CAIRNGORMS NATIONAL PARK AUTHORITY

DRAFT MINUTES OF THE PLANNING COMMITTEE

held at The Lonach Hall, Strathdon
on 11th October 2013 at 11.00am

Members Present

Duncan Bryden	Willie McKenna
Angela Douglas	Fiona Murdoch
Katrina Farquhar	Martin Price
Bill Lobban	Gregor Rimell
Eleanor Mackintosh (Convener)	Brian Wood

In Attendance:

Don McKee, Head of Major Projects and Housing
Murray Ferguson, Director of Planning & Rural Development
Fiona Murphy, Planning Officer, Development Management
Bruce Luffman, Monitoring & Enforcement Officer
Pip Mackie, Planning Systems Officer

Apologies:

Peter Argyle (Vice Convener)	Gregor Hutcheon
Dave Fallows	John Latham
Jeanette Gaul	Mary McCafferty
Kate Howie	Gordon Riddler

Agenda Items 1 & 2:
Welcome & Apologies

1. The Convenor welcomed all present and introduced Simon Harrison, the new CNPA Head of Planning, who would be observing proceedings at this meeting but taking an active role at the next Planning Committee.
2. Apologies were received from the above Members.

Agenda Item 3:
Minutes & Matters Arising from the Previous Meeting

3. The minutes of the previous meeting, 13th September 2013, held at The Duke of Gordon Hotel, Kingussie were approved:
   Paragraph 13 f: A request was made that the wording of the paragraph be investigated to see that it accurately reflected the comments made at the meeting.
4. There were no matters arising.
5. The Convener provided an update on the Action Points from the previous meeting:
   - Action Point at Para. 58: It was confirmed that the consultation response had been submitted to Highland Council.

Agenda Item 4:
Declaration of Interest by Members on Items Appearing on the Agenda

6. There were no declarations of interest.

Agenda Item 5:
Report on Called-In Planning Application:
Alterations and Conversion of Bus Depot to Class 1 (Shops)
At Bluebird Bus Depot, Golf Road, Ballater
(Paper 1) (2013/0149/DET)

7. The Convener informed Members that a request to answer questions had been received, from:
   - Applicant / Agent – Karen Kerr, Agent
   - Representatives of the Community – Val Norton, Ballater Business Association
8. The Committee agreed to the requests.

9. Fiona Murphy presented a paper recommending that the Committee approve the application subject to a contaminated land investigation report for the site (and delegation to the Head of Planning to add to the decision notice any conditions required as a result), the payment of developer contributions and the conditions stated in the report. Also, the addition of the following Advice Notes regarding the provision of on–street disabled parking spaces:
   - The Roads Service advise that no development should commence until a Traffic Regulation Order promoting 3 No on-street disabled parking bays plus removal of 36m of no waiting restriction (subject to agreement with Roads Service) is commenced.

- The Roads Service advise that prior to the occupancy of the development 3 No on-street disabled parking bays must be provided and the removal of 36m of no waiting restriction (as agreed with Roads Service) must be implemented.

10. The Committee was invited to ask the Planning Officer points of clarification, the following were raised:
    a) How the current proposal links with the potential new bus depot development at Pannanich Road. Fiona Murphy responded that the current proposal would result in the loss of the existing bus depot. However, it was not for the Planning Committee to take the loss or relocation of this facility into account when considering the application. Don McKee advised that it was the duty of the Planning Committee to determine the current application on its merits and then to do the same, as and when, an application came forward for the site of the new bus depot.
    b) Clarification of why information had been provided on the potential new bus depot site if it were not to be taken into consideration. Don McKee advised that the CNPA had not requested this information, it had been freely provided by the Applicants and gave a context for the current application but it could not be the focus of discussion.
    c) Clarification that Members were not to take account of any provision for a future bus depot. Fiona Murphy confirmed this was correct.
    d) Clarification of parking provision that the Committee could ensure would happen should the application be granted. Fiona Murphy advised that the public road was outwith the Applicants control. The Committee could include Advice Notes regarding the parking provision, in discussion with the Roads Authority. It was clarified that the waiting restriction referred to the double yellow lines.
    e) Clarification if Conservation Area Consent was required. Fiona Murphy advised that it would only be required for the demolition of a building and no demolition was being proposed.
    f) Clarification of the opaque nature of part of the windows being proposed to the front elevation. Fiona Murphy advised that only one section of window was proposed to be opaque, this was to screen the storage / service area of the store.
    g) Clarification of the area at the rear of the building under the control of the Applicant. Fiona Murphy indicated the area on the displayed plan.
    h) The potential for staff parking to the rear of the building. Fiona Murphy advised that any parking to the rear of the building would mean taking access to the store via the waste collection / delivery area, this may not be the most desirable way to access a place of work.
    i) The waste collection storage area and how this was accessed. The Agent advised that the waste would be removed via a fire door to the rear of the building; this door would remain mostly locked throughout the day.
    j) The future plans for the area to the rear of the building. The Agent advised that the building and yard were currently leased to a local Joiner. The building was formerly

a house and the yard area could provide amenity land for the property if it were sold at a future date.

