

**CAIRNGORMS NATIONAL PARK AUTHORITY**

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**DRAFT MINUTES OF THE PLANNING COMMITTEE**

held at The Community Hall, Boat of Garten  
on 9 November 2012 at 10.30am

**Members Present**

Peter Argyle  
Duncan Bryden  
Angela Douglas  
Katrina Farquhar  
Jeanette Gaul  
David Green  
Kate Howie

Gregor Hutcheon  
John Latham  
Bill Lobban  
Eleanor Mackintosh  
Willie McKenna  
Martin Price  
Gregor Rimell

**In Attendance:**

Don McKee, Head Planner  
Mary Grier, Senior Planning Officer, Development Management  
Katherine Donnachie, Planning Officer, Development Management  
Marie Duncan, Planning Systems Officer  
Charlotte Milburn, Planning Systems Administrator  
Murray Ferguson, Director of Sustainable Rural Development  
Lee Murphy, Harper MacLeod LLP

**Apologies:**

Mary McCafferty	Dave Fallows
Gordon Riddler	Brian Wood
Fiona Murdoch	

**Agenda Items 1 & 2:**

**Welcome & Apologies**

I. The Convenor welcomed all present.

## DRAFT COMMITTEE MINUTES

2. Duncan Bryden advised the Board that representatives from Harper MacLeod were involved in a car crash on their return from the Allt Duine windfarm inquiry and required hospitalisation. He will convey the best wishes of the CNPA and Board members to those involved.
3. Duncan Bryden advised Members that he wanted to swap agenda item 11, AOB with item 12, Election of Planning Committee Convenor, in order to have the Election at the end of the meeting.
4. Apologies were received from the above Members.

### **Agenda Item 3:**

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

5. The minutes of the previous meeting, 12<sup>th</sup> October 2012, held at The Albert Memorial Hall, Ballater were approved subject to amending the sentence at the end of Para 31e to read 'Don McKee also advised of the lack of guidance and policy direction from Scottish Government on how to approach consideration of cumulative impact and impacts on the setting of the Park'.
6. There were no matters arising.
7. The Convener provided an update on the Action Points from the previous meeting:
  - Action Point at Para. 36: Completed
  - Action Point at Para. 48: Completed

### **Agenda Item 4:**

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

8. The content of the Outcome of the Electronic Call-in held on 26 October 2012 was noted.

### **Agenda Item 5:**

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

9. There were no declarations of interest.

### **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)**

10. The Convener informed Members that a request to address the Committee had been received, within the given timescale, from:
  - Applicant / Agent – Mrs Drummond/Barry MacKenzie

## DRAFT COMMITTEE MINUTES

11. The Committee agreed to the requests.
12. The Convenor also informed Members that Ronnie MacRae of the Highland Small Communities Housing Trust (HSCHT) was available to address Members, as the HSCHT been contracted by the CNPA to independently assess affordability issues in this application and that Mr. MacRae would explain that process.
13. Katherine Donnachie, Planning Officer, presented a paper recommending that the Committee refuse the application subject to reasons stated in the report.
14. Duncan Bryden asked Ronnie MacRae (HSCHT) to address Committee to explain the principle of affordability in relation to the application.
15. The Committee were invited to ask questions of the speaker and the following points were raised:
  - (a) Whether or not something could be done to bring the proposed dwelling house into the affordability bracket;
  - (b) Acknowledgement that the Scottish Government criteria on affordable housing are guidelines;
  - (c) If the external veranda feature in the house design was included in calculating the affordability of the development;
  - (d) Queries on the linkage between retaining a house in the local affordable housing market and the use of a Rural Housing Burden;
  - (e) What changes would be required in order that the proposed dwelling house could be retained as part of the local affordable housing market in perpetuity;
  - (f) An explanation of the Rural Housing Burden. Ronnie MacRae explained that this was a title condition i.e attached to the title of the property and not pertaining to the individual property owner. It includes two elements – (i) a right of pre-emption which ensures in the event that the house is offered for sale in the future that it is offered to a designated rural housing body and (ii) an equity share.
16. Duncan Bryden, Convenor asked Katherine Donnachie, Planning Officer to explain the importance of affordability to the assessment of this case in the context of the Local Plan Policy 22 (Housing Developments outside Settlements) and Supplementary Planning Guidance on Affordable Housing. Katherine Donnachie explained this and also referred to the various factors that had been taken into account including the availability of other sites in the area and the issue of the affordability of the dwelling house.
17. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
  - (a) Comments on the benefits of Scandinavian Log Cabins in terms of construction costs and sustainability;

