

Modified Policy/Proposal ref Chapter 1 - Statutory Context

Response to Post Inquiry Modifications

1. THE STATUTORY CONTEXT

Paragraph 1.5

1) In the first sentence, the words "Section 7(1)(a) of the Order" should be replaced by the words "Article 7(1)(a) of the Order" so as to conform to the nomenclature used in the Order. Paragraph 1.5 is wrong to refer to the National Park as "the sole authority". It is the sole planning authority with power to make a local plan or local plans for the area of the National Park.

2) In the final sentence the words "the Local Plan must help ensure" should be replaced with the words "the Local Plan must be framed with a view to ensuring". This would more closely reflect the wording of section 9(6) of the National Parks (Scotland) Act 2000.

Paragraph 1.8

3) This paragraph should be deleted as it repeats what is better expressed in paragraph 1.6.

Paragraph 1.9

4) In the first sentence the words "the then" should be inserted between the word "under" and the words "Section 11" in view of the fact that the Planning etc (Scotland) Act 2006 has substituted a different Section 11. Later in the first sentence the word "securing" should be replaced by the word "ensuring" so as to reflect the language of section 9 of the National Parks (Scotland) Act 2000.

Paragraph 1.12

5) The words "Aberdeen City and Shire Structure Plan 2009" should be replaced by the words "North East Scotland together — Aberdeen and Aberdeenshire Structure Plan 2001-2016 (N.E.S.T.)." The Aberdeen City and Shire Structure Plan of 2009 makes it clear by its full title "Aberdeen City and Aberdeenshire (excluding the Cairngorms National Park) Structure Plan" and by certain maps that it does not apply to the National Park. It therefore does not replace N.E.S.T. for the National Park since it puts nothing in the place of the provisions of N.E.S.T. that apply to that part of Aberdeenshire lying within the National Park.

Paragraph 1.13

6) To avoid continuing the error that I have sought to correct in my objection to paragraph 1.12, the second sentence of paragraph 1.13 should be amended to read "Like the present Aberdeen City and Shire Structure Plan of 2009 the new Aberdeen City and Shire Strategic Development Plan will not apply to the Cairngorms National Park."

Paragraph 1.15

7) All except the first sentence should be deleted. The law does not provide any mechanism, for adoption of a local plan that does not conform to an approved applicable structure plan.

8) The wording subsequent to the first sentence appears to derive from paragraph 16 of Topic Paper 1 and a letter dated 6th December 2004 (CD8.11) from Steve Dowell, a Principal Planner of the Scottish Administration, in which he writes "There is the outstanding issue of compatibility with existing structure plans. All of these plans pre-date the establishment of the Cairngorms National Park. It will be for the Park Authority to justify differences in policy direction in the National Park Plan and Local Plan and whether these, as material considerations, outweigh the policies in existing structure plans. This is no different to past situations where new policy issues or directions overtake outdated plans, both structure and local."

9) Section 17(3) of the Town and Country Planning (Scotland) Act 1997, in the form in which under the transitional provisions it applies to this local plan, prohibits the adoption of a local plan which does not conform to an approved structure plan. If Mr Dowell intended to say that this prohibition does not necessarily prohibit adoption of a non-conforming local plan if the structure plan is out of date, he is, I contend, wrong.

10) However, it may well be that Mr. Dowell had in mind the administrative procedure set out in paragraph 28 of Planning Advice Note 49-Local Planning whereby the planning authority can in effect persuade the Scottish Administration to allow the planning authority to set out in the deposit local plan the reasons why the local plan should be at variance from the structure plan in the hope that consultees can be persuaded not to object. It is worthy of note that the last sentence of paragraph 28 reads " Bearing in mind the requirement for conformity with an approved structure plan, any conflict must be resolved before the local plan is adopted." This procedure was not

invoked in connection with what I contend is the obvious failure of Ballater H1 to conform to the applicable structure plan. Indeed the Park Authority has denied non-conformity in this respect. In any event a number of objectors to the local plan when it was put on deposit objected that Ballater H1 is too large a development for Ballater and at least three of them, Messrs PJ Swan, H Wight and B. Wright (for Ballater RD Ltd) supported this objection by putting before the Reporters, in the Joint Statement of Case Against Ballater H1, evidence as to the non-conformity with the structure plan. I myself object to non-conformity of Ballater H1 with the structure plan in my objections to the new sections respectively on the housing land requirement and on the proposals for Ballater.

11) I submit that the law is correctly stated in paragraph 4.147 on page 103 of *Scottish Planning Law and Procedure* by Jeremy Rowan Robinson, ISBN 9780414014305 (Green 2001) which states "The two tiers of a development plan are not necessarily reviewed and updated in an orderly sequence. In such a case, there would seem to be good reason why the local plan is unlikely to conform to the structure plan. Yet the local plan cannot be adopted until the structure plan has been updated. This will not prevent it being used by the planning authority as a material factor in development control decisions and, if it has been through the objection process and is awaiting adoption, it will carry considerable weight."

12) It seems that Mr Dowell may have had in mind section 25 of the Town and Country Planning (Scotland) Act 1997, the essence of which is that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan. That section, even if applicable to the decision whether the "old" section 17(3) prevents the adoption of a particular local plan, is concerned with the weight to be given to the development plan in making a determination. It does not alter the question to be determined by the planning authority which in this case will be whether the deposit local plan as modified conforms to the structure plan

13) In any event there are at least three grounds for concluding that section 25 does not apply to a decision as to whether the old section 17(3) prohibits adoption of a particular local plan.

14) First, section 25 applies "where...regard is to be had to the development plan". In *City of Edinburgh v Secretary of State for Scotland* [1997] 1 WLR 1447 at 1457E-H and 1998 SC (HL)33 at 43B-D, the House of Lords held that "to have regard to" does not mean 'slavishly to adhere to' nor does it oblige one to follow that to which one must have regard. Clearly section 17(3) requires much more than merely to have regard to the structure plan. It requires the local plan to conform to the approved structure plan and therefore obliges the planning authority to follow the structure plan.

15) Secondly, section 25 applies where regard is to be had to the development plan (structure and local plan) as a whole whereas the "old" section 17(3) regulated the content of one component, the local plan, by reference to another component, the structure plan. In other words the "old" section 17(3) was concerned with how the development plan comes into being whereas section 25 is concerned with the weight or authority to be attributed to a validly constituted development plan.

16) Thirdly, it is clear from *City of Edinburgh v Secretary of State for Scotland* [1997] 1 WLR at 1449H-1450B and 1457E-1458C and 1998 SC (HL) at 35G-I and 42I-43G, that the rebuttable presumption or priority in favour of the development plan contained in what is now section 25 of the Town and Country Planning (Scotland) Act 1997 was introduced into planning legislation by section 58 of the Planning and Compensation Act 1991 to change the previous law under which the development plan was just one of the material considerations in planning decisions. However, the "old" section 17(3) became part of planning legislation in its present form when the Local Government and Planning (Scotland) Act 1982 removed the word "generally" from in front of the word "conform". It is hardly likely that an amendment intended to strengthen the role of the development plan was intended to weaken a provision which ensured that the two components of the development plan were consistent.

17) The express amendments made to previous legislation by the National Parks (Scotland) Act 2000 show that Parliament did not intend that the terms of a National Park Plan could entitle a National Park Authority to adopt a local plan which did not comply with the then section 17(3) of the Act of 1997.

18) Section 14 of the National Parks (Scotland) Act 2000 provides "The Scottish Ministers, a National Park Authority, a local authority and any other public body or office holder must, in exercising functions so far as affecting a National Park, have regard to the National Park Plan as adopted under section 12(7)(a)." As indicated in my paragraph 14 above the meaning attributed by the law to "have regard to" has the effect that the bodies and persons referred to in section 14 of the Act of 2000 are not obliged to follow the National Park Plan.

19) Paragraph 18 of Schedule 5 to the National Parks (Scotland) Act 2000 inserted into the Town and Country

Planning (Scotland) Act 1997 a new section 264A which provides "In the exercise, with respect to any land in a National Park, of any power under the planning Acts, special attention shall be paid to the desirability of exercising the power consistently with the National Park Plan as adopted under section 12(7)(a) of the National Parks (Scotland) Act 2000 (asp10)". The use of the word "desirability" shows that the legislature assumed that the exercise of any power, including any pre-existing power, would be carried out within the limits of that power. It implies that there is a choice. There is therefore no authority granted nor any need for the local plan to follow the National Park Plan if doing so would contravene the "old" section 17(3) of the Town and Country Planning (Scotland) Act 1997 or any other applicable provision of planning law. The fact is that it is very unlikely that there is any conflict, or inconsistency even, between the National Park Plan of 2007 and an applicable structure plan. As Douglas Armstrong QC, counsel for the National Park Authority, wrote in paragraph 6 of his submission on the relationship between the National Park Plan and the Development Plan, "The Park Plan is not a planning policy document or plan."

20) I point out that the Reporters in their paragraph 2.5 say that their recommendation that Topic Paper 1 should be the basis for the new chapter 1 is subject to further review of its contents on matters of law on which they say they are not qualified to report.

Brief summary of key issues

Paragraph 1.5 -

1st sentence, "Section 7(1)(a) of the Order" should read "Article 7(1)(a) of the Order"

Para is wrong to refer to the National Park as "the sole authority".

Final sentence "the Local Plan must help ensure" should read "the Local Plan must be framed with a view to ensuring" to more closely reflect the wording of the National Parks (Scotland) Act 2000.

Paragraph 1.8 - Paragraph should be deleted as it repeats paragraph 1.6.

Paragraph 1.9 - 1st sentence "the then" should be inserted between "under" and "Section 11" to clarify the Planning etc (Scotland) Act 2006 has substituted a different Section 11. Later in that sentence the word "securing" should read "ensuring" to reflect the National Parks (Scotland) Act 2000.

Paragraph 1.12 - "Aberdeen City and Shire Structure Plan 2009" should read "North East Scotland together — Aberdeen and Aberdeenshire Structure Plan 2001-2016 (N.E.S.T.) since the former does not apply to the National Park.

Paragraph 1.13 - 2nd sentence should read "Like the present Aberdeen City and Shire Structure Plan of 2009 the new Aberdeen City and Shire Strategic Development Plan will not apply to the Cairngorms National Park."

Paragraph 1.15 -

All except the first sentence should be deleted. The law does not provide any mechanism, for adoption of a local plan that does not conform to an approved applicable structure plan.

2nd sentence is incorrect as the 1997 T&CP(S) Act prohibits the adoption of a local plan which does not conform to an approved structure plan. Comment is also made on the relationship between the National Park Plan and Local Plan. The change required to the wording in regard to the National Park Plan is unclear.

CNPA analysis and response

The objector raised details objections and comments on the correctness of wording set out in Chapter 1. CNPA accepts the need to cross check the wording of this chapter to ensure it is correct prior to final publication.

However any changes which do not materially affect the policies and proposals in the plan will be included in accordance with Circular 32/1996.

The objections raise no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the Plan as published, other than minor corrections which do not materially affect the policies and proposals contained therein.

CNPA Decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Dr A M Jones

Agent

400d

Badenoch and Strathspey Conservation
Group

Modified Policy/Proposal ref Chapter 2

Response to Post Inquiry Modifications

2.18 and other paras in this section - Object to lack of clarity about which plan is, being referred to (Local Plan, Park Plan or Local Development Plan).

Change: For clarity the full name of whichever plan is being referred to should always be given.

Brief summary of key issues

The full name of the Local Plan, Park Plan or Development Plan should always be given.

CNPA analysis and response

Where a plan is referred to its full name will be included. This change will occur in accordance with Circular 32/1996. The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change other than minor clarification as referred to above. Do not refer the objection to a second Local Plan Inquiry.

Modified Policy/Proposal ref Chapter 2 - the vision of the Local Plan, its preparation and its use

Response to Post Inquiry Modifications

THE VISION OF THE LOCAL PLAN, ITS PREPARATION AND ITS USES

1 I notice that the whole of chapter 2 is in blue and is all a modification. I object to it on the ground that it does not contain a concise statement of the local plan's vision which converts the vision from the National Park Plan of 2007 into planning terms apt to guide the local plan.

2 In any event I object to the failure to implement the Reporters finding, in effect, in their paragraph 2.5, that the text reproduced unchanged in paragraphs 2.1 to 2.4 of this modification does not explain how the vision of the CNPLP has been derived and will be taken forward.

3 I also object to the failure to implement the recommendation of the Reporters in their paragraph 2.7 that the meanings of sustainable development and other terms are defined alongside commitments to the principle of sustainable development early in the text of the plan. The bullet point on sustainable development in paragraph 2.2 remains unchanged from the version of the local plan before the Reporters. I object that none of the recommendations of the Reporters in the last two sentences of their paragraph 2.7 have been implemented.

