

CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

Prepared by: FIONA MURPHY (PLANNING OFFICER, DEVELOPMENT MANAGEMENT)

DEVELOPMENT PROPOSED: ERECTION OF 58 HOUSES, ASSOCIATED ROADS AND FOOTWAYS AT LAND AT SCHOOL ROAD AND CRAIGMORE ROAD, NETHY BRIDGE

REFERENCE: 2013/0119/DET

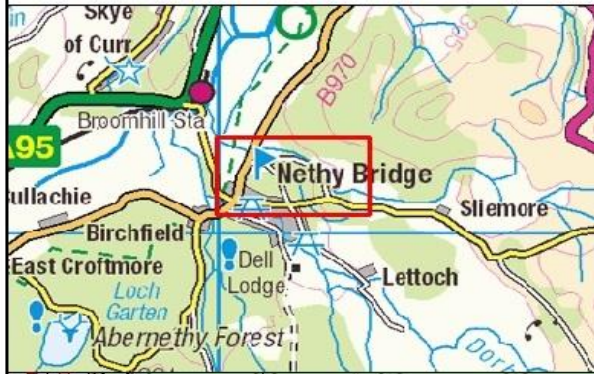
APPLICANT: ARGYLL DEVELOPMENTS (SCOTLAND) LTD, STONEYFIELD HOUSE, INVERNESS

DATE CALLED-IN: 21 NOVEMBER 2014

RECOMMENDATION: REFUSE

CNPA Planning Committee

 Application Site



Reproduced by permission of Ordnance Survey on behalf of HMSO. © Crown copyright and database right 2014. All rights reserved. Ordnance Survey Licence number 100040965 © SNH

SITE DESCRIPTION AND PROPOSAL

- I. This planning application was called in by the Cairngorms National Park Authority (CNPA) on 13th April 2013. The application site consists of two distinct sites:
 - (i) an area of 2.29 hectares accessed off School Road where 44 affordable houses are proposed; and
 - (ii) an area of 1.65 hectares accessed off Craigmore Road, where 14 detached dwelling houses are proposed.

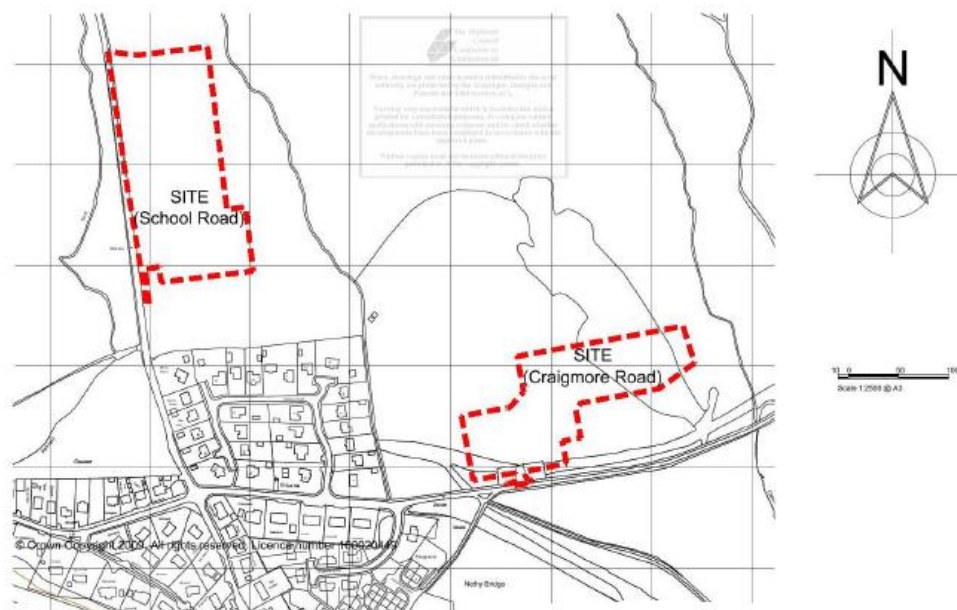


Figure 2: Plan showing the Application Sites (Extract from Drawing No 3879/01-01 – for illustrative purposes only).

2. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website at <http://www.eplanningcnpa.co.uk/online-applications/#searchApplications> unless noted otherwise.

Title	Drawing Number	Date on Plan	Date Received
Location	3879/01-01	April 13	24 April 2013
Overall Site Plan	3879/01-02 Rev B	April 13	14 April 2014
School Road Site – Site Plan	3879/01-03 Rev B	April 13	14 April 2014
Craigmore Road Site – Site Plan	3879/01-04 Rev C	April 13	15 August 2014
Floor – Elevations – Type 1	3879/01-10	04/04/13	24 April 2013
Floor – Elevations – Type 2	3879/01-11	04/04/13	24 April 2013

CAIRNGORMS NATIONAL PARK AUTHORITY
Planning Committee Agenda Item 6
21st November 2014

Floor – Elevations – Type 3	3879/01-12	04/04/13	24 April 2013
Floor – Elevations – Type 4	3879/01-13	04/04/13	24 April 2013
Floor – Elevations – Type 5	3879/01-14	04/04/13	24 April 2013
Floor – Elevations – Type 6	3879/01-15	04/04/13	24 April 2013
Floor – Elevations – Type 7	3879/01-16	04/04/13	24 April 2013
Floor – Elevations – Type 8	3879/01-17	04/04/13	24 April 2013
Floor – Elevations – Type 9	3879/01-18	04/04/13	24 April 2013
Floor – Elevations – Type 10	3879/01-19	04/04/13	24 April 2013
Floor – Elevations – Type A	3879/01-50	April 13	24 April 2013
Floor – Elevations – Type D	3879/01-51	April 13	24 April 2013
Floor – Elevations – Type G	3879/01-53	April 13	24 April 2013
Soft Landscape Craigmore Road	HLD 142. 13/SL- 01 Rev A	22.10.13	31 March 2014
Soft Landscape School Road	HLD 142. 13/SL- 02 Rev A	22.10.13	31 March 2014
Site Location Plan	70599/001	18/12/2013	15 August 2014
Roads Layout School Road	70599/1000	12/08/14	15 August 2014
Roads Layout Craigmore Road	70599/1001	11/08/14	15 August 2014
Roads Longitudinal Section 1 of 2 School Road	70599/1002	11/08/14	15 August 2014
Roads Longitudinal Section 2 of 2 Craigmore Road	70599/1003	11/08/14	15 August 2014
Drainage Layout Plan Craigmore Road	70599/101	14/08/2014	15 August 2014
Drainage Layout Plan School Road	70599/003	14/08/2014	15 September 2014
Transport Statement		October 2013	31 March 2014
Flood Risk Assessment		March 2014	31 March 2014

CAIRNGORMS NATIONAL PARK AUTHORITY
Planning Committee Agenda Item 6
21st November 2014

Arboricultural Assessment		17 October 2012	31 March 2014
Supporting Statement		05 April 2013	24 April 2013
Ecology and Nature Conservation Report		November 2012	24 April 2013
Additional Ecology and Nature Conservation Information Final Report		August 2014	1 August 2014
Drainage Impact Assessment and SUDS Strategy Revision B		05 April 2013	15 August 2014

Table 1: List of Drawings and Supporting Documents Accompanying the Application

The two sites lie to the east of the village within the existing woods, known as School Wood. The area generally is reasonably flat. The woods are included in the Ancient Woodland Inventory as being an Ancient Woodland (category 2a Plantation on an ancient woodland site). There is a core path parallel with School Road.

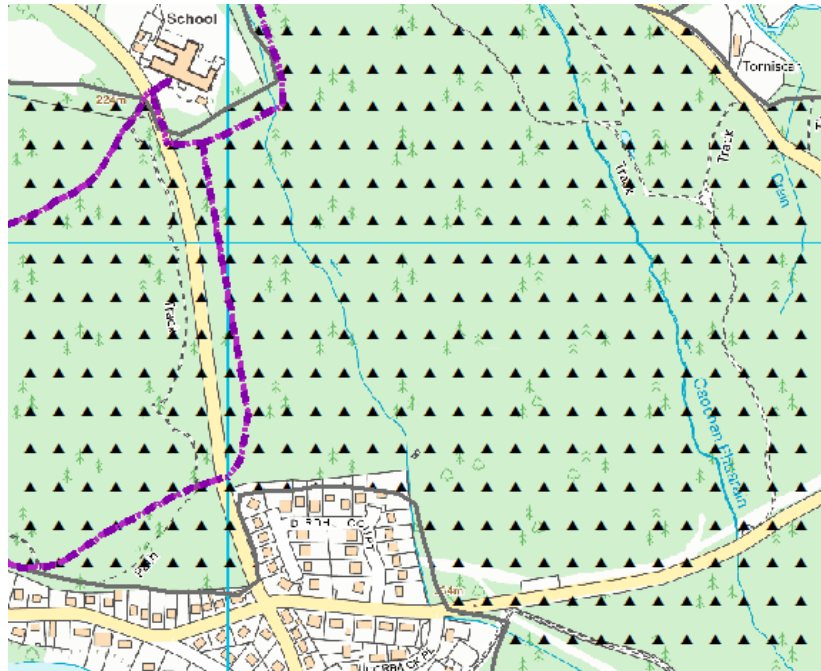
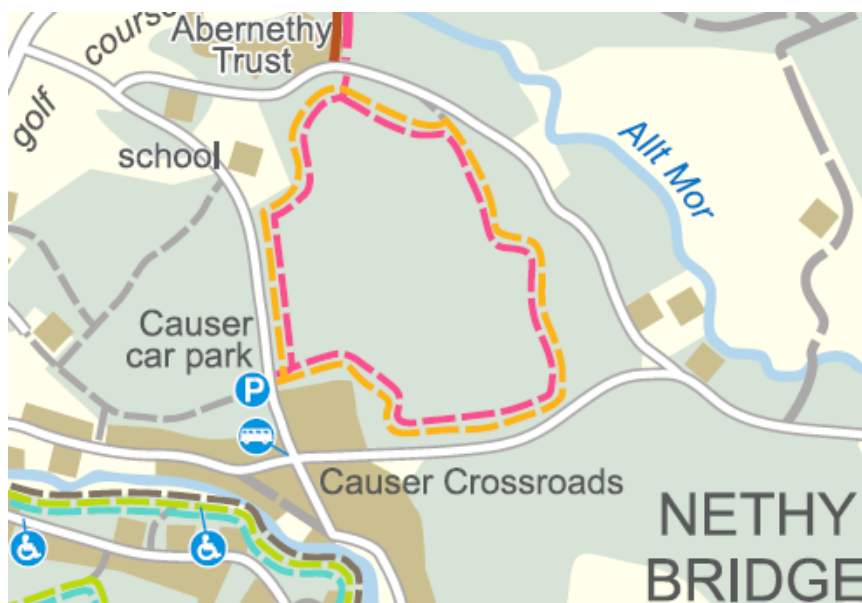


Figure 3: Constraints Map showing Ancient Woodland (Green with Black Triangles) and Core Path (Purple Dashed Line)

3. The site is within pine plantation woodland on the north side of Nethy Bridge. This woodland forms the visual backdrop and setting to the village. The woodland is a well-used recreational resource.



