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# CAIRNGORMS NATIONAL PARK AUTHORITY

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## MINUTES OF THE PLANNING COMMITTEE

held at The Albert Memorial Hall, Ballater  
on 16<sup>th</sup> October 2009 at 10.30am

### PRESENT

Eric Baird  
Stuart Black  
Duncan Bryden  
Jaci Douglas  
Dave Fallows  
Lucy Grant  
Richard Stroud

Willie McKenna  
Eleanor Mackintosh  
Anne MacLean  
Alastair MacLennan  
Fiona Murdoch  
Andrew Rafferty

### IN ATTENDANCE:

Don McKee  
Mary Grier  
Robert Grant  
Derek Manson

Bill Stewart  
Hilary MacBean  
Andrew Tait  
Marie Duncan

### APOLOGIES:

Peter Argyle  
David Green  
Marcus Humphrey  
Mary McCafferty  
Gregor Rimell

Geva Blackett  
Drew Hendry  
Bob Kinnaird  
Ian Mackintosh  
Susan Walker

**AGENDA ITEMS 1 & 2:  
WELCOME AND APOLOGIES**

1. The Convenor welcomed all present.
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 2<sup>nd</sup> October 2009, held at Mar Lodge, Braemar were approved.
4. There were no matters arising.

**AGENDA ITEM 4:  
DECLARATION OF INTEREST BY MEMBERS ON ANY ITEMS APPEARING  
ON THE AGENDA**

5. Jaci Douglas declared an indirect interest in Planning Application No. 09/311/CP, perceived involvement
6. Alistair MacLennan declared an interest in Planning Application No. 09/311/CP, chairman.
7. Duncan Bryden declared an indirect interest in Item No. 6 on the Agenda, Community Interest.
8. Fiona Murdoch declared an interest in Item No. 6 on the Agenda, Campaigner.
9. Stuart Black, Jaci Douglas, Dave Fallows as Highland Councillors declared an interest in Item No. 6 on the Agenda.

**AGENDA ITEM 5:  
PLANNING APPLICATION CALL-IN DECISIONS  
(Oral Presentation, Robert Grant)**

- |                 |  |
|-----------------|--|
| 10. 09/307/CP - | No Call-in   |
| 11. 09/308/CP - | No Call-in   |
| 12. 09/309/CP - | No Call-in   |
| 13. 09/310/CP - | No Call-in   |
| 14. 09/311/CP - | Alistair MacLennan declared an interest and left the room<br>No Call-in<br>Alistair MacLennan returned |
| 15. 09/312/CP - | No Call-in   |
| 16. 09/313/CP - | No Call-in   |
| 17. 09/314/CP - | No Call-in   |
| 18. 09/315/CP - | No Call-in   |
| 19. 09/316/CP - | No Call-in   |
| 20. 09/317/CP - | No Call-in   |
| 21. 09/318/CP - | No Call-in   |
| 22. 09/319/CP - | No Call-in   |
| 23. 09/320/CP - | No Call-in   |

24. 09/321/CP - No Call-in  
 25. 09/322/CP - No Call-in  
 26. 09/323/CP - No Call-in  
 27. 09/324/CP - The decision was to call-in the application for the following reason :
- It is proposed to erect two self-catering units to be located in a prominent countryside area, which carries a landscape conservation policy designation and where there are restrictions on unjustified single house developments. The proposal therefore raises issues relating to principle in terms of planning policy, precedent and landscape impact. As such it is deemed to be of significance to the collective aims of the National Park.
28. 09/325/CP - No Call-in  
 29. 09/326/CP - No Call-in

### **COMMENTING ON APPLICATIONS NOT CALLED-IN BY THE COMMITTEE**

30. The Members wished to make comments to the Local Authorities on the following Planning Application No's 09/309/CP, 09/313/CP, 09/316/CP, 09/317/CP, 09/318/CP, 09/319/CP & 09/325/CP. The planning officers noted these comments and were delegated with the responsibility of whether or not to submit the comments to the Local Authorities.

