

APPROVED COMMITTEE MINUTES

CAIRNGORMS NATIONAL PARK AUTHORITY

APPROVED MINUTES OF THE PLANNING COMMITTEE

held at Community Hall, Boat of Garten
on 15 May 2015 at 11.00am

Members Present

Peter Argyle (Deputy Convenor)	John Latham
Rebecca Badger	Bill Lobban
Duncan Bryden	Eleanor Mackintosh (Convenor)
Paul Easto	Willie McKenna
Dave Fallows	Fiona Murdoch
Katrina Farquhar	Gordon Riddler
Jeanette Gaul	Judith Webb
Kate Howie	Brian Wood
Gregor Hutcheon	

In Attendance:

Simon Harrison, Head of Planning
Hamish Trench, Director of Conservation and Visitor Experience
Gavin Miles, Planning Manager (Forward Planning & Service Improvement)
Katherine Donnachie, Planning Officer, Development Management
Bruce Luffman, Monitoring and Enforcement Officer
Francis Thin, Landscape Advisor
Dee Straw, Planning Administration and Systems Officer
Stephanie Lawrence, Planning Support Officer

Apologies: Angela Douglas Gregor Rimell

Agenda Items 1 & 2:

Welcome & Apologies

1. The Convenor welcomed all present.
2. Apologies were received from the above Members.
3. The Convenor noted the very sad news in the Ballater community this week about the loss of the station building in a fire. This is such a loss to the community, the businesses

APPROVED COMMITTEE MINUTES

and the National Park's built heritage. The Convenor updated the Committee outlining what the Cairngorms National Park Authority is able to do in regards office space.

4. Hamish Trench gave a brief statement and advised a press release would be prepared later in the day.

Agenda Item 3:

Minutes & Matters Arising from the Previous Meeting

5. The minutes of the previous meeting, 17 April 2015, held at Albert Hall, Ballater were approved subject to the following amendments:
 - At Para 7. : Jeanette Gaul did not raise an indirect interest; she queried who the consultation was from. To be removed.
 - At Para 39 ii. : To be reworded as it is not felt the true sentiment is conveyed nor captured in regards the impact on the Cairngorms National Park.
 - At Para 23c. : The word "attention" to be amended to "retention".
 - At Para 10k. : The word "time" should be "type". This word is used twice and to be amended.
6. There were no matters arising.
7. The Convenor provided an update on the Action Points from the previous meeting:
 - Action Point at Para. 12: This item surrounding the revised Supplementary Guidance was outstanding however this will be circulated to the Convenor and Deputy Convenor around 22nd May 2015.
 - Action Point at Para. 39: Discharged; Strong Objection has been submitted and completed.
 - Action Point at Para. 44: Discharged, Written response highlighting the Planning Committee's concern submitted and completed.
 - Action Point at Para. 49: Discharged, Planning Committee have received Planning Service Newsletter
 - Action Point at Para. 53: Membership and terms of reference of Strategic Planning Group to be circulated today.

Agenda Item 4:

Declaration of Interest by Members on Items Appearing on the Agenda

8. Fiona Murdoch declared an interest in:
 - Item No. 6 - Direct interest – Member is an anti-windfarm campaigner
9. John Latham declared an interest in:
 - Item No. 6 - Direct interest – Member took part in Survey
10. Jeanette Gaul declared an interest in:
 - Item No. 6 - Indirect interest – Member took part in a discussion at Angus Council yesterday. Both Cairngorms National Park Authority and Angus Council are the Consultees in this

APPROVED COMMITTEE MINUTES

Item for the Scottish Government and neither are the decision makers.

