

CNP LOCAL PLAN INQUIRY – SETTLEMENTS – BALLATER H1

RESPONSE TO CNPA STATEMENT OF CASE – Objector Ref 462

3.0 Summary of Objections.

The CNPA's summary of objections contains inconsistencies in the manner in which the CNPA have chosen to categorise objectors' submissions. In some cases, several unrelated objections have been categorised under a single alphabetic suffix of the objector's reference number, whereas in other cases, it seems that each discrete objection has been allocated an individual suffix.

There is potential for considerable difficulty for all concerned. It appears that the CNPA have chosen an almost entirely arbitrary basis on which to allocate these groups of objections without consistency, to various statements of case or hearing sessions. This must be a cause for some concern to anyone who wishes to ensure that all relevant bases for objection are aired.

4.0 Summary of CNPA's Response.

Ballater's Role as a "Strategic Settlement". The Park Plan of 2007 (CD7.1, document 13 of our joint "Case Against Ballater H1") on page 66 at section 5.2.2 describes Ballater as a main settlement, not a strategic settlement, although the Park Plan on page 66 states that the main settlements all play a strategic role in the wider region, including being "centres for visitors coming into the Park". In this connection Ballater is a gateway to a neighbouring national scenic area and its appearance should be in keeping with its surroundings.

The fact that it is the largest village in the eastern side of the National Park does not qualify it as the "proper location for allocations to contribute to the future housing needs of the area" – quite the opposite argument could be made. Expansion of Ballater on the scale proposed by the CNPA is a geographically and socially difficult prospect, to the extent that another locus of such attention must be sought.

Nor does the Park Plan of 2007 favour the CNPA's suggestion that, because Ballater is the largest village in the eastern side of the Park, it is "the proper location for allocations to contribute to the future housing needs of the area." What the Park Plan of 2007 says at b) on page 67 is that there should be proactive provision to focus settlement growth in the main settlements and planning for growth to meet community needs in other settlements. The reason given for focusing growth in the main settlements is that they

are presumed to have the greatest range of existing services and infrastructure which can best accommodate increased growth in a sustainable way. The new village proposed for Ballater H1 would need its own infrastructure. Moreover, the remarks in the Park Plan of 2007 were made in the context stated on page 66 that there is likely to be a “small growth in population” in the Park as a whole of 600 people between 2006 and 2016.

Topic Paper 3. Comments on Topic Paper 3 (“Approach to Housing Land Supply and Affordable Housing”) are as follows:

- Paragraphs 4), 6) include comments that are indicative of commitments to focusing affordable housing supply on the needs of local people. However, the wording of the DLP is far less promising – paragraph 5.48 states, rather weakly: “The National Park Authority will continue to work with the relevant organisations within the Park to develop their allocations policies to ensure they are as responsive to the needs of individuals and communities in the Park as possible”. The CNPA should explain why there has been such an apparent weakening of its position on this point.
- Paragraph 35 states that Upper Deeside has over 200 second homes. Document 26b of our joint “Case Against Ballater H1” shows that, as of 4th February 2008, in Ballater alone, there were 4 second homes plus 246 holiday homes. The CNPA are therefore significantly understating the problem of vacant property in Ballater.
- Paragraph 44 states that, “the projected level of new supply would have to be fully devoted to affordable housing to meet the backlog of need and newly arising need. This is obviously unrealistic...”. This last statement should be challenged and the CNPA should be required to justify it.
- Paragraph 49 states that GROS data on fertility, mortality and migration are more up to date than data used by Manchester University study into population and household projections. It is questionable why the more updated data on factors so critical as these were not used.
- Paragraph 53 states that the Draft Local Plan published in October 2005 did not represent the formal views of the authority as the CNPA wished to consult further before taking a position on any of the issues. The CNPA should explain fully who it was they wished to consult and what feedback they received, because the results of this further consultation evidently led to a far less acceptable version of the plan from the public perspective.
- Paragraph 54 indicates the CNPA intended to give consideration to “the possibility of restricting occupancy of some housing...”. The CNPA should explain why its position on this point has apparently weakened so much – see also comments on paragraphs 4 and 6 above.

