

## CAIRNGORMS NATIONAL PARK AUTHORITY

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### **DEVELOPMENT PROPOSED:**

Erection of 7 No. houses (5 no affordable) at Land 125M NE Of 4 Lettoch Road Nethy Bridge

**REFERENCE:** 2019/0222/PPP

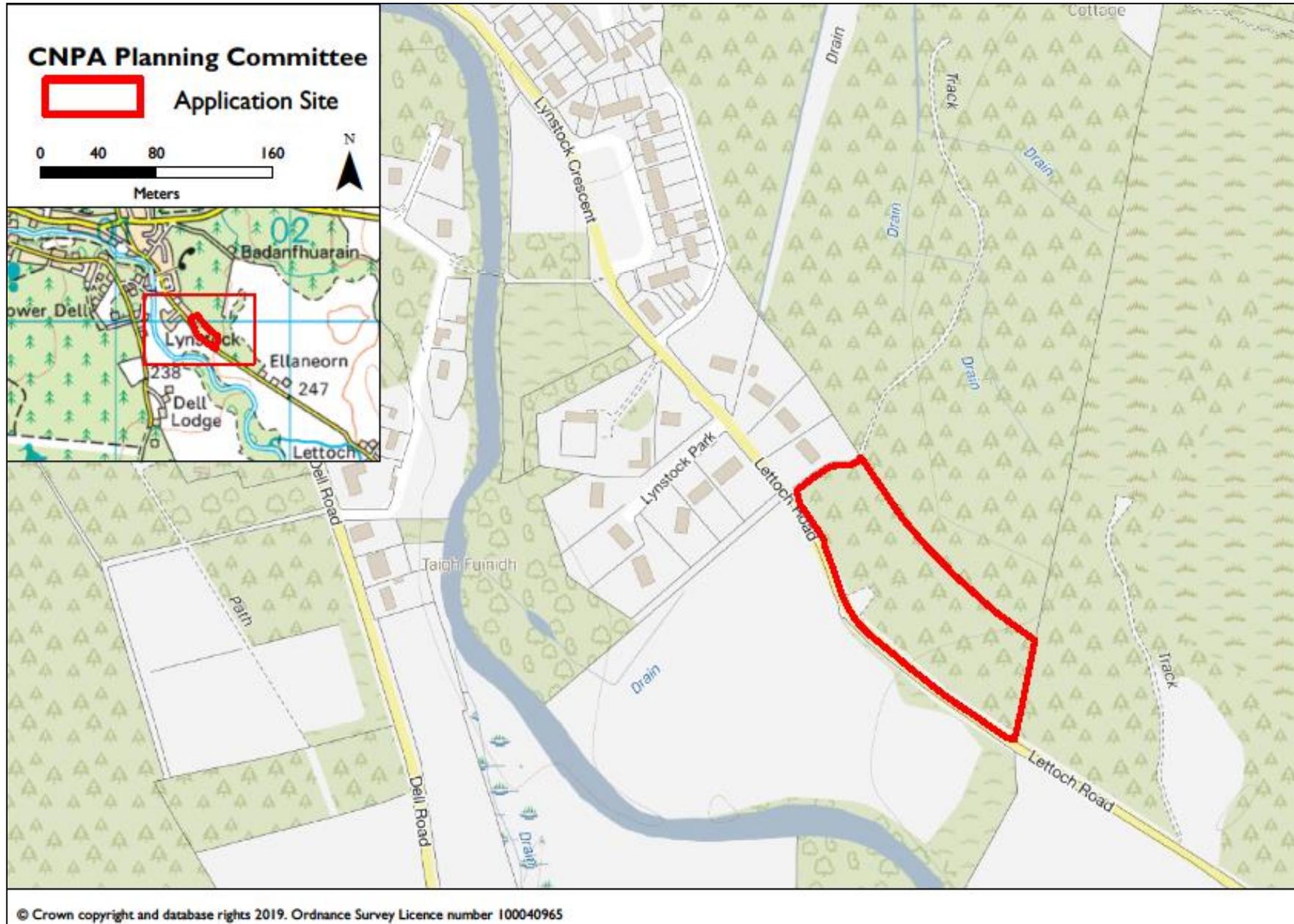
**APPLICANT:** Mr George Knox

**DATE CALLED-IN:** 22 July 2019

**RECOMMENDATION:** Approve Subject to Conditions

**CASE OFFICER:** Gavin Miles, Head of Planning and Communities

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## SITE DESCRIPTION, PROPOSAL AND HISTORY

### Site Description

1. The application site comprises approximately 1.3 hectares of mature coniferous plantation woodland, located on the south east side of Nethy Bridge. The narrow, single track, Lettoch Road adjoins the south-western site boundary with mature woodland surrounding the remainder of the site. An access track leads into wider woodland area at the North West side of the site, at the end of the existing properties on Lettoch Road. There are fields immediately opposite the site on the south side of Lettoch Road. The Lettoch Road edge of the site has a few distinctive veteran Scots Pine trees.
2. The site is identified within the 'Native Woodland Survey for Scotland 2014' as 100% native woodland, of mainly Scots Pine. The site also has spruce trees that have seeded a dense understorey of younger spruce in some areas, while other parts of the site have wet and dry ground vegetation typical of native and long established pine woodlands. The wider woodland area in the applicant's ownership of around 13.7 Ha is mainly Scots Pine plantation but with further areas of spruce planting, including one dense area of 2.4 Ha in its own right.
3. The application site is adjacent to the settlement boundary of Nethy Bridge as defined in the Local Development Plan and beyond the current 30mph speed limited zone of the village.

