

CAIRNGORMS NATIONAL PARK AUTHORITY

MINUTES OF THE PLANNING COMMITTEE

held at The Grant Arms Hotel, Grantown on Spey
on 19th August 2011 at 10.30am

PRESENT

Peter Argyle
Duncan Bryden
Angela Douglas
Jaci Douglas
Dave Fallows
Kate Howie
Marcus Humphrey
Eleanor Mackintosh

Ian Mackintosh
Mary McCafferty
Willie McKenna
Gordon Riddler
Gregor Rimell
Brian Wood
Allan Wright

IN ATTENDANCE:

Don McKee
Mary Grier
Bruce Luffman

Robert Grant
Pip Mackie

APOLOGIES:

Katrina Farquhar
David Green
Gregor Hutcheon

AGENDA ITEMS 1 & 2:

WELCOME AND APOLOGIES

1. The Convenor welcomed all present.
2. Apologies were received from the above Members.

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AGENDA ITEM 3:

MINUTES & MATTERS ARISING FROM THE PREVIOUS MEETING

3. The minutes of the previous meeting, 22nd July 2011, held at The Albert Hall, Ballater were approved.
4. There were no matters arising.
5. Duncan Bryden provided an update on the Action Points from the previous meeting:
 - Action Point at Para. 5 – Previous Action Point Para. 65: Alison Lax was leading the task / finish group for the Aviemore Design Framework and had been in contact with Members. The first meeting was due to be held on 5th September 2011.
 - All other Action Points had been dealt with accordingly.

AGENDA ITEM 4:

OUTCOME OF ELECTRONIC CALL-IN

6. The content of the Outcome of the Electronic Call-in held on 5th August 2011 was noted.

AGENDA ITEM 5:

DECLARATION OF INTEREST BY MEMBERS ON ANY ITEMS APPEARING ON THE AGENDA

7. Peter Argyle & Marcus Humphrey, as Aberdeenshire Councillors, declared a direct interest in Item No. 9 (Paper 4) on the Agenda, as Aberdeenshire Council would be determining the planning application.
8. Gregor Rimell declared a direct interest in Item No. 4 (Paper 1) on the Agenda, due to giving an interview indicating support for the development and stating that he would therefore not take part in any determination of the application.

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AGENDA ITEM 6:

REPORT ON CALLED-IN PLANNING APPLICATION FOR CHANGE OF USE OF BUILDING TO RETAIL AND RESIDENTIAL AT WALTZING WATERS, MAIN STREET, NEWTONMORE (PAPER 1) (11/179/CP)

9. Gregor Rimell declared an interest and left the room.
10. Mary Grier presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.
11. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
 - a) The height of the wall (shown on the elevation plan for the residential properties). Concern that it may affect sight lines for vehicles exiting the parking spaces. Mary Grier responded that it was specified in Condition 9 that the existing wall should be removed.
 - b) The number of parking spaces required by the Roads Authority (2 per property) and how this is compatible with CNPA sustainable travel policies. Mary Grier responded that although 2 spaces were initially required by the Roads Authority and had been indicated on the plans, in reality the parking provision would accept one vehicle comfortably and this position had been accepted by the Roads Authority.
 - c) Concern that the site should remain tidy during construction works and not impact adversely on visual amenity. Mary Grier stated that an Advice Note could be added covering this issue. However, given the timescale of works intimated by the developer and the relatively minimal exterior works required, the construction phase should be relatively quick.
 - d) The location of the refuse bins for the residential properties. Mary Grier indicated that the bins would be located in between the parking areas, bounded by timber fencing.
 - e) Who would be responsible for maintaining the landscaped areas. Mary Grier responded that there were 2 areas to be maintained. The communal land associated with the residential development, which Highland Council housing section had confirmed they would take on the maintenance of as part of the lease of the properties. The remaining land would be the responsibility of the Operator of the Store and the CNPA would be looking for details and confirmation regarding this issue.
 - f) Confirmation that the space allocated for the bins is large enough for 2 bins per property (refuse and recycling). Mary Grier confirmed that the area allocated was large enough for 2 bins, as shown on the plans.
 - g) The large economic contribution Waltzing Waters has made to Newtonmore over the years.
 - h) The imaginative way the building is being proposed for re-use and the continued benefit the site will have to the economy of Newtonmore.

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- i) Commendation of the hard work the CNPA Planners have done during the assessment and progress of the application.
 - j) Given that all 5 residential properties are to be Affordable Housing, a wish that the developer contributions for the rest of the site are not too onerous.
 - k) Clarification if the residential properties would be for sale or rent. Mary Grier responded that the occupancy would be regulated through the Highland Council residential leasings scheme and would therefore be for rent, with potential occupants coming from the existing housing list.
- l) The need for more 1 and 2 bedroom properties in the Badenoch & Strathspey area.
12. The Committee agreed to approve the application subject to the conditions stated in the report and the completion of a Planning Obligation agreement to secure the payment of developer contribution towards community facilities, playing fields, ancillary sports facilities and access improvements OR the payment of the required developer contribution in advance of the release of the decision notice.
13. **Action Points arising:** An Advice Note to be included regarding the tidiness of the site during construction works.
14. Gregor Rimell returned.

