

- (c) *The underpass north to Ballinluig Farm* : It is proposed to construct a new section of drive from the area in which the access track emerges from the underpass tunnel. The new access would cross the existing drive⁵ and continue around the northern edge of the grass field, tucked in close to an existing bank of oakwood. In conjunction with the establishment of the new section of drive, the landscaping details include proposals for new woodland blocks. Two ponds are also proposed along this section. The first pond would be created close to the start of the new section of drive, near the underpass tunnel, while the second pond would be developed at the western end of the new section of drive, close to the existing track from Ballinluig Farm. Both ponds would be fed by existing burns. It is also proposed to remove existing fences on the farm road from the underpass to Ballinluig Farm, in order that “traffic on the lodge road has an uninterrupted view across pasture land.”



Fig. 7 : Access track emerging from underpass



Fig. 8 : Crossing existing track to Ballinluig Farm

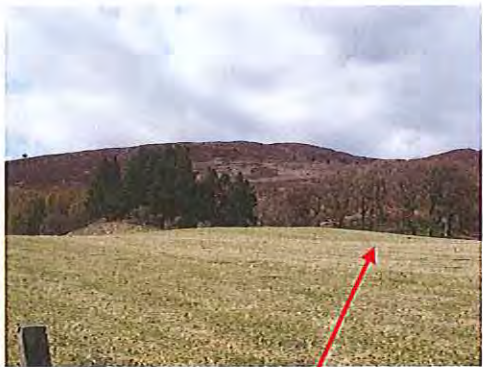


Fig. 9 : proposed new access drive close to wooded area



Fig. 10 : Access drive would follow general route of existing track

- (d) *Ballinluig Farm to the proposed new sporting lodge*: close to Ballinluig Farm, the new access drive would turn northwards, in a gap in the woodland, along the line of an existing section of rough track. On the final approaches to the main site area, the first significant views of the proposed lodge would emerge. Existing groups of birch in the vicinity would be retained. The final approach towards the lodge would result in the new access drive winding its way in a westerly and then northerly direction, following a natural basin in the landform. It is proposed to

⁵ The existing drive leads directly from a junction off the A9 into Ballinluig Farm.

create a third pond / lochan adjacent to the drive. The access drive would terminate in a courtyard area at the rear of the sporting lodge.

Case for the proposed shooting lodge

10. The proposal for a new sporting lodge has come about in conjunction with the applicant's development of the sporting elements of the Estate business, and the need to provide accommodation for guests. The applicants consider that the construction of a new lodge "is the best means of ensuring that the package they will offer is of a sufficiently high standard." Information submitted in support of the development proposal acknowledges that the proposed 14 bedroom lodge is an ambitious scale, but it is considered that "this is necessary if the business is to compete successfully with other sporting estates." The overall intention is to offer bespoke accommodation, which would be of a standard that would attract and retain premium clients for the Estate's sporting business. Reference is made to the applicant's intentions to cater to the "most exclusive end of the holiday and leisure market" where guests expect all aspects of their visit to be taken care of to a very high standard. The overall package which would be offered to guests would include transport to and from the Estate, accommodation and service at the lodge, including high quality food and drink which the applicants hope may be possible to source either on the Estate or locally. The applicants concede that alternative accommodation is available in the local area, but refer to shooting parties requirements, which are often for exclusive occupation of an establishment. Reference is also made to the convenience of having guests accommodated within the body of the Estate on which their sporting activities would be undertaken. Security is another issue which is mentioned, where it is essential to have secure storage facilities available for guests guns and accessories when not in use. It is pointed out that the proposed sporting lodge would be equipped with a police approved gun room that would ensure a maximum level of security for all firearms.

11. The supporting information includes a section entitled 'benefits for the local economy' which are noted as being deliverable in the construction phase and subsequently when the lodge would be in use. The Estate currently provides a variety of employment, including one part time and four full time game keepers, a tractor man and a maintenance man, and also a part time administrative assistant and a part time fencer. It is anticipated that in addition to the current complement of staff, the proposed sporting lodge operations would generate further employment for three or four full time employees.⁶ Further economic benefits likely to derive from the development of the sporting lodge and associated sporting activities include attracting high spending clientele into the local area and the consequent beneficial impact on retail businesses; and the output of wild game from the Estate "which will help to sustain the reputation of the local area for the supply of high quality food."

⁶ Employment opportunities are likely to be derived from cleaning, cooking, garden maintenance and general guest care.

12. The information provided in support of the development proposal also includes particulars of the sporting and agricultural resource that exists on the Estate. The principal sport on the Estate has historically been grouse shooting. This still remains part of the focus of Estate operations, but there has also been substantial recent investment in pheasant shooting, and improvements are being undertaken in woodland planting and management in order to enhance pheasant shooting opportunities. It is intended that this will create the potential for continuous sporting parties on the Estate from early August through to the end of January. Other activities undertaken and currently being improved include deer stalking and fishing.⁷

DEVELOPMENT PLAN CONTEXT

National policy

13. **Scottish Planning Policy⁸ (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
- The constraints and requirements that planning imposes should be necessary and proportionate;
 - The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.
14. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should "operate in support of the Government's central purpose of increasing sustainable economic growth." Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that "the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places." Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
15. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the "aim is to achieve the right development in the right place."

