

Cairngorms National Park Local Plan

Note of Pre-Inquiry Procedure Meeting

Cairngorm Suite, Hilton, Coylumbridge, Aviemore

16 March 2009

Preliminary matters

1. The purpose of the meeting was to discuss the arrangements for the forthcoming public local inquiry into objections to the Cairngorms National Park Local Plan made and not unconditionally withdrawn. This note provides a summary of matters discussed and, in particular, takes account of questions raised by those members of the public who attended.

2. Mrs Jill Moody, an Inquiry Reporter with Directorate of Planning and Environmental Appeals within the Scottish Government, chaired the meeting. Mrs Moody and Mr Hugh M Begg, who is also an Inquiry Reporter, have been appointed jointly by the Cairngorms National Park Authority (the authority) to conduct the inquiry, and to prepare a report and make recommendations.

3. **The person appointed as the inquiry's Programme Officer is Ms Sara Krawczynska.** She is based within the authority's office in Grantown-on-Spey. However, for the avoidance of any doubt, for the purposes of this appointment she is directly responsible to the Reporters, not the authority, for the administration of the inquiry. **She is the only point of contact for everyone involved in the inquiry, including the Reporters and the authority's officers, as well as for objectors and their agents.** Her duties include:

- dealing with general correspondence on inquiry arrangements;
- maintaining the list of objections;
- establishing the nature of cases to be presented, including bringing together objectors with a common interest and whether witnesses are to be called;
- arranging the pre-inquiry exchanges of documents, precognitions and other written material;
- managing the day-to-day programme during the inquiry;
- arranging any accompanied site inspections; and
- compiling appendices for the report, including document lists, objectors, and session participants.

4. Ms Krawczynska's postal address is Cairngorms National Park Authority, 14 The Square, Grantown-on-Spey PH26 3HG and her other contact details are:

- direct dial telephone number (01479) 870511
- fax number (01479) 873527

- e-mail address sarakrawczynska@cairngorms.co.uk

The deputy Programme Officer is Ms Julie Millman, based in the authority's Ballater office.

Scope and purpose of the Cairngorms National Park local plan inquiry

5. The consultative draft version of the local plan was published in October 2005. The authority has since considered all of the objections that were received and has published 2 rounds of proposed pre-inquiry modifications. A summary of these objections, together with the authority's responses, was presented to the Cairngorms National Park Authority board in February 2009. Some 293 issues remain the subject of objection and these emanate from some 176 sources. Where the authority is proposing changes to the plan, the original objection will be considered at the inquiry together with comments on the proposed change. The authority will not place any further objections before the Reporters that raise new issues; and, other than in very exceptional circumstances the Reporters will not hear representations in support of the plan policies or proposals.

6. It is the authority which decides whether an objection is relevant and, consequently, that it should be placed before the Reporters for consideration. Anyone who considers that the authority has failed to comply with a statutory requirement or with the related current guidance on procedural matters should write to the authority. If the matter cannot be resolved to the satisfaction of the objector, the Scottish Public Services Ombudsman may be able to assist. However, the ombudsman can only examine procedural matters and cannot become involved in either the merits of the plan or the properly made objections to the plan. These latter matters are for the Reporters to consider. There is no scope for the Reporters to become involved with or to offer advice on procedural matters.

7. Currently, anyone who wishes to challenge the validity of the Cairngorms National Park Local Plan on the grounds that it is outwith the powers conferred by statute or that the requirements of existing legislation have not been followed, may, under section 239 of the Town and Country Planning (Scotland) Act 1997, make application to the court of session within 6 weeks of the publication of the Notice to Adopt the plan.

8. It is not within the scope of the local plan inquiry to consider any planning applications lodged with the authority now or in the future. The processing of these applications is an entirely separate matter and is covered by different legislative provisions. The local plan inquiry, and the objections with which it is concerned, cannot prevent planning permission from being granted and development from proceeding, whether or not that development accords with the emerging local plan.

9. In common with other planning proceedings, inquiry participants are responsible for meeting their own expenses and those of their advisers. There is no provision for the award of expenses for or against any party at a local plan inquiry held by a Reporter or Reporters on behalf of a planning authority.

