
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

Prepared by: NEIL STEWART, PLANNING OFFICER (DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: FULL PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT (9 NO. DWELLINGHOUSES) WITH ASSOCIATED ACCESS ROAD, FOOTPATHS, VIEWPOINT AND LANDSCAPING, BRAES OF BALNAGOWAN, NETHY BRIDGE

REFERENCE: 05/120/CP

APPLICANT: WILBURN HOMES LTD., DALFABER INDUSTRIAL ESTATE, AVIEMORE, PH22 1ST

DATE CALLED-IN: 24 MARCH 2005

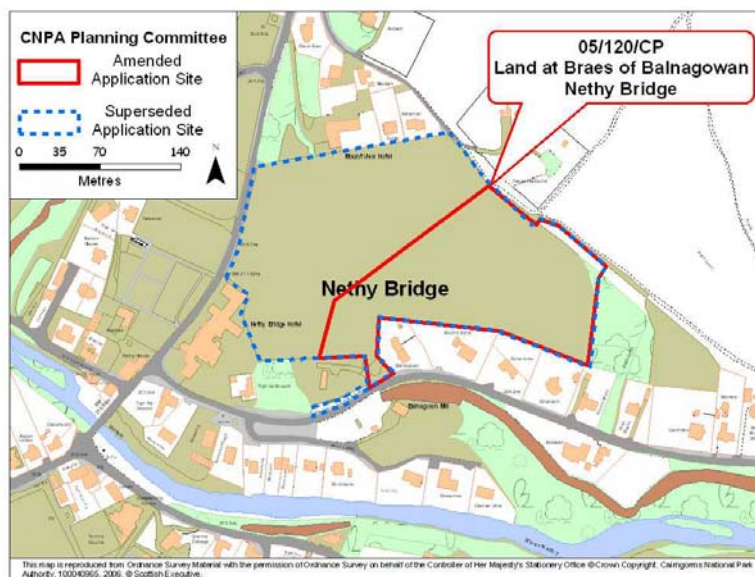


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. This site is located within the settlement of Nethy Bridge. It consists of an open area of grassland which lies to the east of the B970, between the Nethy Bridge Hotel and the Mountview Hotel. The open land at this location rises steeply up from the B970 between the hotels before levelling out onto a terrace which extends eastwards towards the established pine woodlands which enclose the northern edge of the settlement (**See Figs. 2 & 3**). A line of detached houses run along the north side of Causer Road, and back onto the south boundary of the site.



Fig. 2. Site looking eastwards



Fig. 3. From site looking westwards

2. The proposal which is now under consideration is the **third formal amendment** to the original application which was called-in back in March 2005. Each time a formal amendment has been made, neighbours have been re-notified and new consultations carried out.

Original Proposal

3. The original proposal was for the erection of 38 houses, which included the provision of 12 affordable houses. The layout for this proposal is attached at the back of the report at **Fig. 4.** but at that stage development of the whole area of grassland, including at the bottom of the slope immediately adjacent to the B970 between the two hotels (affordable housing) was proposed. Two accesses would have been created, one serving the 12 affordable houses off the B970 and the other off the Causer Road at the existing field access adjacent to the property known as "Balnagowan". Following an assessment of the proposal and discussions with the applicant (which included concerns about non-compliance with the Badenoch and Strathspey Local Plan, numbers of houses proposed, impact on the landscape, and receipt of 86 representations) the first formal amendment to the proposal was submitted in September 2005 (see paragraph 4 below). **At the same time as the submission of the original proposal, a separate application by Wilburn Homes was submitted (and called-in) for the erection of 10 further social houses in the area of woodland immediately to the east side of the current site (05/119/CP). Following general concern about this proposal (including non-compliance with the Badenoch and Strathspey Local Plan, impact on trees and existing footpaths, and receipt of 70 representations), the applicant formally withdrew the application from the planning register in September 2005.**

First Amendment to Proposal

4. This revised layout is attached to the back of this report at **Fig. 5.** It reduced the boundaries of the site considerably from that submitted originally. It also reduced the number of houses to 10 but did not contain any proposals for affordable housing. One access road was proposed from the Causer Road field access. This served 2 large houses on the brow of the hill on the west side before swinging round eastwards to serve the other 8 houses which were positioned on the flatter area of the site. Two footpaths were proposed into the adjacent woodland areas on the north and east sides, and a third footpath linking to a viewpoint on the slope on the west side, and the B970, was also indicated. Landscaping was shown screening the west boundary. Following an assessment of the proposal, (which attracted 29 further letters of representation), concern was raised about, amongst other things, the boundaries of the site still not complying with the Badenoch and Strathspey Local Plan, the lack of affordable housing and the impact of some of the development on the landscape of the slope.

Second Amendment to Proposal

5. In January 2006, a second formal amendment to the proposal was received. This layout is attached to the back of the report at **Fig. 6**. The boundaries of the site on the west side were again reduced and the layout of houses amended to have all the 10 houses on the flatter area of the site away from the slope between the hotels. Access was again from the Causer Road and similar footpaths to before were indicated. Part of the access road was shown as a 3.7m wide shared vehicular and pedestrian surface. This time it was stated that the required affordable housing quota, if developed in advance of other affordable/social housing developments in Nethy Bridge, could be provided on land owned by the developer adjacent to the site but no detailed proposals were put forward. The uncertainty about the affordable housing provision, and the receipt of 8 representations then led to the submission of the third formal amendment to the proposal in February 2006 (see Paragraph 6 below).