### Proposal

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

<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PUJ1NFSI0CH00>

Title	Drawing Number	Date on Plan*	Date Received
<b>Plans:</b>			
Location Plan			22 July 2019
Proposed Site Layout Plan & Location Plan	NB/ A01 Rev.F	19 December 2017	22 July 2019
<b>Supporting Documents:</b>			
Landscape Plan and Sections with Full Specification			22 July 2019
Drainage Statement		01 July 2019	22 July 2019
Construction Method Statement			22 July 2019
CNPA Correspondence			22 July 2019
Application Statement			22 July 2019

Heads of Terms Agreement		09 July 2019	22 July 2019
Protected Mammals Terrestrial Survey Report			22 July 2019
Pollution Prevention Plan			22 July 2019
Habitat Survey Report			22 July 2019
Photos Part 1 and Part 2			22 July 2019
HSCHT Affordable Housing Statement			18 September 2019
Survey of Trees for Bats		5 Nov 2019	5 Nov 2019

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

5. This application seeks planning permission in principle for the erection of 7 dwellings (5 of which are proposed as affordable units) with associated access. An indicative site layout has been provided, which shows the erection of dwellings in a linear form, parallel to Lettoch Road with the creation of two vehicular access points to the public road. The existing forestry track, which segregates the site into two parcels of land, is proposed to be retained, with plots 1 and 2 on the north-western side of the site and plots 3- 7 on the southern side of the site.
  
6. The application is supported by the following information:
  - a) **Application Statement, CNPA Correspondence and Photos:** these documents provide an outline to the policy framework and justification for the scheme. The documents inform that the applicants have owned the site for 15 years, which forms part of a 40 acre commercial plantation, managed by Scottish Woodland. Reference is made to the applicant’s previous experience of developing the adjacent site, now known as Lynstock Park in 2007. The documents conclude that the proposed development “is a natural extension of the village and is compliant with several of the criteria outlined within the CNPA Adopted Plan for Nethy Bridge for 2015”. A copy of correspondence between CNPA Officers, dated 4<sup>th</sup> March 2019, details the additional information required to support a planning application for the proposed development.
  - b) **Affordable Housing Statement and Heads of Term Agreement:** An affordable housing statement has been provided by The Highlands Small Community Housing Trust in support of the application detailing that the proposal will provide a 70% contribution of affordable housing on site. A copy of the Heads of Terms agreement has been provided which states the land transference of proposed plots 4-7 to HSCHT. These plots are proposed to be sold as serviced plots. HSCHT would then re-sell three plots as discounted self-build plots and develop two semi-detached houses for affordable renting. A rural housing burden would be attached to all five plots to protect the discount in perpetuity. An analysis of the local area property market for properties to buy and rent as at 18 September 2019 has been included and the current demand for housing on the Highland Housing Register is greater than supply.
  - c) **Ecology reports including: Phase I Habitat Survey Report and Protected Terrestrial Mammal Survey Report:** A protected terrestrial mammal survey was undertaken to assess the likelihood of the presence of wildcat, badger, pine martin, red squirrel, otter and water vole within the development boundary. Evidence of red squirrel and badger were found during the survey and noted that although not

specifically included within the survey work, several trees were identified as being suitable for bat roosting. The report recommends additional survey work is undertaken for each of the mammals. The submitted Phase I Habitat Survey Report was undertaken to assess of the habitat, wetland habitats and the groundwater dependent terrestrial ecosystems. The report concludes that the high value of many of the habitats and vegetation within the wider study area means that additional survey work is recommended. The report also notes that observations from the survey work show the proposed development site has a relatively high density of protected reptile species. Further survey work is subsequently recommended.

- d) **Survey of Trees for Bats:** Further survey work for bats and red squirrel confirmed that there were no winter hibernating bat roosts and low potential for summer bat roosts. The survey also identified one potential red squirrel drey and mitigation measures to provide four red squirrel drey boxes.
- e) **Construction Method Statement:** details the construction methodology for the proposal, including: training and legislation, first aid, welfare arrangements and emergency procedures.
- f) **Pollution Prevention Plan:** explains how potential pollutants, such as silt, cement, concrete and fuel/ chemical spills are proposed to be controlled and dealt with during construction and site operation.
- g) **Landscape Plan and Sections with Full Specification:** The document states that a 15 metre buffer zone is proposed to be created between the development and the commercial woodland to the north-east of the site consisting of locally sourced species. Landscape maintenance is proposed to be undertaken bi-annually with the replacement of any failed plants/ trees within the first five years of planting. Landscape mitigation and compensation is proposed to be provided by the buffer zone and any permitted felling of the commercial woodland would be replanted in line with Scottish Government requirements. On the indicative site plan, it is shown that seven trees of mature/semi-mature Scots Pine are proposed to be retained along the road frontage. In addition, A buffer zone along the south-eastern site boundary is proposed to retain a total of 11 semi-mature Scots Pine. The plan also indicates that all Sitka Spruce is to be removed within the application site and replanted with native species of Rowan, Juniper and Birch trees.
- h) **Drainage Statement:** suggests that the natural subsoils of the site are unsuitable for infiltration methods of surface water run-off disposal and therefore proposes the installation of a filter drain together with a silt trap upstream of the proposed filter drain to meet the requirements for suspended solids in CIRIA C753: The SUDS Manual. Driveway run-off is proposed to be collected in trapped gullies and leading into private surface water drainage plot drainage, which in turn is directed to a filter drain, discharging to an attenuation tank with a restricted outlet. The restricted outlet manhole will discharge to an adoptable surface water sewer extension to be constructed on Lettoch Road. Foul water from each dwelling will be collected in individual private foul drainage which will discharge into an adoptable foul sewer extension to be constructed on Lettoch Road. The document confirms that the site is not shown on SEPA's Flood Map as having the potential to flood during a M200 storm event.

