

CAIRNGORMS NATIONAL PARK AUTHORITY

Title: FINALISED ABERDEENSHIRE LOCAL PLAN 2003

Prepared by: DENIS MUNRO, INTERIM PLANNING MANAGER

Purpose

This report has been prepared in response to a consultation by Aberdeenshire Council seeking the views of the Park Authority on a local plan for the whole of Aberdeenshire.

Recommendations

- The CNPA thanks Aberdeenshire Council for the opportunity to be consulted on this Local Plan.
- The CNPA cannot support the plan's policies in so far as they relate to Marr West and part of Marr East because of (i) the lack of recognition of the Park's existence, (ii) the consequential omission of the Park Aims set out in Section 1 of the National Parks (Scotland) Act 2000 which, in conjunction with Section 9 (6) of that Act, have an important bearing on planning policy, (iii) the CNPA wants to have an opportunity to review the relevance and detail of some of the general policies relating to housing in the countryside, employment and landscape protection.
- As a consequence of (2) above, the CNPA asks Aberdeenshire Council to, either, excise from the plan all of the policies and proposals relative to the National Park area so that these may be appraised in a Park context by the CNPA, or, Aberdeenshire Council prepare, and send to the CNPA for approval, modifications to the plan addressing the concerns described in this report.
- In the event that the Park area is excised from the local plan, the CNPA will approve the policies and proposals of the excised area as a basis for interim, non-statutory, development control guidance in relation to the Park area until it prepares a statutory local plan for the area.

Executive Summary

The plan, like all local plans, is a very important land use planning document and contains policies and proposals for the whole of Aberdeenshire. It is at a stage in the procedure where it has been published for objections and a significant number of objections have been received. Very few of these relate to the Park area.

The next step is to hold a Public Inquiry, which will probably take place in December this year, and Aberdeenshire Council needs to know what attitude the Park Authority intends to take.

The report concludes that because the local plan shows no awareness of the existence of the Park or the need for planning policy within its boundaries to be influenced by the four aims set out in National Parks (Scotland) Act 2000, the CNPA should not endorse the local plan in its present form but, rather, should ask that the relatively small part of the plan which falls within the Park boundary should be excised and used only as a basis for non-statutory guidance until the CNPA has produced its own local plan for the area. Alternatively, Aberdeenshire Council may wish to prepare modifications to the plan to address the concerns described in the report and send these to the CNPA for consideration.

FINALISED ABERDEENSHIRE LOCAL PLAN 2003

Background

1. This local plan has been under preparation since September 1998 and has passed through the main public consultation stage (when it was in "Draft" form) during which 700 responses were received to the consultation process. Each of these responses contained one or more comments which, in turn, were broken down into some 4,000 comments. In response to these comments, adjustments were made leading to the approval by the Council of a Finalised Plan in August 2002. The local plan process allows for objections to be submitted by the public and other interested parties which, if not resolved, must lead to a Public Inquiry. As would be expected in a plan of this complexity, a considerable number of objections have been submitted and the Council is making arrangements for a Public Inquiry to be held before an independent Reporter from the Scottish Inquiry Reporters Unit. The most likely timing for the Inquiry is December 2003/January 2004 and the Council is understandably keen to know what attitude the CNPA intends to take towards both the content and future progress of the plan.
2. As the CNPA will acquire full responsibility for the production of local plans within its boundary on 1st September 2003 an obvious procedural issue arises about the status of local plans which, like this one, are under preparation by one of the constituent local authorities at that date. This is a matter which I have discussed with the Head of Planning Policy and Environment at Aberdeenshire Council and planning officials in the Scottish Executive and, in my opinion, if the CNPA is not prepared to endorse the plan because of significant reservations about its policies or proposals, Aberdeenshire Council will have to excise from the plan all of the policies and proposals which are intended to have effect within the Park boundary. In practical terms, this would mean adjusting its boundaries so the Park boundary becomes the plan's western limit.
3. If, on the other hand, the CNPA is satisfied with the plan in its present form, it would be appropriate for a resolution to that effect to be made by the CNPA and notified to the Inquiry Reporter. From that point onwards both Aberdeenshire Council and the CNPA would await the Reporter's recommendations on the various objections and deal with them in a joint way leading, ultimately, to adoption of the plan by separate resolutions. As I pointed out in a separate report on this agenda, the preparing authority is not bound to accept a Reporter's recommendations but there is a strong presumption that it should do so unless clear reasons can be set out for rejection.