Agenda Item 5:

Report on Called-in Planning Application:

Conversion & Extension of Building to form Farm Shop with Cafe Facility & formation of Car Park & Change of Use of Land to Class 4 (Business)

At Cambus O'May Cheese Company Ltd, Deeside Creamers, Cambus O'May, Ballater (2015/0011/DET) (Detailed Planning Permission)

11. The Convenor informed Members no request to address the Committee had been received.
12. Katherine Donnachie, Planning Officer presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
13. Katherine Donnachie also informed Members that following a later consultation response from Scottish Natural Heritage, they requested an additional condition be added, if approved. This additional condition was to address no development shall commence until a construction method statement had been submitted.
14. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
 - a) In reference to paragraph 25 was the Planning Officer content with the design and was it fully accessible to people with disabilities and is covered by Condition 4? Katherine confirmed the access for all would be addressed by the building warrant submission rather than planning and is satisfied.
 - b) Had any provision within the application been made for advanced warning signage? Katherine confirmed there were no proposals for signage.
15. The Committee discussed the application and the following points were raised:
 - a) Concerns were raised regarding the road at this location. The road is a fast road, overtaking area, there will be an increase in traffic and is there anything we could say to Roads Department as it is felt we need to raise drivers' awareness. People will be leaving the Cheese Factory and joining this busy road, so possibly the applicant could have a sign "exit with care". Katherine responded the Roads Department were consulted and they were happy with the visibility and access at this location. A suggestion was made to include a covering letter to accompany the Decision Notice, if approved, advising the applicant regarding these concerns and encouraging them to discuss road safety and potential solutions with Roads Department.
 - b) A similar application in which temporary light-up signs were used was highlighted. This was not imposed through the planning conditions but rather through community concerns. These signs are effective and a suggestion was made to advise the roads department and the applicant about this measure.
 - c) As well as traffic concerns, one member conveyed there would also be pedestrians and cyclists and fully supported the suggestion of an advice letter to the applicant.

APPROVED COMMITTEE MINUTES

- d) Concern was raised regarding the economic development, would this business be complementary or would it be a negative effect on the other surrounding business. Katherine confirmed this issue had been looked at by the CNPA Economic Development Officer and he was satisfied this application met the policy in terms of the Local Development Plan. The application complements the other local business.
16. The Committee agreed to approve, subject to the conditions stated in the report and to add the additional condition for the Construction Method Statement. Along with the Decision Notice a covering letter suggesting the applicant to have discussions with the Roads Department regarding the road safety matters.

17. Action Points arising:

- i. **Katherine Donnachie, Planning Officer to add additional condition to cover the Construction Method Statement.**
- ii. **Katherine Donnachie, Planning Officer to prepare a covering letter to go along with the Decision Notice suggesting that the Applicant get in touch with Aberdeenshire Roads Service regarding road safety matters.**

Agenda Item 6:

Report on Consultation Response to Scottish Government:

On Electricity Works (Environmental Impact Assessment) (Scotland)

Regulations 2000. Section 36 Application for the Proposed Macritch Hill Wind Farm

At Land Close to Backwater Reservoir, Kirriemuir, Angus (2015/0027/PAC) (Consultation)

18. Fiona Murdoch and John Latham left the room for the duration of the discussion.
19. Katherine Donnachie presented a report on the consultation and recommended that the Committee agree a response of Objection.
20. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) This application clearly does not meet any policies and a strong objection should be submitted, the grounds are robust.
 - b) A suggestion was made to include a statement with the Objection that would highlight the proposed development would have a significant impact on the entire Cairngorms National Park. This addition was agreed. It was also agreed that the wording would be looked at by the Planning Officer and Landscape Officer and thereafter confirmed with the Planning Committee Convenor and Planning Committee Deputy Convenor.

APPROVED COMMITTEE MINUTES

- c) Would there be any heightened impact due to the height of the nearby Munros. Francis Thin, Landscape Officer, confirmed you would be looking down on them and they would be more prominent for more of the time.
- d) Katherine Donnachie advised the Committee that at the pre-application stage, the developers were told very clearly on the design and layout on this proposal would have an impact on the whole of the Cairngorms National Park, but continued with the application.
- e) Concern raised by a member regarding the applicant taking no notice of the dialogue taken place at the pre-application stage. Effectively the pre-application stage had been dismissed. Katherine Donnachie stated in her response back to Scottish Government this could be included and that the Committee were disappointed this was not considered.