Inquiry format

10. The Planning etc. (Scotland) Act 2006 (Development Planning) (Saving, Transitional and Consequential Provisions) Order 2008, which came into force on 28 February 2009, continues existing law for the purposes of a local plan for which notice of a local inquiry has been given before the specified relevant date of 28 February 2009. The authority has complied with this advertisement requirement. Accordingly, the Code of Practice for Local Plan Inquiries, issued by the (then) Scottish Office in September 1996 is still a useful guide to the procedures involved. However, in accordance with new regulations and the Scottish Ministers' aim of making the inquiry process faster and less adversarial, this inquiry will not follow every part of the 1996 Code. The Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1998 and the Town and Country Planning (Development Planning) (Scotland) Regulations 2009, as supported by Circular 1/2009, all came into force on 28 February 2009.,

11. Where there is any difference in approach between the 1996 Code and the later rules and regulations, participants in the inquiry should rely on this note of the pre-inquiry meeting rather than on the detailed terms of the Code. Copies of these documents can be obtained by way of the Scottish Government web site at www.scotland.gov.uk/Topics/Planning-Building/Planning. Those without internet access may contact Ms Krawczynska, or the Directorate of Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk FK1 1XR.

12. A local plan inquiry allows 3 ways of considering objections, namely written submissions, informal hearings, and formal public inquiries. Scottish Ministers' strong preference, which has been acknowledged by the authority, is for the written submissions route. Accordingly, all objectors with a preference for hearings or public inquiries have been asked by the authority to consider changing from oral to written submissions.

13. For the purposes of this inquiry, a hearing should only be preferred where an objector is convinced that aspects of the objection need to be the subject of detailed discussion. A formal inquiry should only be preferred where the matters at issue are unusually complex, or of a difficult technical nature where there would be benefit in all the witnesses being the subject of adversarial cross-examination by those of opposing view. Where an objector is convinced of the need for debate, the preference of Scottish Ministers, and of the authority, is for hearings rather than formal inquiry sessions. Hearings

have a more relaxed atmosphere than formal inquiries; and experience suggests that they are favoured by unrepresented objectors and by those who find difficulty in dealing with formal, adversarial procedures. At a hearing session the Reporters will lead a structured round table discussion. Normally there will be no need for a pre-issued agenda since the matters in dispute will be clear and well known to the participating parties. However, there may be a few instances where the discussion will benefit from an agenda issued by the Reporters in advance of the programmed session.

14. Given the transitional arrangements described in brief above those objectors who maintain their preference for the adversarial inquiry format, will be accommodated. However, those sessions must focus only on the key issues and they will be strictly timetabled. Objectors of similar mind are likely to be grouped into the same topic sessions, but they will not be allowed to question each other's witnesses.

15. Objectors who have indicated a preference for a formal inquiry or a hearing may change at anytime from now on, and opt instead for a hearing or written submissions as they deem appropriate. It would be helpful for timetabling reasons, if Ms Krawczynska could be advised of any changes to the stated preference of objectors by **23 March 2009**.

Inquiry timetable

16. The inquiry will open on Monday **18 May 2009**, and it will probably extend over some 6 weeks. Week one will address housing issues including land supply and affordable housing; weeks 2, 3 and 4 will be given over to policy and general issues; and the remainder of the time will be devoted to issues specific to particular settlements. Normally, the inquiry will sit from Monday to Thursday, starting at 14.00 hours on Mondays and at 09:00 hours on other days, and finishing each day by 17:00 hours. In order to ensure good progress and to avoid unnecessary inconvenience for other objectors, objections will be timetabled for a specific 2 hour slot: 9.00 till 11.00; or 12.00 till 14.00; or 15.00 to 17.00 hours. However, flexibility will be essential to meet the overall timetable and all of these times may vary slightly. Objectors timetabled for a particular slot should arrive as early as possible in order to take up any slack in the timetable and to familiarise themselves with the manner in which the proceedings are conducted.