Policy Issues

4. Against the above background, I would like very much to be able to advise the Board that the Plan raises no issues of concern to the Park's interests. In such circumstances the plan could proceed with a view to adoption some time in 2004 and both Aberdeenshire Council, and the Park, would have an up-to-date context for making planning decisions within their respective jurisdictions. I am, unfortunately, unable to recommend that course of action.
5. My reservations are focused principally on a number of the general, "plan-wide", policies and, to a lesser extent, on those which are specific to the Park area.

6. The problem with the plan-wide policies is that they have been drawn up with no recognition of the existence of the Park and its special characteristics. There is at no point in the document a reference to the designation of the Park or its boundaries and, crucially, no reference to the four aims set out for all National Parks in Section 1 of the National Parks (Scotland) Act 2000 as follows:
 - (a) to conserve and enhance the natural and cultural heritage of the area;
 - (b) to promote sustainable use of the natural resources of the area;
 - (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
 - (d) to promote sustainable economic and social development of the area's communities.
7. In my view, these must be recorded in any local plan coming into effect within the Park boundary at a date following that set by the Designation Order since they are material considerations in any planning decision made after that date and, furthermore, the National Parks (Scotland) Act 2000 makes it clear that where proposals put these aims in conflict, primary importance must be given to the first aim.
8. Also, that emphasis does not sit particularly well with the sense of many of the general policies in the Finalised Plan. I would mention, in particular, some of the "Environment" policies where the presumption of refusal for developments that would adversely affect a wide range of habitat, scientific and landscape designations is provided with an exemption justifying approval where, for example, "...the public benefits at a local level clearly outweigh the value of the habitat for biodiversity conservation." I do not think that such a caveat would exist if the Environment policies had been framed with an awareness of the Park Aims quoted above.
9. Similarly, there are policies relating to Housing in the Countryside and Employment Development in the Countryside which apply uniformly across "the countryside" (of which the Park forms part). These may, after considered reflection, be acceptable to the CNPA but it would be as well to reach a conclusion in a holistic way, across the Park, rather than be committed at this early stage in the Park's policy-making life. Within the Aberdeen Green Belt both of these policies are replaced with more restrictive alternatives and there is at least a case to be made, and discussed, for similar modifications within the Park.
10. Turning to more area-specific aspects of the Plan, the maps which identify policies within the Park - Marr West and part of Marr East - define "Areas of Landscape Significance". While these are, no doubt, valid in an Aberdeenshire context they are exactly the type of designation for which a coherent, Park-wide view should be taken across local authority boundaries and, in my opinion, this can only be done as an outcome of CNPA's own appraisal in due course.
11. Within the Park boundary there are 5 Rural Service Centres (RSCs), defined as "minor service centres that contain at least some viable services and may provide opportunities to absorb small-scale local development needs". Commendably, the plan states that within these areas (as a whole) "... There is an onus on new development to be in character with existing traditional development" and notes that

“many recent housing developments Have not achieved this mainly because of excessive home sizes and of residential layout which does not reflect the traditional character of the particular settlement.”

12. The 5 RSCs within the Park are: Braemar, Ballater, Corgarff, Strathdon and Roughpark. Briefly, the main features proposed for each of these is as follows:

Braemar Most of the built-up area is a Conservation Area. There are two “effective” housing sites - one for 13 houses and one for 6. There is a “constrained” housing site for 29 houses. There is a site at the south west corner of the settlement earmarked for “tourist facilities and accommodation”. All of these sites are within a clearly defined settlement boundary and there is an accompanying note stating “NB. New development in Braemar will be subject to improvements to wastewater infrastructure”.

Ballater Almost half of the built-up area is a Conservation Area. There is no site earmarked for early housing development but, rather, an area of indeterminate boundaries is shown outside, and to the north-east of, the settlement. No target number of houses is suggested for this location which is, in effect, a pointer to a future direction for development in the time period 2011 to 2015.

Strathdon Only one area is earmarked for future development and that is described as being “suitable for tourist facilities and accommodation”.

Roughpark There is, as with each of the above, a map defining the settlement boundary but no specific development policies or proposals.

Corgarff Again, there is a map defining the settlement boundary but no specific development policies or proposals.