⁷ Salmon fishing rights are available on the River Dulnain and fishing for brown trout and pike is available on Loch Alvie.

⁸ February 2010

16. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes 'subject policies', of which many are applicable to the proposed development. Topics include economic development, rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.
17. Economic development : planning authorities are required to respond to the diverse needs and locational requirements of different sectors and sizes of businesses and take a flexible approach to ensure that new economic opportunities can be realised. The planning system is expected to support development which will provide new employment opportunities, enhance local competitiveness and promote the integration of employment generation opportunities with supporting infrastructure and housing development.
18. Rural Development : **SPP** stresses the significant role that the planning system has to play in supporting sustainable economic growth in rural areas. "By taking a positive approach to new development, planning authorities can help to create the right conditions for rural businesses and communities to flourish" (para. 28). Development which provides employment and community benefits should be encouraged.
19. Although encouraging rural development, **SPP** is clear that the aim is not to see small settlements lose their identity or to suburbanise the Scottish countryside. The motivation is to maintain and improve the viability of communities and to support rural businesses. All new development would be expected to respond to the specific local character of the location, to fit into the landscape, and to seek to achieve high design and environmental standards, particularly in relation to energy efficiency.
20. Landscape and Natural Heritage : Improving the natural environment and the sustainable use and enjoyment of it is one of the Government's national outcomes. Planning authorities are required to support opportunities for enjoyment and understanding of the natural heritage. Para. 127 notes that "landscape in both the countryside and urban areas is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character." **SPP** recognises that different landscapes have different capacities to accommodate new development, and the siting and design should be informed by local landscape character.
21. Para.129 refers to the duties on all public bodies, including planning authorities, to further the conservation of biodiversity under the Nature Conservation (Scotland) Act 2004. The importance of biodiversity is highlighted, and recognised as an important element of sustainable development which makes an essential contribution to Scotland's economy and cultural heritage. Para. 130 refers to the benefits for people and nature that can be delivered through linking greenspaces in and around settlements through green networks.

22. There is an acceptance that landscape and natural heritage are sensitive to inappropriate development, but it is also acknowledged that careful planning and design can minimise the potential for conflict with natural heritage interests. Where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain, planning authorities are advised to apply the precautionary principle. It is however also stated that the precautionary principle should not be used to impede development unnecessarily, and modifications to a proposal which would eliminate the risk of irreversible damage should be considered.
23. National Parks are also discussed under the heading of national designations, and the four aims of the Park are outlined. Para. 138 advises “in circumstances where conflict between the objectives arises and cannot be resolved, the 2000 Act requires that the conservation of the natural and cultural heritage should take precedence.”
24. Protected Species are another sub-category mentioned within the Landscape and Natural Heritage section of the **SPP**. Many species are legally protected and their presence or potential presence is an important consideration in decisions on planning applications. The presence of Protected Species “rarely imposes an absolute block on development” but mitigation measures are often needed and the layout, design and timing of works may be affected. Para. 143 advises that planning permission must not be granted for development that would be likely to have an adverse effect on a European Protected Species, unless the planning authority is satisfied that
 - there is no satisfactory alternative; and
 - the development is required for preserving public health or public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment.
25. The topic of Trees and Woodland is discussed in paragraphs 146 to 148 of **Scottish Planning Policy**. The importance of ancient and semi-natural woodland is highlighted and reference is made to the need to protect and enhance it. The biodiversity value of other woodlands, hedgerows and individual trees is also mentioned, as is the significant contribution that such features can make to landscape character. The importance of connectivity between woodland habitats is also mentioned. Planning authorities are encouraged to seek opportunities where appropriate for new woodland creation and planting of native species in connection with development schemes. Tree Preservation Orders are noted as a means of protecting individual and groups of trees where they are considered important for amenity or because of their cultural or historic interest.
26. **Scottish Planning Policy** concludes with a section entitled ‘Outcomes’ in which it is stated that the “planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets.” Planning

authorities are required to be clear about the standard of development that is required. Quality of place not only refers to buildings, but also how the buildings work together as well as the relationships between buildings and spaces. Design is highlighted as an important consideration and planning permission may be refused solely on design grounds.⁹ Finally it is stated that the planning system should be “judged by the extent to which it maintains and creates places where people want to live, work and spend time.”

Highland Council Structure Plan (2001)

27. **Highland Council Structure Plan** is founded on the principles of sustainable development, which are expressed as –
- Supporting the viability of communities;
 - Developing a prosperous and vibrant local economy; and
 - Safeguarding and enhancing the natural and built environment.
- A variety of detailed policies emanate from the principles.
28. The Economy is discussed in a section in Chapter Two. It is noted that a major aspect of the Structure Plan strategy is to assist in the creation of small-scale economic activity to provide employment opportunities in rural areas. **Policy B7 (Business development in rural areas)** states that “small scale business development or extensions to existing indigenous industries will be encouraged in rural areas.” The Structure Plan also recognises that one means of achieving rural economic development is to maximise the use of the area’s natural resources and support diversification from traditional rural industries. **Policy B8 (Adding value)** states that the Council will encourage and support the development of small value adding enterprises where appropriate.
29. In a section on the Environment, the Structure Plan considers the topics of nature conservation, landscape and built and cultural heritage. Paragraph 2.13.2 sets out the fact that the policy for the protection of nature conservation interests follows a hierarchical approach of internationally important, nationally important and locally important areas. The existence of designations does not necessarily preclude development taking place within or affecting sites and even developments affecting international or national sites are possible if they are compatible with maintaining the features for which the sites are designated. The Structure Plan also highlights that the protection of the nature conservation resource cannot be achieved simply through the designation of sites, and some nature conservation interests are not confined to such sites. Consequently all development proposals are expected to be evaluated for their implications for nature conservation, both direct and indirect. Proposals should include justification for any adverse effects and set out remedial measures where appropriate.