Third Amendment to Proposal

6. **This is the final scheme and the one which is being formally considered in this report.** The proposed layout is shown at the back of the report at **Fig. 7**. The applicants have now reduced the number of houses to 9 in total served off the new access road from the Causer Road, part of which is to be a 5.5m wide shared pedestrian and vehicular road. Footpath links to the woodland to the north and east and the viewpoint on the slope to the west side, are still being provided and additional tree planting on the west boundary of the site is shown. Four different one and half storey house types are proposed, each house being either 4 or 5 bedroomed. They are sited within sizeable feus and some have detached garages. The proposed finishing materials are slate, white wet dash render, and stained timber windows, fascias and soffits. While the number of houses proposed is now below the Highland Council threshold for requiring a percentage provision of affordable housing, the applicants are offering to provide a financial contribution in lieu of on-site provision.

DEVELOPMENT PLAN CONTEXT

7. **Highland Structure Plan 2001 – Policy G2 (Design for Sustainability)** states that proposed developments will be assessed on the extent to which they, amongst other things; are compatible with service provision (water and sewerage, drainage, roads etc.); are accessible by public transport, cycling and walking as well as by car; make use of brownfield sites, existing buildings and recycled materials; impact on individual and community residential amenity; impact on resources such as habitats, species, landscape, scenery, freshwater systems, cultural heritage etc.; demonstrate sensitive siting and high quality design in keeping with local character and the historic and

natural environment; 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. It also advises that "the availability of quality housing is fundamental to social and individual well being and to creating and maintaining balanced communities". It also states that "adequate provision of housing is also a pre-requisite of economic growth". **Policy H5 (Affordable Housing)** states that the Council will in association with other housing associations, identify areas in Local Plans where there is a demonstrable need for affordable housing. Section 75 Legal Agreements and other mechanisms will be used to secure developer contributions where justified. Affordable housing secured as part of a larger development should not be of significantly higher density or lower quality. **Policy H8 (Access Arrangements for New and Existing Development)** states that development proposals which involve new or improved access to serve more than 4 houses shall be served by a road constructed to adoptive standards.

8. **Policy N1 (Nature Conservation)** states that new developments should seek to minimise their impact on the nature conservation resource (sites and species of international, national and local importance) and enhance it wherever possible. **Policy L4 (Landscape Character)** seeks to ensure that regard is made to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals.
9. **Highland Council's Supplementary Development Plan Policy Guidelines April 2003**, states that an objective target of 25% affordable housing provision should normally be expected of all future developments comprising ten or more new or converted homes. This percentage will be applied to the notional number of units capable of being developed at standard density levels. Section 75 Legal Agreements will be required to secure the percentage and there is a sequential mechanism for achieving this – 1.- direct on-site provision or transfer of land, 2.- direct off-site provision or transfer of land, or in lieu of transfer of land or direct provision, 3.- a financial contribution. It is necessary to demonstrate the sequence in terms of the options.
10. **In the Badenoch and Strathspey Local Plan 1997**, the site is located within the settlement envelope and is **allocated as a Housing Development Area under Policy 4.1.1(d)**. This allocates the site for a capacity of 10 houses with access options from Causer Road or upgrading the Mountview Hotel access road. A requirement of the allocation is to maintain the open frontage escarpment between the two hotels and provide landscaping. The open land to the west of the boundary of the current site, including the sloping escarpment between the hotels, is also identified under **Policy 4.5.2. (Amenity)**. This seeks to safeguard remaining open spaces important to the character and amenity of Nethy Bridge, including the open approaches to the village.

Policy 4.4.3. (Drainage) states that the Council will keep under review the need for upgrading sewage treatment facilities consistent with future development requirements. Surrounding woodland to the north and east of the proposed site is identified as **Amenity Woodland** where under **Policy 4.5.1. (Walks)** an extensive network of footpaths within and adjoining the village will be safeguarded.

11. **For information purposes only**, in the **CNPA Consultative Draft Local Plan**, the site lies within the settlement boundaries of Nethy Bridge. The land in question, because of this undetermined application is identified as a “live application” site only. Under **Housing** it is stated that future housing should be focussed within Nethy Bridge settlement. Housing of all tenures may be required, but affordable housing to rent will be especially valuable to attract young families and encourage younger people to stay in the community area. Three sites have been specifically zoned for housing, which already have planning permission. As these represent a considerable amount of new housing for the village, no more short-term sites will be zoned in this Plan. Outwith these, infill sites for single houses may be considered.

12. The **Cairngorms Landscape Capacity for Housing Report (August 2005)** is a study which was commissioned by the CNPA to assess the potential effects of development on the existing character of the landscape in and around the settlements within the National Park and to inform the new CNPA Local Plan. This study identifies the site as one of two “open ground areas within the settlement” and describes it as an “elevated site with prominent steep bank to the east of the B970, backed by pine woodland and abutting the Nethy Bridge Hotel.” In terms of sensitivity to new development (assessment criteria includes, landscape character and experience, settlement form, landscape setting, sense of arrival, immediate settlement edge, and views and visual features) the study concludes that the site is either “not sensitive” or carries “some sensitivity”. However, it is the slope between the two hotels which is the part of the site which is deemed to be the more “sensitive” area. The study therefore concludes that new housing development could be accommodated on the site provided the steep bank, which is considered as highly visible on the approach to Nethy Bridge, is left undeveloped. It states that careful design would be necessary to avoid visual intrusion of housing on the flatter top of the site. It recommends that housing should be kept low in height with tree planted on the bank and filtering through to gardens of houses on the front edge so as to minimise intrusion on views from the Broomfield Road and the A95.

CONSULTATIONS

13. A number of consultations have been necessary due to the development type and the number of formal and significant amendments to the proposal that have taken place.

