
CAIRNGORMS NATIONAL PARK AUTHORITY

MINUTES OF THE PLANNING COMMITTEE

held within Cairngorm Hotel, Aviemore
on 16th July 2004 at 10.30am

PRESENT

Mr Eric Baird	Ms Eleanor Mackintosh
Ms Sally Dowden	Mr Alistair MacLennan
Mr Basil Dunlop	Mr David Selfridge
Mr Angus Gordon	Mr Robert Severn
Mrs Lucy Grant	Mrs Sheena Slimon
Mr David Green	Mr Richard Stroud
Mr Bruce Luffman	Mr Andrew Thin
Mr Willie McKenna	

IN ATTENDANCE:

Don McKee	Andrew Tait
Neil Stewart	Pip Mackie

APOLOGIES:

Mr Peter Argyle	Mr Andrew Rafferty
Mr Duncan Bryden	Mr Gregor Rimmell
Mr Stuart Black	Mrs Joyce Simpson
Mr Douglas Glass	Mrs Susan Walker
Ms Anne MacLean	Mr Bob Wilson

WELCOME AND APOLOGIES

1. The Convenor welcomed all present.
2. Apologies were received from Peter Argyle, Duncan Bryden, Stuart Black, Douglas Glass, Anne MacLean, Andrew Rafferty, Gregor Rimmell, Joyce Simpson, Susan Walker and Bob Wilson.

MATTERS ARISING FROM THE PREVIOUS MEETING

3. The minutes of the previous meeting were approved.

DECLARATION OF INTEREST BY MEMBERS ON ANY ITEMS APPEARING ON THE AGENDA

4. Robert Severn declared an interest in Planning Application No. 04/358/CP.

PLANNING APPLICATION CALL-IN DECISIONS (Oral Presentation, Neil Stewart)

- 5. 04/326/CP - No Call-in
- 6. 04/327/CP - No Call-in
- 7. 04/328/CP - No Call-in
- 8. 04/329/CP - No Call-in
- 9. 04/330/CP - No Call-in

10. 04/331/CP - The decision was to Call-in this application for the following reason:

- The development involves the demolition of buildings which provided tourist accommodation and facilities and which is located in a prominent location in the commercial core of Kingussie where commercial/tourism uses are promoted, and their replacement with new residential development. The proposal raises issues relating to potential loss of tourist facilities, principle of housing in an established commercial town centre, the potential loss of existing buildings of cultural heritage interest, and provision of affordable housing. As such it raises issues of general significance to the collective aims of the National Park.

11. 04/332/CP - No Call-in

12. 04/333/CP - The decision was to Call-in this application for the following reason:

- The proposal effectively represents the erection of a new dwellinghouse in a countryside area where there are restrictions on new house building unless justified for land management purposes. If unjustified, then the proposal may act as a precedent for others which in turn may have cumulative impacts. As such the proposal raises issues of general significance to the collective aims of the National Park.

- 13. 04/334/CP - No Call-in
- 14. 04/335/CP - No Call-in
- 15. 04/336/CP - No Call-in
- 16. 04/337/CP - No Call-in
- 17. 04/338/CP - No Call-in
- 18. 04/339/CP - No Call-in
- 19. 04/340/CP - No Call-in
- 20. 04/341/CP - No Call-in

21. 04/342/CP - No Call-in

22. 04/343/CP, 04/344/CP, 04/345/CP, 04/346/CP, 04/347/CP, 04/348/CP, 04/349/CP, 04/350/CP, 04/351/CP, 04/352/CP, 04/353/CP, 04/354/CP, 04/355/CP -

The decision was to Call-in these applications for the following reason:

- The site is allocated in the Badenoch and Strathspey Local Plan as a housing site. However, the layout of the housing scheme proposed by these 13 applications varies significantly from the allocation as it covers areas outwith the allocation that are intended for amenity woodland and footpaths. In addition, no affordable housing is proposed by this application despite the number of houses proposed being beyond the threshold of the Highland Council Structure Plan requirement for affordable housing. In the light of this combination of factors, it is considered that the proposal may raise issues of significance to the collective aims of the National Park.

