

**CAIRNGORMS NATIONAL PARK AUTHORITY**

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**DRAFT MINUTES OF THE PLANNING COMMITTEE**

held at The Community Hall, Boat of Garten  
on 21 June 2013 at 11:15am

**Members Present**

Peter Argyle (Vice-Convenor)

Duncan Bryden

Angela Douglas

Katrina Farquhar

Jeanette Gaul

David Green

Kate Howie

Gregor Hutcheon

John Latham

Bill Lobban

Eleanor Mackintosh (Convener)

Willie McKenna

Fiona Murdoch

Martin Price

Gordon Riddler

Gregor Rimell

Brian Wood

**In Attendance:**

Murray Ferguson, Sustainable Rural Development Director

Katherine Donnachie, Senior Planning Officer, Development Management

Fiona Oldroyd, Planning Support Officer

Pip Mackie, Planning Systems Officer

Gavin Miles, Strategic Policy Officer

Di Alexander, Affordable Housing Officer

Matthew Hawkins, Senior Heritage Officer

Lee Murphy, CNPA Legal Representative from Harper McLeod

**Apologies:**

Dave Fallows

Mary McCafferty

# DRAFT COMMITTEE MINUTES

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

### **Welcome & Apologies**

1. The Convenor welcomed all present and advised that Agenda Item No. 8 (Paper 4) Strathspey Cottage would be taken after Item No. 5 (Paper 1) Boat of Garten Housing.
2. Apologies were received from the above Members.

## **Agenda Item 3:**

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

3. The minutes of the previous meeting, 24 May 2013, held at The Duke of Gordon Hotel, Kingussie were approved subject to the following amendments:
  - Members Present to reflect that Gregor Rimell was at the meeting.
  - Paragraph 8: 'Sandie' amended to 'Sandra'.
4. There were no matters arising.
5. There were no Action Points to update from the previous meeting.

## **Agenda Item 4:**

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

6. Angela Douglas declared an interest in:
  - Item No. 10 (Paper 6) - Indirect interest – Due to knowing the Applicant on a professional basis, but not in relation to this site or application.
7. Katrina Farquhar declared an interest in:
  - Item No. 10 (Paper 6) - Indirect interest – The site lies on part of her Father's tenanted farm, but has no connection with the application.
8. Brian Wood declared an interest in:
  - Item No. 10 (Paper 6) - Direct interest – Due to the Applicant being a close personal friend.

## DRAFT COMMITTEE MINUTES

### **Agenda Item 5:**

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

#### **Erection of 30 Houses, 2 House Plots, Associated Roads & Footways At Land 200M West of Football Field, Craigie Avenue, Boat of Garten (Paper 1) (2013/0115/DET)**

9. The Convener advised that a Site Visit had been held, prior to the start of the Committee meeting, to which all interested parties had been invited.
  
10. The Convener informed Members that a request to address the Committee had been received, within the given timescale, from:
  - Applicant / Agent – Alan Rennie, Agent
  - Objector(s) – Jamie Whittle (R & R Urquhart), representing Badenoch & Strathspey Conservation Group
  - Representatives of the Community Council –  
Mary Clark (Secretary)  
Sam Faircliff (Member of BoG Housing Working Group)
  - Other Interested Parties –
11. The Committee agreed to the requests.
  
12. The Committee were also informed that the following people were in attendance to answer any arising questions:
  - David Cameron & Alan Munro, Applicants
  - Andrew Norval & Sandy Lewis, Seafield Estate
  - Peter Gordon, RSPB
  - Anne Elliott & Debbie Greene, SNH
  - Fran Pothecary, CNPA Outdoor Access Officer
  - David Hetherington, CNPA Ecology Advisor
  
13. Katherine Donnachie presented a paper recommending that the Committee the application subject to a legal agreement being concluded with landowners, developers and the CNPA to ensure that the complete package of mitigation measures of dog walking provision, management of woodlands outside site and screening (both temporary during establishment of vegetated screening and provision of permanent vegetation screening) to be implemented before occupation of the first house on the site and the conditions stated in the report.
14. Katherine Donnachie advised that a consultation response had now been received from SEPA, who were requiring a Construction Method Statement (CMS) to be provided and an amendment to Condition 28: 'No house shall be occupied until it is connected to the *upgraded* public water and sewerage network'.