13. I have looked at the housing sites proposed in each of the above settlements and think they are sensible in planning terms but, in response to its own assessment of the need for affordable and other types of housing in the area, the CNPA will no doubt wish to review the case for, and scale and location of, residential development in settlements like these - taking into account the state of supporting infrastructure services and the needs of similar settlements across the Park area. I am therefore unable to suggest a “Park attitude” to these detailed aspects of the local plan except to say that the vague identification of an area to the northeast of Ballater for future housing in the 2011 to 2015 period is unnecessarily binding on decisions which the CNPA has ample time to take. I emphasise, however, that I have no reason to believe that this would be an inappropriate direction for the future expansion of Ballater.
14. I have discussed the above concerns with the Planners in Aberdeenshire Council and officials of the Scottish Executive. From that meeting, two options emerged.

Option 1

Aberdeenshire Council modifies the plan to exclude the area of the National Park. This would enable the CNPA to address the points raised above in its own Local Plan for the “excised” area of Aberdeenshire. To avoid the problem of having no up-to-date context for development control decisions in the meantime, the CNPA and the

Council would resolve to use the excised segment of the Plan as non-statutory, interim guidance for development control purposes. This would mean that it would not have the full status of the rest of the Plan (when it is adopted by Aberdeenshire Council) but, in practical terms, I do not think this would be a serious disadvantage.

Option 2

Aberdeenshire Council modifies the plan to address the concerns expressed above. In that modified form, the CNPA would resolve to support it - in so far as it relates to the Park area - and would be represented at the Public Inquiry to defend it against objections jointly with the Council. The Reporter would submit his recommendations separately to the CNPA and the Council and, with or without further modifications, the Plan would be adopted by separate resolutions of both bodies.

15. Option 2 would be preferable but may be fraught with both practical and legal problems. The practical difficulty is that to keep the timetable to a December Public Inquiry on track the modifications would have to be approved by the CNPA, considered by Aberdeenshire Council and advertised for possible further objections in June. The Council is heavily involved in preparing modifications to address a large number of objections from the previous publicity phase and it could be difficult to draft the modifications and obtain CNPA/Council approval by then. Furthermore, it is not clear whether a Reporter would be prepared to accept such an important "eleventh hour" modification and, legally, the procedure may be open to challenge on the grounds that the Plan is fundamentally different from the one which was previously announced. At the time of writing, these issues have not been resolved and it may be necessary for me to give an oral up-date on whether the Council regards this as a viable option.
16. Option 1 may also be attended by problems. Again it could be legally challenged on the grounds that by changing the boundaries the whole Plan falls and must be started again. Also, would this be fair to those who have submitted objections and are expecting to have them heard at a public enquiry with the rest of the objections?

Conclusions

17. It is unfortunate, but inevitable, that while the CNPA is in the process of becoming established and developing an attitude to planning policy, it is being asked to make responses to plans which existing planning authorities are, quite properly, preparing under the existing statutory regime. In a future report I will bring forward a description of the pattern and age of the various Structure and Local Plans which have effect within the Park Boundary. That report will also identify anomalies which occur between those plans and militate against a coherent, Park-wide policy framework for planning decisions. Then, or soon after, a decision will have to be taken on whether to discharge the CNPA's Local Plan obligations by embarking on one plan for the whole Park area, or on several, within boundaries determined by clear, community/geographically defined sub-units. National guidance lays great emphasis on engaging the public in the plan-making process and that objective is often best served by producing plans for areas which have a local logic rather than for larger areas which are administratively convenient for the authority preparing the plan. There are arguments in favour of either option and, at present, I have no definitive advice to give in that respect.

18. Of the Local Plans reviewed on this agenda, the one for Angus is undoubtedly the more straightforward both in terms of its relatively simple policy content and the fact that it relates to a smaller, less populated area. A supportive recommendation is also assisted by Angus Council's decision to give the Finalised Local Plan a boundary which is "pulled back" from their administrative boundary to the southern edge of the Park.
19. The Aberdeenshire Local Plan is not as easily supported without concern for the CNPA's future role in local planning. It is most seriously deficient in that it gives no recognition to the existence of the Park Aims - which are very important for broad planning policy - or to the Park's boundaries and special characteristics. These, in turn, should have a bearing on the fine grain of area-specific policies. The omission can be partly explained by the fact that the plan commenced before the Park's existence but the Angus Plan has been flexible enough to adapt to the reality of the Designation Order and that must therefore be seen as an option in this case.
20. Equally, it would be reasonable to give Aberdeenshire Council an opportunity to draft some modifications to the plan to address the concerns expressed in this report and, at the time of writing, the practicality and legality of this option is being investigated. I am therefore making a recommendation which keeps both options open and I will update the Board on the 16th May with the outcome of those investigations.

Denis Munro
23rd May 2003