## DRAFT COMMITTEE MINUTES

- (b) Concerns regarding a potential inaccurate statement in Para. 60 suggesting that there are no permanently occupied log cabins within the National Park. Katherine Donnachie clarified that the examples of log cabins referred to by the applicants in their submission were not permanent residential properties. She also explained that log cabins are not traditional and in keeping with the traditional architecture of the area;
  - (c) Clarification that there are other suitable plots in and around the Cromdale area capable of accommodating a house of the size proposed. Katherine Donnachie confirmed that there are currently a number of plots for sale in the general area;
  - (d) If the planning officer had discussions on alternative house designs and the affordability issue with the applicant. Katherine Donnachie confirmed discussions had been undertaken on design issues and that the applicants had subsequently provided a design statement outlining why they consider the proposed house design suitable for the site. Katherine Donnachie clarified that the applicants were keen on the particular house type and feel strongly that it is appropriate in the area. The Planning Officer also confirmed that discussions had not been undertaken with regard to changing the size of the house to address the affordability issue;
  - (e) Duncan Bryden asked Katherine Donnachie to confirm the accuracy of the chronology of dates mentioned on Appendix 2 – Page 4. Katherine Donnachie agreed that the detail was correct.
18. Mrs. Drummond (applicant) and Mr. MacKenzie (agent) were invited to address the Committee. Mrs. Drummond passed a number of photographs to Members identifying the site and examples of other house designs in the area.
19. The presentation from Mrs. Drummond covered the following points:
- The family history and their connections to the area and why the site is so special to them;
  - The family's co-operation with CNPA Planning Officers and the application history;
  - Cost savings and the applicants personal requirements for a house of the design and size proposed;
  - Clarification on the finish, including the intended 'D log' construction rather than full log construction;
  - Affordability issues and the applicants willingness to work with the HSCHT when requested to by CNPA Planning officials;
  - The need for the removal of some roadside birch trees in order to achieve the standards required by Transport Scotland to provide sight lines and access;
  - Clarification that other trees within the site would not be removed.
20. Mr. Mackenzie (agent) was invited to address the Committee. The presentation covered the following points:

## DRAFT COMMITTEE MINUTES

- Reference to an initial misunderstanding by the Planning Officer that the construction involved the use of full round logs;
  - The fact that the initial floorsize calculations submitted by the agent to HSCHT were inaccurate. Mr. MacKenzie confirmed that the re-calculated size of the house is now “just over 200 square metres” and suggested that the floor size is 5% over the recommendation for an affordable house;
  - Clarification of measures that would be undertaken at the junction of the access and the public road in order to achieve the required sight lines;
  - Reference to the applicants intentions to landscape the site;
  - The proposed position of the house on the site, relative to the wooded backdrop and the location of the public road;
  - The view that the dwelling house design would fit with the character of the area and reference to other ‘log’ building examples in the Park.
21. The Committee were invited to ask questions of the speakers and the following points were raised:
- a) The applicants pursuance of the development proposal despite the advice received during various pre-application discussions and querying the level of ‘movement’ that the applicants might now be willing to make to potentially address the issue of affordability;
  - b) Concerns regarding the inaccuracy of the floor size calculations initially provided by the agent and the need to re-assess any revised calculations which may now be put forward;
  - c) Whether the new floor size calculations and associated project cost would meet the affordability criteria;
  - d) Whether or not sites which are available for sale in the Cromdale area might meet the affordability criteria;
  - e) Queries on whether or not the applicants have sought to work with any rural housing association in order to secure an affordable site / affordable housing opportunity;
  - f) Whether or not the applicants had agreed with the HSCHT that they would accept a condition being put on the title of the proposed property;
  - g) Concerns regarding visual impacts and whether or not the applicants would consider design revisions, with reference being made particularly to the possibility of a single storey dwelling.
22. Duncan Bryden thanked the speakers.
23. The Committee discussed the application and the following points were raised:
- a) The issue of affordability being a key point in considerations and that affordability does not refer to whatever is affordable to the particular individual;

