

ANGUS COUNCIL

PLANNING AND TRANSPORT POLICY COMMITTEE

11 OCTOBER 2001

**SUBJECT: SCOTTISH NATURAL HERITAGE ADVICE ON PROPOSED
CAIRNGORMS NATIONAL PARK**

REPORT BY DIRECTOR OF PLANNING AND TRANSPORT

Abstract: This report provides a summary of Scottish Natural Heritage's formal advice to the Scottish Executive on the proposed Cairngorms National Park. It also advises the Committee of the separate preparatory work being undertaken by the Cairngorms National Park Management Group in order to help pave the way for a Cairngorms National Park.

1 RECOMMENDATION

It is recommended that the Committee:-

1. note the terms and content of Scottish Natural Heritage's formal advice to the Scottish Executive on the proposed Cairngorms National Park;
2. await the Scottish Ministers response to the Scottish Natural Heritage advice, which is likely to include the preparation of a draft Designation Order for the National Park which will be subject to a further period of consultation undertaken by the Scottish Executive.
3. note the terms of reference and work of the Cairngorms National Park Management Group which has been set up to help pave the way for a Cairngorms National Park.

2 INTRODUCTION

- 2.1 At the meeting of the Planning and Transport Policy Committee on 23 August 2001, a progress update was given on the broad terms of Scottish Natural Heritage's advice to Government on the proposed Cairngorms National Park. A brief note was tabled for the Committee's information summarising aspects of the SNH advice on the proposed National Park boundary in Angus and Planning powers (Article 6 refers).
- 2.2 This report comments more fully on the terms of the advice published by Scottish Natural Heritage and also outlines separate arrangements which have been introduced to help pave the way for a Cairngorms National Park.

3 SCOTTISH NATURAL HERITAGE REPORT

- 3.1 A copy of the full Scottish Natural Heritage Report, including the terms of detailed advice and recommendations, has been placed in the Members' Lounge. Publication of the Report follows SNH's consideration of all responses to the consultation exercise undertaken earlier this year, including comments submitted by Angus Council (Report 301/01 to Angus Council, 29 March 2001 refers).

3.2 The SNH Report has been published on behalf of the Scottish Executive under Section 3 of the National Parks (Scotland) Act 2000). In addition to an introduction, various annexes and maps, the Report contains seven main sections covering:-

- the consultation process;
- the case for a National Park;
- the area of the National Park and its boundary;
- the functions and powers of the National Park Authority;
- the governing board of the National Park Authority;
- potential costs of the National Park.
- the name of the National Park and future management issues.

3.3 A brief outline of the conclusions from each of these sections is given below followed by a discussion of the main issues arising from an Angus perspective.

Consultation

3.4 The views and conclusions set out in the SNH Report are based on the analysis of the responses to the most comprehensive consultation process ever undertaken by SNH. As was the case in the recent consultation on the proposal for a National Park in Loch Lomond and the Trossachs, the consultation exercise showed that there was a considerable diversity of views on many of the issues. On some of the major issues there was no clear consensus from the written responses, or from the views of those who participated in the consultation meetings and events.

Case for a National Park

3.5 Although the merits and principle of a National Park has been challenged by a significant minority of consultees, SNH conclude that the general area of the Cairngorms meets the three conditions for the establishment of a National Park as set out in the National Parks (Scotland) Act 2000. SNH therefore recommend that a National Park should be designated in the Cairngorms area.

Area and Boundary

3.6 SNH propose an area and boundary which includes the central Cairngorms and Lochnagar/White Mounth massifs, along with peripheral land to incorporate those straths, communities and adjacent areas which are most closely linked to them.

3.7 A boundary lying between options A and B in the previous consultation document is proposed with the overall extent of the proposed park closer to option B rather than A. This would result in a National Park of more than twice the geographical size of any other current/proposed park in the UK. SNH also identify various principles to be applied during the development of a detailed boundary.

3.8 The proposed Park extends into the Angus Glens to include the heads of Glen Esk, Clova, Prosen and Isla but does not extend into the adjacent agricultural lowlands.