⁹ Para. 256.

30. **Policy NI (Nature Conservation)** requires that new developments should seek to minimise their impact on the nature conservation resource and enhance it wherever possible. The Council will seek to conserve and promote all sites according to their hierarchy.
31. The Structure Plan also includes a section on biodiversity, defining it as “natural richness and diversity of nature – the range of habitats and species and the uniqueness of each and every organism.” Biodiversity is not the same as natural heritage, but is one of the key functional components. As a key part of the natural heritage of an area it is important to protect, and where possible enhance biodiversity and to monitor any change.
32. Section 2.14 of the Structure Plan deals with the subject of Landscape. It is recognised that landscape is not a static feature and that many forces bring about change in it, whether immediately or subtly over a number of years. **Policy L4 (Landscape Character)** states that the Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals.
33. **Policy G2 (Design for Sustainability)** states that developments will be assessed on the extent to which they, amongst other things make use of brownfield sites, existing buildings and recycled materials; are accessible by public transport, cycling and walking as well as car; are compatible with service provision; demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environments; and contribute to the economic and social development of the community.
- Badenoch and Strathspey Local Plan (1997)**
34. The Badenoch and Strathspey Local Plan (1997) sets out a number of objectives for the development of the area, including :
- accommodating projected further population growth;
 - ensuring services keep pace with the expected increase in dependent social groups;
 - giving priority to increasing local jobs, while improving the quality and durability of employment and broadening the area’s economic base;
 - ensuring that sufficient stocks of housing land are available;
 - safeguarding all significant aspects of the natural and cultural heritage of the area, including outstanding landscape and conservation sites; and
 - promoting the sustainable use of the area’s resources.
35. A range of general policies contained in the Badenoch and Strathspey Local Plan are applicable to the development proposal. Under the heading of **Employment – Economic Development**, section 2.2.1(a) states that the Council will continue to encourage and attract new economic development where this is consistent with the maintenance of a clean environment. The Local Plan also includes a specific policy on Sporting Interests (section 2.2.2) which states that “the Council will encourage measures to develop angling,

game shooting and deer stalking which do not adversely affect the appearance or other uses of the countryside.”

36. The proposed site straddles two different Local Plan housing policy areas. Part of the site is on land which is identified as a General Countryside Area, where policy states that single houses outwith recognised settlements will normally be acceptable, subject to (a) the suitability of access; (b) availability of essential services; (c) generous spacing from adjoining development to ensure appropriate standards of amenity and privacy; and (d) concurrence with the principles of good siting, design and appropriate landscaping. The second housing policy area covering part of the proposed site is the Restricted Countryside Area, where policy indicates that a strong presumption will be maintained against the development of houses in such areas. Exceptions will only be made where a house is essential for the management of land, related family and occupational reasons. Restrictions on the subsequent occupancy of such houses will be enforced. In addition, adherence to the principles of good siting and design will be required.

Cairngorms National Park Local Plan – Post Inquiry Modifications

37. The CNP Deposit Local Plan was considered at a Public Local Inquiry in June 2009. Following this and the subsequent receipt of the DPEA¹⁰ Report, various post inquiry modifications were made. The post inquiry modifications have recently been agreed by the Board of the CNPA and a 6 week period of consultation is on-going at the present time. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
- Chapter 3 - Conserving and Enhancing the Park;
 - Chapter 4 - Living and Working in the Park;
 - Chapter 5 - Enjoying and Understanding the Park.
38. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with the policies in the Local Plan, are intended to meet the sustainable development needs of the Park for the Local Plan’s lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the development proposal.
39. **Policy 2 National Natural Heritage Designations** advises that development that would adversely affect the National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that
- (a) The objectives of designation and the overall integrity of the designated area would not be compromised; or

