

Cairngorms National Park Authority

Interim Enforcement Statement

Context

1. It was resolved at the meeting of the Planning Committee on 13th February 2004 that provision would be made in the forthcoming Cairngorms National Park Local Plan for policies relating to enforcement, but, as this might take some time, an interim statement should be drafted and brought to a future meeting of the Committee for approval.
2. The report to that meeting set out the legislative background to planning enforcement, the range of powers available, the discretionary nature of the powers, the need for any action to be proportionate to the nature of the breach of control, and the need for decisions on action or no action to be well founded. (Paper attached as Appendix 1)
3. There is an existing development control protocol between the Cairngorms National Park Authority and Aberdeenshire, Angus, Highland and Moray Councils that covers the exercise of development control functions within and adjacent to the Park. All parties to the protocol have enforcement powers. The protocol contains an undertaking that they will work closely together to ensure that the Park aims are met in exercising enforcement powers avoiding duplication of effort.
4. In drawing up the protocol it was agreed that the following three principles would apply to enforcement issues:
 - The relevant local authority would lead on all breaches arising from a planning consent which it had issued,
 - The CNPA would lead on all breaches arising from a planning consent which it had issued,
 - The relevant local authority would lead on all general breaches – i.e. Not related to specific planning applications.
5. The Cairngorms National Park Authority and the 4 local authorities are therefore actively working together to monitor and secure compliance with planning control across the Park.

An Interim Enforcement Policy

Scope of Policy

6. This policy applies to all breaches of planning control which for the avoidance of doubt includes contraventions in respect of the legislation relating to the development/use of land and buildings, advertisements, trees, listed buildings and conservation areas.

Statement of Principle

7. The Cairngorms National Park exists because the area is special, not only for the communities that live and work within it, but also for the wider national community on whose behalf the Cairngorms National Park Authority, with partners, has a duty of stewardship.
8. This means that there has to be regard for prevailing legislation, policy and the 4 aims of the Park in all actions that take place within it. It is therefore incumbent on anyone contemplating a development or other activity that is covered by planning control to ensure that they have the necessary permissions and/or consents.
9. In turn the Cairngorms National Park Authority undertakes to work with all parties to facilitate development and other activity that is needed to sustain the Park and the communities within it. In simple terms this means ensuring that the right development happens in the right place at the right time. We will do this by providing a local plan policy framework, initially via existing local plans and CNPA interim planning policy, and by determining "called in" planning and other applications in accordance with that policy.
10. Within this context there is no excuse for any unauthorised development or activity and the Cairngorms National Park Authority, with its partner local authorities, will as a matter of principle actively pursue any breach of planning control and seek to secure compliance with the relevant legislation, policy and the aims of the Park. Depending on the circumstances, this will be achieved either by requiring remedial action to undo the breach or by ensuring that the appropriate permission/consent is secured.

Our Approach to Breaches of Planning Control

11. The Cairngorms National Park Authority will monitor compliance with the terms of any permissions/consents that it has determined. This will be done by a combination of methods:
 - A form is now issued with all CNPA decision notices to be completed and returned to the planning office when development commences (Appendix 2);
 - Working with partner local authorities to access notifications of commencement under the terms of any building warrant;
 - Officers will monitor activity on an ongoing basis in the course of conducting day to day business across the Park.
 - Responding to complaints from residents, visitors etc.

12. The 4 local authorities will continue to monitor the terms of permissions/consents that they have granted as well as dealing with most breaches of control where there is no permission/consent. Whilst there is ongoing co-operation between Cairngorms National Park Authority and the local authorities, there will be a particular focus in terms of joint enforcement activity on identifying those cases where there is no permission/consent and there are issues of significance with regard to the aims of the Park.

13. In the latter case the Cairngorms National Park Authority will, where appropriate, take the lead in seeking a resolution of the breach of planning control.

14. Whilst taking a firm stand on breaches of planning control the Cairngorms National Park Authority will endeavour to bring about a consensual resolution of the matter within a closely defined time frame. It is possible, for example, to submit a retrospective planning application and in such circumstances determination will take place on the same basis as if the development has not already taken place. This course of action will be advised, without prejudice to the outcome, if the breach appears to officers to conform with policy. In cases where officers consider that the breach of planning control is obviously contrary to policy, those responsible will be advised to take remedial action to address the breach e.g. cease the activity, or remove the building, or reinstate the site.

15. If a matter cannot be resolved by dialogue, the Cairngorms National Park Authority will have no hesitation regarding the service of an Enforcement Notice, or even a Stop Notice, if it is considered that the breach of planning control merits such action.
16. For the avoidance of doubt, this policy will also apply to conditions attached to permissions/consents granted by the Cairngorms National Park Authority. Conditions are not attached for the sake of it; there is always a sound reason, often to do with mitigating the impact of development to enable it to comply with policy and allow permission/consent to be granted. The Cairngorms National Park Authority consequently takes adherence to conditions seriously and expects applicants and developers to do likewise. Where there is a contravention involving the breach of a condition, the Cairngorms National Park Authority will serve a Breach of Condition Notice (against which there is no right of appeal).

Summary

17. The Cairngorms National Park Authority is working in partnership with the communities in the Park, the local authorities, other agencies and everyone who enjoys the Park to safeguard its distinctive character and heritage whilst providing for the appropriate level of necessary development. Sound planning for development and activity within the Park is in the interests of all. Robust enforcement of planning control is an essential part of this process.

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