14. **Scottish Natural Heritage (SNH)** advised on the original proposal for 38 houses. They state that the site is agricultural land and that the development would lie approximately 1.25km south of Craigmore Wood SPA, 0.25km north of Abernethy Forest SSSI, SPA and SAC and, 0.125km north of the River Spey SAC. The particular features relevant to Craigmore Wood SPA are capercaillie, and for Abernethy Forest SSSI, SPA and SAC they are capercaillie, Scottish Crossbill and Caledonian Pinewood. For the River Spey SAC, the features are Atlantic salmon and otter. SNH's conclusion is it is unlikely that any qualifying feature will be affected significantly either directly or indirectly and in their view, an appropriate assessment is therefore not required. SNH therefore have no objection to the application.
15. The **CNPA's Natural Heritage Group** has stated that the site comprises improved grassland of a low natural heritage value, which has, until recently been used for grazing. It is noted that the proposal includes planting of trees around the perimeter in order to screen the development. It is stated that trees should be of local origin and should be species native to the Nethy Bridge area. A list of suitable species is provided. **NHG** considers that the proposed development will not have a significant natural heritage impact and they do not consider that it is in conflict with the first aim of the National Park.
16. **Highland Council's Archaeology Unit** have stated that the application lies in an area where there are important historic and prehistoric remains and the archaeological potential of the site is considered worthy of further assessment prior to the start of any development. They request that a condition is imposed on any planning permission issued which requires a programme of archaeological work for the preservation and recording of any archaeological features affected by the development, including a timetable for investigation, be carried out prior to the commencement of works.
17. **The CNPA's Outdoor Access Officer** initially advised on the original proposal for 38 houses. It was stated that open views over the Strath can be had from the Balnagowan Woods to the north of the site which is heavily used by residents and visitors for recreational purposes, (including walking, running, horse-riding and dog walking) as well as for more functional reasons such as shortcuts to the school. These would be lost if the development went ahead. At that time, the proposals for a wooded walkway on the west side of the site was viewed as commendable but a proposed footpath link from the south-east corner of the site into the woodland to the east needed to be clarified in terms of its multi-use capabilities. In addition, it was suggested at that time, that consideration be given to developing a route into the woods to the north-west side. Following the receipt of the formal amendments, the Access Officer takes the view that the reduction in housing in the open field helps retain the open aspect of the development site. She commends the retention of the walkway to the west side providing it fits

with the natural landscape. She strongly recommends that the linked walkways, which now also include two routes into the woods to the north and east, are suitable for multi-use but that in order to retain a pleasant non-urbanised experience, they are not constructed of Bitmac or equivalent.

18. **Highland Council's Area Roads Manager** has now been consulted four times on this proposal. **On the original proposal**, it was stated that all roads required to be constructed to adoptive standard but that some amendments were required to meet these standards. Conditions were required relating to the pedestrian links, visibility splays at the junction of the new access road onto Causer Road, the closing off of an existing access at the site entrance at Causer Road, surfacing, parking, SUDS and street lighting. In addition though, he considered the road layout for the affordable housing proposal served off the B970 at the bottom of the slope, to be inadequate and insufficient in terms of parking provision and layout. He was unable to recommend approval of this part of the original proposal. The first amendment to the proposal allowed the removal of the objection to the proposed 12 affordable houses at the bottom of the slope but the second amendment to the scheme, which introduced the shared part of the access road, met with concern because of the reduced width (3.7m). The third amendment, which increases the width of the shared part of the access road to 5.5m width, has now removed this outstanding concern. Subject to conditions covering the matters detailed above, the Area Roads Manager now has no objections to this final proposal.
19. On the original proposal, **SEPA** had no objections to the development connecting its foul drainage to the public system, provided Scottish Water approved these arrangements. With respect to surface water, it was noted that SUDS were proposed but that no details had been submitted. They also requested the imposition of a condition on any planning permission issued which required the submission and implementation of a construction method statement. On receipt of the third formal amendment, details of the SUDS proposals were received. These include the provision of a series of soakaways and a filter trench for the drainage of surface water from the houses and the roads. **SEPA** have now confirmed that the SUDS proposals are acceptable and subject to the submission of a construction method statement and the implementation of the SUDS in accordance with the details, they now have no objections.
20. **The Nethy Bridge and Vicinity Community Council** at the time of the **original application** for 38 houses suggested that the proposal should revert back to the Local Plan allocation of 10 houses. They also felt that the sloping Braes of Balnagowan should be protected from development by a Section 75 Legal Agreement. They also emphasised that members of the public have raised objections. Reference was also made to the minutes of the Nethy Bridge Community Council Local Plan Consultation Public Meeting held in

January 2005, where, amongst other things, it was most forcefully stated that no development be allowed on “the field between the Nethy Bridge and Mountview Hotels, from the B970 to the crest of the hill and beyond. **A copy of correspondence and these minutes are attached as a representation.** A further response has been received following the submission of the third and final amendment. Following discussion at their meeting on 2 March 2006, it was agreed that the Community Council should continue to follow the feelings of the community which were expressed at the public consultation meeting held in January 2005 that no development take place on the site. They also state that, if approval is given, consideration should be given to a S75 agreement to protect the open land on the west boundary and that any building on the west side should be of an appropriate height and design. They also feel that the adjacent steading building should be protected and that the landscape of Balnagowan Brae to facilitate visibility splays should not be altered. **A copy of this response is also attached as a representation.**