17. Working on the assumption that the majority of oral sessions will be hearings, the authority will append to this note a first draft of its timetable for the inquiry. Because the overall picture is evolving, this will not be the last version. Because the inquiry is to be programmed on a topic basis, it is inevitable that an objector with concerns about more than one policy or proposal may have to give evidence on different days. Timetabling of an inquiry of this size and complexity is an enormous logistical exercise, with alterations causing knock-on delays, difficulties, and even potential

prejudice, for other objectors. Accordingly, participants should accept their place in the timetable if at all possible. The authority will publicise this first draft and all subsequent versions of the timetable on its web site and Ms Krawczynska will finalise the inquiry timetable, ready to issue it by **3 April 2009**. Objectors should contact Ms Krawczynska with any specific queries or concerns.

Inquiry venues

18. The authority has decided that the inquiry venues will be Cairngorm Hotel, Aviemore and the Albert Memorial Hall, Ballater, unless otherwise advised. These venues are central, they have access for disabled people, and they are administratively efficient.

Scope for agreement between parties

19. To save inquiry time, the Reporters expect that the authority and the objectors will devote the necessary resources in order to reach agreement on as many matters as possible before and, indeed, during the inquiry. As a step in that direction the authority will issue a set of "topic papers" which will appear on the authority's web site sometime in the week commencing 22 March 2009. Where matters in dispute are resolved by negotiation then it is open to the objector to withdraw the objection in whole or part. For matters that remain in dispute, discussions should be continued with a view to agreeing methodologies to be adopted in, for example, housing land supply and the key issues to be discussed in the inquiry sessions. In order to comply with the authority's preferred timetable, any agreed statements of relevance to inquiry sessions must be lodged by **27 March 2009**.

Scope for objectors to group together

20. Repetition is never helpful at an inquiry because it wastes resources and prolongs the proceedings without necessarily advancing the debate. Therefore, where there are a number of objectors who share the same point of view, the Reporters strongly recommend that they group together. That offers the benefit of pooling resources, it allows the presentation of a co-ordinated comprehensive case, and it avoids unnecessary duplication of effort. To facilitate, as far as possible, the grouping of objectors of like or similar mind, the authority will publish on its web site a listing of objectors and the matters of concern to each of them.

Pre-inquiry procedures

21. Inquiries are always based on the fundamental principle that all participants must have prior notice of their opponents' cases. With this in mind, all pre-inquiry material must be lodged with Ms Krawczynska within the timescales appended to this minute. It is imperative that all participants

adhere to the pre-inquiry timetable. Otherwise, the start of the inquiry may be delayed with consequent considerable inconvenience for other objectors. Participants should supply to the Programme Officer at least 6 hard copies of all documents i.e. one for each Reporter, 2 for the authority, and 2 for public deposit. In addition they should provide one electronic version in PDF format on a CD to be used for publication on the authority's web site. If the provision of the required materials causes any particular difficulty, Ms Krawczynska should be contacted to discuss whether or not an exceptional alternative arrangement can be managed.

22. The authority and the objectors who intend to take part in any of the hearings or inquiry sessions must prepare statements of case for their objections. For formal inquiry sessions, these must be received by **30 March 2009** and they must contain:

- full particulars of the case to be presented at inquiry;
- who will present the case;
- any witnesses to be called;
- other objectors with whom you will be presenting a joint case;
- an indication of any impossible dates; and
- a list of all documents, including core or shared documents.

23. For hearings, the statements of case must be lodged by **6 April 2009** and, as a minimum, they must contain:

- either confirmation that the paperwork already submitted represents the case or full details of the case to be made at the hearing;
- details of who will speak at the hearing;
- other objectors with whom you will be presenting a joint case;
- confirmation that you will co-operate with others;
- any dates when you will definitely be unavailable; and
- a list of all documents, including core or shared documents.

24. Where no statement of case is received, the objection will be considered on the basis of written submissions and no inquiry time will be allocated. This applies regardless of whether the objector previously asked for a hearing or an inquiry session.

25. Participants in a hearing sessions i.e. the authority and objectors, have 3 weeks to submit a written response to their opponents' statements, i.e. by **27 April 2009**. The Reporters will use this information, together with the original objections, to prepare for and to lead the discussions.