Functions and Powers

3.9 SNH recommend that Development Plans (Structure Plans and Local Plans) covering the Park area are prepared jointly by the Local Authorities and Park Authority. The options for jointly preparing a single Local Plan for all or most of the Park area or, alternatively, the joint review of the current Local Plan framework are

left open by SNH. Development Control responsibilities would continue to rest with Local Authorities, with the Park Authority being a statutory consultee for relevant planning applications.

- 3.10 Various other general powers and functions, as set out in the National Parks (Scotland) Act 2000, are recommended by SNH. This includes the Park Authority as a statutory consultee on all matters affecting the area dealt with by public bodies, the local and national transport authorities, transport operators and the statutory undertakers who operate in the area. It also includes the Park Authority assuming the responsibilities and powers proposed for Local Authorities as part of the future access legislation.

Governing Board

- 3.11 SNH advise that the Governing Board of the National Park Authority should have 25 members, including five directly elected members, and 10 members nominated by Local Authorities. Each Council would be allocated the following number of places:-

Angus	– 1 member.
Aberdeenshire	– 3 members.
Highland	– 4 members.
Moray	– 1 member.
Perth & Kinross	– 1 member.

Potential Costs

- 3.12 SNH conclude that the likely annual costs and capital expenses of the National Park Authority in the Cairngorms will be in the region of £4.1m to £5.5m. This comprises £2.5m to £3.1m core operating costs, supporting 80 FTE staff, and £1.6m to £2.0m programme costs. These costs are for the third year of operation of the Park at 2001 prices.
- 3.13 In addition SNH estimate that establishment costs in the first and second years of operation could amount to £1.2m to £1.4m.

Name of Park

- 3.14 SNH recommend the bilingual (Gaelic) name of the National Park should be:-
- “The Cairngorms National Park : Pàirce Nàisenta a’ Mhonaidh Ruaidh”.

4 CAIRNGORMS NATIONAL PARK MANAGEMENT GROUP

- 4.1 In June 2001, as a separate part of the process for establishing a National Park, the Minister with responsibility for National Parks asked the Chairman of the Cairngorms Partnership to help pave the way for a Cairngorms National Park. The terms of this remit are as follows:-

“The Cairngorms Partnership Company will take responsibility for co-ordinating the preparatory work necessary in order to bring the Cairngorms National Park into being by January 2003 (subject to developments). This new responsibility will, of course, be subject to the decisions made following the statutory consultations, on the setting up of the National Park.

This will mean:

- co-ordinating work by a variety of people and organisations. Responsibility for many areas of work is likely to remain with the Scottish Executive, but other organisations will have a part to play. The Scottish Executive are committed to playing their full part, and delivering their responsibilities as part of this overall remit of establishing the Park;
- developing a work plan and reporting regularly – probably once a quarter – to the Minister on progress with delivery of the work plan.”

4.2 A small Management Group of senior officials has been set up to co-ordinate this work. The Group is chaired by Ken McKay, a Director of the Cairngorms Partnership and consists of Mike Foulis (Head of the Environment Group, SEERAD); Stewart Fulton (Chief Executive, the Cairngorms Partnership); Ian Jardine (Director of Strategy and Operations (East), Scottish Natural Heritage); and Arthur McCourt (Chief Executive, The Highland Council).

4.3 The Management Group aims to present an early draft of its work for the Cairngorms Partnership Advisory Panel to consider at its meeting in March 2002, and thereafter to offer final advice for the Panel to approve in July 2002, before onward submission to Ministers.

5 DISCUSSION

5.1 The SNH advice to Government raises two particular areas of interest in relation to the comments previously submitted by Angus Council covering:-

- the boundary of the proposed National Park and area within Angus;
- planning powers and delivery of the planning function.

The full terms of SNH advice on these matters is reproduced in Appendix 1 to this Report.

5.2 The area within Angus recommended by SNH for inclusion in the National Park extends east beyond the heads of Glen Isla, Prosen and Clova (as suggested by Angus Council) to also include part of Glen Esk. In their published assessment of the case for inclusion or exclusion of sub-areas, SNH consider there is a strong case for including part of Glen Esk within the Park area. This is based on “significant” natural and cultural heritage importance, “partial” distinctive character and coherent identity and “partial” special needs.

