

CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Erection of 21no dwellings at Nethy Bridge Station Yard Station
Road Nethy Bridge

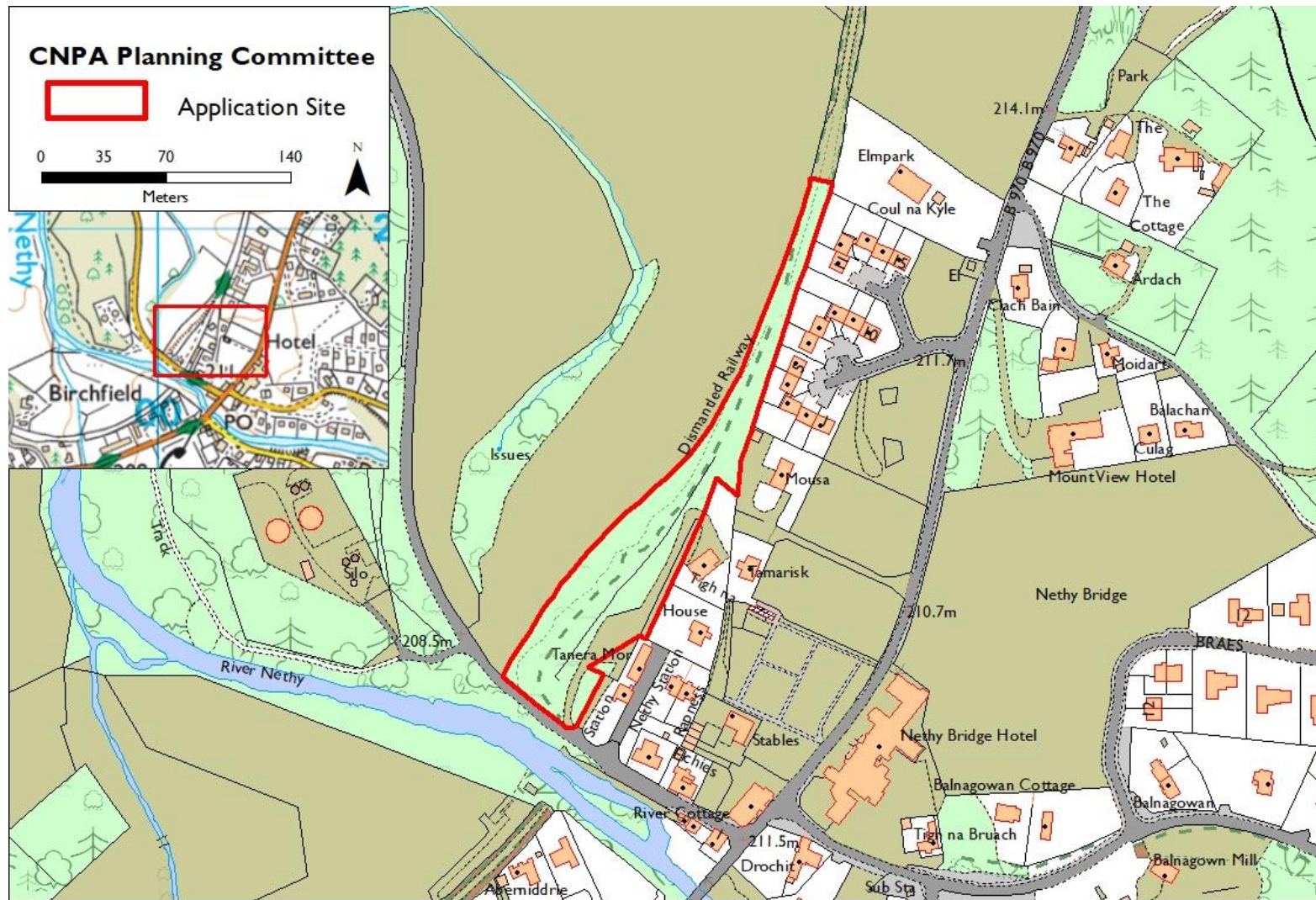
REFERENCE: 2022/0305/DET

APPLICANT: AW Laing

DATE CALLED-IN: 3 October 2022

RECOMMENDATION: Refuse

CASE OFFICER: Emma Bryce – Planning Manager



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SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The application site lies on the western edge of Nethy Bridge and covers an area of approximately 0.8 hectares. The brownfield site was a former railway station and yard and is bounded by agricultural land to the north and west, residential properties to the east and Station Road to the south, with the River Nethy (which is part of the River Spey SAC) flowing beyond, parallel to the road. The Speyside Way runs along the eastern boundary of the site.