k) If the land to the rear had been considered for use as staff parking. The Agent responded that by using the area for parking would use all the area to the rear of the proposed store and would leave no room for either the Joiners yard or amenity space for the house. It was also noted that there were significant changes in ground levels to the rear of the proposed store, which may not comply with DDA regulations for staff access.

l) The ground excavations which were currently taking place to the rear of the site. The Agent confirmed that the trial pits had been dug to investigate the potential of ground contamination from the existing use as a bus depot.

m) Clarification if Paragraph 11 could be removed from the recommendation report. Don McKee advised that the paragraph reflected that the relocation of the bus depot was an integral part of the Applicant's proposals but not of the application being proposed for consideration. The Agent responded that maintaining the bus service and route was important to the community. However, the location of the future bus depot (until the sale of land was complete) had no fixed site, but it was important to present as much information as possible regarding the development.

n) The level of parking provision being proposed and the potential for increase in footfall to the store.

o) Clarification if 3 parking spaces are to be provided to the rear of the store. Fiona Murphy responded that it was a question of balance, there was an existing stone wall to the rear of the proposed store. The wall would have to be removed in order for the parking spaces to be created and this may not be the most desirable outcome for a location in the Conservation Area.

p) Confirmation that the stone wall and wooden fence to the rear of the proposed store were included in the site boundary. Fiona Murphy responded that part of the stone wall was. Don McKee advised that it was proposed that part of the wall would be removed to create a gated rear entrance to the store; the wooden gates would remain to provide access to the Joiners yard.

q) Clarification where Bus Drivers currently park their private cars. The Agent responded that this had been assessed in the Travel Plan, currently only 2 Bus Drivers drive to work and at the Co-op, of 15 members of staff, only 1 person currently drives to work. They would use the public parking spaces available in the local area.

r) If the Roads Authority objected to the application if the 3 parking spaces to the rear of the property were not created. Fiona Murphy advised that she had discussed the changes, as recommended in the report, with to the Roads Officer and they were not unhappy with the proposals.

s) The recommendation by the Roads Authority requiring 61 parking spaces and the level of identified parking being below this number. Fiona Murphy advised that if the store was proposed on an open site then the Roads Authority would require 61 spaces. However, due to the location of the site and the limitations associated with it, the Roads Authority has agreed that a lower number of spaces would be acceptable.

t) The parking survey undertaken. The Agent confirmed that 3 surveys had been carried out, 1 in February and 2 in July (1 week day / 1 Saturday).

u) Clarification if the 3 disabled spaces to be created on Golf Road were in addition to the number identified in the parking surveys. Fiona Murphy confirmed that they would be additional spaces.

v) Rear access to the store being taken via the existing wooden gates instead of demolishing the wall. The Agent responded that this could be done. However, by creating parking spaces in the area it would remove the existing use as a Joiners yard and remove any amenity space associated with the house.

w) Confirmation that the house to the rear of the site was under the Applicants control. The Agent confirmed that it was.

x) Clarification of what would happen to the Joiners yard should the rear parking spaces be created. The Agent confirmed that this would effectively displace the Joiners yard.

y) Clarification of the house/joiners workshop shown to be demolished on the plans . The Agent confirmed that that the plans had been superseded and that revised plans had been submitted showing the retention of the building.

z) The possibility of delivery trucks using the rear entrance. The Agent advised that there had been discussions about this issue and it was proposed that unloading would take place to the front of the store at Golf Road. This was due to Viewfield Road (to the rear of the store) being narrower and having technical access difficulties.

aa) The potential use of the space to the rear of the store, as proposed. The Agent confirmed it would be used as a rear access and as a Joiners yard.

bb) The application being for a commercial use in an existing commercial area and therefore it would be difficult to refuse the application,

cc) Concern about the proposed ventilation system and the need for any condition regarding this to be closely monitored.

dd) The need for an Advice Note regarding working and delivery hours in order to protect residential amenity.

