
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: FULL PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT OF 10 HOUSES (8 NO. PRIVATE UNITS & 2 NO. AFFORDABLE UNITS) WITH ASSOCIATED ACCESS ROAD, FOOTPATHS, VIEWPOINT AND LANDSCAPING, BRAES OF BALNAGOWAN, NETHY BRIDGE

REFERENCE: 06/106/CP

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

DATE CALLED-IN: 7 APRIL 2006

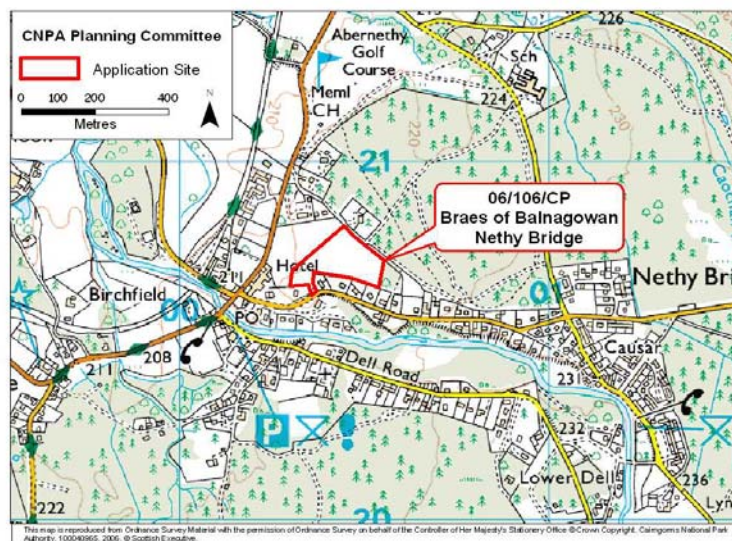


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

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



Fig. 2. Site looking eastwards

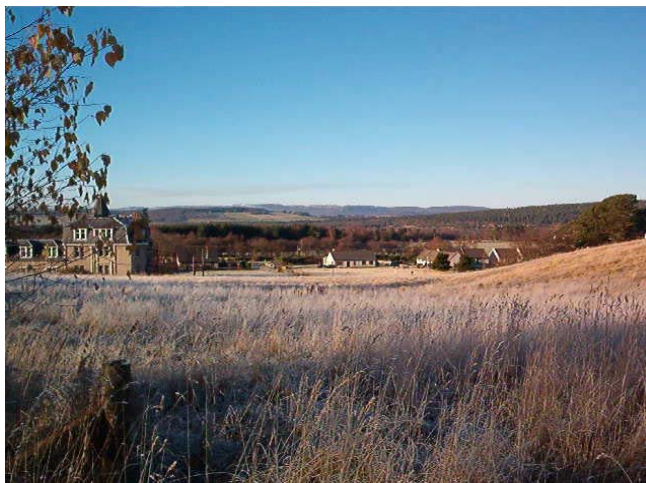


Fig. 3. From site looking westwards

2. The Committee will also recall that a previous planning application for 9 houses on this site (which was amended 3 times from an original proposal for 38 houses) was refused by the CNPA on 10 March 2006. At the conclusion of the determination process on this previous application, the reasons for refusal were two-fold. These reasons related to water infrastructure constraints and under-development leading to lack of affordable housing provision as required by policy. An appeal against this decision has been lodged by the applicants with

a request for it to be dealt with through the Public Local Inquiry process. Initial dates for a Public Local Inquiry are proposed for August 2006.

3. The current application now proposes the erection of 10 houses on the eastern flatter part of the site within what is the allocation in the Local Plan. Included in the proposal is the provision of two single storey, 3 bedroomed houses which will be located on Plots 1 & 2 at the western end of the site. These are proposed as affordable houses. The other 8 dwellings will be "private market" houses. There are four house types all of which are one and half storey and are of 4/5 bedroom size. The proposed finishing materials are slate, white wet dash render, and stained timber windows, fascias and soffits. They are served by a single access road off the Causer Road adjacent to the property known as "Balnagowan". The road curves eastwards past the two affordable houses and into the site with the "private" houses served by a 5.5m shared surface road. Three link footpaths are proposed. Two lead from the eastern end of the site into the adjacent woodlands to the north and east. The third is a link, running westwards and then northwards across the slope on the western side of the site, to a landscape viewpoint on the "Braes". A footpath will then lead down to the B970 at a position between the Mountview and Nethy Bridge Hotels. There is also a proposal for a play area in the north east corner of the site and tree planting is indicated along all boundaries. A site layout is attached at the back of the report as **Fig. 4**.
4. The applicants have confirmed that, for the affordable houses, it is their intention to agree a fixed price for the land and the units, then build and sell them directly to Albyn Housing Association. A copy of a formal letter of intent from Albyn has been forwarded by the applicants.