<p>Wilderness Trail </p> <p>Circular walk through pine woodland.</p> <p>Distance: 1½ miles</p> <p>Approximate time: 1 hour</p> <p>Start: Causer car park</p> <p>Terrain: Low level forest paths, some parts can be muddy in wet weather, kissing gates.</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">road</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">track</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">path</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">toilets</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">car park</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">bus stop</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">viewpoint</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">all-abilities trail</td> </tr> </table>		road		track		path		toilets		car park		bus stop		viewpoint		all-abilities trail
	road																
	track																
	path																
	toilets																
	car park																
	bus stop																
	viewpoint																
	all-abilities trail																

Figure 4 - Extracts from Cairngorms Paths leaflet – Nethy Bridge – Explore Abernethy – Showing main paths around School Wood.

The Development Proposals

4. The site area adjacent to School Road is an elongated shape, extending from north to south within the woodland. The southern site boundary lies approximately 70 metres from the residential properties in Dirdhu Court, while the Nethy Bridge primary school complex is some 120 metres to the north of the site. The lands to the east and also to the west are part of the wider woodland area.



Photo 1: School Wood site viewed from the south

5. A total of 44 houses are proposed in School Road, as semi-detached or terraces, with half of them single storey and the other half one-and-a-half storey. The application plan lists them as 26 one-bed villas, ten 3-bed bungalows, four 2-bed bungalows and four one-bed bungalows. However, in the course of preparing this report, it has been noted that there are two particular discrepancies with the plans for the School Road site:
- (1) Drawing Number 3879-01-03-Rev B shows 41 houses, not 44, and
 - (2) Drawing Numbers 3879/01-10 to 3879/01-19 shows that the 24 of the 26 'one-bed' villas listed on Drawing Number 3879/01-03 Rev B actually have two bedrooms each.

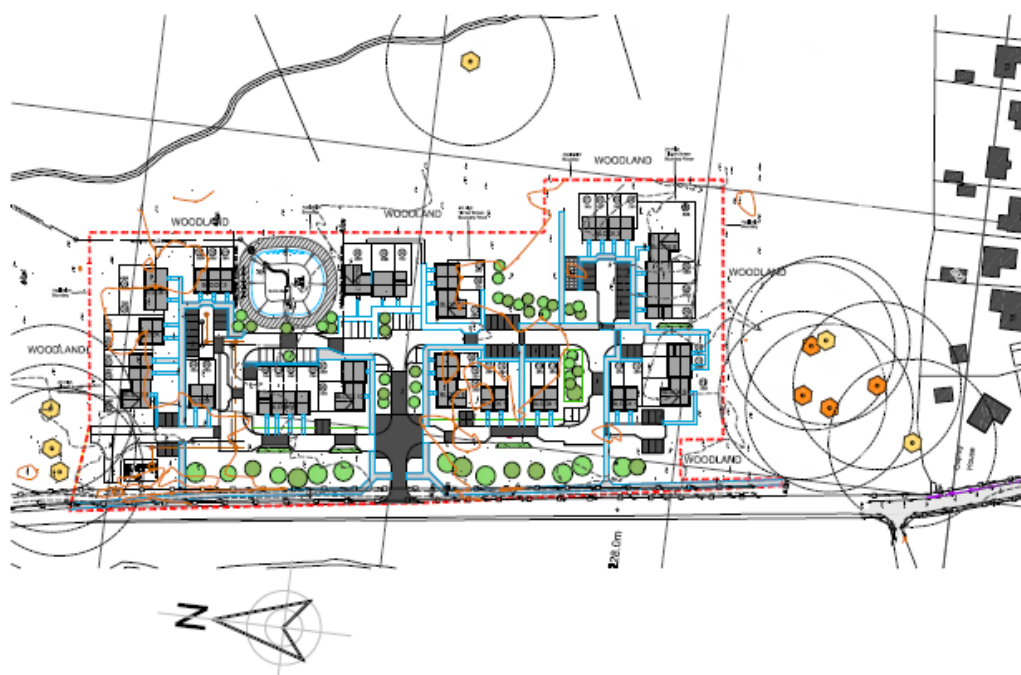


Figure 5: Proposed Layout – School Wood (Extract from Drawing No 3879/01-02 Rev B - for illustrative purposes only).

- The boundary of the site area at Craigmore Road is 85 metres from the rear garden boundaries at Dirdhu Court. The site is an irregular 'L' shape, with part close to the road and the remainder set back some 55 metres.



Photo 2: Craigmore Road site viewed from the west.

- The development is in the form of a cul-de-sac, with houses generally along one side of the road. There are two houses at the entrance, with a large Sustainable Urban Drainage System (SUDS) pond behind. The majority of houses are laid out in a straight line.



Figure 6: Proposed Layout – Craigmore Road (Extract from Drawing No 3879/01-02 Rev B - for illustrative purposes only)

8. In each case, the proposals for the trees between the houses and the road are unclear, although it might be anticipated that there are none for the Craigmore Road site since it is outwith the application boundary and the applicant's ownership. Similarly, the area around the School Wood site has proposed tree works but again this is outwith the application boundary and the applicant's ownership.

Design Details

9. Throughout both sites, there is a variety of design of the houses, the predominant features being one and a half storeys, white render and grey tiled roofs. The houses on the School Road site are much smaller in size and grouped as semis and terraces of three or four houses. The floor spaces range from 35 square metres for a one-bed villa to 97 square metres for a 3-bed bungalow, with more than half the houses having a floorspace of 66 square metres. Those at Craigmore Road are large and very large detached houses, varying in floorspace from 135 square metres to 210 square metres.

School Wood Site

10. The proposed houses on the School Road site are as follows:

Name	Type	Design	Area (square metres)	Total
Block 1	2-bed villa	1.5 storey semi-detached	66	10
Block 2	2-bed villa	1.5 storey terrace of 3	66	3
Block 3	2-bed villa	1.5 storey terrace of 4	66	4
Block 4	2-bed bungalow	Single storey semi-detached	74	2
Block 5	2-bed villa	1.5 storey semi-detached, plus	66	4
	3-bed bungalow	Attached single storey	97	2
Block 6	2-bed villa	1.5 storey terrace of 3, plus	66	3
	1-bed villa	Attached single storey	35	1
Block 7	3-bed bungalow	Single storey semi-detached, plus	97/89	2
	1-bed villa	Attached single storey	35	1
Block 8	3-bed bungalow	Single storey terrace, plus	97/83/83	3
	1-bed villa	Attached single storey	35	1
Block 9	3-bed bungalow	Single storey terrace	97	1
	2-bed bungalow	Single storey terrace, plus	74	1
	1-bed villa	Attached single storey	35	1
Block 10	3-bed bungalow	Single storey semi-detached, plus	97	1
	2-bed bungalow	Single storey semi-detached	74	1

Totals – School Road

1-bed villa	4
2-bed villa	24
2-bed bungalow	4
3-bed bungalow	9
Overall Total	41

Table 2: Proposed House types – School Road



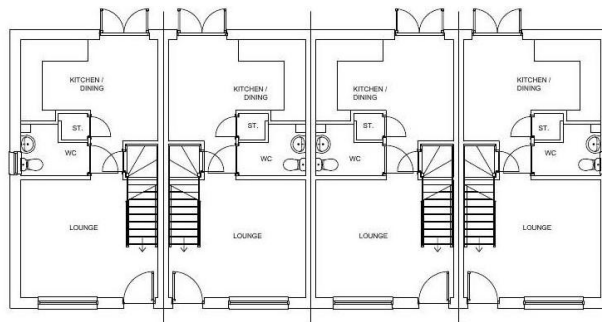
FRONT ELEVATION

Figure 7: School Road - Block Type 1 (Extract from Drawing Number 3879/01-10 – for illustrative purposes only)

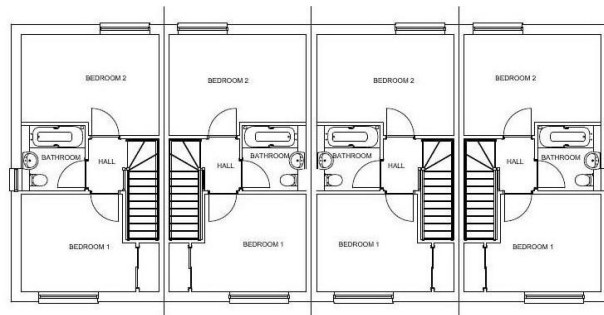


FRONT ELEVATION

Figure 8: School Road - Block Type 3 (Extract from Drawing Number 3879/01-12 – for illustrative purposes only)



GROUND FLOOR PLAN
Total Floor Area 66.36sq.m



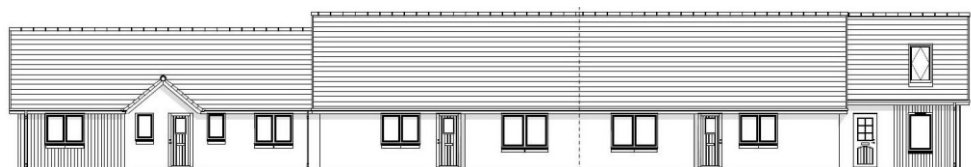
FIRST FLOOR PLAN

Figure 9: School Road – Floor Plans - Block Type 3 (Extract from Drawing Number 3879/01-12 – for illustrative purposes only)



FRONT ELEVATION

Figure 10: School Road – Elevations - Block Type 5 (Extract from Drawing Number 3879/01-14 – for illustrative purposes only)



FRONT ELEVATION

Figure 11: School Road – Elevations - Block Type 8 (Extract from Drawing Number 3879/01-17 – for illustrative purposes only)

Craigmore Road Site

11. The proposed houses on the Craigmore Road site are as follows:-

House type	Description	Floor area (square metres)	Number of Units
A	3-bed detached chalet	135	5
D	4-bed detached villa	157	5
G	4-bed detached villa	210	4

Table 3: Proposed House Types – Craigmore Road

12. At the Craigmore Road site, the houses are large detached houses, which appear to be predominantly finished in white render with grey tiled roofs, and small panels of timber cladding detailing.



FRONT ELEVATION

Figure 12: Craigmore Road – Elevation – House Type A (Extract from Drawing Number 3879/01-50 – for illustrative purposes only)



Figure 13: Craigmore Road – Elevation – House Type D (Extract from Drawing Number 3879/01-51 – for illustrative purposes only)



Figure 14: Craigmore Road – Elevation – House Type G (Extract from Drawing Number 3879/01-53 – for illustrative purposes only)

13. Both developments are proposed to connect to the public sewer and also to connect to the public water supply.

Supporting Documents

14. **The Supporting Statement (including Design and Sustainability Statement) (05 April 2013)** briefly describes the background to the development and the pre-application consultation process. The Supporting Statement advises that the developer has agreed to restrict the sale of the housing for a period of time to local residents. They have also proposed that the affordable houses are non-subsidised affordable for sale without the involvement of a Registered Social Landlord (RSL) to avoid the allocations policy being applied.
15. The applicant has offered to transfer ownership of the remaining woodland to community ownership.
16. The Supporting Statement includes a single page entitled 'Design and Sustainability Statement', which describes Policy 16, the Sustainable Developments features, Waste Management and Travel and Transport.