ee) The level of parking in Ballater and the ongoing work being undertaken by local groups to look at the issue. Murray Ferguson advised that discussions had started between the Community Council, Ballater Royal Deeside Ltd and various other local groups with the assistance of the Cairngorms Business Partnership to investigate how parking issues could be resolved in Ballater. There was a current proposal to carry out community led parking surveys.

ff) Work being undertaken to reinstate parking time restriction signs on Bridge Street and the re-shuffle of the recycling facilities in the main car park to create additional parking spaces.

gg) Concern that commercial precedence appears to be being given to the area at the rear of the site instead of parking use. A suggestion that a requirement for a minimum of 3 additional parking spaces to be created to the rear of the site.

hh) If access to the rear of the store would enhance the business context and assist other business in the area. Val Norton, Member of the Ballater Business Association, confirmed that parking to the rear of the site would be a benefit to the proposed store and assist other businesses in the area.

ii) Confirmation that if Members could not consider the relocation of the Bus Depot they could also not consider the displacement of the Joiners yard.

jj) Murray Ferguson suggested that an option may be to defer the application, in order to investigate the potential options for the rear of the site.

kk) Clarification if Conservation Area Consent was required for the proposed partial demolition of the wall. Fiona Murphy advised that specific Conservation Area Consent was not required as this was included under the Detailed Planning Permission application.

ll) If there were potential to create the 3 parking spaces to the rear of the site and retain the Joiners yard. The Agent responded that this could not happen as there was not enough space.

mm) A proposal to defer the application in order for further investigation for parking facilities and staff access to the rear of the site.

11. The Committee agreed to defer the application to allow for further investigation into parking facilities and staff access to the rear of the site.

12. **Action Points arising:** The Applicant to carry out further investigation into parking facilities and staff access to the rear of the site.

Agenda Item 6:
Report on Called-In Planning Application:
Temporary Use of Land for a Pilot Scale Research Project to Produce Briquettes from Plant Feedstock
At Gravel Pit West of Dell of Killiehuntly Farmhouse, Kingussie
(Paper 2) (2013/0239/DET)

13. The Convener informed Members that a request to address the Committee had been received, within the given timescale, from:

- Applicant / Agent – Jonathan Walker, Agent &
  Sally Mills, Onsite Bio-energy Manager RSPB

14. The Committee agreed to the requests.

15. Fiona Murphy presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
16. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
    a) Concern that the Roads Authority are recommending the removal of 15 trees for 1 vehicle access.
    b) A recommendation to remove Condition 2 (bullet point 3) and re-word Condition 2 (bullet point 2) to 'Review of the pines north of the access to ascertain the feasibility *of adequate visibility being provided by a combination of pruning and crown lifting of the trees.*'

17. Jonathan Walker & Sally Mills were invited to address the Committee. The presentation covered the following points:
    - The conservation challenge, habitat management, species decline and invasive species.
    - Wet grassland management.
    - The opportunity for a positive Biomass project.
    - The competition element of the project and existing similar projects in the UK.
    - The background of the current project – Project Kade.
    - The harvesting and briquette process.

18. The Committee were invited to ask questions of the speaker and the following points were raised:
    a) The number of vehicle movements associated with the project. The Agent advised that site had been chosen due to having access to the majority of the harvesting sites, therefore most of the Biomass would be moved internally and avoid road transport.
    b) Clarification if there was to be a link to feed energy back in to the National Grid. The Agent advised that due to the location of the electricity meters on the farm, this was not possible. The project should be self sustaining for energy.
    c) Clarification if Members would be able to visit the project once running. The Agent confirmed that they would and visits by interested parties was an integral part of the project.

19. The Convener thanked the speakers.

20. The Committee discussed the application and the following points were raised:
    a) The application being for an innovative project that the CNPA should be encouraging.
    b) The positive aspects of the application for both carbon footprint and farmland waders.

c) The need to ensure that the project gets the maximum amount of publicity possible.

21. The Committee agreed to approve the application subject to the conditions stated in the report with the following amendment:
    - Amendment to Condition 2 (bullet point 2) to 'Review of the pines north of the access to ascertain the feasibility *of adequate visibility being provided by a combination of pruning and crown lifting of the trees*.'
    - Removal of Condition 2 (bullet point 3).

22. **Action Points arising:** Liaison with RSPB to arrange site visit by the Planning Committee to the facility when it is operational.