21. **The CNPA’s Housing Policy Officer** advised at the time of the **original proposal** that the application was discussed at the Badenoch & Strathspey & Nairn Development Forum. It was stated that there may not be the potential demand for the level of affordable housing proposed at that time (12 on the current site, and 10 on the adjacent site which was the subject of the separate application subsequently withdrawn) bearing in mind the number of affordable housing developments already approved in Nethy Bridge. However, the group felt that the site was in a good location but felt that other issues such as water and sewerage constraints had to be resolved. She also stated that she was concerned that the affordable housing shown at the bottom of the slope was segregated from the larger houses. At the time of the **first amendment**, the constraint at the WWTW was emphasised again and it was stated that the proposed site was not included in the capacity upgrade being carried out at the WWTW, whereas, others delivering amenity housing were included. The layout seemed to only include larger housing. **The Housing Officer** advised that if the proposed development went ahead before other approved ones start, it may be useful to have the percentage affordable quota acknowledged.
22. On receipt of the **second/third amendments, the CNPA’s Housing Officer (following consultation with Highland Council Housing and Planning Officers)** advised on the situation with regard to the other housing developments in Nethy Bridge which are included in the WWTW capacity upgrade. The site known as “Causer south-east” is now complete and was handed over at the end of January 2006. This is Albyn Housing Society’s development for 15 houses (8 Homestake properties being sold at 60% and 80% and 7 rented properties). The site known as “Polyanna” (opposite the football pitch) which had outline planning permission for 12 units, is now owned by Albyn Housing Society. This permission included a S75 agreement requiring the site

to be used by a provider for sheltered housing but has now lapsed. She states that this site is in Albyn's programme to be developed in 2006-2007, in order to ensure that the project gets connections to the WWTW. Another site included in the WWTW upgrade is a development of 40 houses at two sites at School Road (30 market units) and Craigmore Road (10 affordable units). These are developments originally applied for by "Eagle Star" (now "Zurich Assurance Ltd."). This is an outline permission which has just been issued following the completion of a S75 securing the affordable housing. The affordable plots are to be conveyed to the Highland Small Communities Trust with a view to developing as soon as possible. There are also several other developments which are included in the WWTW capacity upgrade. There are upto 5 individual private plots and there is the former "Station Yard" development which the CNPA approved in 2005. This development included 7 market houses and a tourism related visitor centre/workshop.

23. In terms of housing need, the **CNPA's Housing Officer** has confirmed that Albyn Housing Society have 16 people on their lists who currently live in Nethy Bridge. From Highland Council information, there are 17 applicants who show Nethy Bridge as their first area of preference. In addition, she has advised that Highland Council would wish the 2 affordable houses on-site as a first preference, off-site provision as second and a commuted payment towards affordable housing in Nethy Bridge as a last resort.
24. In addition to the above, **Highland Council's Area Housing Manager** has suggested directly to me, that the development potential for the proposed site is 10 units. The reduction in numbers from 10 to 9 (as the third and final amendment) is viewed by the Council as a way of avoiding complying with the affordable housing tariff. The site has a development potential of at least 10 houses and is zoned for 10 houses. The Council are therefore of the opinion that 2 affordable houses or plots should be a condition on any approval of planning permission. If this is resisted then a commuted sum to be agreed would be acceptable as a fall back position.
25. **Scottish Water** have now provided a response following the third round of consultations. They state that they formally object to the application but that it can be withdrawn if the Planning Authority attaches a condition which states that no development shall commence until evidence is exhibited to the Planning Authority that an agreement has been reached by the applicant with Scottish Water for the provision of a drainage and/or water scheme to serve the development. In more detail, they state that the proposed development lies within the water supply zone for Blackpark Water Treatment Works. There is therefore no available water supply in the area at this time. They therefore object to the application as it may prejudice their ability to supply potable water to existing customers. It is stated that while there is no available water supply, their next investment programme (Q & S3 2006-2014)

will begin in April 2006. It has been stated by the Scottish Minister that Scottish Water will be provided with money to invest in their strategic (water and waste water treatment) assets to support new development. In relation to waste water treatment, they state that on formal acceptance by Scottish Water of the current WWTW upgrade, the sewer network will have capacity to accommodate this development. However, they do also advise that connection to the public sewer network is dependent on the spare capacity at the time of application for a connection. In addition, they state that the development may involve building over a public water main and that the applicant must contact Scottish Water to ascertain measures to be taken to protect this apparatus.

REPRESENTATIONS

26. There has been a significant number of representations received throughout the process of determining this planning application. **The following is a summary of the issues raised following the submission of the original proposal, and then each subsequent formal amendment. All letters received are copied at the back of this report but please note that some letters also refer to the application for 10 houses (05/119/CP) on the adjacent site which was withdrawn.**

a. Original Proposal (86 No.)

- Loss of outlook from Mountview Hotel toward the Cairngorms and noise and disruption; will impact on residential wildlife watching holiday business and restaurant; subsequent economic impact will impact on jobs and other businesses in the area and put existing businesses at risk;
- Loss of outlook from Nethy Bridge Hotel; impact on visual appearance and setting of hotel thus affecting marketability; impact of possible damage from pollution/surface water from development to Nethy Bridge Hotel;
- LP allocates part of the site for open space with no development on the escarpment – any development here detrimental impact on open aspect of village – have significant landscape impact on prominent skyline site;
- Development well in excess of LP allocation for 10 houses (almost 4 times larger) – results in overdevelopment;
- Boundaries of development exceeds LP allocation site boundaries;
- Community strongly opposed to development in this field – demonstrated by consultation process on new CNPA Local Plan; community unfriendly development which acts as a precedent;
- No requirement for development of this size in Nethy Bridge;
- Existing infrastructure and services cannot cope (sewerage, water, roads, dental care); sewerage system although upgraded will not cope with this development;
- Detrimental impact on adjacent woodland and the field site which are habitats for many species and are used for recreational purposes;

