

# 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, Boat of Garten

on 24 January 2020 at 12 noon

#### Members Present

Eleanor Mackintosh (Convener)

Peter Argyle (Vice-Chair)

Geva Blackett

Carolyn Caddick

Deirdre Falconer

Janet Hunter

John Kirk

John Latham

Douglas McAdam

Xander McDade

Willie McKenna

Ian McLaren

Dr Fiona McLean

William Munro

Anne Rae Macdonald

Dr Gaener Rodger

Derek Ross

Judith Webb

#### In Attendance:

Gavin Miles, Head of Planning & Communities

Stephanie Wade, Planning Officer

Robbie Calvert, Graduate Planner

Matthew Hawkins, Conservation Manager

Peter Ferguson, Legal Adviser, Harper MacLeod LLP

Alix Harkness, Clerk to the Board

Dot Harris, Planning Support Officer

**Apologies:** Pippa Hadley

#### Agenda Items 1 & 2:

##### Welcome & Apologies

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

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### Agenda Item 3:

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

2. The minutes of the previous meeting, 13 December 2019, held in The Community Hall, Boat of Garten were approved with no amendments.
3. There were no matters arising.
4. The Convener provided an update on the Action Point from the previous meeting:
  - **Action Point at Para 29i) Closed** – Scottish Government Short Term Lets report to be circulated around the Planning Committee.
  - **Action Point at Para 32i) In Hand** - Head of Planning and Communities will provide the Committee with an update on Application 2019/120/DET (Carrbridge 47 houses) Appeal when appropriate.
  - **Action Point at Para 32ii) In Hand** - Head of Planning and Communities will provide the Committee with an update on A9 Dalraddy-Slochd when appropriate.
5. **Action Point Arising: None.**

### Agenda Item 4:

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

6. William Munro – Item 7 – Non-interest: Has in the past but no longer requires to as his son and daughter-in-law are no longer buying a property on the development.

### Agenda Item 5:

#### Application for Planning Permission in Principal (2019/0222/PIP)

#### Erection of 7 no. houses (5 no affordable)

#### At Land 125kM of Lettoch Road, Nethy Bridge

#### Recommendation: Approve Subject to Conditions

7. The Convener advised the Committee had just returned from site visit to this site which took place before the Planning Committee meeting today.
8. Gavin Miles, Head of Planning & Communities presented the paper to the Committee. He advised that three late representations had been received from BSCG, Cairngorms Campaign and RSPB which do not raise any additional issues but all look for refusal on the basis of the facts set out in the report.

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9. The Committee were invited to discuss the report. The following was raised:
- a) Comments made that Community Council had not commented on the application.
  - b) Comment made that the Spruce needed harvesting and that the community would like to see the ditches near to existing houses being cleared. Head of Planning & Communities advised that the details of a woodland management plan would need approval from the Planning Committee should the application be approved.
  - c) Concern raised surrounding the dangers of low cost homes falling into the second home market and could any conditions be imposed to stop that from happening? Head of Planning & Communities advised that the current proposal was for the Highlands Small Communities Housing Trust (HSCHT) take on the affordable housing plots with a rural housing burden attached to provide long term affordability.
  - d) Could assurance be provided that the woodland management plan would be implemented? Head of Planning & Communities advised that within the woodland management plan would be require to be approved by the CNPA, would become part of the consent and would be enforceable.
  - e) Clarification on whether there was guidance on the weighting to be given to the first aim if there is conflict between the aims of the National Park. Head of Planning & Communities explained that the National Park Act was clear, at Section 9.6 it states that the CNPA must give greater weight to the first aim (of conserving and enhancing the natural and cultural heritage) in coming to a decision. However, it does not state that the first aim takes priority or outweighs other considerations, so the greater weight to be given is a matter of judgement for the Planning Committee on any individual decision. There is no formula that gives the correct answer. Peter Ferguson, Legal Adviser, Harper MacLeod LLP added that when appraising a planning application firstly they look at how it sits with the Local Development Plan policies and identifying the relevant policies. With reference to Section 9.6 of the National Parks Act, discretion is given to the decision maker, there are no rules or criteria to guide the decision making. He added that once a decision had been taken in accordance with the LDP the next step would be for other relevant considerations to be discussed by the Planning Committee before reaching their decision. The Convener recognised the difficulty of the decision the Committee were facing.
  - f) Could more information be provided on the rural housing burden? Head of Planning & Communities explained that HSCHT would buy the land at significantly less than market value and that the difference between the price paid and the market value was retained by HSCHT, creating a discount in the total value of the property for owners. If an owner wanted to sell that house, HSCHT would look for suitable buyers in need of affordable housing and the