5.3 This published assessment appears to provide a relatively stronger case for including parts of Glen Esk than the earlier assessment which was undertaken as part of the background work of the Cairngorms Local Authorities Group. That earlier assessment had concluded there was a “weaker” case for the inclusion of Glen Esk. In any event the area now proposed by SNH continues to recognise that the relatively limited extent of the proposed National Park in Angus encompasses the areas within the Glens of the greatest value to the natural and cultural heritage and for recreation. SNH have also at least partly reflected Angus Council’s previous comment that Brechin, Kirriemuir and Edzell should assume gateway status.

- 5.4 The advice from SNH on responsibility for the land use planning function within the Park area is potentially of more concern. In attempting to steer a “middle course” between the views of consultees who favour giving all planning powers to the National Park Authority, and those who advocate that the planning functions should remain with the existing Local Authorities (including Angus Council), SNH have suggested a form of “compromise” which falls short of providing clear and consistent advice on Structure Plan and Local Plan preparation.
- 5.5 A central theme of the previous comments submitted by Angus Council and by the other four Cairngorms Local Authorities was the provision of a robust basis for the exercising of the planning function by the Local Authorities. Crucially this would leave the National Park Authority with the necessary focus to address the other key issues which are of national importance, particularly land management, recreation and access.
- 5.6 The arrangements suggested by SNH for Local Plan preparation, as well as requiring formal joint working/approval mechanisms, continue to raise alternatives for either a single Cairngorms wide Local Plan or a number of separate Local Plans extending well beyond the National Park area. This is at best unclear and is considered unnecessary for the reasons previously discussed in detail in Report 301/01.
- 5.7 The SNH advice on joint arrangements for preparing Structure Plans covering the Cairngorms area is equally problematic. The terms of this advice are also somewhat surprising in comparison with the advice previously submitted on the Loch Lomond and Trossachs National Park, where SNH recommended that Local Authorities should retain responsibility for structure planning with the National Park Authority becoming a consultee on their preparation. That advice, which is also reflected in the subsequent draft designation order published by the Scottish Executive, was set alongside SNH recommendations for the Loch Lomond and Trossachs National Park Authority to take full responsibility for preparing the Local Plan for its area, together with the development control function and other planning responsibilities.
- 5.8 Clearly the Scottish Ministers will require to clarify proposals for land use planning functions as part of any draft designation order for the Cairngorms National Park. This will also need to take account of progress on the separate exercise on the Review of Strategic Planning being undertaken by the Scottish Executive (Report 1147/01 also on the agenda for this meeting of the Committee refers).
- 5.9 The separate initiative to help pave the way for a Cairngorms National Park, including formation of the Cairngorms National Park Management Group, is of interest. In particular the stated commitment of the Management Group, that any work towards setting up a Cairngorms Park Authority must be an open and transparent process, is welcomed. The Group has indicated that it will continue to make its papers and minutes available, principally through the Cairngorms Partnership’s website, and more widely seek to involve a broad range of interests in its work as necessary.

6 FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising directly from this report.
- 6.2 It is worth noting that the potential costs identified in paragraph 3.12 of this report do not include all of the expenditure required from public bodies for successful operation of the Park. SNH have therefore recommended to Ministers that sufficient additional resources to cover these requirements, including agri-environment measures and visitor management, are made available to the appropriate authorities.

7 HUMAN RIGHTS IMPLICATIONS

7.1 There are no human rights implications arising from this report.

8 CONSULTATION

8.1 The Chief Executive, Director of Finance, Director of Law & Administration and Director of Recreation Services have been consulted in the preparation of this report.

9 CONCLUSION

9.1 Publication of the SNH advice to Government on the proposed Cairngorms National Park represents a further significant step in the process towards the establishment of a National Park. The terms of the SNH advice contains various helpful recommendations, but also raises concerns and uncertainty in relation to the operation of planning powers.

9.2 If, on the basis of the SNH Report, Scottish Ministers are satisfied that their proposal for a National Park in the Cairngorms has widespread support, they will prepare a draft Designation Order for the National Park. The draft Order will be subject to a further period of consultation undertaken by the Scottish Executive. The draft Designation Order, if necessary in a modified form, will then be laid before the Scottish Parliament along with a report of the views expressed during this second consultation.

