
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(DEVELOPMENT MANAGEMENT)

DEVELOPMENT PROPOSED: OUTLINE PLANNING PERMISSION FOR THE ERECTION OF 8 DWELLING HOUSES AT LAND FORMER NURSERY SITE, DELL ROAD, NETHYBRIDGE

REFERENCE: 09/024/CP

APPLICANT: COLIN LAWSON (BUILDERS) LTD.,
A.W.LAING LTD., MCLEOD BUILDING LTD.

DATE CALLED-IN: 6th FEBRUARY 2009

RECOMMENDATION: REFUSAL

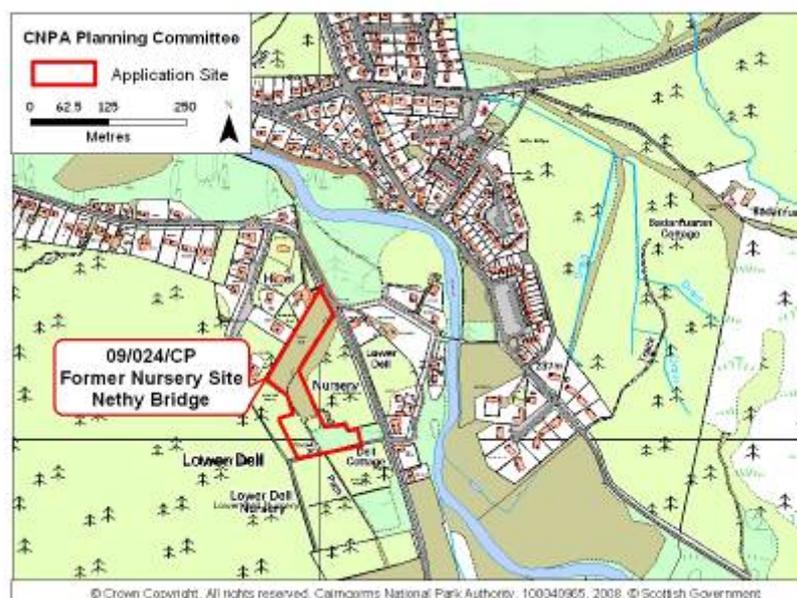


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

The site comprises 1.38ha. and largely corresponds with a site allocated in the Badenoch and Strathspey Local Plan 1997. It runs in a long arc through the centre of the former Nursery site at Dell Road, previously used for tree and seed cultivation on the Seafield Estate. The site now comprises a mix of overgrown plantation, natural Birch regeneration and marshy and semi-improved grassland. To the North is the Heatherbrae Hotel and old established houses at Forest House and Coille Ghlas, set in trees. To the East, within the Nursery area, is a stand of pine with some Noble Fir, under planted with various conifers and self-seeded deciduous trees. This is listed on the Semi-Natural Ancient Woodland Inventory. Beyond this is Dell Road and ad hoc houses scattered in trees. To the West is a buffer of plantation pine and Birch within the former Nursery and the Abernethy National Nature Reserve and SAC, SPA and SSSI. To the South is a Core Path and additional parts of the overgrown conifer plantations associated with the nursery.

The proposal is an outline application for the erection of 8 dwelling houses within a defined site. The applicant has confirmed that all other information is indicative only and not part of the planning application. The application is accompanied by an indicative plan showing a layout of 8 1½ storey detached houses with integral garages. The indicative access is a cul-de-sac taken from Dell Road near the Heatherbrae Hotel.