4 Figure 1 on page 16 is an improvement on that criticised by the Reporters in their paragraph 2.7 but it is marred by the inclusion of existing adopted local plans and other supporting evidence which have thus been given the appearance of having equal status to the other inputs, which they do not. I think this diagram should be omitted,

5 In paragraph 2.7 reference is made to the life of the plan. I object to the local plan having a fixed life, which is contrary to government policy expressed in paragraph 62 Of Planning Advice Note 49 Local Planning. Limiting the life of the plan (albeit with certain specified matters going beyond that life) would have the result that if no Local Development Plan became operative before expiry of the life of the local plan, there would be no local plan laying down the many general policies for which this deposit local plan provides.

Brief summary of key issues

Object to the modifications that do not contain a concise statement of the local plan's vision which converts the NPP vision into planning terms.

Object to failure to implement Reporters findings for the text to explain how the vision has been derived and will be taken forward.

Object to failure to implement Reporters recommendation that sustainable development and other terms are defined alongside commitments to the principle of sustainable development early in the text of the plan. Object that none of the recommendations in the last two sentences of their para 2.7 have been implemented.

Omit Fig 1 which does not clearly show the status of the various documents.

Object to the Local Plan having a fixed life, which is contrary to PAN 49 para 62. If no LDP became operative before expiry of the local plan, there would be no local plan

CNPA analysis and response

The Local Plan has the same vision as the National Park Plan and sets out how this vision will be achieved which also guide the National Park Plan. The Local Plan also sets out clearly the technical terms used including sustainable development. CNPA has set out its response to the Reporters recommendations regarding the production of a vision for each settlement. The matter of settlement visions was considered by the Reporters at the Local Plan Inquiry.

The objector raises a point regarding Figure 1. CNPA accepts the need to cross check the wording to ensure it is clarity prior to final publication. However any changes which do not materially affect the policies and proposals in the plan will be included in accordance with Circular 32/1996.

The objector objects to the Local Plan having a fixed life. The reference is in accordance with best practice produced by the Scottish Government, including that given through PAN 49, regarding the life cycle of Local Plans

The objection does not raise any new planning issues and there is no material change in circumstances to warrant

either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA Decision - no change. Do not refer the objections to a second Local Plan Inquiry.

Objector Ref	Dr A M Jones	Agent
4001	Badenoch and Strathspey Conservation Group	

Modified Policy/Proposal ref Economic Development

Response to Post Inquiry Modifications

5.79 - Object to sentiment that population growth is justifiable.

Using global information, there are objective criteria for considering that human global population is at a level that cannot be sustained irrespective of the distribution of world resources and realistic developments in levels of production. At present, to support the world population at the standard enjoyed in Scotland would take several worlds — i.e. It is completely unattainable.

BSCG regards it as irresponsible to promote a view that we can go on increasing world population with impunity and with beneficial consequences.

Change: Delete the references to population growth.

Object to final sentence "The NP will ... bring forward new land for consideration as the need arises" due to its unqualified nature and the lack of clarity over what the NP views as 'need'.

Change:

Omit this entire sentence.

Brief summary of key issues

Object to the sentiment that population growth is justifiable.

CNPA analysis and response

The matter of population growth was a matter considered by the Reporter during the Local Plan Inquiry. The sentence referred to was included to clarify the ongoing work of CNPA in its review of land for economic development, and to ensure a proper balance is struck between growth for economic development and protection under the 4 aims of the Park.

Following consideration of the evidence presented at the Inquiry, the Reporters did not recommend the change sought by the objector. This objection does not raise new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the policy or proposals maps as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Phillip John Swan

Agent

462n

Modified Policy/Proposal ref Economic Development land allocations

Response to Post Inquiry Modifications

Subject of Objection - CNPA's failure to comply with Reporters' recommendation in their paragraph 6.22 to review economic development aspects of the Local Plan before adoption.

Relevant Documents - Reporters' recommendations in their paragraphs 6.8, 6.18, 6.20, 6.22 and CNPA's responses.

Reasons for Objection:

- a) Reporters' paragraph 6.8 states: "...we find that the principle of sustainable economic development is supported by the CNPP 2007 and by relevant national policy. However, when we take an overview of the emerging local plan we have some sympathy for those who fear that as the plan has progressed, the policies and the associated text have given more support to strategic objectives relating to Living and Working in the Park and less to those focussed on Conserving and Enhancing the Park. To address this, we consider that CNPA should review the plan against the strategic objectives of the CNPP 2007 before it is adopted, to make sure that the appropriate balance is achieved between too much or too little by way of encouraging economic development as narrowly defined."
- b) Reporters' paragraph 6.18 states: "there is no evidence that CNPA has established the land supply for economic development within particular settlements which would be appropriate even for the life of this local plan, to comply with SPP 2. Further, from the evidence before us, it seems that the approach adopted by CNPA to the land allocations that have emerged lacks meaning because it is not based on well accepted and sound planning practice."
- c) Reporters' recommendation in their paragraph 6.22 is unequivocal: "Accordingly, we recommend that CNPA should review the local plan before its adoption to ensure that a proper balance has been struck and the right emphasis applied to the encouragement of economic development."
- d) The CNPA's response is that they: "do not accept that it is appropriate to include this detailed work at this late stage in the plan making process. CNPA commits to a root and branch review of economic growth aspirations within communities across the Park, and to full stakeholder engagement. It will then produce a full assessment following the guidance provided by Scottish Government to inform both the Local Development Plan and emerging National Park Plan. Should this work flag up the need for a more immediate response CNPA will bring forward supplementary guidance to cover the topic."

This response is not acceptable because: a) Reporters' comments are unequivocal; b) it is highly inappropriate to defer the recommended actions to the following plan simply because it is inconveniently late for the present local plan, and c) CNPA has made formal written undertakings in the past including extravagant promises of consultation, which it has failed to deliver on. For example, in December 2007, CNPA made very specific undertakings in response to 19 objectors who criticised the general housing land supply figures in the Deposit Local Plan. CNPA then simply failed to deliver on those undertakings, for reasons that are unclear to me. It is therefore not sufficient for the CNPA to have such undertakings recorded in this consultation document — it cannot be trusted to deliver on them. Furthermore, it seems logical that the definition of the form of economic development in a settlement should be congruent with the "vision" for the settlement. As far as Ballater is concerned, as an example, the existing sources of wealth are primarily tourism and retirement, followed by agriculture and forestry. This structure may well be unique to Ballater within the CNP — certainly the proportions of the sources of wealth will be unique. This structure may remain broadly as it is today, or it may change, according to the "vision" for Ballater. Therefore, in order to ensure that the land supply for economic development is defined appropriately, this can only be done as part of the creation of the vision.

Required Changes:

Compliance with Reporters' recommendation to define the land allocation requirement for economic development at an early stage. This should be done in a manner that is consistent with the development of the vision for Ballater.

Brief summary of key issues

Objects to the CNPA response to the Reporters recommendations regarding economic development and land for such development. Reasons for this are given. The work should also form part of work on the 'vision' for settlements, including Ballater.

CNPA analysis and response

CNPA has set out its response to the Reporters recommendations regarding the production of information regarding the delivery of the need for economic development, and for the need for a vision for each settlement. Both matters were considered by the Reporters at the Local Plan Inquiry. Whilst the objector may not agree with the CNPA response, this has been set out in accordance with the procedures laid down regarding the preparation of Local Plans. The objection does not raise any new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA Decision - no change. Do not refer the objections to a second Local Plan Inquiry.

Modified Policy/Proposal ref Economic Development land allocations

Response to Post Inquiry Modifications

Subject of Objection: CNPA's failure to comply with Reporters' recommendation in their paragraph 6.22 to review economic development aspects of the Local Plan before adoption.

Relevant Documents: Reporters' recommendations in their paragraphs 6.8, 6.18, 6.20, 6.22 and CNPA's response.

Reasons for Objection:

a) Reporters' paragraph 6.8 states: "we find that the principle of sustainable economic development is supported by the CNPP 2007 and by relevant national policy. However, when we take an overview of the emerging local plan we have some sympathy for those who fear that as the plan has progressed, the policies and the associated text have given more support to strategic objectives relating to Living and Working in the Park and less to those focussed on Conserving and Enhancing the Park. To address this, we consider that CNPA should review the plan against the strategic objectives of the CNPP 2007 before it is adopted, to make sure that the appropriate balance is achieved between too much or too little by way of encouraging economic development as narrowly defined."

b) Reporters' paragraph 6.18 states: "there is no evidence that CNPA has established the land supply for economic development within particular settlements which would be appropriate even for the life of this local plan, to comply with SPP 2. Further, from the evidence before us, it seems that the approach adopted by CNPA to the land allocations that have emerged lacks meaning because it is not based on well accepted and sound planning practice."

c) Reporters' recommendation is unequivocal: "6.22 Accordingly, we recommend that CNPA should review the local plan before its adoption to ensure that a proper balance has been struck and the right emphasis applied to the encouragement of economic development."

d) The CNPA's response is that they: "do not accept that it is appropriate to include this detailed work at this late stage in the plan making process. CNPA commits to a root and branch review of economic growth aspirations within communities across the Park, and to full stakeholder engagement. It will then produce a full assessment following the guidance provided by Scottish Government to inform both the Local Development Plan and emerging National Park Plan. Should this work flag up the need for a more immediate response CNPA will bring forward supplementary guidance to cover the topic."

This response is not acceptable because: a) Reporters' comments are unequivocal and severely critical; b) it is highly inappropriate to defer the recommended actions to the following plan simply because it is inconveniently late for the present local plan; c) the CNPA has made formal written undertakings in the past including extravagant promises of consultation, which it has failed to deliver on. For example, in December 2007, CNPA made very specific undertakings in response to 19 objectors who criticised the general housing land supply figures in the Deposit Local Plan. CNPA then simply failed to deliver on those undertakings. It is therefore not sufficient for the CNPA to have such undertakings recorded in this consultation document — it cannot be trusted to deliver on them.

Required Changes: Compliance with Reporters' recommended preference.

Brief summary of key issues

Objects to the CNPA response to the Reporters recommendations regarding economic development and land for such development. Reasons for this are given.

CNPA analysis and response

CNPA has set out its response to the Reporters recommendations regarding the production of information regarding the delivery of the need for economic development, and for the need for a vision for each settlement. Both matters were considered by the Reporters at the Local Plan Inquiry. Whilst the objector may not agree with the response, this has been set out in accordance with the procedures laid down regarding the preparation of Local Plans. The objection does not raise any new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA Decision - no change. Do not refer the objections to a second Local Plan Inquiry.

Objector Ref Reidhaven Estate
456w

Agent Halliday Fraser Munro

Modified Policy/Proposal ref ENV allocations

Response to Post Inquiry Modifications

Our previous representations remain relevant following the publication of the post inquiry modifications. The Reporter raised concerns over the way in which ENV designations have been applied across the Park with little justification for the allocations. Until an Open Space Audit is undertaken, the stringent designation of land as an ENV allocation is unjustified.

Brief summary of key issues

The stringent designation of land as ENV is unjustified until the open space audit is undertaken.

CNPA analysis and response

The allocation of land as ENV was considered by the Reporters during the Local Plan Inquiry. CNPA has set out its position regarding this designation matched with Policy 36 Other Open Space Provision. Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the changes sought by the objector. The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the proposals for ENV land and for Policy 36 as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Dr A M Jones

Agent

400g(e) Badenoch and Strathspey Conservation
Group

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

5.36 - Object to the unqualified inclusion of 5.36.

The Inquiry Reporters confirmed that the NP designation sets the NP apart from the rest of Scotland. The CNPA needs to clearly recognise that the requirements of the NP legislation are not necessarily compatible with identifying a generous supply of land for housing. Therefore, the SG's requirement for the planning system to provide a generous supply of housing land has to be qualified within a NP. We are concerned that 5.36 could be interpreted as providing an over-riding requirement for the CNPA to identify a generous land supply.

Changes: Modify the sentence along the lines of 'The SG, through SPP, housing in the right places. However the CNPA's primary focus is the collective delivery of all 4 aims, and the primacy of the 1st aim in the event of conflict.'

