



Cairngorms National Park Authority

Planning Enforcement

Internal Audit 2010/11

March 2011

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Cairngorms National Park Authority – Planning Enforcement

Executive Summary

Background

There are four aims for the Park which recognise the special qualities of the area and the role that planning can play in delivering the sustainability of a special place:

- To conserve and enhance the natural and cultural heritage of the area;
- To promote sustainable use of the natural resources of the area;
- To promote understanding and enjoyment of the special qualities by the public; and
- To promote sustainable economic and social development of the area's communities.

Cairngorms National Park Authority (CNPA) has a key role to play in achieving these aims in a balanced and responsible way by working in partnership with the local authorities and communities in the Park. To facilitate these aims the Cairngorms National Park Plan was developed and provides the strategic context for the Park's planning functions.

Planning applications within the Park boundary are registered with the appropriate local authority in which the application falls, with each local authority informing CNPA of all applications made. The local authorities within the Park are: Aberdeenshire, Highland, Moray, Angus and Perth & Kinross. Planning applications are reviewed at call-in meetings held by the Park. If an application is deemed to be raising issues of significance to the Park aims it will then be called-in. The Park reviews 450 - 500 applications each year and approximately 12% of these are called-in. When this happens CNPA becomes the determining authority for the application.

The Development Management Group, which consists of one Head Planner and two and a half full time equivalent Development Management Officers review each called-in application in detail and prepare a report with recommendations to submit to the Planning Committee. The Planning Committee of the Park comprises all Board Members and will determine applications based upon the four aims of the Park, CNPA Local Plan, national planning guidelines, non-statutory planning guidance and any mitigating circumstances. Should a planning application be approved by the Committee it will be approved with conditions.

The responsibility for monitoring compliance with these conditions rests with the Development and Monitoring Officer who has a number of enforcement actions that can be taken should an applicant fail to comply. These actions vary from ordering the work to stop through to applying to the courts for the application of an Interdict. The Scottish Government circular 10/2009 Planning Enforcement lays out the government policy for the enforcement of planning regulations. Within the circular they state that it may be possible to resolve a breach of planning control through informal negotiations, particularly where the breach is relatively minor and/or unintentional but that enforcement is able to demonstrate efficient use of resources. The majority of breaches of condition actions within the Park are resolved using informal negotiations.

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Scope and Objectives	We have undertaken a key controls review to ascertain the adequacy and effectiveness of the internal control environment in place over enforcement within CNPA. Our full scope is included at Appendix A .
Approach	Our approach was to document the systems and procedures in operation through discussions with relevant staff and the review of appropriate documentation. Meetings were held with the Monitoring and Enforcement Officer, Head Planner and one of the Development Management Officers. Policies, procedures, registers and reports in use in the planning and enforcement process were examined as part of this review. The key controls were then tested to determine their adequacy and effectiveness.
Overview of Key Findings	<p>The staff responsible for Planning and Enforcement at Cairngorms National Park Authority are knowledgeable about the requirements and processes associated with the Planning and Enforcement requirements and consider the four aims of the Park, CNPA Local Plan, national planning guidelines, non-statutory planning guidance and any mitigating circumstances as part of the Planning and Enforcement process. However, the management of planning enforcement offers some scope for improvement.</p> <p>We identified one medium and two low priority finding, these are summarised below:</p> <ul style="list-style-type: none">• Two procedures describing the planning and enforcement process require updating and one is still to be published;• Planning conditions are followed up on an ad-hoc basis; and• A register of applicants failing to meet conditions is not kept. <p>Based on the work performed over the control environment across planning enforcement management, our overall assessment is that the current design and operation of controls is Adequate.</p>

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Summary

The following table summarises our findings by priority and nature. Our detailed recommendations for improvement are shown in the findings section.

Objectives	Total	Priority			
		Very High	High	Medium	Low
Policies	1	-	-	1	-
Call-in criteria	-	-	-	-	-
Register	-	-	-	-	-
Appeals	-	-	-	-	-
Formal assessment	-	-	-	-	-
Monitoring and recording	1	-	-	-	1
Remedial action	1	-	-	-	1
Total	3	-	-	1	2

Very High
High
Medium
Low

Fundamental control weaknesses or opportunities identified.

Major control weaknesses or opportunities identified or a significant volume of important weaknesses or opportunities identified.

Important control weakness or opportunities identified or a significant volume of individual control weaknesses.

Minor control weaknesses or improvement opportunities identified, generally of a lower risk nature.

A more detailed explanation of the above priorities can be found at **Appendix B**.