## DRAFT COMMITTEE MINUTES

15. Katherine Donnachie advised that RSPB had withdrawn their objection to the application, as they were now satisfied with the information contained in the Habitat Regulations Assessment.
16. Katherine Donnachie recommended that the application be approved subject to the following:
- a) a legal agreement being concluded with landowners, developers and the CNPA to ensure that the complete package of mitigation measures of dog walking provision, management of woodlands outside site and screening (both temporary during establishment of vegetated screening and provision of permanent vegetation screening) to be implemented before occupation of the first house on the site.
  - b) An improved landscaping plan being submitted.
  - c) The conditions specified in the report with the following amendments:
    - Condition 27 – the Construction Method Statement to include fuel storage during site works (as specified by SEPA).
    - Condition 28 – to include the word 'upgraded' (as specified by SEPA).
17. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) The pedestrian access route to the south east of the site. Katherine Donnachie clarified that the route would connect into existing pathways in the area and would not be fenced off.
  - b) The fencing to the rear of the properties. Katherine Donnachie advised that the fencing was to discourage informal access to the woods and to encourage pedestrians to use established access points and path networks.
  - c) Clarification of who is responsible for maintaining the common areas in the development. Katherine Donnachie advised that these would be included in the landscape scheme and would be part of the maintenance and management programme, usually dealt with via an external factoring arrangement.
  - d) Clarification if the woodland to the North East of the site would be included within the management programme. Katherine Donnachie responded that although the woodland was outwith the red line boundary of the site, it was still within the Applicants control and therefore could be part of the overall landscaping and management scheme.
  - e) Clarification of the hexagons shown in Figure 3 of the Planning Report. Katherine Donnachie advised that these indicated Squirrel Drays.
  - f) If the residents pack would be available to prospective purchasers or only after purchase. Katherine Donnachie advised that the planning Condition required that issuing and contents of the pack would need to be agreed with the CNPA and SNH prior to work starting on site.

## DRAFT COMMITTEE MINUTES

- g) If any issue had been raised by the Roads Authority regarding access for Refuse Lorries to the development (particularly at the pinch points). Katherine Donnachie advised that the Roads Authority had been consulted and had not raised this particular matter as a concern. However, a Condition was included requiring further information on Refuse storage and segregation.
  - h) The size of the sensitive area referred to in Appendix I. Matthew Hawkins responded that the site was 1.6 Hectares, whilst the total area of the wood was just over 450 Hectares. The sensitive area was the central area of woodland and appeared to be about half of this figure (225 Hectares).
18. Di Alexander gave a presentation on Affordable Housing in Boat of Garten and the work of the Boat of Garten Housing Working Group (BoGWHG) – whose members included the CNPA staff, SNH, Highland Council Housing Officer, housing associations, the landowner and various community representatives. The BoGWHG was set up at the end of 2010 (prior to the refusal of the previous planning permission for the site) and was chaired by Stuart Black (ex-Highland Councillor). The remit of the group was to identify suitable sites and mechanisms by which new housing can be developed in Boat of Garten to meet the needs of the community, whilst taking account of affordable housing, natural heritage, infrastructure, community facilities, landowner objectives and informal recreation. Several meetings had been held and all were well attended. The group focussed on trying to ensure an appropriate number of houses (including affordable housing) was delivered whilst balancing the impact on Capercaillie and recreational usage of the woods.
19. Di Alexander advised that a sub group for local housing was also formed and identified a lack of Affordable Housing currently available in the community, whilst trying to address the issue of suitable mitigation measures to minimise any impact on natural heritage. The numbers of Affordable Housing being proposed for the development was above the current level required in planning policy and would start to address the shortfall in the locale.
20. The Committee were invited to ask the Affordable Housing Officer points of clarification, the following were raised:
- a) Clarification if the Affordable Housing would not necessarily be allocated to local people. Di Alexander responded that the Affordable Housing would be delivered by Highland Council and therefore let under their housing allocations policy. However, in his experience the majority of allocations go to people with well established connections to the particular rural community concerned.
  - b) Had a need been established for the open market housing. Di Alexander responded that an adequate supply of land needed to be allocated for all housing not just Affordable Housing and that the Developer must be confident of selling the open market housing or they would not have come forward with the proposal.