5.37, 5.38, 5.39, 5.40

Object to the lack of clarity in these paragraphs. We welcome that some explanations are entirely clear (e.g. in 5.37 the description of housing land audits and constraints) but other important aspects of determining how many houses are to be provided and over what timescales, remain opaque. It is very important that all aspects of this fundamental element of the LP are fully explained, such that there is a transparent process that anyone can understand. Examples of where further explanation is needed are: which Plan (LP or PP?) is referred to that covers the period 2006-2016, and why this date period, which doesn't relate in any obvious way to the 3 years of the LP 2011-2013?. Why is the figure of 774 increased to 835, what time period do the extra 61 houses cover, and how many years beyond 2016 does the CNPA have to look?

Change: Insert further explanatory information..

Tables 1-4

Object to lack of clarity in the Tables. In some Tables (e.g. Table 1) the allocations are not identified with the code in the settlement maps (H1 etc). Those areas of housing that are not allocations in this LP do not have a code. These housing areas could be shown on a map so that it is clear what sites the tables are referring to. In e.g. Nethybridge in Table 1 it is hard to understand what allocations, or areas of the village, are being referred to.

Change: All the allocations in the Tables should be clearly identified, using H1 etc. All sites should be mapped to provide clarity.

Object. An Camas Mor (ACM) has been granted outline permission and the applicant has indicated that he intends to progress the application swiftly (press report). We appreciate that it is an unknown how long it may take until detailed planning permission is granted and construction begins. However, the applicants' may wish to progress with a minimum of delay. Accordingly, the LP should refer to this new town proposal that has outline approval, and provide some indication of whether it will grant detailed planning permission within the timescale of this LP, or whether it will resist doing so.

Change - insert an explanation of if or how the CNPA intends ACM to contribute to this LP is the applicant places an early detailed application.

Brief summary of key issues

- object to para 5.36 which could be interpreted as providing an over-riding requirement for CNPA to identify a generous land supply.
- object to paras 5.37, 38, 39 and 40. Wording is unclear particularly with reference to how many houses are to be provided and over what timescales.
- object to tables 1-4. Some sites in these tables are not included as allocations on the plans,
- object to the lack of an explanation regarding An Camas Mor and how it will contribute to the housing supply of this plan if the applicant places a detailed planning application.

CNPA analysis and response

Para 5.36 is included to clarify the Scottish Government latest position regarding the supply of new housing. Together with the previous paragraph it is intended to direct the reader to the key documents guiding the Local Plan on the issue of housing, i.e. The National Park Plan and Scottish Government Policy. This is in line with Reporters recommendations to provide an explanation of housing land requirements that complies with the requirements of SPP3 (now replaced by SPP).

Paras 5.37-40 and Tables 1-4 explain in text the reasons for including the tables, and set out the established and effective housing land supply in accordance with SPP3/SPP. The information provided in these tables sets out the published established and effective land supply for each Local Authority since the commencement of the plan making process, and how this meets the housing requirement for the Park. CNPA has set out its explanation for completing these tables as appendix to the Plan and the text for each table explains the information provided in each. CNPA has confirmed that these tables set out the established and effective housing land supply which complies with Annex A of SPP3, as recommended by the Reporters.

Regarding ACM the land does not meet the tests of effectiveness and so is not included within tables 1-4. Any application would therefore be considered on its merits at the time of submission in the normal development management process.

The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Susan Matthews

Agent

437k Ballater and Crathie Community Council

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

The increase in the housing allocations for Ballater as a percentage of the Park whole, as a result of the total housing requirements in the Park being reduced.

The Ballater numbers should be reduced in line with the overall reductions across the Park and as a consequence also see a reduction in the area of built on land within BL/H1.

Brief summary of key issues

As a result of the reduction in the overall housing requirement for the Park, the Ballater % has increased. This % should be reduced in lien with the overall reductions, and H1 should be reduced accordingly.

CNPA analysis and response

The matter of housing land supply was previously considered by the Reporters during the Local Plan Inquiry. CNPA has set out its assessment of the Reporters recommendations and has revised its housing land supply information to address these. The wording as included in the published document reflects the current published effective housing land supply and also the findings of the Reporter in regard to the commissioned study on by the University of Manchester. The information presented is in accordance with the requirements of Annex A of SPP3, as recommended by the Reporters.

The Reporters also considered the matter of Ballater housing allocation BL/H1 during the Local Plan Inquiry. Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the changes sought by the objector. The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the proposals as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Susan Matthews

Agent

4370

Ballater and Crathie Community Council

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

- The Reporters did not specify 950 houses for the period to 2016.
- In their paragraph 7.13 Reporters noted that Manchester University was not the only source of household projections and acknowledged the alternative source — the General Register of Scotland - GROS (2008) study. This has not been taken into account by CNPA in the post inquiry modifications.
- In their paragraph 7.17, Reporters state, with regard to housing numbers to 2016: 'estimates translate to between 750 and 950 households. We note that the upper household projection has been chosen by CNPA to reflect both the backlog of demand and the effect of inward migration. While we have no particular quarrel with that decision we note in passing our understanding that the generous migration assumptions which have been discussed above are an integral part of the calculation of the population projections from which the household projections are derived. With that in mind, CNPA will wish to be certain that these projections do not involve any suspicion of double counting.'
- CNPA has not confirmed that the adoption of the figure of 950 excludes any double counting, as requested by the Reporters' paragraph 7.17.
- Reporters' paragraph 7.37 states: "paragraphs 5.35 to 5.40 (of the Local Plan) should be deleted...along with Tables 2, 3, and 4. All of this material should be replaced with text and associated tables which incorporates the most up to date information available to CNPA including [but not limited to] the various housing land audits."
- The lower end of range figure (750) correlates more closely with the GROS (2008) projection, which is acknowledged, in paragraph 49 of Topic Paper 3, to be based on more up to date information on mortality, fertility and migration. The GROS (2008) study yielded a growth in housing to 2016 of 690 units.
- CNPA has responded to Reporters' comments on excessive housing numbers by proposing a reduction in the overall total for the period 2006-2016 from 1639 to 950, the latter figure being rounded up from 938, as predicted from work done by Manchester University (2005).
- Paragraph 6 of Topic Paper 3 states: "Given that projections are not an exact science the CNPA is adhering to the initial figure of 950, thus giving additional flexibility if the GROS projection proves to be more accurate. This is preferable to taking the lower figure and ending up with a shortfall." This attitude towards data analysis does not accord with that recommended by the Reporters, in their paragraph 7.19 where they say: "Our preference is for the generation of scenarios based on an array of assumptions whose realism can be tested...". To do so, it is necessary to avoid the addition of "safety" margins at various steps along the calculation process, as CNPA has done by taking a starting point of 950 in its proposed Post Inquiry Modifications. Instead, it should apply appropriate "safety margins" at the end of the calculation of the outstanding effective land requirement, based on defined scenarios.
- CNPA Topic Paper 3, paragraph 76, states: "The GROS figures were not available until after the Local Plan had been prepared and gone through the formal deposit process". This is no longer a valid excuse for ignoring the GROS (2008) projection, since changes in housing numbers are now being accommodated by CNPA. In responding to Reporters' request to use the most up to date information available, CNPA have failed to do so for housing projections. This constitutes a rejection of the Reporters' request that amendments to the plan be made on the basis of the most up to date information.
- The overall housing land supply should not therefore be based on the Manchester University projection of 950 units to 2016 but based on the GROS (2008) figure of 690.
- Reporters' paragraph 7.18 provides a wide ranging critique of CNPA's overall approach to general housing allocation, including comments such as: "...it was stated in evidence by CNPA that in developing the calculation of the housing land requirement, factors other than the projected increment in population were taken into consideration. In particular, it was stated that:
 - : the CNPP 2007 encourages a population that can continue to support thriving communities in the long term with an emphasis on retaining and attracting young people;
 - : the CNPP 2007 also reflects the objective of growing the population of the Highlands shared by Highlands and Islands Enterprise and The Highland Council including the flexibility allowance built into the latter's housing

allocations;

: the only practical method of meeting the critical need for an increase in the provision of affordable housing is through an increase in market housing and the associated land supply for that.

We have significant reservations about this approach. Firstly, as noted above, our reading of the strategic objectives for sustainable communities does not lead us directly to the conclusion that population growth should be promoted as a policy objective in the local plan by the allocation of land for housing over and above that which is required to accommodate the households formed as a consequence of the projected increase in population. Secondly, we have searched in vain in the text of the CNPP 2007 for its endorsement of the objective of growing the population of the Highlands shared by The Highland Council and Highlands and Islands Enterprise. Lastly, elsewhere in this report we explain in detail why we consider that the provision of large areas of housing land for open market housing is a blunt weapon, ill-equipped to meet the formidable challenge of addressing the need for affordable housing in the National Park"

- The Reporters have thus made it clear that total housing numbers should not be inflated with the intention of using this as a means for delivering affordable housing. The total housing numbers proposed for the CNPA are both excessive and ineffective for providing the required number of affordable houses. Therefore, it would not be justifiable for CNPA to claim that the demand for affordable housing is a reason for its proposed overall housing numbers.

- If the total housing requirement for the period to 2016 is taken as 690 and applied to Tables 1 to 4 in Appendix 2 of the Post Inquiry Modifications, then it can be seen that the pressure on housing numbers and allocation of effective land requirement is significantly reduced:

- Table 1 of the Post Inquiry Modifications Local Plan indicates there was an effective housing land supply of 904 units, at the commencement of the plan preparation which contribute to the stated figure of 950 units for the period to 2016. With the figure of 690 the baseline effective land supply for the period to 2016 was in surplus by 214 units (904-690).

- If Table 2 is amended with 690 then the reduced requirement of 514 yet to be built by 2016 would replace 774.

- Table 3 indicates that CNPA has identified a total effective land supply of 969 with a projected requirement of 774. This represents a safety margin of 25%. By using 514 as the projected requirement and the same level of safety margin Table 3 amends to an effective land supply of 643.

- In Table 4, again using the same safety margins but replacing the 774 houses by 514 to be built by 2016 gives the total in Table 4 of 554. In other words by replacing the Manchester study with the more up to date GROS(2008) projection 280 units can be removed from the projections.

Changes required to address objection -

- reduce the total housing allocation for the park from 950 to 690 for the period to 2016
- check and if correct amend the outstanding number of houses to be built by 2016 to 514
- adjust the effective land supply (needed) to not more than 554 by 2016
- consult with communities to ensure allocations, distribution and amendments are acceptable.

Brief summary of key issues

The housing land supply should not be based on the University of Manchester study. A number of supporting arguments to this are included. Tables 1-4 should be amended to use as a base the GROS figure of 690. The effective housing land supply should be amended accordingly. Consultation should then take place with communities to ensure allocations, distribution and amendments are acceptable.

CNPA analysis and response

The matter of housing land supply was previously considered by the Reporters during the Local Plan Inquiry. The Reporters also considered the GRO(S) figures. CNPA has set out its assessment of the Reporters recommendations and has revised its housing land supply information to address these.

Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the change sought by the objector. The wording included in the published document reflects the current published effective housing land supply and also the findings of the Reporter in regard to the commissioned study on by the University of Manchester. The information presented is in accordance with the requirements of Annex A of SPP3, as

recommended by the Reporters.

The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Strathdee Properties Ltd
453b

Agent Halliday Fraser Munro

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

Strathdee Properties Ltd previously made representations to the CNPA Local Plan that raised concerns about the low level of housing allocations proposed. The CNPA have accepted the Reporters' Recommendations suggesting that the housing land requirements should be revisited. The suggested allocations appear to be largely based upon existing housing allocations in various current Council Local Plans. We do not consider this to be a reasonable growth scenario that will deliver open market housing that will contribute to the economic well being of the National Park and sustain existing services.

Changes Required to Resolve the Objection

The adoption of a revised housing land strategy that allocates sufficient housing land in the National Park would be required before our client's objection could be removed.

Brief summary of key issues

The revisions to the housing land supply information contained in the plan does not allow for reasonable growth and should be revised to allow support for the economic well being of the National Park and to sustain existing services.

CNPA analysis and response

The matter of housing land supply was previously considered by the Reporters during the Local Plan Inquiry. CNPA has set out its assessment of the Reporters recommendations and has revised its housing land supply information to address these. Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the change sought by the objector. The wording as included in the published document reflects the current published effective housing land supply and also the findings of the Reporter in regard to the commissioned study on by the University of Manchester. The information presented is in accordance with the requirements of Annex A of SPP3, as recommended by the Reporters.

The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Phillip John Swan

Agent

462a

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

Subject of Objection - Excessive allocation of housing units for the period to 2016.

Relevant Documents - Appendix 2 of Post Inquiry Modifications, Tables 1 to 4.

All and any other documents that stipulate 950 houses for the period to 2016.

Reporters' paragraphs 7.13, 7.17, 7.18, 7.19 and 7.37.

Topic Paper 3, paragraphs 49 and 76.

