

PROTOCOL

CAIRNGORMS NATIONAL PARK: DEVELOPMENT CONTROL PROTOCOL

This is an agreement between the Cairngorms National Park Authority [CNPA] and the 4 Local Authorities [Aberdeenshire, Angus, Highland, Moray] about the exercise of development control functions within and adjacent to the Cairngorms National Park.

Contents

1. Statement of Intent and Purpose
2. Planning Application Procedures
3. Enforcement / Advertisement Consents / TPOs
4. Criteria for Call-in
5. Planning Policy Framework
6. Liaison Procedures
7. Review
8. Contact Addresses

1. **Statement of Intent and Purpose**

1.1 This is a voluntary agreement between the CNPA and the 4 local authorities on the handling of planning applications and other development control matters within or affecting the Cairngorms National Park. The protocol will assist them in carrying out their respective functions. Meeting the aims of the National Park as set out in the legislation is the overarching purpose.

1.2 It is based on the following principles:

- partnership and trust;
- efficient and sound decision-making;
- commitment to an open exchange of information;
- willingness to keep under review and modify the protocol as required.

1.3 The protocol takes forward the Cairngorms National Park Designation Transitional and Consequential Provisions (Scotland) Order 2003 which sets down how Planning will be delivered within the National Park. Development control decisions, covering planning applications and other applications such as listed buildings consent, can be made either by the relevant local authority or, through call-in powers, by the CNPA. The CNPA has the power to call-in and determine planning applications after the 1st Sept 2003 if they have a significant impact on the Park.

1.4 The protocol has several functions. It will help the CNPA and local authorities on development control issues and in deciding how a planning application relating to the Park is handled. This main text sets out the broad principles and criteria which apply while an associated guidance manual describes more detailed administrative handling procedures.

1.5 The protocol also considers the way development plans and supplementary guidance will be used and how development control policy statements may be prepared by the CNPA. The expectation is that the great majority of planning applications will be decided by the local authorities. Those cases which the Park decides to call-in have to raise a planning issue of general significance to the National Park aims as set out in section 1 of the National Parks (Scotland) Act 2000. These may be applications which are significant in themselves or which, cumulatively, could have a significant effect on the aims of the Park.

1.6 The aims of the Park are:

- to conserve and enhance the natural and cultural heritage of the area;
- to promote sustainable use of the natural resources of the area;
- to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- to promote sustainable economic and social development of the area's communities.

1.7 The statutory purpose of the CNPA, as set out in section 9 (1) of the Act, is to ensure that Park aims are collectively achieved and in a co-ordinated way. Section 9(6) of the Act provides that if, in relation to any matter, it appears to the CNPA that

there is a conflict between the first and other National Park aims, the CNPA must give greater weight to the first aim, namely to conserve and enhance the natural and cultural heritage of the area.

1.8 The CNPA and local authorities commit themselves to pursuing these aims in the way required by statute. The aims will be at the forefront of consideration in both planning policy and decision-making for the relevant local authorities and the CNPA.

1.9 The protocol comes into effect on 1st Sept 2003, the *operational date* of the Cairngorms National Park.

2. Planning Application Procedures

2.1 **Enquiries** All planning enquiries (e.g. permitted development) within or affecting the Park should be made in the first instance to the respective local authority. All requests, both formal and informal, for the screening of proposals to determine whether or not they require the preparation of a formal Environmental Impact Assessment (EIA) shall be sent to the respective local authority. The local authority shall consult the CNPA on all EIA screening requests and take account of their views before a decision is issued. Similar procedures will be followed for EIA scoping requests.

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2.2 **Pre-application discussion** Pre-application enquiries should be made to the relevant local authorities in the first instance. Where the proposal is, or could be, likely to raise an issue of general significance to the Park, CNPA officials will be invited to attend and contribute, and will be provided with the background information.

2.3 **Making an application** All planning applications will be submitted to the relevant local authority.

2.4 **Validation/Registration** Validation and registration of a planning application lies with the local authority. Once registered, consultations, advertising and other relevant statutory procedures will be initiated by the local authority.

2.5 Planning fees Local authorities will retain planning application fees. It is anticipated that the great majority of cases in the Park will be dealt with by the local authorities and relatively few large and complex proposals are expected to arise. However, to cover part of the costs in call-in cases, the fees for these cases will be divided 50/50 as an end of calendar year cost apportionment payment from the local authorities to the CNPA. This has been agreed to achieve equity, to reflect the likely work involved and to keep procedures clear and simple.

2.6 Notification Within 5 days of the date of receiving a valid planning application, the local authority will notify the CNPA.

2.7 Call-in Call-in powers must be exercised within 3 weeks of receipt of notification from the local authority of a planning application. If a fresh application is needed due to a significant material alteration to an application not already called in, then there will be re-notification and the 3-week period restarts. The CNPA will notify the local authority as soon as it has made a decision to call-in giving reasons. As a matter of good practice, the CNPA will inform the local authority as soon as it has decided not to exercise call-in. The local authority shall refer the application, with relevant supporting material, to the CNPA within 5 days of the date of call-in. The CNPA will then become the determining authority. The CNPA will notify the applicant within 5 days and other interested parties as soon as practicable after receipt of the file.