## DRAFT COMMITTEE MINUTES

- c) If any discussion had taken place with Highland Council regarding a local lettings initiative. Di Alexander advised that this had been discussed and it still remained a possibility. It is a matter for Highland Council to consider any case that is made by the community (on the basis of community development grounds) and CNPA would be happy to assist the community if required.
- d) Clarification that the Affordable Housing would only be delivered if the open market houses were built and if an overwhelming need had been established for the open market housing. Di Alexander advised that applications only came forward if there was believed to be a demand for the type of housing proposed. The demand for the Affordable Housing had been established. Katherine Donnachie responded that the Reporter had used the term 'overwhelming need' in their report, it was not a term used in CNPA policy. Katherine Donnachie also stated that the fact there was need for Affordable Housing and that it could be delivered through this wider housing development was in line with CNPA planning policy.
21. Matthew Hawkins gave a presentation on the Habitats Regulations Assessment (HRA). He explained that it was in two halves the Screening Process to identify any possible effects on Natura sites and the Appropriate Assessment (AA) to identify if they were significant.
- The purpose of the HRA was to determine if the development would have an adverse effect on the integrity of any natura site.
  - Mitigation measures being designed to ensure the impact of the development does not affect the integrity of the adjoining natura sites.
  - Boat of Garten woods are not a natura site but the population of Capercaillie there is part of a meta population that includes the five natura sites within the area for which the species is a qualifying interest.
  - The conclusion of the AA being that the mitigation measures achieve the desired outcome and therefore there is no effect on the integrity of the adjoining sites.
  - The mitigation measures not being all delivered by the development itself, some to be delivered by Seafield Estate, CNPA & SNH. CNPA & SNH having a wider obligation under the Habitats Regulations to ensure a favourable conservation status of Capercaillie – delivered through the CNPA Partnership Plan, Cairngorm Nature Action Plan & the emerging Capercaillie Framework. However, where the mitigation is directly related to the impact of the development itself, it being entirely appropriate that the developer provide these measures.
  - The work undertaken by Seafield Estate within the woods was because they take responsibility for conservation of Capercaillie seriously and deliver this across their landholdings.

## DRAFT COMMITTEE MINUTES

22. The Committee were invited to ask questions of Matthew Hawkins and the following point was raised:
- a) The materials being proposed for the boundary fencing to the rear of the properties and the possibility of potential bird collision. Matthew Hawkins responded that it was anticipated that it would be a close board timber fence. He also advised that the area the fence was in was not Capercaillie habitat and that it being a close board fence essentially meant that any birds would be able to see it.
23. Alan Rennie (Agent) was invited to address the Committee. The presentation covered the following point:
- Expressing the client's thanks regarding the quality of the report and appendices.
24. The Committee were invited to ask questions of the speaker and the following points were raised:
- a) Clarification why 2 self build plots had been proposed with no design details. Alan Rennie responded that it was not unusual for self build plots to be included in a development of this type. It was also confirmed that planning permission including design details, would have to be sought prior to construction as specified in Condition 2 of the report.
  - b) Clarification of how it would be ensured no breaches of the rear boundary fence would occur. Alan Rennie stated that it would be written in the deeds of the properties that the fence remain in original condition and it would also fall to the CNPA Enforcement Officer to police this issue.
  - c) The potential for construction of fences to the front of the properties and how this could be controlled. Alan Rennie advised that this could be dealt with by investigating the removal of permitted development rights for the development.
  - d) The provision of the residents information pack. Alan Rennie advised that the packs could be provided along with the sales particulars for the properties, as it was a positive. The info packs had to be seen as part of a holistic approach to the change in culture in the community.
  - e) Clarification if the information pack could be passed on through an attachment in the title deeds. Lee Murphy advised that she did not believe it would be enforceable for the packs to be passed on in this way.
  - f) Who is responsible for the production of the information pack. Alan Rennie confirmed it would be the developer.
  - g) The potential for windthrow around the perimeter of the development. Alan Rennie advised that the revised landscape plan would address the development site and an additional 40 metre (approximate) buffer zone.
  - h) The provision of storage for recycling facilities. Alan Rennie advised that there would be provision made for this and that it would be partitioned off assisting with visual amenity.

## DRAFT COMMITTEE MINUTES

- i) The need for management of the open space. It was confirmed this would be done through the maintenance and management agreement.
  - j) Clarification of who would be responsible for the long term maintenance of the rear boundary fence. Alan Rennie advised that it (and the other common areas) would be covered by the maintenance and management agreement for an external factor to upkeep.
25. Eleanor Mackintosh advised that she had received a handout from Jamie Whittle, covering the points in his presentation. However, as this formed the basis of his address the handout would not be circulated.
26. Jamie Whittle (representing the Objector, BSCG) was invited to address the Committee. The presentation covered the following points:
- That the planning permission should be refused due to - non compliance with the Local Plan, Capercaillie and the European Birds Directive, the biodiversity of the site and the aims of the CNPA.
  - Non compliance with the Local Plan – the proposal being a large development for the scale of Boat of Garten and requires to be allocated in the Local Plan (which it is not). No material considerations being provided to allow the development outwith the Local Plan. An allocation for development on the site being dismissed by the Reporter at the Local Plan Inquiry and subsequently removed from the final Local Plan on the basis it was contrary to advice received in the Landscape Capacity Study. A previous application on the site being refused by the CNPA.
  - Capercaillie and the European Birds Directive – the woodland habitat supporting Capercaillie and it being a priority species in the Local Biodiversity Action Plan. The local area being a stronghold for Capercaillie. The potential for the site to be an SPA on its own merits. The central location of the site in relation to other Capercaillie habitats and the site being used as a ‘stepping stone’ between areas. The male to female ratio of Capercaillie. The mitigation measures being untested particularly with regard to screening paths. The difficulties of ensuring walkers remain on the paths and dogs are walked on a lead and in ensuring wider users of the woods area are aware of the restrictions. The need for a precautionary approach to be taken.
  - The biodiversity of the site – the area being a valuable habitat to a range of species including Red Squirrels, Wood Ants, Newts and various flora, fungi and birds. Drawing attention to Nature Conservation Scotland Act 2004 (Section 1.1) requiring Government Bodies to further the conservation of biodiversity.
  - The aims of the CNPA – the “Sandford principle” (Section 9(6) of the National Parks Act, requiring greater weight to be given to the first Aim of the Park when there is conflict between the Aims. The refused application and the previously highlighted conflict between the Aims.