Reasons for Objection:

a) The Reporters at no time specified 950 for the period to 2016. In their paragraph 7.13 they noted that Manchester University (2005) was not the only source of projections and acknowledged the alternative source — the GROS (2008) study.

Reporters' paragraph 7.17 states, with regard to housing numbers to 2016 (emphasis by objector): "estimates translate to between 750 and 950 households. We note that the upper household projection has been chosen by CNPA to reflect both the backlog of demand and the effect of inward migration. While we have no particular quarrel with that decision we note in passing our understanding that the generous migration assumptions which have been discussed above are an integral part of the calculation of the population projections from which the household projections are derived. With that in mind, CNPA will wish to be certain that these projections do not involve any suspicion of double counting." CNPA has not confirmed that the adoption of the figure of 950 excludes any double counting, as requested by the Reporters.

Reporters' paragraph 7.37 states: "paragraphs 5.35 to 5.40 [of the Local Plan] should be deleted...along with Tables 2, 3, and 4. All of this material should be replaced with text and associated tables which incorporates the most up to date information available to CNPA including [but not limited to] the various housing land audits." (objector's emphasis).

CNPA has responded to Reporters' comments by proposing a reduction in the overall total for the period 2006-2016 from 1639 to 950, the latter figure being rounded up from 938, which was predicted from work done by Manchester University (2005).

The automatic selection of the high end of the range figure is not appropriate because the low end figure of 750 correlates more closely with the GROS (2008) projection of 690 for the same period, which is based on more up to date information (as required by the e Reporters' paragraph 7.37) on fertility, mortality and migration (as explained in Topic Paper 3, paragraph 49).

CNPA Topic Paper 3, paragraph 76, states: "The GROS figures were not available until after the Local Plan had been prepared and gone through the formal deposit process". This is no longer a justification for ignoring the GROS (2008) projection, since radical changes in housing numbers are now being accommodated by CNPA. In responding to Reporters' request to use the most up to date information available, CNPA have failed to do so for housing projections. This constitutes a rejection (to which I object) of the Reporters' request that amendments to the plan be made on the basis of the most up to date information.

Paragraph 76 of Topic Paper 3 then goes on: "Given that projections are not an exact science the CNPA is adhering to the initial figure of 950, thus giving additional flexibility if the GROS projection proves to be more accurate. This is preferable to taking the lower figure and ending up with a shortfall." This attitude towards data analysis does not accord with that espoused by the Reporters, in their paragraph 7.19: "Our preference is for the generation of scenarios based on an array of assumptions whose realism can be tested...".

The overall housing land supply should not therefore be based on the Manchester University projection of 950 units to 2016 but based on the GROS (2008) figure of 690.

b) Reporters' paragraph 7.18 provides a very wide ranging criticism of CNPA's overall approach to general housing allocation, including comments such as (with objector's emphasis shown): "...it was stated in evidence by CNPA that in developing the calculation of the housing land requirement, factors other than the projected increment in population were taken into consideration. In particular, it was stated that:

: the CNPP 2007 encourages a population that can continue to support thriving communities in the long term with an emphasis on retaining and attracting young people;

: the CNPP 2007 also reflects the objective of growing the population of the Highlands shared by Highlands and Islands Enterprise and The Highland Council including the flexibility allowance built into the latter's housing allocations;

: the only practical method of meeting the critical need for an increase in the provision of affordable housing is through an increase in market housing and the associated land supply for that.

We have significant reservations about this approach. Firstly, as noted above, our reading of the strategic objectives for sustainable communities does not lead us directly to the conclusion that population growth should be promoted as a policy objective in the local plan by the allocation of land for housing over and above that which is required to accommodate the households formed as a consequence of the projected increase in population.

Secondly, we have searched in vain in the text of the CNPP 2007 for its endorsement of the objective of growing the population of the Highlands shared by The Highland Council and Highlands and Islands Enterprise. Lastly, elsewhere in this report we explain in detail why we consider that the provision of large areas of housing land for open market housing is a blunt weapon, ill-equipped to meet the formidable challenge of addressing the need for affordable housing in the National Park."

The Reporters have thus made it quite clear that total housing numbers should not be inflated with the intention of using this as a means for delivering affordable housing. The total housing numbers proposed for the CNP are excessive, yet ineffective for providing affordable houses. Therefore, it would not be justifiable for CNPA to claim that the demand for affordable housing is a reason for its proposed overall housing numbers.

Required Changes:

The figure of 950 is not justified and should be reduced to 690, in accordance with the projections produced by GROS (2008), which are based upon the most up to date information. CNPA should rework the housing numbers based on the GROS (2008) projected number of 690 new houses for the whole Park area in the period to 2016.

Brief summary of key issues

The land supply figures should be reduced to the GROS figure of 690, the housing numbers should then be recalculated for the whole Park. Supporting reasons are included.

CNPA analysis and response

The matter of housing land supply was previously considered by the Reporters during the Local Plan Inquiry. CNPA has set out its assessment of the Reporters recommendations and has revised its housing land supply information to address these. The Reporters considered the GRO(S) figures in their Report. Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the change sought by the objector. The wording as included in the published document reflects the current published effective housing land supply and also the findings of the Reporter in regard to the commissioned study on by the University of Manchester. The information presented is in accordance with the requirements of Annex A of SPP3, as recommended by the Reporters.

The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Phillip John Swan

Agent

462b

Modified Policy/Proposal ref Housing land supply

Response to Post Inquiry Modifications

Subject of objection: Incorrect data and inappropriate effective land supply in Appendix 2 of the Post Inquiry Modifications.

Relevant Documents - Appendix 2 of Post Inquiry Modifications, Tables 1 to 4

Reasons for Objection:

- a) Table 1 is incorrect; it indicates a subtotal for the Highland Council area of 809, but the numbers listed sum to 811. It also shows an incorrect overall total of 904 whereas the total of all the numbers listed is 906. This error should be corrected, when amended data are available.
- b) Table 4 shows a subtotal for Highland Council area of 695, but the numbers sum to 694. It also shows an incorrect total of 835 whereas the numbers sum to 834. This error should be corrected, when amended data are available.
- c) The dates quoted in the footnotes of Tables 1 to 4 for Local Authority Housing Land Audits are inconsistent, most noticeably but not only regarding the dates quoted for Moray Council housing land in Tables 2, 3 and 4. All these dates and the corresponding housing data should be checked and verified by CNPA.
- d) Table 1 indicates (incorrectly) that, at the commencement of plan preparation, there was an effective housing land supply of 904 housing units (which should be 906, as explained in A), above) already identified to contribute to the stated figure of 950 units for the period to 2016. This figure of 950 should be amended to 690 (in accordance with Reporters' recommendations that the most up to date information should be used, as explained in objection 462/1). So, the baseline effective land supply (at the start of plan preparation) for the period to 2016 was already in surplus by 216 units (906-690), equating to a margin of over 30 per cent above the best estimated requirement using the most up to date information taken from the GROS (2008) study.
- e) Table 2 indicates that, based on the latest housing land audits, 176 (including 35 units in Ballater, at The Monaltrie) of the proposed 950 units for the period to 2016 had been built, leaving a further 774 to be built by 2016. This should be amended to a reduced further requirement for the whole CNP equal to (690-176) or 514 yet to be built by 2016.
- f) Table 3 indicates that CNPA has identified a total effective land supply of 969, with an outstanding requirement of 774. This represents a safety margin at this stage of some 25 per cent. The correct outstanding requirement, based on the most up to date information, is for a further 514 (as shown in E), above). Using the same level of safety margin as used by CNPA at this stage (25 per cent) on 514 leads to a need to identify in Table 3 an effective housing land supply of 643. Thus, by changing from Manchester University's (2005) projection to the GROS (2008) projection (in accordance with the Reporters' call for the use of the most up to date data), the total effective land supply can be reduced from 969 to no more than 650 (rounded up from 643) which allows a margin of just 26.5 per cent on the best estimate of the outstanding requirement of 514. This is a slightly higher percentage margin than currently proposed in the Post Inquiry Modifications, using the out of date and unjustifiably over-stated starting number of 950.
- g) Moving on to Table 4, in response to Reporters' recommendations, CNPA have removed 4 development sites from the effective housing land, which appears to reduce the total effective land supply from 969 to 834* dwellings (* note that this is shown as 835 incorrectly in Table 4 — see comments in B) above on CNPA's additions). This represents a safety margin in Table 4 of 7.7 per cent on CNPA's overestimated remaining requirement of 774 houses by 2016. Using the same safety margin on the more up to date remaining housing requirement of 514 units leads to an effective land supply of 554 units (rounded up to, say, 560). Therefore, if the GROS (2008) projections are accepted as being the most up to date, then the total effective land supply in Table 4 could be reduced from 834 to as low as 554, a reduction of 280 units. This could be done by "across the board" cuts of around 33 per cent or by eliminating a number of specific settlements from the housing allocation list.

Required Changes:

- Reduce the total housing allocation for the period to 2016 from 950 to 690.

- Work through the housing numbers to confirm that the outstanding number of houses to be built by 2016 will be 514.
- confirm CNPA acceptance that remaining effective land supply to 2016 will be for not more than 554 houses.
- Consult with communities to ensure distribution of housing allocations is clear and acceptable to communities.
- Revise Tables 1 to 4 of Appendix 2 of the Post Inquiry Modifications as defined above.
- Implement corresponding amendments to all other related documentation.
- Ensure that numbers in Tables 1 to 4 are correctly added up.
- Ensure that references to Local Authority Housing Land Audits are correctly dated.

Brief summary of key issues

Object to Tables 1-4 which are incorrect in a number of regards - information listed. Figures should be checked to make sure they add up correctly. Dates quoted should also be checked to ensure correctness. The base number used should be 690 (GROS). The tables should be changed to address the issues raised by the objector, use the figure of 690 as a starting point, and consult communities to ensure distribution of allocations is clear and acceptable to them. All related documentation should be amended to take account of these changes. The information in the tables should correctly refer to the Local Authority information.

CNPA analysis and response

The matter of housing land supply was previously considered by the Reporters during the Local Plan Inquiry. CNPA has set out its assessment of the Reporters recommendations and has revised its housing land supply information to address these. Tables 1-4 set out the most up to date information from the published Local Authority Housing Land Audits. The information presented is in accordance with the requirements of Annex A of SPP3, as recommended by the Reporters.

CNPA accept the error in Table 1 where the figure for The Highland Council area sums 811 and in table 4 the figure for The Highland Council sums 694. These typing errors will be corrected and included in the final published version of the plan. All other references will also be checked for correctness. Changes which do not materially affect the policies and proposals in the plan will be included in accordance with Circular 32/1996.

The wording and figures included in the published document reflects the current published effective housing land supply and also the findings of the Reporter in regard to the commissioned study on by the University of Manchester. The Reporters considered the GRO(S) figures in their Report. Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the change sought by the Objector.

The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change other than correction of typing errors and cross checking of reference documents, titles and dates . Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Phillip John Swan
462m

Agent

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

Subject of Objection: CNPA's failure to implement Reporters' recommendation in their paragraph 7.12
Relevant Documents: Reporters' recommendation 7.12.

Reasons for Objection:

a) Reporters' paragraph 7.12 states: "...we note that Table 2 in the finalised version of the emerging local plan (page 41) is entitled Housing land requirement calculation. Housing requirements are defined in the glossary of SPP 3 as the total amount and type of housing necessary to accommodate a given (or projected) population at appropriate minimum standards. This includes both housing needs and housing likely to be demanded in the market. Housing land requirements are defined as the amount of land required to be allocated for housing to meet the identified housing requirement. Table 2 seems to set out the CNPA view on the former rather than the latter, which we find leaves considerable room for confusion. CNPA must either adopt this nationally accepted definition, or must explain the reasons for rejecting it, before the local plan is progressed to adoption."
CNPA appears to have ignored this entirely justified recommendation.

Required Changes:

Compliance with Reporters' recommendation.

Brief summary of key issues

Table 2 should adopt the nationally accepted definition of housing land requirement set out in SPP3

CNPA analysis and response

Tables 1-4 have been redrafted to accord with the requirements of SPP3. The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

531c

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

Subject of objection - Excessive allocation of housing units for the period to 2016.

Relevant Documents - Appendix 2 of Post Inquiry Modifications, Tables 1 to 4.

All other documents that stipulate 950 houses for the period to 2016.

Reasons for Objection:

a) The Reporters at no time specified 950 for the period to 2016. In their paragraph 7.13 they noted that Manchester University (2005) was not the only source of projections and acknowledged the alternative source — the GROS (2008) study.