7. Indicative plans of the proposal are included within **Appendix I**.

## History

8. The site of this planning application was put forward by the applicant in February 2017 as a site for housing at the Call for Sites stage of the LDP. The proposal was for a 2Ha site to be allocated for 7 houses (five open market properties and 2 affordable units). The site was not taken forward in the proposed LDP because, on the basis of the information submitted at that time, it was considered to be a large site for the low number of units proposed, would be likely to lead to the loss of a significant area of high quality woodland habitat and change the character of that part of the village.
  
9. An application for planning permission in principle (reference: 2018/00019/PPP) for the erection of seven houses at the same site was refused permission on 03 July 2018. The application included two units of affordable accommodation. The reasons for refusal are as follows:
  - a) The proposed housing development is located outwith the defined settlement boundary of Nethy Bridge where housing development is not supported and is contrary to Policy 1: New Housing Development of the Cairngorms National Park Local Development Plan 2015;
  - b) The proposed development will result in the loss of high quality native woodland and associated species. Insufficient information has been submitted and it has not been demonstrated that this loss can be suitably compensated for through appropriate mitigation, contrary to Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015;
  - c) The proposed development will have a significant adverse impact on the woodland setting of the village and an adverse effect on the landscape character and experience of the special qualities of the National Park contrary to Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

## DEVELOPMENT PLAN CONTEXT

### Policies

<b>National Policy</b>	Scottish Planning Policy 2014	
<b>Strategic Policy</b>	Cairngorms National Park Partnership Plan 2017 - 2022	
<b>Local Plan Policy</b>	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	<b>X</b>
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	SUSTAINABLE DESIGN	<b>X</b>
POLICY 4	NATURAL HERITAGE	<b>X</b>
POLICY 5	LANDSCAPE	<b>X</b>
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	SPORT AND RECREATION	

POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	<b>X</b>
POLICY 11	DEVELOPER CONTRIBUTIONS	<b>X</b>

10. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at:

<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

## Planning Guidance

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

Policy 1	New Housing Development Non-Statutory Guidance	<b>X</b>
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Sustainable Design Non-Statutory Guidance	<b>X</b>
Policy 4	Natural Heritage Supplementary Guidance	<b>X</b>
Policy 5	Landscape Non-Statutory Guidance	<b>X</b>
Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	<b>X</b>
Policy 11	Developer Contributions Supplementary Guidance	<b>X</b>

## Cairngorms National Park Local Development Plan 2020

12. The emerging Cairngorms National Park Local Development Plan (“Proposed Plan”) which will cover the period 2020 – 2025 is currently being progressed. The Proposed Plan has been through a public consultation process and the formal responses have been assessed and submitted along with all other relevant materials to Scottish Ministers for examination. As the examination of the Proposed Plan is yet to start, the Proposed Plan and its contents currently carry limited weight.

## CONSULTATIONS

### A summary of the main issues raised by consultees now follows:

13. **Scottish Natural Heritage (SNH)** notes that the site lies between Craigmore Special Protection Area (SPA) and Abernethy Forest SPA which are notified for their capercaillie interest. SNH consider that the proposal is unlikely to have a significant effect on capercaillie qualifying interests either directly or indirectly and an appropriate assessment is therefore not required. SNH note that: there are no records of capercaillie within or immediately adjacent to the proposed development site; the site is not necessarily used as a ‘stepping stone’ for capercaillie to other SPAs; the scale of the proposed development is very small in relation to the population of Nethy Bridge

and the anticipated increase in population is unlikely to result in any change to the existing patterns of recreation in the area or increased disturbance to capercaillie; and finally, recreational routes already exist which are suitable for walkers and cyclists which avoid sensitive habitats.

14. **Scottish Water** has no objection but highlight that this does not confirm that the proposed development can currently be serviced. They note that there is currently sufficient capacity in the Aviemore Water Treatment Works and there is currently sufficient capacity in the Nethy Bridge Waste Water Treatment Works. However, they advise that once a formal connection application is submitted to the Agency after planning permission has been granted, they will review the availability of capacity at that time and advise the applicant accordingly.
  