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Findings

Objective – An appropriate policy is in place and available for public inspection			
Finding		Recommendation	Rationale
1 – Documented operating procedures			
<p>We undertook a review of procedures and guidance, identifying that one was in a draft format, being:</p> <ul style="list-style-type: none"> • Planning Enforcement Charter for Cairngorms National Park. <p>We also identified that two of the procedures describing the planning and enforcement processes did not reflect the new park boundaries, being:</p> <ul style="list-style-type: none"> • Development Control Protocol – This does not include details of Perth & Kinross; and • Planning Committee FAQs – This does not include details of Perth & Kinross, 		<p>The Planning Enforcement Charter should be reviewed to ensure that it reflects the current park boundaries and contains the most up to date information available before it is published.</p> <p>Management should update the Development Control Protocol and the Planning Committee FAQ and publish these.</p> <p>A register of publications and review dates should be developed and reviewed to ensure that only the most up to date information is made available.</p>	<p>Up to date procedural and guidance notes will help ensure consistency across planning applications that are called in.</p>
Management Response			Responsibility/ Deadline
<p>Recommendation agreed. We expect that the required actions will be implemented as a result of the combination of Planning Service Improvements Plans and implementation of new e-planning arrangements, both of which are currently underway.</p>			<p>Head of Planning / November 2011</p>
			<p>Medium</p>

Cairngorms National Park Authority – Planning Enforcement

Findings

Objective – Formal assessment are undertaken on a periodic basis or as required to ensure any work undertaken meets the planning conditions applied			
Finding		Recommendation	Rationale
2 – Monitoring of conditions			
<p>Planning regulations require that a planning authority be notified as soon as is practicable of the date work is expected to commence before the work actually commences and again when work is completed on any development where planning permission has been granted.</p> <p>These notifications are specified on decision notices and state that enforcement action may be taken if the applicant does not comply. These notifications are followed up on an ad-hoc basis.</p> <p>There is no requirement for the applicant to certify on an ongoing basis that conditions are being met. Equally, the applicant receives no notification when the park is satisfied that all conditions have been met.</p> <p>There is no robust process in place to formally record when each planning condition associated with a project has been met.</p>		<p>The monitoring and recording process should be developed to include the following details:</p> <ul style="list-style-type: none"> • Date of notification of work starting; and • Date of notification that project was completed within the agreed conditions. <p>Once the required details have been established, CNPA should include the requirement to report the achievement of each of the conditions within the planning approval documentation.</p>	<p>CNPA must be able to satisfy itself that the enforcement planning conditions within which project approval is granted have been met.</p> <p>Without a formal basis upon which to record and monitor the achievement of these conditions, CNPA has no objective method against which to monitor and report on their achievement.</p>
Management Response		Responsibility/ Deadline	Priority
<p>Recommendation agreed. We expect that the required actions will be implemented as a result of the combination of Planning Service Improvements Plans and implementation of new e-planning arrangements, both of which are currently underway.</p>		<p>Head of Planning / November 2011</p>	<p>Low</p>

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Findings

Objective – Remedial action is available to CNPA to enforce planning conditions that have not been adhered to				
Finding		Recommendation	Rationale	
3 – Enforcement of conditions				
<p>CNPA considers each planning application on its own individual merits. No record of previous planning approval condition achievement is formally recorded documenting each applicant's compliance or achievement of previous planning conditions.</p>		<p>CNPA should consider producing a register of applicants who have previously failed to meet planning conditions in order that this information can be used to inform future applications from these individuals.</p>	<p>The Town and Country Planning Act (Scotland) 1997 states that an application is unique to the land or building. This statement has been interpreted by planning authorities nationally to mean each application is required to be judged on its individual merits and an applicant's previous history of potential non-compliance cannot be a factor in the decision process.</p> <p>Knowledge of previous potential non-compliance may be of benefit in deciding how, and how often a site should be visited in order to monitor if conditions are being met.</p>	
Management Response			Responsibility/ Deadline	Priority
<p>Recommendation agreed. We expect that the required actions will be implemented as a result of the combination of Planning Service Improvements Plans and implementation of new e-planning arrangements, both of which are currently underway.</p>			<p>Head of Planning / November 2011</p>	<p>Low</p>