## DRAFT COMMITTEE MINUTES

27. The Committee were invited to ask questions of the speaker. No questions were asked.
28. Eleanor Mackintosh advised that Alison Fielding, Chair of the Boat of Garten Community Council had sent her apologies for the meeting.
29. Mary Clark (Secretary) and Sam Faircliff (Community & BoGHWG Representative) was invited to address the Committee. The presentation covered the following points:
- Representing the views of the majority of the community and having strong support for the application.
  - Having been involved with the work of the BoGHWG.
  - Appreciation for the high level of Affordable Housing being proposed and agreement with the CNPA Housing Officers report.
  - The increase in numbers requiring housing in the area since a drop in session was held.
  - Relying on advice provided by the professionals regarding the mitigation measures.
  - The Council having taken into account the letters of objection lodged.
  - Would welcome working with the Developers and Community on the residents information pack.
  - Welcoming the additional access road to the Community Hall and the advice to be received from Highland Council Roads Authority regarding traffic management.
  - Various Community Groups working to provide a welcome pack for new residents to the area highlighting the special qualities and biodiversity of the area.
  - The open market housing being a welcome addition to the village, as it provides a balance to the Community.
  - The need for the wider population to also be aware of the sensitivities of the area.
30. The Committee were invited to ask questions of the speakers and the following points were raised:
- a) If the proposed structure of the development (particularly the boundary fence) may provide a barrier to walking in the area. Sam Faircliff responded that it was hoped that it would encourage walkers to use the paths and designated areas.
  - b) If the Ranger had started a culture change in using the area. Sam Faircliff stated that the Ranger had been working to ensure the message was getting out through various means including working with children, the Osprey Festival etc.
  - c) If the BoGHWG would move the local lettings initiative forward. Sam Faircliff responded that it could be investigated further.
  - d) If there were any concerns about the grouped location of the Affordable Housing in the development. Mary Clark advised that there were no concerns.

## DRAFT COMMITTEE MINUTES

- e) If there were any other sites in the Community which had been considered by the BoGHWG and would be better suited to development. Sam Faircliff advised that a number of sites had been looked at but all had different challenges such as wildlife, water levels and terrain issues. The current site was considered to be the most appropriate for a number of reasons including assistance with the traffic management in Craigie Avenue and it being closely located to the play park.

31. The Convener thanked all the speakers.

32. Katherine Donnachie responded on the following points:

- a) The application does comply with Local Plan policy due to the reduction in the number of houses being proposed and it not being classed as large scale development under Scottish Government guidance.
- b) The development being within the settlement boundary.
- c) The current application addressing the previous reasons for refusal of development at the site.
- d) The application supporting the sustainable development of Boat of Garten.

33. The Committee discussed the application and the following points were raised:

- a) The need for Affordable Housing having been demonstrated.
- b) The reduction of impact on the sensitive area by structured access to the woods.
- c) The need for a demographically diverse community and encouraging to witness community participation in the process.
- d) Concern that the houses may become second homes.
- e) Thanks to the BoGHWG and Community Groups for the work done.
- f) The need to ensure that the Affordable Housing will be delivered for local people possibly via the local lettings initiative.
- g) National constraints regarding housing allocation.
- h) The good design and layout of the development.
- i) Prevention of light pollution and the requirement for sensitive low level lighting.
- j) Controlling the hours of construction works.
- k) The development being on the edge of the settlement.
- l) The proposed development and associated mitigation measures having more long term benefits to Capercaillie than the overall potential negatives of the development.
- m) Recommendation B1 - removal of the term 'riverside'.
- n) Condition 4 – removal of the term 'rear' from boundary fencing.
- o) Access to the potential School Site located close to the development. Katherine Donnachie responded that this issue was covered in Condition 16, as it was unknown if the School project would be brought forward.
- p) The possibility of giving pedestrians / cyclists priority over cars at the northern entrance to the development.