¹⁰ Directorate for Planning and Environmental Appeals

- (b) Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.
40. **Policy 4 Protected Species** advises that development that would have an adverse effect on any European Protected Species will not be permitted unless there are imperative reasons of overriding public interest and there is no satisfactory alternative solution and the development would not be detrimental to the maintenance of the population of the species concerned.
41. The topic of **Biodiversity** is addressed in **Policy 5**, where development which would have an adverse effect on habitats or species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, will only be permitted in certain circumstances. Circumstances include where the developer can demonstrate that the need and justification for the development outweighs the local, national or international contribution of the area of habitat or populations of species.
42. **Policy 6 Landscape** refers to a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular, the setting of the proposed development. Development which does not accord with this will only be permitted where the adverse landscape effects are outweighed by social and economic benefits of national importance and where the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
43. The subject of **Housing Developments Outside Settlements** is dealt with in **Policy 22**. Under the heading of 'Other housing outside settlements' it is indicated that such housing will only be permitted where
- (a) The accommodation is for a worker in an occupation appropriate to the rural location; or
 - (b) The dwelling is for a retiring farmer or crofter; or
 - (c) The development is sited on rural brownfield land.
44. **Policy 25** relates to **Business Development** and states that proposals which support economic development will be considered favourably where the proposal is compatible with existing business uses in the area, supports or extends an existing business, is located within an allocated site identified on the proposals maps, or where certain criteria are met. Criteria applicable to the current development proposal comes under part (c) Other business opportunities, with the criteria including
- (a) Supports the vitality and viability of a farm, croft or other business in a rural location; or
 - (b) Is complementary to that current rural business activity; or
 - (c) Creates new small scale development which supports the local economy.

Cairngorms National Park Plan (2007)

45. The Cairngorms National Park Plan sets out the vision for the park for the next 25 years. The plan sets out the strategic aims that provide the long term framework for managing the National Park and working towards the 25 year vision. Under the heading of 'conserving and enhancing the special qualities' strategic objectives for landscape, built and historic environment include maintaining and enhancing the distinctive landscapes across the Park, ensuring that development complements and enhances the landscape character of the Park, and ensuring that new development in settlements and surrounding areas and the management of public spaces complements and enhances the character, pattern and local identity of the built and historic environment.
46. Under the heading of 'Living and Working in the Park' the Plan advises that sustainable development means that the resources and special qualities of the national park are used and enjoyed by current generations in such a way that future generations can continue to use and enjoy them. Section 5.2.3 of the Park Plan acknowledges that tourism is one of the primary forms of employment in the Park, although many jobs in this and other sectors are highly seasonal and with little long term security. Strategic objectives for economy and employment include creating conditions that are conducive to business growth and investment that are consistent with the special qualities of the Park and its strategic location and the promotion of green business opportunities. Section 5.3 of the Plan concerns 'enjoying and understanding the park' noting that the Cairngorms National Park is known for its outstanding environment and outdoor recreation opportunities and advises that the vision for the Park seeks to "go further and develop a world class destination which plays a significant part in the regional and national tourism economy." Strategic objectives for sustainable tourism include : -
- raising awareness of the Park as a premier, year round, rural tourism destination;
 - recognising its outstanding natural heritage and its National Park status;
 - improving and maintaining the quality of the experience of the Park for all visitors, communities and those working in the tourism industry;
 - maintaining a high quality environment by encouraging sound environmental management by all those involved in tourism in the Park;
 - developing a wide range of opportunities for visitors to experience and enjoy the special qualities distinctiveness and natural and cultural heritage of the Park; and
 - encouraging an optimum flow and spread of visitors across the Park and minimising the social and environmental impact including traffic generated by visitors and conflicts between different forms of recreation.

CONSULTATIONS

47. **Scottish Water** has no objection to the planning application. It is however noted in the consultation response that a Development Impact Assessment should be submitted to Scottish Water, in order to allow the opportunity to assess the impact of the new demand generated by the proposed development on existing infrastructure.¹¹
48. **SEPA** originally objected to the proposal due to a lack of information on drainage details and the proposed development of ponds. Additional information was subsequently submitted enabling **SEPA** to withdraw the objection. In terms of the development of ponds the most recent response states that **SEPA** supports proposals to improve habitat diversity in the area, and notes that this is the main function of the proposed ponds. **SEPA** recommend that a planning condition is attached in the event of the granting of planning permission, requiring the provision of a Construction Method Statement for the formation of the ponds. The statement is required to make particular reference to measures to be taken to ensure that there is minimal interference with the free flow of any existing watercourses, and that there is no pollution of watercourses during the construction of the ponds and the overall sporting lodge development. The consultation response indicated that there was no objection to the proposed sewage treatment.
49. **Transport Scotland** was consulted on the proposal and there is no objection.
50. Highland Council's **TEC Services** division have examined the development proposal and note in the response that **TEC Services** interest in the application relates largely to the point of access from the B9152 public road. A number of conditions pertaining to this access point are recommended to be attached in the event of the granting of planning permission. Conditions include a requirement to achieve the required visibility splays, and the upgrading of the surfacing of the existing access for the first 6 metres from the edge of the public road. It is also suggested that the access road serving the proposed site should be upgraded in order to ensure that large emergency vehicles could readily access the new property. Alternatively emergency access directly off the A9 trunk road should be made available.
51. The proposal has been assessed by Highland Council's **Archaeology Section** and the response notes that the development lies within a wider area where significant archaeological and historical remains are recorded. The application area is considered to have moderate to high potential for the survival of further buried archaeological remains. Consequently it is advised that mitigation for the preservation (by record or in situ) of both the recorded and the potential archaeological sites should be considered. It is recommended, in the event of the granting of planning permission, that a condition is included, requiring that a programme of work for the evaluation, preservation and recoding of any archaeological and historic features is

¹¹ This process is between Scottish Water and the developer and is entirely separate from the planning application process.

agreed with the Planning Authority prior to the commencement of development.

