

# CAIRNGORMS NATIONAL PARK AUTHORITY

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## FOR INFORMATION

**Title:** LOCAL PLAN INQUIRY – UPDATE ON  
RECOMMENDATIONS FROM REPORTERS

**Prepared by:** Karen Major, Development Plan Manager

### **Purpose**

To inform the Committee of the timetable of events which follow the receipt of the Scottish Government Reporters Report setting out their recommendations following the close of the Local Plan Inquiry.

### **Recommendations**

That the Planning Committee:

1. formally note receipt of the Report from the Scottish Government Reporters;
2. formally note and endorse the next steps to analyse the recommendations set out by Reporters and the subsequent publication of Post Inquiry Modifications;
3. formally note the continuing work on Supplementary guidance to support the Local Plan once adopted;
4. formally note the relationship between this work and the work to progress of the Local Development Plan.

### **Executive Summary**

The Cairngorms National Park Authority has a duty to prepare Local Plans for the Park and has been engaged in Local Plan preparation since September 2004. Following the close of the Local Plan Inquiry in June 2009, the Authority is now in receipt of the Reporters Recommendations. The report sets out the next steps which must be taken to fully analyse the recommendations made, the timeframes for completing the necessary work, and the associated ongoing work on supplementary guidance to support the Local Plan once adopted.

## LOCAL PLAN INQUIRY– UPDATE ON RECOMMENDATIONS FROM REPORTERS – FOR INFORMATION

### Background

1. The Committee will be aware of the procedures and stages of the Local Plan process which have been followed to date, leading most recently to the Local Plan Inquiry held in May and June 2009. The Reporters have now set out their conclusions and recommendations on the merits of each objection in accordance with procedures set out in The Planning etc. (Scotland) Act 2006 (Development Planning) (Saving, Transitional and Consequential Provisions) Order 2008 which came into force on 28<sup>th</sup> February 2009.
2. As set out in the Note of the Pre Inquiry (<http://www.cairngorms.co.uk/resource/docs/publications/26032009/CNPA.Paper.828.Local%20Plan%20Pre-Inquiry%20Meeting%20Minutes%2016%20March%202009.pdf>) the final content of the Local Plan is the responsibility of the Cairngorms National Park Authority and it is not obliged to accept the Reporters Recommendations. The Authority is however bound to set out its response to each recommendation, giving its reasons for accepting or rejecting it. If the Authority is minded to modify the plan in light of the recommendations, this must be publicised with a further period of consultation. Any objections lodged at that stage cannot relate to the content of the original plan.
3. Any objections lodged to future modifications cannot relate to the content of the original plan; and, bearing in mind the content, the authority will consider whether it is necessary to hold a further inquiry. That will be required only where a proposed modification has generated objections on a new matter that has not already been considered, or where there has been a material change in circumstances.
4. Finally the authority may take the necessary steps to adopt the plan.

### Procedure for the analysis of Reporters Recommendations

5. **Legislative background** – Circular 32/1996 Code of Practice for Local Plan Inquiries provides a useful guide to the procedures which must be followed before, during and after a local plan inquiry. The Planning etc. (Scotland) Act 2006 (Development Planning) (Saving, Transitional and Consequential Provisions) Order 2008 which into force on 28<sup>th</sup> February 2009. In light of the new regulations and the Scottish Ministers' aim to make the inquiry process faster and less adversarial, the inquiry into the CNPA Local Plan did not follow every part of the 1996 Code. The note of the Pre Inquiry Meeting conducted by the Scottish Government Reporters therefore sets out approach to be followed.
6. The procedure to be followed after the inquiry is however set out in para 54-66 of the Code of Practice for Local Plan Inquiries (Circular 32/1996). This states clearly that the report prepared by Reporters is for the planning authority, and will contain the Reporters conclusions and recommendations to the merits of each of the matters of objection.
7. Under para 56 of the Code of Practice, the planning authority must consider the Reporters conclusions and recommendations, and decide what action to take in relation to the plan as a whole. The planning authority is responsible for the final content of the local plan, and is therefore not obliged to accept the Reporters recommendations. The authority will however, set out its response to each of the Reporters recommendations in a statement, giving their reasons for accepting or rejecting each recommendation.