AGENDA ITEM 7:

REPORT ON CALLED-IN PLANNING APPLICATION FOR TEMPORARY SITING OF FIVE PORTACABINS AS SITE COMPOUND FOR CIVIL WORKS AT DALWHINNIE GARAGE, STATION ROAD, DALWHINNIE (PAPER 2) (11/165/CP)

15. Mary Grier presented a paper recommending that the Committee approve the application subject the conditions stated in the report.
16. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:
- a) Concern at the number of retrospective applications associated with the Beauly to Denny Transmission Line (BDTL).
 - b) Clarification of the access point to the site. Mary Grier confirmed that two points were currently being used to access the site. Access would be taken from the eastern boundary, whilst the access point to the south of the site would be blocked off and a timber fence erected.
 - c) Clarification of the height of the proposed timber fencing. Mary Grier replied that it would be 1.8 metres.

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- d) It being necessary to accept that disturbance was likely during such large scale works as the BDTL and that it was important for the site to be restored to a higher standard than it had initially been.
- e) A recommendation that concern at the retrospective nature of some of the applications be fed back through the SSE liaison group meetings, which Matthew Hawkins (CNPA Senior Heritage Officer) attended.

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

18. **Action Points arising:** Matthew Hawkins to feed back concern at the retrospective nature of some of the applications at the SSE liaison group meeting.

AGENDA ITEM 8:

REPORT ON CALLED-IN PLANNING APPLICATION FOR FORMATION OF ZIP LINE COURSE AT LAND 220M NORTH WEST OF DELFOUR HATCHERY, ALVIE, KINCRAIG (PAPER 3) (11/186/CP)

19. Robert Grant presented a paper recommending that the Committee approve the application subject to the conditions stated in the report.

20. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:

- a) Clarification of what percentage of the application was retrospective. Robert Grant responded that only a small part of the course had been constructed when the application was originally submitted. However, during the assessment of the application the CNPA had agreed for the construction of further platforms to be carried out, thus enabling the Applicant to meet the peak tourist season trade. However, should the Committee wish, a letter expressing concern about the retrospective nature could be issued.
- b) The feasibility of the course requiring zip lines to be constructed in order to assess if they would actually work.
- c) The size of the platforms meeting health and safety requirements. Robert Grant advised that the course would be professionally assessed prior to use. Duncan Bryden advised that although this was not a planning issue, he believed that the course would not be open to members of the public and that any participants would be escorted by a trained instructor. The zip lines had also been designed to slow the person travelling prior to arriving on the landing platform.

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

22. **Action Points arising:** None.

AGENDA ITEM 9:

REPORT ON CONSULTATION RESPONSE TO ABERDEENSHIRE COUNCIL:

CONSTRUCTION OF ONE WIND TURBINE MAXIMUM HEIGHT 79.6 METRES AT LAND SOUTH WEST OF HIRNLEY, LUMPHANAN, ABERDEENSHIRE (PAPER 4)

23. Peter Argyle & Marcus Humphrey declared an interest and left the room.

24. Robert Grant presented a report on the proposed Wind Turbine and recommended that the Committee agree a response of 'No Objection'.

25. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:

- a) The terminology of 'Wind Farm' in paragraph 11 was raised, should it be 'Wind Turbine'. Robert Grant confirmed that the wording could be amended.

26. The Committee agreed the response of 'No Objection'.

27. **Action Points arising:** Paragraph 11 – 'Wind Farm' to be replaced with 'Wind Turbine'.

28. Peter Argyle & Marcus Humphrey returned.

AGENDA ITEM 10:

UPDATE REPORT ON PLANNING & ENFORCEMENT IN THE CAIRNGORMS NATIONAL PARK 2010/11 (PAPER 5)

29. Bruce Luffman presented an update report on Planning & Enforcement in the Cairngorms National Park 2010/11.

30. The Committee were invited to ask the Planning Officer points of clarification, the following were raised:

- a) Regulations regarding signage erected by Community Groups promoting local events. Bruce Luffman responded that the appropriate Local Authority may have specific guidance regarding this issue. As an example Bruce Luffman gave details of Aberdeenshire Councils guidance regarding temporary signage, which allowed signs

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to be in place for 10 days providing they were removed immediately after the event had taken place. However, the Trunk Roads Authority has the power to remove unauthorised signage and could still remove signs even if they are acting within the Local Authority's guidelines.