23. The Committee paused for lunch at 1.00pm.

24. The Committee reconvened at 1.30pm.

Agenda Item 7:
Report on Called-In Planning Application:
Application under Section 42 to Vary Condition 1 of Planning Ref: BS/1976/96; for Siting of 2 No Static Holiday Caravans to Replace 2 No Touring Pitches (Retrospective)
(Paper 3) (2013/0222/DET)

25. Don McKee presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
26. The Committee were invited to ask the Head of Major Projects & Housing points of clarification, the following were raised:
    a) Clarification that caravan parks were only assessed on the provision of accommodation and not the accommodation type e.g. static caravan / touring caravan / tents. Don McKee advised that this was correct.
    b) Confirmation that the wording of conditions was identical to the previous retrospective application approved at the site. Don McKee advised that he presumed it was.
    c) The need for a Members discussion to be arranged on caravan parks / camp sites, as a number of issues have recently arisen and the 1960 Caravan Sites Act would appear to be vastly out of date. Don McKee advised that a piece of work was being undertaken by the Scottish Government on the Caravan Sites Act but he did not know the timescales.

d) Concern about the number of retrospective applications of this type and the need to send a letter to the Agent expressing displeasure at the situation. Don McKee stated that letters had been sent in the past and this could be done.
e) A suggestion that as part of Simon Harrison's induction as Head Planner could be to visit Boat of Garten Caravan Park along with Murray Ferguson and Eleanor Mackintosh.
f) Concern that if Local Authorities are collecting Council Tax from caravan owners, then this is not holiday accommodation.
g) Concern about the level of static caravans compared to touring caravans.

27. The Committee agreed to approve the application subject to the conditions stated in the report and a letter sent to the Agent expressing disappointment in the retrospective nature of the application.

28. **Action Points arising:** A letter to be sent to the Agent expressing disappointment in the retrospective nature of the application.

Agenda Item 8:
Report on Consultation Response to Perth & Kinross Council:
On Extension to Quarry Boundary to Allow the Formation of a Permanent Landscaped Overburden Mound and Variation to Conditions 2 and 19 of Planning Permission PK/98/1329 to Allow Relocation of Overburden and the Working of Additional Mineral Reserves together with the Provision of Appropriate Restoration
At Shierglas Quarry, Strathgarry, Pitlochry
(Paper 4)

29. Don McKee presented a report on the consultation and recommended that the Committee agree a response of no objection subject to the inclusion of landscape proposals to protect the landscape in the vicinity of the proposed development.
30. The Committee were invited to ask the Head of Major Projects & Housing points of clarification, the following were raised:
    a) A requirement for a security bond to be paid to ensure the long term restoration of the site.

31. The Committee agreed that the response of no objection, subject to the inclusion of landscape proposals to protect the landscape in the vicinity of the proposed development and the requirement for a security bond to be paid to ensure the long term restoration of the site be submitted.

32. **Action Points arising:** The consultation response to be submitted to Perth & Kinross Council.

Agenda Item 9:
Report on Review of Delegation of Planning Call-In
(Paper 5)

33. Don McKee presented an update report on the review of delegation of planning call-in.
34. The Committee were invited to ask the Officer points of clarification, the following were raised:
    a) An explanation of how Community Councils and Planning Sub-Committees work and the timescales to respond on applications. The possibility of if a substantive number of objections have been received on an application, then delegation of Call-in should be between Head of Planning and the Planning Convener. It was advised that Call-in occurs prior to Community Councils being consulted upon applications.
    b) By the delegating of Call-in to just Head Planner, concern that the Committee loses ownership of the Call-in process. A suggestion that Call-in should be delegated to the Head Planner in conjunction with the Planning Convener and Vice-Convener.
    c) The delegated process appearing to have been working well so far.
    d) Examples of applications where strong community feelings would have seen applications being called-in. The Convener and Vice-Convener could have inputted to this decision.
    e) Don McKee responded that applications were called-in on their significance to the Aims of the Park, not on their merits. It may not always be appropriate to Call-in an application due to anticipated high level of objections.
    f) Local input being vital to the Call-in process.
    g) Local input being vital to the Call-in process.
    h) Members only seeing the Call-in Report once the Call-in decision have been made.
    i) The need to follow planning policy in the CNP Local Plan. If an application is not called in it would be dealt with by the Local Authority who use the same planning policy.
    j) Further work needing to be done with community planning contacts at a local level.
    k) The need to be clearer on what constitutes significance to the Aims of the Park. Don McKee advised that the protocol with the Local Authorities defines to an extent the applications called-in and this was an ongoing piece of work.
    l) Applications regarding impacts on natural heritage being called-in but not applications regarding impacts on cultural heritage.
    m) Clarification of the timescales of the Call-in process. Don McKee stated that the Local Authority have 5 days from validation to notify the CNPA of an application. The CNPA then have 21 days in which to Call-in the application or not.
    n) The possibility of Community Councils setting up a planning group to provide comments to the Head Planner on applications prior to Call-in, these comments could then influence the Call-in decision.