26. No later than 4 weeks before the start of the inquiry, i.e. by **20 April 2009**, all participants in the hearing and in the formal inquiry sessions must lodge copies of any documents referred to in presentation of their case. Documents include maps and photographs, and anything that participants

may wish to refer to. Documents must all be numbered and then placed in a A4 lever arch file(s) with a listing of what they contain. If any document is already included in the authority's list of core documents which will appear on the authority's web site, there is no need to provide a further copy.

27. An objector resting on written submissions will be afforded a single opportunity to expand the objection in writing, i.e. one extra written submission which must be submitted by **27 April 2009**.

28. For participants in a formal inquiry session, witness precognitions or written statements of evidence must be circulated no later than 2 weeks before the inquiry commences, i.e. by **4 May 2009**. Precognitions must not exceed 2000 words. In very exceptional circumstances a longer precognition may be justified, but it must be submitted with a summary that should not exceed 200 words and sets out clearly and succinctly the objector's reasoning on all of the main issues involved. Witnesses must not attach as appendices to their precognitions any documents that other parties have not seen. These documents must be lodged in accordance with the above timetable.

29. The authority will ensure that a full set of all inquiry documents is placed on deposit for public reference in its offices in Grantown-on-Spey and in Ballater. To these documents will be added statements and precognitions as these come available. A full set of all the deposited materials will be brought to the inquiry venues in Aviemore and Ballater for public reference during the inquiry sessions.

Procedures at the inquiry

30. At the inquiry, the Reporters will ensure that the proceedings follow the well established principles of natural justice: impartiality, openness, and fairness. At all times, the Reporters will maintain the customary standards of order. With that in mind, all sessions will be structured but they will be kept as informal as possible. Generally, participants will be allowed to present their case in their own way; but repetition will be discouraged in order to ensure that the inquiry is completed within the authority's timetable while still giving each party a fair hearing. Objectors may be professionally represented if they wish. However, in tune with the atmosphere now encouraged by Scottish Ministers this will in very many cases be unnecessary. All participants can be assured that the Reporters will always listen carefully to each point of view whether expressed by the authority, an agent or an individual objector.

31. Where there is a formal inquiry session and also a hearing both of which cover the same general topic area then the inquiry session will be taken first. At the start of each session the authority will have an opportunity to bring matters up to date and to explain any changes that it now considers appropriate in the light of its consideration of the formal objections.

Site visits

32. By the end of the inquiry, the Reporters will have visited every objection site. These visits will be unaccompanied except where the Reporter considers that there is a strong case for an accompanied visit. The purpose of each site visit will be for the Reporter to become acquainted with particulars of the site. Where an accompanied visit is justified, it will follow the relevant session at a suitable point in the timetable. A representative of the authority and all relevant objectors will be invited to attend. Where no objector expresses a wish to attend the visit will be unaccompanied.

After the inquiry

33. After the inquiry, the Reporters will prepare a report for the authority - not for the Scottish Ministers - which will contain conclusions and recommendations on the merits of each objection. Recommendations will take one or more of the following forms:

- new modifications which should be considered;
- changes proposed by the authority which should be incorporated;
- matters which should be deleted from the plan altogether; and
- matters which should not be changed.

For most of the inquiry time, the Reporters will sit individually and consider separate categories of objection. For each of these categories, as reported, there will be an identified "lead Reporter". However, the Reporters will liaise throughout the process thereby ensuring a consistency of approach to the numerous issues raised by the parties. The Reporters will be jointly responsible for the report submitted and for the set of recommendations made to the authority.

