

AGENDA ITEM 6

APPENDIX 3

2013/0119/DET

DECISION NOTICE
09/052/CP

CAIRNGORMS

NATIONAL PARK AUTHORITY

DECISION NOTICE

Application Reference: 09/052/CP

Type of Application: Local Application

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997, AS AMENDED BY THE PLANNING ETC
(SCOTLAND) ACT 2006**

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND)
REGULATIONS 2008**

The Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003

National Parks (Scotland) Act 2000

APPLICANT:

**Inverburn Ltd
C/o Stoneyfield House
Inverness
IV2 7PA**

AGENT:

**Bracewell Stirling Architects
5 Ness Bank
Inverness
IV2 4SF**

CNPA in exercise of its powers under the above mentioned Act and Regulations

hereby **REFUSE** planning permission for the following development:

**Erection of 30 Houses; 10 Affordable House Plots; 8 Small Business Units
and Associated Infrastructure and Landscaping**

at;

Land at School Road and Craigmore Road, Nethy Bridge

As indicated in the plans:

Title	Dwg. no.	Date received :
Location plan	3619/001	6 March 2009
Site plan (adjacent to Craigmore Rd)	3601/101	6 March 2009
Site plan (adjacent to School Road)	3619/100	6 March 2009
House Type A	3619-Type A	6 March 2009
House type B	3619-Type B	6 March 2009
House type D	3619-Type D	6 March 2009
House type D (cp)	3619-Type D (CP)	6 March 2009
House type F	3619-Type F	6 March 2009
House type H	3619-Type H	6 March 2009
Commercial unit	3619-Com	6 March 2009

For said reason(s):

1. The proposed development would contravene the terms of the outline planning permission (Highland Council ref. no. 02/00045/OUTBS). The current proposals for detached housing and plots to accommodate detached houses fails to accord with the terms of condition no. 4 of the outline permission, which required groups of detached and semi-detached houses. The current planning application is also lacking in essential information required by the conditions of the outline planning permission, including a management and maintenance plan of all areas lying outwith house curtilages (condition no. 5); proposals for the disposal of all surface water drainage designed on the basis of Sustainable Urban Drainage Systems (condition no. 6); and the provision of a programme of archaeological work for the preservation and recording any archaeological features affected by the proposed development (condition no. 14).
2. Essential required detail and surveys have not been provided in support of the current development proposal. There is therefore insufficient evidence to demonstrate that the development would not have an adverse effect on any European Protected Species which are likely to inhabit the subject sites and similarly there is insufficient evidence to demonstrate that the development would 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. The proposed development would therefore be contrary to Policy 4 (Protected Species) and Policy 5 (Biodiversity) of the Cairngorms National Park Local Plan (2010). It would also fail to accord with the strategic objectives of the Cairngorms National Park Plan particularly in relation to biodiversity, which requires the conservation and enhancement of the condition and diversity of habitats and species present throughout the Park.

The lack of information regarding natural heritage interests on the site also results in a lack of detail regarding measures to minimise any impact on nature conservation resources and as such is inconsistent with Highland Council Structure Plan Policy NI on Nature Conservation. The development proposal also fails to meet the requirements of the CNP's Natural Heritage Supplementary Planning Guidance, which requires the submission of natural heritage information including its significance and value. Having regard to non compliance with all of the foregoing the proposed development is not considered to accord with the first aim of the National Park with respect to conserving and enhancing the natural heritage of the area.

3. The proposed layout of the housing and business unit sites would give rise to tree loss in this woodland setting. The extent of tree felling and tree retention has not been quantified and the landscaping details shown on the site layout plan are only conceptual and fail to demonstrate whether or not they would be minimise and mitigate the impacts of tree felling on the site. In addition, the scale and proximity of the proposed business units to the identified site boundaries has the potential to negatively impact on the adjacent woodland edge and result in damage to this edge in the course of construction activities. There is insufficient evidence to demonstrate that the current development proposal would complement and enhance the landscape character of the Park and the particular setting of the development. The proposal is therefore contrary to Policy 6 (Landscape) of the Cairngorms National Park Local Plan (2010).
4. The proposed development fails to demonstrate compliance with the site specific requirements associated with the housing allocation NB/H2 and the economic development allocation NB/EDI, as detailed in the Nethy Bridge settlement proposals map in the Cairngorms National Park Local Plan (2010). No detail has been provided to demonstrate that the proposed layout would retain enough woodland to allow for the movement of species between areas of woodland to the side of the sites, and retain the woodland setting of this part of the village.
5. The proposed development fails to adequately respond to the characteristics of the site and fails to reflect its unique setting on the woodland periphery of a traditional Highland village. The proposed development, by reason of the current design proposals would also fail to adequately contribute to create a distinct identity and contribute to a sense of neighbourhood. The development would therefore be in contravention of Policy 20 (Housing development within settlements) of the Cairngorms National Park Local Plan (2010) which requires developments to reinforce and enhance the character of the settlement. It would also fail to accord with the strategic objectives for landscape, built and historic environment as detailed in the Cairngorms National Park Plan, which requires developments to complement and enhance the landscape character of the Park and complement and enhance the character, pattern and local identity of the built and historic environment.

6. The proposed development fails to demonstrate that it would not adversely impact on existing outdoor access opportunities in the immediate vicinity. As such the development has the potential to result in the loss of public access opportunities and would therefore fail to comply with Policy 34 (Outdoor Access) of the Cairngorms National Park Local Plan (2010). Consequently the proposal would fail to accord with the third aim of the National Park as it would not promote opportunities for the understanding and enjoyment of the general public of the special qualities of the area.
7. Insufficient detail has been provided in this application to demonstrate that the development would comply with Highland Council Structure Plan Policy G2 (Design for Sustainability) which requires that developments demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environments. The detail provided also fails to demonstrate that the development would accord with fundamental sustainable design principles as expressed in Section 2 of the Cairngorm National Park Sustainable Design Guide. It has not been demonstrated that the development would conserve or enhance the character of the National Park; use resources efficiently; minimise the environmental impact of the development; and enhance the viability of the community.

Dated: 17 January 2011

Don McKee - Head of Development Management

For details of how to appeal to Scottish Ministers regarding any aspect of this Decision Notice please see the attached notes.

**THIS IS A LEGAL DOCUMENT -
PLEASE RETAIN WITH YOUR TITLE DEEDS**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997, AS
AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006
TOWN AND COUNTRY PLANNING (DEVELOPMENT
MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008**

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission in respect of the proposed development, or to grant permission or approval subject to conditions, he may appeal to Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 within three months of the date of this notice. The appeal should be addressed to the Chief Reporter, Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park, Falkirk FK1 1XR.
2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out any development which has been or would be permitted, he may serve on the planning authority a purchase notice requiring the purchase of his interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.