## DRAFT COMMITTEE MINUTES

- q) Welcoming the mix of proposed housing types and the high level of Affordable Housing proposed.
  - r) The need for the Aims of the Park to be balanced and any conflict resolved and the application being used as a future example of how this can be achieved.
  - s) The impressive level of the commitment and enthusiasm demonstrated by the Community.
  - t) The need for the mitigation measures to be as effective as possible.
  - u) The withdrawal of the objection from RSPB.
  - v) The need for balance between looking after the economy, community and environment.
  - w) Having confidence in the mitigation measures, that the development would have no increase in the disturbance of Capercaillie. Matthew Hawkins advised that the mitigation measures were thought, 'beyond reasonable scientific doubt' to adequately address the impacts of the development. The conclusion was that CNPA had certainty that this was the case and was supported by SNH. RSPB had also withdrawn their objection giving confidence that they shared this view also.
  - x) If SEPA and Scottish Water had responded to the consultation request. Katherine Donnachie stated that SEPA had responded and that Scottish Water had not responded but had previously provided comments on the Habitat Regulations Assessment.
  - y) The Squirrel Dreys were located on site in a previous survey. Matthew Hawkins advised that the number was only three but as this can change an updated survey was required for the site. If dreys were found that needed to be removed a licence will be required from SNH.
  - z) The need to retain as many trees on site as possible. Matthew Hawkins advised that a revised scheme was to be provided to retain trees where possible and provide additional landscaping. Katherine Donnachie advised that the retention of trees could be included in Condition 24.
  - aa) Clarification if services would be undergrounded. Katherine Donnachie advised that an additional Condition could be included regarding this issue.
  - bb) Clarification why Condition 9 regarding construction hours was a condition and not an Advice Note. Katherine Donnachie responded that it was due to the disturbance on Capercaillie.
34. Eleanor Mackintosh asked Lee Murphy if there were any legal reason why the Committee could not approve the application as it stood. Lee Murphy advised that all issues could be addressed via the legal agreement. The duty on the CNPA was to ensure that there would be no likely significant affect arising from the development. By the means of the Conditions and Legal Agreement, provided there was ongoing regular monitoring and stringent action taken then the duty of the CNPA would be met. The Conditions and Legal Agreement were of a sufficiently high standard for the CNPA to take a decision with confidence.

## DRAFT COMMITTEE MINUTES

35. The Committee agreed to approve the application subject to:
- a) a legal agreement being concluded with landowners, developers and the CNPA to ensure that the complete package of mitigation measures of dog walking provision, management of woodlands outside site and screening (both temporary during establishment of vegetated screening and provision of permanent vegetation screening) to be implemented before occupation of the first house on the site.
  - b) An improved landscaping plan being submitted.
  - c) The conditions specified in the report with the following amendments:
    - Condition 5 – the inclusion of ‘Before any works start on site a resident’s pack shall be...’ and ‘...therefore available to potential purchasers’.
    - Condition 11 – removal of the permitted development rights regarding fencing.
    - Condition 24 – to include tree retention in the site.
    - Condition 27 – the Construction Method Statement to include fuel storage during site works (as specified by SEPA).
    - Condition 28 – to include the word ‘upgraded’ (as specified by SEPA).
36. Additional Condition – requiring services to be undergrounded.
37. **Action Points arising:** None.
38. The Committee paused for lunch at 13.30 hrs.
39. The Committee reconvened at 14.00 hrs.
40. David Green left the meeting.

### **Agenda Item 8:**

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

#### **Erection of House (revised application Ref: 12/4501/FUL (2012/0382/DET)**

#### **At House Plot Adjoining Spey Cottage, Dalfaber Road, Aviemore**

#### **(Paper 4) (2013/0113/DET)**

41. The Convener informed Members that a request to address the Committee had been received, within the given timescale, from:
- Agent – Ron Laing (Agent) & Alastair McIntyre (Architect)
42. The Committee agreed to the requests.
43. Katherine Donnachie presented a paper recommending that the Committee refuse the application for the reasons stated in the report.