9.3 The Government's intention is for these steps to be completed during early 2002, with the prospect of the formal establishment of a National Park in the Cairngorms during early 2003.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/CGR/SC
2 October 2001

Alex Anderson
Director of Planning and Transport

APPENDIX 1**SCOTTISH NATURAL HERITAGE ADVICE ON NATIONAL PARK BOUNDARY IN ANGUS AND PLANNING POWERS****National Park Boundary in Angus****Reporter's Advice**

The Park should include the heads of Glen Esk, Clova, Prosen and Isla, (in sub-units 11, 13 and 14) which are of strong mountain character, but should not extend into the adjacent agricultural lowlands. It would seem appropriate for the Park boundary to cross these glens in the vicinity of the Tarfside (following the Firmouth), Wheen, Glenprosen Lodge and Auchavan respectively.

The Park Authority should liaise closely with Angus Council and other relevant bodies to maximise the positive and minimise negative impacts on adjacent areas, including the lower parts of the Angus Glens and Kirriemuir.

Planning Powers**Reporter's Advice**

On the basis of the consultation we have undertaken, it is clear that the arguments for and against the Ministers' proposal are finely balanced. While either of the two main approaches to the planning function set out earlier in this section could be made to work, the consultation has shown that the views of the key stakeholders on this issue are extremely polarised. In these circumstances, the establishment of the Park is likely to be controversial whichever approach is chosen, and this would be detrimental to the crucial early work of the Park Authority as it prepares its first Park Plan for the area.

As reporter we therefore recommend an alternative approach. Specifically we propose an approach which maintains local authority responsibility for the planning function within the Park area but which also provides the Park Authority with an equal role alongside the existing Local Authorities in the preparation of the development plan framework for the area. For the reasons set out earlier paragraphs 5-45 and 5-46, we see this being best achieved by 1) making the Park Authority a Structure Plan Authority with joint responsibility for preparing the Structure Plans covering the area with the five Local Authorities, and 2) establishing a joint committee of Local Authorities and the Park Authority to prepare a single Local Plan for all or most of the Park area. Alternatively, the current Local Plan framework could be maintained in its current form, but with each local authority reviewing its Local Plan jointly with the Park Authority. In cases of disagreement over policy, either the Park Authority or the Local Authorities would have powers of referral to Scottish Ministers.

In carrying out their development control functions, each local authority should consult with the National Park Authority on development proposals which are deemed by the Park Authority to be of significance to the implementation of the aims of the National Park. In the early days of the National Park, we suggest that each local authority should circulate a weekly list of planning cases to the Park Authority. In cases where the local authority is minded to approve a proposal contrary to the recommendation of the National Park Authority, we suggest that the local authority should be obliged to notify Scottish Ministers. Ministers would then have the discretion to call this application for determination.

If our recommendation is to have credibility and provide a sustainable solution, the following measures will also be necessary.

Prior to the establishment of the National Park:-

- Scottish Ministers should provide firm direction and guidance on the working of these new arrangements, and on the importance of the National Park Plan in shaping the development plan policies for the area;
- the shadow Park Authority and local authorities should agree a single protocol for handling planning matters within and adjacent to the Park; and
- local authorities should be encouraged to nominate members of their planning committees covering the Park area to the Governing Board of the Park Authority.

Once the National Park is established:-

- the National Park Plan and new development planning framework for the area (revisions to existing Structure Plans and the preparation of the New Local Plan) should be formally approved within three years of the National Park being established; and
- the effectiveness of the arrangements are closely monitored by Scottish Ministers and changes made if the results are unsatisfactory.

Under these arrangements, it is envisaged that the current Structure Plan framework for the area would be maintained at least for the time being, with the National Park Authority becoming jointly responsible with the local authorities for the preparation of the five Structure Plans which cover the area. Once the new arrangements are in place and bedding down, further consideration should be given to simplifying this structure planning framework.

In this respect, we note the proposal put forward recently as part of the review of strategic planning arrangements that in National Park areas, the National Park plan could be *'the vehicle for dealing with strategic planning issues'* is to be strongly welcomed (paragraph 25, *Review of Strategic Planning in Scotland*, Scottish Executive, 2001). We believe that this proposal is worthy of further consideration as a means of strengthening the role of the Park Plan and the position of the Park Authority.