- Detrimental impact on tourism – the two adjacent hotels, wildlife etc.;
- Nethy Bridge (“forest village”) being swamped with large scale suburban estates – proposal is more suited to an urban suburb rather than a Highland Village – will change the character of the village – does not follow pattern of development in Nethy Bridge which is linear along either side of the river – take away open land within village;
- Concern about proposals for segregating affordable and executive type houses; concern that there is not a local need for this housing;
- Will result in second and retirement houses outwith reach of young local families – detrimental to the social structure of the community – may also become dormitory area for Inverness;
- Site accesses have poor visibility and will cause road safety hazard – roads and bridges in the village cannot cope with increase;
- Development purely money making venture; speculative development at the expense of local amenity;
- Need is for low cost housing not what is proposed;
- Overlooking from properties at the top of the slope to those to the west;
- Impact on views to the west and from views from adjacent properties;
- Noise impact of additional traffic;
- Attempts at social housing in the village have failed before by lack of commitment by developers;
- Siting of some of the development will impact on residential amenity of existing houses.
- Development is designed to pre-empt the CNPA LP – this plan should protect this field from development – development therefore should be delayed until the CNPA LP is finalised.
- Proposed landscaping is suburban in design and uncharacteristic of the locality.
- Architectural style of this part of the village (especially the hotels) compromised by the proposed house types.
- CNPA needs to apply same standards for house building as other National Parks.
- Current LP provides an overprovision of housing land in Nethy Bridge;
- Development, in energy terms, is unnecessarily environmentally unfriendly;
- Secure internal cycle storage facilities should be provided;
- Applicants own adjacent woodland – suggestion that this is a first phase;
- Proposals are ineffective due to lack of capacity at the WWTW, notwithstanding the upgrade;

b. First Amendment to Proposal (29 No.)

- Continued concern about impact on the business of Heatherlea (Scotland) Ltd. based at Mountview Hotel; continued loss of outlook to Cairngorms from Mountview Hotel; impact on amenity and rural character of area will affect business which relies on rural situation;
- Proposed boundary on north west side still not in accordance with the LP allocation; proposed development area where two houses proposed in south-west corner not zoned;

- Open escarpment still affected; continued concern about loss of open land and amenity value;
- Continued concern about sewerage provision;
- Although reduced scheme, community made clear before that this whole field area should not be developed; this should be part of new CNPA LP; proposal remains pre-emptive to consideration of the CNPA LP.
- Continued concern about road safety at new access onto Causer Road and increased traffic movements at the bridge; difficulties in accessing adjacent property known as “Balnagowan”;
- Continued concern about impact on habitats and species found in the field;
- Draft CNPA LP indicates other sites which should meet demand; site not shown as development land in the Draft CNPA LP;
- Continued concern about impact on tourism, in particular on two adjacent hotels;
- Continued concern about the “urban” approach to the layout and the house types;
- Concern about the rest of the field becoming overgrown and an area for fly tipping;
- Objection to proposed viewpoint – contrary to LP;
- Concern about soil from construction works being dumped on the slope;
- Development should have affordable housing but does not;

c. **Second Amendment to Proposal (8 No.)**

- Concern about where the affordable housing proposed for adjacent land is to be located, its affect on woodland areas and where development is not zoned in the LP;
- Continued emphasis on importance of community opposition to any development of the field; Draft CNPA LP should have weight because of community input to the consultation process; current LP should have been reviewed by now but because of new CNPA LP it has not been done – Draft CNPA LP should therefore carry weight
- Request for restrictions on heights, design and finishing materials for houses, if approved;
- Development appears to be in accordance with the LP; layout seems to be about the best that can be achieved;
- Continued concern about impact on the business and amenity of Heatherlea (Scotland) Ltd. which requires a rural setting to be successful; noise and disruption through construction period would affect Mountview Hotel; significant contribution to local economy from this business under threat;
- Continued concern about sewerage provision and adequacy of road access;
- Concern about precedent being set for further development here;
- Continued concern about suburban layout and landscaping;

d. **Third Amendment to the Proposal (16 No.)**

- New screen planting extensive and un-necessary; open outlook to the west should be maintained;
- LP expectation for 10 houses should include 2 affordable; still does not comply with the LP; proposing 9 units is a ploy to avoid meeting their affordable housing requirements;
- No need for any housing here in the eyes of the National Park; extensive community consultation has resulted community objection to any building in this field; this is in line with the Park's aims; field no longer zoned in the CNPA draft LP.
- Proposal threatens land surrounding the development and wildlife;
- Continued concern about impact on adjacent business of Heatherlea (Scotland) Ltd and other proposed businesses;
- Continued sewerage capacity problems; development still impacts on other developments which are of more value to the community; other developments under threat because of sewage capacity;
- Continued concerns about road safety and detrimental impacts on visual amenity;
- If granted no further development should be permitted in the field or on adjacent woodland;

APPRAISAL

27. Before examining the crucial issues in the determination of the current proposals, I feel it is necessary to analyse the issues that have lead to the submission of this third and final amendment to the scheme.
28. The original proposal for 38 houses was submitted following, as I understand it, discussions with Highland Council's former Area Planning Manager. There is a discrepancy in the Badenoch and Strathspey Local Plan Written Statement Policy 4.1.1.(d) which describes the site size as being 1.0HA and therefore having the capacity to accommodate 10 houses. However, the allocated site shown on the settlement plan is approximately double that size. From this, it can be seen that there would be an expectation for a higher number of houses on the site. However, the Local Plan settlement plan also restricts the boundaries of the allocation to the higher but flatter terrace part of the site on the eastern side, away from the prominent steeply sloping open escarpment between the Mountview and Nethy Bridge Hotels. This open escarpment and land extending to the north east of the field is protected from development by Policy 4.5.2. of the Local Plan because of its role as "open space of importance to the character and amenity of Nethy Bridge." From this it seems clear to me that when creating the boundaries of the allocated site, it was not the size that was necessarily the driving factor but it was the importance of retaining the character of the open space at this locality and minimising landscape impacts.