DEVELOPMENT PLAN CONTEXT

5. **Highland Structure Plan 2001 – Policy G2 (Design for Sustainability)** states that proposed developments will be assessed on the extent to which they, amongst other things; are compatible with service provision (water and sewerage, drainage, roads etc.); are accessible by public transport, cycling and walking as well as by car; make use of brownfield sites, existing buildings and recycled materials; impact on individual and community residential amenity; impact on resources such as habitats, species, landscape, scenery, freshwater systems, cultural heritage etc.; demonstrate sensitive siting and high quality design in keeping with local character and the historic and natural environment; and contribute to the economic and social development of the community. To accord with the Structure Plan's objectives and strategic themes, **policies for housing development** in Highland aim to steer demand to appropriate locations within existing settlements. It also advises that "the availability of quality housing is fundamental to social and individual well being and to creating and

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

6. **Policy N1 (Nature Conservation)** states that new developments should seek to minimise their impact on the nature conservation resource (sites and species of international, national and local importance) and enhance it wherever possible. **Policy L4 (Landscape Character)** seeks to ensure that regard is made to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals.
7. **Highland Council's Supplementary Development Plan Policy Guidelines April 2003**, states that an objective target of 25% affordable housing provision should normally be expected of all future developments comprising ten or more new or converted homes. This percentage will be applied to the notional number of units capable of being developed at standard density levels. Section 75 Legal Agreements will be required to secure the percentage and there is a sequential mechanism for achieving this – 1.- direct on-site provision or transfer of land, 2.- direct off-site provision or transfer of land, or in lieu of transfer of land or direct provision, 3.- a financial contribution. It is necessary to demonstrate the sequence in terms of the options.
8. **In the Badenoch and Strathspey Local Plan 1997**, the site is located within the settlement envelope and is **allocated as a Housing Development Area under Policy 4.1.1(d)**. This allocates the site for a capacity of 10 houses with access options from Causer Road or upgrading the Mountview Hotel access road. A requirement of the allocation is to maintain the open frontage escarpment between the two hotels and provide landscaping. The open land to the west and north of the boundary of the current site, including the sloping escarpment between the hotels, is also identified under **Policy 4.5.2. (Amenity)**. This seeks to safeguard remaining open spaces important to the character and amenity of Nethy Bridge, including the open approaches to the village. **Policy 4.4.3. (Drainage)** states that the Council will keep under review the need for upgrading sewage treatment facilities consistent with future development requirements. Surrounding woodland to the north and east of the proposed site is identified as **Amenity Woodland** where under **Policy 4.5.1. (Walks)** an extensive

network of footpaths within and adjoining the village will be safeguarded.

9. **For information purposes only**, the recently published **Draft Cairngorms National Park Plan: Priorities for Action 2007-2012** promotes 7 priorities for action. One of these is “Making Housing Affordable and Sustainable”. This priority recognises that the lack of access to affordable and good quality housing has been identified by many communities as a key issue facing the Park. Young people and those on low incomes in particular have difficulty in securing suitable accommodation in their communities. Work within this priority includes increasing supply and accessibility, promoting effective co-ordination and co-operation, and improving the quality and sustainability of design. Another priority is “Conserving and Enhancing the Park’s Biodiversity and Landscapes”. This priority recognises that the biodiversity and species, and landscapes of the Park are two of the most valued special qualities. They are prized for their own innate value and as the basis for many of the Park’s socio-economic resources. Work within this priority area, includes, enhancing the Park’s landscapes, identifying and enhancing habitat networks, enhancing the condition of designated sites and networks, and protecting biodiversity. **Please note the Draft Park Plan is not a land use development plan and carries no material planning weight at this stage.**

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

11. The **Cairngorms Landscape Capacity for Housing Report (August 2005)** is a study which was commissioned by the CNPA to assess the potential effects of development on the existing character of the landscape in and around the settlements within the National Park and to inform the new CNPA Local Plan. This study identifies the site as one of two “open ground areas within the settlement” and describes it as an “elevated site with prominent steep bank to the east of the B970, backed by pine woodland and abutting the Nethy Bridge Hotel.” In terms of sensitivity to new development (assessment criteria includes, landscape character and experience, settlement form, landscape setting, sense of arrival, immediate settlement edge, and views and

visual features) the study concludes that the site is either “not sensitive” or carries “some sensitivity”. However, it is the slope between the two hotels which is the part of the site which is deemed to be the more “sensitive” area. The study therefore concludes that new housing development could be accommodated on the site provided the steep bank, which is considered as highly visible on the approach to Nethy Bridge, is left undeveloped. It states that careful design would be necessary to avoid visual intrusion of housing on the flatter top of the site. It recommends that housing should be kept low in height with trees planted on the bank and filtering through to gardens of houses on the front edge so as to minimise intrusion on views from the Broomfield Road and the A95.