## DRAFT COMMITTEE MINUTES

44. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) The location of the settlement boundary in the previous Badenoch & Strathspey Local Plan.
45. Ron Laing & Alastair McIntyre were invited to address the Committee. The presentation covered the following points:
- Thanks to the Committee for moving the paper up the Agenda.
  - The floor area of the proposed house.
  - The only objection to the application being from Highland Council Flood Team.
  - The current settlement boundary in the Local Plan and the previous boundary in the Badenoch & Strathspey Local Plan.
  - A representation having been made to the Local Development Plan regarding the settlement boundary.
  - The previous use of the site as a garage and orchard.
  - The tree survey and the low value of the majority of the trees on site.
  - The risk of flooding at the site.
  - The setting of Dalfaber Road and the non uniform design of the housing.
  - The proportions of the previous approved house on the site and the proximity to the neighbouring property.
  - The larger site allowing a better designed house to fit in with the surroundings.
  - The opportunity to design an individually styled house.
46. The Committee were invited to ask questions of the speaker and the following points were raised:
- a) Clarification where the nearest Charles Rennie Mackintosh influenced buildings were located. Alastair McIntyre responded that the nearest houses were located at Farr, near Inverness. However, the proposed house had a much simpler styled geometry.
47. The Convener thanked the speakers.
48. The Planning Officer responded to the following points:
- a) The CNPA Planning Policy Team had advised that the Local Plan settlement boundary had been drawn to reflect what was actually 'on the ground' and any extension would encroach further into a landscaped area.
  - b) The lack of cohesion between the design of the elevations of the proposed house.
49. The Committee discussed the application and the following points were raised:
- a) The previous land owner failing to make representations to the Local Plan regarding the settlement boundary.
  - b) The Community Council wishing the settlement boundary to reflect the previous Badenoch & Strathspey Local Plan boundary.

## DRAFT COMMITTEE MINUTES

- c) The application having received no objections and the support of the Community Council.
  - d) The Applicants willing to carry out a Flood Risk Assessment, if planning permission were granted.
  - e) The disjointed design of the housing along Dalfaber Road.
  - f) The current scrubland state of the site.
  - g) The proposal being an improvement to the visual amenity of Dalfaber Road.
  - h) The house having been designed to take advantage of solar gain via photo voltaic panels and glazing.
  - i) The previously approved scheme being located up to the edge of the settlement boundary.
  - j) The current proposal straddling the settlement boundary into land which had been an orchard associated with Spey Cottage.
  - k) The possibility of the application setting a precedent for extending the settlement boundary right along Dalfaber Road. Katherine Donnachie responded that if Members were minded to approve the application it could be on the basis that the development was only part outwith the settlement boundary. She also advised that any future applications would be considered on their own merits.
  - l) Dalfaber Road being used by visitors to the Strathspey Railway and therefore the proposal being seen by a considerable number of people.
  - m) The possibility of moving the proposal to within the current settlement boundary. Katherine Donnachie advised that it couldn't be located entirely within the boundary due to access implications to the site and the proximity and overshadowing of Spey Cottage. Ron Laing advised that even if the property were moved nearer Spey Cottage it would still infringe on the settlement boundary.
  - n) The previous proposal having consent and the possibility of it being built at any point. The current design being a significant improvement.
  - o) The flood risk issue being able to be resolved.
  - p) If approval granted, the need for landscaping conditions.
  - q) The extent of the land owned by the Applicant.
  - r) The need to ensure the settlement boundary is drawn to prevent any further incursion.
50. The Committee had a recess whilst advice was received from legal advisors regarding reasons for departing from Planning Policy.
51. Bill Lobban proposed that the application be Approved due to it strengthening and improving the defensibility of the settlement boundary and subject to a suitable landscaping plan being submitted. This was seconded by Willie McKenna.

## DRAFT COMMITTEE MINUTES

52. Clarification was sought if a Flood Risk Assessment was required due to the differing views of the Agent and Highland Council. Katherine Donnachie advised that if the Agent could convince Highland Council that one wasn't required then the CNPA would accept this. This issue must be resolved prior to the planning permission being issued.
53. The Committee agreed to approve the application subject to conditions including the submission of a landscaping plan. The specific conditions were delegated to Planning Officers.
54. **Action Points arising:** Katherine Donnachie to prepare planning conditions.
55. The Committee were advised that the following Agenda Item No.'s 6 & 7 would be taken together.