Proposal

2. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:

<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RIXB8QSI0C100>

Title	Drawing Number	Date on Plan*	Date Received
PLANS			
Plan – Location Plan	002	01/09/22	03/10/22
Plan - Site Layout Plan	124871/1001	10/05/22	26/05/23
Plan - Site Layout - 21 Units	Rt14_D_90_ 104	01/06/22	10/02/23
Plan - Proposed Site Cross Sections	124871/8001	06/09/22	26/05/23
Plan - Detached Elevations/ Plans	1690 BT1_00_100	01/08/22	03/02/23
Plan - Semi Detached Elevations/Plans	1690 BT2_00_100	01/08/22	03/02/23
Plan - Detached Garage Details	1690 BT1_00_100		16/01/23
Plan - Proposed Roads Layout 1/2	124871-PC-1002	09/05/22	26/05/23
Plan - Proposed Roads Layout 2/2	124871-PC-1003	05/09/22	26/05/23
Plan - Access Layout	124871-PC-1004	09/05/22	06/03/23
Plan - Roads Longitudinal Sections 1/2	124871/1005	10/05/22	03/10/22

Plan - Typical Road Construction Details	124871-PC-1015	09/05/22	06/03/23
Plan - Proposed Drainage Layout 1/2	124871/2001	11/05/22	06/03/23
Plan - Proposed Drainage Layout 2/2	124871/2002	11/05/22	06/03/23
Plan - Typical Drainage Construction Details 1/2	124871-PC-2015	09/05/22	06/03/23
Plan - Typical Drainage Construction Details 2/2	124871-PC-2016	09/05/22	06/03/23
Plan - Speyside Way Diversion Strategy	1690 Rt14_D_90_10	01/01/23	02/02/23
Plan - Roads Longitudinal Sections 2/2	124871/1006	10/05/22	06/03/23
SUPPORTING DOCUMENTATION			
Other - Drainage Impact Assessment		01/09/22	03/10/22
Other - Flood Risk Assessment		01/03/21	18/10/22
Other - Protected Species Scoping Survey		31/01/21	16/01/23
Other - Content, Design And Location Fingerposts			02/02/23
Other - Intermediate Waymarking			02/02/23

*Where no specific day of month has been provided on the plan, the system defaults to the 1st of the month.

3. The application seeks permission for a residential development of 21 affordable homes with associated infrastructure. The proposal is for 3, three bedroom detached properties, 9, three bedroom semi-detached properties and 9, two bedroom semi-detached properties. The dwellings will be two storeys, finished in white rendered blockwork and timber effect cladding. Windows will be aluminium clad timber and roof areas will be clad in slate. Rainwater goods will all be uPVC.

4. The site will be accessed via Station Road. The layout proposes a spine road with houses to either side with two small turning heads, one to the northwest and one at the northeast end where the site terminates. A SuDS pond / basin will be located to the south east of the site adjacent to the entrance. The Speyside Way will be realigned to accommodate the development and will follow the proposed footway from the north of the site through to the Station

Road junction. In terms of drainage, roof run-off will be via down pipes into a surface water sewer and surface water drainage for plots will be captured by a series of road gullies and drained into the surface water sewer which will discharge into the detention basin. A flow control device will monitor the discharge rate into the river. Plots 14 – 16, which lie at the north end of the site, off the proposed unadopted road, will be drained into a private soakaway. All remaining areas, such as footways and gardens, will be free draining or comprise permeable surfaces.

5. Plans of the proposals are included in **Appendix 1**.
6. The following information has been submitted in support of the application:
 - a) Drainage Impact Assessment;
 - b) Flood Risk Assessment;
 - c) Protected Species Scoping Survey;
 - d) Speyside Way Diversion Strategy, Intermediate Waymarking and Fingerpost Details.

History

7. 14/01529/S42 – Application for Section 42 to vary time on application 07/00231/FULLBS for a further year – planning permission granted 19/05/2014.
8. 07/00231/FULBS – Erection of bunkhouse – planning permission granted 17/04/2009.
9. 04/318/CP and 10/380/CP – Erection of Visitor Centre (including craft workshops, retail, and cafeteria), 6 no. dwellinghouses and garages and associated access road and parking areas – planning permissions granted 17/11/2005 and 14/01/2011. The second permission was started in 2011 and remains a live consent.

HABITATS REGULATIONS APPRAISAL

10. A Habitats Regulations Appraisal [HRA] has been undertaken to consider the effects of the proposals upon the conservation objectives of the Natura Sites as listed within the document attached at **Appendix 2**.
11. The HRA identifies that there is the potential for impacts to the River Spey SAC, Abernethy Forest SPA and Craigmore Wood SPA due to potential pollution, disturbance during the construction stage and long term disturbance as a result of the potential increase in recreation in areas utilised by capercaillie. However, it is concluded that any adverse impacts to the site

integrity of the River Spey SAC can be avoided by the provision of an approved Pollution Prevention Plan. There will be no adverse effects to the site integrity of Abernethy Forest SPA and Craigmore Wood SPA given the high level of recreational use and the unlikely impact the occupants of the development will have (see Annex 1).