In their paragraph 7.17, Reporters state, with regard to housing numbers to 2016 (emphasis by objector): "estimates translate to between 750 and 950 households. We note that the upper household projection has been chosen by CNPA to reflect both the backlog of demand and the effect of inward migration. While we have no particular quarrel with that decision we note in passing our understanding that the generous migration assumptions which have been discussed above are an integral part of the calculation of the population projections from which the household projections are derived. With that in mind, CNPA will wish to be certain that these projections do not involve any suspicion of double counting." CNPA has not confirmed that the adoption of the figure of 950 excludes any double counting, as requested by the Reporters.

Reporters' paragraph 7.37 states: "paragraphs 5.35 to 5.40 [of the Local Plan] should be deleted...along with Tables 2, 3, and 4. All of this material should be replaced with text and associated tables which incorporates the most up to date information available to CNPA including (but not limited to) the various housing land audits." (objector's emphasis).

CNPA has responded to Reporters' comments by proposing a reduction in the overall total for the period 2006-2016 from 1639 to 950, the latter figure being rounded up from 938, which was predicted from work done by Manchester University (2005).

The automatic selection of the high end of the range figure is not appropriate because the low end figure of 750 correlates more closely with the GROS (2008) projection of 690 for the same period, which is based on more up to date information (as required by the e Reporters' paragraph 7.37) on fertility, mortality and migration (as explained in Topic Paper 3, paragraph 49).

CNPA Topic Paper 3, paragraph 76, states: "The GROS figures were not available until after the Local Plan had been prepared and gone through the formal deposit process". This is no longer a justification for ignoring the GROS (2008) projection, since radical changes in housing numbers are now being accommodated by CNPA. In responding to Reporters' request to use the most up to date information available, CNPA have failed to do so for housing projections. This constitutes a rejection (to which I object) of the Reporters' request that amendments to the plan be made on the basis of the most up to date information.

Paragraph 76 of Topic Paper 3 then goes on: "Given that projections are not an exact science the CNPA is adhering to the initial figure of 950, thus giving additional flexibility if the GROS projection proves to be more accurate. This is preferable to taking the lower figure and ending up with a shortfall." This attitude towards data analysis does not accord with that espoused by the Reporters, in their paragraph 7.19: "Our preference is for the generation of scenarios based on an array of assumptions whose realism can be tested...".

The overall housing land supply should not therefore be based on the Manchester University projection of 950 units to 2016 but based on the GROS (2008) figure of 690.

b) Reporters' paragraph 7.18 provides a very wide ranging criticism of CNPA's overall approach to general housing allocation, including comments such as (with objector's emphasis shown): "...it was stated in evidence by CNPA that in developing the calculation of the housing land requirement, factors other than the projected increment in population were taken into consideration. In particular, it was stated that:

: the CNPP 2007 encourages a population that can continue to support thriving communities in the long term with an emphasis on retaining and attracting young people;

: the CNPP 2007 also reflects the objective of growing the population of the Highlands shared by Highlands and

Islands Enterprise and The Highland Council including the flexibility allowance built into the latter's housing allocations;

: the only practical method of meeting the critical need for an increase in the provision of affordable housing is through an increase in market housing and the associated land supply for that.

We have significant reservations about this approach. Firstly, as noted above, our reading of the strategic objectives for sustainable communities does not lead us directly to the conclusion that population growth should be promoted as a policy objective in the local plan by the allocation of land for housing over and above that which is required to accommodate the households formed as a consequence of the projected increase in population.

Secondly, we have searched in vain in the text of the CNPP 2007 for its endorsement of the objective of growing the population of the Highlands shared by The Highland Council and Highlands and Islands Enterprise. Lastly, elsewhere in this report we explain in detail why we consider that the provision of large areas of housing land for open market housing is a blunt weapon, ill-equipped to meet the formidable challenge of addressing the need for affordable housing in the National Park."

The Reporters have thus made it quite clear that total housing numbers should not be inflated with the intention of using this as a means for delivering affordable housing. The total housing numbers proposed for the CNP are excessive, yet ineffective for providing affordable houses. Therefore, it would not be justifiable for CNPA to claim that the demand for affordable housing is a reason for its proposed overall housing numbers.

Required Changes:

The figure of 950 is not justified and should be reduced to 690, in accordance with the projections produced by GROS (2008), which are based upon the most up to date information. CNPA to rework the housing numbers based on the GROS number of 690 new houses for the whole Park area in the period to 2016.

Brief summary of key issues

The land supply figures should be reduced to the GROS figure of 690, the housing numbers should then be recalculated for the whole Park. Supporting reasons are included.

CNPA analysis and response

The matter of housing land supply was previously considered by the Reporters during the Local Plan Inquiry. CNPA has set out its assessment of the Reporters recommendations and has revised its housing land supply information to address these. The Reporters also considered the GRO(S) figures in their Report.

Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the change sought by the objector. The wording as included in the published document reflects the current published effective housing land supply and also the findings of the Reporter in regard to the commissioned study on by the University of Manchester. The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

531d

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

Subject of Objection: Incorrect data and inappropriate effective land supply in Appendix 2 of Post Inquiry Modifications

Relevant Documents: Appendix 2 of Post Inquiry Modifications, Tables 1 to 4

Reasons for Objection:

- a) Table 1 is incorrect; it indicates a subtotal for the Highland Council area of 809, but the numbers listed sum to 811. It also shows an incorrect overall total of 904 whereas the total of all the numbers listed is 906. This error should be corrected, when amended data are available.
- b) Table 4 shows a subtotal for Highland Council area of 695, but the numbers sum to 694. It also shows an incorrect total of 835 whereas the numbers sum to 834. This error should be corrected, when amended data are available.
- c) The dates quoted in the footnotes of Tables 1 to 4 for Local Authority Housing Land Audits are inconsistent, most noticeably but not only regarding the dates quoted for Moray Council housing land in Tables 2, 3 and 4. All these dates and the corresponding housing data should be checked and verified by CNPA.
- d) Table 1 indicates (incorrectly) that, at the commencement of plan preparation, there was an effective housing land supply of 904 housing units (which should be 906, as explained in A), above) already identified to contribute to the stated figure of 950 units for the period to 2016. This figure of 950 should be amended to 690 (in accordance with Reporters' recommendations that the most up to date information should be used, as explained in objection 462/1). So, the baseline effective land supply (at the start of plan preparation) for the period to 2016 was already in surplus by 216 units (906-690), equating to a margin of over 30 per cent above the best estimated requirement using the most up to date information taken from the GROS (2008) study.
- e) Table 2 indicates that, based on the latest housing land audits, 176 of the proposed 950 units for the period to 2016 had been built, leaving a further 774 to be built by 2016. This should be amended to a reduced further requirement equal to (690-176) or 514 yet to be built by 2016.
- f) Table 3 indicates that CNPA has identified a total effective land supply of 969, with a projected requirement of 774. This represents a safety margin at this stage of some 25 per cent. The correct outstanding requirement, based on the most up to date information, is for a further 514 (as shown in E), above). Using the same level of safety margin as used by CNPA at this stage (25 per cent) on 514 leads to a need to identify in Table 3 an effective housing land supply of 643. Thus, by changing from Manchester University's (2005) projection to the GROS (2008) projection (in accordance with the Reporters' call for the use of the most up to date data), the total effective land supply can be reduced from 969 to no more than 650 (rounded up from 643) which allows a margin of just 26.5 per cent on the best estimate of the outstanding requirement of 514. This is a slightly higher percentage margin than currently proposed in the Post Inquiry Modifications, using the out of date and unjustifiably over-stated starting number of 950.
- g) Moving on to Table 4, in response to Reporters' recommendations, CNPA have removed 4 development sites from the effective housing land, which appears to reduce the total effective land supply from 969 to 834* dwellings (* note that this is shown as 835 incorrectly in Table 4 — see comments in B) above on CNPA's additions). This represents a safety margin in Table 4 of 7.7 per cent on CNPA's overestimated remaining requirement of 774 houses by 2016. Using the same safety margin on the more up to date remaining housing requirement of 514 units leads to an effective land supply of 554 units (rounded up to, say, 560). Therefore, if the GROS (2008) projections are accepted as being the most up to date, then the total effective land supply in Table 4 could be reduced from 834 to as low as 554, a reduction of 280 units. This could be done by "across the board" cuts of around 33 per cent or by eliminating a number of specific settlements from the housing allocation list.

Required Changes:

- Reduce the total housing allocation for the period to 2016 from 950 to 690.
- Work through the housing numbers to confirm that the outstanding number of houses to be built by 2016 will be

514.

- Confirm CNPA acceptance that remaining effective land supply to 2016 will be for not more than 554 houses.
- Revise Tables 1 to 4 of Appendix 2 of the Post Inquiry Modifications as defined above.
- Ensure that numbers in Tables 1 to 4 are correct.
- Ensure that references to Local Authority Housing Land Audits are correctly dated.

Brief summary of key issues

Object to tables 1-4 which the objector views as incorrect in a number of regards - information listed. Figures should be checked to make sure they add up correctly. Dates quoted within these tables should also be checked to ensure correctness. The base number used should be 690 (GROS). The tables should be changed to address the issues raised by the objector, use the figure of 690 as a starting point, and consult communities to ensure distribution of allocations is clear and acceptable to them. All related documentation should be amended to take account of these changes. The information in the tables should correctly refer to the Local Authority information.

CNPA analysis and response

The matter of housing land supply was previously considered by the Reporters during the Local Plan Inquiry. CNPA has set out its assessment of the Reporters recommendations and has revised its housing land supply information to address these. Tables 1-4 set out the most up to date information from the published Local Authority Housing Land Audits. The information presented is in accordance with the requirements of Annex A of SPP3, as recommended by the Reporters.

CNPA accept the error in Table 1 where the figure for The Highland Council area sums 811 and in table 4 the figure for The Highland Council sums 694. These typing errors will be corrected and included in the final published version of the plan. All other references will also be checked for correctness. Changes which do not materially affect the policies and proposals in the plan will be included in accordance with Circular 32/1996.

The wording and figures included in the published document reflects the current published effective housing land supply and also the findings of the Reporter in regard to the commissioned study on by the University of Manchester. The Reporters considered the GRO(S) figures in their Report. Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the change sought by the Objector.

The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change other than correction of typing errors and cross checking of reference documents, titles and dates . Do not refer the objection to a second Local Plan Inquiry.

Objector Ref M B Preston

Agent

543a

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

The total number of houses required throughout the Park has been reduced from 1639 to 950 (and there are good grounds for believing that it should be even fewer), but Ballater still has to plan for its original full allocation. This action removes scarce land from the market, which should be used to build the type housing required to keep Ballater a sustainable village.

Brief summary of key issues

The number of houses allocated in Ballater should be reduced in line with the overall reduction for the Park as a whole.

CNPA analysis and response

The matter of housing land supply was previously considered by the Reporters during the Local Plan Inquiry. CNPA has set out its assessment of the Reporters recommendations and has revised its housing land supply information to address these. The wording as included in the published document reflects the current published effective housing land supply and also the findings of the Reporter in regard to the commissioned study on by the University of Manchester. The Reporters also considered the matter of Ballater housing allocation BL/H1 during the Local Plan Inquiry.

Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the changes sought by the objector. The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the policy as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Objector Ref Tim Ranson

Agent

546a

Modified Policy/Proposal ref Housing Land Supply

Response to Post Inquiry Modifications

In respect to the post inquiry modifications to the Cairngorm National Park Local Plan I wish to make aware my objection to the substantial housing allocations being considered for the Plan and also the failure to adhere in full to the Reporters recommendations.

Numerous proposed development sites remain in the proposed Local Plan despite the recommendations of the Reporters and an extensive knowledge of the ecological importance of these sites to the National Park. Some sites such as Carr Wood at Carrbridge and School Wood at Nethybridge were recommended by the Reporters on the whole not to be developed but yet these two substantial ecologically and recreationally important sites remain in the Plan. And other sites such as the Mossie at Grantown-on-Spey and Deshar Wood at Boat of Garten may not be recommended for development at present but still remain within the Settlement Boundary so remain with the threat of destruction in the future.

The total recommended housing allocation for the duration of the Local Plan and beyond is totally excessive for the immediate requirements of the local population and for some immigration to the area especially considering the proposed new town at An Camas Mor which on its own would suffice for decades. Indeed An Camas Mor was recommended for refusal also but this was ignored and will cause considerable ecological damage to the National Park.

It would be a national disgrace if one of the finest and most ecologically important National Parks was allowed to be turned into a luxury playground and to lose its cultural identity and importance to the biodiversity of Scotland.