17. **The Drainage Impact Assessment and SUDS (Sustainable Urban Drainage Systems) Strategy (05 April 2013)** concludes that the ground conditions are suitable for the disposal of surface water by infiltration by using soakaways installed above the ground water level. In respect of foul water, the sites are to drain into the existing foul sewer network, with some parts of the School Road site requiring to be pumped to this. Surface water runoff will be dealt with by a Sustainable Urban Drainage System.
18. **The Ecology and Nature Conservation Report (November 2012)** concludes that the proposed development will directly affect 6.6% of the School Wood plantation. However, it advises that this percentage does not include the Scots pines which will be retained within the development setting. It advises that to conserve and enhance the remaining woodland and the species present, the applicant has committed to mitigate the species present within the proposed development footprint (red squirrel, juniper and one pair of crested tits), has avoided any impact on the two burns by ensuring an adequate separation corridor, has avoided any impact on wood ants nests and has agreed to undertake a detailed Ecological Management Plan for the rest of School Wood. The Ecological Management Plan will include for non-native species removal (spruce and Larch mainly), careful thinning of Scots pine and other measures. The report advises that these will collectively result in the overall conservation and enhancement of the wider woodland area and will accrue long-term benefits for habitats and wildlife.
19. **The Additional Ecology and Nature Conservation Information Final Report (August 2014)** provides details of additional survey work in relation to potential wildcat presence, a National Vegetation Classification (NVC) survey and future management options. The report advises that a forestry plantation survey in 2014 determined that there is a minimum area of 8.4 hectares for compensation Scots pine habitat creation relating to a maximum loss of existing Scots pine habitat of 3.5 hectares to the proposed housing development. It notes that the developer has agreed to hand over all of the remaining School Wood land and all of the Balnagowan Wood (approximately 75.2 hectares of which at least 8.4 hectares would be compensation habitat) to an appropriately experienced organisation along with a legal agreement to ensure the ecological compensation and enhancement are guaranteed and its conservation management in perpetuity is secured, in return for the implementation of the housing development.
20. **The Arboricultural Assessment (Date of Tree Survey 27 September 2013, Date of Report 17 October 2013)** proposes the clear felling of those areas within the 'development footprint' and beyond that variable thinning of the surrounding woodland for a depth of 30m. There is also a proposal to under-plant the thinned areas with juniper, birch, willow and rowan at 2 metres average spacing by way of mitigation for the felling required to develop the site.

21. **The Transport Statement (October 2013)** concludes that the proposals include provision of footpath connections from within the site to existing external provisions. Links within the site will either be alongside the development access roads or on shared surface areas. The impact of car trips on the local transport network is anticipated to be minimal, with approximately one additional vehicle every 2 minutes estimated during peak periods. The existing roads infrastructure is anticipated to accommodate the traffic generation from the development but improvements to visibilities on School Road will be provided.
22. **The Flood Risk Assessment (Flood Risk Assessment March 2014)** advises that fluvial flood risk associated with the two minor watercourses was investigated. Both sites were found to be outwith the functional floodplains associated with both the Caochan Fhuarain and the unnamed watercourse. A 500 millimetre freeboard was recommended to set the finished floor levels above the predicted 200 year flood levels.
23. Flood risk associated with the failure of the two culverts under Craigmore Road was also investigated. Both culverts would be expected to fail to pass the 200 year flood. Existing road profiles were reviewed and under existing conditions, any water overtopping Craigmore Road would return to the downstream watercourses. These overland flood routes should be preserved in order not to increase flood risk elsewhere.

Site History

24. An application seeking outline planning permission for the erection of 40 dwellings and business units was submitted to The Highland Council in February 2002 (Highland Council planning reference number 02/45/OUTBS). The Highland Council resolved in September 2002 to grant outline planning permission, subject to a Section 75 Legal Agreement to cover matters including the provision of affordable plots for self build purposes, and the undertaking of certain off site works.
25. The Highland Council resolution to grant planning permission was taken prior to the establishment of the National Park, although matters such as the Section 75 Agreement were only concluded in 2006, thereby enabling the issuing of the decision notice at that time.
26. In March 2009, an application was made for approval of the Matters Specified in Conditions (MSC) – Application No 09/052/CP. This application was refused at the Cairngorms National Park Authority Planning Committee on the 7 January 2011 for the reasons detailed in the Decision Notice attached to this report as Appendix 3. In summary, these related to:-

- i. The proposals contravened the terms of the outline planning permission (Highland Council ref. no. 02/00045/OUTBS).*
 - ii. Essential required detail and surveys were not provided in support of the current development proposal.*
 - iii. The proposed layout of the housing and business unit sites would give rise to tree loss in this woodland setting.*
 - iv. The proposed development did not meet the site specific requirements associated with the housing allocation NB/H2 and the economic development allocation NB/ED1, in the Nethy Bridge settlement proposals map in the Cairngorms National Park Local Plan (2010).*
 - v. The proposed development failed to adequately respond to the characteristics of the site and failed to reflect its unique setting on the woodland periphery of a traditional Highland village.*
 - vi. The proposed development failed to demonstrate that it would not adversely impact on existing outdoor access opportunities in the immediate vicinity.*
 - vii. Insufficient detail was provided in this application to demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environments. The detail provided also failed to demonstrate that the development would accord with fundamental sustainable design principles.*
27. The decision was subsequently the subject of an appeal which was dismissed by the Reporter from the Scottish Government's Department of Planning and Environmental Appeals (DPEA) on the 18 July 2011. A copy of the decision letter is attached as Appendix 4.
28. The Reporter's conclusions were as follows:-
- (1) I am unable to reconcile the appeal proposal with policies N1 and L4 in the Highland Structure Plan. Nor can I reconcile it with that part of structure plan policy G2 which expects development to demonstrate sensitive siting and high quality design in keeping with local character. The proposal is undeniably consistent with parts of the Cairngorms Local Plan 2010. However for much the same reasons I cannot fully reconcile it with local plan policies 4 – 6. Somewhat unusually at Reserved Matters stage I therefore find the proposal inconsistent with the development plan.*
 - (2) The proposal can be reconciled with several parts of Scottish Planning Policy, but I cannot reconcile it with paragraphs 125 – 132. This is because the woodland setting and other natural heritage interests constrain the development to the point where these interests should transparently influence, even dictate, its layout and precise footprints. There is corresponding friction with parts of the Cairngorms National Park Plan 2007, although I recognise that this document supports the provision of affordable housing. In addition I have some difficulty*

reconciling the proposal with parts of CNPA Supplementary Planning Guidance which have been referred to. For example the application is not accompanied by sufficiently detailed information on the natural heritage interest of the site, and on how impacts may be mitigated or compensated. In view of direct conflict with the development plan it would be unproductive to explore such additional tensions any further. Taking this and the previous paragraph together I find that the first key issue does not run in favour of the appeal.

- (3) So far as the second key issue is concerned, I have covered several other material considerations in passing, namely the balance of relevant policy background as well as site specific and design considerations. Additional material considerations are the need for more affordable housing in and around Nethy Bridge and the undeniable benefits of providing space for existing or new local businesses. This decision does not obstruct either of these interests, although it doubtlessly introduces a little delay while the above shortcomings are addressed. Any delay would be miniscule given the proposal's long evolution thus far. I consider this a small price to pay for a superior outcome, demonstrably in tune with the site's sensitive context and natural heritage interest. I have also considered the commercial imperatives for the appellant company, and the transformed state of the housing market since the outline permission was first sought. I am sensitive to market realities, but I cannot reasonably allow these matters to over-ride every other factor. The development in whatever form will endure for generations. Accordingly, I find that other material considerations do not justify a development plan departure.
- (4) I agree that planning conditions covering surface water drainage and landscape maintenance do not necessarily have to be discharged at this juncture. It would be sufficient for these matters to be settled before development commences. However, detailed implications for trees and other natural heritage interests and to a lesser extent archaeological interests require to be more thoroughly understood at this stage. They should very visibly inform the layout and detailed footprints. For the reasons explained mainly in paragraphs 14 and 19 above, additional planning conditions at this stage could not contribute to a resolution of the above shortcomings. Accordingly the third and fourth key issues cannot help justify the success of this appeal.
- (5) I have been at pains to consider how the site can be developed – not whether it should be. I have kept one eye very firmly on the outline planning permission and on the allocations covering the appeal site in the Cairngorms National Park Local Plan 2010. I suspect that the delivery of satisfactory Reserved Matters may prove challenging. In no way do I imply that this is out of reach. Careful account has been taken of all the other matters which have been raised - including detailed references to a range of additional natural heritage issues - but they do not outweigh those considerations on which this decision is based.

Recent History

29. The site was subject to a detailed pre-application query at the same time as the appeal was ongoing. In January 2012, the detailed proposals were the subject of a Pre-Application process, with a response provided by CNPA in May 2012. The issues identified included quality of the ecological surveys, impact on the woodland, density, and the need to clarify the mechanism for providing the affordable housing and footpath access.
30. The application was submitted to the Highland Council and called-in by CNPA on the 22 April 2013. Following the consultation process, the applicant was advised by letter dated 8 August 2013 that 'Overall there are a number of significant matters that need to be addressed in order to progress the application'. The letter referred to:
 - a. Scottish Natural Heritage's view that the proposal was likely to have a significant impact on fresh water pearl mussel and capercaillie and hence that an appropriate assessment of the impact of the development by CNPA is required.
 - b. Concerns that there are a number of areas in the Ecology and Nature Conservation Report that do not meet the expected standards. These need to be addressed prior to determination of the application.
 - c. The application was not supported by landscape proposals or any landscape assessment of the existing situation.
 - d. The lack of an assessment of the trees on the site or the impact of the retained trees on the proposed development.
 - e. Scottish Environmental Protection Agency objected until additional information was submitted to demonstrate that the sites are not at risk of flooding.
 - f. A lack of information about how the proposed development connects to the existing footpath network.
 - g. Concerns from Highland Council Transport, Environmental and Community Services Roads that despite providing pre-application advice, a Transport Statement has not been included and safer routes to schools do not appear to have been considered.
31. A meeting was held on the 16 January 2014 to discuss the lack of progress with the various outstanding matters. The applicant advised that these would be submitted by the end of March 2014.
32. On the 31 March 2014, the applicant submitted further details, which were the subject of re-issued consultation requests and were advertised in the local press for further consideration by the public. The further details were a Flood Risk Assessment, inclusion of pumping stations and Sustainable Urban Drainage System proposals in the plans, revised landscape proposals, an arboricultural assessment, a brief paragraph about the social housing and reference to a meeting with the Planning Gain Officer.

33. The paragraph about social housing stated: 'Social Housing – it is proposed to have 15 dwellings on the School Road phase of development allocated for social housing. The applicant is currently in negotiation with Highland Council on an Inverness development. The model for this is to provide unsubsidised affordable homes for sale at 80% of market value. First choice to acquire these homes is offered to those on the Council's low cost home ownership waiting list. It is intended to repeat this model for the Nethy Bridge development'.
34. The paragraph about community woodland stated: 'Contact has been made with the Planning Gain Officer regarding the developer's contributions. There is every indication that the level of developer's contribution will be adjusted providing there is an agreement on the transfer of the woodland to the community. Argyll Developments Scotland is willing to enter a legal agreement to this effect'.
35. On the 15 August 2014, the applicant submitted further details. Again, this information was the subject of re-issued consultation requests and was advertised in the local press for further consideration by the public on the 23 September 2014. The correspondence included reference to the report that had been issued by the Scottish Government's Department of Planning and Environmental Appeals in relation to the Local Development Plan.
36. The further details related to:
 - a. Roads and drainage - including an updated Drainage Impact Assessment, detailed drainage layout and off-site road improvements.
 - b. Ecology – additional ecology and nature conservation information – see Paragraph 20 above.
 - c. Affordable housing.
37. In relation to affordable housing, the letter states that: 'The applicant has agreed the requisite number of affordable homes and the principle of a Section 75 agreement to cover contribution. The principle of providing a significant number of small private homes for sale has been retained in the current proposals in addition to the 25% provision of subsidised affordable units'.