52. Highland Council's **Forestry Section** assessed the application and noted in the original consultation response that the birch woodland to the north of the site of the lodge and the oak woodland to the north of the proposed new section of access track are all listed on the Ancient Woodland Inventory as Ancient Semi-Natural Origin Woodland. The woodland areas are considered to be of national importance and it is recommended that they are safeguarded from development. Proposals to plant new areas of trees and to enrich areas of woodland were all welcomed, although it was noted that much of the planting is proposed to occur outside the identified site boundaries and some concern was therefore raised regarding the practicalities of requiring this work to be undertaken by way of a condition attached to any planning permission that might be granted.¹²
53. Other issues of concern which were raised in the initial response from Highland Council's **Forestry Officer** included the potential removal of trees at the junction of the access drive with the B9152, which would arise from the construction of the proposed new drystone dyke entrance; the proposed formation of a pond to the north of the A9 resulting in the removal of a number of semi-mature, riparian birch and willow; the proposed new section of access track passing close to mature stands of oak and aspen and consequent concern regarding the impact on the roots of the trees; and general concern regarding a lack of arboricultural detail contained in the originally submitted documentation.¹³
54. Additional information was provided in response to the points raised by the **Forestry Section** of Highland Council, including an amended site plan, landscape master plan and a written response from the applicant. Various amendments were made to the proposals to address the concerns of the **Forestry Officer**, including providing confirmation of the specific trees that would require to be removed in the vicinity of the entrance off the B9152 at Ballinluig Cottage; a reduction in size and modification in the shape of one of the ponds in order to better fit the topography and minimise the impact on trees in the vicinity; and clarification that the new section of access drive would be set a minimum of 5 metres from the existing field boundary fence and would be clear of the root protection zones of the woodland edge trees. The information provided has been considered by the **Forestry Officer** and it has been confirmed that there is no objection to the planning application, subject to the inclusion of conditions in the event of the granting of planning permission. The recommended conditions include a requirement to provide a tree protection plan and an amended landscaping plan.

¹² The various landscaping works would all occur on land which is within the ownership of the applicants, as identified by the 'blue line' on the Location Plan submitted with the planning application.

¹³ Details have been provided in information subsequently submitted that a total of 10 trees would require to be felled at the Ballinluig Cottage entrance off the B9152; 5 trees would require to be felled to accommodate the new drive approach within the glacial mounds to the west of the proposed lodge; and a total of 26 trees (5 of which are dead) would require to be felled in the area immediately behind the proposed sporting lodge.

55. The response from **Kincraig and Vicinity Community Council** notes that the development is 'not a run of the mill' proposal, but that the site lies well back from the A9 and will only be visible at a distance, from the Cairngorms and "in that sense it will be no different from many existing estate lodges."
56. **Aviemore and Vicinity Community Council** was also consulted and noted that it was satisfied with the planning application and had no further comment to make.
- CNPA Internal Consultations**
57. The CNPA's **Economic Development Officer** welcomes the proposed new lodge, noting that sporting activities are a vital part of the Park's economy. The importance of on site, quality accommodation as part of the overall package that would be offered by this sporting estate is acknowledged. The **Economic Development Officer** also makes reference to job opportunities that would arise from the development, as well as the economic contribution to the local area that would result from affluent clients visiting. The consultation response concludes that the proposed development "draws on the National Park Plan, and clearly supports the Tourism and Business Priorities for Action."
58. One of the CNPA's **Access Officers** assessed the proposal and notes in the consultation response that public access to Loch Alvie has been poor in the past as a result of lack of facilities and management style by the previous estate. The response makes reference to a route through the proposed site for mountain bikers, which is promoted in "The Wild Trails" publication. The route comes down a path from the summit of Creag Ghteanain, through Ballinluig Farm and utilises an existing underpass before exiting onto the B9152 near the Rowan Tree Country Hotel. The development proposal is considered to have some benefit for access users, as it includes resurfacing of an existing track. However, the **Access Officer** expresses concern regarding the proposed new gate at Ballinluig Cottage,¹⁴ commenting that any locked gate in this position would effect the entire track and would be a barrier to access under the Land Reform (Scotland) Act. It is therefore recommended that provision, in the form of a gap between 1.5 and 2 metres wide, be made at the side of the gate, in order to allow continued non vehicular access.
59. Following the CNPA's recent consideration of the proposed route of the Speyside Way Extension, the access team further considered the development proposal and confirmed that the matter of the Speyside Way Extension is not a factor in the context of this application.
60. The CNPA's **Landscape Officer** was involved in extensive pre-application discussions on the development proposal. While the proposed sporting lodge was considered to be significant in scale, there was no objection to the development concept.

¹⁴ At the junction of the access track with the B9152 (Aviemore – Kincraig Road).

61. The proposal has also been considered from an ecological perspective and the CNPA's **Ecology Officer** and it is recommended in a recent consultation response that a mammal survey and phase I notable plant survey be undertaken of the proposed new section of access track and the proposed house site, including a 50m buffer zone. It is not anticipated that the proposed sporting lodge footprint would present any difficulties and the **Ecology Officer** notes that it is essentially an improved grassland field which is currently used as grazing. Reference is however made to the possibility that the area of woodland and scrub to the rear of proposed lodge site, as well as the wooded embankment at the foot of the proposed new section of access track, may be suitable for badgers.