Fig. 2 Site from Dell Road, looking South West



Fig. 3 Lower site, looking South



Fig. 4 Site looking North East towards Dell Road



Fig. 5 Indicative Site Layout

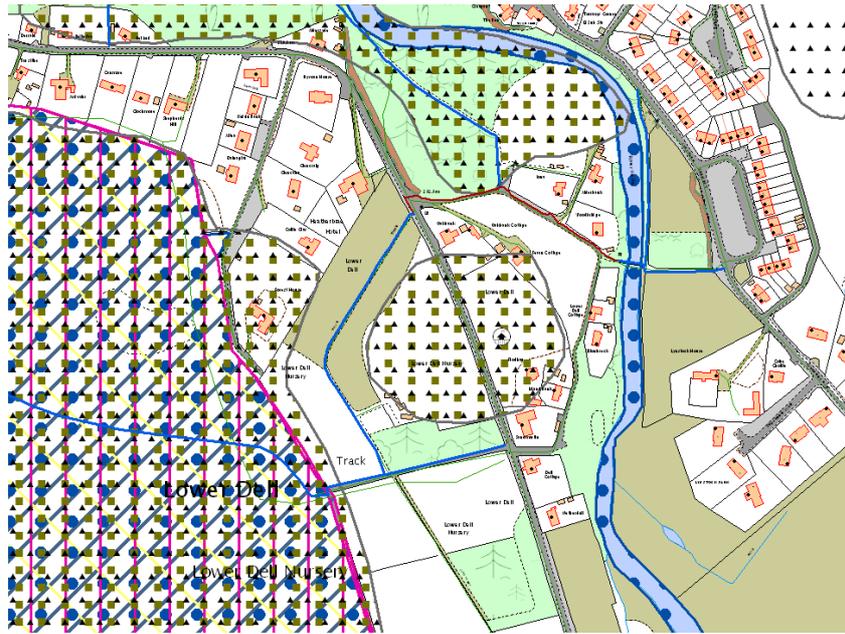


Fig. 6 Designations in the vicinity

DEVELOPMENT PLAN CONTEXT

Cairngorms National Park Plan 2007

Strategic objectives for Landscape, Built and Historic Environment include: ensuring that development complements and enhances the landscape character of the Park with new developments within settlements and surrounding areas complementing and enhancing the character, pattern and local identity of the built and historic environment.

Strategic objectives for biodiversity include conserving and enhancing the condition and diversity of habitats and species present throughout the Park through a landscape-scale approach to habitat networks and engaging all sectors in meeting or exceeding international, national and local biodiversity targets.

Strategic objectives for outdoor access and recreation include encouraging people of all ages and abilities to enjoy and experience the outdoor environment.

Strategic objectives for sustainable communities encourage a population level and mix that meets the current and future needs of its communities and businesses. A complimentary objective is to make

proactive provision to focus settlement growth in the main settlements and plan for growth to meet community needs in other settlements.

Highland Structure Plan 2001

Policy G2 Design for Sustainability requires developments to be assessed on the extent to which they, amongst other things; are compatible with service provision; are accessible by public transport, cycling and walking as well as by car; maximise energy efficiency in terms of location, layout and design; make use of brown field sites, existing buildings and recycled materials; impact on individual and community residential amenity; demonstrate sensitive siting and high quality design; and contribute to the economic and social development of the community. To accord with the Structure Plan's objectives and strategic themes, policies for **housing development** in Highland aim to steer demand to appropriate locations within existing settlements.

Policy H5 Affordable Housing advises that Section 75 agreements and other mechanisms will be used to secure developer contributions where justified and affordable housing secured as part of a larger development should not be of significantly higher density or lower quality.

Policy H8 Access Arrangements states that development proposals which involve new or improved access to serve more than 4 houses shall be served by a road constructed to adoptable standards.

Highland Council Development Plan Policy Guidelines 2003

This supplementary policy guidance advises that the Council operates a sequential set of mechanisms to achieve affordable housing provision in each case. On sites of 10 or more houses, a target of 25% is required. The first approach is for the developers to agree to transfer an area of serviced land on site, or to build an agreed number, type and mix of affordable housing units as an integrated part of their proposed scheme. The second approach, if the first is not achievable, is for the developer to agree the transfer of serviced land, or build the agreed number of affordable housing units, on another site in the community, that is under their control. If this is not achievable, developers may then agree to make financial contributions.

This guidance also advises on standards in relation to the provision of public and private open space in residential developments, minimum distances between windows for privacy, and day lighting/overshadowing.

The Badenoch and Strathspey Local Plan 1997

The site largely corresponds with a 1.8 ha. site allocated for residential development of 8 houses provided that there is a separation from the National Nature Reserve to the West, woodland management of the remainder of the nursery and retention of the existing frontage Beech Hedge consistent with access and safeguards for the mature Wellingtonia. Plot sizes should be a minimum of 0.75 acres (0.304 ha.) (needing a total of 2.432 ha.) and low profile buildings are preferred. There should be segregated footpath links between Dell Road and the NNR forest to the West using existing access tracks to form an amenity woodland corridor based on the most outstanding trees and their adjoining spaces, retention of regenerating woodland within development plots and safeguards for any significant botanical interest. This site appears to have not been developed due to the above constraints.

At Para. 4.5.3 Lynstock – Lower Dell the Plan identifies scope for environmental enhancement of the Lynstock- Lower Dell area. It is envisaged that these should be implemented by the community in association with statutory interests and landowners and could include woodland management and enhancement of open spaces and paths.

