

CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Erection of 3no. houses at Land 55M SE Of Lynwilg Farm Cottage
Lynwilg Aviemore

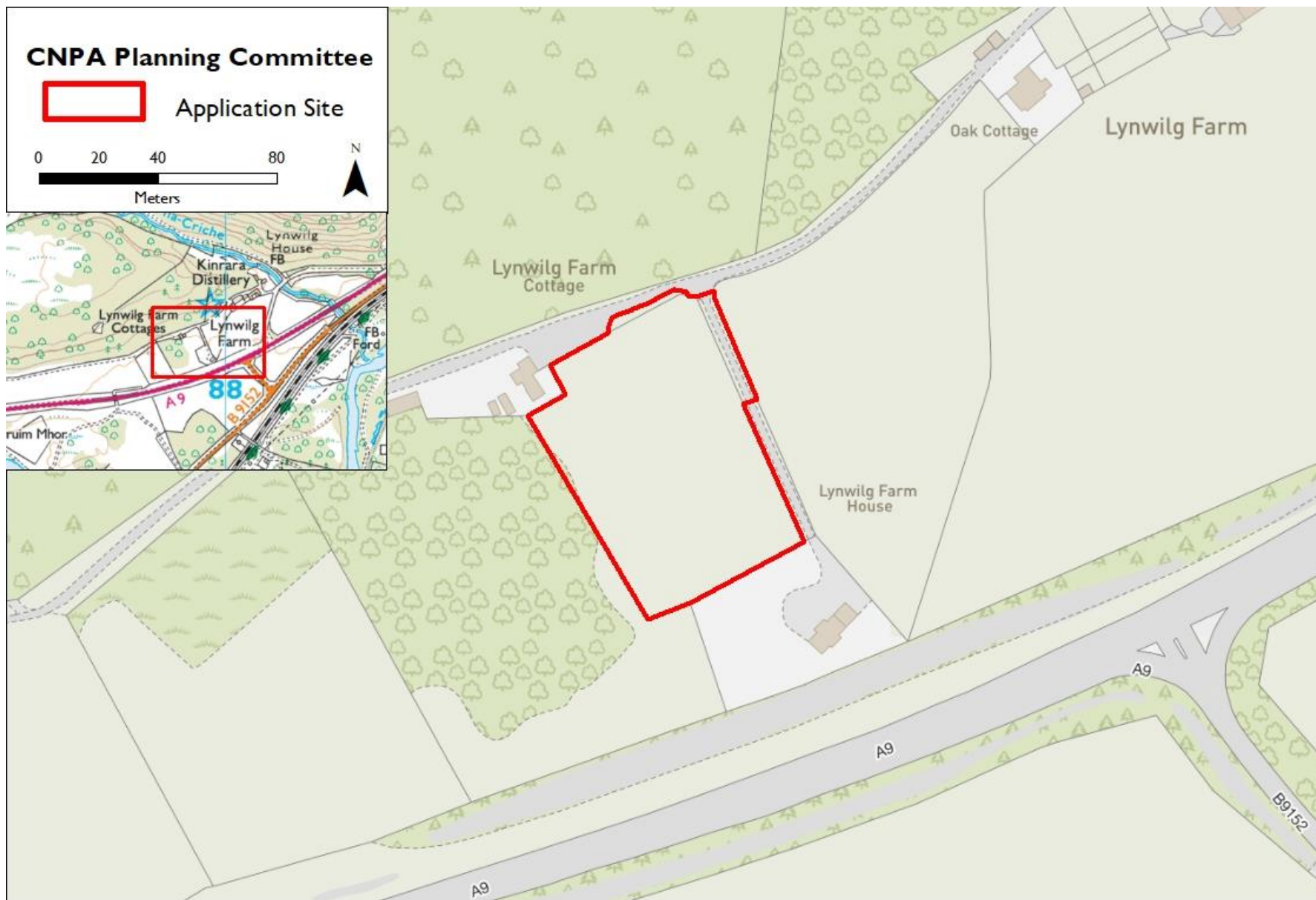
REFERENCE: 2023/0125/PPP

APPLICANT: Lost Forest Ltd

DATE CALLED-IN: 20 March 2023

RECOMMENDATION: Refuse

CASE OFFICER: Stephanie Wade, Planning Officer



SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The proposed development site is an agricultural field, located on the northern side of the A9, at Lynwilg, approximately 2.5 miles south-west of Aviemore. The surrounding land is predominantly agricultural with dispersed trees. To the south-east corner is the neighbouring dwelling Lynwilg Farm House and to the north-west corner is the neighbouring dwelling Lynwilg Cottage. The site is accessed via an existing shared junction off the northern side of the A9, with the access track passing through the Kinrara Distillery buildings.

Proposal

2. 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=RRGIM3SI0CP00>

Title	Drawing Number	Date on Plan*	Date Received
PLANS			
Plan – Location Plan	F2230-LDN-00-XX-DGA-A-000 Rev.P00	21/12/22	17/03/23
Plan - Existing Site Layout Plan	F2230-LDN-00-XX-DGA-A-001 Rev.P00	21/12/22	17/03/23
Plan – Proposed Site Layout Plan	F2230-LDN-00-XX-DGA-A-101 Rev.P00	21/12/22	17/03/23
Plan - Topographical Plan	CTCH-J4723-001	28/06/22	17/03/23
Plan – Drainage Layout Plan	CTCH-J4723-002	05/12/22	17/03/23
SUPPORTING INFORMATION			
Other – Design and Access Statement			17/03/23
Other - Drainage Statement	J4723 Version.1	05/12/22	17/03/23
Other – Private Access Statement		21/12/22	17/03/23

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

3. This application seeks planning permission in principle for the erection of 3 dwellings, including access, drainage, and landscaping on site. An indicative site layout has been provided which shows the erection of the dwellings, with two at the northern end of the field and one to the southwest in the field. It is indicated that the dwellings will be of 4/5-bedroom scale. Each dwelling will have a new, separate access onto the existing access track which serves the two neighbouring properties. All three dwellings are shown to take the form of a “H- block” shape, with detached garages. Each dwelling is proposed to be served by a private wastewater treatment plant and soakaway system.