CONSULTATIONS

12. **A number of consultations carried out at the time of the previous application remain relevant to this revised application. These are:**
13. **Scottish Natural Heritage (SNH).** They state that the site is agricultural land and that the development would lie approximately 1.25km south of Craigmore Wood SPA, 0.25km north of Abernethy Forest SSSI, SPA and SAC and, 0.125km north of the River Spey SAC. The particular features relevant to Craigmore Wood SPA are capercaillie, and for Abernethy Forest SSSI, SPA and SAC they are capercaillie, Scottish Crossbill and Caledonian Pinewood. For the River Spey SAC, the features are Atlantic salmon and otter. SNH’s conclusion is that it is unlikely that any qualifying feature will be affected significantly either directly or indirectly and in their view, an appropriate assessment is therefore not required. SNH therefore have no objection to the application.
14. **The CNPA’s Natural Heritage Group.** They state that the site comprises improved grassland of a low natural heritage value, which has, until recently been used for grazing. It is noted that the proposal includes planting of trees around the perimeter in order to screen the development. It is stated that trees should be of local origin and should be species native to the Nethy Bridge area. A list of suitable species is provided. **NHG** considers that the proposed development will not have a significant natural heritage impact and they do not consider that it is in conflict with the first aim of the National Park.
15. **Highland Council’s Archaeology Unit.** They state that the application lies in an area where there are important historic and prehistoric remains and the archaeological potential of the site is considered worthy of further assessment prior to the start of any development. They request that a condition is imposed on any planning permission issued which requires a programme of archaeological work for the preservation and recording of any archaeological features affected by the development, including a

timetable for investigation, all of which should be carried out prior to the commencement of works.

16. **The CNPA's Outdoor Access Officer.** She takes the view that the reduction in housing in the open field from the original submission of 38 houses submitted in March 2005 helps retain the open aspect of the development site. She commends the retention of the walkway to the west side providing it fits with the natural landscape. She strongly recommends that the linked walkways, which now also include two routes into the woods to the north and east, are suitable for multi-use but that in order to retain a pleasant non-urbanised experience, they are not constructed of Bitmac or equivalent.
17. **Scottish Environment Protection Agency (SEPA).** They have no objections to the development connecting its foul drainage to the public system, provided Scottish Water approve these arrangements. With respect to surface water, details of the SUDS proposals were received with the previous application. These include the provision of a series of soakaways and a filter trench for the drainage of surface water from the houses and the roads. **SEPA** have confirmed that the SUDS proposals are acceptable and subject to the submission of a construction method statement and the implementation of the SUDS in accordance with the details, they have no objections.
18. **Revised consultations have been carried out with some organisations and groups. These are:**
19. **Highland Council's Area Roads Manager.** He has no objections to the proposal, subject to the imposition of planning conditions, relating to the provision of visibility splays (3m by 70m) at the junction of the proposed access and the public road; provision of suitable pedestrian links to the surrounding footpath network; the existing access on the west side of the proposed new road, within the bellmouth of the Causer Road being permanently closed off to vehicular traffic; surfacing of house accesses; provision of parking and manoeuvring space within plots; provision of a dropped kerb footpath crossing at the access to the house known as "Balnagowan"; provision of street lighting; and provision of surface water drainage.
20. **The Nethy Bridge and Vicinity Community Council.** At the time of the previous proposal they agreed that they should continue to follow the feelings of the community which were expressed at the public consultation meeting held in January 2005 that no development take place on the site. They also stated that, if approval was given, consideration should be given to a S75 agreement to protect the open land on the west boundary and that any building on the west side should be of an appropriate height and design. They also felt that the adjacent steading building should be protected and that the landscape of Balnagowan Brae to facilitate visibility splays should not be altered. **However, at their meeting on 6 April, they voted in favour of the**

revised application (5 in favour and 1 abstention), subject to conditions. They request that consideration be given to the completion of a S75 agreement to protect the land to the west outwith the site boundaries from further development in order to maintain it as open land. Also, they do not wish buildings impacting on the west boundary of the site, nor do they wish any alterations to the landscape of Balnagowan Brae to facilitate the visibility splays. The steading to the west side of the access should be protected and they wish to ensure that the proposed affordable houses are built at the same time as the market priced houses and be arranged in the development so as not to attract a stigma of "rich and poor association". They also wish there to be no disturbance of the site until agreement has been reached with Scottish Water regarding the availability of services. **(A copy of their letter is attached as a representation).**

21. **The CNPA's Housing Policy Officer.** At the time of the previous application, she advised on the situation with regard to the other housing developments in Nethy Bridge which are included in the WWTW capacity upgrade. The site known as "Causer south-east" is now complete and was handed over at the end of January 2006. This is Albyn Housing Society's development for 15 houses (8 Homestake properties being sold at 60% and 80% and 7 rented properties). The site known as "Polyanna" (opposite the football pitch) which had outline planning permission for 12 units, is now owned by Albyn Housing Society. This permission included a S75 agreement requiring the site to be used by a provider for sheltered housing but has now lapsed. She states that this site is in Albyn's programme to be developed in 2006-2007, in order to ensure that the project gets connections to the WWTW. Another site included in the WWTW upgrade is a development of 40 houses at two sites at School Road (30 market units) and Craigmore Road (10 affordable units). These are developments originally applied for by "Eagle Star" (now "Zurich Assurance Ltd."). This is an outline permission which has recently been issued following the completion of a S75 securing the affordable housing. As far as we understand, the affordable plots are to be conveyed to the Highland Small Communities Trust with a view to developing as soon as possible. There are also several other developments which are included in the WWTW capacity upgrade. There are upto 5 individual private plots and there is the former "Station Yard" development which the CNPA approved in 2005. This development included 7 market houses and a tourism related visitor centre/workshop.
22. In terms of housing need, at the time of the previous application, the **CNPA's Housing Officer** also confirmed that Albyn Housing Society have 16 people on their lists who currently live in Nethy Bridge. From Highland Council information, there are 17 applicants who show Nethy Bridge as their first area of preference and that the larger demand is for one and two bedroomed properties. In addition, she advised that Highland Council would wish 2 affordable houses on-site as a first

preference, off-site provision as second and a commuted payment towards affordable housing in Nethy Bridge as a last resort.