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	National Planning Framework 4 (NPF4) Scotland 2045	
POLICY 1	Tackling the climate and nature crises	
POLICY 2	Climate mitigation and adaptation	
POLICY 3	Biodiversity	
POLICY 4	Natural places	
POLICY 9	Brownfield, vacant and derelict land, and empty buildings	
POLICY 14	Design, quality and place	
POLICY 15	Local living and 20 minute neighbourhoods	
POLICY 16	Quality homes	
POLICY 17	Rural homes	
POLICY 20	Blue and green infrastructure	
POLICY 22	Flood risk and water management	
POLICY 29	Rural development	
Strategic Policy	Cairngorms National Park Partnership Plan 2022 – 2027	
Local Plan Policy	Cairngorms National Park Local Development Plan (2021) Those policies relevant to the assessment of this application marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	X
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	DESIGN AND PLACEMAKING	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	OPEN SPACE, SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	X
POLICY 11	DEVELOPER OBLIGATIONS	X

12. All new development proposals require to be assessed in relation to policies contained in the adopted Development Plan which comprises National Planning Framework 4 (NPF4) and the Cairngorms National Park Local Development Plan 2021. The full wording of policies can be found at:

<https://www.gov.scot/publications/national-planning-framework-4/documents/>

and at:

<https://cairngorms.co.uk/wp-content/uploads/2021/03/CNPA-LDP-2021-web.pdf>

Planning Guidance

13. Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	Housing Supplementary Guidance	X
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Design and Placemaking Non-Statutory Guidance	X
Policy 4	Natural Heritage Non-Statutory Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X
Policy 7	Renewable Energy Non-Statutory Guidance	
Policy 8	Open Space, Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	X
Policy 11	Developer Obligations Supplementary Guidance	X

CONSULTATIONS

Summary of the Main Issues Raised by Consultees

14. **Scottish Water** has no objection to the proposed development but suggest the applicant completes a Pre-Development Enquiry (PDE) form ensuring the development can be serviced. There is currently sufficient capacity in the Aviemore Water Treatment Works to service the proposed development. There is also sufficient capacity in the Nethy Bridge Wastewater Treatment Works to service the development, however the applicant must complete the Pre-Development Enquiry (PDE) form ensuring the development can be serviced.
15. Scottish Water records indicate that there is live infrastructure (a rising foul sewer within the site boundary) that may impact on existing Scottish Water assets. The applicant should be aware that any conflict with assets identified

will be subject to restrictions on proximity of construction. Written permission must be obtained before any works are started within the area of any assets.

16. **SEPA** object to the planning application and recommend refusal. The site lies within the functional floodplain based on the SEPA Flood Maps and is therefore at medium to high risk of flooding from the River Nethy. Following the adoption of NPF4, avoidance of flood risk areas in the 200 year, plus a climate change scenario, is now a requirement and must be assessed in line with the most up to date guidance. In this instance a 34% climate change uplift is required to be included in any design flow calculated for the site. Given this is an ungauged catchment, a range of different methods is used to carry out flood risk calculations and in line with NPF4, a precautionary approach should be taken regarding the calculated probability of flooding as a best estimate, not a precise forecast. The submitted Flood Risk Assessment has used different methods resulting in quite different flow estimates and predicted flood extents. The lowest flow estimate only reaches the boundary of the site, while other estimates show the site completely flooded. The significant difference in the resulting flood extents demonstrates the modelling is very sensitive to changes in flow extents and therefore it is not appropriate to accept the lowest flow. The flood risk assessment work undertaken to support the application unfortunately does not provide enough information to demonstrate that the site could be developed in line with NPF4 requirements. The evidence of historic extreme flooding of the site in addition to the hydrological uncertainty outlined above, also justifies a cautious approach in accordance with NPF4. It is considered that no further modelling would provide any additional information that would alter this opinion and as such SEPA object in principle to the development.
17. **NatureScot** agree with the conclusions of the Habitats Regulations Appraisal that any effects to the site integrity of the River Spey SAC can be avoided provided that a pollution prevention plan is agreed prior to any development commencing. There are unlikely to be any adverse effects to the site integrity of the Abernethy Forest SPA and Craigmore Wood SPA due to those factors considered in the HRA.
18. **The Highland Council Transport Planning Team** originally objected to the proposals, however following discussions with the applicant and the submission of revisions the team have withdrawn their objections however, this is subject to no objections from the Highland Council's Flood Risk Management Team, SEPA or Scottish Water to the proposed surface water drainage and SuDS arrangements and the inclusion of conditions requiring either a temporary or permanent 20mph speed limit to be implemented on the C1139 approaches to the site; the necessary statutory processes to change the speed limit to 20mph includes the new street and should be in place before the completion of the development and; design details for the provision of a pedestrian link alongside the C1139 from the village to the site. The team

also recommend an informative clarifying that roads and footways will need to be designed to adoptable standards and a Road Construction Consent (RCC) application be made to the Council prior to the construction of these. Changes to levels across the site and design details can also be addressed through the RCC process.