29. The scale of the original proposal and its impact on the land protected from development in the Local Plan and on adjacent properties and hotel businesses, was one of the significant issues of concern raised in the numerous letters of representation received at that time. I concurred with these sentiments and as such agreed that the original proposal, as submitted, was unacceptable, and clearly contrary to the Local Plan, in terms of impact, scale, size of site, layout, and number of houses. The offer of 12 affordable houses at that time was considered but it was concluded that it could not be used as justification for proposals which failed significantly to meet the policy aspirations mentioned above. In addition, at that time, the applicants were advised that, if purely judging capacity for housing on size of site, the allocated site could possibly accommodate more houses than the 10 stipulated in Policy 4.1.1.(d). However, I felt that the intention of the allocation was to allow a modest sized low density development on the flatter area of the site which would then have a minimal impact on the landscape and the character of the open space. It was suggested therefore, that in order to meet the policy objectives of the extant Local Plan, the proposal should be amended to 10 houses contained within the boundaries of the allocation as shown in the Local Plan settlement map.
30. In addition, there was also a concern about the capability of the proposed upgraded WWTW to accommodate this development. When determining the proposals for the WWTW upgrade in early 2005, Scottish Water advised that there would be additional capacity created, but only for consented developments. Although an allocated site in the Local Plan, Braes of Balnagowan did not have a planning permission and therefore were not catered for in the increased WWTW capacity calculations. The concern deriving from this, is that existing permissions which were delivering affordable/social housing on other sites in the village, would be prejudiced, if any development at Braes of Balnagowan received planning permission and were allowed to connect by Scottish Water. Scottish Water take the view that they cannot reserve capacity.
31. The first formal amendment to the proposal was then submitted. This reduced the number of houses to 10 and reduced the boundaries of the site. No affordable housing was indicated. While acknowledging the significant amendments that had been made, it became clear that the allocated site boundaries in the Local Plan were still being exceeded on the west side. It was also clear that two sizeable houses were proposed on the brow of the hill and as such would have been highly prominent in the landscape and would have infringed upon the "protected" open escarpment. Being a proposal for 10 houses also meant that there was a requirement for the provision of an affordable housing quota. The applicants were advised again that I could not support this amended proposal because it did not comply with the extant planning policies relating to these issues. The issue of sewage capacity also still remained.

32. The second formal amendment to the proposal was then received. This, once again, revised the boundaries of the site on the west side to reduce the development area to the flatter, eastern parts. The number of houses remained as 10 but the open escarpment was omitted from any development proposals, other than the linked walkway and viewpoint. This time, the applicants stated that they would be willing to acknowledge the affordable housing percentage quota on land owned by them adjacent to the site, if their development went ahead prior to the commencement of other consented affordable/social housing developments elsewhere in Nethy Bridge. This was in direct response to the concerns about the sewage capacity and the potential impact on these other developments.
33. While the amendments overcame the concerns about breaching the boundaries and the allocation of Policy 4.1.1.(d), I still found difficulties with the affordable housing proposals. The proposal did not indicate where the affordable housing would be located but suggested that it could be provided on land owned by the applicants adjacent to the site. However, no details were provided and no other adjacent land within their ownership is allocated as housing land. Most of the adjacent land owned by them is either the pine woodland to the north and east, or the open escarpment to the west. These areas are viewed as constrained because of their character and importance to natural heritage and recreation. It was not therefore clear how the affordable housing would be delivered. It was also the case that the suggested affordable housing element would have been in addition to the houses proposed on the site rather than integrated within the 10 house scheme, as reasonably required as the first preference approach in policy. No market, investment or other reason was given for taking this approach. In addition, I also felt that further landscaping was required on the western boundary. The sewage capacity issue also remained.
34. These concerns have lead to the submission of the third and final formal amendment. The boundaries of the site remain in line with those in the allocation and amended landscaping along the west boundary is indicated. However, the proposal now is for 9 houses. This said, the applicant's have now offered a financial contribution towards the provision of affordable housing elsewhere in Nethy Bridge. The level of contribution would need to be agreed and form part of a legal agreement.
35. **The issues that therefore require to be considered for this final proposal, include the principle in relation to planning policy; the impact on the landscape and the surrounding area; the layout, design and road safety; infrastructure capacity; and affordable housing.**

Principle in Relation to Policy

36. The significant amendments that have taken place from the time of the original proposal mean that the proposal now complies with Policies 4.1.1.(d) and 4.5.2. of the Local Plan with respect to the boundaries of the site, and the protection of the open escarpment on the west side. The indicative landscaping shown for the west boundary shows a recognition by the applicant that integrating the development within its natural surroundings and providing screening from the prominent west side is required. It is stated in the Local Plan text for this allocation that a S75 agreement should be put in place to protect the open land here and provide landscaping. The Community Council have reiterated the request to have this in place, if approval is given. However, Policy 4.5.2. provides the extant policy support for retaining the open areas on the west side and details of landscaping can be addressed by planning condition. I therefore do not see a justifiable reason for requiring a S75 covering these aspects as well.