o) A suggestion that no major changes be undertaken at this point, with a new Head of Planning in post it may be an opportune moment to review the process and bring a further report back to Committee in 3 months time.
p) The need for a review process to be set up should the onus be put on Local Authorities to request specialist advice from CNPA Officers, as recommended in paragraph 13.
q) Concern at the high level of applications pending determination. Don McKee advised that some of the applications had been dealt with at the current meeting, others were waiting on the payment of Developer Contributions or the conclusion of Section 75 Legal Agreements and other applications were subject to ongoing negotiations between the CNPA and Applicants / Consultees.
r) The Call-in process having come a long way from the initial days of meeting every fortnight with a full Planning Committee and the need for it to evolve further.
s) The need to specify the type of planning applications to be called-in in order to provide certainty for Planning Officers and Applicants at pre-application enquiry stage.
t) The need for further discussion between Planning Officers and Members regarding the Call-in issue.
u) The need for the points in paragraph 16 to be included in the further assessment by the Head Planner.
v) Concern that the CNPA position may be weakened by diluting the Call-in process.
w) Other National Parks being interested in the unique planning powers of the CNPA.

35. The Committee accepted the report for information purposes and decided not to amend the Call-in process at the present time. The Committee requested that the new Head of Planning further assess the Call-in process and bring recommendations and a review paper back to Committee in 3 months time.

36. **Action Points arising:** The Head of PLanning further assess the Call-in process and bring recommendations and a review paper back to Committee in 3 months time.

Agenda Item 10:
Report on Planning Monitoring and Enforcement in the Cairngorms National Park 2012/2013
(Paper 6)

37. Bruce Luffman presented an update report on Planning Monitoring and Enforcement in the Cairngorms National Park 2012/2013.

38. The Committee discussed the report, the following points were raised:
    a) The use of the logo for Cairngorms National Park Authority on the Enforcement Charter. Murray Ferguson advised that the image used was National park N brand image which was consistent with that used in the Local Plan.
    b) The possibility of Contractors providing examples of work prior to the start of restoration works. Bruce Luffman advised that this would be encouraged, but many restoration works were undertaken by existing Estate Staff.
    c) If a need had been identified for land skills training in restoration works. Bruce Luffman advised that work had already started on this issue and should be continued through the Developers Forum. Murray Ferguson advised that there had been attempts to raise the skill standards through training, but it was difficult to achieve the right dynamics. He advised that it was often the people supervising the works who required the training rather than the operators. He stated it was important to set out the standard of works expected in the CNP and it was then up to the Monitoring & Enforcement Officer to ensure that these took place.
    d) The difficulty with suspensive conditions, as by that point Developers have obtained the planning permission and there is no incentive to provide the information required.
    e) The need for more orderly and informed pre-application discussions and potential contracts.
    f) Examples of restorative works which have been carried out well, in conjunction with advice from the CNPA Landscape Officer.
    g) The Monitoring & Enforcement Officer also being responsible for identifying good practice and sharing it with other Developers.
    h) The Enforcement Charter having been set out as required by the Scottish Government, but good practice should be included in it too.
    i) The biggest block to works is not the operator but the supervisor.
    j) The need for a simple summary of the Enforcement Charter, this could then be sent out to Applicants.
    k) Some Developers / Estates now approaching the CNPA to ask advice prior to development commencing, which wouldn't have happened previously.
    l) The Monitoring & Enforcement Officer having made presentations to the Community Councils and the potential for this to be done at the Developers Forum as well.

39. The Committee accepted the report for information purposes and approved the Charter subject to further work on presentational issues including the title and the work of local authority enforcement officers.

40. **Action Points arising:** None.

Agenda Item 11:
Any Other Business

41. Eleanor Mackintosh referred to guidance that that had been circulated by Chief Executive about role of the Board and Planning Committee and advised that there was to be an informal discussion arranged regarding material considerations and how these impacted on planning decisions.

42. **Action Points arising:** None.

Agenda Item 11:
Date of Next Meeting

43. Friday 8th November 2013 at The Albert Hall, Ballater.
44. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.
45. The public business of the meeting concluded at 2.45pm.