19. **The Highland Council Flood Risk Management Team** object to the proposed development on the grounds of flood risk. There has been significant work undertaken by the applicants and SEPA to explore the disparity between the submitted Flood Risk Assessment and SEPA's strategic flood maps. SEPA maintains its objection (see above) and therefore, given SEPA's level of expertise as a flood risk authority and its detailed flood risk analysis of the site, the Team supports this decision and maintains its objection to the proposals.
20. **The Highland Council Corporate Address Gazetteer Team** provided no response.
21. **The Highland Council Archaeologist** has no concerns regarding the proposed development and as such requires no mitigation.
22. **The Highland Council Contaminated Land Officer** states that the site has an historic use as a railway yard and tracks which may have led to contamination. Submitted survey work, reports and strategies have concluded that following some surface soil removal, there is no risk to human health or the wider environment. However, there has recently been a number of changes to the guidance that is applicable to the re-development of contaminated land. It is therefore recommended and a condition requiring a review of these reports is undertaken to demonstrate that sufficient work has been completed with regards to current guidance and that there will be no contamination risks remaining on site. Should additional work be required this should be in the form of a Supplementary Investigation Strategy approved by the Council's Contaminated Land Team.
23. **The Highland Council Environmental Health Officer** provided no response.
24. **The Highland Council Waste Management Team** provided no response.
25. **CNPA Landscape Adviser** is satisfied that conditions requiring full details of landscaping proposals, tree planting and future management will provide sufficient clarity for the site.
26. **CNPA Ecology Adviser** has no objections subject to conditions requiring pre-construction surveys for breeding birds and otter with associated Species Protection Plans, a Pollution Prevention Plan and biodiversity enhancements.

27. **CNPA Outdoor Access Officer** initially expressed concern regarding the impact on the Speyside Way. The applicant has submitted additional information which addresses some of the concerns including an appropriate diversion of the Speyside Way during construction and the addition of directional signage and interpretation boards.
28. **Nethy Bridge Community Council** welcome much needed affordable housing, however, they are concerned that the dwellings are two storeys rather than one and a half storeys. There is some anecdotal disappointment from potential neighbours regarding overlooking. See **Appendix 3**.

REPRESENTATIONS

29. The application was advertised when it was submitted. Two letters of objection and a letter of support have been received. Copies of these representations can be found in **Appendix 4**. The grounds of objection are summarised as follows:
- a) Some of the proposed houses will overlook and result in a loss of privacy to adjacent properties;
 - b) The development will result in the loss of mature (25 year old) trees;
 - c) Loss of access to the Speyside Way;
 - d) Intensification of use on the site will result in road safety issues.

APPRAISAL

30. The main planning considerations are considered to be: the principle of the development; layout, amenity and design; landscape issues; environmental issues; access and servicing; flooding and surface water drainage; infrastructure and developer contributions.

Principle

31. **NPF4 Policy 9: Brownfield, vacant and derelict land, and empty buildings**, encourages the sustainable reuse of brownfield land while **Policy 16: Quality homes** and **Policy 17: Rural homes**, both support development proposals that provide high quality, affordable homes in locations where there is an identified local need.
32. **Policy 1: New Housing Development** of the Cairngorms National Park Local Development Plan 2021 supports new housing within identified settlement boundaries. The site is an unallocated, brownfield site within the settlement boundary of Nethy Bridge and has an extant permission for craft workshops, café and six large dwelling houses. **Policy 1, paragraph 1.4** seeks a mix of

dwelling types and sizes to help secure a balanced housing stock with an emphasis on smaller dwellings. The proposal will provide modest 2 and 3 bedroom homes commensurate to the needs of the type of household that will occupy them. This in turn will assist in addressing the on-going issue of the lack of the right type of housing which meets local community needs.

33. **Policy 1, paragraph 1.5** seeks the provision of affordable housing within housing developments of at least 25%. The proposed development has modestly sized two and three bedroomed properties as semi-detached units as well as some three bedroomed detached properties, with floor areas of 85, 102 and 123 square metres respectively. The properties have been designed to meet standard affordable housing specifications required by affordable housing providers, but at this stage, there is no agreed contract for properties to be taken on by an affordable housing provider. A condition would ensure that a minimum of 25% of the units are affordable in order to comply with policy, but it is possible that more properties would be taken by providers.
34. The principle of the proposed development is considered to be acceptable, subject to compliance with other relevant NPF4 and Local Development Plan policies.

Layout, Amenity and Design

35. **NPF4 Policy 14: Design, quality and place** supports development where it is consistent with the six qualities of successful places; healthy, pleasant, connected, distinctive, sustainable and adaptable. **Policy 1: New Housing Development** and **Policy 3: Design and Placemaking** of the Cairngorms National Park Local Development Plan 2021 seek to reinforce and enhance the character of the existing settlement and encourage new development to be sympathetic to the traditional pattern and character of the area, whilst encouraging innovative design and finishes. The proposed layout takes reference from the constraints of the existing landform with properties addressing a central spine road, terminating at the northeast end of the site in the form of a small turning head serving two of the detached, slightly larger properties. This is the point where the site will adjoin the Speyside Way. The proposed SuDS basin will be located to the south of the site adjacent to the access and will introduce a landscaped feature at the public interface of the site. The proposals are considered to comply with Policies 1 and 3 in this respect.
36. In terms of residential amenity **Policy 3: Design and Placemaking** of the Cairngorms National Park Local Development Plan 2021 seeks to ensure that new developments are designed to protect the amenity currently enjoyed by neighbours and that they provide sufficient private amenity ground and off-street parking. Each of the proposed dwellings will be set within reasonably

sized plots with a sufficient distance between them and existing properties to ensure there will be no issues of overlooking and loss of privacy and an adequate level of amenity will be afforded to future occupants. Each dwelling will have its own private garden and car parking provision.