DEVELOPMENT PLAN CONTEXT

National policy

38. **Scottish Planning Policy (SPP, revised 2014)** sets out national planning policies that reflect Scottish Ministers priorities for the operation of the planning system and for the development and use of land. Under planning law, planning applications must be determined according to the development plan unless material considerations indicate otherwise. The content of SPP is a material consideration in planning applications that carries significant weight. The SPP promotes consistency in the application of policy across Scotland while allowing sufficient flexibility to reflect local circumstances.

39. Paragraph 2 of the SPP states that 'Planning should take a positive approach to enabling high-quality development and making efficient use of land to deliver long-term benefits for the public while protecting and enhancing natural and cultural resources'.
40. The SPP states that for planning to make a positive difference, development plans and new development need to contribute to achieving the following outcomes:-
- a. A successful, sustainable place – supporting sustainable economic growth and regeneration, and the creation of well-designed sustainable places
 - b. A low carbon place – reducing our carbon emissions and adapting to climate change
 - c. A natural, resilient place – helping to protect and enhance our natural and cultural assets, and facilitating their sustainable use
 - d. A more connected place – supporting better transport and digital connectivity
41. The SPP sits alongside four other Scottish Government planning policy documents:
- 1 The **National Planning Framework** (NPF) which provides the statutory framework for Scotland's long term spatial development. The NPF sets out the Scottish Government's spatial development policies for the next 20 to 30 years;
 - 2 **Creating Places**, the policy statement on architecture and place, containing the Scottish Government's policies and guidance on the importance of architecture and design;
 - 3 **Designing Streets**, a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance; and
 - 4 **Circulars**, which contain policy on the implementation of legislation or procedures.
42. Within the SPP, the section entitled 'A Natural, Resilient Place' Paragraph 194 lists the 'Policy Principles' that the planning system should meet, including:
- a. facilitate positive change while maintaining and enhancing distinctive landscape character;
 - b. conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities;
 - c. protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value;
 - d. support opportunities for enjoying and learning about the natural environment.

43. Paragraph 218 refers to the Scottish Government's Control of Woodland Removal Policy, which includes a presumption in favour of protecting woodland. It states that removal should only be permitted where it would achieve significant and clearly defined additional public benefits and advises that where woodland is removed in association with development, developers will generally be expected to provide compensatory planting.

Strategic Policies

Cairngorms National Park Partnership Plan (2012 - 2017)

44. The Cairngorms National Park Partnership Plan 2012 – 2017 is the management plan for the National Park for the next 5 years. It sets out the vision and overarching strategy for managing the Park and provides a strategic context for the Local Development Plan. Three long term outcomes have been identified to deliver the vision for the Park, to continue the direction set out in the first National Park Plan and to together deliver the four aims of the National Park. The outcomes are:
- a. A sustainable economy supporting thriving businesses and communities;
 - b. A special place for people and nature with natural and cultural heritage enhanced; and
 - c. People enjoying the park through outstanding visitor and learning experiences.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

45. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>.
46. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
- a. Chapter 3 - Conserving and Enhancing the Park;
 - b. Chapter 4 - Living and Working in the Park;
 - c. Chapter 5 - Enjoying and Understanding the Park.
47. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the current development proposal.

48. Policy 3 (Other Important Natural and Earth Heritage Interests): states that development that would adversely affect an ancient woodland site or semi-natural ancient woodland site will only be permitted where it has been demonstrated that the objectives of the identified site and overall identity of the identified area would not be compromised or where any significant adverse effects on the qualities for which the area or site has been identified are mitigated by the provision of features of commensurate or greater importance to those that are lost.
49. Policy 4 (Protected Species): states that development which would have an adverse effect on any European Protected Species will not be permitted unless there are imperative reasons of overriding interest, including public health or public safety; there is no satisfactory alternative solution; and the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The policy is intended to ensure that the effects of development proposals on protected species are fully considered by the planning authority. Developers will be required to undertake any necessary surveys for species at their own cost and to the satisfaction of Scottish Natural Heritage and the planning authority.
50. Policy 5 (Biodiversity): states that development that would have an adverse effect on habitats and species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, will only be permitted where:
- (a) The developer can demonstrate that the need and justification for the development outweighs the local, national and international contribution of the area of habitat or population of species; and
 - (b) Significant harm or disturbance to the ecological functions, continuity and integrity of the habitats or species populations is avoided, or minimised where harm is unavoidable, and appropriate compensatory and / or management measures are provided and new habitats of commensurate or greater nature conservation value are created as appropriate to the site.
51. Policy 6 (Landscape): states that there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.

52. Policy 16 (Design Standards for Development): this policy requires that all proposals are accompanied by a Design Statement that sets out how the requirements in relation to climate change, innovative design reflecting local traditions, materials and landscaping, sustainability, waste management, reducing the need to travel, protection of amenity, design standards and palette of materials have been met.
53. Policy 18 (Developer Contributions): states that development which gives rise to a need to increase or improve public services, facilities or infrastructure, or mitigate adverse effects, will normally require the developer to make a fair and reasonable contribution in cash or kind towards the additional costs or requirements.
54. Policy 19 (Contributions to affordable housing) : the affordable housing policy is intended to ensure the delivery of a wide range of housing options to a wide range of households in the Park. Policy 19 requires that developments of three or more dwellings will be required to incorporate a proportion of the total number of units as affordable. Developments solely for affordable housing will be considered favourably.
55. Policy 20 (Housing development within settlements): the policy advises that new housing should be contained within the identified settlement boundaries. Housing proposals within the settlement boundaries will be considered favourably where the development (a) occurs within an allocated site identified within the proposals' maps; or (b) is compatible with existing and adjacent land uses, and comprises infilling, conversion, small scale development, the use of derelict or underused land or the redevelopment of land. All housing proposals are required to reinforce and enhance the character of the settlement, and accommodate appropriate amenity space, and parking and access arrangements within the development.
56. In text supporting Policy 20 a range of expectations are referred to. The development of housing in settlements is expected to reinforce and enhance the character of the settlement; should not have any adverse impact on the features of the natural or cultural heritage importance within the settlement; should not result in the loss of amenity of surrounding land uses; and development should provide a range of house sizes to reflect the needs of the community of the Park. Para. 4.54 of the Plan states that the principle of achieving a sustainable balance of house sizes will apply to both affordable housing and open market housing.
57. Policy 34 (Outdoor Access): the policy encourages development which improves opportunities for responsible outdoor access. Development proposals which would result in a reduction of public access rights, or loss of linear access will only be permitted where an appropriate or improved alternative access solution can be secured to the satisfaction of the planning and access authorities.

58. Chapter 6 (Settlement Proposals): advises that development proposals for the identified sites must comply with the policies of the Local Plan. It advises in Paragraph 6.5 that the proposals must consolidate the existing urban form and not result in ribbon development or sprawl of development into the countryside. It advises that the proposals have indicative house numbers attached to each site that should be used as a guide to the capacity of the site. However, proposals should not be constrained by these figures and should seek to create attractive urban environments with a range of house designs working within the site. It refers to settlements having networks of open spaces, paths and recreational spaces that are not identified but that would be material considerations in the determination of planning applications that affected them.

59. Nethy Bridge is identified in the Local Plan as an intermediate settlement in the settlement hierarchy. The proposed site is within the Nethy Bridge settlement boundary. The area of land adjacent to School Road and the area in which housing is proposed along Craigmore Road are collectively identified in the settlement plan as NB/H2. The plan text associated with this allocation states that “the two sites have outline consent for a total of 40 dwellings. Development on these sites will retain enough woodland to allow for movement of species between areas of woodland to the sides of the sites, and retain the woodland setting of this part of the village. A small water course runs through the site and potential flood risk has not been adequately quantified. A flood risk assessment may be required in support of any further planning application or reserved matters.”

60. An area of land to the east of the Craigmore Road housing site is allocated for business use and identified on the settlement proposals map as NB/ED I.



Figure 15: Extract from the Nethy Bridge Settlement Proposals Map (Cairngorms National Park Local Plan 2010)

Supplementary Planning Guidance

61. In addition to the adoption of the Cairngorms National Park Local Plan (2010) on 29th October 2010, a number of Supplementary Planning Guidance documents were also adopted.

Sustainable Design Guide

62. The guide highlights the fact that the unique nature and special quality of the Cairngorms National Park and the consequent desire to conserve and enhance this distinctive character. The guidance has at its core the traditional approach to design which aims to deliver buildings which provide a resource efficient, comfortable and flexible living environment. The Sustainable Design Guide requires the submission of a Sustainable Design Statement with planning applications. It is intended that applicants would use the Sustainable Design

Statement to demonstrate how standards set out in the Sustainable Design Checklist will be achieved.

63. One of the key sustainable design principles referred to in the document is that “future development in the Park should be sensitively located, reflect existing development pattern and setting, and respect the natural and cultural heritage of the Park.” Developments are also required to reflect traditional materials and workmanship, and take on board innovation, contemporary design and the emergence of modern methods of construction. The Sustainable Design Guide is realistic in recognising that new developments do not need to be copies of past styles in order to fit into the National Park. It does however advise that “standard off-the-shelf house designs” will increasingly erode the unique characteristics for which the Park is renowned.

Natural Heritage

64. The guidance sets out how the natural heritage of the National Park will be taken into account when considering development proposals. The following is an extract from the Natural Heritage Supplementary Planning Guidance which sets out the six key principles used to assess planning applications in relation to natural heritage:
- a. Principle 1 – development should result in no net loss of natural heritage interest of the Cairngorms National Park. This includes natural heritage interest which may be outside the boundaries of the development site;
 - b. Principle 2 – in any situation where loss of, or damage to, natural heritage interest is unavoidable then the loss of damage will always be minimised as far as possible;
 - c. Principle 3 – if the loss or damage to the natural heritage is unavoidable then it will be fully mitigated on the development site;
 - d. Principle 4 – if full mitigation is not possible on site then it should be completed with a combination of on site mitigation and off site compensation;
 - e. Principle 5 - where full mitigation or compensation measures are not possible, financial compensation will be required. This will be used to benefit natural heritage within the National Park;
 - f. Principle 6 - Calculation of compensation will take into account the quality of outcomes over time.
65. Reference is also made to the need for applicants to provide natural heritage information. The required details include a description of the natural heritage on the site, and possibly in the surrounding area, including its significance and value. An assessment on any effect on the natural heritage is also required. If adverse effects are found within the assessment it will then be necessary to provide details of mitigation and compensation measures.

Affordable Housing

66. The Affordable Housing SPG refers to the definition of affordable housing as 'housing of a reasonable quality that is affordable to people on modest incomes'. It provides guidance about how proposals for affordable housing will be assessed and explains the system of financial contributions and off site contributions. It advises that all applications for full planning permission must be accompanied by details of the number of affordable units, how this has been calculated, and details of who will provide the affordable housing units.