### **AGENDA ITEM 6: CONSULTATION RESPONSE TO PLANNING APPLICATION TO HIGHLAND COUNCIL ON TOM NAN CLACH WINDFARM NORTH EAST OF TOMATIN, INVERNESS-SHIRE (PAPER I)**

Stuart Black, Jaci Douglas, Dave Fallows as Highland Councillors declared an interest and left the room.

31. Andrew Tait (Planning Officer) presented a paper recommending that the Committee agree to the consultation response for the reasons stated in the report.
32. Duncan Bryden advised members of the further letters that had been e-mailed and of the montage diagrams distributed at committee.
33. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) Clarification on Paragraph 63 regarding the applicants Environmental Statement on recreational enjoyment.
  - b) Concerns that poor quality of diagrams not being a true representation of the proposal.
  - c) Concerns on the views used by the applicant with regards to demonstrating impact.
  - d) Clarification that previous CNPA comments have been adhered to.
  - e) Clarification on the response issued by the CNPA as mentioned within the first letter in the appendix of the report from Save our Dava campaigning organisation.

- f) Issues concerning the cumulative impact and making decisions or comments based on limited data.
  - g) Clarification on the response from heritage and land management group (HLM).
  - h) The need for a method to deal with responses based on previous experience of proposals.
34. Matthew Hawkins (CNPA Senior Landscape Advisor) addressed members concerns regarding the basis of the CNPA's comments advising that to object on an individual basis alone is not enough to sustain the objection and that the cumulative impact must be considered.
35. The Committee discussed the application and the following points were raised:
- a) Issues surrounding the wildlife impact and the movement of raptors both in and outwith the Park.
  - b) Concerns with the lack of evidence regarding the migration and recruitment of birds within this situation.
  - c) Recognition that windfarms may have a detrimental effect on ground nesting birds as suggested in a recent article in the Journal of Applied Ecology.
  - d) Consideration that the barrier effect created by the windfarms will not only impact locally but Scotland as a whole.

36. The Committee moved to agree to the consultation response recommended by the CNPA for the reasons stated in the report adding to the recommendation comments covering movement of bird species, lack of a coherent strategy for windfarms, difficulties in assessing cumulative impact of a number of windfarms from both a visual impact and ornithological viewpoint and concern about the quality of visual information provided.

Stuart Black, Jaci Douglas, Dave Fallows returned.

**AGENDA ITEM 7:  
REPORT ON CALLED-IN PLANNING APPLICATION FOR CONSTRUCTION  
OF ALL ABILITIES PATH, 270m x 1.5m WIDE. REINSTATEMENT OF  
QUARRY AND SECTION AT DELL WOODS ABERNETHY FOREST,  
NETHYBRIDGE  
(PAPER 2)**

37. Mary Grier (Planning Officer) presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
38. Mary Grier advised members of a later submission from Inclusive Cairngorms welcoming the proposal.
39. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) Clarification of Paragraph 2 and whether the direct access and all sections are all abilities.
  - b) Clarification of the position of the burn and the connection to the all abilities path.
  - c) Clarification of the Natural Heritage Input.
  - d) Confirmation of the Capercallie sites with the proposal.
40. The Committee discussed the application and the following points were raised:
- a) The practicality of the connection.
  - b) The possibility of upgrading the connecting section to an all abilities path.
  - c) The inclusion of an advice note or condition to cover the upgrading.
41. The Committee agreed to approve the application subject to the conditions stated in the report and a condition to include the access connection upgrade to all abilities.

**AGENDA ITEM 8:  
REPORT ON CALLED-IN PLANNING APPLICATION FOR ERECTION OF  
DWELLING (OUTLINE) AT LAND 100m NORTHWEST OF BIRCH  
COTTAGE, DRUMUILLIE, BOAT OF GARTEN  
(PAPER 3)**

42. Bill Stewart (Planning Manager) advised members of 2 letters received from Mr Alexander Grant (Applicant) and Mr Fergus Ewing (MSP) regarding applications 07/414/CP & 09/252/CP requesting the Committee defer the determinations before the report presentations in order to seek further information from Transport Scotland. Members were reminded that 07/414/CP had previously been deferred due to land management and road issues on the 7<sup>th</sup> March 2008.
43. Bill Stewart also informed Members that Alexander Grant (Applicant) had submitted a late request outwith the given timescale to address the Committee.
44. Members discussed the request seeking advice from Bill Stewart and the following points were raised.