21. The Committee agreed that the response of **Objection** be submitted.

22. **Action Point arising:** **Katherine Donnachie, Planning Officer and Frances Thin, Landscape Officer to consider the wording for the reply to Scottish Government including noting disappointment about the regard the applicant gave to advice given at the pre-application stage.**

23. Fiona Murdoch and John Latham returned to the meeting at this point.

Agenda Item 7:

Update Report on New Guidance and Procedure for Agricultural and Forestry Private Ways

- 24. Simon Harrison, Head of Planning and Bruce Luffman, Monitoring and Enforcement Officer presented an update report on new guidance and procedure introduced following the introduction of The Town & Country Planning (General Permitted Development) (Scotland) Amendment (No. 2) Order 2014 that came into force on 15th December 2015.
- 25. The Committee were invited to ask the Head of Planning and / or Monitoring Enforcement Officer points of clarification, the following were raised:
 - a) The Convenor pointed out not all hill tracks are bad and advised that Hill tracks are essential for the economic workings of Estates. The Convenor finds it unacceptable after Cairngorms National Park and Loch Lomond have been leading the way in hill tracks for approximately 2 years, but when it come to making any legislative changes, that some of the organisations' recommendations were not included.
 - b) When you are having negotiations, what were reasons for not allowing the Prior Notification to come directly to us? Simon Harrison stated we are not classified as a Local Authority.

APPROVED COMMITTEE MINUTES

- c) Should the Cairngorms National Park Authority be looking at a Track Strategy?
Staff responded that the policy framework of the Local Development Plan, backed up by other resources such as the Landscape Toolkit provides a sound basis for decision making. The LDP policy on Landscape makes clear reference to wildness and this will be relevant to some proposals for agricultural and forestry tracks.
- d) Why is wild land not mentioned in the Cairngorms Planning Advice Note? Gavin Miles advised the reason for this was that the advice note covers the procedures for prior notification and prior approval for agricultural and forestry tracks. The presence of wild land does not change the way in which the prior notification or prior approval system works. Wildness is one of many issues identified through the policies of the LDP that would be relevant to a planning authority's decision to require prior approval, the determination of a prior approval application or of a full planning application.
- e) The wording is for new or altered tracks. Do they have to go through this process for reinstatement of existing tracks? Clarification was sought on the flow chart. Further explanation was given by Bruce Luffman, noting that any alteration to an existing agricultural and forestry track beyond simple maintenance requires Prior Notification.
- f) Concern was raised regarding this potentially being a big resourcing issue and if the Local Authority does not respond within the 28 days, it will go ahead anyway? Had the resource impact and best practice been thought about? The Convenor confirmed that discussions on best practice had taken place. Simon Harrison confirmed that they had been working closely with Highland Council to draw up guidance. Scottish Government has promised guidance but not yet published it. If a local authority does not respond within 28 days, then the development can go ahead as long as it fulfils the criteria for prior approval. If any part of the works falls outside those criteria then the applicant risks enforcement action and a requirement to seek full planning permission, with potential refusal, or other significant costs. Hamish Trench, Director of Conservation and Visitor Experience, commented that Scottish Natural Heritage do have excellent guidance on track construction produced nationally that the CNPA and other planning authorities refer to. Cairngorms National Park Authority has worked with Scottish Natural Heritage and NGO's to run training sessions for landowners and contractors in the past. In light of the new regulations, there are plans for new training workshops.
- g) When reading Paragraph 7 regarding the Prior Notification being used in relation to agricultural buildings for many years, are the regulations in relation to hill tracks to allow us to call in? Simon Harrison commented that legal advice has been sought. The legal advice concluded that in this two-stage process, the Cairngorms National Park Authority probably do not have call in powers at Prior Notification stage but do have call in powers at Prior Approval stage. The Prior Approval stage is as good as a planning application, in that permission can be approved or refused and conditions can be imposed on consent. However, the prior approval process is

APPROVED COMMITTEE MINUTES

cheaper for an applicant and doesn't encourage public scrutiny as there is no neighbour notification process or public advertisement.