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- discount would move to the new owner, maintaining affordability for subsequent owners. The housing would be likely to be in the mid-market level.
- g) Clarification requested on the sites in the village in the proposed new LDP. Head of Planning & Communities advised that a site on the opposite side of the road from the application was included in the proposed LDP as a housing allocation for 20 units of which 5 affordable.
  - h) Was there any more information on the 6m wide forestry track for forestry extraction as described in the plan layout? Head of Planning & Communities advised the woodland could be accessed from other, potentially more suitable locations too, and explained that if the application was approved a new layout would need to be submitted by the applicant for approval by the Planning Committee.
  - i) Concern raised with reference to paragraphs 18 to 20 of the officer's report that the Highland Council's Landscape Officer and Forestry Officer and the CNPA Landscape Officer had all objected or had concerns about the scheme. Head of Planning & Communities acknowledged that was the case.
  - j) With reference to the land owner entering into a Woodland Management plan agreement how many years would that last? Head of Planning & Communities advised that it would be in perpetuity.
  - k) Would the woodland management plan be attached to the land so if the land owner were to change then the woodland management plan would be sold with the land? Head of Planning & Communities confirmed that this would be the case.
  - l) Could HSCHT provide guarantee that the houses would not be sold on the open market at a later date? Head of Planning & Communities advised that would only happen if there were no people eligible to buy mid-market housing. He added that if it were to be sold on the open market, HSCHT would receive the discounted land value and any uplift to reinvest in affordable housing.
  - m) Could it be confirmed that the application site was not a current allocation in the LDP? Head of Planning & Communities confirmed this was accurate.
  - n) With reference to the Highland Council's Landscape and Woodland officer's concern and the CNPA Landscape officer's concern could it be explained to what extent those comments had been weighed up as part of the balance? Head of Planning & Communities explained that the comments made were reflected in the paper. He added that the comments were based on an assumption that all woodland on the site would be lost and did take account of any measures to minimise woodland loss or improve management of the wider woodland.
  - o) Could it end up being a different land buyer? Head of Planning & Communities advised that there was currently an agreement between the HSCHT and the land owner but that this could change over time so conditions would secure affordable housing via any potential owner.

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- p) Comment made that there was no proposal for compensatory planting when the woodland was irreplaceable. Why was there not a condition for this? Head of Planning & Communities advised that the applicant did not control other land suitable for compensatory planting, only the blue ground covered by forestry.
  - q) Could it be confirmed that the application site was offered as part of the call for sites for the proposed LDP but was not taken forward? Head of Planning & Communities confirmed that was correct but noted that when put forward for the LDP, it was a proposal for 5 open market and 2 affordable houses. The current application was for 5 affordable and two open market houses with the opportunity to add conditions to control and manage the development in detail that must be considered on its own merits.
  - r) Comment made that the site is of high ecological value and is categorised as a National Vegetation Classification W18 site which is a UK conservation habitat and an important Biodiversity Action Plan habitat. Head of Planning & Communities confirmed this was the case and agreed that this was a consideration in coming to a decision. He noted that the quality of the habitat was threatened by its current management as a commercial plantation and that he was not aware of another mechanism currently available to the CNPA of changing its management to maintain its ecological value.
  - s) If the application was to be approved would there be any way of protecting the mature pine trees at the front of the site? Head of Planning & Communities advised that the applicant would have to submit further detailed plans for approval including a layout plan and tree protection measures.
  - t) An amendment to the Officer's recommendation was put forward to refuse the application.
10. The meeting paused to allow legal advice on wording of an amendment to refuse the application.
11. Peter Argyle put forward a motion to agree with the Officer's recommendation and approve the application. He highlighted that it was an extremely and unusually difficult application and that it was a question of balancing the conservation and affordable housing need. He stated that if the application had been in any other part of the National Park he would not support it. John Kirk seconded the motion and stated that the village desperately needed affordable housing..
12. An Amendment was put forward to refuse the application on the following grounds by Derek Ross. This was seconded by John Latham:
- a) The proposed development will result in the loss of high quality native woodland and associated species that cannot be suitably compensated for through appropriate mitigation, contrary to Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015;