4. Indicative plans of the proposal are included within **Appendix 1**.

History

5. There is no planning history relating to the site.

Habitats Regulations Appraisal

6. A Habitats Regulations Appraisal [HRA] has been undertaken to assess the effects the proposal may have on the qualifying interests of the River Spey SAC (Attached at **Appendix 2**). The Allt na Criche (a tributary of the River Spey) is approximately 300m at the closest point of the proposed site location. There are no apparent natural or man-made pathways between the proposed development and the designated SAC watercourse (e.g. drainage channels or tributaries). Given the distance from the site, it is considered unlikely that any pollution (e.g. sediment or fuels) from the site would reach the SAC and have any detrimental impacts on the conservation objectives of the River Spey SAC. Similarly due to the distance and position of the proposed development, no disturbance is considered for any otter which may be using the Allt na-Criche for resting or foraging/commuting. The HRA concludes that no further appraisal is required as all conservation objections have been met.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	National Planning Framework 4 (NPF4) Scotland 2045
POLICY 1	Tackling the Climate and Nature Crises
POLICY 2	Climate Mitigation and Adaptation
POLICY 3	Biodiversity
POLICY 4	Natural Places
POLICY 5	Soils
POLICY 6	Forestry, Woodland and Trees

POLICY 7	Historic Assets and Places	
POLICY 9	Brownfield, Vacant and Derelict Land, and Empty Buildings	
POLICY 13	Sustainable Transport	
POLICY 14	Design, Quality and Place	
POLICY 15	Local Living and 20 Minute Neighbourhoods	
POLICY 16	Quality Homes	
POLICY 17	Rural Homes	
POLICY 22	Flood Risk and Water Management	
Strategic Policy	Cairngorms National Park Partnership Plan 2022 – 2027	
Local Plan Policy	Cairngorms National Park Local Development Plan (2021) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	X
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	DESIGN AND PLACEMAKING	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	OPEN SPACE, SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	X
POLICY 11	DEVELOPER OBLIGATIONS	X