REPRESENTATIONS

62. The planning application was advertised in the Strathspey and Badenoch Herald on 2nd December 2009. One letter of representation has been received, from Professor Michael Garraway of Druim Mhor, Loch Alvie. The representees main concern is in relation to access arrangements and how they may impact on his residence, Druim Mhor, which is a freehold property, surrounded by the applicants landholding. Reference is made in the representation letter to the creation of an entrance off the B9152, and there is concern as to whether or not this would be a controlled access and the potential impact this may have on access to Druim Mhor. It is also queried how heavy lorries and other machinery would access the site of the proposed shooting lodge.
63. CNPA comment : It is understood that the representee has the benefit of access rights on the existing drive from the B9152 to the property which he owns at Druim Mhor. It has been confirmed by the applicants agent that this access provision would continue to be provided to Druim Mhor, and any new gates which would be installed would be automatic, opening at the presence of any vehicle (without a requirement for any personal operating mechanisms, fobs etc.). It is therefore considered that the access issues raised have been satisfied from the point of view of planning. Any other queries which the representee may have in relation to access arrangements may be more appropriately considered a civil matter and it may be more beneficial for the matter to be discussed directly between the representee and the applicants.
64. The applicants' agents have also confirmed that construction traffic would access the main site area from the existing Lynwilg / Ballinluig Farm junction off the A9. The access drive around by Loch Alvie would not be suitable or practical for use by heavy vehicles as it would necessitate using the relatively low level underpass, under the A9.

APPRAISAL

65. There are a variety of issues to consider in the assessment of this planning application, including existing and emerging planning policy, the justification for the proposed sporting lodge in the context of the relevant planning policy, design and siting, access provision and consideration of a development of the nature proposed in the context of the aims of the National Park.
66. Firstly in terms of planning policy, as detailed in paragraphs 13 – 26, national policy, in the form of the Scottish Government's **Scottish Planning Policy** seeks to encourage sustainable economic growth, including in rural areas. The proposal to build a high quality sporting lodge in order to enhance the sporting business of this Highland estate accords with the provisions of the **SPP**, as it allows an economic development opportunity to be realised and would also provide employment, as well as having the potential to deliver economic benefit to the wider area. In terms of landscape and natural heritage, it is accepted in the **SPP** that different landscapes have different capacities to accommodate new development. In considering the capacity of the landscape to accommodate the proposed development, the substantial scale of the sporting lodge cannot be ignored. However, an examination of its proposed siting demonstrates that the landscape can accommodate a building of this nature. It would be sited to reveal only limited views of the new structure from much of the surrounding area, including from the A9 trunk road to the south. Its siting on level ground, concealed from the south by the natural form of the land and with the hills to the rear also forming a backdrop, all combine to provide acceptable opportunities to assimilate the lodge into the landscape. In addition, as noted in supporting documentation, the overall lodge design and siting would reflect the pattern of development of adjacent estate houses.
67. In terms of Structure Plan and Local Plan policies (as detailed in paragraphs 27 – 44 of this report, relating to Highland Council's Structure Plan, the existing Badenoch and Strathspey Local Plan (1997) and the emerging policies in the Cairngorms National Park Local Plan (Post Inquiry Modifications)), the development proposal has been considered in the context of business development policies rather than housing policies. The proposed sporting lodge is not proposed as a permanent residence, but is instead proposed in order to provide accommodation to assist in the operation of the estate for sporting purposes. A detailed case has been advanced in support of this, including shooting and stalking records, details of the number of existing employees and their duties in running the estate, and reference to on-going woodland management schemes. A clear case has been set out for the need for a lodge to accommodate sporting guests on the estate. The lodge would , provide an efficient means to further expand the business and enhance its operation as a sporting estate through the provision of high quality accommodation facilities for guests. Supporting documentation also refers to various other estates within and close to the Cairngorms National Park which offer similar sporting packages and it is pointed out that they all have

the benefit of operating with sporting lodge accommodation.¹⁵ On the basis of the details provided, it is clear that the proposed development of a new sporting lodge on this estate accords with Structure Plan policy on Business Development in rural areas (**policy B7**), and with existing Local Plan policy regarding Employment – Economic Development, where section 2.2.2 of the Local Plan specifically refers to Sporting Interests and encourages measures to develop such sporting activities.