15. **The Highland Council Transport Planning Team** has no objection to the scheme subject to the inclusion of conditions as outlined below. A summary of their comments now follows:
  - a) **Road Layout:** The Team recommend that the road layout along the frontage of the development is improved by upgrading the road to a 5.5 metre wide carriageway; the addition of a 2 metre wide kerbed footway on the development side of the road and provide street lighting. These works are required to improved road safety allowing 2 vehicles to pass and providing a safe walking route to the village for the residents.
  - b) **Traffic Regulation Order:** To create a safer environment, it is recommended that the 30mph speed limit be extended to a point beyond the southern boundary of the development. This would also be subject to a Traffic Regulation Order (TRO) and the relocation of the 30mph speed limit shown on any plans would be indicative until the final determination under the TRO process.
  - c) **Access Layout:** The Team consider that the residential private access layouts are acceptable and they welcome the upgrade proposed to the forestry access located between plots 2 and 3. The Team recommend that the existing forestry access to the north of the site is also upgraded to a standard that is acceptable to the Council.
  - d) **Visibility:** The Team require the submission of information to demonstrate that the proposed private and forestry accesses visibility splays are appropriate for a proposed 30pmh road speed limit.
  - e) **Parking and Turning:** The Team require the submission of information to demonstrate that adequate parking for 2 cars and turning space so that all vehicles can enter and exit the site in forward gear.
  - f) **Waste Management:** The Team require the submission of information to demonstrate that there is adequate provision within the site for refuse collection.
  - g) **Roads Authority Permission:** The Transport Team note that a Road Construction Consent would be required prior to any work commencing on or adjacent to the public road.
  
16. **The Highland Council Flood Risk Management Team** has no objection to the scheme subject to the inclusion of two conditions on any subsequent decision notice requiring conformation to the Highland Flood Risk Management Team that permission from Scottish Water has been given to discharge to their system, together with the maximum discharge rate that they would accept; and a condition requiring the details of the final drainage design to be submitted for review and approval which shall include calculations that demonstrate that the network will limit discharge to the

existing greenfield run-off rates for all storms up to the 200 year plus climate change event.

17. **The Highland Council Contaminated Land Team** has no specific comment on the scheme and subsequently does not require any contamination investigation at the site.
18. **The Highland Council Forestry Officer** objects to the scheme. The Officer notes that the woodland is listed in the Native Woodland Survey of Scotland as 'pole stage immature native pinewood of very high nativeness and semi-naturalness'. Although the woodland is not included in the Ancient Woodland Inventory, the Officer considers that the site should be regarded as Ancient woodland 2(a): "semi-natural woodland from maps of 1860 and continuously wooded to the present day". The Forestry Officer observes that no arboricultural assessments have been included in support of the scheme. Concern is raised that the development is fully within woodland which is outwith the settlement boundary and the proposals 'would not ensure the quality of surrounding woodland, and sensitive valuable habitats is not compromised' as required by the Local Development Plan. Reference is also made to the proposal being contrary to Local Development Plan Policies 3 and 4, the Scottish Government's Control of Woodland Removal Policy and Section 194 of the Scottish Planning Policy (June 2014) as the proposals would affect the integrity of ancient woodland within the site.
19. **The Highland Council Landscape Officer** objects to the application on the grounds of the proposal being considered contrary to the objectives and priorities set out to protect the approach and setting of Nethy Bridge. The Officer considers that the effect of developing within this denser woodland would be to compromise the impression of Nethy Bridge being situated within woodland, of its being a 'forest village'. Woodland would be reduced from a defining and containing characteristic, to a general backdrop to linear development. The Officer notes that the proposed 15m depth buffer planting lies outwith the red line and within the existing forest area, meaning that the housing site will still cause a reduction in the forest presence at the edge of the settlement.
20. **CNPA Landscape Officer** references the similarities and differences between the current scheme and the previously withdrawn scheme of 2018/0019/PPP. The Officer considers that comments made on the previous scheme are still of relevance which are summarised as follows:
  - a) The development raises issues in relation to landscape and visual impacts and impacts on the Special Landscape Qualities (SLQs) that are not capable of resolution. This woodland contributes significantly to the setting of the settlement and is identified within the 2005 Housing Capacity Study as 'sensitive woodland' and they would recommend it be identified for long term retention given its landscape significance. The location and character of this woodland contributes to the special landscape qualities of the Park and as such development on this site would compromise the quality of the landscape setting on this side of Nethy Bridge. Development here would adversely affect the character of this minor road and impinge upon views. Construction of housing developments within woodland invariably require space beyond the footprint of the buildings

and access and this increases on uneven/ sloping sites and where drainage is poor as in this case. The proposed development would require the removal of a significant number of trees and a further risk to trees through canopy and roof damage. The impact on the character of the woodland and the special landscape qualities that can be experienced on this edge of Nethy Bridge would be significant.

21. The Landscape Officer notes the intention of retaining some of the existing woodland on and around the site however the Officer offers the following additional views on the scheme noting:
  - a) The construction of the houses, drainage, service provision and gardens will require most of the site to be cleared of woodland;
  - b) Highland Council generally recommend that a 20m standoff distance is made between retained trees and housing;
  - c) The visibility splays will require all trees to be removed and much of the retained frontage woodland is within this area. This includes the prominent veteran trees along the frontage;
  - d) This is compounded by located the footpath further into the site, very close to the trunks of T1, 2, 3, 4, 5 and 7 which is likely to cause tree damage. Several of these trees are important local landscape features due to their size and form;
  - e) The concept of “houses set into the existing landscape” is ambiguous and as there will be little or nothing left of this principle landscape feature on the frontage of the site. The plan does not differentiate between retained existing and new planting. A tree survey is absent.
  - f) There is reference to the replacement of woodland lost however no location for this is stated.
22. The Landscape Officer concludes that the development raises issues in relation to landscape and visual impacts on SLQs that are not capable of resolution.
23. **CNPA Ecology Officer** initially requested further survey work related to bats and red squirrel to be undertaken to inform the assessment. This information was subsequently provided and confirmed no bat roosts were present and that two veteran trees by the roadside had potential for red squirrel dreys and so must be avoided. The Officer notes that the proposal involves the conversion of high quality native woodland to housing development, and that there is a strong presumption against the removal of native woodland with high biodiversity value. Survey work in support of the application as not undertaken for lichen, moss and fungi but the Officer notes that the NVC survey identified that there was a rich diversity. There is therefore, a presumption that this woodland has a high likelihood of supporting regionally and nationally rare species and no details of mitigation or compensation proposals were included in support of the scheme for the loss of habitat proposed.
24. **CNPA Outdoor Access Officer** has reviewed the application details and considers that there are no negative impacts on paths or the exercise of access rights
25. **Nethy Bridge Community Council** were consulted on the application, but have not provided any formal response to the scheme.

