that 4G is very significant for the Park and should be included explicitly as it will deliver high speed internet much more cheaply to places that will never receive fibre optic and could be a major tool for the Park's ambition to deliver high speed internet across the Park.
- e) It was suggested that River Catchment management/flood risk management has not been included and with five rivers in the Park this should be included.
- f) A 'buffer zone' is mentioned in the report – it should be made clear that this is not a universal buffer zone all the way round, however there will be places where there should effectively be a buffer zone in order to protect the integrity of the designation and the wild land aspect.
- g) Affordable housing is mentioned and planning does not have all the tools available to deal with the issue. The planning system should have the ability to find the best places for affordable housing, near to existing settlements and infrastructure and not rely on areas of land unwanted for any other use simply being allocated or used for affordable housing.
- h) It was suggested that something could be added that strengthens the CNPA position as a consultee on issues to have more influence. Hamish Trench explained that the National Park Authority is a consultee, the issue is usually how much weight is given to our views. He agreed that this could be an opportunity to make a step change. Don McKee added that on the subject of wind farms in particular as they come under the Electricity Act and we do not have the same status as a Local Authority so our objections as a body do not trigger an inquiry.
- i) It was proposed that we specifically include wildness as a special quality.

64. The Committee approved the report with the additions mentioned.

### **Agenda Item 14:**

#### **Any Other Committee Business**

65. It has been suggested in the press that the Tesco at Aviemore is being held up by the CNPA. Murray Ferguson has written to the manager of Tesco in the North to ask for an update on their position and a timeline going forward, he had not received an answer. Murray Ferguson suggested that this situation highlights a wider issue of applications that have been approved at the Planning Committee but are still on our books awaiting Section 75 agreements or are held up for other reasons. A review is being undertaken to look at those applications and will be discussed with the Management Team and the Convenor and Vice Convenor of the Planning Committee. In this case we are waiting for Tesco to provide information. We have written to Community Council to inform

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them that we are awaiting a reply from Tesco. Once we have a reply from Tesco we will brief the wider community that the CNPA are not the hold up in this situation.

66. Peter Argyle gave a brief presentation on the winners of the CNPA Design Awards and thanked Alison Lax for the work she did on putting together the awards.

67. The next meeting will not be on the 4 January 2012 but on 11 January 2013 at the Cairngorm Hotel, Aviemore, could any apologies be put into the Ballater Office.

### **Agenda Item 15:**

68. The Committee resolved that under Paragraph 12 of Schedule 2 to the National Parks (Scotland) Act 2000 and Section 50A(4) of the Local Government (Scotland) Act 1973 (the "**Act**"), the press and public be excluded from the meeting for the following item of business on the grounds that, having regard to the nature of the relevant item of business, it is likely that, if the press and / or the public were present during consideration of that item of business, there would be disclosure of exempt information in terms of Paragraphs 6 and 12 of Part I of Schedule 7A to the Act.

69. Following this resolution the meeting adjourned for lunch at 13:30 and recommenced at 14:00.

### **Agenda Item 16:**

#### **Report on An Camas Mòr – Consideration of Legal Advice (Paper 10)**

70. Following the resolution under Item 15 the press and public were excluded and the Committee considered the Confidential Paper by the Strategic Land Use Director and the Head Planner.

71. Members noted and considered the legal advice that had been received in relation to the Local Plan Appeal and the planning application (09/155/CP).

72. Whilst continuing to express support for the new community at An Camas Mòr, Members noted that the Section 75 Planning Obligation for the planning application had yet to be agreed and finalised by all relevant parties. This would still take some weeks.

73. Members agreed the decision notice for An Camas Mòr should not be issued while the Local Plan appeal remains outstanding, unless there is a significant change in material circumstances.

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74. Members also agreed that a public statement should be issued following the meeting, expressing support for An Camas Mòr, and explaining that the decision notice would not be issued while the court case was pending.

75. The meeting concluded at 15:40.