### **Agenda Item 6:**

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

**Alter Design Proposals to Carry Out Appropriate Improvements/Modifications to Provide Safe Dual Use to Existing Access Road Rather Than Creating a Standalone New Parallel Cycle Track Over the Section which was Proposed Under Consent 09/295/CP**

**At Speyside Trust Badaguish Outdoor Centre, Glenmore  
(Paper 3) (2013/0098/DET)**

### **Agenda Item 7:**

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

**Application Under Section 42 to Vary Condition 3 of Consent 2011/0206/DET At Land to NE of Speyside Trust Badaguish Outdoor Centre, Glenmore, Aviemore  
(Paper 2) (2013/0096/DET)**

56. Murray Ferguson presented an update on the applications, covering the following points:
- The previous deferral of the applications (from Planning Committee 26 April 2013) for further discussion between the CNPA, the Applicants and the Land Owners (Rothiemurchus Estate) regarding the proposed amendments to the road.
  - The Applicant had not reached agreement with Rothiemurchus Estate regarding the path but discussions were ongoing between CNPA and the Estate with a view to extending agreement for Old Logging Way and it seemed that a conclusion was near.
  - The outcome would be a new section of path and an off road route therefore no longer requiring the provision of lay-bys.

## DRAFT COMMITTEE MINUTES

- If discussions were successful and agreement with the settee was reached, the applicant would be advised to withdraw application No. 2013/0098/DET and the Applicant continuing with developing the proposal in line with the original application (09/295/CP) subject to minor modifications.

57. Murray Ferguson recommended that the Committee accept the update and delegate authority to the Planning Officers to modify the conditions as required for application 2013/0096/DET.

58. The Committee agreed the recommendation and delegated authority to the Planning Officers to modify the conditions as required.

59. **Action Points arising:** Discussions to continue between the CNPA, the Applicants and the Land Owners (Rothiemurchus Estate) regarding the path agreement.

### **Agenda Item 9:**

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

#### **Application Under Section 42, Variation of Condition No.1**

#### **Regarding Time Limit (Ref: (09/258/FULBS) (09/355/CP))**

#### **At Invertromie Steading, Kingussie**

#### **(Paper 5) (2013/0141/DET)**

60. The Committee agreed to approve the application subject to the conditions stated in the report.

61. **Action Points arising:** None.

### **Agenda Item 10:**

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

#### **Erection of Timber Lunch Hut**

#### **At Land to West of Culardoch Beag, Glen Gairn, Braemar**

#### **(Paper 6) (2013/0017/DET)**

62. Brian Wood declared an interest and left the room.

63. The Convener informed Members that a request to answer questions had been received, within the given timescale, from:

- Agent – Heather Smith

64. The Committee agreed to the request.



## DRAFT COMMITTEE MINUTES

65. Fiona Oldroyd presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
66. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) Clarification why the toilet had been removed. Katherine Donnachie advised that the Environmental Health had requested further information and the Agent had responded by removing the toilet from the proposal.
67. The Committee were invited to ask questions of the Agent and the following points were raised:
- a) Clarification if there were any proposals to carry out repairs to the hill tracks and land scarring in the area. Heather Smith responded that this issue could be addressed if it were required.
  - b) The distance to Corndavan Lodge from the proposed hut. Heather Smith advised it was 5 miles.
  - c) Clarification if other lunch huts were located in the area. It was advised that there had been a previous lunch hut but this had been demolished.
  - d) The precedent for huts being located in areas of wildness. Matthew Hawkins responded that the hut was proposed in a Band B area of wildness (as set out in CNPA Supplementary Guidance) due to the existing hill tracks in the locale. He also stated that it was not unreasonable to find a hut located in this type of area.
  - e) In the absence of a photo montage, a demonstration on the displayed photo of how the proposed hut would fit into the landscape. Heather Smith obliged and confirmed that the hut would be nestled into the landscape.
68. The Convener thanked the Agent.
69. The Committee agreed to approve the application subject to the conditions stated in the report.
70. **Action Points arising:** None.
71. Brian Wood returned.

## **Agenda Item 11:**

### **Consultation Report on Scottish Planning Policy (SPP) and National Planning Framework 3 (NPF3) (Paper 7)**

72. Murray Ferguson & Gavin Miles presented a consultation report on the Scottish Planning Policy and National Planning Framework, recommending that the Committee agree the key issues that CNPA wish the review of SPP and NPF3 to address, and delegate responsibility for submission of the response to officers in consultation with Convener and Vice Convener.