34. The matters in dispute at this inquiry whether taken forward by formal inquiry sessions, hearings or the considerable array of written submissions are numerous and often complex. However, the Reporters are determined that their report will be as brief and focussed as possible and come to the authority within as short a timescale as is commensurate with a sound and considered assessment of the matters in dispute. With that in mind, and in tune with current best practice, the Reporters have asked the authority to prepare information for their use in compiling the report. This information is required in electronic form using a template whose core information will include a succinct summary clearly stated of the essence of the objections made on each issue by the objector(s) and the authority's responses to them. Nothing in the way of new material will be incorporated into these templates by the authority. For its part, the authority may consider that the material in the templates can double as its statements of case. That is for it to decide. For the summary made of the objections, in every case the Reporters will

verify the text set out in the template by the authority against the material provided by objectors regardless of whether they have elected to go by way of formal inquiry, hearing or written submissions. At the opening of each inquiry session the objector(s) will have an opportunity to seek amendments to the material on the template. The text for the authority and for the objector(s) will be amended and added to by the Reporters to reflect the final position of the parties at the close of the session. As with everything else related to the inquiry, the templates will be public documents to be placed on deposit and made available on the authority's web site. The timetable for submission of the report and its final format including appendices will be agreed with the authority as the inquiry closes.

35. The final content of the local plan is the authority's responsibility; and it is not obliged to accept the Reporters' recommendations. The report will be the property of the authority and it will decide when and how the report should be publicised. However, in due course, the authority is bound to set out its response to each recommendation, giving its reasons for accepting or rejecting it. If the authority proposes to modify the plan in the light of the recommendations, this must be publicised with a further period for objection. Any objections lodged at that stage cannot relate to the content of the original plan; and, bearing in mind their number and 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. Finally, the authority may take the necessary steps to adopt the plan.

Mrs Jill Moody
Mr Hugh M Begg
18 March 2009

Pre-Inquiry procedure meeting appendix

Local Plan Inquiry - Key diary dates

- 23.3.09** Objectors wanting to change from a hearing or an inquiry to written submissions or a hearing should, preferably, have contacted the Programme Officer by today.
- 27.3.09** Any agreed statements must be lodged.
- 30. 3 09** The Authority, and the objectors who intend to take part in any of the formal inquiry sessions must prepare statements of case for their objections.
- 3.4.09** The Programme Officer will finalise and issue the inquiry timetable.
- 6.4.09** The Authority, and the objectors who intend to take part in any of the hearings must prepare statements of case for their objections.
- 20.4.09** All inquiry participants must have lodged copies of documents.
- 27.4.09** Hearing session participants must have responded to their opponents' statements of case and written submissions objectors have until now to submit one written expansion of their objection.
- 4.5.09** Formal inquiry session participants must have circulated their precognitions or statements of evidence.

2009)

(key dates v2 – revised 25 March

Cairngorms National Park Local Plan Inquiry – Timetable (First Draft – 17 March 2009)) Pre-inquiry procedure meeting appendix

Please note that because the overall picture is evolving, this is a **first draft** and will **not** be the final version. Updated versions will be posted on the CNPA website www.cairngorms.co.uk as and when the timetable is amended and you are advised to please check the website on a regular basis to get the up-to-date position. As noted in the note of the Pre-Inquiry Meeting, Ms Krawczynska will finalise the inquiry timetable, ready to issue it, by 3 April 2009.

		Both Reporters	Mrs Jill Moody	Mr Hugh Begg
Week 1				
Monday 18 May	10:00 – 12:00	General communities		
Tues 19	09:00 – 11:00	General Housing (2w, 2h, 2i)		
	12:00 – 14:00	Policy 22 Housing in settlements (5w, 4h)		
	15:00 – 17:00	Policy 23 Rural Housing Groups (5w, 4h)		
Wed 20	09:00 – 11:00	Housing land supply (15w, 8h, 2i)		
	12:00 – 14:00	Housing land supply		
	15:00 – 17:00	Housing land supply		
Thurs 21	09:00 – 11:00	Policy 21 Affordable housing (54w, 23h, 1i)		
	12:00 – 14:00	Policy 21 Affordable housing		
	15:00 – 17:00	Policy 21 Affordable housing		
Week 2				
Mon 25 May	15:00 – 17:00	Policy 24 Housing outside settlements (4w, 9h, 1i)		
Tues 26	09:00 – 11:00	Policy 25 Replacement houses (3w, 2h, 2i)		
	12:00 – 14:00		Policy 30a Transport (36w, 7h, 2i)	
	15:00 – 17:00		Policy 30b Gypsies (37w, 7h, 2i)	

