

# APPROVED COMMITTEE MINUTES

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## CAIRNGORMS NATIONAL PARK AUTHORITY

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### APPROVED MINUTES OF THE PLANNING COMMITTEE

held at The Community Hall, Nethy Bridge

on 18<sup>th</sup> August 2017 at 11.00am

#### Members Present

Peter Argyle	John Latham
Rebecca Badger	Bill Lobban
Geva Blackett	Fiona Murdoch
Paul Easto	Eleanor Mackintosh (Convener)
Dave Fallows	Willie McKenna
Jeanette Gaul	Gordon Riddler (Deputy Convener)
Kate Howie	Judith Webb
Gregor Hutcheon	Brian Wood
Janet Hunter	

#### In Attendance:

Gavin Miles, Head of Planning  
Matthew Hawkins, Landscapes & Ecology Manager  
Peter Ferguson, Legal Adviser Harper & MacLeod LLP  
Alix Harkness, Clerk to the Board  
Kirsty Mackenzie, Support Officer

**Apologies:** Angela Douglas Gregor Rimell

#### Agenda Items 1 & 2:

##### Welcome

1. The Convener welcomed all present and apologies were noted.

#### Agenda Item 3:

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

2. The minutes of the previous meeting, 30 June 2017, held at the Cairngorm Hotel, Aviemore were approved with no amendments.

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3. There were no matters arising.
4. The Convener provided an update on the Action Points from the previous meetings:
  - a) At Para: 13i) **Complete** - Two new conditions added to the decision notice around servicing connection and external lighting.
  - b) At Para: 13ii) **Complete** - Informative 4 reviewed and amended.
  - c) At Para: 13iii) **Complete** - Reference to 'down birch' changed to 'downy birch'.
  - d) At Para: 13iv) **In hand** - Planning and Heritage teams will look at time periods for maintenance of tree planting details as the new Local Development Plan is prepared.
  - e) At Para: 17i) **In hand** - Amendments to be made to LDP Action Programme Review 2017
  - f) At Para: 17ii) **Complete** - Gavin to clarify seed mix specification in relation to A9 works. There is a mix agreed by the Environmental Steering Group (advisory) for the project who have raised concerns about the specification used on Alvie-Dalraddy section already and want Transport Scotland use contracts to ensure contractors comply.
  - g) At Para: 23i) **No Longer Considered Necessary** - If needed, Gavin was to prepare and agree a response to the Ministers Statement on the Planning Review Consultation with the Planning Committee Convener and Deputy Convener and Board Convener and Deputy Convener.

### Agenda Item 4:

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

5. Becky Badger declared an interest in:
  - a) Item No. 5 – Indirect interest – Husband is employed by RSPB and is the Senior site manager at Abernethy
6. Paul Easto declared an interest in:
  - a) Item No. 5 – Direct interest – Is an employee and Director of Wilderness Scotland - an existing commercial tenant of Rothiemurchus Estate and also a commercial tourism partner.
7. Willie McKenna declared an interest in:
  - a) Item No. 5 – Indirect interest – Daughter has made public statement concerning An Camas Mor.

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8. Paul Easto left the meeting.

### **Agenda Item 5:**

#### **Application for Planning Permission in Principle (2017/0086/DET)**

#### **Application under S42 to variation Condition I of Planning Permission in Principle (CNPA Ref 09/155/CP)**

#### **At An Camas Mor, Inverdrue, Aviemore**

#### **RECOMMENDATION: APPROVE SUBJECT TO CONDITIONS**

9. Gavin Miles, Head of Communities & Planning presented the paper to the Committee. He noted that the agenda title was incorrect – the application was a Section 42 application to change the conditions of a Planning Permission in Principle (PPP) as described in the Paper, not an application for detailed planning permission. .
  
10. The Committee were invited to ask points of clarity, the following points were raised:
  - a) The Convener asked Peter Ferguson to confirm that the application was legal. Peter Ferguson confirmed that it was.
  - b) The Convener asked if the recreation management plan which was to come in an application to discharge a condition would be consulted upon. Gavin Miles confirmed that it would as would other such applications.
  - c) Clarity was sought as to who would be responsible for the mitigation works being carried out to an acceptable standard and how the householder service charge could be enforced in perpetuity. Gavin advised that it would be secured through a legal agreement with the applicant so that it would become part of the development.
  - d) Would the legal agreement be worded so that it would include rises in inflation? Gavin Miles confirmed that it would.
  - e) Could there be a reputational risk to the CNPA given that an increase in population could threaten the Natura sites and had this been assessed? Gavin explained that the Habitat Regulations Appraisal (HRA) looked at the impacts on Natura sites and was a statutory requirement. The CNPA needed to be sure there would not be a significant effect on the integrity of Natura sites and the HRA was the process undertaken to establish that. Staff were confident that the HRA used the best available information.
  - f) Suggestion made that it would have been useful to have had supporting information on housing need to accompany the Paper. Gavin Miles advised that the site had been identified as new sustainable community in the adopted Local Development Plan.