Impact on the Landscape and the Surrounding Area

37. It is certainly the case that this site adds to the character of this part of Nethy Bridge because it draws a natural landscape into the village and provides a visual separation between different land uses such as houses, hotels and woodland. Its importance to the community is valued and there is a clear desire from the community to retain its open natural status, in its entirety, because of what it represents. This is understandable. However, as discussed above, with the development now significantly reduced in size and scale, and being positioned within the boundaries of the allocation, away from the open escarpment with landscaped screening, I do not feel that it is possible to raise a strong objection to the proposal on landscape grounds. The boundaries of the allocated site, at the time of the Local Plan, were clearly drawn to minimise landscape impacts.
38. While many of the representations raise concerns about the loss of a habitat for wildlife, SNH and the CNPA Natural Heritage Group have confirmed that there are no adverse impacts on natural heritage designations nearby, or that the site is valued as a significant and important natural heritage resource in itself.
39. Several representations have been submitted about the impact the development would have on the amenity of adjacent properties, in particular the two hotels, and their respective business operations. I believe that the original proposal, due to its proximity, scale and layout, would have had long-term adverse impacts on the amenity of these properties and quite possibly negative effects on the viability of the businesses. However, the final amended proposal has significantly reduced these impacts and while there may be some short-term disturbance during construction works if the development is approved,

this is not a sustainable reason for resisting the proposal in planning terms.

Layout, Design and Road Safety

40. Due to the number of houses now proposed the development displays a low density layout. The houses, while a mixture of 4 and 5 bedroomed types, are not over-sized, although they are positioned within fairly large plots. There are no adverse impacts on the privacy or amenity of the adjacent houses on the Causer Road. They are all one and a half storeys with ridge heights of 7.5m or 8m and the designs are traditional in proportions, features and finishing materials. As such, I feel that the layout and the house designs are acceptable in the context of the site and its surroundings and therefore I do not believe that there are any reasons for objection to the development on these grounds.
41. The impact of the development on the local roads system is an issue that has caused concern in the community. Clearly, with the significant reduction in the scale of the development from the original proposal, any perceived impacts are lessened. However, the fact is that the site is an allocated one in the Local Plan with a stated option to take access from Causer Road at the location proposed. When allocating the site in the Local Plan, it would have been part of the process to assess the potential for road safety concerns, otherwise the allocation would be ineffective. The Area Roads Manager has been involved in the entire process and has always been content with the proposed access point. He has confirmed, that subject to conditions, he has no objection to the proposal on roads grounds.

Infrastructure Capacity

42. Throughout this process, the matter of a constraint at the WWTW has been an issue. At no stage, was the proposed development included in the increased capacity calculations made by Scottish Water when they were proposing their upgrade (completion of works now awaiting formal acceptance by Scottish Water). Clearly with the number of houses significantly reduced from the original proposal the potential loading on the public foul water system is now less. However, as stated before there remained a concern that this development, if approved, could “jump the queue” and get connected to the new WWTW before other consented developments in the village, thus rendering them ineffective. Of more concern was the fact that some of these developments were delivering much needed affordable/social housing. The developments at risk in this category included 15 units at Causer (Albyn), 10 units at Craigmore Road (formerly Eagle Star, now Zurich Assurance Ltd.), and 12 units at Polyanna (opposite the football pitch – formerly Aviemore & Highland now Albyn).

43. Legal advice on case law has been taken on this issue, and there is evidence to conclude that adequacy of drainage capacity is a significant material planning consideration and that planning deals with localities and not just individual sites and parcels of land. It is therefore competent and important when considering a single planning application, to ask what the consequences will be on the wider locality. In this instance therefore, and because of the aims of the Park, it was felt necessary to investigate in some detail the implications of approving the proposed development on other approved developments. However, it was also felt that it was only fair to make a judgement on the effectiveness of these other developments and when and if they were likely to be implemented. The situation regarding these developments is covered in Paragraph 21 above but the findings were that the Causer site is now completed and connected to the WWTW and was therefore not considered to be at risk. However, the Polyanna and Eagle Star sites, were at risk, if Scottish Water were unable to confirm that there was enough capacity for all the developments including the current proposal. This equates to a potential 22 units.
44. **Scottish Water have been pressed to clarify their position and have only just given their conclusion to the situation. With regards to the foul water capacity, they have stated in writing that the upgraded WWTW has the capacity to accommodate the proposed development. However, more crucially, when pressed, they verbally confirmed that this assessment included all of the other "committed" developments in Nethy Bridge as well. However, I have been unable to get this confirmed in writing. Nevertheless, on the basis of what Scottish Water have said verbally and are right in their assessments on capacity, I cannot find a reason for resisting the proposed development on this basis. However, it should be noted that Scottish Water continue to advise that connection to the system is purely dependent on the spare capacity at the time of the application for a connection. This means that any other new application for development coming forward in the area may be faced with the problem that they would prejudice existing consented developments.**
45. All this said, the other critical issue in relation to infrastructure provision is that of water supply. **Scottish Water have only just advised that they object to the proposal on the basis that it may prejudice their ability to supply potable water to existing customers.** This is because of the outstanding works required to upgrade the Blackpark Water Treatment Plant which serves the whole area. They have stated that there is no available water supply in the area but that their next investment programme will begin in April 2006. **Nevertheless, when pressed, they cannot confirm when the works at Blackpark will commence or when the water supply problem in the area will be resolved. They have stated that they would remove their objection if a planning condition was imposed stating that "no**

development commences until such time as evidence is exhibited that an agreement has been reached by the applicant with Scottish Water for the provision of a water scheme to serve the development.” However, with there being no confirmed timescale for the upgrading works at Blackpark, it is not possible to impose a suspensive planning condition to this effect. At present, there is therefore an unresolved constraint for this development. Taking account of the need to consider the provision of infrastructure as a material planning consideration, as advocated by SPP1 (The Planning System), I do not feel it is possible to favourably consider this development at this time because of this water constraint.