		Both Reporters	Mrs Jill Moody	Mr Hugh Begg
Wed 27	09:00 – 11:00		Policy 18 Design standards (8w, 5h)	Policy 13 Water (5w, 5h)
	12:00 – 14:00		Policy 32 Waste management (3h)	Policy 1 General development (12w, 7h, 1i)
	15:00 – 17:00		Policy 34 Outdoor Access (2w, 3w)	Policy 11 Conservation Areas (2w, 2h)
Thurs 28 May	09:00 – 11:00		Policy 29 Conversions (2w, 1h)	Policy 2 Natura (4w, 2h)
	12:00 – 14:00			Policy 6 Biodiversity (2w, 2h)
	15:00 – 17:00			Policy 3 National nature designations (2w, 23h)
Week 3				
Mon 1 June	15:00 – 17:00		Policy 20 Developer contributions (7w, 4h, 1i)	
Tues 2	09:00 – 11:00		Policy 17 Sustainable communities (3w, 2h)	
	12:00 – 14:00		Policy 19 Carbon emissions (3w, 4h)	
	15:00 – 17:00		Policy 27 Business Development (5w, 6h)	
Wed 3	09:00 – 11:00		Policy 19 (4w, 4h)	
	12:00 – 14:00		Policy 28 (4w, 1h)	
	15:00 – 17:00		Policy 31 (1w, 1h)	
Thurs 4	09:00 – 11:00		Policy 33 (4w, 4h)	
	12:00 – 14:00		Policy 35 (3w, 1h)	
	15:00 – 17:00			
Week 4				
Mon 8 June	15:00 – 17:00			General omissions and SEA
Tues 9	09:00 – 11:00			General introduction (1w, 1h)
	12:00 – 14:00			General vision (1w, 1h)

		Both Reporters	Mrs Jill Moody	Mr Hugh Begg
	15:00 – 17:00			General settlements (1h)
Wed 10	09:00 – 11:00			General context (2w, 1h, 1i)
	12:00 – 14:00			General links (2w, 6h)
	15:00 – 17:00		Dulnain Bridge (1h)	Policy 4 (4w, 5h)
Thurs 11	09:00 – 11:00		Carr-Bridge (3w, 2h)	Policy 7 (7w, 8h, 3i)
	12:00 – 14:00			Policy 14 (4w, 4h)
	15:00 – 17:00			Policy 16 (7w, 4h)
Week 5				
Mon 15 June	15:00 – 17:00			Nethy Bridge (26w, 4h)
Tues 16	09:00 – 11:00		Newtonmore (5w, 1h)	
	12:00 – 14:00		Newtonmore	
	15:00 – 17:00		Boat of Garten (4w, 2h)	
Wed 17	09:00 – 11:00			Kingussie (4w, 2h)
	12:00 – 14:00			Kingussie Ed1 & Env (2h)
	15:00 – 17:00			Kingussie H1 (3h)
Thur 18	09:00 – 11:00		An Camas Mor (3w, 5h)	
	12:00 – 14:00		An Camar Mor	
	15:00 – 17:00		An Camas Mor	
Week 6				
Mon 22 June	15:00 – 17:00		Grantown General (2w, 2h)& Ed2/Env (2w)	Cromdale (2h)
Tues 23	09:00 – 11:00		Grantown H1 & H2 (10w, 7h)	Ballater – General (1w,1h, 2i)
	12:00 – 14:00			Ballater – H1 (11w, 8h, 3i)
	15:00 – 17:00			Ballater – Other land uses (4h)
Wed 24	09:00 – 11:00		Aviemore general (4w, 3h)	
	12:00 – 14:00		Aviemore Ed1, Ed2, Env (4w, 3h,	

		Both Reporters	Mrs Jill Moody	Mr Hugh Begg
			2i)	
	15:00 – 17:00		Aviemore H2 & H3 (9w, 2h, 2i)	
Thur 25	09:00 – 11:00			Braemar (2w, 3h)
	12:00 – 14:00			Braemar H1 (10w, 8h, 4i)
	15:00 – 17:00		Kincraig (1w, 2h)	

Written Representations:

- Policies 5, 9, 12, 36
- Settlements: Dinnet & Tomintoul