The first aim of the National Park is to conserve and enhance the natural heritage and this aim takes precedence when in conflict with the other aims such as economic development, but this is not being adhered to if all these ecologically important woodlands, heathlands and grasslands are allowed to be developed for profit.

The Cairngorm National Park was created to conserve and highlight the importance of its natural and cultural heritage and the excessive level of proposed development within the Park will make a mockery of the area being designated as a National Park.

All the sites I have referred to should be removed from the Plan and re-designated as ecological and/or community areas and be protected for this generation and future ones too and to protect the important wildlife present on these sites.

Brief summary of key issues

The objection is to the housing allocations and the CNPA failure to adhere to the Reporters recommendations in respect of Carr Bridge, and Nethybridge and An Camas Mor. Also objection to the failure of the modifications to change settlement boundaries in Grantown on Spey and Boat of Garten to reflect the removal of housing allocations. All sites referred to should be redesignated as ecological or community areas.

CNPA analysis and response

The matter of housing land supply was previously considered by the Reporters during the Local Plan Inquiry. CNPA has set out its assessment of the Reporters recommendations and has revised its housing land supply information to address these. The wording as included in the published document reflects the current published effective housing land supply and also the findings of the Reporter in regard to the commissioned study on by the University of Manchester.

Regarding land at Boat of Garten and Grantown on Spey the removal of these allocations is in accordance with the recommendations of the Reporters. The matter was previously considered by the Reporters during the Local Plan Inquiry. Following consideration of the evidence presented at the Inquiry the Reporters did not recommend the changes sought by the objector.

Regarding Carrbridge, Nethybridge and An Camas Mor the matter of these allocations was considered by the Reporters during the Local Plan Inquiry. In its analysis of the recommendations set out by the Reporters CNPA has set out its reasoning for not following their recommendations. The position of CNPA has not changed and the

objection raises no new planning issues, nor has there been a material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the proposals for Carrbridge as published.

The objection raises no new planning issues and there is no material change in circumstances to warrant either reference to a further Local Plan Inquiry or modification to the plan as published.

CNPA decision - no change. Do not refer the objection to a second Local Plan Inquiry.

Modified Policy/Proposal ref Housing Land Supply and BL/H1

Response to Post Inquiry Modifications

HOUSING LAND REQUIREMENT

(Paragraphs 5.35 to 5.40 with Appendix 2)

This section gives an unbalanced view of government policy

1. This section, especially paragraphs 5.36 and 5.37, gives an unbalanced view of government policy by stating requirements of government policy to identify a generous supply of land for housing without mentioning any of the expressions of government policy which qualify these requirements.
2. Paragraph 5.36 in summarising paragraph 66 of Scottish Planning Policy of February 2010 omits the words that show that the generous supply of land is "to meet identified housing requirements across all tenures". It would be simplest and best to reproduce paragraph 66 verbatim in full but if that is not possible the words I have quoted should be added at the end of the single sentence that at present constitutes paragraph 5.36.
3. Secondly the following words from paragraph 70 of Scottish Planning Policy of February 2010 should be added at the end of paragraph 5.36: 'Wider strategic economic, social and environmental policy objectives should also be taken into account when determining the scale and distribution of the housing requirement and the housing supply target for an area'. Paragraph 33 of SPP3 of 2008 was to the same effect and was quoted by the Reporters in their paragraph 7.22. SPP3 of 2003 contained specific examples of this principle, for instance in paragraphs 24 to 28 and 35 to 40 and 70. Most relevant, paragraph 38 said "planning authorities should take care to safeguard the outstanding natural and cultural resources of existing and prospective National Parks".
4. The section on housing land requirement, especially paragraphs 5.36 and 5.37, gives no regard to government policy that development including housing should be in the long term context of a sustainable settlement strategy for the settlement or locality. For example I refer to paragraphs 28, 70 and 88 of SPP3 of 2003, paragraphs 56 and 62 of SPP3 of 2008 and paragraphs 17, 40, 77 and 93 of Scottish Planning Policy of February 2010.
5. In consequence of this flawed approach and in breach of that government policy there are no long term settlement strategies in this deposit local plan as is demonstrated by the Reporters' lament, chiefly in their paragraph 7.27, that no clear vision for any settlement of the National Park has been articulated by the National Park Authority as an integral part of the local plan. This defect could have been at least partially remedied in relation to Ballater if the modified proposals had implemented the Reporters' recommendation in their paragraph 48.44 that a vision which reflects the problems and potentials of Ballater and complies with the overall vision for the Park should preface the proposals map and if that vision had fulfilled the other criteria in the Reporters' paragraphs 7.27, 48.43 and 48.44.
6. Unfortunately the National Park Authority rejected the idea of including a vision for Ballater or any other settlement in their modifications. This decision can be found at the top of page 46 and in paragraph 1.4 on page 231 of their published response entitled "Analysis of Reporters' Recommendations and Post Inquiry Modifications to the Cairngorms National Park Local Plan Text." Pursuant to paragraph 58 of the Code of Practice for Local Plan Inquiries, (Circular 32/1996) I object to the National Park Authority's decision not to accept this recommendation of the Reporters and for that purpose rely on all relevant matters set out in my objections especially in this section in the modifications and the modified proposals for Ballater.

This section fails to explain the assessment of the housing land requirement as recommended by the Reporters

7. This section on the housing land requirement fails to implement the Reporters' recommendation in their paragraph 7.37 that paragraphs 5.35 to 5.40 of the deposit local plan as modified in October 2008 should be replaced by text and tables which amongst other things explains the assessment of housing land requirements in the National Park. This new section fails to explain the components and factors in the housing land requirement as required by the Reporters and government policy.
8. For example no attempt is made to explain or justify the total housing requirement of 950 dwellings up to 2016 which appears to be stated in the description of Table 3 given on page 96 (in Appendix 2). It is of course true that there is a distinction between housing requirement and the housing land requirement but the former is part of the

equation that produces the latter and the Reporters made it clear that the housing requirement should be assessed and explained in the new section. Thus the Reporters said in their paragraph 7.33: "we conclude that the rationale for the calculation of the housing requirement is unconvincing and the connection with the housing land requirement is not made sufficiently clearly".

9. Although the Reporters in their paragraph 7.33 said that they would be reluctant to say that the housing land supply up to 2016 should be based on a requirement for 950 and no more they made it clear that a decision as to the amount of the requirement should be made and justified by the National Park Authority. Thus in their paragraph 7.17, whilst saying that they "have no particular quarrel with" the CNPA's decision to adopt the upper household projection of 950 households, the Reporters note that "generous migration assumptions" are an "integral part of the calculation of the population projections from which the household projections are derived." They say "CNPA will wish to be certain that these projections do not involve double counting." The modifications do not provide a rationale for the 950.

This section fails to show the nature and distribution of the housing requirement

10. A fundamental flaw in this section is that it gives no indication what portion of the total housing requirement is attributable to any particular sector of the National Park. The Aberdeenshire part of the National Park is referred to as Upper Deeside for example in the Reporters' paragraph 24.11. It is not just in a different housing market area from other settlements in the west of the National Park like Kingussie, Newtonmore, Dalwhinnie and Aviemore but it is separated from them by the Cairngorm Massif. There is a massive cleavage geographically and economically between the east and the west of the National Park. While it is probably reasonable for the local plan to have regard to and plan for the total needs of the projected population of the National Park, government policy quite naturally focuses on housing market areas.

11. Thus, paragraph 70 of SPP3 of 2003 said: "Planning authorities should ensure that the housing land requirement for each housing market area is provided in full in the context of a sustainable settlement strategy." Thus there should be some regard to the respective housing market area in which a sector of the National Park falls and for this purpose it would be necessary to apportion a part of the National Park's total housing requirement to the respective sectors of the Park.

12. Paragraph 70 of SPP3 of 2003 certainly implied what is said explicitly in paragraph 68 of the Scottish Planning Policy of February 2010: "Housing market areas may significantly overlap and will rarely coincide with local authority boundaries. Local authorities are therefore encouraged to cooperate regionally in housing market partnerships which may also include other organisations....". Clearly cooperation by the National Park Authority with other organisations concerned with the Aberdeenshire Rural Housing Market Area would require the National Park Authority to have a housing requirement for the part of that housing market area that is within the National Park namely Upper Deeside. As I point out below in paragraph 56 b the last assessment of housing need and demand done for Upper Deeside by Aberdeenshire Council was that for 2004. Any assessment for the Aberdeenshire part of the National Park subsequent to that of 2004 has been the responsibility of the National Park Authority.

13. My contention that the local plan should apportion parts of the total housing requirement of the National Park respectively to Upper Deeside and other sectors of the National Park is certainly consistent with -and seems to be a requirement of current government policy. Paragraph 70 of Scottish Planning Policy of February 2010 includes the following: "The scale, nature and distribution of the housing requirement for an area identified in the local housing strategy and development plan should be based on the outcome of the housing need and demand assessment." This carries over the idea of the distribution of the housing requirement contained in paragraph 33 of SP3 of 2008. Paragraph 33 said that in preparing the development plan and local housing strategy, "consideration of a local authority's wider strategic policy objectives around political, economic, social and environmental matters will contribute to determining the appropriate scale and distribution of the housing requirement / housing supply target for the relevant area." The stark fact is that if there is a housing need in Ballater it would normally be unrealistic to expect it to be met by housing west of the massif and vice versa.

14. The failure to have some apportionment of the housing requirement to relevant sectors of the National Park has no doubt contributed to the fact that the Reporters in their paragraph 24.16 say: "it is simply not possible to use the commissioned research to be sure that the housing land allocations in the local plan have been put in the right places to suit the settlement hierarchy and to address a specific locally generated need for the specified amount of additional housing."

15. Paragraph 70 of Scottish Planning Policy of 2010 refers to the nature of the housing requirement identified in the

development plan. It is in this respect that this section of the local plan suffers from another fundamental flaw. It does not reveal that, as I demonstrate in paragraphs 32 and 33 below, the overwhelming majority (75% or more) of the additional dwellings needed in the Cairngorms National Park up to 2016 to meet the needs of the projected population is affordable housing. This section does not reveal this.

16. There is material in paragraphs 5.31 to 5.34 of the deposit local plan which enables one to calculate that in fact the whole of the increase of between 750 and 950 households said to be likely to occur in the National Park over the ten years up to 2016 would need affordable housing of one kind or another. The Reporters in their paragraph 24.23 found that the commissioned research has established that the greatest overall need is for social rented housing.

17. In these circumstances the local plan needs to clarify the situation. If the whole or say 75% of the housing requirement is for affordable housing the local plan needs to say so and to say what proportion of the affordable housing is for social rented housing. This is important because government policy at least from the time of paragraph 70 of SPP3 of 2003 has been that planning authorities should ensure that the housing land requirement for each housing market area is provided in full and this is now confirmed in paragraph 74 of Scottish Planning Policy of February 2010. This means that the aim should be that the various needs are met in full, in other words that the need for affordable housing is met in full, as is explained by me below in dealing with allocations.

18. Government policy is clear that the nature of the components of the housing requirement should be made clear in the development plan and distinguish the amount of affordable housing required. Thus paragraph 87 of Scottish Planning Policy of February 2010 says "Where an authority believes that the planning system has a role to play in the provision of affordable housing, the development plan should be clear on the scale and distribution of the affordable housing requirement for the area...". This carries over in a more explicit form what is the necessary implication of such passages as paragraphs 66, 72, 77 and 81 of SPP3 of 2003 and paragraphs 10, 12; 28, and 29 of Planning Advice Note 74 and paragraphs 25, 92, 93, 95 and 106 of SPP3 of 2008.

19. If the National Park Authority have concluded that it is impossible to meet the requirement for affordable housing in full government policy does recognise that such a situation or analogous situations can occur, and I refer to this in dealing with allocations in paragraph 40 below.

20. It seems from paragraphs 2.1 to 3.2 on page 46 of the Park Authority's response to the Reporters' recommendations that the deficiencies in this modification described by me in paragraphs 7 to 19 are the result of a deliberate decision by the Authority not to attempt to implement the Reporters' recommendation that the new text explains the assessment of housing land requirements in the National Park. Pursuant to paragraph 58 of the Code of Practice for Local Plan Inquiries I object to this failure to accept this recommendation of the Reporters in their paragraph 7.37 as the failure is at least partly responsible for the failure to follow government policy and other weaknesses that I have criticised.