- Paragraph 61 states that, on 19th May 2006, the CNPA Board approved numerous measures as a basis for further work and consultations, including “The principle of intervention in the housing market to achieve more sustainable communities”. Paragraph 86 states that such an approach was criticised, for a number of reasons, including “It would distort the housing market within the National Park and relative to surrounding areas”. The justification for this apparent *volt-face* should be revealed by the CNPA.
- Paragraph 64 states that the National Park aims are to be collectively achieved in a co-ordinated way, whereas Policy 1 on page 14 of the DLP states that, in the event of conflict, the first aim should predominate. This inconsistency is likely to have a direct and unpredictable bearing on CNP decisions on housing issues.
- Paragraphs 74, 76 reveal that GROS data gave significantly different predictions of household and population changes from the Manchester University data for the period 2006-2016, and (see comment on paragraph 49 above), the GROS data were more up to date, but were not used because they were not available until after the Local Plan had been prepared and put on deposit. The CNPA should re-run the predictions and have them independently audited, using the more up to date GROS data, to give a more reliable (and lower) prediction of household numbers, as the current numbers are evidently very significantly over-inflated and the results have a bearing on Ballater H1 allocation.
- Paragraph 86 gives several reasons for not restricting the market by only permitting housing to be occupied by those living in the National Park. The discussion should be re-opened for public debate, as the reasons given are all potentially spurious, or irrelevant.

Housing Needs. The CNPA states that “The most recent analysis indicates a need in Upper Deeside for 29 affordable houses a year. Between Ballater and Braemar the plan provides for 130 housing units total in the plan period to meet the needs of the growing number of households, to contribute to the affordable housing requirement and to ensure a long term demographically balanced community in Ballater.” Of these 130 housing units, 90 are intended for Ballater. The plan is based largely upon population and household predictions produced by the University of Manchester (CD7.10, document 14 in our joint “Case Against Ballater H1”), that state, at page 6, there will be a net inward migration of people in the 40-60 age range in the period 2001-2025 and an efflux of younger people, as if both trends were unstoppable. On this basis, the Local Plan proposes to allocate land for 250 houses over, say the next 12-15 years, of which perhaps 25% will be affordable, which could encourage some young people to move to or stay in Ballater. Along with these affordable houses will be 75% open market houses that are likely to be bought by older people, who do not require any encouragement to come here and, moreover, whose arrival in such numbers is going to disrupt the very

demographic balance that the CNPA are trying to engineer. If the goal is indeed a demographic balance, along with an increase in the availability of affordable housing, then the proposal for the development of Ballater H1 is a total failure.

In paragraph 7 of Planning Paper 5, 7th May 2004 (document 42 of our joint “Case Against Ballater H1”), the CNPA acknowledged: “The CNPA considers that housing, in particular to provision of affordable housing, is the most serious and intractable problem that it has to deal with”. Today, the CNPA acknowledges a need for 29 affordable houses annually in Upper De eside, where it plans a total of 130 units, with around 25 per cent affordable, over the Plan period (nominally 5 years) thereby yielding around 6 homes per year against an annual need for 29 (ie 20%). Thus, the CNPA have a Plan that delivers only 20 per cent of the required number of affordable homes. The reason for this failure of the CNPA proposals is that, with only a 25% yield of affordable housing in the private development, even after the pillaging of Ballater, there would be very little to offer as relief to those in need of affordable housing. There would, however, be severe aggravation of the problem of vacant homes, which the CNPA, paradoxically, have described in the overall housing context as follows in paragraph 12 of document 21 in our joint “Case Against Ballater H1” (CNPA Planning Paper 5 Consultation Draft 010705 26th June 2005): “...the lack of affordable housing was the main concern in every community in the Park, along with concern at the impact of second homes and the view that the scale of development in recent years was disproportionate to the size of settlements.”

The right strategy, which the CNPA have entertained in the past but, for some dubious reason, appear to have abandoned, would be to identify small to medium sized packages of land and/or previously used buildings that are distributed in and around the village, for development as totally affordable housing. A number of small sites were proposed in the draft consultative plan of October 2005 (CD6.9) on pages 113 and 114. These could be complemented by acquisition of parcels of surplus land from the Forestry Commission for small rural developments. Indeed, there are several generic concepts (described in document 40 of our joint “Case Against Ballater H1”) that could be used to create greater numbers of affordable houses than the CNPA proposals for the development of H1, without the attendant problems of the proliferation of vacant properties and over-development of this small settlement.

