

<b>Date:</b>			
<b>Issue:</b>	<b>Policy 7 - Landscape</b>		
<b>Objector(s):</b>	Muir Homes	<b>Objection ref(s):</b>	038f
	The Proprietors of Mar Centre		394e
	Badenoch and Strathspey Conservation Group		400f(g)
	Scottish Council for National Parks		434e
	Scottish and Southern Energy Plc		447d
	Glenmore Properties Ltd		453d
	Reidhaven Estate		456s
	Victor Jordan		537b

<b>Reporter</b>	Mr Hugh Begg
<b>Procedure</b>	Informal hearing

## 1.0 Overview

- 1.1 This statement sets out the Cairngorms National Park Authority response to the objections raised to the Deposit Local Plan as modified in respect of Policy 7: Landscape, and supplements the response made to those objections by the Cairngorms National Park Authority in its report to Committee (CD7.3,4 and 5). It suggests a further modification is made to the Plan in respect of this policy to clarify the way in which the policy will be implemented to assess all forms of development within the National Park.

## 2.0 Provision of the Local Plan:

- 2.1 Policy 7 within the Deposit Local Plan as modified gives policy guidance on how development proposals will be assessed against the impact they have on the landscape character of the National Park. During the current transitional arrangements set out in the Planning etc. (Scotland) Act 2006 (Development Planning) (Saving, Transitional and Consequential Provisions) Order 2008, the policy is intended to provide an appropriate level of guidance to meet the requirements of SPPI (CD2.2 para 37-38) and Scottish Planning Policy (CD2.1 para 15-18) and ensure that applications for development within the National Park adequately consider the impact that development will have on the landscape within the Park.
- 2.2 The Policy has been modified in the 1<sup>st</sup> modifications to the Deposit Local Plan to clarify the role the policy has in regard to the consideration of all development proposals and the impact they make to the landscape character of the National Park. The modifications also include clarification on occasions when the first paragraph and its standards may not be imposed. The Policy relates to all development proposals within the National Park.
- 2.3 In considering the objections, modifications made to the policy, and how the policy will be implemented on adoption, it is now considered that the 2<sup>nd</sup> paragraph does not adequately allow for the proper assessment of all scales of development, and as included within the modified policy, refers only to those with a significant adverse effect. The wording does not therefore allow for a criterion based assessment of those developments with less than a significant adverse effect. This is not considered acceptable or to fall into line with the requirements of PAN 49 (CD4.6 Annex 2 General Approach, page 25), and a change is therefore proposed to rectify this.

### **Paragraph 2:**

*Development that would have any adverse effect on the landscape character of the Park, including its distinctive landscape features, scenic qualities, natural beauty, amenity, historic landscape elements or qualities of wildness will only be permitted where:*

- *there is no better alternative solution; and*
- *all the adverse effects have been mitigated through appropriate siting, layout, design and construction to remove any significance to the satisfaction of the local planning authority*

This is an officer recommendation which has not been endorsed by the CNPA Board.

## **3.0 Summary of objection(s)**

3.1 Eight objections raising twelve issues have been lodged to this policy and wish to have their objections considered by informal hearing:

- Since any development may be considered to have a negative landscape impact the policy is negative, setting a standard for development that is unattainable and overly restrictive. The wording should be modified to allow minimal or neutral impact on the landscape. **(038f, 394e, 447d, 453d, 456s)**
- Paragraphs 1 and 2 are contradictory in that it implies that development ‘will’ be permitted, and sets criteria which undermine Paragraph 2. The wording appears as a list and should be included as a set of examples, so as not to imply a definitive set of considerations. **(400f(g), 434e)**
- The policy should ensure a better balance between conservation in the landscape and economic viability **(447d, 453d)**
- The wording is open to subjectivity, for example what is meant by ‘wildness’ and ‘mitigation’. The consultative Draft Plan set a guide of land above 400m and this level of clarity should be reinstated. The policy should be modified to refer only to significant adverse effects. **(447d, 453d)**
- The policy refers to but does not set out what the special qualities of the Park are. **(447d)**
- The wording gives no clarity to direct development, and is therefore contrary to SPPI, PAN 49 and SPPI5. The wording is open to interpretation in its implementation. The term ‘wildness’ should therefore be removed. **(434e, 447d)**
- The sum of patterns and buildings of human development should not be referred to; ‘sum’ should therefore be replaced with ‘some’. **(400f(g))**
- The issue of dark skies should be raised with The Highland Council as roads authority who set the lighting standards for roads requirements. **(038f)**
- The requirement for mitigation is unreasonable and the reference to ‘significant’ should therefore be removed. **(447d)**
- The background text leaves the use of additional information ambiguous, such as the precise nature of the ‘landscape framework’. **(400f(g), 537b)**
- The wording does not clarify how it will be implemented and monitored. **(453d)**
- The policy does not mention permitted development rights or control of vehicle tracks, as had been included in the Consultative Draft Plan. These should be reinstated. **(400f(g), 434e)**