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- b) The proposed development will have a significant adverse impact on the woodland setting of the village and an adverse effect on the landscape character and experience of the special qualities of the National Park contrary to Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.
- c) The inability of the proposed development to comply with policies 4 and 5 of the Cairngorms National Park Local Development Plan 2015 outweighed the benefits of the delivery of affordable housing in compliance with Policy 1, bullet 6 of the Cairngorms National Park Local Development Plan 2015.

13. The Committee proceeded into a vote. The results were as follows:

<b>Name</b>	<b>Motion</b>	<b>Amendment</b>	<b>Abstain</b>
<b>Peter Argyle</b>	√		
<b>Geva Blackett</b>	√		
<b>Carolyn Caddick</b>		√	
<b>Deirdre Falconer</b>	√		
<b>Janet Hunter</b>		√	
<b>John Kirk</b>	√		
<b>John Latham</b>		√	
<b>Eleanor Mackintosh</b>		√	
<b>Douglas McAdam</b>	√		
<b>Xander McDade</b>		√	
<b>Willie McKenna</b>	√		
<b>Ian McLaren</b>	√		
<b>Fiona McLean</b>		√	
<b>William Munro</b>	√		
<b>Anne Rae Macdonald</b>		√	
<b>Gaener Rodger</b>		√	
<b>Derek Ross</b>		√	
<b>Judith Webb</b>		√	
<b>TOTAL</b>	<b>8</b>	<b>10</b>	<b>0</b>

14. The Committee agreed to refuse the application for the reasons stated above.

15. Action Point arising: **None.**

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### **Agenda Item 6:**

#### **Application for Detailed Planning Permission (2019/0298/DET)**

**Development of 14 no dwellings including 6 no terraced houses, 4 no bungalows and 4 no cottage flats**

**At Land 20M South East of Spey House, Cairngorm Technology Park, Dalfaber Drive, Aviemore**

**Recommendation: Approve Subject to Conditions and Developer Contributions**

16. Stephanie Wade, Planning Officer presented the paper to the Committee.
  
17. The Committee were invited to ask points of clarity. The following were raised:
  - a) Clarification requested on whether there was existing biodiversity on the site given that there was a reptile barrier in place on the new hospital site? Could reassurance be provided to ensure adequate protection was in place to mitigate species disturbance? Matthew Hawkins, Conservation Manager explained that this site cleared before the application was submitted and had little ecological value in its current state.
  - b) Comment made that the plans did not clearly show how much amenity planting was being proposed with the dominant features being rotary clothes driers could there be more greenery? Conservation Manager advised that the developer had submitted a landscape plan but that a condition was proposed for a revised plan with further planting.
  - c) Comment made that it was a good development in an appropriate location.
  
18. **The Committee agreed to approve the application subject to the reasons stated in the report.**
  
19. **Action Point arising:           None.**

### **Agenda Item 7:**

#### **Application for Detailed Planning Permission (2019/0353/DET)**

**Erection of House and Garage**

**At 28 Dulicht Court, Grantown on Spey**

**Recommendation: Approve Subject to Conditions**

20. Robbie Calvert, Graduate Planner presented the paper to the Committee.
  
21. **The Committee agreed to approve the application subject to the reasons stated in the report.**

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22. **Action Point arising:**           **None.**