Scottish Enterprise Grampian. The CNPA statement of case states: “It is noted that Scottish Enterprise Grampian, although their objection has since been withdrawn, were concerned that the allocations were not sufficient and are of the view that **employment follows housing**”. This view: a) is a mis-quotation; the CNPA have altered the words to favour their case; b) the sentiment “employment follows housing” is nonsense; c) as

part of a withdrawn objection, this comment is rendered inadmissible and the reporters should surely ignore it and d) the CNPA should not be quoting, or rather mis-quoting a comment that is inadmissible. The reporters should criticise the CNPA for publishing it, especially as the CNPA have littered their statement of case document with this piece of “evidence” no less than 7 times. Government policy in paragraph 16 of SPP15 (CD2.11, document 1 of our joint “Case Against Ballater H1”) recommends that development plans should identify areas where housing and business plans can be advanced together. That paragraph clearly does not assume that the building of houses will normally bring employment for the occupants.

Aberdeenshire Local Plan. The CNPA refers to the provision in the Aberdeenshire Local Plan of 2006 affecting the land now in H1. In fact, it can be seen from pages 306 and 340 of that Local Plan (CD6.5) that the area affecting H1 was an area of search. It was the CNPA’s own consultative draft plan of October 2005 (CD6.9) that, at page 114, showed some of what is now H1 as a long term site for future housing **for the next Local Plan to consider in detail.**

The Cairngorms Landscape Capacity for Housing Study 2005. This CNPA core document CD7.19 is cited as a source of guidance on the H1 allocation proposal. It offers the following statements on development constraints and opportunities (quoted in full below):

1. “Development within the Contained Fields offers the opportunity for relatively dense pattern of housing within a contained site which is readily accessible to the school, playing field and the centre of town.
2. Woodland should be extended along the northern boundary of the site, and this could provide a strategically important link between Craigendarroch wood, the open space of the elevated grassland, the new planting adjacent to recent development to the east, and the River Dee, providing a strong settlement boundary along this northern side of the settlement.
3. Only the Contained Fields local character area was identified as appropriate for development. Development here was limited to the elevated land which lies adjacent to the playing field, which is well contained by the fabric of the existing settlement, and offers the opportunity to create a new settlement boundary where a clear change in gradient forms a bank across the adjacent field.
4. Settlement expansion across the Cultivated Farmland is severely constrained by the importance of this area, both in terms of its openness and its managed character, which contrasts with the enclosure of the surrounding hills, and the semi natural character of much of Deeside. Further development in this area also elongates the town and extends it away from its historic core and would feel increasingly perceptually detached from the settlement. Development would also

be highly visible, in particular intruding in views along the length of the strath from the north.

5. Development within the Elevated Grassland is limited by the distinctiveness and attractiveness of the character of this small but locally significant area. The parkland quality contributes to the setting of the Monaltrie House and offers a contrast to other character types within the immediate locality.”

The area of land proposed as suitable for development by this CNPA study report is approximately 3 hectares, to the north east of Monaltrie Park. Although the CNPA quote this report no less than 7 times in their statement of case, its recommendations have been completely flouted in the CNPA’s current Local Plan, which now shows more than 16 hectares of farm land for development, a more than five-fold increase. Despite the fact that the Ballater community has stated its unequivocal desire to have this entire area retained for recreational / community use, by the majority of the population giving its support to a petition (discussed below) the CNPA should be requested to provide justification for this increase in development land allocation.

Prince’s Foundation - Enquiry by Design (community consultation). According to individuals who represented some of the “stakeholder” organisations in the Prince’s Foundation workshop in 2006, there was only minimal involvement by members of the community.

If the reference to the Prince’s Foundation work is intended to demonstrate consultation with the community, it would appear to deal with process which the reporters have decided should not be considered. If the reference is intended to suggest that the community support the proposal for Ballater H1, that is shown not to be so by the petition against the proposed allocation of H1 (document 4 of our joint “Case Against Ballater H1”), that has now been signed by more than 50 per cent of the population of Ballater, including more than 80 per cent of those residents who have been approached.

On the critical issue of housing, in particular that of affordable housing for local people, the petition represents the most comprehensive piece of consultation conducted, that has yielded the most potent and explicit expression of the views of the Ballater community. Specifically, the petition requests the following of the CNPA:

“The Deposit Cairngorms National Park Local Plan indicates allocation of land north east of Monaltrie Park, Ballater, for 250 new houses. This land should be reserved for recreational / community use. We, the undersigned, require the CNPA to remove this area of land from the housing allocation and eliminate the proposal for 250 new houses

in Ballater from the Deposit Local Plan. We request a realistic assessment of the needs of local people for affordable housing and the best means of meeting those needs.”