7. 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:

<https://cairngorms.co.uk/wp-content/uploads/2021/03/CNPA-LDP-2021-web.pdf>

Planning Guidance

8. 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	Housing Supplementary Guidance	X
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Design and Placemaking Non-Statutory Guidance	X
Policy 4	Natural Heritage Non-Statutory Guidance	X

Policy 5	Landscape Non-Statutory Guidance	X
Policy 7	Renewable Energy Non-Statutory Guidance	
Policy 8	Open Space, Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	X
Policy 11	Developer Obligations Supplementary Guidance	X

CONSULTATIONS

Summary of the main issues raised by consultees

9. **Transport Scotland** originally requested further time to review due to the proposal's interaction with the A9 Dualling Scheme.
10. **Highland Council Transport Planning Team** note that the proposal takes access via the private track from the U3050 public road and the A9. The Council requires roads that serve five or more houses to be served by a public road. Exceptions to this may be possible subject to the applicant providing a copy of a formal maintenance agreement for the ongoing maintenance of the private track. The Team may be in a position to support the application if the applicant is able to provide evidence of this. The Team also require clarification on bin storage locations, demonstrating that the bin storage is accessible from the public road and is sized to accommodate the bins required for the dwellings.
11. The Team provides no comment on the layout of the house site due to it being indicative. Car parking must be provided in line with the Council's minimum car parking standards. As the site is remote from the public road, the Team provide no comment on the layout or access into the site from the private track.
12. **Highland Council Flood Risk Management Team** has no objection. The Team notes that the flood risk from pluvial flooding in the centre of the site during a 1 in 200-year return period + CC storm event is medium to high. They note the intention by the applicant to construct a cut-off ditch above the lower of the three plots conveying water to a soakaway. Given the localised and unconnected nature of the indicated pluvial flooding, and the suitable infiltration characteristics of the soil and the proposed cut off ditch, the Team consider the actual flood risk under the proposal may be low, and therefore do not object on flood grounds.
13. To account for any residual flood risk, the Team recommend the inclusion of planning conditions to ensure the finished floor levels of the dwellings are no less than 300mm above the surrounding finished ground level.

14. Regarding drainage, the Team has no objection to the storm water drainage proposals.
15. **Highland Council Archaeologist** confirms that the application lies within an area of archaeological potential and a planning condition is recommended on any subsequent decision requiring an Archaeological Written Scheme of Investigation.
16. **Highland Council Contaminated Land Officer** confirms that there does not appear to be a potential source of contamination onsite and no further information is required.
17. **CNPA Landscape Officer** confirms that the proposal sits within the Badenoch: Loch Alvie to Inverdrue Landscape Character Area and the landscape characteristics of enclosing woodland, and open fields with drystone dykes are strongly represented around the application site. The Officer notes that visibility to the site is restricted by the existing woodland cover and that the disparate dwellings within the Lynwilg area are loosely spaced in an irregular arrangement following existing tracks which are tied into the field pattern with a notable hierarchy of scale to the dwellings. The Officer notes that views of Lynwilg Farm Cottage and Lynwilg Farm House are not seen in context with the other dwellings and buildings further east.
18. The Officer considers that the development proposed does not reflect the setting of the local landscape in terms of siting, scale or design, with the predicted effects likely to erode rather than enhance the distinctive balance of the existing landscape features and the Special Landscape Qualities experience.
19. **CNPA Ecology Officer** requires further information to ascertain impacts on trees and ecology, as no supporting information has been provided.
20. **Aviemore and Vicinity Community Council** have no specific comments noting that the site is within the boundary of Kincaig Community Council area. A copy of their comments can be found at **Appendix 3**.
21. **Kincaig Community Council** were consulted but have provided no comments on the scheme.