23. 04/356/CP - Richard Stroud proposed a Motion to Call-in this application, this was seconded by Bruce Luffman. Robert Severn proposed an amendment not to Call-in the application, this was seconded by Lucy Grant.

The vote was as follows;

NAME	MOTION (Call-in)	AMENDMENT (No Call-in)	ABSTAIN
Eric Baird		✓	
Sally Dowden	✓		
Basil Dunlop		✓	
Angus Gordon		✓	
Lucy Grant		✓	
David Green	✓		
Bruce Luffman	✓		
Willie McKenna		✓	
Eleanor Mackintosh	✓		
Alistair MacLennan	✓		
David Selfridge		✓	
Robert Severn		✓	
Sheena Slimon	✓		
Richard Stroud	✓		
Andrew Thin		✓	
TOTAL	7	8	

The decision was No Call-in.

24. 04/357/CP - No Call-in
25. 04/358/CP - Robert Severn declared an interest and left the room.
The decision was to Call-in this application for the following reason:
- The proposal is for a footpath on Cairngorm mountain which lies within a National Scenic Area. The recreation based nature of the proposal in this sensitive upland area, together with the implications for natural heritage and recreation based interests means that the proposal may be of significance to the collective aims of the National Park.
- Robert Severn returned.
26. 04/359/CP - No Call-in
27. 04/360/CP - No Call-in
28. 04/361/CP - The decision was to Call-in this application for the following reason:
- This proposal involves a substantial upgrade of the Nethybridge Water Treatment Works including new plant close to the banks of the River Nethy, a tributary of the River Spey (Candidate Special Area of Conservation). The site also lies within an area of semi-natural woodland. Given this, the proposal may have implications, particularly in relation to natural heritage and the sustainable development of park communities and consequently, may raise issues of general significance to the collective aims of the National Park.
29. 04/362/CP - No Call-in
30. 04/363/CP - No Call-in
31. 04/364/CP - The decision was to Call-in this application for the following reason:
- The proposal represents a new house in open countryside which may not be justified in terms of land management purposes. This may have the potential to establish a precedent for similar developments in the Park, which cumulatively may raise issues of general significance to the collective aims of the National Park.
32. 04/365/CP - No Call-in

COMMENTING ON APPLICATIONS NOT CALLED-IN BY THE COMMITTEE

33. It was agreed that comments be made to the Local Authorities on applications 04/340/CP and 04/356/CP.
34. The Highland Councillors declared an interest in these applications and left the room.
35. The Committee agreed to submit the following comments to the Highland Council on application 04/340/CP;

The CNPA is concerned about the presence of this residential caravan which appears to be permanently occupied, in this Restricted Countryside Area. This proposal to renew a previous temporary permission, appears to still be contrary to policy as contained in the Highland Structure Plan in that, in the interests of sustainability, it provides a form of accommodation which does not maximise the quality of housing, standards of health, the optimum use of renewable and non-renewable resources, and the efficient use of energy. As such, if unjustified, the CNPA suggests that the application should be considered for refusal and thereafter appropriate action taken to remove it from this countryside location.

36. The Committee agreed to submit the following comments to the Highland Council on application 04/356/CP;

The CNPA recognises that this building is located in a prominent position on a main tourist route and at present is not viewed as being in keeping with the character of the area in terms of its visual appearance. In the interests of visual amenity, the CNPA welcomes the proposals to provide screen fencing and gates. However, while recognising the existing design situation and the need to provide advertising, the CNPA suggests that attempts should be made to improve the design proposals which could include alternative more appropriate signage proposals or at least a reduction in the number of canopy signs. Also, it is suggested that subtle colours are used on any new signage.

The Highland Councillors returned.