## DRAFT COMMITTEE MINUTES

- b) The need to ensure that a decision on the application is based on accurate information;
- c) Peter Argyle proposed a motion to defer the application in order have the issue of affordability re-assessed by the HSCHT in light of the new information given about the floor size and any potential associated implications on project cost, and also requiring further detail on landscaping proposals;
- d) Duncan Bryden reminded members of the Definition of affordable housing as defined in the Supplementary Planning Guidance on Affordable Housing (“housing of a reasonable quality that is affordable to people on modest incomes”) and the fact that Members must bear that definition in mind when making a decision;
- e) The motion was seconded by David Green and also for the motion to include the need for some discussion with the applicants their views on a Rural Housing Burden;
- f) Don McKee, Head Planner, reminded Members that the recommendation to refuse planning permission was not based solely on affordability and that despite any new evidence which might be presented, other concerns on landscaping and design issues have still to be addressed and there is a possibility the recommendation may still be refusal.

24. The Committee agreed to defer the application until the applicants submit the new information.

25. **Action Points arising: Planning Officer to write to the applicants explaining the reason for the deferral and request the further information.**

### **Agenda Item 7:**

#### **Update Report on Approved Planning Application:**

#### **Land to Northeast of Kingussie -**

**Master plan for phased development of 300 houses; economic development uses; community uses including all infrastructure, landscaping etc at North of Access Road, Kerrow Drive, Dunbarry Terrace & A86**

#### **Kingussie**

**(Paper 2) (09/048/CP) (Planning Permission in Principle)**

26. Don McKee, Head Planner, presented his update report setting out the context for consideration by the Committee and recommending that the Committee agree to the recommendation outlined in the report.

27. Duncan Bryden invited the CNPA’s legal advisor, Lee Murphy of Harper MacLeod, to set out the legal context in considering this application. Lee Murphy referred to the significance of the Local Plan appeal in this application, as the Section 75 legal agreement was not available for registration prior to the lodging of that appeal. The nature of the

## DRAFT COMMITTEE MINUTES

appeal required that the particular application could not be determined to the point of issuing a decision notice. Ms. Murphy referred to the outcome of the Local Plan appeal, which was dismissed by Lord Glennie. She also confirmed that the appeal decision was supportive of the Planning Authority's decision in relation to the subject site. Ms. Murphy also confirmed that advice had been obtained from Senior Counsel which had informed the drafting of the current planning report and recommendation. Members were also reminded that this is not a new determination – it is a revisiting of the decision in light of the adoption of the Local Plan and the outcome of the Local Plan appeal.

28. The Committee were invited to ask the Head Planner and the Legal Advisor points of clarification, the following were raised:

- a) Clarification of a reference in Para 4 about the grounds of the further appeal since the preparation of the report. Lee Murphy responded that the grounds of the appeal were lodged on Tuesday (6 November 2012) and that Senior Counsel has provided a view on the grounds of the appeal and considers that the prospects of success are less than 50/50. The grounds of the further appeal have been taken into account by Senior Counsel in providing advice on the report which is before the Committee.
- b) Don McKee clarified that the grounds of appeal are confined to the issue of appropriate assessment.
- c) Clarification on any link to Dunbarry Road. Don McKee confirmed that there would not be vehicular access from Dunbarry Road and referred to a condition addressing this matter. In the event that the applicants' wish to have access off Dunbarry Road or have any other deviation from an approved plan, they would be required to apply for planning permission to vary the terms of an approval.