- a) The appropriateness of deferral.
  - b) The consideration of the letters and their weight on the decision to defer.
  - c) The additional information expected from Transport Scotland.
  - d) The implications of deferral both before and after determination.
  - e) The potential to withdraw and submit a new application.
45. Dave Fallows proposed a motion to defer the applications without hearing the presentations to await further information from Transport Scotland. This was seconded by Stuart Black.
46. Richard Stroud proposed an amendment to determine the applications. This was seconded by Alistair MacLennan.
47. The vote was as follows:
- 48.

	MOTION	AMENDMENT	ABSTAIN
Eric Baird	√		
Stuart Black	√		
Duncan Bryden		√	
Jaci Douglas	√		
Dave Fallows	√		
Lucy Grant		√	
Willie McKenna	√		
Eleanor Mackintosh		√	
Anne MacLean		√	
Alastair MacLennan		√	
Fiona Murdoch		√	
Andrew Rafferty	√		
Richard Stroud		√	
<b>TOTAL</b>	<b>6</b>	<b>7</b>	<b>0</b>

49. The Committee agreed to determine the application.
50. Derek Manson (Planning Officer) presented a paper recommending that the Committee refuse the application subject to the conditions stated in the report.
51. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) Clarification of Paragraph 19 and why rural housing groups are not a consideration.
  - b) Clarification of the relevant Local Plan policy used in recommendation.
  - c) Clarification on ownership of third parties and position of land that is controlled by the applicant.
  - d) Clarification on the Scottish Government unoccupied croft policy.
  - e) Alternative access consideration.
  - f) Clarification if the access in question is directly linked to the road accident mentioned in the report.
  - g) Clarification on Paragraph 40 and guidance on what is considered sufficient man hours.
  - h) Clarification on Paragraph 11 and adjacent property land management justification.
52. Mr Alexander Grant (Applicant) addressed the Committee.
53. The Committee were invited to ask questions of the speaker and the following points were raised:

- a) The possibility of moving access to the West of property.
  - b) Recent road improvement expenditure in relation to the access and the accident.
  - c) Whether the applicant had sought any advice from an agent.
  - d) Clarification of the hours spent on croft and distance from current accommodation.
  - e) Future and current development of the croft.
  - f) Clarification of ownership past and present of trunk road.
54. Duncan Bryden thanked Mr Grant.
55. The Committee discussed the application and the following points were raised:
- a) Bill Stewart advised members of land justification requirements and the implications of new access arrangements.
  - b) Concern surrounding the cause of the accident and the need for confirmation that the access is not responsible before making a decision.
  - c) The reduction in use of access if applicant to live on the croft.
  - d) Support for crofting in principle.
  - e) The clarity of Transport Scotland submission.
  - f) Road risks the responsibility of Transport Scotland not the applicant.
  - g) The involvement of The Scottish Government within the application if approved and the implications for CNPA.
  - h) Workable solutions for the applicant within each determination scenario.
  - i) Land management justifications evidence.
  - j) Restricted Countryside Area issues concerning the application.
  - k) Confirmation of the timescales if Scottish Government involvement is necessary.
  - l) The inclusion of a business plan to aid application.
56. Richard Stroud proposed a motion to go with the planner's recommendation. This was seconded by Anne MacLean.
57. Willie McKenna proposed an amendment to defer the application for applicant to submit a business plan and await further consultation response from Transport Scotland. This was seconded by Dave Fallows.