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Appendix A: Detailed scope

Scope	<p>CNPA only deals with planning applications that are of significance to the aims of the Park.</p> <p>Planning applications are still made to the relevant local authority. Once an application is lodged, the Park Authority has 21 days to decide if the application raises issues of significance to the Park.</p> <p>If an application does raise such issues, then the Park Authority will take responsibility for deciding the application. Deciding to take on an application does not mean that the Park Authority objects to it, just that it is important to the area.</p> <p>In most cases, conditions are attached to deal with any concerns. These conditions then need to be monitored and enforced to ensure that the developments progress in line with the approved plan and related conditions.</p> <p>The specific objectives of this review were to assess the controls in place over the following areas:</p> <ul style="list-style-type: none">• An appropriate policy is available for public inspection;• Formally documented assessments of the call-in criteria for approved plans with conditions attached are held on file at required locations;• An appropriate register is maintained uniquely documenting each planning application subject to planning conditions;• Appeals against planning conditions are logged and monitored;• Formal assessments are undertaken on a periodic basis or as required to ensure any work undertaken meets the planning conditions applied;• Processes are in place to monitor and record on-going compliance with planning conditions and formally signed off upon site completion; and• Remedial action is available to CNPA to enforce planning conditions that have not been adhered to.
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Appendix B: Internal Audit Evaluations

Overall assessment

Assessment Rating	Description
Substantial	Controls / procedures accord with accepted good practice and are operating to a high standard.
Adequate	The majority of controls / procedures accord with accepted good practice and are operating, although some deficiencies exist which could result in loss or fraud.
Limited	Controls / procedures in place offer scope for considerable improvement and concern is expressed about their adequacy.
Inadequate	The existing control environment requires substantial revision, and results in an unacceptably high risk of the Cairngorms National Park Authority suffering financial and/or reputational loss.

Standards

Management should be aware that our internal audit work was performed according to the Institute of Internal Auditors - UK and Ireland standards which are different from audits performed in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. Similarly, the assessment on any gradings provided in our internal audit report are not comparable with the International Standard on Assurance Engagements (ISAE 3000) issued by the International Audit and Assurance Standards Board.

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Appendix B: Internal Audit Evaluations

Priorities	Explanations
Very High	<p><i>Fundamental control weaknesses or opportunities identified.</i></p> <p><i>A “very high” rating reflects significant weaknesses in the systems of internal control or processes for monitoring performance that will undermine the continued operation of the service. As applicable within the audit scope, deficiencies exist with respect to compliance with applicable laws and regulatory or other requirements, Cairngorms National Park Authority policies and procedures, and sound control practices. A “Very High” rating indicates that <u>immediate corrective action is required</u> to reduce exposure to loss of income or assets or to danger to life or injury.</i></p>
High	<p><i>Major control weaknesses or opportunities identified or a significant volume of important weaknesses or opportunities identified.</i></p> <p><i>A “high” rating reflects weaknesses in the systems of internal control or processes for monitoring performance. As applicable within the audit scope, deficiencies exist with respect to compliance with Cairngorms National Park Authority policies and procedures, sound control practices, and/or applicable laws and regulatory or other requirements. A “High” rating indicates that <u>timely corrective action is required</u> to reduce exposure to loss of income or assets or to danger to life or injury.</i></p>
Medium	<p><i>Important control weakness or opportunities identified or a significant volume of individual control weaknesses.</i></p> <p><i>A “medium” rating reflects, based on the results of our limited testing, generally adequate systems of internal controls, processes for monitoring performance and compliance with legal or other requirements as applicable within the audit scope. Operations generally conform to Cairngorms National Park Authority policies and procedures, sound control practices and/or applicable laws and regulatory or other requirements, although minor deficiencies may exist.</i></p> <p><i>A “medium” rating indicates that any deficiencies noted do not significantly impair operational effectiveness, violate policy, law or regulations, or weaken control.</i></p>
Low	<p><i>Minor control weaknesses or improvement opportunities identified, generally of a lower risk nature.</i></p> <p><i>A “low” rating indicates, based on the results of our limited testing, strong systems of internal controls and processes for monitoring performance and compliance with legal or other requirements as applicable within the audit scope. No major control deficiencies or significant volume of weaknesses were noted by our limited testing.</i></p>

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Statement of Responsibility:

We take responsibility for this report which is prepared on the basis of the limitations set out below.

The matters raised in this report are only those which came to our attention during the course of our internal audit work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of internal audit work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices. We emphasise that the responsibility for a sound system of internal controls and the prevention and detection of fraud and other irregularities rests with management and work performed by internal audit should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify all circumstances of fraud or irregularity. Auditors, in conducting their work, are required to have regards to the possibility of fraud or irregularities. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud. Internal audit procedures are designed to focus on areas as identified by management as being of greatest risk and significance and as such we rely on management to provide us full access to their accounting records and transactions for the purposes of our audit work and to ensure the authenticity of these documents. Effective and timely implementation of our recommendations by management is important for the maintenance of a reliable internal control system.

Deloitte LLP

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