REPRESENTATIONS

22. The application was advertised when first submitted. No letters of public representation have been received.

APPRAISAL

Principle of Housing

23. The application seeks planning permission in principle for the erection of three new dwellings. To determine the acceptability of the proposal, firstly it must be determined whether the proposal accords with Policy criteria for new dwellings. By way of background, at National level, **Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings)** states that (9b)- “ *Proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP.*”
24. **Policy 17 (Rural Homes)** states:
- a) *(17a) Development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development:*
 - (i) *Is on a site allocated for housing within the LDP;*
 - (ii) *Reuses brownfield land where a return to a natural state has not or will not happen without intervention;*
 - (iii) *Reuses a redundant or unused building;*
 - (iv) *Is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;*
 - (v) *Is demonstrated to be necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker (including those taking majority control of a farm business) to live permanently at or near their place of work;*
 - (vi) *Is for a single home for the retirement succession of a viable farm holding;*
 - (vii) *Is for the subdivision of an existing residential dwelling; the scale which is in keeping with the character and infrastructure provision in the area; or*
 - (viii) *Reinstates a former dwelling house or is a one for one replacement of an existing permanent house.*
25. The proposal looks to use a greenfield site, which is not allocated within the Local Development Plan for development and the supporting documentation provides no reference to the dwellings being required to meet a rural business need. The proposal is therefore contrary to Policy 17 of NPF4. Regarding Policy 9 of NPF4, the proposal is contrary to the requirement of not building on greenfield land, however it could accord with the policy if the development is supported by Local policy, which is explored further now.

26. At Local Policy level, the Cairngorms National Park Local Development Plan 2021 provides the spatial strategy of where development is appropriate to occur within the National Park. The development plan identifies strategic settlements, intermediate settlements, and rural settlements. Outside of the defined settlements, the development strategy enables small-scale expansion of existing groups of buildings in rural areas, delivery of affordable housing and delivery of housing to meet a business need, within the countryside.
27. The applicant considers that the proposal should be reviewed under LDP **Policy 1.2 (Housing Development in Existing Rural Groups)**. This policy allows for the erection of new dwellings which add to an existing rural group of three or more buildings where at least one of which is a dwelling house. This policy requires the development to not add more than one third to the existing number of buildings in the group within the plan period. The Housing Supplementary Guidance clarifies further that *“Ancillary buildings to the existing house are not included in the calculation. These include kennels, outbuildings, garages, and sheds.”* The supporting information submitted details how the applicant considers it meets the policy criteria. It states:
- a) “There are two domestic buildings and associated outbuildings immediately adjoining the site. Beyond that, to the east of the site there is a single dwelling, Kinrara distillery and outbuildings, “Lynwilg Gardener’s Cottage” and outbuildings and the separate “Gardeners Cottage”. Including all of these, there is a total of 10 buildings.”
28. From a spatial context, officers do not consider that the proposal forms part of a rural housing group and instead is land within the open countryside. The application site is an agricultural field which separates Lynwilg Farm Cottage and Lynwilg Farm House. These two residential units and their ancillary buildings provide a total of two buildings, which is not considered to form a rural housing group. The applicant references buildings and dwellings sited further east from the application site, which are separated by agricultural fields. The building groups are therefore separated by the natural boundaries of the agricultural fields and do not form one whole building group, visually, or by proximity. The application site is therefore not part of a rural building group and cannot be considered under Policy 1.2.
29. Under **Policy 1.3 (Other housing in the countryside)**- proposals for new dwellings will be supported where they reinforce the existing pattern of development, and:
- a) *Are necessary for or improve the operational and economic viability of an active business which has a locational requirement directly linked to the countryside; or*
- b) *Are on a rural brownfield site.*

30. As previously stated, the site is not brownfield and the proposal has no links to supporting a rural business. The proposal is therefore contrary to Policy 1.3 of the Cairngorms National Park Local Development Plan 2021, and Policy 9 of NPF4, as there is no policy support for developing the greenfield site, in this case.
31. Policy 11: Developer, Obligations, Policy 1.4 and Policy 1.5 of the Local Development Plan seek to ensure that developments provide a range of dwelling types, with an emphasis on smaller dwellings and that proposals for fewer than four market dwellings provide a contribution towards affordable housing. The supporting documentation states that the three dwellings will be of 4-5 bedroom scale. The proposal would therefore not help towards providing smaller, affordable dwellings for local need and the supporting documentation provides no reference to contributing to affordable housing provision, contrary to Policy 11: Developer Obligations of the Cairngorms National Park Local Development Plan 2021.
32. On this basis, the principle of development is contrary to Policy 1 and Policy 11 of the Cairngorms National Park Local Development Plan 2021 and Policies 9 and 17 of NPF4.