## REPRESENTATIONS

26. The application was advertised when first submitted. A total of two letters of representation have been received from individual members of the public, objecting to the application. Copies of the public responses can be viewed at **Appendix 2**. A summary of the comments is provided below:
- a) The proposed development is outwith the settlement boundary contrary to Policy 1 of the Local Development Plan 2015 and Policy 1 of the Draft Local Development Plan 2020;
  - b) The site is not allocated for development within the adopted Local Development Plan 2015 or the emerging Local Development Plan 2020;
  - c) The proposed development would have a significant adverse impact on the woodland setting of the village;
  - d) The proposal would cause an adverse impact on the landscape character and special landscape qualities of the National Park contrary to Policy 5 of the Local Development Plan
  - e) Contrary to the presumption against the removal of native woodland with high biodiversity value;
  - f) The proposal would undermine the HI site housing allocation in the draft Local Development Plan 2020;
  - g) The proposal is contrary to the objectives for Nethy Bridge as identified in the Local Development Plan 2015;
  - h) The road is unsuitable for more housing;
  - i) Destruction of a wooded area full of wildlife;
  - j) There are more suitable locations for housing development in other areas of the village which could be developed with less damage to the natural environment;

## APPRAISAL

### Principle of Housing

27. **Policy 1:** New Housing Development of the Cairngorms National Park Local Development Plan 2015 provides support for new affordable housing development outside settlement boundaries and allocated sites where it meets an identified need. The policy also allows for affordable housing funded by cross subsidy from an open market element. This proposal will provide 70% affordable housing (five units of the seven) beside a rural settlement where there has been no new affordable housing delivered during the life of the current LDP and where there are limited current and proposed housing sites allocated in either the current LDP or future LDP. The two open market units provide the applicant and owner with a return that will allow them to sell the land to an affordable housing provider for a nominal fee, enabling the delivery of the affordable housing.
28. The long-standing desirability of Nethy Bridge as a place to live and visit means that house prices are high and land for building is expensive. When small sites come to the market, they are frequently developed either by rich individuals and/or as high value holiday or second homes. Nethy Bridge continues to have high demand for affordable housing, with first choice waiting list numbers from the Highland Housing Register

three times the number of re-lets and twenty times the number when other choices are included. The high cost of housing in Nethy Bridge and the lack of a supply of new affordable housing means that it is and will continue to be increasingly difficult for people working in the local economy to find housing in the area.

29. On balance, the principle of the proposal is considered to be acceptable in accordance with the requirements of Policy 1: New Housing Development of the Cairngorms National Park Local Development Plan 2015, subject to the other planning considerations outlined below.

## Environmental Issues

30. **Policy 4:** Natural Heritage of the Cairngorms National Park Local Development Plan 2015 seeks to ensure that there are no adverse impacts upon protected species or biodiversity whilst **Policy 10:** Resources sets out the need to fully consider impacts on flooding and water resources.
31. There are no national or international designations covering the site. Scottish Natural Heritage confirmed that while the proposal is situated between two Special Protection Areas notified for their capercaillie interest, to the north and south of Nethy Bridge, the proposal is unlikely to have a significant effect on the qualifying interests of the Natura sites either directly or indirectly and an appropriate assessment was not required to be undertaken.
32. The woodland and ground flora of the site is of similar quality to much of the semi-natural woodland around Nethy Bridge. It is not identified with the Ancient Woodland Inventories but has a general history of long-established woodland, and a ground flora that is consistent with ancient woodland and it is recorded as 100% native pine woodland in the Native Woodland Survey of Scotland. The site itself is woodland of a high ecological value, with potential for many of the species characteristic of the native pine woodlands surrounding Nethy Bridge. The past management of the woodland on the site and the wider area as commercial plantation has introduced non-native conifer species, and some parts of the site and the wider woodland in the applicant's ownership have an invasive understorey of young spruce that will change the diversity of the site over time unless it is managed differently.
33. Further survey work for bats and red squirrel confirmed that there were no winter hibernating bat roosts and low potential for summer bat roosts. The survey also identified one potential red squirrel drey and mitigation measures to provide four red squirrel drey boxes.
34. The development of the site will result in the loss of woodland and ground habitat with the development site. It is unlikely and unnecessary for all 1.3 Ha of the site to be destroyed by the development proposal because careful siting of houses, utilities and infrastructure at the detailed planning stage could minimise habitat loss and disturbance. The area to be developed could easily be half the site area and continue to have generous private gardens. The loss of that woodland is unlikely to affect the overall integrity of the native woodland habitats and species that rely on them around the site or around Nethy Bridge.

