

**CAIRNGORMS NATIONAL PARK AUTHORITY**

---

**MINUTES OF THE PLANNING COMMITTEE**

held at The Community Hall, Boat of Garten  
on 17<sup>th</sup> January 2014 at 11.00am

**Members Present**

Peter Argyle (Vice Convener)

Angela Douglas

Dave Fallows

Katrina Farquhar

Jeanette Gaul

Kate Howie

Gregor Hutcheon

John Latham

Bill Lobban

Eleanor Mackintosh (Convener)

Mary McCafferty

Fiona Murdoch

Gordon Riddler

Gregor Rimell

Brian Wood

**In Attendance:**

Grant Moir, Chief Executive

Murray Ferguson, Director of Sustainable Development

Simon Harrison, Head of Planning

Katherine Donnachie, Planning Officer, Development Management

Peter Ferguson, CNPA Legal Advisor from Harper MacLeod LLP

Pip Mackie, Planning Systems Officer

Alix Harkness, Clerk to the Board

**Apologies:**

Duncan Bryden

Willie McKenna

Martin Price

# APPROVED COMMITTEE MINUTES

## **Agenda Items 1 & 2:**

### **Welcome & Apologies**

1. The Convenor welcomed all present.
2. The Convenor introduced Alix Harkness who had recently been appointed as Clerk to the Board and Sam Wainwright, the new Planning Administrator. The Convenor thanked Pip Mackie for all her work in administrating the Planning Committee meetings over the years and advised that she would soon be taking up the new role of CNPA HR Support Officer.
3. Apologies were received from the above Members.

## **Agenda Item 3:**

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

4. The minutes of the previous meeting, 6<sup>th</sup> December 2013, held at The Grant Arms Hotel, Grantown on Spey were approved.
5. Gordon Riddler expressed his thanks to Simon Harrison and Karen Major for assisting with the points at Paragraphs 20 a and b.
6. The Convenor provided an update on the Action Points from the previous meeting:
  - Action Point at Para. 16: The Revised Core Path Plan and outstanding objections had been submitted to the Minister.
  - Action Point at Para. 24: All amendments had been actioned and the LD Plan submitted to Scottish Ministers.
  - Action Point at Para. 61: The Decision Notice had been issued.

## **Agenda Item 4:**

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

7. Dave Fallows declared an interest in:
  - Item No. 5 (Paper 1) - Indirect interest – He advised that he had been asked by the Applicant to act as a referee in respect of the probity of the organisation.
8. The Convenor advised that prior to starting the tabled items an update would be provided on the change of the standard time condition now being detailed as an Advice Note on planning permissions.

## APPROVED COMMITTEE MINUTES

9. Simon Harrison advised that there had been a change in legislation in August 2009. He advised that under Section 58 of the previous Act, the timescale was detailed explicitly as a condition, usually 3 or 5 years. Under the new statute, the timescale had been reduced to 3 years and was implicit in the legislation. Scottish Government advice was that it was no longer required to be a specific condition but included as an Informative.
10. The Convener clarified that the Committee could still stipulate a different timescale on a planning permission from the standard 3 years and if this was done, it would be dealt with as a condition. Simon Harrison confirmed that this was the case.
11. Clarification was sought on the issue of how an Applicant would deal with extending the time period should the development not have started within the 3 year period. Previously this would have been dealt with as a Section 42 (S42) application of the previous Act to vary the time condition and only the condition regarding time could be reassessed for decision. Simon Harrison responded that it could still be dealt with under a S42 application. However, as there was no longer a time condition to vary, the guidance received from the Scottish Government was that it effectively had to be treated as a new application and the entire principle of the application could also be reconsidered. Simon Harrison advised that there was also now a fee for dealing with this type of application whereas previously there hadn't been.
12. A statement that due to the complexities involved in the new legislation, if it would not be easier and more straightforward to just include a time condition on every permission. Peter Ferguson advised that if a different time period were specified as a condition, it only regarded as a condition for the purposes of the Applicant appealing against it. The Applicant could not apply again to extend it.
13. Peter Ferguson advised that a S42 application could previously have covered a change in time limit and all other conditions. It had been recognised that it was not always appropriate for an Applicant to request to vary the time limit via a S42 application and this had shaped the new legislation. There were now 2 ways for an Applicant to come back on application details – S42 which now dealt with non time limit conditions and a Regulation 11 application is to extend the time limit on a permission.
14. Peter Ferguson stated that there was an emerging school of thought that where a S42 application is received and approved, that it resets the 3 year clock and so in effect would grant an extension. This issue was currently being discussed by Scottish Ministers. He advised that S42 and Regulation 11 applications had different fee structures.
15. Clarification that permissions granted prior to August 2009, still had a valid 5 year time limit. Peter Ferguson advised that this was the case.
16. Clarification if a permission had been issued post August 2009 with a specified time limit, if it could be extended under a variation. Peter Ferguson advised that it would just duplicate the new legislation and could not be amended under S42.
17. Concern that some applications had been received to vary time conditions under S42 over the last few months. The Convener requested the Planning Officials to investigate this issue and if necessary bring forward information to Committee.

## APPROVED COMMITTEE MINUTES

18. A request that the Developers Forum be informed of this change in legislation. The Convener advised that it would be.
19. Clarification if Applicants were being informed of this change and the implications involved.
20. The Convener advised that this issue should be discussed at the Local Authority Protocol Group. Katherine Donnachie responded that the Local Authorities appeared to be dealing with the matter in different approaches. Murray Ferguson advised that a Protocol Group meeting was currently being organised and this would be discussed.
21. A request for Simon Harrison to send members a briefing note on the change in legislation, the associated fees and the impacts associated with them. Simon Harrison confirmed that this would be done.