Design, Layout and Landscape Impacts

33. **Policy 3: Design and Placemaking** of the Cairngorms National Park Local Development Plan 2021 seek to reinforce and enhance the character of the existing settlement and encourage new development to be sympathetic to the traditional pattern and character of the area. **Policy 5: Landscape** looks to ensure that proposals do not adversely impact the landscape character and setting of the area, including visual impacts. **Policy 14: Design, Quality and Place** of NPF4 requires development proposals to improve the quality of an area and meet the six qualities of successful places.
34. As this is an application for planning permission in principle, full design details are not required by the development management procedures. Nevertheless, some further information, such as an indication of the site layout and division of the proposed units alongside their basic dimensions and drainage details, has been provided, to aid the assessment of the proposal.
35. The indicative site layout plan identifies how the housing would interact with the immediate area. The siting of the proposed three dwellings in a cluster, does not reflect the existing vernacular pattern of the typical, relatively widely spaced farm cottages. The proposal would look to increase the number of buildings within the immediate area by over double, which would significantly alter the character of the immediate area. Although landscaping details could form part of a subsequent Matters Specified in Condition application, to provide landscape mitigation and enhancement to the site, it is considered

that the scale and nature of the development, in this location, would still be incongruous to the existing character contrary to Policies 1, 3 and 5 of the Cairngorms National Park Local Development Plan 2021.

36. The proposed erection of larger scale housing would conflict with the existing hierarchy of the vernacular settlement pattern in the area, competing for prominence with Lynwilg House and increasing the experience of built development in a strongly rural landscape. These effects would be increased by the clustered arrangement of the proposed dwellings and garages, notably larger in scale than other dwellings in the wider area. The uniformity of the proposed house footprints and regularity of their orientation, within, rather than on the edge of a field exacerbates these effects, together with the over-engineered geometry of vehicular access off the single width, access track and the extent of gravelled turning areas serving each property.
37. On this overall basis, it is considered that the development does not reflect the setting of the local landscape, in terms of siting, scale or design. The predicted effects are likely to erode rather than enhance the distinctive balance of the existing landscape features and character in the locale, and in turn the special landscape qualities experienced, contrary to Policies 1, 3 and 5 of the Cairngorms National Park Local Development Plan 2021.

Environmental Impacts

38. **Policy 4: Natural Heritage** of the Cairngorms National Park Local Development Plan 2021 seeks to ensure that there is no adverse impact upon designated areas, protected species, or biodiversity. **Policy 3: Biodiversity** of NPF4, requires developments to protect and enhance biodiversity and natural assets.
39. The proposal is not considered to have an adverse effect on the River Spey SSSI due to the lack of connectivity between the development site and the SSSI. Regarding ecological interests, insufficient information has been submitted to demonstrate the impact the proposal would have on ecology.
40. **Policy 6: Forestry, Woodland, and Trees** of NPF4, places significant emphasis on the protection of trees and woodland, noting that development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with the relevant Scottish Government Control of Woodland Removal policy. Where woodland is removed, compensatory planting should be delivered. There are several scattered mature/ semi-mature trees within the application boundary. The submitted plans suggest tree felling will occur although no details have been submitted regarding tree felling/tree protection, or landscaping and compensatory planting. Insufficient information has

therefore been submitted to allow assessment of the proposal's impact against policy criteria.

Servicing – Water and Drainage

41. **Policy 3: Design and Placemaking** and **Policy 10: Resources** of the Cairngorms National Park Local Development Plan 2021 sets out the need for new development to be satisfactorily serviced and without harm to resources of the environment.
42. The applicant has indicated that the proposal would connect into the public water supply, however they confirm that there are no wastewater facilities in the vicinity of this development and therefore the applicant would need to investigate private treatments. In this regard, the proposal shows private wastewater treatments plants and soakaways for each plot on the site plan, supported by a Drainage Statement. The Flood Risk Management Team has assessed the information and raises no objections to the proposals.
43. However, this is separate from and does not override the unacceptable siting impact of the development.