8. **Timetable for completion of the CNPA statement in response to the recommendations** – In accordance with this requirement officials are now working through all the recommendations and points raised by the Reporters, analysing these, and assessing in full whether we agree or not. Together with this assessment a full explanation of why we agree or do not agree must be included. The assessment and explanation will look at not only the final recommendation made by the Reporters to each issue, but all points raised within the body of the Report which lead to the end recommendation. This will ensure transparency of thought when we then consider the need for post inquiry modifications.
9. As members will appreciate from their own reading of the full Report, there are many and complex recommendations and points raised, and to ensure a full analysis is made of these, we propose to allow sufficient time to give officers adequate capacity to complete the work. We must also include considerable legal input into this work. It is therefore estimated that 5 months from receipt of the report will give sufficient time to complete the necessary analysis, and draft any necessary post inquiry modifications. A full statement setting out all recommendations made by the Reporters and an analysis of those recommendations with reasons explaining why the CNPA accept or reject the recommendations will therefore be presented to committee on 14<sup>th</sup> May 2010.
10. **Necessary consultation on post inquiry modifications** - Where CNPA is minded to change the Local Plan to reflect the recommendations of the Reporters, with the exception of minor matters which do not materially affect the policies or proposals of the plan, these changes must be publicised and the opportunity given for objections to these changes to be made. The procedure at this stage is as previously followed to publicise the various modifications to the Plan. Any person or organisation may object to or make representation in support of the proposed modifications to the plan, including the decision of the CNPA not to accept a recommendation made by the Reporters. Objections cannot be lodged at this stage to the content of the original plan. The period for the submission of objections will last for 6 weeks. Should such consultation be necessary this will commence on the 24<sup>th</sup> May 2010.
11. **Triggers for a second Local Plan Inquiry** - Following the close of the period for consultation, the CNPA must consider all of the submissions and decide whether it is necessary to hold a further local plan inquiry. A further inquiry will only be required where a proposed modification has generated objections on a matter which has not already been considered at inquiry. A further inquiry would not therefore be required if a proposed modification has resulted from a recommendation made by the Reporters, unless there has been a material change in circumstances.
12. Once any representations to any post inquiry modifications have been considered, and a second local plan inquiry completed if necessary, the CNPA can then move towards adoption, following the Code of Practice for Local Plan Inquiries (Circular 32/1996 para 60-66). These procedures and the necessary publication of advertisements are estimated to take approximately 4 months. As a guide, in the event that no second inquiry is required we would hope to adopt the plan before the end of 2010.

<b>Timetable for consideration of the Reporters Recommendations and adoption of the Local Plan</b> (assuming no representations received which would trigger a 2 <sup>nd</sup> Inquiry)	
Receipt of Reporters Report	December 2009
Consideration and analysis of recommendations and points raised	Jan 2010 – April 2010
Committee consideration of Analysis and reasoned justification of position taken	14 <sup>th</sup> May 2010
Publication and Consultation of Post Inquiry Modifications	24 <sup>th</sup> May 2010 – 2 <sup>nd</sup> July 2010
Consideration of representations made to Post Inquiry Modifications	July 2010 – August 2010
Committee consideration of representations received – assuming no requirement to hold a 2 <sup>nd</sup> Inquiry obtain Committee agreement to move to final stages	September 2010
Notice on Intention to Adopt (period for consideration Scottish Ministers and legal challenge)	September 2010 – November 2010
Committee resolution to adopt Local Plan and final printing of document for use	December 2010 – January 2011