23. **On the current proposal, the CNPA's Housing Policy Officer**, initially noted that the affordable houses are to be 3 bedroomed. From the information provided previously, the preference would have been for smaller housing, such as 2 x 2 bedroomed and 1 x 3 bedroomed. It was suggested that one of the plots could be split into two semi-detached houses, therefore providing three affordable houses. Following discussion though with Highland Councils Area Housing Manager, and taking account of the maximum numbers for the site stated in the Local Plan designation (10), and the fact that at the time of the previous application, 2 houses/plots were found to be an acceptable level of provision in this instance, it has now been accepted that 2 x 3 bedroomed houses are acceptable. If Albyn, as the preferred Registered Social Landlord, wish to change the size or numbers of houses at a later date, permission could be sought at that time.
24. **Highland Council's Area Housing Manager**. At the time of the previous application, he suggested that the development potential for the proposed site is 10 units. The reduction in numbers from 10 to 9 was viewed by the Council as a way of avoiding complying with the affordable housing tariff. The site has a development potential of at least 10 houses and is zoned for 10 houses. The Council were therefore of the opinion at that time that 2 affordable houses or plots should be a condition on any approval of planning permission. If this was resisted then a commuted sum to be agreed may have been acceptable as a fall back position.
25. On the current proposal, **Highland Council's Area Housing Manager** has stated that he is pleased that the applicant's application allows for the provision of 2 affordable plots to meet the Highland Council's affordable housing policy.
26. **Scottish Water**. At the time of the previous application, they stated that they formally objected to the application but that it could be withdrawn if the Planning Authority attaches a condition which stated that no development shall commence until evidence is exhibited to the Planning Authority that an agreement has been reached by the applicant with Scottish Water for the provision of a drainage and/or water scheme to serve the development. In more detail, they stated that the proposed development lies within the water supply zone for Blackpark Water Treatment Works. There was therefore no available water supply in the area at this time. They therefore objected to the application as it may have prejudiced their ability to supply potable water to existing customers. It was stated that while there was no available water supply, their next investment programme (Q & S3 2006-2014) would begin in April 2006. It had been stated by the Scottish Minister that Scottish Water would be provided with money to invest in their strategic (water and waste water treatment) assets to

support new development. In relation to waste water treatment, they stated that on formal acceptance by Scottish Water of the current WWTW upgrade, the sewer network would have capacity to accommodate this development. However, they also advised that connection to the public sewer network was dependent on the spare capacity at the time of application for a connection. In addition, they stated that the development may involve building over a public water main and that the applicant must contact Scottish Water to ascertain measures to be taken to protect this apparatus.

27. **On the current proposal, Scottish Water have advised that they have no objections.** They state that the applicant must make a separate application to them for permission to connect to the public wastewater system and water network at the appropriate time. They also state that connection to the public sewer network will not be granted until the improvements at Nethy Bridge WWTW are complete and have been adopted by Scottish Water. It is anticipated this will be mid to late 2006. The applicant should also note that the granting of a connection is dependent on spare capacity at the time of application for a sewer connection. In addition, with regard to water, they have advised that the network infrastructure is not affected by this proposal at this time. However, they do advise that a supply from the public water network is dependent on spare capacity at the time of application for a water connection.

REPRESENTATIONS

28. **Please note that the applicant's agent has requested to address the Committee. Also, 4 objectors have made a request to speak. Including the representation from the Community Council, a total of 20 letters have been received. The issues raised include:**
- Revised proposal does not address concerns regarding amenity value, ecology, wildlife and nature conservation of the whole site and the surrounding area.
 - Revised proposal does not consider view of the community that no development should take place on this site – no form of development in this field will enhance the amenity value of the area.
 - CNPA Draft Local Plan leaves the field free of housing.
 - Continue to have detrimental impact on the visual aspect of the Nethy Bridge by removing one of the few open spaces that give the village an “airy” feel.
 - Continued concerns about road safety at the junction on the Balnagowan Hill.
 - Continued concern about the impact of the development on the two nearby hotels (Mountview and Nethy Bridge) in terms of loss of guests and jobs for local people – also loss of amenity and views.
 - Continued concern about the impact of the development on the business operations of Heatherlea (Scotland) Ltd (ecotourism),

based at the Mountview Hotel – one of the first to qualify to use the CNPA “Brand” and to have gained the “Green Tourism” mark.