## **4.0 Summary of Cairngorms National Park Authority Response**

- The modification above is considered to address the objections of **038f, 394e, 400f(g), 434e, 447d, 453d, 456s.**
- Tone of wording – the revised wording has been developed to ensure appropriate account is taken of the aims of the Park, together with planning policy, both national and local, and other material considerations, and to clarify what steps must be taken to ensure compliance with the

policy. The policy is not considered deficient in this regard. **(038f, 394e, 434e, 447d, 453d, 456s)**

- Impact of all development on the landscape - it is important that proposals are worked up in a way to ensure that the policies of the plan, the aims of the Park and other material considerations which may be important are properly considered. The 1<sup>st</sup> aim of the Park establishes a presumption in favour of conserving and enhancing the natural and cultural heritage of the area. The wording does not refer to an option being selected between conservation or enhancement, or any neutral effect being considered. The wording of the policy is considered appropriate in the 1<sup>st</sup> paragraph. **(038f, 394e, 447d, 453d, 456s)**
- Balance between conservation and economic viability - the Plan and its policies must be considered in their entirety. The impact of the aims of the Park must also be included in the consideration of the proposal. It is therefore considered that the policy allows for a balanced decision making process that does not preclude nor support either aspect over the other. **(447d, 453d)**
- Wildness - 1<sup>st</sup> modifications to the supporting text included additional text relating to wildness, and its consideration in the planning process, in particular through additional work being undertaken by Cairngorms National Park Authority on defining and mapping wildness. **(CPX)** Together with this, additional information will inform the policy, included in para 4.43 and this information will be available during the decision making process. The policy, in that regard is not ambiguous or deficient. **(434e, 447d)**
- Permitted developments and forestry and agriculture developments – these issues are considered under other legislation and guidance and do not come forward for consideration through the local plan. No deficiency or change is therefore identified. **(400f(g), 434e)**
- Dark skies and vehicle tracks – development proposals will be considered against all policies of the plan, and there is not a need to include separate policy guidance. The Local Plan contains appropriate policies to assess applications affecting dark skies, and vehicle tracks and is not therefore deficient. **(038f, 400f(g), 434e)**
- Background and supporting documents - Throughout the local plan, reference is made to supporting documents and other material to which developers and decision makers should refer in the consideration of proposals, and this list includes the landscape framework which will be available as required. The reference is considered to add clarity and is not therefore considered unclear or deficient. **(537b)**
- Supporting text – paragraph 4.38 refers to the variety of forms which make up the landscapes of the Park, which are recognised for their special qualities, and the sentence is not considered therefore to be erroneous. **(400f(g))**
- Special Qualities - The issue of special qualities are considered in CD7.22 and is supplemented by additional ongoing work to provide a professional assessment of the special qualities. The Policy is therefore not considered deficient or ambiguous. **(447d)**

## **5.0 CNPA Commendation to Reporter**

- 5.1 It is commended to the Reporter that the objections to the issues as listed above are rejected, subject to the inclusion of the further modification above, which is proposed to reflect the need to ensure the policy allows for the full and consistent assessment of all planning applications within the National Park.

## 6.0 Assessment / Scope of Evidence

- 6.1 **456s** objects to the requirement for all development to make a positive contribution to the landscape character, since any development is likely to have an impact of some kind.
- 6.2 **Response:** The objection proposes a modification to delete the 1<sup>st</sup> paragraph of the policy and made reference to development seeking to minimise any impact on landscape character and improve where possible.
- 6.3 The 1<sup>st</sup> aim of the Park established by the National parks (Scotland) Act 2000 (CD7.1) is to conserve and enhance the natural and cultural heritage of the area. The policy drafted creates a link between this aim and the local plan, and clarifies the requirement to conserve and enhance. In looking at the impact of development on landscape to achieve this conservation and enhancement, a neutral impact would not be adequate. Enhancement should be sought with all developments to achieve the 1<sup>st</sup> aim. Minimal or neutral impacts would not achieve this. The proposed modification put forward by the objector would therefore be insufficient.
- 6.4 **394e** also objects to the presumption against development that does not make a positive contribution, and the modification sought is the removal of the presumption against development as set out in the 1<sup>st</sup> paragraph. The argument remains as above. The objector also considers the 1<sup>st</sup> paragraph is at odds with the 2<sup>nd</sup> paragraph and the provisions of a) and b). No modification is suggested by the objector.
- 6.5 The wording as modified for consideration by the Inquiry is now considered to create appropriate wording to allow the consideration of all forms and scales of development, and is now not contradictory, since the 1<sup>st</sup> paragraph presumes against, but does not preclude certain forms of development, and the 2<sup>nd</sup> paragraph sets out criteria against which proposals will be assessed where they do not fall within the 1<sup>st</sup> paragraph. The modification put forward for consideration by the Inquiry is therefore intended to address this issue.
- 6.6 **038f** also objects to the presumption against development that does not make a positive contribution, and the modification sought is the removal of the presumption against development as set out in the 1<sup>st</sup> paragraph. The argument and support for the policy remains as above.
- 6.7 The objector also raises the issue of road lighting standards impacting on dark skies across the Park. The issue is raised as a comment and the National Park Authority will continue to work closely with the roads authorities to bring various standards set in line with local plan policies. No change to the policy is considered necessary as a result of this comment.
- 6.8 **026b/ c** objects to the use of the term wildness, as it appears unclear, ambiguous, and therefore contrary to the requirements of PAN 49 (CD4.6). The reference to wildness is also considered open ended, allowing for a broad brush application of the policy to refuse otherwise acceptable developments, in conflict with the spirit and aims of SPPI5. The objector seeks the deletion of the term.
- 6.9 **Response:** The Cairngorms National Park Authority has undertaken a Park wide study to map and analyse wildness, and this will form the baseline information for the forthcoming policy on wildness and wildland. The term wildness is defined within SNH's policy statement (CD8.5) and we have adopted the same meaning. Our baseline study analyses the components of wildness in order to reduce subjectivity.