Legal Challenge to the Cairngorms National Park Local Plan 2010

67. The challenge to the Cairngorms National Park Local Plan in the Court of Session has been unsuccessful on two occasions. The appeal against the original decision of Lord Glennie, which rejected the challenge on all of the advanced grounds, was refused by the Inner House on 3 July 2013. In delivering the judgment of the Court, Lady Paton concluded that *"It was open to the CNPA to adopt a Local Plan which relied on that [appropriate] assessment."*
68. On 12 August 2013 the Appellants filed an appeal against the decision of the Inner House of the Court of Session, to the UK Supreme Court. The Park Authority is defending the appeal. However, the fact that there is a continuing challenge to the adoption of the Local Plan is a relevant material consideration to which regard must be had in determining this application. There remains a possibility that the parts of the Local Plan which refer to Nethy Bridge, and which contain specific support for its development, may be quashed.
69. The CNPA must have regard to the following factors when determining this application:
- a. The possibility that the relevant parts of the Local Plan may be quashed in the event that the appeal to the Supreme Court is successful;
 - b. How central the support for Nethy Bridge in the Local Plan is to the determination of this application;
 - c. The effect of the relevant parts of the Local Plan being quashed and the associated removal of a key justification for the development;
 - d. The prospects of success for the current appeal;
 - e. The likely timescale for a decision of the Supreme Court in the current appeal;
- Each of these factors is a material consideration in the determination of the application.

Proposed Cairngorms National Park Local Development Plan (LDP)

70. The Directorate of Planning and Environmental Appeals (DPEA) carried out an Examination of the proposed Cairngorms National Park Local Development Plan over Spring and Summer 2014. The CNPA received the Report of the Examination on 8 September 2014. The CNP Proposed Local Development Plan and the Reporters recommendations are now a material consideration in planning decisions.
71. The CNP Proposed Local Development Plan, under Section 38 Nethy Bridge, includes Proposals H1 and H2, which are detailed as follows:-

H1 and H2: These two sites combine to create an extension area to the east of the village. With capacity for around 40 units, development will retain enough woodland to allow for movement of species between areas of woodland to the sides of the sites, and retain the woodland setting of this part of the village.

A small water course runs through the site and potential flood risk has not been adequately quantified. A flood risk assessment may be required in support of any further planning application or reserved matters.



Figure 16: Extract from the Nethy Bridge Settlement Proposals Map (Cairngorms National Park Proposed Local Development Plan 2013)

72. A separate report to the Planning Committee on the 21 November details the modifications to the CNP Proposed Local Development Plan that have been recommended by the DPEA reporters. In terms of Nethy Bridge, the Reporter recommended that the following modifications be made:

Nethy Bridge H1 Modify the plan by deleting site H1 and making a corresponding amendment to the settlement boundary to exclude that particular parcel of land from the settlement. The revised settlement boundary at this location would instead correspond to the line of the rear garden boundaries of the houses on Dirdhu Court that back onto School Wood.

73. The recommendation in the CNP Proposed Local Development Plan report is that Proposals H1 and H2 are modified to reflect the Reporters recommendations and the retained site reads:

This site has capacity for around 15 units in the east of the village. Development of the site will retain enough woodland to allow for movement of species between areas of woodland to the sides of the site and retain the woodland setting of this part of the village. A small water course runs near to the site and a flood risk assessment may be required in support of any further planning application or reserved matters.

These recommendations are being considered at this Planning Committee meeting.

Habitat Regulations Appraisal

74. A screening exercise to identify the “likely significant effects” of the development on Natura sites was undertaken by the CNPA, and an Appropriate Assessment made where significant effects on qualifying features of Natura sites were identified. Likely significant effects were identified for Craigmore Wood SPA and the River Spey SPA. The Appropriate Assessment details a number of mitigation measures required as part of the proposal should it be recommended for approval. The document has been included as Appendix I. These are repeated below for clarity:

a) Craigmore Wood SPA

The application must be conditioned to require an information leaflet to raise awareness of the issues around capercaillie, disturbance issues and urging responsible access. This must be given to new residents prior to occupation.

b) River Spey SAC

- (i) A condition requiring a Construction Method Statement to be approved prior to construction on site: - A condition must be applied to a permission that requires a construction method statement (CMS) to be agreed with the CNPA prior to the start of construction on site. The CMS must clearly demonstrate that risks to watercourses and ground water are eliminated through application of good site management in accordance with accepted best practice and guidelines. This must be in accordance with recognising best practice guidelines in particular SEPA PPG 1, 5 and 6. Where required through statute, Controlled Activity Regulations (CAR) must be complied with. Development must not commence until it has been demonstrated to the planning authority that the measures in the CMS have been adopted for onsite management.
- (ii) A condition requiring an approved SUDS in operation prior to occupation. A condition must be applied requiring fully detailed SUDS at detailed planning permission stages. This must clearly demonstrate that flooding and particle discharge into the river arising from the site will be prevented. The SUDS must be fully implemented prior to the point it is required for effective operation.

A condition must be applied to this application preventing occupation of the development until it has been demonstrated that there is both sufficient capacity at the local waste water treatment works and the ability to remove pollutants to a level where there will be no adverse effects on freshwater pearl mussel in the River Spey SAC. This should

be based on the recommended water quality standards for freshwater pearl mussel prevalent at the time of construction.

- iii Waste Water : A condition must be applied to this application preventing occupation of the development until it has been demonstrated that there is both sufficient capacity at the local waste water treatment works and the ability to remove pollutants to a level where there will be no adverse effects on freshwater pearl mussel in the River Spey SAC. This should be based on the recommended water quality standards for freshwater pearl mussel prevalent at the time of construction.

This will prevent an increase in pollutant arising from the development by ensuring it is treated to acceptable standards. This will mitigate likely significant effect affecting the distribution and supporting habitat for freshwater pearl mussel.

The Appropriate Assessment has concluded that with the mitigation there would be no adverse effect upon the integrity of any Natura site

CONSULTATIONS

- 75. **Scottish Natural Heritage (SNH)** advise that this proposal is likely to have a significant effect on fresh water pearl mussel in the River Spey SAC. It could be progressed with suggested mitigation. However, because it raises natural heritage issues of national interest, SNH object to this proposal unless it is made subject to the following mitigation:-

Development may not commence until it has been demonstrated that there is sufficient capacity in the local waste water treatment works in terms of capacity and ability to remove pollutants to a level where there will be no adverse effects on freshwater pearl mussel in the River Spey Special Area of Conservation (SAC) based on the recommended water quality standards for fresh water pearl mussel at the time of construction. Whilst the Scottish Environmental Protection Agency (SEPA) has confirmed that the Waste Water Treatment Works (WWTW) has capacity for the increase without discharging higher levels of pollutants such as phosphates into the River Spey SAC. However, the appropriate water quality standard for freshwater pearl mussel is currently under review in Europe and the UK and it is likely there will be stricter standards in the future compared to those in place when the current

WWTW was approved. There is therefore a risk that this proposal could result in discharge from the WWTW exceeding the new water quality standard for freshwater pearl mussel.

76. SNH also advise that the proposal is likely to have a significant effect on capercaillie in five nearby Special Protection Areas (SPAs) (Craigmore Wood, Abernethy Forest, Anagach Woods, Kinveachy Forest and Cairngorms SPAs), but that their appraisal indicates that the proposal will not adversely affect the integrity of these sites.
77. **Scottish Environmental Protection Agency (SEPA)** objected to the planning application in their letter dated 20 May 2013 but removed their objection on the 29 May 2014, following receipt of the Flood Risk Assessment and revised plans. They suggest various planning conditions and advice notes. In response to the material submitted in August 2014, SEPA advised by letter dated 30 September 2014 that it continues to have no objection to the proposal, subject to conditions requiring details of the flood routes and ground profiling and a Site Specific Environmental Management Plan, and advice that advice on the water quality aspects of the scheme is referred to Scottish Water and the local authority Roads and Flood Prevention officers.
78. **Royal Society for the Protection of Birds (RSPB)** responded by letter on the 17 May 2013 and the 27 May 2014 and by email on the 22 October 2014. The RSPB have requested to speak at the Planning Committee.
79. The RSPB continues to maintain its objection to the proposed development. The RSPB had previously commented that the issue of potential disturbance to capercaillie in the nearby Craigmore Wood and Abernethy Forest SPAs has not been addressed by the applicant. The RSPB has viewed the Consultation Draft Habitats Regulations Assessment (HRA) and complains that the subjectivity of judgements of impacts means that, in their opinion, the necessary certainty of absence of adverse effect upon site integrity demanded by the Habitats Regulations is not achieved.
80. The RSPB comments that the additional documentation provided by the applicant (August 2014) fails to address the concerns expressed in their previous responses that the biodiversity importance of the woodland (including, particularly, the invertebrate interest) is underplayed by the applicant and relevant surveys are either inadequate or have not been carried out. The RSPB contends that the Ancient, Semi-Natural Woodland status of the development site must be regarded as an important material consideration in the assessment of the application. The Reporter's findings following the Local Development Plan inquiry are also highlighted as a material consideration.
81. **Highland Council's Transport Planning Officer** advises in his consultation response dated 6 October 2014, responding to the various additional roads and drainage plans that were received by CNPA on the 15 August (see Paragraph 2) that in general, clarification/confirmation is still required on a number of matters, including the following:

- a. Evidence of Scottish Water agreement to adoption and maintenance of the drainage measures proposed.
 - b. The areas of carriageway, footway, footpath, parking provision and verge intended for adoption by Highland Council.
 - c. Swept path analysis to demonstrate that larger service and emergency vehicles will be able to safely and readily enter and leave each site, and negotiate the internal road layouts.
 - d. The overall level of parking provision for each site, including details of in-curtilage, on-street and communal parking areas, as required.
 - e. Visibility splays of 4.5 metres x 90 metres to be provided and maintained at each site access.
 - f. Details of forward visibility within each site to be provided.
 - g. Arrangements for the storage and collection of waste and recyclable materials at each site.
 - h. Confirmation of off-site mitigation works in accordance with the Schedule of Works agreed in relation to earlier proposals for the application sites.
82. In addition, public transport improvements are required, in the form of upgrading the two bus shelters in closest proximity to the application site to provide real time information and a suitable contribution is required towards provision of a Sunday bus service.
83. **Highland Council Flood Team** has no objections to the planning application subject to a condition being applied in relation to finished floor levels.
84. **Highland Council Forestry Officer** advises that he is not in a position to support the proposals. He has a significant concern over the principle of development within woodland, particularly where the woodland is listed in the Ancient Woodland Inventory. He is concerned that the proposals would result in the loss of woodland which is listed in the Ancient Woodland Inventory.
85. In response to the Additional Ecology and Nature Conservation Information Final Report (August 2014) the Forestry Officer comments that whilst the offer of compensating for the removal of 3.8 hectares of pine woodland with the replacement of 8.4 hectares of non-native woodland with native woodland, and the passing over of 79 hectares of woodland being passed over to an 'appropriate organisation along with a legal agreement to ensure the compensation, enhancement and its conservation management in perpetuity, in return for the implementation of the housing development' is welcome, it does not represent compensation under the terms of the Control of Woodland Removal (CWR) Policy. The planning proposal would result in a change of land use from woodland to housing and the loss of woodland would trigger the CWR policy. The Policy includes a presumption in favour of protecting woodland. Removal should only be permitted where it would achieve significant and clearly defined additional public benefits. If the proposals were to offer public benefit in economic, social or environmental terms then an

equivalent area of equal or better quality woodland would need to be planted elsewhere. The applicant has not identified what public benefits would be associated with the proposals; they have detailed what area of tree cover would realistically need to be removed in order to accommodate all of the proposals, but they have not stated how the area of woodland proposed to be removed could be adequately compensated for by new planting on previously un-wooded land.