35. Nevertheless, the development of the site would result in a permanent loss of a small area of potential ancient woodland that would be irreplaceable. The proposal cannot comply on its own with national policy seeking to prevent woodland loss. It is hard to quantify this impact but for reference the 1.3 Ha site is approximately 10% of the woodland owned by the applicant, comprises 0.5% of the woodland within 1km of the site boundary and 0.75% of the Ancient Woodland Inventory woodland officially recorded within 1km of the site boundary.
36. The applicant has indicated they would be willing to manage the wider woodland area of 13.7 Ha that they own to improve its ecological value over the longer term. This would involve the removal of non-native species throughout the woodland to allow native woodland regeneration and longer term woodland management to prevent the regrowth of those invasive non-native species. Without such management, the ecological value of both the wider woodland and the development site will decline in the longer term. Such a management plan could be required by condition and in the long term, would secure positive management for a significant area of woodland (ten times the area that could be lost) some of which is recorded as Ancient Woodland Inventory land and some of which is arguably ancient woodland, on the edge of Nethy Bridge, and would incorporate a direct habitat enhancement through the replacement of non-native woodland with native woodland.
37. Because of the permanent loss of an area of woodland, the proposal cannot be considered to fully comply with **Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015**. However, with conditions attached to minimise habitat loss and a long term management plan to improve the biodiversity of the remaining woodland, the proposal would also have positive benefits for biodiversity that can be taken into account.
38. The Highland Council's Flood Risk Planning team have no objection to the application and conditions can be applied to manage surface and foul water discharge to their satisfaction. The proposal is considered to comply with **Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015**.

## Landscape Issues

39. **Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015** presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park and in particular the setting of the proposed development. This is reinforced by **Policy 3: New Development**, which seeks to ensure that all new development is sympathetic to the traditional pattern and character of the surrounding areas, local vernacular and local distinctiveness. It is therefore clear that policy requires all new development to enhance and complement both the National Park and the character of the settlement itself, using landscape to complement the setting.
40. The CNPA Landscape Officer and Highland Council Landscape Officer and are both of the opinion that the development of the site will change the existing landscape character and the character of Nethy Bridge. Both assume that most of woodland on

the site will be removed. The Highland Council Landscape Officer argues that it would mean Nethy Bridge would no longer appear as a woodland village contained by woodland. The CNPA Landscape Officer considers changes would have a significant effect on the landscape setting on that part of Nethy Bridge and on the Special Landscape Qualities of the area.

41. However, development within this site need not result in the complete loss of woodland. The development of housing in the immediately adjacent site retained a significant number of trees within plots and to the road frontage, maintaining a character of housing on a woodland edge. This application for planning permission in principle has the opportunity for detailed design to limit tree loss and maintain trees to the Lettoch Road edge as well as in breaks between plots or clusters of plots. The application does not affect the woodland to the south east of the site so the limit of development along this side of Lettoch Road will continue to appear as being contained by woodland and the development itself would be consistent with the woodland village character of Nethy Bridge.
42. The detail of further planning applications will define the layout of the development and its infrastructure as well as the direct and indirect impacts on its woodland. Careful design and compact plots would minimise tree loss and provide an opportunity to conserve areas of woodland and veteran trees. An appropriate landscaping scheme with post construction replanting where necessary and management of retained woodland will secure long term woodland cover. It is considered that the proposal is capable of complying with **Policy 5: Landscape** and **Policy 3: Sustainable Design** of the Cairngorms National Park Local Development Plan 2015 with appropriate conditions applied.

### **Servicing and Access**

43. **Policy 3: Sustainable Design** and **Policy 10: Resources** of the Cairngorms National Park Local Development Plan 2015 set out the need for new development to be satisfactorily serviced and without harm to resources or the environment. **Policy 3: Sustainable Design** also requires that new development should include an appropriate means of access, egress and space for off-street parking.
44. It is considered that with appropriate conditions applied to this application for planning permission in principle, the proposal complies with **Policy 3: Sustainable Design** and **Policy 10: Resources**, of the Cairngorms National Park Local Development Plan 2015.

### **Developer Contributions**

45. **Policy 11: Developer Contributions** of the Cairngorms National Park Local Development Plan 2015 sets out that where development gives rise to a need to increase or improve public services, facilities or infrastructure or mitigate adverse effects then the developer will normally be required to make a fair and reasonable contribution towards additional costs or requirements. The proposed development will not have a significant effect on any infrastructure or facilities in the local area.

## Other Issues Raised in Consultations and Representations

46. The site is located opposite a site proposed for housing allocation in the proposed Cairngorms National Park Local Development Plan 2020 and an objector has suggested that that site, or other alternative sites would be better places for development. However, this application is made on land that the applicant controls and must be considered on its merits. While the site opposite is allocated for 20 units so might also in time provide five affordable units, there is no certainty over its development, nor at this stage, that it will be included in the LDP that will be adopted following examination.
47. The proposed development cannot fully comply with the Scottish Government's Control of Woodland Removal Policy which has a presumption in favour of protecting Scotland's woodland resource, and where woodland removal should only be allowed where it would have significant and clearly defined public benefits. In this case, the area of loss of woodland is small though irreplaceable, conditions can minimise tree loss and secure enhanced management for a wider area of woodland to provide some ecological enhancement, and the provision of five affordable housing units in Nethy Bridge provides a clear social and economic benefit for Nethy Bridge and the National Park.