68. The development proposal is also consistent with emerging policy, as detailed in the Cairngorms National Park Local Plan (Post Inquiry Modifications). The CNP Local Plan process is now at such an advanced stage that the policies have gained increasing materiality. The development proposal accords with **Policy 25** on Business Development, which is favourable towards development which is complementary to current rural business activity, as well as being consistent with landscape policies.
69. In finding the development proposal acceptable in the context of policies relating to economic development and business activity, it is considered necessary to ensure that the proposed sporting lodge would be maintained for the purposes for which it is proposed i.e. to assist in the operation of the estate for sporting activities. In order to ensure this, it is recommended in the event of consideration being given to the granting of planning permission that the applicants would be required to enter into a legal agreement, restricting the sale (or any other form of disposal) of the sporting lodge separate from the estate lands. It is understood that the applicants are amenable to such a restriction. In addition, it is recommended that a condition be imposed on the planning permission stipulating that the lodge would be used for purposes connected with the operation of the Estate as a sporting estate.
70. In considering the design of the sporting lodge and its proposed siting, as well as the related infrastructural and ancillary works and landscaping, it is necessary to assess the landscape and natural heritage implications. As already alluded to, the sporting lodge is substantial in scale. Nonetheless, it has been designed to have a classical appearance in an effort to reflect the traditions of estate houses of former eras. The proposed siting would result in the structure being relatively discreetly located amidst the existing natural landforms. As detailed earlier in this report, the CNPA's Landscape Officer had engaged in detailed pre-applications discussions and had no objection from a landscape perspective. The proposed new section of access track is proposed to be created along the edge of open pastureland, close to a wooded embankment. While it would introduce a new feature into a relatively open landscape, proposals have been included to introduce new tracts of woodland planting at various points, which would be of assistance in minimising the impact of the new drive. Other natural heritage matters arising from a recent ecology response could be addressed by way of a condition attached to any planning permission granted, requiring that the necessary surveys are undertaken prior to the commencement of

¹⁵ Examples cited include Dorback, Ardverikie, Kinveachy, Alvie and Rothiemurchus.

development and that any amendments which may be deemed essential are made to the line of the proposed new section of the access drive or position of the dwelling house in order to ensure the protection of any mammals or other features of interest in the vicinity.

71. In conclusion, the proposed development is acceptable. It accords with planning policy, and does not raise any significant issues in terms of landscape impact and the conservation of the natural heritage of the area. Various planting measures and the creation of ponds / lochans are also proposed and such features could be considered as providing opportunities to enhance the natural heritage of the area. It has also been demonstrated that it would contribute towards the economic development of the area. Finally, having regard to the combination of benefits likely to result from the development, it is considered that the proposal displays consistency with the strategic aims of the Cairngorms National Park Plan.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

72. Although the proposed sporting lodge is of a significant scale, its siting within grazed grassland, and in a relatively well screened location, with the existing landforms providing a natural backdrop, would not give rise to adverse landscape impacts. In addition, the proposal also includes a variety of landscaping measures, which would result in the creation of new pond formations, the strengthening of existing tree groups and the provision of new areas of planting, all of which would assist in assimilating the development into its proposed setting and would also be of benefit in enhancing the natural heritage of the area.
73. The proposal to create a classically designed sporting lodge may also be considered consistent with cultural traditions of sporting estates in the area.

Promote Sustainable Use of Natural Resources

74. Details have not been provided on the source of the materials which are proposed to be utilised in the development proposal.
75. The development includes the installation of ground source heat pumps. In addition, it is also intended in the future to develop a micro hydro scheme, although this would be the subject of a separate planning application and would be assessed on its own merits.

Promote Understanding and Enjoyment of the Area

76. The proposed sporting lodge would provide opportunities for guests of the facility to understand and enjoy the area. In a wider sense, the actual development would not provide any direct benefits to the general public. The sporting lodge has however been designed and sited to ensure that its visual and landscape impact is minimised, and to reflect the classical appearance of similar estate properties which are accepted features of the

landscape of the general area. It would not therefore detract from the general public's enjoyment of the visual amenities of the area.

Promote Sustainable Economic and Social Development of the Area

77. A case has been advanced for the need for the sporting lodge in conjunction with the operation of the Estate for sporting purposes. In addition to economic benefits which may be generated by employment generation during the construction of the development, it would also provide employment opportunities in the longer term. The nature of the development also has the potential to attract affluent guests, which would in turn has the potential to result in increased economic spend in the local area.

RECOMMENDATION

That Members of the Committee support a recommendation **Grant planning permission for the erection of a sporting lodge, new access road, landscaping including formation of ponds and gateway features at land 290 metres north of Ballinluig Farm, Aviemore, subject to**

(a) the completion of a S75 Legal Agreement restricting the sale, lease or any other form of disposal of the proposed sporting lodge separate from the estate lands; and

(b) subject to the following conditions : -

1. The development to which this permission relates must be begun within three years from the date of this permission.

Reason : To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 or amended by the Planning etc. Scotland Act 2006.

2. The lodge shall be used for purposes connected with the operation of the Estate (the extent of which is identified on the Location Plan, ref. 1951, dwg. no. 7) as a sporting estate.

Reason : In accordance with the application detail and to ensure that in accordance with the social and economic development aim of the Cairngorms National Park the lodge is used in connection with operation of the estate for sporting purposes.

3. Prior to the commencement of development, a mammal survey and phase I habitat and notable plant survey shall be undertaken along the extent of the proposed new section of access track and on the lodge site, including within a 50 metre buffer zone. The surveys shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority. No work shall be undertaken until the surveys have been verified and where necessary agreement has been reached on any modifications to the position of the sporting lodge and / or the line of the proposed access track. All works shall thereafter be undertaken in accordance with the agreed measures.

Reason : In the interests of ensuring that natural heritage interests in the area are appropriately protected.