Affordable Housing Provision

46. The number of houses now proposed is 9. This is now below the 10 house threshold for Highland Council’s policy for requiring a percentage affordable housing quota. However, while the Local Plan allocation and policy does not particularly state a requirement for affordable housing on this site, it does state that the site has capacity for up to 10 houses. When the applicants were proposing 10 houses at the time of their second amendment to the proposal, they did acknowledge the requirement for affordable housing provision but advised that they would provide the quota on land adjacent to the current site and in addition to the number of houses proposed. No clear proposals were put forward and as stated before there was concern about where the houses would go. The applicant then reduced to 9 houses. However, following some concern about this ploy, they have confirmed that they are willing to pay a financial contribution towards affordable housing, even although, they fall below the 10 house threshold.

47. Providing a financial contribution in lieu of on-site provision is an option that is available in terms of Highland Council’s policy. However, it is the third and final option. In order to accept this option, it must be demonstrated firstly that on site provision cannot be achieved for market, investment or other reasons. No specific reasons for not providing on site, within the development, have been provided and bearing in mind the size of the site, I cannot see any reason why this cannot be satisfactorily achieved without compromising the quality, layout or appearance of the development. It is demonstrated that on site cannot be achieved, then as a second option, off-site provision may be considered and only then if this is not achievable for land supply reasons, can the third option of financial contributions be considered. It may be that providing off-site would be difficult to achieve because of land use constraints on nearby land but it does not seem unreasonable, in this instance, to require on site provision.

48. It is recognised that the applicant now proposes less than the 10 house threshold and that it could be argued that there is therefore no need to provide any affordable quota. The offer of a financial contribution is acknowledged. However, I view the proposal for 9 houses as a means of under-developing the site. The capacity is for up to 10 houses and the proposed layout and space on site does indicate that providing at least 2 affordable plots/houses within the scheme is achievable. Highland Council's Area Housing Manager has stated that at least 2 affordable plots/houses should be part of the development and taking account of policy, and of the aims of the National Park, in particular the fourth aim of promoting the sustainable economic and social development of the area, I believe that the proposal fails to meet the objectives of providing the appropriate means of delivering the required affordable housing for this site.

Conclusion

49. This application has taken a considerable period of time to bring forward for a determination and I acknowledge the applicants co-operation in amending their proposal to try and overcome the concerns. However, the constraint on the water supply to serve the development is not one that can be addressed in planning terms, without any degree of certainty about when and if the Blackpark WTW will be upgraded. This remains as reason for refusal. The failure of the application to provide the proper means of delivering the required affordable housing for this development forms the second reason for refusal.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

50. There are no natural heritage designations on the site and the land is viewed as being of low value to nature conservation. However, it does provide a natural open space within the settlement which helps provide a landscaped setting for this part of Nethy Bridge. This is viewed as important to the community. Nevertheless, the more important areas of the site are viewed as the open escarpment areas to the west and the proposal now does not adversely impact on them. Archaeological features may be present but this can be adequately protected by planning conditions if necessary.

Promote Sustainable Use of Natural Resources

51. The development does not deliver any obvious proposals for the sustainable use of natural resources.

Promote Understanding and Enjoyment of the Area

52. The development will impact on some of the outlooks from the Balnagowan Wood, which is a popular and well-used area for recreation. However, footpath links are proposed into the woods and a footpath with viewpoint is proposed on the western slope. I believe these proposals are positive in terms of this aim.

Promote Sustainable Economic and Social Development of the Area

53. Providing housing within a settlement can deliver some economic and social growth to a community. The impact of the development on the amenity of adjacent businesses, in particular the two hotels, and their respective associated business operations has been a consideration. While short term disturbance during construction may cause a concern, the fact that the development is significantly smaller in scale than first proposed and is now located to the eastern side of the site, means that I do not feel that the proposal, in planning terms, will create a significant or long term adverse effect on the viability of adjacent businesses. There remains a need for affordable housing in Nethy Bridge, and while it appears that the proposal would not prejudice the delivery of affordable/social housing developments elsewhere in the village in relation to the sewage capacity, the development itself does not deliver its required affordable quota in an appropriate manner.

RECOMMENDATION

54. **That Members of the Committee support a recommendation to:**

Refuse Full Planning Permission for Residential Development (9 No. Dwellinghouses) with Associated Access Road, Footpaths, Viewpoint and Landscaping, at Braes of Balnagowan, Nethy Bridge, for the following reasons:

- 1. The proposed development is viewed as premature on the grounds of the current constraints on water infrastructure serving the Nethy Bridge area. Scottish Water are unable to specify at the period within which this constraint will be removed. The development is therefore regarded as ineffective at this time because it cannot be served by an adequate potable water supply.**
- 2. The proposed development is for the erection of 9 no. dwellinghouses whereas, the allocation in Policy 4.1.1.(d) in the Badenoch and Strathspey Local Plan indicates a capacity for up to 10 no. dwellinghouses. The proposal is therefore viewed as under-developing the site. It therefore fails to provide the proper means of delivering the required affordable housing quota, and it has not been demonstrated that the required affordable housing percentage cannot be delivered on the site within the**

development, as a first option, as required by Highland Structure Plan 2001 Policy H5 (Affordable Housing) and the subsequent Highland Council Development Plan Policy Guidelines (April 2003) on Affordable Housing. In this respect the proposal is also viewed as having negative implications for the fourth aim of the Cairngorms National Park which is to promote the sustainable economic and social development of the area's communities.

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6 March 2006**

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