29. The Committee agreed to grant Planning Permission in Principle subject to the conditions stated in the report and the registration of the legal agreement.

**30. Action Points arising: None**

### **Agenda Item 8:**

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

**To erect one 20kw wind turbine, also installation of underground cables (revised proposal) at Wester Lethendry, Cromdale  
(Paper 3) (2012/0270/DET) (Detailed Planning Permission)**

31. The Convener informed Members that the agent was available to answer any questions members may have.

32. Katherine Donnachie, Planning Officer, presented a paper recommending that the Committee approve the application subject to the conditions

33. There were no points of clarifications.

## DRAFT COMMITTEE MINUTES

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

**35. Action Points arising: None**

### **Agenda Item 9:**

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

**Upgrade 2,100 metres of existing paths to all abilities standard, creation of passing places, landings and creation of 40m section of path, at Dell Woods Abernethy Forest, Nethy Bridge  
(Paper 4) (2012/0279/DET) (Detailed Planning Permission)**

36. Mary Grier, Senior Planning Officer, presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.

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

- a) Clarification on reinstating the old part of path and discouraging use as a short cut. Mary Grier advised that other unused parts are restoring naturally and if felt necessary it could be added as an advice note.

38. The Committee agreed to approve the application subject to the conditions stated in the report and the inclusion of an advice note to encourage the restoration of the unused section of path.

**39. Action Points arising: None**

### **Agenda Item 10:**

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

**Erection of house. Plot 3 Land 150M South Of St Vincents Hospital, Gynack Road, Kingussie  
(Paper 5) (2012/0281/DET) (Detailed Planning Permission)**

40. Mary Grier, Senior Planning Officer, presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.

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

- a) Clarification on the combination of finishes and design. Mary Grier advised that the quality of drawing and the vivid colours do not perhaps accurately reflect the actual



## DRAFT COMMITTEE MINUTES

finishes and that there is a condition to ensure the appropriate samples are submitted prior to construction;

- b) Clarification on the height, proportions, split level design, windows and the balconies. Don McKee recommended a revision of condition 6 to require the submission of finalised working drawings of all elevations, to be agreed with the Planning Authority;
- c) Reducing the palette of materials and landscape detailing and the possibility of a full timber option.

42. The Committee agreed to approve the application subject to the conditions stated in the report and amending Condition 6 to incorporate the finalised working drawings for elevations.

**43. Action Points arising: None**

### **Agenda Item 12:**

#### **Any Other Business**

44. Duncan Bryden advised that in future any Members who have an application on the call-in list must declare a direct interest and all other Members should declare an indirect interest.

45. Don McKee advised members that following the 7<sup>th</sup> December Planning Committee Meeting there will be an informal discussion on the Local Development Plan.

### **Agenda Item 11:**

#### **Election of Planning Committee Convenor**

46. Duncan Bryden advised members that having decided to stand down as Planning Committee Convenor nominations are now invited to be put forward for the election. Willie McKenna nominated Eleanor MacIntosh seconded by David Green. Angela Douglas nominated Peter Argyle, seconded by Gregor Hutcheon. The nominees agreed they were willing to be nominated and Duncan Bryden asked them to address committee.

47. Eleanor MacIntosh addressed the committee.

48. Peter Argyle addressed the committee.

49. Members voted by secret ballot. The results were as follows :

Eleanor MacIntosh –	9 votes
Peter Argyle -	5 votes

## DRAFT COMMITTEE MINUTES

50. Duncan Bryden congratulated Eleanor MacIntosh in taking up the post of Planning Committee Convenor. Eleanor MacIntosh thanked Duncan Bryden.

51. Duncan Bryden thanked all the members, CNPA staff and in particular the Planning Staff for the support and help over the years.

**52. Action Points arising: None**

### **Agenda Item 13:**

#### **Date of Next Meeting**

53. 10:30am, Friday 7<sup>th</sup> December 2012 at the Albert Memorial Hall, Ballater

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

55. The public business of the meeting concluded at 13:13hrs