### **Agenda Item 5:**

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

#### **Restoration of Micro Hydro Scheme on River Gynack**

#### **(Amended Proposal Ref 10/4679/FUL (10/424/CP))**

#### **At River Gynack 150M NE of St Vincents Hospital, Gynack Road,**

#### **Kingussie**

#### **(Paper 1) (2013/0376/DET)**

22. The Convener informed Members that a request to answer questions had been received, within the given timescale, from:
  - Applicant / Agent – Alasdair Bell, Kingussie Community Development Company
23. The Committee agreed to the request.
24. Katherine Donnachie presented a paper recommending that the Committee the application subject to the conditions stated in the report.
25. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
  - a) The noise levels associated with the Power House and the proposed materials not being stipulated in the conditions.
  - b) Clarification of the proximity of the path network to the Power House. Katherine Donnachie indicated these on a map.
  - c) How access was to be taken to the Power House. Katherine Donnachie responded that it was via steel steps down a steep bank.

## APPROVED COMMITTEE MINUTES

26. The Committee were invited to ask questions of the Applicant and the following points were raised:
- a) The noise levels associated with the Power House. Alasdair Bell responded that the development was located in a noisy area; there were several waterfalls in the vicinity.
  - b) The proposed materials of the Power House. Alasdair Bell responded that due to the development being a community project it was essential to keep costs minimised. Several quotes had been sought specifying different materials. He advised that if the building were to be wooden it would be insulated.
  - c) The undergrounding of the pipe and how stable it would be. Alasdair Bell replied that any pipe under the earth would be plastic. He stated that the pipe from the weir to the bank would be concrete and embedded, the covering boulders would also be embedded in concrete.
  - d) Clarification of the extent of proposed felling and new planting to take place. Alasdair Bell indicated the areas on a map.
27. The Convener thanked the speaker.
28. The Committee discussed the application and the following points were raised:
- a) The high quality of the application and support for approving it.
  - b) A suggestion that natural regeneration take place instead of the reinstatement as specified in Condition 2, Bullet Point 2.
  - c) Congratulations to the Applicant for all their work including the high quality supporting information and engaging in the pre application process which had speeded up the determination process.
  - d) The development of a best practice guide for this type of development covering issues such as noise and lighting and including case studies, such as this application.
  - e) Support for the community group and the public consultation they had carried out.
29. The Committee agreed to approve the application subject to the conditions stated in the report with an amendment to Condition 2, Bullet Point 2 to state: 'Details of woodland regeneration.' instead of 'Details of replacement planting...'
30. **Action Points arising:** Officers to start work on a best practice guide for micro hydro schemes.

## APPROVED COMMITTEE MINUTES

### **Agenda Item 6:**

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

#### **Erection of House for Holiday Letting Purposes**

#### **At Laggan Country Hotel, Newtonmore PH20 1BS**

#### **(Paper 2) (2013/0350/DET)**

31. The Convener informed Members that a request to address the Committee had been received, within the given timescale, from:
- Applicant / Agent – David Huisman
32. The Committee agreed to the request.
33. Katherine Donnachie presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
34. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) The discrepancy between the proposed use of the development being for staff accommodation and the description being for holiday letting use. Katherine Donnachie advised that the description of the development had been advised by Highland Council and could not be amended.
  - b) Clarification that if the proposed development had no neighbours affected by it, why reference was made to impact on residents under the Advice Note regarding construction hours. Katherine Donnachie responded that it was the standard wording for the Advice Note and although no neighbours were immediately affected by the development there were other houses in the locale.
35. David Huisman was invited to address the Committee. The presentation covered the following points:
- The development being for use as staff accommodation not holiday letting as in the description.
  - The existing planning permissions for 2 buildings on the site and an extension to the hotel.
  - The requirement for additional staff accommodation when coach parties are occupying the hotel.
36. The Committee were invited to ask questions of the speaker. No questions were asked.
37. The Convener thanked the speaker.

## APPROVED COMMITTEE MINUTES

38. The Committee discussed the application and the following points were raised:
- a) If Officers were content with the proposed materials given that they were different to that of the existing building. Katherine Donnachie responded that they were, the existing permission was for 2 wooden buildings on the site and the proposed development would be an improvement to the current appearance of the site.
  - b) The established principle of development and support for the application.
39. The Committee agreed to approve the application subject to the conditions stated in the report.
40. **Action Points arising:** None.

### **Agenda Item 10:**

#### **Any Other Business**

41. Simon Harrison provided an update on the Local Development Plan. He advised that it had been submitted and a Reporter had been allocated. The Reporter would advise shortly if any further procedures were required.
42. The Convener advised that the CNPA information had been submitted on Thursday 16<sup>th</sup> January 2014 to the Reporters Unit on the Kingussie application appeal (2013/0190/MSA).
43. Murray Ferguson advised that a much stronger section regarding National Parks had been included in the National Planning Framework. The document was currently before Parliament and was a big step forward in the recognition of National Parks.
44. **Action Points arising:** None.

### **Agenda Item 11:**

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

45. Friday 7<sup>th</sup> February 2014 at The Albert Memorial Hall, Ballater.
46. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.
47. The public business of the meeting concluded at 12.00pm.