- b) Roadside signage guidelines across the CNP and the differing position the Local Authorities take on non commercial and commercial signage.
- c) How negotiations may take place if the CNP and the Local Authority were found to have differing views on the need for enforcement activity. Bruce Luffman advised that it was usual for Enforcement Officers to agree that signage required Advertisement Consent. If the views were to differ the CNP could still take enforcement action. However, the matter would be referred to the Head of Planning prior to any action taking place.

- 31. Don McKee advised Members that enforcement action is discretionary and proportional, just because a breach has taken place does not mean the Planning Authority have to formally pursue the matter. Don McKee stressed the importance of discussion and negotiation in order to achieve a resolution. Don McKee also stated that a Planning Authority could not inform a person that a breach was acceptable when it contravened planning regulations.
- 32. Don McKee advised that CNPA Officers would contact the Local Authorities to get some common understanding on the issue regarding temporary signage.
- 33. Don McKee stated that the Highways Authority, as having ownership of the grass verges, were also the more expedient at removing unauthorised signage as they could simply remove them without having to go through formal proceedings like a Planning Authority.
- 34. Clarification of the scope of negotiation available to the Monitoring & Enforcement Officer (MEO). Bruce Luffman advised that sometimes it was by providing advice from a different point of view and negotiating a different way of working to achieve the required end result, as specified in the planning conditions. Members were advised that all conditions had to be reasonable, proportional and enforceable.
- 35. Clarification if the MEO is able to change/amend the conditions which are attached to a planning permission. Bruce Luffman stated that a MEO could not change / amend conditions attached to a planning permission; any amendment would have to be applied for to the Planning Authority and in the case of the CNPA, would be reported to the Planning Committee.
- 36. Clarification if suspensive conditions on approved planning permissions are highlighted to the Applicants. Don McKee responded that the suspensive conditions were not purposefully brought to the attention of the Applicant, as all conditions had to be complied with. However, suspensive conditions are explicit in stating that they must be complied with prior to commencement / occupation etc. Don McKee advised that with the CNP Local Plan having been adopted, applications should be submitted with a lot

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more information and many issues which would have required a suspensive condition could now be dealt with during the assessment of the application.

37. The Committee accepted the report for information purposes and did not request any changes be made to the Enforcement Charter. The Committee agreed for the delegation of authority for service of a Temporary Stop Notice to the Head Planner in conjunction with the Convener and Vice-Convener of the CNPA Planning Committee.
38. **Action Points arising:** Bruce Luffman to contact the Local Authorities to get some common understanding on the issue regarding temporary signage.

AGENDA ITEM 11 ANY OTHER BUSINESS

39. Duncan Bryden advised that Members had been briefed about the consultation on the CNP Local Development Plan Main Issues Report, due to start in September 2011.
40. Duncan Bryden informed Members that the Public Local Inquiry (PLI) for the Glen Kirk & Tom nan Clach Wind Farms was due to start on Tuesday 23rd August at Carrbridge Village Hall. The PLI was expected to last for 3 weeks, with the CNPA giving evidence in weeks 1 & 3. Andrew Tait had been co-ordinating the CNPA involvement.
41. Duncan Bryden advised that the housing application at Boat of Garten (08/272/CP) was now to be determined at the Committee meeting on 14th October 2011. The meeting was initially scheduled to be held in Braemar but given the local interest it would be moved to the Community Hall, Boat of Garten. Duncan Bryden informed Members that the Applicants were shortly expected to submit further information for the application and it had been the Applicants that had requested the postponement of the determination to the October meeting.
42. Duncan Bryden advised that Di Alexander had now taken up the post of CNPA Affordable Housing Officer on an 11 month contract and would be working for 3 days from the CNPA Grantown on Spey Office. Members were informed that the remit of the Affordable Housing Officer had changed since the previous post of Housing Policy Officer and was now focussed on Affordable Housing and adding value over and above the Local Authorities who have responsibility as Housing Authority. Duncan Bryden informed Members that Di Alexander's previous role had been with the Highland Small Communities Housing Trust (HSCHT).

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43. Duncan Bryden informed Members that in the afternoon Karine Suller, Head of Planning Gain for Aberdeenshire Council, was to give a presentation on Planning Gain.
44. Duncan Bryden, the Planning Committee Convenor, proposed that, following Item 12 on the agenda, the Planning Committee would go into private session to receive an update on legal advice in respect of the current legal challenge to the Local Plan.
45. Members agreed to this course of action.
46. **Action Points arising:** None.

AGENDA ITEM 12

DATE OF NEXT MEETING

47. Friday 16th September 2011 at The Community Hall, Boat of Garten.
48. Committee Members are requested to ensure that any Apologies for this meeting are submitted to the Planning Office in Ballater.
49. The public business of the meeting concluded at 11.55am and the Planning Committee then went into private session as previously agreed.

Local Plan Challenge

50. The Planning Committee went into private session and received an update on legal advice in respect of the current legal challenge to the Local Plan.
51. Members accepted the advice given.
52. The meeting concluded at 12.30pm.