8.2 Impact on Tourism. In response to the CNPA’s assertion that development of site H1 accords with the aims of the Park and will maintain the character of the village for tourists, it is clear that what the Prince’s Foundation proposes is that the new village will have a similar appearance and layout to the existing village. This can be seen from pages 12 to 15 of the summary report (CD8.8). In other words, the new village would be a kind of clone of the old. Nevertheless, such a large development in such a narrow strath would change the balance between the built up area and the circle of hills and the country side. In a setting of such a small scale, the village would be obtrusive in size and activity. Tourists would find the whole village, old and new, to be a different village. The new village would suburbanise the strath, contrary to the policy in paragraph 8 of SPP15 (CD2.11, document 1 of our “Case Against Ballater H1”).

8.4 Conformity with NEST. The CNPA asserts that the DLP is in general conformity with NEST (CD6.1, document 8 in our joint “Case Against Ballater H1”). As NEST states on page 344 that houses to be granted planning permissions from January 2006 to December 2010 are to be in developments on a small scale, it is difficult to see how the 90 houses on Ballater H1 could be in conformity with NEST. In any event, section 17(3) of the Town and Country Planning (Scotland) Act 1997 (CD1.1, document 7 in our joint “Case Against Ballater H1”) in the form in which it has effect for the purposes of the DLP under the transitional regulations (CD1.7, document 46 in our joint “Case Against Ballater H1”), is not satisfied by general conformity with the structure plan; it prohibits adoption of any plan or proposals which do not conform to the structure plan. Moreover, paragraph 64 of SPP3 of 2003 (CD 2.4, document 18 of our joint “Case Against Ballater H1”) states that local plans must conform to the structure plan. Thus the DLP was prepared in breach of that circular even if the structure plan NEST is replaced at some future date. Moreover the CNPA, in paragraphs 14 and 17 of their Topic Paper: Approach to Housing Land Supply and Affordable Housing, accept that SPP3 of 2003 applies to this DLP as modified despite the promulgation of SPP3 of 2008.

So far as NEST structure plan applies to the Cairngorms National Park it is not in the course of being replaced since the new Aberdeen City and Aberdeenshire structure plan does not apply to the Cairngorms National Park. The advertisement in the Press and Journal of Friday 27th February 2009 stated that the finalised Aberdeen City and Aberdeenshire (excluding the Cairngorms National Park area) structure plan had been submitted to Scottish ministers for their approval. Therefore under article 2 of the Planning etc (Scotland) Act 2006 (Development Planning) (Saving Transitional and Consequential Provisions) Order 2008 (CD1.7, document 46 of our joint “Case Against

Ballater H1”), section 9 and certain other provisions of the Town and Country Planning (Scotland) Act 1997 (CD 1.1, document 7 of our joint “Case Against Ballater H1”) apply for the purposes of the new structure plan as they had effect immediately before 28th February 2009. By the title and the plan on the page of contents the new finalised structure plan does not relate to the part of Aberdeenshire in the Cairngorms National Park and therefore NEST will remain in force so far as it covers the national park until duly replaced under the Planning etc (Scotland) Act 2006 (CD1.2, document 46 of our joint “Case Against Ballater H1”).

8.18 Flood Risk. The CNPA acknowledge that part of the site H1 lies within SEPA’s indicative flood risk area.

SPP7 states that “the potential of land to flood should be considered during the preparation of every development plan”. Despite the fact that the SEPA flood maps indicate that most of Site H1 is affected by the 1 in 200 year flood, it was designated for housing.

An FRA which was submitted to SEPA in September 2008 was rejected on the grounds that various material factors had not been considered. The FRA was revised and re-submitted to SEPA in February 2009. It indicated that only a small area of the site would be affected by the 1 in 200 year flood.

Ballater (RD) Ltd is currently in debate with SEPA with regard to the revised FRA. A similar study was carried out in connection with the development of the former Monaltrie Hotel which is located approximately 600m upstream of Site H1. The predicted 1 in 200 year flood level here was some 4.25m higher than the level indicated in the Site H1 assessment. This large discrepancy cannot be ascribed to hydraulic gradient alone. Further, the SEPA flood maps appear to indicate that the 1 in 200 year flood level at Site H1 is at least 2.5m above the level indicated in the revised FRA.

Clearly there are questions regarding the accuracy of the revised FRA. Site H1 should not be designated for housing until it can be accurately demonstrated that it is not affected by the 1 in 200 year flood.