
CAIRNGORMS NATIONAL PARK AUTHORITY

FOR DECISION

**Title: MEMBER INVOLVEMENT IN PRE-APPLICATION
ADVICE**

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Purpose of Report

This paper sets out proposals for Planning Committee involvement in giving pre-application advice for “major” planning applications in the National Park.

Recommendation

That the Committee:

- i. Approve the proposals for member involvement in pre-application advice on “major” applications.**

Background

1. The planning service has committed to introducing procedures for member involvement in pre-application advice in our service improvement priorities for 2015/16. In early 2014, the Scottish Government published guidance with COSLA and the Commissioner for Ethical Standards in Public Life in Scotland on the Role of Councillors in Pre-Application Procedures (Appendix I). The guidance was aimed at local authority elected members but the principle of engagement in pre-application process can be extended to the CNPA’s Board Members and the Planning Committee.
2. A number of planning authorities in Scotland have introduced procedures to involve members in pre-application advice, including four of the five local authorities that are part of the National Park. In each of those local authorities, a procedure has been established to inform members of pre-application discussions on “major” applications and allow members to provide feedback on the proposals that is given to the applicant along with the detailed officer advice. This allows the applicant to take account of any issues raised by members in the preparation of any subsequent planning application and reduces the chances of issues arising later in the process.
3. Planning Committee members are expected to approach decision-making on the applications presented at Committee with open minds. Being involved in pre-application process clearly places a responsibility on members not to express views

that would indicate pre-determination of a future application. To do so could mean that the member could not take part in the future decision-making or could lead to a legal challenge.

The Proposed Approach

4. Officers are aware of planning authorities that have introduced procedures for member involvement in pre-application advice on “major” applications, as defined under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. All “major” planning applications are subject to a 12 week Proposal of Application Notice (PAN) period for community consultation before a planning application can be lodged. The CNPA generally “calls in” and determines all “major” applications. CNPA officers have been involved in pre-application discussions for between three and five major application PANs a year since the 2009 Regulations were introduced.
5. The Local Authority planning services lead the pre-application advice on all planning applications in the Park, involving the CNPA in those that it would be likely to “call in”. It is proposed that the PAN would be presented to the Planning Committee with a short report. The views of members on the issues to be addressed would be recorded and then passed on to the prospective developer, normally via the local authority’s pre-application service.
6. The presentation of the PAN would include all the documentation provided by the applicant and a short covering report to highlight the relevant policy framework, likely material considerations and key issues associated with the proposed development. We do not propose any presentation of the covering report but there would be an opportunity for members to identify relevant issues as they see appropriate. The issues raised will be recorded in the minutes of the meeting and reported back to the prospective developer. We propose that any PAN consideration would be the first items of business on a Planning Committee agenda to draw a clear line for members and any public present, on the identification of relevant issues to a potential proposal, as opposed the consideration of the merits of planning applications for decision.
7. There should be no discussion of the merits of the proposed development at the meeting so that no members express views that suggest pre-determination of the proposed development. Members will be required to take part in training before they can participate in the consideration of PANs at the Planning Committee. The first training session will be following this Planning Committee meeting. If approved by the Planning Committee, we propose to introduce the new procedure for any PANs we are notified of from 21 December 2015.

8. Officers have considered whether there is scope to involve members in pre-application advice on other applications, since many of the applications called-in by the CNPA could be described as “locally significant development” proposals. However, we do not think that this would be practical. Local developments do not need pre-application advice for a planning application to be made. In addition, pre-application advice for local developments is normally given on a shorter timescale where committee meeting cycles are unlikely to meet the different local authority targets for responses.

Implications

Staff and Resources

9. The introduction of the new procedures will lead to a small increase in staff time to prepare covering reports on PANs and collate materials for planning committee that can be met within existing resources.

Legal

10. There is a risk of legal challenge of planning decisions if members appear to pre-determine a planning application. Planning Committee members must take care not to express view on the merits of any development proposals at the pre-application stage. Local authorities across Scotland have already successfully introduced similar procedures without significant problems. The CNPA’s Code of Conduct for Members provides advice on pre-application advice requests and officers will consider whether this needs updating in future.

For Partners

11. The procedure proposed will complement the pre-application service of local authorities on major applications, simply adding to the contribution that the CNPA already makes on them. It will allow local authorities to consider whether they need to report PANs in the National Park to their own Planning Committees for comment, when it is clear that it will be the CNPA Planning Committee who will be the determining authority for any subsequent planning application and who have raised any issues they consider relevant. The revised Planning Protocol for the Cairngorms National Park between the CNPA and local authorities makes clear that in future, if a local authority Planning Committee comments on a PAN within the National Park, officers should make clear to the prospective applicant that it is the CNPA Planning Committee who will determine a future application.

Conclusion and Next Steps

12. If the Planning Committee approves the new procedures, officers will report any future PAN notifications received in the National Park at Planning Committee

meetings from 2016. Members will be required to take part in training prior to taking part in a Planning Committee consideration of PANs.

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