

Scottish Government Consultation Paper on Development Management

Comments of Cairngorms National Park Authority

Please consider the comments below as the formal response of the Cairngorms National Park Authority.

We would ask that you also cross reference with the points made in our consultation response on “Draft Regulations on the Planning Hierarchy”.

As a matter of overarching principle it is important that any regulations being rolled out to implement the new Planning Act take account of the particular circumstances and legislative context of the Cairngorms National Park and the CNPA planning function. There is a concern that this is not happening as a matter of procedure and we consequently have to scrutinise all of these consultations and highlight the CNPA position.

Comments as follows:

2. ENHANCED SCRUTINY

2.5 Definition of major developments, sensitivity of environment (National Park) can have implications for this as well as overall scale of development. Our response on the planning hierarchy highlighted issues with definition of major developments in a CNP context as we call in applications of any scale because they are significant.

2.8-2.12 and Question 4. When a screening request for pre-application consultation is made who does the screening (Presumably the Council Planning Authority as with an EIA ?) but developers often come to CNPA first with larger development proposals. From developers point of view this means that they will go to screening with Local Authority (LA) planners while knowing that CNPA will be likely to call application in for determination (potentially more paperwork for all parties).

With regard to Q4 21 days limit sounds reasonable for LA’s to give view on pre-app requirements whether its reasonable for CNPA depends upon timing of involvement from LA.

Pre-determination hearings

2.23 onwards. We have problems with **significantly** contrary to development plan. What does significantly mean? Spatial policies (as opposed to issue based policies) often mean that relatively small (in scale) proposals are either contrary to the development plan or not. There is no room for the interpretation of **significant**. The CNPA deals with a number of single houses in the countryside where the proposal **is contrary to the development plan** (and advertised as such). Would it be the intention that such small scale proposals are subject to pre-determination hearings?

With regard to Question 9 on pre-determination and as well as the above point some authorities advertise a large number of applications as contrary to the development plan. This proposal could have significant resource implications for all when considered together with following issue:-

Decisions by Full Council's

2.29 onwards. Implications of this could be enormous depending on departures from spatial policy mentioned above and each LPA's interpretation of what is significant. From reading the paper it would appear that applications would be subject to 1. Pre-determination hearings; 2) Planning Committee; 3) Full Council, or at least a combination of 2 of the 3. The CNPA Planning Committee is made up of all members of the Board so any decision could be regarded as the equivalent as a Full council decision. However, the implications for LA's as well as the CNPA of having 2, or 3 separate formal considerations of a proposal could raise significant resource problems for the CNPA, Council's and developers. This would introduce more delays in dealing with applications.

3. PROCESSING AGREEMENTS

3.1 Onwards and Question 12 Concern over processing agreements. Who would agreements be with LA's or CNPA ? There would seem little point in an agreement between LA and developer if CNPA are to call-in the application, the problem is that CNPA Officers cannot guarantee call-in/no call-in to developer as this is a committee decision. Having joint agreements would just create more paperwork and confusion for the developer.

Committing to the processing agreement

3.16 onwards. Whether CNPA can commit depends upon whether we are planning authority for the purposes of a particular application (see above 3.1)

Question 15 on who should be parties to the agreement could be problematic. The National Park is a sensitive environment as a whole that hosts a number nature conservation designations and major rivers. Any pre-application advice could hinge upon the views of SNH or SEPA for instance. By signing as the sole party the CNPA could be liable for a lack of response from other organisations that are beyond our control. If implemented it would be crucial that in certain circumstances other statutory consultees sign up. The problem is that this could have resource implications for planning authorities and consultees taking time away from resource spent on actually processing applications.

4. PLANNING PERMISSION IN PRINCIPLE

Question 16. If CNPA calls in an application and grants Planning Permission in Principle then it follows that the compliance with conditions falls to CNPA. If this is to take the form of subsequent applications then they will have to go to the LAs before being called in by CNPA. This is administratively complex so Regulations should specify that such applications are direct to CNPA.

5. CONTENT OF APPLICATIONS AND VALIDATION

Question 17 The information required for assessment will vary between areas and authorities should be left to determine what is appropriate

5.8 Reference to Regulation 15 (1) allows that within one month of receiving an application for PPP the LA can request that further details of the proposal should be provided. This is a problem for CNPA as applications can be 2-3 weeks old when received and this has caused difficulties on more than one occasion. Could the call-in date by the CNPA be regarded as the receipt date of the application for the purposes of this regulation? This would allow the CNPA 21 days from the date of call-in to request further details.

6 DESIGN AND ACCESS STATEMENTS

Question 21 Option 2

Support paragraph 6.14 which calls for design statements in sensitive areas (including National Parks). While there are implications resource wise for the developers the CNPA is preparing a sustainable design guide which should help developers considerably with what should be included in a statement. The resource implications are considered relatively minor by comparison with other proposed changes in the paper.

7. NEIGHBOUR NOTIFICATION

Question 27 It should be made clear that in the CNP it is the responsibility of the 4LAs to notify neighbours as the CNPA could not do so within the timescale. The LAs should also inform neighbours that the application may be called in by CNPA.

8. LISTS OF APPLICATIONS

In the case of CNPA's planning powers presumably CNPA would be responsible for maintaining and publishing the lists of its called-in applications?

With regard to 8.2 there is also a requirement to advertise pre-application notices. Again there needs to be distinction as to whether this is for the CNPA or Highland Council as it is not possible to predict absolutely which authority will deal with any application.

There is a cost implication to regular advertising of weekly lists. However, mention is made of research into planning fees which could cover the wider costs of this. The CNPA only receives (voluntarily from the LAs) a half fee on all the applications it deals with; an increase in this half fee is unlikely to recover increased costs of advertising lists.

9. STATUTORY CONSULTEES

Regulation 30 Question 35. Reg 30 (1) (b) Define “affects” – if an application physically affects then it is “in” CNP and LAs are obliged to notify and CNPA can call in. Consultation only required if outside Park, in which case it should read “affects setting”. In such cases the decision should not be left to the LA, require a mechanism for CNPA to be aware.

10. TIME PERIODS FOR DECISIONS

Question 36 Yes please and also include applications called in by CNPA to reflect time lost for call in, and “significance” that requires them to be classified as major developments anyway.

11. DECISION NOTICES ETC.

Regulations need to account for fact that there can be no local review in CNPA as all applications significant (=major) and no provision in CNP Designation Order for delegation of decision making.

Question 40 CNPA Committee Reports contain all information needed, can they be used as they are?

Please confirm that due account will be taken of the distinctive CNPA context and that the Regulations will not contain anomalies that will cause us difficulties. Please contact us if you require further clarification or discussion.

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