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- g) What was the difference between the conditions proposed in this paper compared to the previous conditions imposed and what were the advantages of the changes? Gavin Miles advised that the previous conditions could be made more precise and enforceable as well as creating a more structured approach to the site and development that would benefit the applicant as well as the CNPA in its monitoring and enforcement role.
  - h) Suggestion made to add an informative to ensure fibre broadband was installed as opposed to copper wiring. The Convener confirmed that this had already been addressed in paragraph 27 of the report.
  - i) Would the recreational management plan encompass all users and not only those who would potentially be living there? Gavin Miles advised that the recreational management plan was focussed on the new users of An Camus Mor but that it could also affect other users.
  - j) Were the conditions more robust than previously? Gavin Miles confirmed that they were but that it also meant they were clearer for the applicant and for the CNPA to enforce if required.
  - k) With regards to the mitigation measures and part of the land not being owned by the applicant how confident can we be that it will be implemented? Gavin Miles advised that it would be the responsibility of the applicant to demonstrate secure and sensible measures in order to meet the requirements of the HRA and discharge the conditions.
11. Mr Chris Pattison (Agent) was invited to address the Committee and gave a presentation to the Committee.
12. The Convener thanked the speaker and the Committee were invited to ask questions of the speaker, the following points were raised:
- a) The Convener asked how realistic it was for the development to move forward given that they were a long way away from delivery with 23 different plans and strategies required by conditions before development could begin. Chris Pattison confirmed that it was achievable and that they understood the requirements and were comfortable with the next steps.
  - b) The Convener asked Chris Pattison to confirm that he did not foresee any problems with coming forward with the recreational management plan and meeting the requirements of the HRA. Chris Pattison advised that they would work hard to do so and would establish funding to assist with any works at Abernethy or other locations and that they were confident in the early stages of the phased implementation.
  - c) Had a funding package for the development been secured? Chris Pattison confirmed that infrastructure loan funding had been offered by Scottish Government and that it was dependent of the permission being granted.

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- d) Was the original vision of creating a model of excellence that is second to none still intended? Chris Pattison confirmed that it was and that a design team had been assembled to bring the vision back to the forefront of the development following today's decision.
  - e) How many new Rangers would the funding allow for? Chris Pattison advised that it was likely that it would be used to extend the existing ranger workforce at Rothiemurchus.
  - f) How would the commercial development enable the construction of affordable housing? Chris Pattison advised that they were required to deliver a proportion of affordable housing of mixed types and that it would happen. He added that funding for infrastructure was in place and that the applicant felt passionately about delivering housing for local people.
13. The Convener thanked the speaker and invited Stuart Benn, RSPB and Tessa Jones, Badenoch & Strathspey Conservation Group (Objectors) to address the Committee.
14. The Convener thanked the speakers and the Committee were invited to ask questions of the speakers, the following point was raised:
- a) The Convener asked Stuart Benn if he was content that the Recreational Management Plan (that would be submitted to discharge the planning condition) would be consulted on. He confirmed he was.
15. Gavin Miles and Matthew Hawkins were invited to provide clarity on questions the Committee had upon hearing the speakers presentations:
- a) The development is a new one with new phases which provides more control to the Committee and the Authority meaning that they would have to the opportunity to approve or if required, refuse later phases.
  - b) The HRA assumes that the people who will live in An Camas Mor will behave in the same ways as existing residents in the Badenoch & Strathspey area. They are not expected to be more disturbing to capercaillie than existing residents or visitors to the area but in some places, an increase in the numbers of people would have an effect that must be mitigated.
  - c) It is important to remember that the HRA identifies broad brushed management tools that could be used to mitigate the predicted impacts. It does not anticipate blocking access to large areas of land but it recognises that there may be some locations where paths may need to be redirected away from the most sensitive areas for capercaillie on a case by case basis. The next stage, of a detailed recreation management plan, would identify specific mitigation requirements.