- Concern about the impact on other new businesses which rely upon the natural unspoilt nature of the immediate surroundings.
- Concern about how the affordable houses will be delivered and retained as affordable – concern that they will not be available for local families and their needs.
- Houses should not exceed 2 storeys in height and should preferably be a maximum of one and a half storey – due to visual impact from many angles, including the north-west.
- If granted no further development should be permitted in the rest of the field or adjacent to the woodland.
- Loss of views of mountains.
- Lack of need for this type and amount of new housing.
- Concern that the weight of local opposition to the previous proposal was not considered as reason for refusal.
- Still questions about sewage and water provision. Capacity should be reserved for local needs not executive housing which could become second homes.
- Committee members should still consider the number of objections on the previous proposal.
- House styles are “executive” and not in keeping with country village character of Nethy Bridge.
- Loss of views to the Monadhliath Hills from the field.
- Lack of consultation with the community by the developer.
- Loss of field for informal outdoor activities such as walking, sledging etc.
- Concern that the recent Community Council vote to support the application is not representative of the community. The community view is that as expressed through the Community Council at the public consultation stage of the CNPA Local Plan in January 2005.
- Despite the Community Council position, it is conditional on a S75 on the rest of the field and on low cost housing being completed in one phase – neither of these have been met therefore the proposal does not have local community approval at all.
- Concern that people are required to write in again – inevitable that numbers will be reduced.
- Application is being determined against an out-dated Local Plan (initial consultations on it in 1991). The CNPA has planning responsibility for the local plan and therefore the developing Local Plan should contribute fully to the consideration of the proposal.
- Remains considerable local opposition to the proposal and the existence of the National Park should now be a material consideration.
- Provision of two affordable houses is unacceptable. The development, if accepted, should all be affordable.
- Precedent will be set for further development on adjacent land owned by the applicant.

- Concerns about the amount of landscaping proposed and the fact that it will limit the current open outlook.
- No development should be approved until the integrity of the water supply is guaranteed.

29. **Copies of these letters and the Community Council letter are attached.**

APPRAISAL

30. For information purposes, it is worth reminding ourselves of the background to this application. The previous application was originally submitted on the basis of a proposal for 38 houses. This included 12 affordable houses and used all the land within this field, including the escarpment between the Mountview and Nethy Bridge Hotels. Following significant concerns about the scale of the proposal, its failure to comply with the policies and allocations in the Local Plan, and a substantial amount of local opposition, the application was subsequently amended three times. The final amendment, which still raised concern in Nethy Bridge, and which was considered and refused by the Committee, was for the erection of 9 houses on the flatter eastern side of the field. Despite the fact that the boundaries of the site complied with the allocation in the Local Plan, there were two outstanding issues of concern at that time. The first related to water infrastructure constraints as confirmed by an objection from Scottish Water. The second related to under-development of the site which consequently resulted in a lack of provision of on-site affordable housing, as the first, preferred and most appropriate option, as required by planning policy. The reasons for refusal are reiterated below.

“The proposed development is viewed as premature on the grounds of the current constraints on water infrastructure serving the Nethy Bridge area. Scottish Water are unable to specify the period within which this constraint will be removed. The development is therefore regarded as ineffective at this time because it cannot be served by an adequate potable water supply.”

“The proposed development is for the erection of 9 no. dwellinghouses whereas, the allocation in Policy 4.1.1.(d) in the Badenoch and Strathspey Local Plan indicates a capacity for up to 10 no. dwellinghouses. The proposal is therefore viewed as under-developing the site. It therefore fails to provide the proper means of delivering the required affordable housing quota, and it has not been demonstrated that the required affordable housing percentage cannot be delivered on the site within the development, as a first option, as required by Highland Structure Plan 2001 Policy H5 (Affordable Housing) and the subsequent Highland Council Development Plan Policy Guidelines (April 2003) on Affordable Housing. In this respect the proposal is also viewed as having negative implications for the fourth aim of the

Cairngorms National Park which is to promote the sustainable economic and social development of the area's communities."

31. **As with the previous application, the issues that require to be considered for this revised proposal, include the principle in relation to planning policy; the impact on the landscape and the surrounding area; the layout, design and issues of road safety; infrastructure capacity; and affordable housing. In particular, consideration must be given to how the proposal now seeks to overcome the reasons for refusal given previously.**

Principle in Relation to Land Use Policy

32. As with the previous application, the proposal now complies with Policies 4.1.1.(d) and 4.5.2. of the Local Plan with respect to the boundaries of the allocated site, and the protection from development, of the open areas and the escarpment on the west and north sides. The number of houses now proposed (10) also complies. The indicative landscaping shown for the west boundary shows a recognition by the applicant that integrating the development within its natural surroundings and providing screening from the prominent west side is required. It is suggested in the Local Plan text for this allocation that a S75 agreement should be put in place on the open land on this side and to provide landscaping. The Community Council have reiterated the request to have this in place, if approval is given. In this respect, I requested further information from the applicants about what their intentions were for the remaining open land in their ownership. A response was received which states that their intentions are as shown on the proposed drawings ie. footpath links and a view point on the escarpment. This statement is acknowledged but of course, apart from requiring the provision of the footpath links and the viewpoint on the escarpment via the current application, it does not, in itself, provide any guarantees that no further housing development will be sought elsewhere. It is perhaps understandable therefore that some concern about the applicants intentions, is still held.
33. Nevertheless, there are three points that need to be made in this respect. The first is that the applicants have made representations in relation to the Consultative Draft Local Plan (site shown as LA1 – live application). They continue to promote the current allocated site as an appropriate housing development opportunity but they also acknowledge the importance of the rest of the open land. The statement reads *"I would therefore recommend that the finalised local plan identifies the eastern part of the LA1 site as a suitable housing site, with the western and north western parts of the LA1 site identified as protected open space or landscaping"*. In my mind, this provides a more substantial statement of the applicant's intentions for the rest of the site. Secondly, I have reservations about the "legality" of imposing a S75 which would state that no further development will be permitted on this part of the site. This effectively prejudices the right of an