86. **Highland Council Housing** has not responded to consultation requests, however, Planning Gain at Highland Council has commented informally on the affordable housing issue. They have advised that 'Highland Council's Strategic Housing Investment Plan (SHIP) does not currently include a commitment for grant funding for affordable housing Nethy Bridge in the 2012-15 or 2015-16 period. Therefore, any affordable housing provision on this site would need to be self-funded but there may be potential to include the site within the SHIP. The Highland Council have indicated to the developer that they would be willing to consider whatever mechanisms to deliver the affordable may be appropriate. This is not however an endorsement of any particular model at this time, simply an offer to work up and consider possible solutions'. Thus despite the applicant's stated intentions in relation to social housing, these have not yet been agreed with The Highland Council.
87. **Highland Council Education** has not responded.
88. **Planning Gain Officer** has identified the level of developer contributions that would be required in association with the proposed development. This will be allocated to the provision of community facilities, playing fields, improvement of indoor and outdoor sports facilities, and recycling and waste management facilities.
89. On the issue of affordable housing, the Planning Gain Officer notes that 44 affordable houses are proposed and advises that the method of delivery should be discussed with CNPA.
90. By telephone call, it has been established that the Planning Gain Officer has received insufficient information from the applicant to ascertain whether the community woodland proposal is relevant to the level of contributions required for the proposed development.
91. **CNPA Natural Heritage Officer** gave advice on the 29th May 2014 highlighting a number of issues that had not been addressed in the information provided to that date. These were:
 - a. No compensation or enhancement measures to address the loss of habitats had been suggested as part of the proposal;
 - b. A National Vegetation Classification (NVC) Survey had not been carried out (previously required due to the sites inclusion on the Ancient woodland inventory);
 - c. A focussed survey for wildcat had not been carried out;
 - d. A species protection plan for red squirrel had not been carried out;

- e. An updated pre-construction survey is still required for all protected mammals;
 - f. No justification had been provided as to why a reptile survey had not been carried out.
92. In response to these comments the applicant submitted additional information (August) including a compensation package of additional tree planting (8.4ha) and proposals to hand a substantial area (75.2ha) of woodland over to an appropriate body for conservation purposes. In addition a wildcat survey and NVC survey was supplied.
93. In November additional information was supplied by a third party on the existence of Green Shield Moss (*Buxbaumia viridis*) on the site and within the area of development. Green shield moss has the following designations:
- a. Schedule 8 of the Wildlife and Countryside Act 1981
 - b. Cairngorms Nature Action Plan species
 - c. Scottish Biodiversity List
 - d. UK Biodiversity Action Plan
 - e. Habitats Directive Annex 2
 - f. Listed as “Endangered” in the British Bryophyte Red Data Book (2005), although a recent review has since downgraded the species to “Near Threatened”
94. This moss is restricted to Scotland within the UK and the majority of records are within the Cairngorms National Park. The Natural Heritage Officer advises that this species is likely to be significantly adversely impacted by the proposal because of the direct loss of the species where it falls within the red line. In addition it would mean the direct and indirect loss through thinning of woodland edge habitat around the proposal area (to aid in wind firming of the woodland around the site, as proposed in the arboricultural report). This would render the habitat unsuitable for this species by increasing light levels and affecting humidity.
95. The Natural Heritage Officer also advises that due to its specific needs, mitigating for this species in terms of translocation is not readily feasible. As such, the proposal would have a significant adverse impact on the distribution of green shield moss in School Wood. This loss of the moss means the proposal therefore fails to meet Policy 4 (protected species) and Policy 5 (non-protected biodiversity) of the Local Plan, as well as Principle 1 of Natural Heritage supplementary planning guidance (loss of biodiversity).
96. The Natural Heritage officer observes that MBEC have stated, following their survey work, that botanically, the nature conservation value of the woodland component School Wood is considered to be Low, and of Low-Medium value at a Local level (MBEC 2012 Botanical Study, page 11). However the new information, in addition to other species records that have been brought to our attention, highlights that at least one important species has been overlooked and that in fact the woodland is of significantly greater ecological value than that suggested in the report. It is appreciated that there are

practicable difficulties in compensating for loss of ancient woodland, because of the difficulty and extreme time required to recreate it. Consequently the mitigation and compensation package cannot be regarded as acceptable for this site. The Natural Heritage Officer concludes that as such, the proposal would no longer meet Local Plan Policy 3 due to the loss of ancient woodland and difficulties in achieving appropriate and acceptable mitigation..

97. **CNPA Economic Development Manager** comments that although the development does not contain any specific properties or areas devoted to economic development it has to be noted that in any sizeable housing development within the boundaries of the CNP there will be 3 inherent, and not insignificant, benefits to the economy:
1. Benefits to local contractors during the construction phase of the development. This benefit tends to be short to mid-term.
 2. Benefits to local employers through addressing the issue of shortage of appropriate affordable housing currently available in the area.
 3. Benefits to local businesses through an increase in demand for goods and services due to an increase in the local population and therefore an increase in spend in the local economy.
98. They comment further economic activity could be encouraged by ensuring provision of housing that has built-in flexibility for home-working and the necessary infrastructure for high-speed broadband connections. Also that it is also hoped that the provision of 44 affordable units will lead to the retention of young families in the area, which is essential to ensure the sustainability of a small village such as Nethy Bridge.
99. **CNPA Landscape Adviser** observes that the proposed development will have direct and indirect impacts on the woodland affecting its character and experience and its contribution to the setting of Nethy Bridge. She identifies the potential significant impacts as:
- a. Substantial felling and some ground modification will be required to make the sites suitable for construction. Retained trees around and within the site may be adversely affected with consequent effects on their longevity, landscape contribution and public amenity.
 - b. The roadside strip of land and footpath are now included within the application boundary for the School Road site whereas formerly it was not. However, it is still unclear from the site plans whether it is proposed to retain trees, or to fell trees and replant along this frontage. At the Craigmore site the application boundary is set back from the roadside. The removal of trees and/or poor management along the road frontage risks impacts on the character and experience of the approaches to the settlement, the fit of the development within the woodland and the amenity of local people.
 - c. An increase in informal pedestrian use of the woodland surrounding the development will have off-site effects on the character of the woodland and on the amenity of the general area unless planned for.

100. She observes that much of the existing settlement of Nethy Bridge appears to sit within woodland, often with well-wooded gardens. The proposed development at School Wood is not contiguous with the main settlement, it has a very condensed form and there is a high risk that it becomes an urban pocket in the woodland with the built form, hard surfaces and boundaries dominating, and a low level of private and public amenity. Without adequate attention to the detailed design and landscape proposals there is a risk that these impacts would be long term or permanent. The proposed development on Craigmore road risks similar impacts from a suburban approach to the layout of open space, driveways and boundaries.
101. She concludes that the development at Craigmore Road has the space to develop in a similar way to the character of existing parts of Nethy Bridge given appropriate landscape proposals and sensitive management. The compact and dense nature of the proposed development at School Road means that it will undoubtedly be different. It will not reflect the existing character of the settlement in terms of the form and pattern that has evolved over time. The challenge is in developing a place, that though different, will over time develop a positive and attractive character of its own that complements and enhances the settlement of Nethy Bridge. In order to do this, the layout, form, scale and detailed design of this denser proposal must respond to the key characteristic that dominates the landscape character and experience in this location, the woodland environment. It is critical that the detail of the landscape design and management is driven by an objective to integrate the development into the woodland setting. At the moment there is insufficient information to give reassurance that that this will be achieved.
102. **CNPA Outdoor Access Officer** concludes that the development will have a significant impact on public access but has the potential to be addressed by mitigation measures. He advises that:
- a. Sufficient pedestrian footway provision should be incorporated into each development to facilitate pedestrian modes of local travel. This footway provision cannot be readily identified on the plans so far submitted and therefore cannot be verified as appropriate.
 - b. In relation to Craigmore Road, footway provision incorporated within the development should interconnect with pre-existing external provision. To achieve this it will be necessary to construct a link with an existing roadside footway terminating close to the proposed site entry point (west of). This requirement is identified within the developers Transport Statement (Summary and Conclusions p22, 7.1.3) however it is not yet confirmed as to how this will be carried out.
 - c. In the case of both sites, where the development impinges upon or leads to the loss of existing informal access opportunity available to the public this should be identified and suitable mitigation measures employed to counteract any loss. There are, for example, a number of routes affected within the woodland subsumed by the development at School Wood.

- d. In relation to 3 above, existing routes should be mapped to ensure any that exist are identified and to allow suitable mitigation to be drawn up. It appears that this task, although previously identified has not been carried out.
103. **Nethy Bridge Community Council** responded to the application on the 7 May 2013, the 14 May 2014 and the 6 October 2014. The conclusion of the second letter is that the Community Council is not against the development in principle but feels that as it currently stands, it is diverging from what was envisaged in the last couple of years and is becoming less desirable to the village. The concerns are as follows:
- a. The density of the development, which has been exacerbated by the inclusion of the SUDS ponds, reducing available land and creating a serious visual intrusion
 - b. The issue of the affordability and availability of the housing to the local community. If the houses are available on the open market, there could be a very high percentage of second homes, which is not what the community wants. The community wanted the Highland Small Communities Housing Trust to help local people own their own home, as there are a number of people who want to own their own home but cannot purchase anywhere else. The community is concerned that 15 of the houses are allocated as Social Housing and that the other properties at School Road will be for sale at 80% of the market value, which is still beyond the reach of many in Nethy Bridge. Local people will have little chance of getting one of the 15 Social Rented houses, due to the points system. The community fears that the site could become very dilapidated very quickly and suggests that the number of properties is cut quite dramatically.
 - c. The Community Council is not in favour of the clear fell policy for the woodland, as many fine trees will be lost which could be left within plots and garden/amenity areas. This would also allow wildlife corridors to run throughout the development. The new planting will take 20 years to mature and the development will take 5 to 10 years to complete. The community does not want to live with a bare and derelict site for all this time.
104. In its letter dated 6 October 2014, the Community Council advises that it retains the position stated in the letter of the 14 May 2014. They comment that notwithstanding the Reporter's suggestion that HI is withdrawn, they are not against the development in principle but not as it currently stands, due to the density of the proposals.
105. The Community Council takes issue with the suggestion in the Additional Ecology and Nature Conservation Information Final Report (August 2014) that the remaining land should go to a third party, in particular The Woodland Trust. The Community Council is insulted by the suggestion that the Community Council is not suitable to hold this land. The Community Council would much rather see the land held and controlled by those in Nethy with the Community Council in conjunction with the Nethy Bridge Community

Development Company standing ready to take this on, as they have a well proven track record in Nethy of undertaking environmental projects and looking after their village.