At Para. 4.5.5 Settlement Edges the Plan states that land adjoining Nethybridge which is important to the community's setting, nature conservation or the rural economy and not allocated for a specific purpose will be safeguarded from sporadic development. This includes woodland, farm and croft land.

In its strategy statement for small settlements including Nethybridge, the Plan notes that they are attractive for house building and notes the need for a balanced population structure and a good mix of accommodation to maintain a basic range of facilities and services. Inappropriate scale or siting must be controlled with an emphasis on a balance between economic viability and a conservation of the environment. Greater emphasis needs to be given to urban design and enhancing the character and identity of villages. Expanding communities must relate well to their landscape setting and adjoining countryside. Ancient and semi-natural woodland should be safeguarded with only limited encroachment in exceptional circumstances.

CONSULTATIONS

Area Roads Manager: has some concerns about the scale of development given the limitations of the public road serving the site, which is generally narrow with limited pedestrian provision. Does not favour the road layout indicated. A loop road linking back to Dell Road

at the South end, with a passing place at the mid-point of the two accesses, would be preferable. Conditions including development of the road to adoptable standard, sightlines at both accesses and pedestrian links to the existing paths network, are recommended.

Scottish Water: capacity for water and drainage is available. Surface water should adopt SUDS methods.

Scottish Natural Heritage: does not believe that the proposed development would have any significant impact on any features of interest within the designated forest to the West nor that it would add to any existing pressures on the features directly. The access path from Dell Road the NNR should be retained.

Royal Society for the Protection of Birds: no response.

Highland Council Planning Officer: considers that the site is unconstrained and should remain in the effective housing land supply given the constraints affecting at least part of the remainder of the effective supply. The application has been put forward by a consortium of local builders who have been almost entirely frozen out by larger national building firms. (Officer's note: the circumstances of the applicants are not a material planning consideration).

Highland Council Forestry Officer: the indicated separation from the NNR is adequate provided that the intervening Scots Pine and Birch are retained and managed. He is concerned that there are no proposals for woodland management of areas outwith the plots. The mature Beech hedges along the East and South sides of the area should be retained and managed. The indicative road layout and house footprints are too close to a number of trees and groups of trees that are worthy of retention, with the risk of root plate damage and later tree removal. A number of trees on the site should be retained and are not marked on the indicative layout. He has no objection to the development provided that concerns are addressed and that the development is carried out in accordance with BS:5837 Trees on Construction Sites.

Highland Council Archaeology: no objection

Heritage and Landscape Management: The Ecologist notes that there is a risk that the corridor of woodland habitat along the River Nethy will become isolated through development, from wider woodland habitats around Nethybridge. Any development on site should not jeopardise the existing habitat connectivity through the site between Abernethy Forest and the riparian corridor of Nethy Bridge. It is important therefore that development does not cut right across the site, breaking the connectivity and thus creating a potential barrier to species movement. The indicative layout would present a barrier to much of the wildlife interest in the area. The former Nursery has the potential to be managed to enhance its biodiversity and amenity. This should include the grassland and wet areas that are uncommon in the area, contribute to the wider matrix of habitats that make the Cairngorms such an important area for biodiversity in the national context and can

support rare species. Key UK BAP Priority species have been noted on the site including Pearl-bordered Fritillary Butterfly and Cousin German Moth. Of the 15 records, 5 are in the Nethybridge area including this site. A survey is recommended. If still present the development would breach the first Aim of the National Park and would compromise the duties of the CNPA in respect of the Nature Conservation (Scotland) Act 2004, to further the conservation of biodiversity. Observations indicate that the site is heavily used by Red Squirrels and that dreys are present. Any tree felling must have regard to their interests if the application is approved and a full Squirrel survey should be carried out before the approval. Bats may be present in the derelict buildings and dense tree stands. A bat survey is required before any approval. The applicant has commissioned a bat survey and none are present. A Squirrel survey of plots 6 – 8 where tree felling of a dense conifer stand is required, shows that there are 2 dreys at Plot 8. The full report has not been received at the time of writing. The reported Twinflower is an old record and its continued presence is being checked.

Landscape Officer: It is clear that this proposal would diminish the quality and integrity of this site by reducing and fragmenting the open space and imposing conflicting elements (buildings, road and domestic gardens). Some of the access functionality could be retained by provision of footpaths within the remaining open area but the intimacy of the space would be largely lost. The site has a well define character and is valued within the locality. The quality of the site and its contribution to the network of open space within the area, linking as it does to the various walks within the village, means that such a reduction in the amenity of the site is unacceptable in landscape terms. This reduction is in no way balanced by the proposals and so overall the application does not comply with the first Aim of the Park.