37. To ensure existing residential amenity of adjacent properties is protected during construction, it is recommended that a condition requiring appropriate noise and mitigation measures are in place to minimise any potential disturbance. It is considered that the proposal is in accordance with Policy 3 in this respect.
38. Finally, regarding design, **Policy 3: Design and Placemaking** of the Cairngorms National Park Local Development Plan 2021 requires that all new development delivers high standards of placemaking and sustainable design that contributes to making a sense of place and promotes good health and well being. It should minimise the effect of climate change and make sustainable use of resources. In terms of density, the number of dwellings proposed across the site is considered to be appropriate given the size of the site and its development capacity. The proposed dwellings will be a mix of detached and semi-detached, two storey houses which will be contemporary in design but incorporating traditional proportions and features with materials referencing traditional finishes. Accordingly, the proposed development complies with Policy 3 in terms of design.

Landscape Issues

39. **Policy 5: Landscape** of the Cairngorms National Park Local Development Plan 2021 presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park and in particular, the setting of the proposed development. This is reinforced by **Policy 3: Design and Placemaking** which seeks to ensure that all new development is sympathetic to the traditional pattern and character of the surrounding areas, local vernacular and local distinctiveness.
40. The site is a brownfield site, formerly a railway station and yard with some rough grassland and scrub regeneration that is not of significant landscape value. As such the site provides a 'blank canvas' in terms of landscaping. No formal landscaping scheme has been developed for the site and therefore a condition is recommended requiring a comprehensive landscaping plan incorporating appropriate tree and shrub planting around the peripheries of the site and streetscape. This will assist in reducing the visual impact of the development on adjacent existing properties and will also contribute to enhancing the local landscape character. Suitable landscaping will also be required around the SuDS pond to maximise the visual connection to the

surrounding area and adjacent river banks. This will also enhance the landscape setting and support biodiversity.

41. Subject to suitably worded conditions to ensure the submission and approval of an appropriate landscape plan along with the proper establishment and long term management of this landscaping scheme, the proposed development is considered to comply with Policy 3: Design and Placemaking and Policy 5: Landscape of the Cairngorms National Park Local Development 2021.

Environmental Issues

42. **Policy 1: Tackling the climate and nature crises** of NPF4 requires that significant weight is given to the global climate and nature crisis when consideration is given to new development. **Policy 3: Biodiversity** seeks to ensure that development will conserve, restore and enhance biodiversity. **Policy 4: Natural Places** seeks to protect, restore and enhance natural assets including protected areas.
43. **Policy 4: Natural Heritage** of the Cairngorms National Park Development Plan 2021 seeks to restrict development that would have an adverse impact on protected species and where this cannot be avoided that appropriate mitigation measures are provided.
44. The site lies adjacent to the River Nethy, which forms part of the River Spey SAC, and Abernethy Forest SPA and Craigmore Wood SPA. A Habitats Regulations Appraisal has been undertaken by CNPA to assess any impacts on the qualifying interests. NatureScot has been consulted and agree with the conclusion reached and the recommendations made. These require suspensive conditions to be attached to any consent granted to ensure appropriate mitigation is undertaken and there will be no adverse effect on the site's integrity. These include surveys for protected species and the submission of a Species Protection Plan. No information has been submitted detailing how works will be carried out to minimise the risk of pollution from sediment or other potential pollutants and therefore a condition is recommended requiring the submission and approval of a Pollution Prevention Plan.
45. The site currently has a relatively low biodiversity value, but appropriate landscaping and tree planting as well as design and management of the SuDS pond will deliver some biodiversity enhancement and can be increased through other simple measures covered by condition.

46. Subject to the imposition of these recommended conditions, the proposed development will comply with the terms of Policies 1, 3 and 4 of NPF4 and Policy 4 Natural Heritage of the Cairngorms Local Development Plan 2021.