REPRESENTATIONS

106. The planning application was advertised in the Strathspey and Badenoch Herald in April 2013 and again in May 2014. A total of 62 representations have been received. Copies of all letters received are attached in Appendix 2 of this report. Representees are generally opposed to the current development proposal. There have been no representations in support of the development. The following is a brief summary of the issues that have been raised:

a. Woodland

- I. Loss of woodland – impact on wildlife and amenity
- II. School Wood is an asset to Nethy and surrounding area
- III. No active management since the owners acquired the wood
- IV. Removal of woodland is contrary to the Scottish Government's SPP and its Control of Woodland Policy
- V. The proposed management of the woodland should not be seen as a positive due to the loss of irreplaceable habitat
- VI. Ancient woodland sites, even if partly of plantation origin, are a valuable and threatened resource which cannot ever be replaced
- VII. Arboricultural Assessment is based on commercial practices
- VIII. School Wood is of cultural value, having been a site of wartime forestry activities

b. Ecology/Wildlife

- I. The MBEC Report is flawed and based on out of date surveys
- II. The development will be a threat to wildlife, including otters, red squirrels, pine martens, crested and long tailed tits, crossbills, deer, rare plants, insects, capercaillie, redwing, mistle thrush, waxwing
- III. Otters do use the Caochan Fuaran Burn and Aultmore Burn
- IV. The MBEC Report downplays School Wood's status as an ancient woodland site
- V. Various species have been missed
- VI. There are no environmental benefits associated with the development
- VII. This estate will create a barrier to the connectivity between the adjoining Abernethy and Craigmore SPAs.

c. Layout/Design

- I. Too many houses – layout very tightly packed
- II. Negative impact on village's character
- III. Nowhere for children to play
- IV. School Road layout much worse than previously
- V. Out of keeping with other developments in the village

- VI. Housing should be erected on brownfield sites, in smaller developments and in less sensitive locations.
 - VII. Despite the appeal being dismissed for a smaller development, the scale of development has been increased
- d. Housing Issues
- I. Assessment of specific housing need in Nethy required, relating to employment and services
 - II. Affordable housing of this scale should be located in the bigger settlements where the necessary supporting infrastructure exists
 - III. Increase in carbon footprint as people travel out of the village to meet their needs
 - IV. Houses not affordable to locals
 - V. Housing developments not integrated
 - VI. Most affordable houses are one-bedroom – not suitable for families
 - VII. Nothing to stop the properties being sold as cheap ‘holiday homes’
 - VIII. Already a large amount of holiday properties in the area
 - IX. No additional preference over and above the points systems given to people with a local connection to Nethy Bridge
 - X. Loss of self-build
 - XI. No information about allocation and delivery of affordable and social housing
 - XII. There is no shortage of open market housing for sale in the local area at a wide range of prices
 - XIII. No self-build plots to allow local people to build their own home
 - XIV. Far more than the 40 houses in the Local Plan – should be refused
 - XV. Development will be occupied by commuters – not sustainable
 - XVI. The increase in domestic pets will impact and displace wildlife
- e. Recreation/Tourism
- I. Excellent pathways used by local residents and tourists alike
 - II. Visitors come to the area for peace and tranquillity, associated with the woods, the wildlife and the village
 - III. Development will ruin the village’s unique character and charm
- f. Traffic
- I. Access cuts across safe route to school
 - II. Additional traffic on School Road and elsewhere will pose a threat to the environment and people
 - III. Existing road to the school will need to be widened to accommodate the extra traffic, causing further loss of trees
 - IV. The concerns about safety will cause more parents to drive to the school

g. Policy Issues

- I. Proposal is contrary to the provisions of the adopted CNPA Local Plan
- II. Part of proposed housing site is outwith the settlement boundary in the Local Plan
- III. The application is contrary to the provisions of the Cairngorms National Park Partnership Plan
- IV. Proposed development does not meet, follow or comply with any of the aims of the national park
- V. Contrary to CNPA Forest and Woodland Framework – aims to protect ancient and semi-natural woodlands
- VI. Application should not be determined until legal challenges are complete
- VII. Application should not be determined in advance of the Local Development Plan
- VIII. Contrary to Cairngorms Nature Action Plan

107. A further opportunity to comment was allowed from the 25 September to the 23 October, following the receipt of further information (See paragraph 36 above). A total of 18 additional comments were submitted. The majority of the responses were along the lines of:

- a. Support the Reporter's recommendations regarding the School Road site
- b. Continue to object on the grounds expressed previously

108. Three detailed objections were received in relation principally to ecological issues.

APPRAISAL

109. In assessing this application it is necessary to examine the proposed development in the context of a broad range of issues, including national planning policy and guidance, Local Plan policy, the Cairngorms National Park Partnership Plan and the aims of the Cairngorms National Park. The various specialist consultation responses received are also taken into account, providing informed opinions on the development, and representations received have been considered and taken into account. Also with the emergence of the Cairngorms National Park Proposed Local Development Plan, the policies therein are a material consideration. Of particular importance is the recommendation by the Reporter on the Proposed Local Development Plan relating to this site.

The Principle of Housing Development

110. With the exception of a small part of the Craigmores Road site, the sites are allocated for housing in the Cairngorms National Park Local Plan under Proposal NB/H2. Small parts of the Craigmores Road site are either allocated

for business use or not allocated for development at all. Proposal NB/H2 refers to the site having outline consent for 40 units, although this is no longer the case. However, notwithstanding this point, the current application is for 58 units, which significantly exceeds the number previously approved. The policy refers to retention of enough woodland to allow for movement of species between areas of woodland to the sides of the sites, and retain the woodland setting of this part of the village. It is not considered that enough woodland has been retained within the application boundary to meet the terms of this policy. Policy NB/H2 goes on to refer to flood issues and it may be noted from the responses of SEPA and The Highland Council Flood Team that this issue has been adequately addressed.

111. However, in considering the parameters for development as set out in the text accompanying the specific land use allocations, the current proposal diverges significantly from the requirements. The current proposal for the development of 44 houses at School Road bears little relationship to the urban form of Nethy Bridge, nor does the line of detached houses at Craigmore Road, and hence neither is considered to reinforce and enhance the character of the settlement of Nethy Bridge.
112. Furthermore, the Reporter's recommendation that the School Road part of site H2 (referred to as Site H1 in the Proposed LDP) is omitted from the Plan is a significant material consideration. The current application proposals do not comply with this new and important policy consideration. Issues relating to the potential for legal challenge therefore also have limited weight in the consideration of this application.

Ancient Woodland

113. The proposals will result in the loss of 3.8 ha of ancient woodland. However, whilst Policy 3 of the adopted Local Plan seeks to protect ancient woodland, Proposal NB/H2 of the same adopted Local Plan has allocated sites within the ancient woodland for housing development. Furthermore, the site was allocated in the Badenoch & Strathspey Local Plan (in a different but similar form) back in 1997. Thus, whilst acknowledging the lack of support for the proposals from The Highland Council's Forestry Officer and many of the representees, and notwithstanding current Government policy in relation to ancient woodland, it is considered that the principle of development of this ancient woodland site was conceded in the adopted Local Plan.
114. In this situation, it would be appropriate under Policy 3 to seek mitigation by the provision of features of commensurate or greater importance to those that are lost. The Additional Ecology and Nature Conservation Information Final Report (August 2014) advises that a forestry plantation survey in 2014 determined that there is a minimum area of 8.4 hectares for compensation Scots pine habitat creation relating to a maximum loss of existing Scots pine habitat of 3.5 hectares to the proposed housing development. It notes that the developer has agreed to hand over all of the remaining School Wood land and all of the Balnagowan Wood (approximately 75.2 hectares of which at least 8.4

hectares would be compensation habitat) to an appropriately experienced organisation along with a legal agreement to ensure the ecological compensation and enhancement are guaranteed and its conservation management in perpetuity is secured, in return for the implementation of the housing development.

115. The CNPA Natural Heritage Officer commented on the 6 November 2014 that the compensation proposed no longer provides sufficient mitigation and compensation for the loss of woodland at a commensurate or greater level. In terms of green shield moss, if the proposal were to go ahead, significant impact would occur on this species which could not be compensated for by habitat creation in the short to medium term, due to the habitat needs of this species. As such, the proposal would no longer meet Local Plan Policy 3 due to the loss of ancient woodland which, with the methods of compensation provided in the latest MBEC report, contains features that cannot be compensated for.
116. In addition, in the context of the suggested ownership transfer, it should be noted that the applicant has not identified any sites in the planning application as being within its ownership, apart from the proposed development sites.

Protected Species and Biodiversity

117. The aim of Policy 4 (Protected Species) is to ensure that development does not have an adverse effect on protected species. The aim of Policy 5 Biodiversity is to ensure that the value of habitats and species is considered in all planning decisions. The applicant has not highlighted any reason that would accord with the exceptions to these policies. The Local Plan is clear that developers are required to undertake any necessary surveys for species at their own cost and to the satisfaction of SNH and the planning authority.
118. The CNPA Natural Heritage Officer has advised that the proposal would result in the loss of green shield moss (*Buxbaumia viridis*) and would therefore fail to meet Policy 4 (Protected Species) and Policy 5 (Biodiversity) of the Local Plan, as well as Principle 1 of Natural Heritage Supplementary Planning Guidance (Loss of Biodiversity).
119. In addition, based on the representations from local ecologists, the Natural Heritage Officer has concluded that the biodiversity value of the woodland has probably underestimated in the planning application, due to the green shield moss being overlooked, and the reliability of the survey report is therefore uncertain.

Landscape

120. The Landscape Officer has advised that the proposed development at School Wood is not contiguous with the main settlement, it has a very condensed form and there is a high risk that it becomes an urban pocket in the woodland with the built form, hard surfaces and boundaries dominating, and a low level

of private and public amenity. Without adequate attention to the detailed design and landscape proposals there is a risk that these impacts would be long term or permanent. The proposed development on Craigmore Road risks similar impacts from a suburban approach to the layout of open space, driveways and boundaries.

121. Policy 6 Landscape requires that development complements and enhances the landscape character of the National Park and in particular the setting of the proposed development. The CNPA Landscape Officer has advised that while the proposals for tree felling and planting around the development would, over time, give a setting and context that is consistent with Nethy Bridge as a 'forest village', the current proposals for the layout and design of housing and amenity space do not meet CNP Local Plan policy 6 or Scottish government guidance. In addition, most of the described tree works are outside the red line boundary and would require an agreement to be in place to secure that element of the proposals.

Design Standards for Development

122. The applicant has included a single page within the Supporting Statement accompanying the planning application entitled 'Design and Sustainability Statement'. It is considered that this is completely inadequate for a development of the scale proposed. In respect of design, it fails to explain how the proposals relate to the specific site and reflect the pattern and densities found in Nethy Bridge. In respect of sustainability, the statement refers to Building Standards and suggests a series of aspirations in relation to heating and materials. Whilst there is a reference to recycling facilities in the statement, none are visible on the plans.
123. Overall, the designs are considered to be rather bland and have not been developed in a way that is specific to the site or the settlement. The houses in School Road appear cramped, with little space to expand and very small gardens. The large houses in Craigmore Road are unimaginatively lined up and squeezed together in a settlement where there are bigger houses but they are much more individual in character within wider plots.

Affordable Housing

124. Whilst Drawing Number 3879/01-03 Rev B shows 44 'affordable housing' units on the School Road site (although it has been noted in Paragraph 6 above that there are only 41 units in total), the latest letter from the applicant on the 15 August 2014 states that: 'The applicant has agreed the requisite number of affordable homes and the principle of a Section 75 agreement to cover contribution. The principle of providing a significant number of small private homes for sale has been retained in the current proposals in addition to the 25% provision of subsidised affordable units'. This suggests that the actual number of affordable houses that is proposed is 14, not 44. The Supporting Statement advised that the developer has agreed to restrict the sale of the housing for a period of time to local residents.