Visitor Services and Recreation (Access Officer): the North-South route through the site was a candidate core path but was removed following an objection from the landowner. The path is reflected in the indicative layout in that it follows the road and passes between Plots 7 and 8. This passage should be widened to improve its amenity and to accommodate all users. Other paths through the site should be incorporated in the layout.

Nethybridge and Vicinity Community Council: no objection. (Officer's note: a discussion with the Chairman revealed that the lack of objection was on the understanding that the site would deliver a proportion of affordable housing).

REPRESENTATIONS

There are 6 letters of objections to the proposals including 3 from or on behalf of the same person. One further letter raises no objection in principle but raises concerns. Two letters relating to the Duackbridge application refer to support for the Dell Road site on the basis that it

would be less intrusive and should deliver affordable housing. Concerns raised in the 7 letters are:

- The Nursery is an important area for the community and visitors to enjoy the trees, open spaces and associated wildlife year round. It is accessible by people in wheel chairs etc. and has open space suitable for horse riders. There are few places like this off the roads and paths. The site is of high recreational importance to the village.
- The proposal fails to comply with the terms of Policy G2 of the Highland Structure Plan with regard to sensitive siting and protection of the environment and the strategy, settlement and site criteria given in the Badenoch and Strathspey Local Plan 1997.
- Nethybridge is a forest village and developments such as this would destroy its character for tourism.
- Loss of amenity and privacy to surrounding houses.
- The area is an important habitat for a range of wildlife and development would undermine or destroy its biodiversity. The significance of species found at the site are such that development would contravene national environmental law contained in the Nature Conservation (Scotland) Act 2004.
- The site plays an important role in providing a corridor link between the neighbouring Abernethy Forest and the River Nethy and should be protected.
- Further housing development is not required when many houses already built lie empty. The proposed houses are large and are likely to be holiday homes, lying empty for much of the year.
- The path network through the site directly links to the Explore Abernethy path network and its amenity and wildlife enjoyment would be compromised by building.
- Development would add traffic to an already narrow road without footways and well used by pedestrians.
- The community has sought the designation of the site for amenity and community use throughout the Cairngorms National Park Local Plan consultation process (Officer's note: this is evident from a number of submissions in response to the first and second modifications to the local plan, in which the ENV designation has been maintained).
- Any management of the remaining woodland, following development, should be limited and avoid spoiling the haven that presently exists.
- One letter states no objection to development as it would necessitate removal of neglected plantations of conifers (Officer's note: designated ancient and semi-natural pine wood underplanted with conifers), which would be welcome. The access should form a full bell mouth closer to Heatherbrae, Dell Road would require a major upgrading exercise.

The applicant has submitted a Planning and Design Statement in support of the application. This includes a short design brief to govern the design and materials of the proposed houses. The applicants have also submitted ecology and tree surveys and a landscape assessment, all of which have been examined by the Heritage and Landscape Management Officers.

Copies of the letters of representation and the Planning and Design Statement are attached for information.

APPRAISAL

The Principle of Development

In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. The current statutory plans are those listed above. Other material considerations are the statutory aims of the Cairngorms National Park as stated in Section 1 of the National Parks (Scotland) Act 2000 and the imminence of the Local Plan inquiry into the forthcoming deposit Cairngorms Local Plan. In view of the timing of the application to correspond with the landowner's submission to the local plan inquiry, due consideration should be given to the fact that there are alternative proposals for the land and objections raised to the deposit draft.

The CNPA proposes to define the site as ENV, in support of its function as an open space that contributes to the character and setting of the settlement and its recreational function. Through the consultation process, the community has consistently supported the protection from development of land seen as important to the setting of the settlement. This principle is supported in a number of submissions to the Inquiry. The CNPA has maintained this approach through the First and Second modifications and no modification is proposed. There is an objection from the landowner, Reidhaven Estate which seeks the allocation of the whole of the former Nursery for residential development on the grounds that it is suitable for a low density development within a landscaped setting that would provide a transition between the countryside and the settlement.

Highland Structure Plan 2001 and Badenoch and Strathspey Local Plan 1997

The proposal benefits from some support from the Badenoch and Strathspey Local Plan 1997 in that it largely corresponds with the site

allocated for 8 houses. It has also gained some support from the community who see its development as an opportunity to procure affordable housing and for the better management of the woodland within the nursery for amenity and the environment.