Access and Servicing

47. **Policy 13: Sustainable Transport** of NPF4 supports developments that provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation. **Policy 15: Local Living and 20 minute neighbourhoods** supports development which contributes to local living and the Place Principle and where, among other things, there is the opportunity for sustainable modes of transport including high quality walking, wheeling and cycling networks. **Policy 3: Design and Placemaking** of the Cairngorms National Park Local Development Plan 2021 seeks to promote sustainable transport methods and active travel and maximise opportunities for responsible outdoor access.
48. The development provides a road layout with extended footways and is within acceptable walking and cycling distance from local amenities and public transport links. The Highland Council Transport Planning team require a dedicated pedestrian footway along the north side of Station Road (the C1139) which links the site with the village to improve connectivity and provide a safer route for pedestrians and vulnerable road users. It is recommended a condition requiring the detailed design of such a pedestrian link be submitted and approved should consent be granted. The Council intends to implement a 20mph speed limit throughout the village. Should planning permission be granted an appropriately worded condition will be required to ensure the applicants take responsibility for the village wide 20mph speed limit to incorporate the new street. The new road and footways associated with the development will be adopted by the Council and as such Road Construction Consent (RCC) will be required. This is a separate process, however the Council recommend an informative advising the applicant of this and that no works can commence until the RCC is formally approved.
49. The Speyside Way currently runs directly through the site. During the construction phase of the development, it will be diverted to the west of the site and temporarily fenced off. Temporary signage will also be erected to ensure users are fully aware of the diversion. Once the development is complete, the route will again run through the site. Notice boards at both ends of the site will be erected and a waymarking fingerpost will be located at the entrance to the development with two directional blades clearly indicating the revised final route.
50. **Policy 3: Design and Placemaking** of the Cairngorms National Park Local Development Plan 2021 also states that all new development must include an appropriate means of access, egress and space for off street parking.

51. The proposed new access arrangements are acceptable given that the introduction of the village wide 20mph speed limit reduces the minimum visibility requirements for the site access (25 metres in each direction from a 2.4 metre set back). The implementation of this speed limit however has not yet been confirmed. As such, to ensure the new access arrangements and associated visibility splays are appropriate, a condition is recommended requiring a 20mph speed limit (either a permanent or temporary depending on whether the village wide 20mph speed limit is forthcoming) is in place prior to the commencement of any works on the site. Proposed parking provision for each plot is considered sufficient and accords with the Council's guidelines.
52. Subject to the recommended conditions it is considered that the proposals comply with Policy 13: Sustainable Transport and Policy 15: Local Living and 20 minute neighbourhoods of NPF4 and Policy 3: Design and Placemaking of the Cairngorms National Park Local Development Plan 2021.

Contaminated Land

53. **Policy 10: Resources** of the Cairngorms National Park Local Development Plan 2021 states that development affecting contaminated land will be considered favourably where assessments are undertaken to identify actual and potential impacts, on site and off site, of all stages of development proposals on the risks to human health and to the Park's biodiversity, geodiversity, hydrology and other special qualities.
54. The proposed development was previously used as a railway station and yard and as such there may still be ground contamination issues on the site. Given this, a suitably worded suspensive condition is recommended that a scheme to identify and address potential contamination issues should be submitted. Therefore, subject to a suspensive condition, the proposal is considered to comply with Policy 10: Resources of the Cairngorms National Park Local Development Plan 2021.

Flooding and Surface Water Drainage

55. **NPF4 Policy 2: Climate mitigation and adaptation** requires that development is sited and designed to adapt to current and future risks from climate change. **Policy 22: Flood Risk and Water Management** promotes avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. Development at risk of flooding or in a flood risk area will only be supported if the proposal is for the redevelopment of previously used sites and where long term safety and resilience can be secured in accordance with relevant SEPA advice.

56. **Policy 10: Resources** of the Cairngorms National Park Local Development Plan 2021 requires that all development should be free from medium to high risk flooding, not increase the risk of flooding elsewhere, not add to the area of land requiring flood prevention measures and not affect the ability of the functional flood plain to store or move flood waters. Developments should incorporate SUDs as proportionate to the scale and nature of the development. The policy also requires that all development should avoid unacceptable detrimental impacts on the water environment.
57. The surface water drainage proposals accompanying the proposal are considered to be acceptable in principle subject to their relationship with the functional flood plain.
58. SEPA, object to the proposal on the grounds that the proposed development would place people or property at risk of flooding contrary to both NPF4 Policy 22 and the LDP Policy 10. Highland Council's Flood team have objected to the application because of SEPA's objection. The applicant's flood engineers (Envirocentre) are of the opinion that the site would be free from flooding in extreme events and allowing for climate change. This opinion has been verified by a second independent engineer, but SEPA maintain their objection on the basis that a precautionary approach should be taken. The following paragraphs of this are intended to summarise the different approaches as this matter is critical to the determination of the application.
59. The potential for the river Nethy and/or river Spey to flood and to affect Nethy Bridge is accepted by all parties. SEPA's flood maps for Nethy Bridge show potential extensive flooding based on their national modelling of indicative flooding. Nethy Bridge is identified as a Potentially Vulnerable Area (PVA) in the Findhorn, Nairn and Speyside flood risk management plan as a result of that national modelling. The flood risk management plan also explains that further detailed flood risk modelling is required for Nethy Bridge and that there are few recent records of flooding in Nethy Bridge. The only significant recorded flooding of note in Nethy Bridge appears to be the flooding of 1829, which pre-dates the formation of the railway later in the 1800's.
60. There is no disagreement about the flood of 1829, but some disagreement about the reasons for Nethy Bridge flooding so badly. One of the differences in the catchment noted by local people is that in 1829 the Nethy catchment had a number of sawmills upstream of Nethy Bridge that flooded and washed timber downstream where it blocked the main bridge. They point out that those sawmills no longer provide such easily moved material and that following the flood, the bridge was repaired with additional flood capacity. The railway line was built after the flooding and was built on an embankment that would logically have sat above the earlier flood level. So much of Nethy Bridge and of the wider catchment has changed since then and the records of

the 1829 are not precise, that the event does not provide much helpful data for current assessments.