58. The vote was as follows:  
59.

	MOTION	AMENDMENT	ABSTAIN
Eric Baird	√		
Stuart Black		√	
Duncan Bryden	√		
Jaci Douglas		√	
Dave Fallows		√	
Lucy Grant		√	
Willie McKenna		√	
Eleanor Mackintosh	√		
Anne MacLean	√		
Alastair MacLennan		√	
Fiona Murdoch	√		
Andrew Rafferty		√	
Richard Stroud	√		
<b>TOTAL</b>	<b>6</b>	<b>7</b>	<b>0</b>

60. The Committee agreed to defer the application to allow submission of a business plan within 6 months to justify the development of the croft and justification of the house and for further clarification on the access from Transport Scotland.

**AGENDA ITEM 9:**

**REPORT ON CALLED-IN PLANNING APPLICATION FOR USE OF LAND FOR TEMPORARY SITING OF CARAVAN; INSTALLATION OF SEPTIC TANK AND FORMATION OF NEW ACCESS AT LAND 110m NORTH WEST OF BIRCH COTTAGE, DRUMULLIE, BOAT OF GARTEN**

61. Committee agreed to defer as it is a related application.

The Committee paused for lunch at 12.45hrs

The Committee reconvened at 13:30hrs

**AGENDA ITEM 10:**

**REPORT ON CALLED-IN PLANNING APPLICATION FOR ERECTION OF BOTTLING HALL AND STORAGE BUILDING AS PHASE 1 OF REDEVELOPMENT OF SITE (REVISED APPLICATION) AT UNIT 12**

62. Derek Manson (Planning Officer) presented a paper recommending that the Committee approve the application for the reasons stated in the report.
63. The Committee discussed the application and the following points were raised:
- a) Clarification of screening & planting within landscaping on the site plan.
  - b) Clarification on Condition 3 and the need to restrict working hours when noise levels are low as in Paragraph 23.
  - c) Clarification of the meaning of Banks man.
64. The Committee agreed to approve the application for the reasons stated in the report and the removal of Condition 3.

**AGENDA ITEM 11:**

**REPORT ON CALLED-IN PLANNING APPLICATION FOR USE OF LAND FOR SITING STORAGE CONTAINER; ERECTION OF BUILDING AS ANIMAL FEED SHOP AT 1 CLURY CROFT, DULNAIN BRIDGE**

65. Duncan Bryden advised members this was Hilary MacBean's (Planning Officer) last Committee with the CNPA and she was taking time to travel New Zealand.
66. Hilary MacBean (Planning Officer) presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
67. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) Clarification on toilet arrangements and compliance with recommendation.
  - b) Consequences for applicant if toilet arrangements are not met within the given timescale.
  - c) The need for the toilet in the premises and the proposed porta-loo as an interim arrangement.
  - d) The potential for partial soak away and cost involved for ground tests.
  - e) Clarification of land maintenance on site.



- f) The potential to include a condition to cover landscape maintenance.
  - g) Implications of not meeting required conditions.
  - h) Clarification of Conditions 3 and 4 and the permanence of the facility.
  - i) Clarification of the spinning disk system and costs.
68. The Committee discussed the application and the following points were raised:
- a) Omit Condition 3 so not approving a temporary portable toilet, amend Condition 4 to reflect toilet provisions.
  - b) The option to request ground tests for drainage prior to commencement of the building.
  - c) The possibility to lay pipes for the future drainage development.
  - d) The inclusion of landscaping maintenance to Condition 7.
  - e) A condition to include painting of the container.
69. The Committee agreed to approve the application subject to the conditions stated in the report, omission of Condition 3 and amendments to Condition 4 and Condition 7.

**AGENDA ITEM 12:  
ANY OTHER BUSINESS**

70. Anne MacLean raised the issue of review quorum requirements at Planning Committee given that member numbers have decreased. Jane Hope (Chief Executive) who was present at the meeting agreed to look into this and bring it back to Committee.
71. Duncan Bryden stressed how important it is to give apologies to ensure quorums are met.

**AGENDA ITEM 13:  
DATE OF NEXT MEETING**

72. Friday 10.30am 30<sup>th</sup> October 2009 at Lonach Hall, Strathdon
73. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.
74. The meeting concluded at 14:20hrs.