125. There are a number of concerns about the nature of the affordable housing proposed. In particular, no research has been provided to demonstrate the level of need, the delivery mechanism has been inadequately detailed and no evidence has been produced to demonstrate that The Highland Council supports the proposals. Furthermore, it is noted that the Community Council does not support the development of these houses, which it believes do not meet with the requirements of local people and will be purchased as holiday homes by people from elsewhere. Whilst it is acknowledged that the application proposes 44 small houses that the applicant has described as 'affordable houses', it is not accepted that this meets with the requirements of Policy 19.
126. A number of representees have expressed concerns that the development does not include any house plots for self build, as was the case with the previously approved permission in principle.

Housing Development within Settlements

127. The proposals do not meet this policy firstly because part of the proposed development is outwith the settlement boundary. Whilst the majority of the development occurs on allocated housing sites, to comply with this policy it is a requirement that the proposals reinforce and enhance the character of the settlement and accommodate within the development site appropriate amenity space and parking and access arrangements.
128. The Landscape Officer has advised that the proposed development at School Wood is not contiguous with the main settlement, it has a very condensed form and there is a high risk that it becomes an urban pocket in the woodland with the built form, hard surfaces and boundaries dominating, and a low level of private and public amenity. Without adequate attention to the detailed design and landscape proposals there is a risk that these impacts would be long term or permanent. The proposed development on Craigmore Road risks similar impacts from a suburban approach to the layout of open space, driveways and boundaries.
129. The School Road site has very small gardens and lacks a specific children's play space. The opportunity to design the SUDS schemes as a feature within the developments has been missed.
130. It is therefore considered that the proposal does not meet with the requirements of Policy 20 (Housing Development within Settlements) in the Local Plan.

Outdoor Access

131. The Outdoor Access Officer advises that the development will have a significant impact on public access and notes that there are no mitigation measures for the loss of informal footpaths within the woods, it is unclear whether sufficient pedestrian footway provision has been made within the development, and it is unclear whether a footpath is proposed linking the

development at Craigmore Road with the existing footpath in Craigmore Road. It is therefore considered that the proposed development does not meet with the requirements of Policy 24 (Outdoor Access).

Supplementary Planning Guidance - Sustainable Design Guide

132. **The Sustainable Design Statement** fails to give any sense that the design and layout of the development has been specifically developed for the application sites. Specifically, it fails to provide adequate details in respect of the 20 detailed points, ranging from 'Development layout, scale, proportion, materials, construction and finishing' to 'Accessibility of community facilities' listed in the Sustainable Design Guide Supplementary Guidance.

Supplementary Planning Guidance - Natural Heritage

133. The failure to provide essential information regarding the natural heritage interests of the site also demonstrates a lack of compliance with the requirements of the CNP's Natural Heritage Supplementary Planning Guidance. As detailed above, such information is an essential part of the assessment of the natural heritage aspects of a planning application and without it, it is impossible to progress towards assessing the application against the six principles set out in the document.

Other Material Considerations

134. **Flood risk** - Whilst SEPA initially objected to the application, this objection has since been removed. Likewise the Highland Council Flood Team does not object. Both parties find the proposals acceptable subject to the imposition of conditions.
135. **Traffic Issues** - Highland Council's Transport Planning Officer does not object to the proposals but requires further details, all of which could be addressed by the imposition of conditions.
136. **Planning History** - It is relevant that this allocated site previously benefitted from planning permission in principle for the development of 40 houses, although it lapsed in 2009. Prior to the permission lapsing, an application was submitted to secure approval of the Matters Specified by Condition. Following a period of consultation and assessment, a letter was sent to the applicant identifying the shortfalls with the application – including an ecological assessment, a detailed landscaping plan, clarification of the affordable housing, details of sustainable design credentials, clarification about existing and proposed footpaths, and details of trees for retention. Ultimately, the application was brought to Committee and refused, based on these and other shortfalls. The applicant then appealed but the Reporter dismissed the appeal for many of the reasons being repeated in the recommendation.

CONCLUSION

137. In conclusion, the current development proposals have raised many material planning issues, a number of which remain unresolved, as detailed above in the Appraisal section. The development does not meet a number of the policies in the adopted Cairngorms National Park Local Plan or those proposed in the Cairngorms National Park Proposed Local Development Plan. Specifically, the Department of Planning and Environment Appeals Reporter has recently recommended that the School Road site is deleted from the Cairngorms National Park Authority Proposed Local Development Plan. Accordingly, it is recommended that planning permission is refused for the reasons listed below.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

138. The proposed development would occur on land which is part of an extensive woodland listed as Ancient Woodland in the Ancient Woodland Inventory, which forms an important visual backdrop and setting to the settlement of Nethy Bridge.
139. The application includes reference to compensatory habitat that they propose would be made available to an appropriately experienced organisation, although they do not demonstrate the applicant's ownership of these areas or provide adequate detail of the mechanisms.
140. The CNPA Natural Heritage Officer does not consider that the compensation proposed provides sufficient mitigation and compensation for the loss of woodland at a commensurate or greater level. In terms of green shield moss, if the proposal were to go ahead, significant impact would occur on this species which could not be compensated for by habitat creation in the short to medium term, due to the habitat needs of this species.
141. It is therefore considered that the applicant has failed to demonstrate that the proposed development will conserve and enhance the natural and cultural heritage of the area.

Promote Sustainable Use of Natural Resources

142. No details have been provided regarding the source of materials that would be used in the proposed development. On the basis of the information provided the proposal would not offer any enhanced opportunities to promote the sustainable use of natural resources.

Promote Understanding and Enjoyment of the Area

143. The details submitted in connection with this planning application fail to demonstrate the extent of the impact of the development on the woodland,

which is enjoyed by both the community and visitors to the village. However it is clear that there will be an impact which will require to be mitigated. In addition the development as currently proposed will introduce built elements into a previously wooded setting in a manner which will detract from the general public's understanding and enjoyment of the area and the developer has not suggested any means of addressing this.

- I44. Furthermore, the currently proposed layout has the potential to adversely impact on the existing network of paths in the vicinity of the site and as such would further detract from the general public's enjoyment of the area.
- I45. It is therefore considered that the applicant has failed to demonstrate that the proposed development will conserve and enhance the natural and cultural heritage of the area.

Promote Sustainable Economic and Social Development of the Area

- I46. The residential development proposals include an affordable housing component but the mechanism for delivery is unclear. The Economic Development Manager has advised that the development will benefit local contractors during the construction phase, assist local employers through addressing the affordable housing shortage and benefit local businesses through the increased demand for goods and services.

RECOMMENDATION :

That Members of the Committee support a recommendation to REFUSE planning permission for the erection of 58 houses, associated roads and footways at land at School Road and Craigmore Road, Nethy Bridge for Inverburn Ltd., for the following reasons :

- 1. The proposal is contrary to Proposal NB/H2 of the Cairngorms National Park Local Plan 2010 insofar as no justification has been provided for the proposal to develop beyond the NB/H2 boundary in Craigmore Road, which is contrary to Policy 22 (Housing Development outside Settlements). Furthermore, the development of the School Wood site is contrary to the New Housing Development Policy (Housing in Settlements) and Community Information (Nethy Bridge) of the Cairngorms National Park Proposed Local Development Plan, in that it is an unallocated site outwith the Settlement boundary.
- 2. The proposed development is contrary to Policy 3 (Other Important Natural and Earth Heritage Sites and Interests) of the Cairngorms National Park Local Plan 2010 and the Natural Heritage Policy of the Proposed Cairngorms National Park Proposed Local Development Plan insofar as the applicant has failed to demonstrate that the significant adverse effects on the ancient woodland site will be mitigated by the provision of features of commensurate

or greater importance to those that will be lost. In terms of green shield moss (*Buxbaumia viridis*), if the proposal were to go ahead, significant impact would occur on this species which could not be compensated for by habitat creation in the short to medium term, due to the habitat needs of this species. In addition, the applicants have not certified their ownership of any land outwith the application boundaries, and hence the suitability of the proposal to transfer areas of woodland to the community cannot be ascertained or taken into account.

3. The proposed development is contrary to the Natural Heritage Supplementary Planning Guidance that accompanies the adopted Cairngorms National Park Local Plan insofar as insufficient information has been submitted to enable consideration to be given as to whether the requirements of the six key principles in relation to natural heritage have been met.
4. The proposed development is contrary to Policy 4 (Protected Species) of the Cairngorms National Park Local Plan 2010 and the Natural Heritage Policy of the Proposed Cairngorms National Park Proposed Local Development Plan insofar as the applicant has failed to fully consider and demonstrate that the development will not have an adverse effect on any Protected Species, including green shield moss (*Buxbaumia viridis*) and no justification has been provided for failing to consider and demonstrate that the development will not have an adverse effect upon reptiles, by the non-submission of a reptile survey to support the application.
5. The proposed development is contrary to Policy 5 (Biodiversity) of the Cairngorms National Park Local Plan 2010, Principal 1 of the Supplementary Planning Guidance (Natural Heritage) and the Natural Heritage Policy of the Cairngorms National Park Proposed Local Development Plan insofar as the applicant has failed to fully consider and demonstrate that the development will not have an adverse effect on habitats and species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, including the green shield moss (*Buxbaumia viridis*).
6. The proposed development is contrary to Policy 6 (Landscape) of the Cairngorms National Park Local Plan 2010 and the Landscape Policy of the Cairngorms National Park Proposed Local Development Plan insofar as the development will have a significant impact on the landscape character of the site and Nethy Bridge and the applicant has failed to demonstrate that the proposed development will complement and enhance the landscape character of the Park and the setting of the proposed development. In particular, the

dense form of the proposed development at School Wood and the suburban form of the Craigmore Road development, combined with the extent of the tree felling, do not relate well to the landscape character of this part of Nethy Bridge.

7. The proposed development is contrary to Policy 16 (Design Standards for Development) of the Cairngorms National Park Local Plan 2010 and the Sustainable Design Policy of the Cairngorms National Park Proposed Local Development Plan insofar as the applicant has failed to demonstrate adequately in the brief Design and Sustainability Statement or the proposed drawings that the high standards required by Policy 16 will be met. Nor have the requirements of the Sustainable Design Guide Supplementary Planning Guidance been met. In particular, there is no evidence that the development has been designed to reflect the particular character of Nethy Bridge or that any more than the basic sustainability requirements have been met.

8. The proposed development is contrary to Policy 19 (Affordable Housing) of the Cairngorms National Park Local Plan 2010 and the New Housing Development Policy (Affordable housing developments) of the Cairngorms National Park Proposed Local Development Plan insofar as insufficient information has been provided to demonstrate the affordability, the local demand and the delivery mechanism for the 'affordable' houses that are proposed.

9. The proposed development is contrary to Policy 20 (Housing Development within Settlements) of the Cairngorms National Park Local Plan 2010 and the New Housing Development Policy of the Cairngorms National Park Proposed Local Development Plan insofar as the proposal has not been entirely contained within the settlement boundary, the proposed development fails to reinforce and enhance the character of the settlement and does not accommodate adequate amenity space.

10. The proposed development is contrary to Policy 24 (Outdoor Access) of the Cairngorms National Park Local Plan 2010 insofar as the development will reduce public access rights at School Wood and no alternative access has been provided to address this.

NB The above reasons for refusal may need to be amended following the Committee's decisions on the Reporter's recommendations on the Proposed Local Development Plan

Appendix 1 – HRA
Appendix 2 – Representations
Appendix 3 – Decision Notice 09/052/CP
Appendix 4 – Appeal Decision Notice PPA-001-2005
Appendix 5 – Natural Heritage Officer’s Comments 06/11/14

Fiona Murphy
planning@cairngorms.co.uk
6 November 2014

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.