However, the indicative plan accompanying the application demonstrates that the criteria accompanying the allocation in the local plan cannot be fully met. The indicative plot sizes vary between 0.1 ha and 0.2 ha. where as the local plan envisages large plots of a minimum of 0.3ha in a low density landscaped setting that allows for regenerating trees within the plots and retention of an amenity woodland corridor based on the most outstanding trees and spaces.

The Lower Dell area is characterised by an ad hoc layout of individual houses in trees that provides a transition between the countryside and the settlement to the North. It is this that the local plan seeks to mimic. The indicative plan shows a denser form of development made necessary in order to achieve the 8 houses proposed in the local plan. This layout is linear in style would not be sensitive to the ad hoc grain of houses in the Lower Dell area and would not meet most of the criteria for sensitive siting and design set out in the Structure Plan Policy G2 and the local plan. Adding to low density settlement patterns in this way does not meet current energy efficiency standards in terms of location, layout and design. Increasing the density to improve the land use efficiency of the layout and allow for affordable housing would have severe consequences for the ecology, amenity, access and recreation discussed below. There is a good footpath network in the area but the most direct pedestrian route to village services is 1.6 km along Dell Road, which has no footways. This would encourage car journeys if houses are occupied by the families sought by the community.

Ecology

The applicants Ecology Report does not identify the site for its high biodiversity but does recognise the ecological function of the site as a link between the highly designated Abernethy Forest and the River Nethy corridor. The CNPA Ecologist and others note the presence of important nationally protected species on the site and the severe impact that development would have on the habitats available and the contribution the site makes to the matrix of habitats that make the Cairngorms such an important area for biodiversity in the national context. The Ecologist is of the view that the development would present a barrier to much of the wildlife interest in the area.

Access and Recreation

The thrust of the Badenoch and Strathspey Local Plan strategy for the area is woodland management and enhancement of open spaces and paths. This is in recognition of the importance of Lower Dell to the amenity and recreational enjoyment of the community and tourists. The accessibility of the site to those with limited mobility gives particular credence to this factor. When considered in conjunction with the wildlife and habitat value of the site, these features are of considerable importance and should be retained to further all four Aims of the National Park.

Indicative layout

The indicative layout of 8 detached houses highlights difficulties with all of the plots. Plot 1 is in an area identified as an amenity strip adjacent to Dell Road in the Local Plan 1997. This is intended to protect the tree lined fringes of the public road and the character of the area and the attractive Victorian building at Heatherbrae.

Plot 3 is placed directly in front of the existing house at Coille Ghlas with a total of only 20 metres wall to wall distance. The existing house has a principle elevation with all its main windows and amenity facing South East towards the site. This plot is unacceptable as shown.

Plot 5 is very close to the very tall Wellingtonia and other trees to the west and south and with risks from overshadowing and branch shedding from adjacent trees. Plots 6 and 8 display similar problems. This is a poor site layout in relation to significant trees, likely to lead to future pressures for tree removal due to perceived and actual risk and represents a poor site layout in relation to passive solar gain.

The houses at Plots 2 – 4 are very close to the rear (North West) boundary, severely limiting rear amenity space, privacy and the scope

for future extension under permitted development rights. These houses should be brought forward by at least 4 metres.

Plots 6 – 8 are very detached from the existing settlement and the proposed plots 1- 5. They therefore appear sporadic and disjointed from the existing settlement pattern and are likely to severely impact on the amenity and enjoyment of the area obtained from the present paths network through the site to the adjoining woodland. The need for tree felling and the removal of derelict buildings in this area prompt the need for a bat survey and Red Squirrel dray survey of the area. These have not been provided.

No provisions have been made between the applicant companies for joint responsibilities such as the access road, pedestrian routes and landscaping of the open spaces. The applicants believe that the landowner intends to handover the remainder of the former Nursery to the community to manage as a community woodland although no arrangements have been made. The houses would be developed on a plot by plot basis in sporadic manner governed only by a set of design criteria open to considerable interpretation. This would not be conducive to a cohesive development of the site and could detract from the landscape setting of the village.