applicant to apply for planning permission and have that application considered, through the democratic planning process, taking account of planning policies at that time and any other material considerations. It could also prejudice the right of an applicant to have any future aspirations for the site properly and fairly considered through the development of any future Local Plan process. Thirdly, it is also the case that Policy 4.5.2 provides the extant policy support for retaining the open areas outwith the allocated site. Any future planning application would be considered against the terms of this policy but it is safe to say that it would represent a development not in compliance, in principle, with Policy 4.5.2. Details of landscaping can be covered by a planning condition. As such, I take the view that there is not a justifiable reason for requiring a S75 covering these aspects.

Impact on the Landscape and the Surrounding Area

34. As stated at the time of the previous application, it is certainly the case that this site adds to the character of this part of Nethy Bridge because it draws a natural landscape into the village and provides a visual separation between different land uses such as houses, hotels and woodland. Its importance to the community is valued and there is a desire from some parts of the community to retain its open natural status, in its entirety, because of what it represents. This is understandable. However, as discussed above, with the development being positioned within the boundaries of the allocation in the Local Plan, away from the open escarpment and with landscaped screening, I do not feel that it is possible to raise a significant objection to the proposal on landscape grounds. The boundaries of the allocated site, at the time of the Local Plan, were clearly drawn to minimise landscape impacts and the Local Plan did go through a legitimate process of adoption.
35. While some of the representations continue to raise concerns about the loss of a habitat for wildlife and an open space within the village, SNH and the CNPA Natural Heritage Group confirmed previously that there are no adverse impacts on natural heritage designations nearby, or that the site is valued as a significant and important natural heritage resource in itself.
36. Some concern remains amongst some of the representees about the impact the development would have on the amenity of adjacent properties, including the two hotels, and their respective business operations. However, I feel that in terms of amenity, this revised proposal, due to its modest scale, positioning and layout, will have limited impacts in the longer term, and while there may be some short-term disturbance during construction works, this is not a sustainable reason for resisting the proposal in planning terms.

Layout, Design and Road Safety

37. Due to the number of houses now proposed the development displays a low density layout. The "private market" houses, while a mixture of 4 and 5 bedroomed types, are not over-sized in their context, although they are positioned within fairly large plots. There are no adverse impacts on the privacy or amenity of the adjacent houses on the Causer Road. They are all one and a half storeys with ridge heights of 7.5m or 8m and the designs are traditional in proportions, features and finishing materials. The proposed "affordable" houses are also located on good sized plots and are located at the entrance to the scheme. While smaller, they reflect the same traditional characteristics and materials as the others. As such, I feel that they will appear very much part of the whole development, rather than isolated or separated in any way. In addition, being single storey and being located nearer to the more prominent part of the site at the western end, there are benefits in terms of minimising landscape impacts. In this respect, I feel that the layout and the house designs are acceptable in the context of the site and its surroundings and therefore I continue to believe that there are no reasons for objection to the development on these grounds.
38. The impact of the development on the local roads system is an issue that has caused continued concern with some representees. Clearly, with the significant reduction in the scale of the development from the original proposal for 38 houses submitted in March 2005, any perceived impacts are lessened. However, the fact is that the site is an allocated one in the Local Plan with a stated option to take access from Causer Road at the location proposed. When allocating the site in the Local Plan, it would have been part of the process to assess the potential for road safety concerns, otherwise the allocation would have been ineffective. The Area Roads Manager has been involved in the entire process and has always been content with the proposed access point. He has once again confirmed, that subject to conditions, he has no objection to the proposal on roads grounds.
39. Concern has been raised in relation to the visual impact on the embankment at the junction of the new access and Causer Road as a result of the works required to form the visibility splays. Following a request, the applicant has provided a drawing which shows in detail the required works. This shows that visibility to the left of the access (as you leave the site) can be provided within the width of the road carriageway ie. no verges, or boundary enclosures are affected. Visibility to the right (as you leave the site) does though require the regrading and lowering of part of the existing embankment. At its most this will involve a 3m depth back from the road edge. While this will alter the appearance of the embankment, the significance of this is in visual terms is limited in the context of a road carriageway within a settlement.