2.8 Application Consultations In addition to notifying the CNPA of all planning applications received within the Park, the CNPA may be consulted by a local authority on any application both within and outwith the Park. Similarly, where applications are being determined by the CNPA, the respective local authority will be consulted for its views. The CNPA may invite the local authority to appear before the Park Planning Committee and vice versa. Further consultations on call-in cases will be the responsibility of the CNPA.

2.9 Planning Decision Once a planning application is subject to call-in, the planning decision will be made and issued by the CNPA, other than for those cases called-in for decision by Scottish Ministers. In addition to the views of the local authority, other consultees, any representation received and other material

considerations will be taken into account. Decision notices shall be exchanged between the CNPA and the local authorities for all development within the Park.

2.10 Monitoring The CNPA and local authorities will work closely to ensure that monitoring of the development control process is undertaken. It will be important for parties to be satisfied that planning decisions, conditions and agreements are being implemented properly and that the policy context for decision-making, as set out in development plans, remains robust and effective.

2.11 Appeals It will be the responsibility of the authority which determined a planning application to handle any subsequent appeal to Scottish Ministers against refusal of planning permission, planning conditions or non-determination. There could well be occasions when the CNPA and the local authority rightly present different views about a case at appeal. Equally there may be occasions where they share similar views and can reinforce each other at appeal.

3. Enforcement / Advertisement Control / TPOs

3.1 The CNPA and local authorities have powers of enforcement, advertisement control and the making tree preservation orders and they will work closely together to ensure that Park aims are met in exercising these powers avoiding duplication of effort.

4. Criteria for Call-In

4.1 The types of planning applications which may be called-in by the CNPA will be those that raise a planning issue of “general significance” to the Park’s aims under section 1 of the National Parks (Scotland) Act 2000. The exercise of call-in will always be discretionary. Call-in need not be triggered automatically by “general significance”. Scale will not always be the determining criterion. Issues of principle, precedent or cumulative effect could also arise. The full and proper locus for call-in will evolve and clarify over time and in practice.

4.2 Although the CNPA has discretion to call-in any planning application of “general significance” to the Park, the CNPA believe that it is useful to indicate from

the outset the kinds of applications it is likely to take an interest in. The following list is not exclusive although attention will focus on those applications which:-

- by their nature and scale, may be incompatible with Park aims;
- may adversely affect nationally important natural and cultural heritage interests;
- are significantly contrary to a Structure Plan or Local Plan to the extent that they may be incompatible with Park aims;
- are subject to the Environmental Impact Assessment (Scotland) Regulations 1999;
- individually or cumulatively may have a clear and important adverse impact on the Park.

4.3 Consequently, and again bearing in mind Park aims, the types of proposal which, by their nature and scale, the CNPA would examine for call-in are listed below. The list is indicative only and by no means exclusive. The CNPA would not expect to call-in every single occurrence of such proposals but would consider each in terms of Park aims:-

- renewable energy schemes;
- mineral extraction;
- telecommunication installations;
- vehicle tracks other than those associated with approved afforestation schemes;
- recreational and tourism developments of more than local significance;
- housing, business and retail developments which may have a significant adverse impact on settlements or the countryside.

5. Planning Policy Framework

5.1 In addition to the National Park aims set out in paragraph 1.6, the CNPA and the local authorities will use existing development plans, and those in preparation, as the principal context for determining applications until a National Park Plan and a Local Plan/s are prepared for the Park. To minimise any confusion, the CNPA will state as soon as practicable which development plans and existing supplementary guidance it is using for the different parts of the Park.

5.2 Preparation of the National Park Plan and Local Plan/s will take some time and, in the interim, the CNPA may consider preparing development control policy statements, in consultation with local authorities, on those planning issues which it

regards as significant. Once ready they will become material considerations in the determination of development proposals.

5.3 National planning policy and advice, provided by the Scottish Executive on nationally important land use and other planning matters, are also important material considerations which will have a bearing on decisions.

6. Liaison Procedures

6.1 The administrative arrangements can only work properly if carried out in a spirit of co-operation and partnership. The protocol, with the agreement of the CNPA and local authorities, may change and evolve in the light of experience. The performance of the protocol in practice will be monitored and examined on the basis of facts and sound analysis.

6.2 A Planning Liaison Group shall be formed with nominated officials from the CNPA and the local authorities. It will prepare an update report reviewing the efficiency and effectiveness of the administrative arrangements for dealing with planning applications in the Park for each of the first three quarters of the first year followed by a fuller annual report at the end of the final quarter (i.e. by September 2004). Subsequently there will be a six monthly report and an annual one until decided otherwise by the CNPA and local authorities.

6.3 In addition, the CNPA and the local authorities will encourage:-

- regular, formal and informal dialogue about planning matters;
- best practice and consistency of approach;
- early warning of development proposals likely to affect the Park;
- public consultation and participation.

7. Review

7.1 This protocol will be formally reviewed by the CNPA and the local authorities at least once a year and amended as necessary by agreement. There will be a re-assessment of development control and planning functions in the quinquennial review of the CNPA to be undertaken under the normal arrangements for reviews of Non-Departmental Public Bodies (NDPBs).

8. Contact Addresses

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