### **Agenda Item 8:**

#### **Any Other Business**

23. The Head of Planning & Communities provided the following updates:
- a) The DPEA have confirmed that Reporters are satisfied with the LDP Statement of conformity and are now looking at outstanding representations in detail..
  - b) The CNPA will be hosting the Scottish Green Infrastructure Group Conference on 6 May in our offices – two places have been reserved for board members to attend. The Clerk to the Board will be in touch in due course.
  - c) RTPI event on National Planning Framework 4 is being held in CNPA offices between 5-7pm on 10<sup>th</sup> March 2020. Board members are welcome to attend – The Clerk to the Board will be in touch in due course.
  - d) Clova Track enforcement appeal update – site visit held before Christmas and the reporter had recently asked CNPA and appellant some more questions about the notice.
  - e) A9 Dalraddy Slochd update – CNPA were continuing to prepare for the Inquiry.
  - f) Carrbridge 47 houses planning appeal update – appeal process was delayed by DPEA but would restart soon.
  - g) Hill tracks mapping update – a letter had been sent to estates explaining the hill tracks mapping work and Scottish Land and Estates had been briefed.
24. The Head of Planning & Communities reminded the Committee of the Rothes 3 windfarm application where they had Objected to the proposal. He advised that a modification had been proposed to the scheme which reduced the impact of the turbines by reducing both the number and the height of some of them. He noted that officers had previously recommended no objection to the proposal but that the Committee had agreed to object and explained that officers' recommendation would continue to be no objection given the reduced impacts of the modification.
25. The Committee discussed the modification, the following points were raised:
- a) Comment made that the original objection was on the grounds of the cumulative impact of windfarms around the National Park and the risk the lighting could have on the Dark Skies accreditation being granted. Head of Planning & Communities advised that the Committee were entitled to maintain their objection and advised that the modified proposal would not impact on the features of the Dark Skies project.
  - b) Could it be explained why the proposal was objected to in the first place? Head of Planning and Communities advised that it had been objected to on the following grounds '*due to significant adverse effects on the Special Landscape*



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*Qualities of the Cairngorms National Park, including dark skies, and the cumulative impacts of the development as a result of the scale and siting of the development extending the visual envelope of wind turbines around the National Park.*

- c) Was the same number of turbines and heights being proposed? Head of Planning & Communities confirmed that 23 turbines were being proposed this was a reduction of 6 and that originally the highest turbines were to be 225m whereas the heights spanned between 149m and 175m in the modification.
  - d) Comment made that papers should have been prepared and brought to Committee on this as a separate agenda item. The Convener advised that the modification had come in during the festive break and that the timescales were short on submitting a response.
  - e) Comment made that the reason for objection originally was because the proposal would fill a gap in the ring of turbines around the National Park, increasing the sense of encirclement and the corresponding impacts on the National Park.
26. A motion to maintain the objection was put forward by Derek Ross and seconded by Peter Argyle. An amendment was put forward to remove the objection by Willie McKenna and this was seconded by Carolyn Caddick.
27. The Committee proceeded into a vote. The results were as follows:

<b>Name</b>	<b>Motion</b>	<b>Amendment</b>	<b>Abstain</b>
<b>Peter Argyle</b>	√		
<b>Geva Blackett</b>	√		
<b>Carolyn Caddick</b>		√	
<b>Deirdre Falconer</b>	√		
<b>Janet Hunter</b>	√		
<b>John Kirk</b>		√	
<b>John Latham</b>	√		
<b>Eleanor Mackintosh</b>		√	
<b>Douglas McAdam</b>		√	
<b>Xander McDade</b>			√
<b>Willie McKenna</b>		√	
<b>Ian McLaren</b>		√	
<b>Fiona McLean</b>	√		
<b>William Munro</b>	√		
<b>Anne Rae Macdonald</b>		√	
<b>Gaener Rodger</b>	√		
<b>Derek Ross</b>	√		
<b>Judith Webb</b>		√	
<b>TOTAL</b>	<b>9</b>	<b>8</b>	<b>1</b>

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28. The Committee agreed to maintain the Objection.

29. Action Point arising: None.

### **Agenda Item 9:**

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

30. 11.00am on Friday 21<sup>st</sup> February 2020, Albert Hall, Ballater.

31. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Clerk to the Board, Alix Harkness.

32. The public business of the meeting concluded at 13.44