REPORT ON TERMS OF APPROVAL FOR PROPOSED HOUSE AT BLACKMILL QUARRY, BALLINTEAN, KINCRAIG (Paper 1)

37. Neil Stewart summarised the progress of the application. NS then presented a paper recommending that the Committee give verbal approval for a Section 75 Legal Agreement (S75) restricting occupancy of the property and also agree the conditions in stated in the report.
38. Don McKee advised the Committee that it was important that a S75 should be applied to this application, as it would set a precedent for any future applications. He also advised that the indication to cease occupancy restrictions in the consultation draft for Scottish Planning Policy (SPP) - Planning for Rural Development was not concrete advice and that

there was no indication as to when this SPP may be approved or if this particular element would be in the final version. He informed the Committee that the advice received from the National Park's legal advisors stated that a S75 would be a workable and enforceable method of restricting the occupancy whereas to enforce this restriction through conditions alone on successive occupiers would be difficult, due to sound legal grounding.

39. DM advised the Committee that he had contacted several mortgage lenders to ascertain the viability of obtaining a mortgage for a property with an occupancy restriction. The overall consensus was that the lenders didn't rule out the ability to lend in principle, but the tighter the restrictions the more difficult it would be to lend funds. On this basis it was suggested to the Committee that it may be acceptable to extend the occupancy restriction to cover someone in land based activity either in Badenoch & Strathspey or the National Park area.
40. Bob Severn was concerned that by imposing such an agreement it could lead to the applicant paying higher mortgage interest rates. Sheena Slimon stated that this could be a good opportunity to work with lenders to overcome this barrier. David Green stated that if the S75 prevented the applicant from obtaining a mortgage then this was a serious concern, however, this application could be used as a test case for senior level discussions with lenders to see what options are available. DG proposed that the application be deferred to allow these discussions to take place.
41. Willie McKenna raised concerns that deferring the application would only prolong the applicants need for local housing and that there is a need for workers in the countryside. He felt that restricting occupancy was an antiquated system.
42. Don McKee, in response to a query, informed the Committee that the right of pre-emption proposed for this property would not be affected by the S75, as the property did not have to be owned but occupied by a person fitting the occupancy restrictions.
43. Basil Dunlop supported the occupancy restrictions but felt they should be as broad as possible, due to the need for local housing, to someone living and working in the area. Bruce Luffman also supported the occupancy restriction but felt that the S75 should be restricted to someone primarily engaged in land-based employment. He advised that he knew of some lenders who could lend up to 60% in such instances.
44. Alistair MacLennan felt that the previous decision of the Committee was that, as there are buildings currently occupying the site, the development should not be classed as creating a precedent for future applications. Don McKee responded that there are numerous sites within the Park to which this could apply and if each one was built upon there would be a cumulative impact.
45. Richard Stroud emphasised the desire to support local people and local affordable housing. He felt that an occupancy restriction by a S75 would keep this development affordable and for local people.
46. Discussion arose that wording in a S75 agreement would have to be carefully considered so that any occupier would not be stopped from living in the house once they retired. Don McKee advised that this could be addressed in the drafting of the S75.
47. Andrew Thin commented in that taking a decision Members had to bear in mind that we did not wish to open the floodgates for unaffordable housing in the countryside within the CNP.
48. David Green proposed a motion to defer this application so that planning staff could investigate appropriate wording for a section 75 agreement and bring this back to the committee in due course. By way of guidance he suggested that the wording should be as

broad as possible so as not to act as a significant disincentive to potential mortgage lenders, and that in addition staff should have discussions with appropriate mortgage lenders so as to encourage lending in these sorts of circumstances. The motion was seconded by Sally Dowden. Robert Severn proposed an amendment to approve the application subject to the conditions stated in the report but without a Section 75 agreement, this was seconded by David Selfridge.

The vote was as follows;

NAME	MOTION (Defer)	AMENDMENT (Approve)	ABSTAIN
Eric Baird	✓		
Sally Dowden	✓		
Basil Dunlop	✓		
Angus Gordon		✓	
Lucy Grant	✓		
David Green	✓		
Bruce Luffman	✓		
Willie McKenna		✓	
Eleanor Mackintosh		✓	
Alistair MacLennan	✓		
David Selfridge		✓	
Robert Severn		✓	
Sheena Slimon	✓		
Richard Stroud	✓		
Andrew Thin	✓		
TOTAL	10	5	

49. The decision was to defer the application to allow the planning officials to engage in further discussions with mortgage lenders and bring back a further report with the terms of a S75 agreement and update on mortgage availability.