The housing requirement up to 2016 should be lower than 950

21. The housing requirement to be used to calculate the housing land requirement should be much lower than 950. My first reason for saying that is that the delay in building houses said to have been needed for 2006 to 2011 will have led to less migration into the National Park than anticipated. The estimate of between 750 and 950 new households to be housed between 2006 and 2016 contained in paragraph 5.33 of the Deposit Local Plan was a statistical calculation assuming the same migratory and other trends as in recent years. By the time the plan is adopted four whole years will have elapsed since the end of 2006 and the migration into the National Park will have been limited by the housing available. The postponement of about four fifths of the houses (774 out of 950) said to be needed for the period 2006 to 2016 till the five years from the beginning of 2011 till the beginning of 2016 must mean that in the five years from the beginning of 2006 till the end of 2010 fewer houses than expected will have been built and less migration into the National Park will have taken place. The research for example of Heriot Watt supports the view that the building of houses encourages migration into the National Park. I refer also to the findings of the Reporters including those in their paragraph 7.15 and to the Deposit Local Plan of October 2008 in particular paragraph 5.33.

22. My second reason for saying that the housing requirement should be much lower than 950 is that on reflection the National Park Authority may not wish to continue to encourage migration into the National Park to the same extent as the recent trends that have contributed to the estimated need for 750 to 950 more dwellings up to 2016. I would urge that until the Park Authority have rethought their housing policies in the light of the Reporters' criticisms and have devised visions and long term sustainable settlement strategies for the settlements it should be assumed

that less migration into the Park is needed and less housing is needed, since the building of houses is irrevocable. 23. As was pointed out in paragraph 5 of the letter of 18th February 2010 from the signatories of the Joint Statement of Case against Ballater H1 to the members of the National Park Authority, migration into the National Park contributes to the extremely high rate at which the proportion of the population over 60 is increasing (I refer to pages 1, 3, 6 and 7 of the projections of population compiled by the University of Manchester CD7.10). Therefore, as our letter said, limiting the number of new market houses has a part to play in fulfilling the strategic objective at item a) on page 67 of the Park Plan of 2007 (CD7.1) "Encourage a population level and mix that meets the current and future

needs of its communities and businesses". That item of the National Park Plan goes on to say "it is important to actively encourage a population in the National Park that can continue to support thriving communities in the long term. In the short term this means seeking to retain or attract more young people."

24. Retaining or attracting young people depends on availability of jobs which are limited and availability of funds to provide, in the context of this National Park, mainly affordable housing to rent. Therefore I urge that little new open market housing is needed in the National Park, at least at present, if we are to move toward the desired mix of population. I refer to the Reporters' paragraphs 7.13, 7.15 and 24.49, in the last of which they say "....from our experience we find that providing a more generous supply of market housing land than is required will encourage greater second home and ownership by retired persons, to further skew demographics and undermine the contribution of development to vibrancy of the local economy. In short, it will not make enough contribution to the needs of the young and employed residents towards achieving sustainable communities."

25. In their paragraphs 7.9 to 7.11 and 7.18 and 7.32 the Reporters expressed their reservations about, amongst other things, the idea in the words of their paragraph 7.18 "that population growth should be promoted as a policy objective in the local plan by the allocation of land for housing over and above that which is required to accommodate the households formed as a consequence of the projected increase in population." If the local plan is to persist with a housing requirement that does not distinguish between affordable housing and open market housing the Reporters' views are another reason why the housing requirement should be much lower than 950.

26. I also urge that the local plan expressly states, in the words of paragraph 169 of the National Planning Framework for Scotland 2004 "The space and environmental quality which rural Scotland can offer is at a premium in the developed world". The local plan should go on to say that the land in the National Park should be allocated for housing only to meet the need of the projected population of the Park in accordance with a long term settlement strategy and vision for the particular settlement or locality unless there is some justified specific purpose compatible with the settlement strategy and the aims of the National Park.

The allocations are not explained

27. I also object to the fact that the new section entitled Housing Land Requirement does not implement the Reporters' recommendation in their paragraph 7.37 that the new text and tables explain the housing land allocations to particular settlements. It does not even explain allocations to particular sectors of the Park.

28. Even if the sites said to be effective are effective, this does not explain or justify the inclusion of proposals for residential development of those sites at the time and on the scale provided in this local plan. As the Reporters indicate in their paragraph 7.34 the mere fact that land is or can be treated as an effective site does not mean that it should be developed in the next five years.

29. Development may threaten the long term strategy for housing or for the settlement generally, for example by preventing the availability of land for needed developments when they are needed by allowing development that is not needed now. To the extent that houses built now are not needed now for the purposes of the National Park and are bought as second homes, holiday homes or retirement homes in a way that does not serve the long term strategy for the settlement, the land on which they are built will not be available in the future when there may actually be a need of land for additional housing or other development to serve or advance the long term strategy for the settlement.

30. It seems from paragraphs 2.1 to 3.2 on page 46 of the Park Authority's response to the Reporters' recommendations that the deficiencies in this modification described by me in paragraphs 27 to 29 are the result of a deliberate decision by the Authority not to attempt to implement the Reporters' recommendation that the new text explains the housing land allocations to particular settlements. Pursuant to paragraph 58 of the Code of Practice for Local Plan Inquiries (Circular 32/1996) I object to this failure to accept this recommendation of the Reporters in

their paragraph 7.37 as the failure is at least partly responsible for the failure to follow government policy and other weaknesses that I criticise especially in paragraphs 27 to 59 of these objections.

The allocations are adverse to sustainability of settlements and to a realistic and effective strategy to meet the need for affordable housing

31. The threat described in paragraph 29 is precisely the threat posed by this development plan because the overwhelming need is for affordable homes, especially affordable homes to rent, but the overwhelming majority of the houses that this local plan will allow to be built will be open market housing, about two thirds of which will not be needed for the projected population of the National Park.

32. The Cairngorms National Park Plan approved by ministers in 2007 states on page 72 that 75 per cent of households in the National Park currently had an income that would not be sufficient to secure a mortgage great enough to purchase a house at the average price in the National Park in 2005. At inset a) on that same page 72 the Park Plan says that there is a need to ensure access to rented and low cost housing in perpetuity. On this basis alone it is reasonable to assume that of the increase of between 750 and 950 households up to 2016 specified in paragraph 5.33 of the deposit local plan of October 2008 (corresponding to between 600 and 1000 stated on page 72 of the National Park Plan) at least 75% will need affordable housing to rent or buy.

33. Moreover paragraph 5.31 of the local plan of October 2008 mentions the findings of the largely desk based research by Heriot Watt University that there is likely to be a net need for between 99 and 132 new affordable dwellings per year for the whole National Park. Over the ten years from 2006 to 2016 that means a total need for between 990 and 1320 new affordable homes for the National Park. On that basis it could be argued that the whole of the need for 750 to 950 dwellings is for affordable housing. This affordable housing should mainly be affordable to rent. The Reporters in their paragraph 24.23 say "the commissioned research has already established that the greatest overall need is for social rented housing." In their paragraph 24.11 they say that the two reports from Heriot Watt University dated 2006 and 2008 (CD7.8 and CD7.9) confirm "apart from in Kingussie, the greatest sector of need is for social rented accommodation, but other forms of affordable housing have a role to play in addressing the broad range of need".

34. The overwhelming majority of the houses for which this local plan allocates sites to be effective up to 2016 will be open market housing. Following the modifications made in 2008 to the proposals for Carr Bridge it appears that all allocations are for providing open market housing subject to the planning authority requiring a percentage of houses, likely to be 25%, to be affordable. This is confirmed by the finding of the Reporters at their paragraph 24.37 that there are no sites in the local plan specifically allocated for affordable housing.

35. Even if the average requirement imposed over the National Park as a whole were as high as 35% and even if 35% of the houses built were affordable homes with an appropriate proportion being affordable homes to rent, then assuming all the 950 homes planned for 2016 were built by 2016; this would produce about 330 affordable homes or about one third of the lowest estimate of what Heriot Watt research indicated was needed over the next ten years to 2016. About two thirds of the rest of the housing that is two thirds of the market housing would be unneeded by the projected population of the National Park and would not be in furtherance of any long term settlement strategy for the area or settlement.

36. The reality is that even if planning conditions or agreements for a percentage of the houses to be affordable are imposed on all sites (and the modification proposed to paragraph 5.47 of the local plan renders this less certain) this is not likely to result in anything like the specified percentage of houses built being affordable houses to rent or affordable houses to buy in perpetuity. As is made clear in paragraphs 38 and 39 of Planning Advice Note 74 (PAN74) the developer normally discharges his obligation by providing serviced plots at a discounted price and if social landlords do not have funds to buy and develop the full quota of sites the obligation may be commuted whereby, for example, the developer may provide "a smaller number of completed homes for social rent and transfer these at the same overall value."

37. Large numbers of houses which are not needed by the projected population of the Park and do not go towards meeting the housing requirement insofar as that is a requirement for affordable homes has adverse effects on resources of land and infrastructure and on the age of the population. Some of these disadvantages are explained and amplified in my paragraphs 23 to 25 and 29. There is a further adverse result in that social landlords will not be able to take full advantage of the system of utilising planning conditions if the numbers of market houses over the Park in any one period are too great compared with the social landlord's resources. Payments in lieu are no

substitute for a site.

The allocations specified in the tables do not therefore meet the housing requirement

38. Thus the statements by the National Park authority in this section of the plan for example paragraph 5.40 and under Table 3 on page 96 that the allocations of land for housing in the named sites are to meet the total housing requirement of 950 dwellings and the consequent housing land requirement of land for 774 units is in the main unjustified and invalid since most of the allocations do not go to meet the housing requirement at least 75% of which is for affordable housing. At the very most it can be argued that 571 of the more than 950 dwellings for which allocations have been made go to meet the housing requirement namely, on a very optimistic assessment, 333 affordable homes (35% of 950) and 238 open market dwellings (25% of 950). The requirement for at least 713 affordable homes (75% of 950) has not been met. There is no realistic likelihood that by 2016 anything like 300 affordable homes within the meaning of the housing requirement will be built in the National Park under the terms of this Local Plan as drafted or proposed to be modified. First it is clear that in the current economic situation it will be rarely if ever under what is now Policy 19 that a higher percentage than 25% of a development of market housing will be imposed. Secondly as indicated in paragraph 36 above it is unlikely that the full specified percentages of mainly affordable houses to rent will be built in pursuance of the respective requirements. Thirdly, it seems from the modification now proposed to paragraph 5.47 that the Park Authority may not in every case use their powers to secure that a percentage of the new market houses are affordable. Nowhere have the Park Authority stated a target for affordable housing in the sense of a total which they intend and expect to be built.

39. According to government policy the local plan should have sought to meet the requirement for affordable housing in full except insofar as provision was made for it in those parts of the respective housing markets as lie outside the National Park. Thus paragraph 77 of SPP3 of 2003 which applied to the preparation of this local plan said "Development plans should allocate sufficient land overall to ensure land is available to meet requirements including affordable housing needs. As with market-led housing development, the requirement for affordable housing should where possible be met within the housing market area where the need has been identified". Paragraph 40 of SPP3 of 2008 taken with paragraphs taken with paragraphs 21, 22, 25, 92 and 106 is to the same effect. Paragraphs 73, 74 and 86 of Scottish Planning Policy of February 2010 are to the same effect. In paragraph 86 it is stated "As with market led housing the need for affordable housing should be met, where possible, within the housing market area where it has arisen."

40. The National Park Authority may have come to the conclusion that it was impossible for the need for affordable housing to be met. Government policy does allow for such a situation. For instance paragraph 70 of SPP3 of 2003 after saying that planning authorities should ensure that the housing land requirement for each housing market area is provided in full in the context of a sustainable settlement strategy later continues "Exceptionally where there are serious environmental or infrastructural constraints, planning authorities may consider whether a proportion of the requirement can be met satisfactorily elsewhere in the local authority area or in adjacent local authority areas." The substance of this quotation is now in paragraph 74 of the Scottish Planning Policy of February 2010.

41. Whatever exceptional action or policy government policy might allow the local plan to pursue in these circumstances, it is implicit in the proviso in paragraph 74 of Scottish Planning Policy of February 2010 that the development plan should explain and justify the action proposed to meet the situation and not conceal the problem and the solution.

42.1 also submit that it is contrary to government policy for a local plan to permit market housing to be built far in excess of the housing requirement for market housing for the relevant housing market area or areas for no purpose other than the garnering of a percentage of the sites under planning conditions for affordable houses. In paragraph 36 of PAN74 it is said that policies in local plans should be justified by a housing needs assessment which should reflect the diversity of requirements in an area. As is said in paragraph 67 of Scottish Planning Policy of February 2010 "Housing need and demand assessment provides the evidence base for defining housing supply targets in local housing strategies and allocating land for housing in development plans."

43. As I show in paragraphs 44 to 57 below, the principles of government policy referred to in paragraph 42 above appear to have been breached by this local plan so far as concerns that part of the National Park lying in Aberdeenshire.