Infrastructure Capacity

40. Throughout the process of the previous application and this one, the matter of a constraint at the WWTW has been an issue. Clearly with the number of houses significantly reduced from the original proposal of 38 submitted in March 2005 the potential loading on the public foul water system is now less. However, as there was previously, there remained a concern that this development, if approved, could “jump the queue” and get connected to the new WWTW before other consented developments in the village, thus rendering them potentially ineffective. Of more concern was the fact that some of these developments were delivering much needed affordable/social housing. The developments at risk in this category included 15 units at Causer (Albyn), 10 units at Craigmore Road (formerly Eagle Star, now Zurich Assurance Ltd.), and 12 units at Polyanna (opposite the football pitch – formerly Aviemore & Highland now Albyn).
41. Legal advice on case law was taken previously on this issue, and there is evidence to conclude that adequacy of drainage capacity is a significant material planning consideration and that planning deals with localities and not just individual sites and parcels of land. It is therefore competent and important when considering a single planning application, to ask what the consequences will be on the wider locality. In this instance therefore, and because of the aims of the Park, it was felt necessary before to investigate in some detail the implications on other developments, of permitting development on this site. However, it was also felt that it was only fair to make a judgement on the effectiveness of these other developments and when and if they were likely to be implemented. The situation regarding these developments is covered in Paragraph 21 above, but the findings were that the Causer site is now completed and connected to the WWTW and was therefore not considered to be at risk. However, the Polyanna and Zurich sites, could have been at risk, if Scottish Water were unable to confirm that there was enough capacity for all the developments including the current proposal. This would have equated to potentially 22 units.
42. Scottish Water have, now however confirmed that there is capacity at the upgraded WWTW and from recent discussions with their representatives, it is the case that the “committed” developments mentioned above and the proposed development, have been included in the calculations. This has led them to their position of “no objection” on drainage grounds. It does, however, remain the case that Scottish Water cannot accept a connection until the upgrade works at the WWTW have been completed and formally adopted by them. They have though stated that this will be mid to late 2006. This provides a reasonable timescale and allows for the imposition of a suspensive condition which would ensure that no development shall commence until a connection can be made.

43. The other critical issue in relation to infrastructure provision is that of water supply. Following Scottish Water's objection on water constraint grounds at the time of the previous application, this issue resulted in the first reason for refusal. Consideration was given at that time, to the imposition of a suspensive condition which would ensure that no development commenced until the water constraint was removed. However, Scottish Water could not provide a timescale for removing the constraint and therefore it was found to be inappropriate to follow that line. Since that time, Scottish Water have instigated procedures to overcome leakage problems in the network and therefore they are now in a position to remove the constraint. They have stated that "*Scottish Water's water network infrastructure is not affected by this proposal at this time.*" **As such they have now removed their objection to the proposal. In this respect, the first reason for refusal on the previous application has now been overcome.**

Affordable Housing Provision

44. The number of houses now proposed is 10. This is the number of houses that the Local Plan allocation designates in Policy 4.1.1 (d). It is also the threshold, in Highland Council's Affordable Housing Policy for requiring a 25% level of affordable housing provision associated with any development. The second reason for refusal on the previous application related to the fact that there was no justifiable reason demonstrated by the applicant that affordable housing could not be provided on the site, as required as the first option, in Highland Council's policy. They also were under-developing the site (9 houses).
45. The proposal now includes the provision of 2 affordable houses on the site and within the development. The applicants have confirmed that it is their intention to now agree a fixed price for the land (Plots 1 & 2) and the houses, then build and sell them directly to Albyn Housing Association. I have received a copy of a letter from Albyn to the applicant which confirms that they are "*delighted to work with the Wilburn Homes in the provision of additional affordable housing in Nethy Bridge on the Braes of Balnagowan*". The letter also confirms that it would be their intention to develop these under their recently launched "Homestake Highland" banner which is their shared equity model where people in the local area can purchase a low cost home ownership property with a minimum 60% equity stake.
46. In this respect, the proposal now complies with Highland Council's Affordable Housing Policy which requires on site provision as the first and preferred option. Highland Council's Area Housing Manager and the CNPA's Housing Policy Officer are now content with the proposal. The proposed mechanism for delivering them has been stated by the applicants, but it will be necessary to seek legal planning means for appropriate delivery through the completion of a S75 agreement before the formal issue of any decision notice. The applicants are aware of

this and are agreeable. **On this basis, the second reason for refusal on the previous application is now overcome.**

Conclusion

47. **To conclude, it is acknowledged that there remains concern in the community about this proposal or indeed any form of development in this field. This concern can be considered by the Committee as material to the case. However, my view is that the proposal now fully complies with the terms of extant planning policy. This is in relation to the allocation in the Local Plan, the impact on the landscape, nature conservation, design and layout, and appropriate affordable housing provision. The technical matters of road safety, and drainage and water infrastructure capacity, have also been addressed. The reasons for refusing the previous application have been overcome, and I can therefore not find any justifiable reason for continuing to resist the proposed development.**

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

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

Promote Sustainable Use of Natural Resources

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

Promote Understanding and Enjoyment of the Area

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

Promote Sustainable Economic and Social Development of the Area

51. Providing housing within a settlement can deliver some economic and social growth to a community. The impact of the development on the amenity of adjacent businesses, in particular the two hotels, and their respective associated business operations, has always been a consideration and remains a concern with representees. While short term disturbance during construction may cause a concern, the fact that the development is significantly smaller in scale than the original proposal for 38 houses submitted in March 2005, and is now located to the eastern side of the site, means that I do not feel that the proposal, in planning terms, will create a significant or long term adverse effect on the amenity of adjacent businesses. There remains a need for affordable housing in Nethy Bridge, and the revised proposal now delivers the required percentage in the most appropriate way. It is also now the case that other "affordable housing" projects in Nethy Bridge will not be compromised by the proposal.