## Relationship with the Aims of the National Park

48. In most planning applications, recommendations of approval to the Planning Committee are made in the context of an application complying with LDP policies and therefore meeting the collective aims of the National Park. In this application there is a conflict between delivery of the first aim of the National Park (to conserve and enhance the natural and cultural heritage of the National Park), and the fourth aim (to promote sustainable economic and social development of the area's communities). The nature of that conflict is subtle because this is a small development proposal, and conditions can be applied to limit habitat loss and to enhance the management of a wider area of woodland. However, in considering this planning application, members should be satisfied that they give greater weight to the first aim as required by Section 9(6) of the National Parks (Scotland) Act 2000, in reaching a decision.
49. In the simplest terms there is conflict between a loss of good quality woodland, the conservation of which is associated with the first aim, and the creation of housing, associated with the fourth aim. In a simple choice between those, the obvious application of planning policy and of the Section 9(6) of the National Parks (Scotland) Act 2000 would be to refuse the application ensuring that the first aim had been given greater weight in the decision.
50. However, the application and the decision are more complex. Firstly, the direct impacts of the development proposal could be reduced by the application of conditions, in effect giving greater weight to the first aim through the decision making process. Secondly, the application creates an opportunity to conserve and enhance a larger area of woodland in the long term, an option that very clear gives greater weight to the first aim of the National Park, as it embeds that aim in the management of that woodland. Thirdly, the application is now one that promotes affordable housing as its main

purpose, in a community with a shortage of it and very limited opportunities for further supply. Although approval of planning permission in principle would not guarantee that development would happen, it would create an opportunity for the delivery of affordable housing that would have a significant positive contribution to the fourth aim.

51. Under refusal of the application there is no loss of habitat and no requirement to change management of the woodland. The areas of non-native plantation remain until felled, the changes in the woodland structure and habitats caused by the seeding of the non-native species may continue. There will be no affordable housing provided on the site and no change in the management of the woods. Under refusal of the application, the first aim is clearly given greater weight by ensuring there is no loss of woodland habitat, but there are no clear positive impacts on either the first or fourth aims of the National Park, there is simply no change in the status quo.
52. Under approval of the application (subject to approval of further applications for the detail), an area of high quality native woodland habitat would be permanently lost. This small area of loss of woodland would not significantly affect the extent or range of the habitat or the species within it, nor the integrity of the wider habitat networks. At the scale of the National Park the effect is not significant; the impact on the first aim of the National Park is negligible and it is small but of greater significance at the local scale of Nethy Bridge and its surroundings. The provision of five affordable houses in Nethy Bridge makes a very significant contribution the fourth aim of the National Park at the local scale of Nethy Bridge and has a small but significant contribution at the National Park scale. The associated restructuring of the wider woodland and positive management to improve its ecological value has to be considered to make a positive contribution to the first aim at the local level.
53. A recommendation of approval of the application can be made that aims to deliver the aims of the National Park collectively, and in recognising the conflict between the aims of the National Park, gives greater weight the first aim in the decision making process by ensuring that habitat loss is minimised and that an opportunity to secure positive management for conservation of a larger area of woodland is secured. Without that ability to secure that conservation management, the CNPA would not be able to take account of that positive contribution to the first aim of the National Park and officers could only recommend refusal of the application.

## CONCLUSION

54. This application for planning permission in principle presents a number of challenges.
55. On the one hand, the application is on an area of native and potentially ancient woodland. While it's loss to development is negligible at the scale of the National Park or even Badenoch and Strathspey and very small in the context of Nethy Bridge and its surroundings, it would inevitably lead to a small loss of what's considered irreplaceable habitat, including species characteristic of high quality Scots Pine woodland, and the displacement of other mobile species, as well as changes in the character of Nethy Bridge. These issues could provide legitimate reasons for refusal of the application.

56. On the other hand, the quality of the habitats and diversity of species on the site and neighbouring woodland is threatened by the plantation nature of the woodland and its long term management, with non-native tree species regenerating in thickets that will alter the area's ecology over time unless there is a management intervention. The applicant's willingness to accept a condition requiring a management plan for the remaining woodland to be submitted, approved and implemented, provides a certainty of management and significant long term benefit in terms of securing conservation management of that much larger area of woodland neighbouring the site and benefitting Nethy Bridge. In addition, the application is now one focussed on affordable housing which would make a significant contribution to Nethy Bridge, by increasing the numbers of units and the choices of tenure available to people seeking affordable housing in the area. These provide compelling reasons to recommend approval of the application subject to appropriate conditions to minimise habitat loss and disturbance and retain as many of the best features and character of the area as possible.
57. Taking into account the impacts and potential benefits of this planning application and the potential contribution to the aims of the National Park of approving or refusing the planning application, we recommend approval subject to conditions. In making that recommendation, we consider that while there is conflict between the first and the fourth aim of the National Park, greater weight is given to the delivery of the fourth aim in accordance with Section 9(6) of the National Parks (Scotland) Act 2000, whilst also aiming to deliver the aims collectively.

## RECOMMENDATION

**That Members of the Committee support a recommendation to approve the Erection of 7 No. houses (5 no affordable) at Land 125M NE Of 4 Lettoch Road Nethy Bridge subject to the following conditions:**

Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.