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16. The Committee were invited to discuss the report, the following points were raised:
- a) Some species on the amber list for example cuckoo's had not been included in the HRA. Matthew Hawkins confirmed that cuckoo were not considered in the HRA but that effects on them had been assessed as part on looking at the impacts on biodiversity. He added that it would inevitable that habitats would be lost as the land use changed on the site but that mitigation would take place to provide replacement habitats for some species.
  - b) Comment made that a balanced piece of work had been provided with sensible changes and looking forward to the detail within the recreational management plan.
  - c) Were the CNPA responsible for the mitigation measures and therefore liable if they didn't work? Gavin Miles explained that at this stage the CNPA had be sure that it would be possible for the development to happen without a significant adverse effect and at the next stage the CNPA had to be content that the mitigation proposed will be sufficient and will be put in place and that the measures for monitoring will work. Peter Ferguson confirmed that was correct.
  - d) In reference to condition 1b on page 24 where it referred to a direct cycle path over the river Spey would this be a new bridge or an existing bridge? Gavin Miles confirmed that it would need to be a new bridge.
  - e) The Convener noted that the pedestrian bridge was considered a crucial feature for the success of the development and while it was implicitly part of the recreation management plan, should there not be a condition attached to it for clarity? Gavin Miles confirmed that the new bridge was required to be in place before the 200<sup>th</sup> home was occupied through the HRA. It was anticipated that it would be delivered through the recreation management and more money (than had been provided through the original planning obligation) to pay for the bridge were being secured, although no party had been identified to build it at this time. He explained that it would not be possible to add a condition that made the applicant build the bridge but that it would be possible to use a condition that required it to be built before the 200<sup>th</sup> house could be occupied.
  - f) The Convener asked if without the suspensive condition, could the ongoing uncertainty over who would provide the bridge could fall back on the CNPA? Gavin Miles agreed that this was possible and advised that if a negative suspensive condition was added it would explicitly make it an issue that the applicant would need to address.
  - g) Would one bridge suffice? Gavin Miles confirmed that only one pedestrian bridge had been anticipated in all discussions on the previous and current application.
  - h) Did the planning obligations package include funding for the bridge? Gavin Miles confirmed it did but that the exact cost had not yet been confirmed.
  - i) There was agreement that the bridge was a critical element of the development and how could it be ensured that the bridge is built at an appropriate early stage?

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Gavin Miles suggested that the wording of the condition would be “*No more than 199 houses on site shall be occupied until a new footbridge linking Aviemore and An Camas Mor has been completed*”, with the reason linked to the HRA and sustainable design.

- j) If the funding had already been secured for the bridge could it be built as soon as possible, could this be conditioned in some way? Gavin Miles advised that the funding for the bridge would be phased through the development, not provided up-front.
- k) Would adding such a condition fit the test? Gavin Miles confirmed that it would fit the tests for conditions and would not change the nature of the planning permission. Peter Ferguson agreed that it would be the most appropriate solution.
- l) Concern was raised about the future maintenance of the bridge and no one being responsible for it. Gavin Miles advised that at this stage it would not be possible to specify responsibility for maintenance but that maintenance would be a relevant matter to be considered in a planning application.
- m) It was agreed that a negative suspensive condition be added that states a bridge to be built no later than the 199<sup>th</sup> property was occupied as in accordance with the HRA.
- n) With reference to Condition 3biii, how could it be ensured that the housing was less attractive for holiday lets? Gavin Miles advised that it could not be ensured but that the design of the development could make houses or flats more likely to be attractive and affordable to people working in the area and less attractive to holiday home buyers.
- o) Would the 23 different plans and strategies have to return to the Committee for approval? Gavin Miles confirmed that many of the conditions would require applications to discharge them and that they would be open to public representation and be determined by the Planning Committee.
- p) The Convener asked if members were content with the proposed Direction on duration of planning permission and the timings for future applications. Gavin Miles added that the first direction should also refer to condition 7, and that an additional direction would be required for condition 6 to set out that applications could be made at any time up to 2 years of commencement of development.
- q) Were SNH happy with the conditions? Matthew Hawkins confirmed that they were happy with the conditions, the conclusions of the HRA and that the Authority had worked closely with SNH on the HRA.
- r) Why had Scottish Water not submitted any comments? Gavin Miles advised that he did not know why but noted that they had been closely involved in discussions on providing water infrastructure.
- s) What would be the impacts of the mitigation for capercaillie for outdoor access outside the site? Matthew Hawkins advised that any potential restrictions on