61. The applicant submitted a Flood Risk Assessment (FRA) prepared by EnviroCentre with the application, but SEPA considered that this was not comprehensive enough to allow for a full assessment of the flood risk. EnviroCentre modelled flood risk on the basis of detail topographical survey and used industry-standard methods of flow estimation to model potential water flows in the Nethy catchment as accurately as possible. Under their preferred modelling, the site (which occupies higher ground than many neighbouring properties) is free from flooding under 1:200 year flood events, although lower parts of Nethy Bridge could suffer some flooding. They consider their modelling reflects real conditions and correlates with observed flooding records in Nethy Bridge (of which there have been few).
62. SEPA do not consider that EnviroCentre's approach to modelling is appropriate as they consider it may underestimate water flows. They point out that the Nethy does not have gauges that allow the difference between rainfall in the catchment and the volume of water flowing through Nethy Bridge to be accurately predicted. SEPA specified a Rainfall Runoff method be used which allows for a more precautionary approach to flood modelling that reflects NPF4 policy. Under the Rainfall Runoff method of water flow prediction, significantly higher volumes of water will flow down the river Nethy and would lead to more extensive flooding of Nethy Bridge and of the site. However, Envirocentre consider this method over-estimates flood risk and that the method predicts that Nethy Bridge should experience regular flood events, which does not reflect local observations and experience. Their view is that their core modelling is the most accurate and the applicant commissioned an independent chartered engineer who confirmed and certified their work. Envirocentre also identified that the development will require a 'freeboard' to finished floor levels at least 600mm above the estimated 1 in 200 year plus climate change flood level to allow for uncertainty and any changes to site conditions which has been incorporated in the design of the houses.
63. SEPA recognise that EnviroCentre have undertaken work to attempt to refine the hydrology of the Nethy in order to create more accurate predictions. However they explain that because the Nethy is not accurately gauged, there is inevitably more uncertainty over flood modelling and they must consider a range of methods calculating flood risk which should be regarded as an indication of risk, not an accurate prediction. SEPA conclude that while EnviroCentre have identified one scenario that avoids flood risk on the site, others continue to identify a high flood risk. On that basis, they are bound to conclude that there continues to be flood risk on the site. They are also concerned that there continues to be potential for bridge blockages which would create more severe flooding of Nethy Bridge and of the site.

64. The difference of approach to the calculation of flows and consequent flood risk for the site and for Nethy Bridge is clearly important to the application. Policy 22 of NPF4 identifies a few exceptions where development in a flood risk area may be acceptable, one of which is the redevelopment of an existing building or site for an equal or less vulnerable use. In this case the site is a brownfield one within the settlement boundary with a long-standing and initiated (though not developed) consent for a range of uses including six houses. The principle of housing on the site has therefore been previously established. However, the current application is for 21 houses, including affordable housing, so must be considered to be as or more vulnerable to flooding than the previous consent. In addition, it is possible that the site, along with other properties on lower ground in Nethy Bridge, could be difficult to access by vehicles during flood events even if it remains dry.
65. Officers have carefully considered the appropriate way to apply the different positions of the applicant and EnviroCentre's supporting Flood Risk Assessment versus SEPA's precautionary approach to risk. EnviroCentre's advice is that the site is free from flooding during 1 in 200-year flood events based on realistic modelling which also seems to reflect available evidence in living memory. SEPA conclude there will be flood risk, although based on very historic evidence and a less refined modelling of possible water flows during 1 in 200-year storm events. SEPA (and Highland Council's Flood Team) are also concerned that if the road bridge over the Nethy became blocked by debris then the site (along with large parts of Nethy Bridge) could be affected by flooding. There will be debate about how likely that scenario is and whether it is an avoidable risk, but it is certainly a hypothetical risk for much of lower Nethy Bridge.
66. On the basis of the evidence put forward, officers conclude that it is unlikely that the application site would flood during a 1 in 200-year event. With the freeboard to ground floor levels recommended by EnviroCentre, and the use of flood resilient construction techniques on properties to make them resilient to any rise in flood water levels and positive assumptions about the prevention of blockages to the road bridge upstream, we can envisage a successful development that is free from flooding, with only low levels of water on access roads. On that basis, officers would conclude that the proposed development would comply fully with either Policy 22: Flood Risk and Water Management of NPF4, or Policy 10: Resources of the Cairngorms National Park Local Development Plan.
67. However, estimates of flooding are not precise and SEPA's concerns about potential flood risk on the site are based on flows of water that are hypothetically possible. Our understanding of the potential effects of climate change on rainfall events and peak water flows is also not precise, so the fact that this site seems to be at least at the margins of flood risk is of concern. While officers consider it unlikely the site would flood in a 1 in 200-year event, SEPA's advice as the statutory consultee on the risk is clear and officers

therefore cannot be certain the site would not flood. On that basis, officers cannot conclude that the proposed development would comply fully with either Policy 22: Flood Risk and Water Management of NPF4, or Policy 10: Resources of the Cairngorms National Park Local Development Plan.