### Conditions

- I. **No development shall commence on site until the following details are submitted to and approved in writing by the Cairngorms National Park Authority, acting as Planning Authority, in consultation with the Highland Council, where appropriate; irrespective of the approved proposed site plan, the submission shall be in the form of a fully detailed layout and shall include detailed plans, sections and elevations of the dwellings and all other structures.**

#### **Approval of matters:**

- a) **Detailed plans of the proposed layout of buildings and all ancillary development (including drainage provision and SUDs) on a contour base plan to demonstrate a good fit with landform and local hydrology, minimise tree loss;**

- b) Design, siting and external appearance of buildings, open space and any other structures;
- c) Existing and finished ground levels in relation to Ordnance Datum;
- d) A detailed specification of all external materials – note: samples may be required;
- e) Lighting plan to minimise light spillage and light pollution;
- f) Detailed landscaping plan with full specification for on-site and any off site planting. All species should be native, typical of the area, and of local provenance. The Landscape Plan shall be implemented in full during the first planting season following commencement of development;
- g) Long term landscape maintenance schedule and management plan for all planting areas;
- h) Tree survey, arboricultural impact assessment and tree protection plan for the site in accordance with BS8537. The tree protection measures shall be implemented in full in accordance with the details of the approved tree protection plan prior to the commencement of development.
- i) Boundary treatments, including design, height and materials;
- j) Access arrangements, visibility splays for road, private and forestry accesses, road layout including surface treatments, design and specification (including disposal of surface water) all in accordance with the Highland Council's roads standards;
- k) Details of the 30mph extension with the necessary signing together with the road improvement measures. The approved details shall be implemented in full prior to the construction of any development within the red lined area of the site.
- l) Design and siting of car and cycle parking and on site turning provision, including dimensioned parking space drawings;
- m) Servicing arrangements;
- n) Construction traffic management plan;
- o) Drainage impact assessment;
- p) Final drainage plan including a SUDs scheme complying with CIRIA C753 guidelines and SUDs maintenance plan, copies of discharge permissions from the relevant bodies, including Scottish Water, calculations that demonstrate the network will limit discharge to the existing greenfield run-off rates for all storms up to the 200 year plus climate change event and percolation tests at the location of any infiltration features;
- q) Construction method statement that incorporates any necessary mitigation identified in species protection plans;
- r) Waste management and recycling facilities;
- s) Species protection plans with delivery schedules for bats, red squirrel and reptiles;
- t) A Woodland Management Plan for the woodland area identified in blue on the approved Site Location Plan to include measures for the removal of non-native tree species, and management to promote biodiversity and schedule for delivery of those measures.

**Reason:** To ensure that the proposed development is in compliance with Policies 1, 3, 4, 5, 10 and 11 of the Cairngorms National Park Local Development Plan 2015. Planning permission for this development has been granted in principle only and subsequent approval is required for these matters before the development described in this permission begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997 as outlined in informative one of this permission.

2. The development shall be implemented in accordance with those approved details unless otherwise approved in writing by the Cairngorms National Park Authority, acting as Planning Authority, in consultation with the Highland Council where appropriate, and retained and maintained for the lifetime of the development hereby approved.

**Reason:** To ensure that the proposed development is in compliance with Policies 1, 3, 4, 5, 10 and 11 of the Cairngorms National Park Local Development Plan 2015.

## **Informatives**

### **1. Timescales and Procedures for Applying for Requisite Approvals**

For the avoidance of doubt, conditions requiring requisite approval (applications for approvals of matters specified in conditions) are all those referenced with Section 59 of the Act in the reason for the condition and must be made before whichever is the latest of the following:

- a) The expiration of 3 years from the date of the grant of the permission;
- b) The expiration of 6 months from the date on which an earlier application for the requisite approval was refused; and
- c) The expiration of 6 months from the date on which an appeal against such refusal was dismissed.

Only one application may be made by virtue of (b) and (c) above after the expiration of the 3 year period mentioned at (a) above.

An application for requisite approval may be made for different matters and different parts of the development at different times. Each application shall be made in writing and must:

- a) Identify the planning permission to which it relates;
- b) Contain a description of the matter in respect of which the application is made;
- c) State the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of the agent; and
- d) Be accompanied by plans and drawings describing the matter in respect of which the application is made and any fee required under the Fee Regulations.

### **2. Lapsing of Permission**

- a) If you fail to comply with the time periods set out in Section 59 of the Act as details in Informative One with regard to the submission of the requisite approvals then this permission will lapse.
- b) If you have made submissions for requisite approvals within the timescales set out above under Section 59 of the Act, as details in Informative One and these have been approved by the Cairngorms National Park Authority then you must commence

development within 2 years of the date of the last requisite approval or this permission will lapse.

3. The person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. Attached to this decision notice is a Notice of Initiation of Development for completion and submission. Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more costly to rectify. Failure to give notice would constitute a breach of planning control which may result in enforcement action being taken.
4. Following completion of the development, a notification of the completion shall, as soon as practicable, be given to Cairngorms National Park Authority, acting as Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.
5. You are required to apply to Highland Council for Roads Construction Consent under section 21 of the Roads (Scotland) Act 1984 prior to any work on or adjacent to the public road network and will be required to cover the Highland Council's cost associated with amending the 30mph Traffic Regulation Order.

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.