RECOMMENDATION

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

Grant Full Planning Permission for Residential Development of 10 Dwellinghouses (8 No. Private Units & 2 No. Affordable Units) with Associated Access Road, Footpaths, Viewpoint and Landscaping, at Braes of Balnagowan, Nethy Bridge, subject to:

- a. **the completion of a S75 legal agreement ensuring the appropriate delivery of the on site affordable housing; and**
- b. **the following conditions;**
 1. **The development to which this permission relates must begun within five years from the date of this permission.**
 2. **The development hereby approved shall be connected to the public foul drainage system. Unless otherwise agreed in writing with the CNPA acting as Planning Authority, no development shall commence on site until such a connection has been formally agreed, in writing, with Scottish Water.**
 3. **That the agreed final SUDS scheme for any individual phase of the development hereby approved shall be implemented and operational prior to the occupation of any development in that phase.**
 4. **That prior to the commencement of any works of site, for the development hereby approved, a detailed construction**

method statement, addressing the temporary measures for dealing with surface water run-off during construction and prior to the operation of the agreed final SUDS scheme, shall be submitted for the further written approval of the CNPA acting as Planning Authority, following consultation with SEPA.

5. That prior to the commencement of works on site, a programme of archaeological work for the preservation and recording of any archaeological features affected by the development hereby approved, including a timetable for investigation, shall be submitted for the further written approval of the CNPA acting as Planning Authority, following consultation with Highland Council's Archaeology Unit. All arrangements thereby approved shall be implemented by the developer at his expense in accordance with the approved scheme and timetable for investigation.
6. The development shall be landscaped and maintained in accordance with a scheme which shall be submitted to approved by the CNPA acting as Planning Authority before development commences. The scheme shall include indications of all existing trees and landscaped areas on the land, details of any to be retained, together with measures for their protection in the course of the development and shall indicate the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted and to the extent of any areas of earthmounding, and 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 a detailed maintenance schedule/table. Any trees or shrubs removed, or in 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.
7. That, unless otherwise agreed in writing with the CNPA acting as Planning Authority, prior to the occupation of the last dwellinghouse, the three link footpaths and the viewpoint, as shown on the approved site layout drawing (drawing no. s2720 L(-)04 Rev. B) shall be completed and be

available for use, all to the satisfaction of the CNPA acting as Planning Authority.

8. That prior to the commencement of works on site, exact details for the design, construction and finishing materials for the three footpath links and the viewpoint shall be submitted for the further written approval of the CNPA acting as Planning Authority. For the avoidance of doubt, the footpath links shall be designed and constructed in a manner which is suitable for multi-user use.
9. That, unless otherwise agreed in writing with the CNPA acting as Planning Authority, prior to the occupation of the last dwellinghouse, the play area as shown on the approved site layout drawing (drawing no. s2720 L(-)04 Rev. B), shall be completed and be available for use, all to the satisfaction of the CNPA acting as Planning Authority.
10. That prior to the commencement of works on site, exact details for the layout, design, construction, finishing materials, and the continued management and maintenance of the play area, shall be submitted for the further written approval of the CNPA acting as Planning Authority. The play area once completed shall be thereafter managed and maintained in perpetuity, in accordance with the approved scheme, unless otherwise agreed in writing with the CNPA acting as Planning Authority.
11. That prior to the commencement of works on site, exact details of all boundary enclosures and external hard surfacing materials (shared surface access road and driveways) for the development shall be submitted for the further written approval of the CNPA acting as Planning Authority.
12. That the roofs of the approved dwellinghouses and garages shall be finished in slate.
13. That prior to the commencement of the wall rendering works, a sample panel, approximately 1 metre square, of the wet harling shall be prepared on site for the inspection and further written approval of the CNPA acting as Planning Authority.
14. That prior to the commencement of works on site, exact details of the colours/stains for all external timberwork (including window frames, doors, garage doors, eaves and verges, and cladding), shall be submitted for the further written approval of the CNPA acting as Planning Authority.

15. That prior to the commencement of any other part of the proposed access road serving the rest of the development hereby approved, the following shall be completed and thereafter maintained, to the satisfaction of the CNPA acting as Planning Authority, in consultation with Highland Council's Area Roads Manager:
- a. Visibility of splays of not less than 3 metres x 70 metres being provided in both directions at the junction of the new access with the existing public road and thereafter maintained free from any obstructions exceeding a height of 1 metre above the adjacent road channel levels.
 - b. The existing access on the west side of the proposed access road, within the bellmouth of the junction with the public road, being permanently closed to vehicular traffic.
 - c. A suitable dropped kerb footway crossing being established to provide access to the existing property ("Balnagowan") on the east side of the proposed access near its junction with the public road.
16. That all internal roads intended for adoption, shall be designed and constructed to an adoptable standard in compliance with the requirements of Highland Council's Roads Guidelines for new Developments.
17. That the vehicular access to each house plot shall be hard surfaced for a distance of at least 6 metres measured from the rear of the adjacent footway or hard edge strip.
18. That parking and manoeuvring space for at least two cars shall be provided within the curtilage of each house plot such that vehicles can enter and leave each site independently.
19. No surface water shall be allowed to discharge from any private road or property within the development on to any public road.

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15 May 2006
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