- h) Concern was raised on how this would be policed? Bruce Luffman stated it is going to be educating the landowners and managers that a better outcome can be achieved through careful use of the new system.
 - i) Comment was made in regards how much work has gone into this process and should be applauded. The biggest obstacle is the 28 days and pressure on the planning team.
 - j) Clarification was sought as to if all five Local Authorities had received this guidance? Simon Harrison, Head of Planning, confirmed all Heads of Service have been met and gone through the process. However, the information may not have been distilled down to other members of staff within each Local Authority. Bruce Luffman has sent all documentation to all Enforcement Officers in each Local Authority. Each Local Authority will be followed up on this procedure and will be included in the roll- out of our LDP.
 - k) Comment was made on the how important the Protocol arrangements are and the importance of the relationships within all five Local Authorities is built up and maintained.
 - l) Comment was made that discussions should continue with Scottish Government to recognise our particular problems with this legislation within the Cairngorms National Park Authority.
26. The Committee noted the report and asked to be kept informed about how the system was working and about workload implications.

27. Action Point arising: **Update report to be taken back before Planning Committee in around six month's time.**

Agenda Item 8:

Update Report on Planning Service Monitoring Report 2014/15

28. Simon Harrison, Head of Planning and Gavin Miles, Planning Manager (Forward Planning and Service Improvement) presented an update report on the statistical performance of the CNPA Planning Service and highlighted changes or improvement in delivery.
29. The Committee were invited to ask the Head of Planning and Planning Manager points of clarification, the following were raised:
- a) The Convenor noted how frustrating the situation is. She appreciated all the hard work and where planning team and the Planning Committee been able to improve the timescales for decision making. For the statistics not to reflect this, at this time, is frustrating. We have markedly improved our performance by dealing with our legacy cases.

APPROVED COMMITTEE MINUTES

- b) A Member commented that further time improvements should be now be possible by having dealt with our legacy cases.
 - c) Processing agreements, set up between the applicant and the planning authority, are important – timescales may be longer but everybody is involved in the process has certainty.
 - d) A Member queried this as being a singular approach rather than an evaluating process. What work is being done around the evaluation and monitoring of the quality of the service? Simon Harrison commented there continues to be increasing some concern amongst Heads of Planning within Scotland. Scottish Government is quite clear speed of processing is the determining factor in performance. This is the future focus. There are other areas relating to performance that are reported in the Planning Performance Framework Annual Report given to Scottish Government.
 - e) Are we currently monitoring user satisfaction – if not, why not? Simon Harrison confirmed that it is addressed in a complaints monitoring system.
 - f) A Member commented it is very de-motivational to hear about the complaints; it would be beneficial to know about the good stuff, what is being done well, what should continue and what should be done differently. This would give a clearer indication about the quality on the service. Gavin Miles confirmed that a Customer Feedback Survey for the planning service has been running for approximately five years and the results are included in the annual reports. This was also being reviewed to enable more accurate feedback.
 - g) Simon Harrison commented on the information being a good tool for management to identify areas to improve. This has already identified a process needed for issuing Decision Notices when a key member of staff is on leave in order that work to issue Decision Notices continues.
 - h) The Convenor complimented all the staff for all the progress that has been made.
30. The Planning Committee noted the update report.

31. Action Point arising: **None.**

Agenda Item 9:

Any Other Business

- 32. The Convenor spoke about the SSE site visit to be held on Monday 25 May 2015. An email was circulated with the details and she apologised for the late notice. It is hoped another date will be organised in the future.
- 33. The Convenor informed the Committee that she had attended, along with the relevant staff, a constructive meeting with Lindsay Nicol, the Chief Executive of Scottish Government Department of Planning and Environmental Appeals last week. It was felt Lindsay Nicol took on board the points made about design and legal issues. Lindsay Nicol stated the Committee should be confident that design was an important consideration and that DPEA would use the same policy to assess any application. In

APPROVED COMMITTEE MINUTES

relation to Carrbridge and the Local Development Plan it seemed that Scottish Governments and the CNPA's legal advice had differed in interpretation.

34. The Convenor informed the Committee there has been an appeal submitted for the Dalfaber cases in Aviemore. Simon Harrison, Head of Planning, gave a short update noting that this was an appeal against the decision made by the Committee in February for the two applications for Matters Specified in Conditions. The appellant is also seeking costs. Staff will respond accordingly.

35. **Action Point arising:** **None.**

Agenda Item 10:

Date of Next Meeting

36. Friday 12 June 2015 at Albert Hall, Ballater.
37. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Clerk to the Board, Alix Harkness.
38. The public business of the meeting concluded at 13.00 hours.