The allocations to Upper Deeside are especially unjustified and contrary to the structure plan

44. In their paragraph 7.18 dealing with General Housing Land Supply the Reporters refer to their view that "the provision of large areas of housing land for open market housing is a blunt weapon, ill-equipped to meet the formidable challenge of addressing the need for affordable housing in the National Park." In their paragraph.24.49 the Reporters have found that "the CNPA approach has been to allocate substantial greenfield areas for the development of new open market housing and to devise a policy whereby the developers of these sites make a cash or kind contribution towards the provision of affordable housing." They went on to say they had considerable reservations about this approach especially in view of the impact of the economic downturn on house building and went on to say "from our experience, we find it probable that providing a more generous supply of market housing land than is required will encourage greater second home and ownership by retired persons, to further skew demographics and undermine the contribution of development to vibrancy of the local economy. In short, it will not make enough specific contribution to the needs of young and employed residents towards achieving sustainable communities."

45. The allocations for Upper Deeside in this section proposed in the modifications are an example of the above approach criticised by the Reporters. The sites allocated are entirely or overwhelmingly for market housing on greenfield sites and it follows from the findings on page 72 of the National Park Plan and other matters referred to by me in paragraphs 31 to 38 above that the majority of that market housing is not needed to meet the needs of the projected population of the National Park since there has been no suggestion that the need for market housing in upper Deeside is greater than over the National Park as a whole and, as I show in paragraphs 55 to 57 below, additional market housing is not needed in Upper Deeside to meet the needs of the housing market area outside the National Park,

46 It appears from paragraphs 3.15 and 4.14 of Heriot Watt University's report from 2006 (CD7.8) that according to the Census of 2001 the population of the Aberdeenshire part of the National Park (2,192) was 13% of the population of the National Park as a whole. The allocations to the Aberdeenshire part of the National Park up to 2016 in the deposit local plan in the form in which it was before the Reporters were in total for 257 dwellings distributed between Ballater and Braemar. The 257 was just over 13% of the total phased land supply of 1850 shown on Table 3 of page 41 of the local plan before the Reporters. Thus in the absence of any economic or other justification the proportion of unneeded market housing surplus to the needs of this part of the National Park was under that version the same as over the Park as a whole,

47 In calculating the contribution that Upper Deeside is to make to the 950 housing requirement up to 2016 under the modifications now proposed it is necessary to deal with some anomalies appearing from the new Appendix 2 to the modified plan namely the Tables referred to in this new section on the Housing Land Requirement.

48. Table 4 shows that only 90 dwellings are phased as effective on Ballater H1 up to 2016 although the proposals on page 70 in the proposed modifications show a total of 190 dwellings to be built by 2016. This discrepancy should be clarified. The phasing shows the same pattern as in the plan before the Reporters namely 90 houses on Ballater H1 in the five years' life of this local plan and 100 houses in the following period of five years (or possibly a shorter period). Thus as far as Ballater is concerned the National Park Authority have not acquiesced in the strictures of the Reporters in their paragraph 7.19 about the 50% and 15% uplifts which had led to a phased land supply of 1850 up to 2016 on page 41 of the local plan before the Reporters.

49. For some reason Braemar H1 (Balnellan Road) which is shown as effective for 20 dwellings in Table 2 of the new Appendix 2 is shown in Tables 3 and 4 of Appendix 2 as not being effective for any dwellings. The proposals on page 79 of the deposit local plan as now proposed to be modified show that this development on Braemar H1 is going ahead and also another 12 houses in addition to Braemar H2 will be provided for in this local plan as well as an unspecified number of affordable dwellings at Kindrochit Court.

50. For the purposes of calculating the contribution to the initial requirement, said to be 950, it is necessary to add to the 90 dwellings at Ballater the 35 dwellings at the former Monaltrie Hotel which Table 2 shows as completions reducing or going towards the initial need of 950. Thus, Upper Deeside's contribution for the life of the local plan is as follows;

Ballater h1 - 90

Ballater Monaltrie Arms - 35

Braemar H1 - 20

Braemar H2 - 30

Braemar Invercauld Farm - 12

Total 187 which is 19% of 950

51. To calculate the contribution of Upper Deeside to the net need of 774 it is necessary to deduct the 35 dwellings completed at the Monaltrie Hotel leaving a total of 152 or 19% of 774 the alleged net need and 17% of the total provision of 867 (835 plus the 32 omitted dwellings at Braemar).

52. Thus the proportion of the houses for which land has to be supplied allocated to Upper Deeside has increased from 13% in the plan before the Reporters to 19% under the proposed modifications. If, as shown on page 70 of the plan as proposed to be modified another 100 houses are to be built up to 2016, the contribution of Upper Deeside would be 287 to the initial need of 950 (or 30%), 252 or 32% of the net need of 774 and 29% of the total provision of 867.

53. This disproportionate allocation of housing to Upper Deeside adds weight to the Reporters' call in their paragraph 7.37 that the allocation to particular settlements be explained. It is important to bear in mind that the Reporters did not make a decision approving the plan's proposed phasing of the development of HI, that is they did not accept that there should necessarily be 90 or any particular number of houses allocated to Ballater for the life of the plan or 190 for the next 10 years. This is made clear by them in their section on General Housing Supply where in their paragraph 7.27 they say "as far as Ballater is concerned, it is a serious deficiency that CNPA has not explained briefly and clearly in the emerging local plan; why there is a combined requirement for 190 affordable and market houses over the period to 2016; what the impact would be on Ballater as a sustainable community of a large proportion of market housing within that total....Of course making good these deficiencies is an entirely different matter from judging whether a particular allocated site in Ballater can contribute to the effective land supply. We assess that elsewhere in our report." The Reporters indicated in their paragraph 48.50 that their suggested amendments to the text of the plan relating to the proposals for Ballater were intended to represent what they understood to be the CNPA position at the end of the hearing. They made it clear in their paragraph 48.17 that the deficiencies in the overall calculations "and the allocations to particular settlements including Ballater, are serious deficiencies in the preparation of the CNPLP; and they should be rectified before the plan is progressed to adoption."

54. The new section has kept the provisions for Ballater in the plan and has not explained the allocations to Ballater or to Upper Deeside.

55. There is no need for anything like 60 or more market houses to be built at Ballater by 2016. The National Park Authority has not produced any evidence of any need for such a large amount of market housing at Ballater. On page 230 of the National Park Authority's response to the Reporters' recommendations the Authority in dealing with Ballater say in paragraph 1.2 "CNPA have been working closely with the local housing authorities to establish the need for housing, both for open market and for affordable housing within the Park area and has been using the guidance provided in SPP3 to guide this work. SPP3 does not however indicate that need should be identified by individual settlement, but rather should be identified in the assessments, and then provision made for that ideally within the housing market area where it has arisen. Ballater does not form a housing market area, and as such the figures do not give a settlement based need."

56. The above response of the National Park Authority is not a convincing defence of their proposing a large development of market housing at Ballater without any requirement for it, and without a long term sustainable settlement strategy or vision for the settlement to provide a context for it. According to paragraph 2.5 on page 15 of the Park Plan, the National Park Plan of 2007 is supposed to provide a strategic context and on that basis the amount of market housing is excessive. If the Park Authority by their response imply that Ballater H1 is planned to meet the general needs of the housing market area, which is Aberdeenshire Rural Housing Market Area, rather than the needs of this sector of the National Park, this assertion runs completely contrary to the policy generally of this local plan and the policies and practices followed by Aberdeen City Council and Aberdeenshire Council and the Park Authority as shown by the following:

- a) The housing requirement in this local plan is the requirement of the projected population of the National Park as is made clear in paragraph 5.33 of the Deposit Local Plan of October 2008 as before the Reporters and is consistent with what the National Park Plan of 2007 indicates on page 72 and with the policy espoused by the Reporters;
- b) The last housing assessment made by Aberdeenshire covering land within the National Park was the assessment of 2004 but the new assessment being carried out to replace it does not include the part of Aberdeenshire lying in the National Park because "the Cairngorms National Park Authority has the responsibility to carry out any needs assessment required for the Park" which is a quotation from the letter of 4th March 2009 from Aberdeenshire Council's Area Manager for Marr (Document 26 of the Joint Statement of Case Against Ballater H1);

c) The Aberdeen City and Aberdeenshire (excluding the Cairngorms National Park) Structure Plan of 2009 has set out a housing requirement for the Aberdeenshire Rural Housing Market outside the National Park, has made provision for sites within the Rural Housing Market (excluding the National Park) and, according to paragraph 4.17 on page 17 of the structure plan "provides a generous supply of land for new housing".

57. I would add the following comments on this response of the National Park Authority:

a) Government policy does not encourage pushing housing out to the remote areas on the periphery of a rural housing market area; for example paragraph 35 of SPP3 of 2003 says that the planning of a new residential development offers opportunities for reducing travel demand and paragraph 36 says "Access to jobs and facilities should be carefully considered by both planning authorities and developers."

b) The Aberdeen City and Aberdeenshire (excluding the Cairngorms National Park) Structure Plan approved by the Scottish Ministers in 2009 makes ample provision for the Aberdeenshire Rural Housing Market Area outside the National Park: its housing requirement for 2007 to 2016 is shown on page 17 at paragraph 4.15 as 6,367 and the land supply on page 27 is effective land supply 2007: 4,118; constrained: 2,664 and allowances 2007 to 2016: 5,800.

c) Government policy for development plans prepared, as this plan was, before coming into force in 2009 of the new provision made by the Planning etc (Scotland) Act 2006 was that local plans in the words of paragraph 64 of SPP3 of 2003 "must conform to the structure plan" but as demonstrated below the allocation of 90 dwellings to Ballater does not conform to the structure plan.

The allocations to Upper Deeside do not conform to the structure plan

58. The applicable structure plan is still "North East Scotland Together – Aberdeen and Aberdeenshire Structure Plan 2001-2016 (CD6.1) known as NEST. As was conceded at the hearing held by the Reporters at Ballater this structure plan has not been replaced by the Aberdeen City and Aberdeenshire (excluding the Cairngorms National Park) Structure Plan of 2009 because the structure plan of 2009 excludes the National Park and thus puts nothing in the place of NEST so far as NEST applies to the part of Aberdeenshire in the National Park.

59. On page 34 of NEST, the structure plan provides that for planning permissions to be granted from January 2006 till December 2010 new allocations are to be safeguarded for 100 houses in "other settlements" (that is settlements other than Aboyne, Alford and Huntly) in the Marr area of the Aberdeenshire Rural Housing Market Area. The 100 houses were 4% of the total of 2,300 distributed over the whole of the Aberdeenshire Rural Housing Market Area.

60. On the basis of the Census of 2001 the population of the Marr part of the

Aberdeenshire Rural Housing Market Area outside Aboyne, Alford and Huntly is about 19,000 (Marr 34,038 less 14,573 for Banchory, Aboyne, Alford and Huntly). Ballater's population of 1,446 was about 8% of the 19,000 population. Upper Deeside's population of 2,192 was about 11.5% of the relevant population of 19,000. Moreover

the structure plan stated that

development which local plans identify in "other settlements" should be small scale, usually under 15 houses, and in support of economic development and local services.

61. Page 34 of the Structure Plan also indicated that for 2011 to 2015 strategic housing land reserves were needed for 2,200 houses in the whole Aberdeenshire Rural Housing Market Area and that local plans might where possible indicate where this housing should be accommodated "all in the same broad proportions" as indicated for 2006 to 2010. Clearly these figures did not allow for anything like a new allocation of 90 dwellings for Ballater up to 2016.

62. Section 17(3) of the Town and Country Planning (Scotland) Act 1997 in its "old" form, that is as it had effect immediately before 28th February 2009, continues to apply to this local plan by virtue of the transitional provisions, SSI 2008 No. 427. Section 17(3) in its applicable form prohibits the National Park Authority from adopting a local plan which does not conform to a structure plan that has been approved by the Scottish Ministers. NEST was approved by the Scottish Ministers on 21st December 2001. For the reasons set out by me in my objection to the new section 1 (Statutory context) it is my contention that section 17(3) in its old form is fully applicable to this local plan and to the modifications and that the Reporters are wrong in law in holding in their paragraphs 7.6 and 48.8 that the Cairngorms National Park Local Plan can take "a different approach to" the structure plan.

63. I therefore object to this section on the Housing Land Requirement on the ground that as regards the allocation of housing to Ballater this section does not conform to the structure plan. The same applies to the allocation to the Aberdeenshire part of the National Park as a whole.

The provision for housing at Ballater made by this section is not appropriate in an interim plan