Servicing- Access

44. **Policy 3.3- Sustainable Design** of Cairngorm National Park Local Development Plan 2021, requires all development proposals to include an appropriate means of access, egress, levels of private amenity ground and space for off-street parking.
45. At the time of writing, Transport Scotland requested further time to review the proposal's interaction with the A9 Dualling Scheme. Any subsequent response will be reported to members verbally at the Planning Committee. The Highland Council Transport Planning Team note that as the proposal would increase the number of dwellings being served by the lane to five, the private track is either required to be upgraded and adopted by the Council or retained as a private track subject to the applicant being able to provide a copy of a formal maintenance agreement for the ongoing maintenance of the track in perpetuity. The Team therefore has a holding objection until this is resolved. The Team also sought further information on bin storage details being located and accessibly from the public road. Although it is noted these matters could be resolved by the submission of further information, this is separate from and does not override the unacceptable siting impact of the development contrary to the requisite elements of Policies 1, 3 and 5 of the Cairngorms National Park Local Development Plan 2021 and Policies 9 and 17 of NPF4.

CONCLUSION

46. This proposal for the erection of three dwellings has failed to demonstrate compliance with any of the policies relating to new housing development in the countryside as set out in the Cairngorms National Park Local Development Plan 2021, and the policy provision of National Planning Framework 4. The proposal would result in the introduction of new dwellings in a pressurised and sensitive area and would contribute to an unacceptable cumulative build-up of housing, adversely affecting the character and appearance of the area. The principle of houses in this location cannot, therefore, be supported. There are no material considerations which would still justify granting planning permission in principle. The application is therefore recommended for refusal.

RECOMMENDATION

That Members of the Committee support a recommendation to REFUSE the Erection of 3no. houses at Land 55M SE Of Lynwilg Farm Cottage Lynwilg Aviemore for the following reasons:

Reasons

1. The proposal, if granted, would be contrary to the provisions of the adopted Development Plan in general and in particular:
 - a) Policy 1- New Housing Development of the Cairngorms National Park Local Development Plan 2021, as the proposal fails to conserve the existing pattern of development and would create a new form of development in the landscape which is at odds with the existing building and landscape character; and because it fails to meet any of the criteria for housing development as set out in Policy 1;
 - b) Policy 3 – Design and Placemaking of the Cairngorms National Park Local Development Plan 2021, as it is not sympathetic to the traditional pattern and character of the surrounding area and does not demonstrate that the proposed houses would reflect existing housing development in terms of settlement pattern;
 - c) Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings of NPF4 (2045), as the proposal introduces development on a greenfield site which has not been allocated for development, nor is it explicitly supported by policies of the Local Development Plan;
 - d) Policy 17: Rural Homes of NPF4 (2045), as the proposal fails to meet any of the criteria for new homes in rural areas as set out in Policy 17, and;
 - e) The development would introduce the erection of three new dwellings on greenfield land within the open countryside, which is not required as part of a rural business contrary to Policy 1 of the Cairngorms National

Park Local Development Plan 2021 and Policies 9: Brownfield, Vacant and Derelict Land and Empty Buildings, and 17: Rural Homes of National Planning Policy Framework 4 (2045).

Informatives

Appeal

1. If you, the applicant, are aggrieved by the decision of the Planning Authority to refuse planning permission in principle, you may appeal to the Scottish Ministers within 3 months of the date of this decision notice. The appeal should be addressed to:

Planning and Environmental Appeal Division (DPEA)
Ground Flood
Hadrian House
Callendar Business Park
Callendar Road
Falkirk
FK1 1XR

2. If you have any queries, please telephone DPEA on 0300 244 6668 or email dpea@gov.scot . Appeals can also be submitted online at www.eplanning.scot .

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.