### Ongoing work on Supplementary Guidance to support the Local Plan

13. Work is progressing to finalise the suite of SPG so it is ready for consultation starting in May, along with the Post Inquiry Modifications. Changes are being made to reflect, where it is considered appropriate, the recommendations or suggestions of the Reporters. The feedback from Informal discussions on a variety of topics is also being incorporated. Considerable attention is also being paid to the need for the SPG to be easily understandable for the general public, and so the Communications team at CNPA are working closely with the authors of each piece of SPG to ensure this is the case.
14. Considerable work is also being undertaken in parallel to the development of the SPG itself, in relation to Strategic Environmental Assessment. Many of the individual pieces of SPG are subject to this form of assessment, and the findings at each stage of the SEA process are also feeding into the further development of the guidance itself. The final stage of the SEA process will culminate in the preparation of an 'Environmental Report'. These SEA Environmental Reports will be consulted on in tandem with the SPG itself.

15. Due to the number of pieces of SPG to be consulted on, and the wide variety of issues that they address, it is proposed to extend the consultation period for the SPG to 4 months. The consultation will start at the same time as that on the Post Inquiry Modifications, but will run on through the rest of July, the whole of August and into September. This is in order to ensure as many people as possible have an opportunity to read, digest and comment on the contents of the various pieces of SPG.

### **Future work on Local Development Plan**

16. Whilst work continues on the resolution and completion of the Local Plan, it is considered appropriate to delay any consultation on the 1<sup>st</sup> phases of the preparation for the Local Development Plan. However it is intended that this work will dovetail with the progressing work on the new National Park Plan.
17. In support of both the National Park Plan and the Local Development Plan however work will commence immediately to gather the necessary evidence which will provide the necessary justification for strategic and detailed policy approaches. The results of the evidence gathered will be reported to the Board in due course.
18. The Authority is also required to search for all sites which might have potential for development, and carry out a Strategic Environmental Assessment of those sites prior to the production of the Main Issues report which is the 1<sup>st</sup> stage of the Local Development Plan. To allow for the assessment of these sites at the appropriate time of year, the search for sites will therefore commence in April/May 2010. The findings of this search will be reported to the Committee in due course.
19. To clarify the timetable for the progress of the Local Development Plan, work is also ongoing to revise the Local Development Plan Scheme. An original Development Plan scheme was published by the CNPA in March 2009. This sets out how the CNPA will prepare the Local Development Plan and sets out a clear timetable indicating what will be involved at each stage of the process. The revised scheme will include a revised timetable and will also expand on how we will engage with the public to ensure they are fully engaged in a meaningful way. The revised document will be presented to committee for information in March 2010.

### **Recommendation**

20. That Planning Committee formally note receipt of the Report from the Scottish Government Reporters.
21. That Planning Committee formally note and endorse the next steps to analyse the recommendations set out by Reporters and the subsequent publication of Post Inquiry Modifications.
22. That Planning Committee formally note the continuing work on Supplementary guidance to support the Local Plan once adopted.
23. That Planning Committee formally note the relationship between this work and the work to progress of the Local Development Plan

## **Implications**

### ***Financial Implications***

24. The budget for publication, consultation and adoption of the Local Plan is planned for in the operational plan.

### ***Presentational Implications***

25. This paper raises a number of presentational issues linked to the recommendations made by the Reporters, and how the CNPA take these into account when taking forward the Local Plan to adoption. It is therefore extremely important that in the consideration and analysis of the recommendations, the Authority is completely transparent in its reasoning, and that any future modifications are fully consulted on.
26. The position taken by the CNPA in their analysis of the recommendations will be set out in a detailed report and any further changes to the Local Plan which come from that will be the subject of full public consultation. All those with outstanding objections to the plan will be informed prior to the Committee date in May to highlight the next stage in the process, and explain how they can get involved in the consultation on the Post Inquiry Modifications.

## **Next Report**

27. The next report setting out the full analysis of the Reporters report and their recommendations will come before committee on 19<sup>th</sup> May 2010.

**Karen Major**  
**8<sup>th</sup> February 2010**  
[karenmajor@ Cairngorms.co.uk](mailto:karenmajor@ Cairngorms.co.uk)