73. Angela Douglas & Jeanette Gaul left the meeting.

74. The Committee were invited to ask the points of clarification, the following were raised:

- a) The need to lobby Government to relax the Homeless Persons Act or the local lettings initiative as it would be impossible to provide enough Affordable Housing due to the current economic situation and running out of available building land. Gavin Miles responded that if the Government were to state that National Parks were different it would be appropriate to ask them that they also provide additional support for National Parks to meet housing need.
- b) Not in agreement with a provision of less than 25% Affordable Housing, if anything that should be the minimum requirement within the CNP.
- c) The current economic climate not lasting forever, this being a policy for the future and the need to be bold regarding Affordable Housing policy.
- d) Scenic corridors including not only roads but Core Paths.
- e) The current policy on neighbour notifications and how they are unworkable in rural areas. Members of the public cannot comment on an application if they are unaware of it, particularly with regard to Wind Turbines.
- f) A Low Carbon Place - the apparent conflict between the wood fuel action plan, which includes chopping down trees and also extending forest cover.
- g) Tourist routes and the possibility of providing viewing platforms on the A939.
- h) The inclusion of the importance of the cumulative impact of Wind farms, particularly around the perimeter of the CNP.
- i) A lot of positives having been included in the NPF3.
- j) Problems with Affordable Housing being brought forward as serviced sites.
- k) The lack of funding currently available for Housing Associations.
- l) The level of Affordable Housing being a negotiation process between the Planning Authority and the Applicant.
- m) The need for a link between NPF 3 and a link with the developing land management strategy regarding mountain soils etc.
- n) 5 key watersheds rising within the CNP and the need for a link with the SEPA water framework.

## DRAFT COMMITTEE MINUTES

- o) Looking at ways other countries deal with Neighbour Notifications and how the methods could be implemented in Scotland.
- p) The need for integration across the priorities including river basins, planning and forests.
- q) Transport Corridors - the need to look at more efficient ways of travel without the use of private cars.
- r) The integration between the local economy and local agriculture / sporting land uses – how local procurement can support the local economy.

75. Murray Ferguson responded on the following points:

- He confirmed that Pete Crane, Sustainable Tourism & Visitor Experience Project Manager, was to attend a meeting in Edinburgh on Monday 24<sup>th</sup> June regarding National Scenic Routes and Viewing Platforms and looking at scoping studies for future works.
- He advised that Wind Farms located outwith National Parks were a sensitive issue. The current proposals made clear that Government did not propose to have a buffer zone around National Parks and National Scenic Areas. He highlighted that this was the only underlined section in the document. Recent decision by Department of Planning and Environmental Appeals (DPEA) had highlighted the sensitivity of the Park's landscape to wind farms outwith the area and this required to be reflected in policy.
- The possibility of the A9 dualling project resulting in lay-bys that did not have views of Wind Farms. Kate Howie advised that at a recent meeting regarding the dualling it was stated that large lay-bys were not being considered. Matthew Hawkins advised that discussions with Transport Scotland had also focussed on this issue and there was potential for a hierarchy of lay-bys with good views.
- Duncan Bryden requested that a measure needs to be made of the vibrancy of community centre health (if the community has a shop, pub, hall etc.) and the need to protect and encourage people to live and work there.

76. The Committee accepted the consultation and requested the above points be incorporated to the response.

77. **Action Points arising:** The points raised to be taken account of and the consultation response to be submitted to the Scottish Government by CNPA Officers in consultation with Convener and Vice Convener.

## DRAFT COMMITTEE MINUTES

### **Agenda Item 13:**

#### **Any Other Business**

78. Murray Ferguson advised that an appeal against the refusal of permission for a single house development at Cromdale had been dismissed by DPEA. This information had previously been circulated to Members. No questions were asked.
79. Murray Ferguson advised that decisions had been made on two Wind Farm developments. Tom nan Clach Wind Farm had been approved and Glen Kirk Wind Farm had been refused – the CNPA had objected to both and there were strong references to the National Parks in both decisions.
80. Murray Ferguson advised that the CNPA Solicitor had written to the Reporter for Allt Duine Wind Farm citing the the Tom nan Clach and Glen Kirk Wind Farms decisions and highlighting certain paragraphs in the Reporters written decision report.
81. Eleanor Mackintosh advised that CNPA Planning Officers were to attend a workshop on Monday 24<sup>th</sup> June with Derek Mackay, Scottish Minister in Inverness. Members were informed that she would be attending a dinner with the Scottish Council for Development and Industry (along with Murray Ferguson) that evening, hosted by the Minister.
82. Eleanor Mackintosh informed Members that Clare Muckart, CNPA Press Officer was leaving the organisation and thanked her for all her hard work.
83. Murray Ferguson updated Members on the situation regarding CNPA Planning Staff. He advised that Fiona Murphy had recently started work for the CNPA, she would be joined by Jack McGowan on 1<sup>st</sup> July – they had both been appointed temporary contracts. Interviews for a permanent Planning Officer were due to take place the following week and the internal restructure was ongoing which was likely to result in some significant staff changes with regard to the planning team.
- 84. Action Points arising:** None.

### **Agenda Item 14:**

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

85. Friday 19<sup>th</sup> July 2013 at The Duke of Gordon Hotel, Kingussie.
86. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.
87. The public business of the meeting concluded at 15:55 hrs.