4. Prior to any works starting in connection with the development the following works shall be completed and approved by the Cairngorms National Park Authority acting as Planning Authority, in conjunction with Highland Council as Roads Authority –
 - (a) the existing access shall be upgraded such that construction for at least the first 6 metres measured from the nearside edge of the public road shall consist of 40mm thick Close Graded Wearing Course on 60mm Dense Basecourse on 350mm thick Type I sub base all on a sound formation;
 - (b) visibility splays shall be provided and maintained on each side of the shared access to the site. These splays are the triangles of ground bounded by the first 3.0 metres along the centreline of the access (the X dimension) and the nearside edge of the main road (the Y dimension) measured at least 150 metres in each direction from the intersection of the access with the main road;
 - (c) within the visibility splays nothing shall obscure the visibility between a driver's eye height of 1.0 metre positioned at the X dimension and an object height of 1.0 metre anywhere along the Y dimension;
 - (d) any gates provided shall open inwards and shall be set back at least 25 metres from the nearside edge of the main road;
 - (e) no water shall discharge onto the public road and the applicant shall be responsible for any measures necessary to prevent road water entering the proposed site. Such measures shall be to the satisfaction of the CNPA acting as Planning Authority, in conjunction with Highland Council as Roads Authority.

Reason : In the interests of traffic safety and to ensure that all vehicles may enter and leave the site safely at all times.

5. Prior to the commencement of development detailed specifications for all works proposed in the formation of the new section of access drive, as well as all upgrading and / or realignment details on existing sections of the access drive, within and outwith the identified site boundaries, shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority. All agreed works shall be implemented in full thereafter.

Reason : In order to control and regulate the nature of development.

6. Prior to the commencement of development, details shall be provided for the written agreement of the Cairngorms National Park Authority acting as Planning Authority, in consultation with the Forestry Section of Highland Council, of appropriate tree protection measures for every retained tree, before and for the duration of construction of the development. The tree protection measures shall accord with BS : 5837 (2005) and shall include fencing which is fixed to the ground outwith the root protection area and crown spread. All agreed protection measures shall be implemented in full thereafter and retained for the duration of construction activity.

Reason : In order to ensure that adequate protection is afforded to trees in the vicinity of the development site.

7. No trees shall be uprooted, lopped, topped, felled or damaged without the prior written consent of the Cairngorms National Park Authority acting as Planning Authority, in conjunction with the Forestry Section of Highland Council.

Reason : In order to conserve the natural heritage of the area.

8. For the avoidance of doubt no reconstituted stone shall be used on the exterior of the sporting lodge. All areas of the sporting lodge on which reconstituted stone was proposed shall instead be finished in natural stone. Prior to the commencement of above ground construction works a sample of the natural stone shall be provided for the written agreement of the Cairngorms National Park Authority acting as Planning Authority and the agreed stone shall be utilised thereafter.

Reason : In the interests of the visual amenity of the area and in order to enhance the character of the sporting lodge.

9. Prior to the commencement of above ground construction works samples of window frames, roofing and all external wall materials shall be submitted to and approved by the Cairngorms National Park Authority acting as planning authority. All agreed materials shall be utilised in the construction thereafter.

Reason: To ensure that the detailed finishing materials are appropriate for the building and its setting.

10. Prior to the commencement of development, a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development, including a timetable for the investigation, all in accordance with the attached specification, shall be submitted to and agreed in writing by the Cairngorms National Park Authority acting as Planning Authority, in consultation with the Archaeology Section of Highland Council. The agreed proposals shall be implemented in accordance with the agreed timetable for investigation.

Reason : In order to protect the historic interest of the site.

11. In conjunction with the provision of a new access gate at the junction of the access drive and the B9152 public road, a gap between 1.5 and 2 metres wide shall be provided at the side of the gate, in order to allow for non vehicular access. The gap shall be kept free of obstruction at all times.

Reason : In order to ensure that adequate freedom of access is maintained and in accordance with the third aim of the National Park, to assist the general public in enjoying and understanding the special qualities of the area.

12. Prior to the commencement of development a Construction Method Statement for the formation of the ponds shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority, in conjunction with SEPA. The Construction Method Statement shall ensure that there is minimal interference with the free flow of any existing watercourses, and no pollution of the watercourses during construction of the ponds and the overall Sporting lodge development. All works thereafter shall be undertaken in accordance with the agreed measures.

Reason : To ensure that all watercourses are appropriately protected during the construction process.

13. Prior to the commencement of development, an amended landscaping plan shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority. The landscaping shall be implemented and maintained in accordance with the approved plan. The plan shall include details of the siting, numbers, species (which shall be appropriate to the rural setting) and heights (at the time of planting) of all trees, shrubs and hedges to be planted shall ensure:-

(a) Completion of the scheme during the planting season next following the completion of the development, or such other date as may be agreed in writing with the CNPA acting as Planning Authority.

(b) The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the CNPA acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason : In the interests of protecting the visual amenity of the area and in order to enhance the natural heritage of the area.

14. All public services for the development, including electrical, cable television and telephone cables, shall be located underground throughout the site.

Reason : In the interests of minimising the visual impact of the development.

Advice notes :

1. Prior to any work of excavation or surfacing starting within 2 metres of the public road edge a road opening permit shall be obtained from the Roads Authority.
2. The applicants are advised to contact Scottish Water to discuss the extent of information required in support of any application for connection to the public water supply.

Mary Grier

planning@cairngorms.co.uk

16 June 2010

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 Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.