**REPORT ON CALLED-IN APPLICATION FOR THE RETENTION OF FORMATION OF ACCESS AND PART RETENTION OF NEW ACCESS TRACK AT SHANVALL, GLENTRUIM, NEWTONMORE
(Paper 2)**

50. Andrew Tait presented a paper for recommending that the Committee refuse the retrospective application subject to the reasons stated in the report, but not to pursue the enforcement notice, as the applicant appears willing to submit a planning application for the original track. He advised the Committee that the applicant had also this week submitted a revised plan, which was seen as an improvement. AT also advised that Section B should be amended to allow delegation of serving the enforcement notice to the Planning Manager.

51. Sheena Slimon informed the Committee that on historical maps the new track referred to in this planning paper, is actually the original track to service the property, whereas the original track referred to in this planning paper, is a newly formed tractor track. She also raised concern that if the original track (as named in the planning paper) had been upgraded this would have involved the felling of more trees than the upgrading of the new track.
52. Andrew Tait advised that whichever route was taken the felling of trees would have been required. He also explained that Highland Council supported the re-instatement of the track rather than the reduction of it.
53. Richard Stroud was concerned that “re-instatement” was not a specific enough term and that “ground cover and tree planting” should also be incorporated.
54. Bruce Luffman requested that a time limit be set for the delegation of issuing an enforcement notice by the Head of Planning. It was agreed that the wording be amended in Section B to include “if the need arises” and a delegation period of 12 months be given to the Planning Manager.
55. Sheena Slimon requested that the enforcement notice delegation be set from the time works have ceased on the cottage.
56. Andrew Tait informed the Committee that the applicant could receive advice for the re-instatement of the track from both SNH and the CNPA Natural Resources Group.
57. The Paper was agreed subject to the above changes.

**REPORT ON CALLED-IN PLANNING APPLICATION FOR ERECTION OF DWELLING AND GARAGE AT FORMER SUMMER HOUSE, CROFTRONAN, BOAT OF GARTEN
(Paper 3)**

58. Andrew Thin advised the Committee that the planning officers had received a letter from the applicant wishing to speak, however, as they were currently on holiday they had asked for the determination to be deferred to allow them to be present.
59. The Committee agreed to defer the application to accommodate this request.

ANY OTHER BUSINESS

60. Andrew Thin, in response to a member of the public, expressed that the minutes of Planning Committee meetings were not written word for word, but captured the main points and outcome of discussions.
61. Bruce Luffman requested if the Call-in report and Planning Papers issued could include the type of planning permission for each application. The planning officials confirmed that this could be accommodated.
62. Basil Dunlop queried if copies of the Committee’s response for the Scottish Planning Policy - Rights of Appeal Consultation Draft were available. Neil Stewart confirmed that they would be. Andrew Thin advised that any Member requiring a copy should contact Neil Stewart.
63. Andrew Thin informed the Committee that the decision not to call-in application 04/325/CP at Milton Wood, Aviemore had been covered in the local press. He advised

that it was important for everyone to understand that the decision had been made by the Committee and not any individual member of staff. He expressed regret that the decision had been reported in this way and conveyed support to the member of staff concerned. He also informed the Committee that this matter had been brought up with the newspaper concerned.

64. Sheena Slimon raised concern that there are still public misunderstandings as to how the CNPA Planning Committee operate and liaise with Local Authorities. Andrew Thin agreed and informed the committee that over 80% of applications Called-in had been approved and that every effort should be made to extend understanding of the CNPA's planning role into the public domain.

DATE OF NEXT MEETING

65. Friday 30th July, Tomintoul.
66. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.
67. The meeting concluded at 13.10pm.