Affordable Housing

The Community Council and some individuals have lent support for this proposal on the basis that it would deliver affordable housing and other benefits to the community. The proposal for 8 houses is not subject to the Highland Structure Plan Policy H5 or Guidelines for the provision of affordable housing. No other mechanism is available under the present development plan. Should the site be reallocated under the CNPLP modifications, as sought by the landowner, then new policies would apply but a considerably higher density inappropriate to the area and the wildlife interest of the vicinity could result. The applicants do not consider that this site is suitable for affordable housing and have offered to provide additional affordable units at Duackbridge, as an alternative. This site has in itself been found to be unsuitable (see next Paper). It is considered unlikely that the community aspiration can be met at the Nursery site that the consideration of affordable housing is premature in advance of consideration of the sites at the Local Plan Inquiry.

Conclusions

Development of this site either in the form indicated or in a lower density form or at a higher density cannot meet the objectives of the current development plan nor the aspirations of the community,

without severe consequences for the character and amenity of the area, the biodiversity of the area or the efficient and sustainable use of the land. The site most likely contains and contributes to important flora and fauna and a network of habitats in the vicinity that support a number of nationally rare and protected species. A precautionary approach should be taken in the absence of a definitive survey. Its development would be contrary to both the strategic objectives and settlement policies contained in the statutory development plan and to the Aims of the Cairngorms National Park as set out below. Its development for residential use is therefore inappropriate and would be potentially damaging to the interests of the community at large and the National Park. It therefore recommended for refusal.

IMPLICATIONS FOR THE AIMS OF THE PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

The proposal would have a significant impact on the landscape setting, character and amenity of Lower Dell and Nethybridge as well as on important flora and fauna and the network of habitats that sustain them. National designations to protect species and habitat would be materially affected by the extra pressure from human activity and the barrier in a wildlife corridor. The development would not support this aim.

Promote Sustainable Use of Natural Resources

The development would represent an inefficient use of land and materials if the indicative layout is followed. The development would have a significant adverse impact on the natural biodiversity of the area, contrary to the sustainable use of these natural resources.

Promote Understanding and Enjoyment

The impact on the environment, landscape and amenity is likely to undermine the enjoyment of Nethybridge by residents and visitors.

Promote Sustainable Economic and Social Development

The site is unlikely to deliver affordable housing in a sustainable manner. Development would also be at the expense of important natural assets in vicinity, so reducing the economic value of the natural assets of the area to tourism.

RECOMMENDATION

That Members of the Committee support a recommendation to:

REFUSE outline planning permission for the following reasons:

1. Approval of the proposal would be premature pending the imminent consideration of the Draft Deposit Cairngorms Local Plan at Local Plan (1st and 2nd modifications) in that it would prejudice due consideration of the proposal to define the area as Open Space (ENV) and an objection seeking the allocation of the site and a the whole Nursery area for residential development.
2. The proposal would severely impinge on the landscape setting, character and amenity of Nethybridge and would not meet the

criteria set out with the land allocation in the Badenoch and Strathspey Local Plan 1997. A reorganisation of the design and access presented in the indicative plan, to address site and neighbour impacts is likely to further impact on the visual amenity and character of the area by introducing denser and more prominent forms of development closer to the road. The proposal is therefore contrary to the main strategy and the village strategy contained in the statutory and the Badenoch and Strathspey Local Plan 1997 and does not comply with the land allocation envisaged in the Local Plan. It would also be contrary to all four statutory Aims of the Cairngorms National Park.

3. The development unsustainable in terms of its poor links to village services, unsuitability for family housing in the affordable sector and its impacts on the landscape, character of the village and tourism, all contrary to Policy G2 of the Highland Structure Plan 2001 and Aims of the Cairngorms National Park.

4. The lack of a coherent master plan and arrangements for providing and maintaining common elements of the development is likely to lead to a piecemeal form of development and a lack of cohesion in the style and finish of the proposed houses, contrary to objectives of Policy G2 of the Highland Structure Plan 2001, to obtain high quality design and contrary to the visual appearance of the area.

5. Development of the site would lead to the destruction of an area of grassland and mixed woodland types that make a significant contribution to the matrix of habitats that supports a biodiversity that renders the Cairngorms of great importance in a national context. UK BAP species reported on the site would be destroyed and the scope for management of the area for recovery of its biodiversity and its support for UK BAP species of considerable rarity and found in the area, would be materially diminished or lost completely. This would breach the duty of the Cairngorms National Park Authority under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity and would be contrary to the first Aim of the National Park under the National Parks (Scotland) Act 2000.

Hilary MacBean
21st April 2009

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The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning

CAIRNGORMS NATIONAL PARK AUTHORITY
Planning Paper 1 *May 1st 2009*

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