68. SEPA have maintained their objection because they consider the development will place people or property at risk of flooding contrary to both NPF4 Policy 22 and the LDP Policy 10, therefore, under the Town and Country Planning (Notification to Ministers) (Scotland) Direction 2009, this application falls within the criteria for referral to Scottish Ministers if the Planning Committee decide to approve it.

Infrastructure and Developer Contributions

69. **Policy 11: Developer Obligations** of the Cairngorms National Park Local Development Plan 2021 states that where development creates a need to increase or improve public services, facilities or infrastructure, or mitigate adverse effects, the developer will be required to make a fair and reasonable contribution in cash or in kind towards additional costs or requirements.
70. No further improvements to existing education, services and facilities have been identified therefore there is no requirement for the applicants to make any contributions in this instance.

Other Issues Raised in Consultations and Representations

71. All relevant issues raised by consultees and third parties have been addressed above. Any other matters raised are not material in the determination of this application.

CONCLUSION

72. The application is for housing on a brownfield site within an identified settlement with an extant planning permission that includes permission for housing. The site is located close to the centre of Nethy Bridge and the proposal would deliver housing targeted at local demand. Subject to appropriate conditions, the application would be recommended for approval were it not for the possibility of flood risk on the site. The information submitted by the applicant supports a conclusion that the site is free from flooding but SEPA are not persuaded that the supporting flood risk assessment rules out flooding of the site and maintain an objection.
73. While officers consider that flooding of the site is unlikely given the information submitted, we recognise SEPA's concerns and cannot conclude with certainty that there would be no flood risk. Because of this, our opinion is that the development does not comply with either Policy 22: Flood Risk and

Water Management of NPF4, or Policy 10: Resources of the Cairngorms National Park Local Development Plan and refusal of the application is recommended. Other matters that relate to the detail of the proposals and compliance with other policies that could otherwise be addressed through suspensive conditions if the application were to be approved, become additional reasons for its refusal.

74. Officers recognise that this decision is based on fine margins and the weight attached to information related to flooding. If the Committee were to resolve to approve the application, officers have prepared appropriate conditions that would address other matters. Because of SEPA's objection, under the Town and Country Planning (Notification to Ministers) (Scotland) Direction 2009, this application falls within the criteria for referral to Scottish Ministers if the Planning Committee decide to approve it.

RECOMMENDATION

That Members of the Committee support a recommendation to REFUSE the erection of 21no dwellings at Nethybridge Station Yard Station Road Nethy Bridge, for the following reasons:

Reasons for Refusal

1. The proposed development would be vulnerable to flooding, putting people and property at risk which is contrary to Policy 22: Flood Risk and Water Management of NPF4, and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2021.
2. The proposed development does not satisfactorily address the disposal of surface water, resulting in a risk of flooding which is contrary to Policy 22: Flood risk and water management of NPF4 and Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2021.
3. The proposed development does not provide sufficient detail on design, specification and maintenance and management of hard and soft landscaping and therefore will not protect or enhance biodiversity and natural assets which is contrary to Policy 3: Biodiversity and Policy 4: Natural Places of NPF4 and Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2021.
4. The proposed development has not provided sufficient information on breeding birds, reptiles or otter that demonstrates it will not adversely affect protected species which is contrary to Policy 3: Biodiversity and Policy 4: Natural Places of NPF4 and Policy 4: Natural Heritage of the Cairngorms National Park Authority Local Development Plan 2021.
5. The proposed development does not provide sufficient information on pollution prevention measures and construction methods which could result in effects on the water environment and integrity of the River Spey SAC which is contrary to Policy 3: Biodiversity and Policy 4: Natural places of NPF4 and Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2021.
6. The proposed development does not provide sufficient information on the impact on the road network and associated construction traffic which could result in adverse impacts in relation to road safety and disruption to local residents which is contrary to Policy 13: Sustainable Transport and Policy 15: Local Living and 20 minute neighbourhood of NPF4 and Policy 3: Design and

Placemaking of the Cairngorms National Park Local Development Plan 2021, because.

7. The proposed development does not provide sufficient information on dust mitigation which could result in an adverse impact on the amenity of occupiers of neighbouring land which is contrary to with Policy 3: Design and Placemaking of the Cairngorms National Park Local Development Plan 2021,.
8. The proposed development does not provide sufficient information on potential contaminants and any necessary measures to remedy any contaminated land that is found on site which could result in a risk to the health and safety of both future residents of the site and existing local residents which is contrary to Policy 9: Brownfield land, vacant and derelict land and empty buildings of NPF4 and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2021.
9. The proposed development does not secure the delivery of at least 25% of the units on site as affordable housing which would not provide a balanced housing stock to meet local needs which is contrary to Policy 16: Quality Homes of NPF4 and Policy 1: New Housing Development of the Cairngorms National Park Local Development Plan 2021,

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