- 6.10 The obligation to consider wildland within the Local Plan is confirmed in NPPG14 (Para 71) (CD3.2). The wording of the policy and the supporting text is not therefore considered to be contrary to PAN 49 and gives an appropriate level of guidance to developers.
- 6.11 The objector also objects to the presumption against development that does not make a positive contribution, considering the policy contrary to SPPI5 (CD2.11) which sets out the Scottish Executive's aspirations for healthy rural economy and the need for appropriate rural development.
- 6.12 **Response:** SPPI5 in paragraph 29 (CD2.11) sets out clearly that within National Parks, the four aims of the Park should be achieved, and it is the responsibility of the National Park Authority to ensure this. The 1<sup>st</sup> aim of the Park established by the National parks (Scotland) Act 2000 (CD1.3) is to conserve and enhance the natural and cultural heritage of the area. The policy as set out creates a link between this aim and the local plan, and clarifies the requirement to conserve and enhance. In particular reference to the impact of development on landscape, to achieve this conservation and enhancement, a neutral impact, as proposed by the objector, would not be adequate. Enhancement should be sought with all developments to achieve the 1<sup>st</sup> aim, and minimal or neutral impacts would not achieve this. The proposed modification put forward by the objector would therefore be insufficient.
- 6.13 **434e** considers the wording of the 1<sup>st</sup> paragraph contradictory to developments as they are seen on the ground, and in the approach taken by the plan to allocate land for housing on open ground. The wording is not considered as firm as the policy from the consultative draft plan, and the removal of the previous proposal regarding permitted development will not help in implementation.
- 6.14 **Response:** The policy, and plan as a whole are intended to set a benchmark for development standards within the National Park which exceed present standards attained under the current adopted local plans. The policies will apply to all developments including those on allocated land and this policy is therefore considered appropriate to set this improved standard. The comment regarding the policy from the consultative draft is noted as such, as is the comment regarding the issue of permitted development, which as a normal part of the planning process can be dealt with without the need for a proposal in the local plan. No change is therefore suggested as a result of this objection
- 6.15 **447d** objects on the grounds that it does not provide adequate directional guidance for developers and is contrary therefore to SPPI (CD2.2). In particular without a definition of the special qualities of the Park, the policy is unclear and difficult to interpret.
- 6.16 **Response:** The arguments relating to the special qualities of the Park are set out in Topic Paper 2 (CD7.22) and are not therefore repeated. With this in mind, the policy is not considered inadequate. SPPI in paragraph 4 (CD2.2) states that 'planning is about where development should happen, where it should not and how it interacts with the surroundings'. The policy is intended to comply with this, stating how the impact of development on the landscape of the National Park will be assessed. It is not considered deficient in that regard.
- 6.17 An additional comment regarding the wording of the 2<sup>nd</sup> paragraph with proposed changes relating to 'significant' which should relate only to b), the removal of 'and' between a) and b) as if a) is met, there should be no need to mitigate, and reference to the 'satisfaction of the planning

authority' should be removed, as only appropriate mitigation should be sought. The further modification above is intended in part to address this objection. However the proposed changes would result in developments being considered appropriate which had an adverse impact on the landscape character but where there is no alternative. This change would be insufficient to meet the terms of the 1<sup>st</sup> aim of the Park. The wording regarding the need for the Planning Authority to be satisfied on the issue of mitigation is intended to add clarity, ensuring that developers are clear on who must be satisfied, rather than leaving this open to interpretation.

6.18 **400f(g)** objects to the use of 'will' within the policy considering this as an indication of a bypass of the planning system. They also consider the 1<sup>st</sup> paragraph is at odds with the 2<sup>nd</sup> paragraph and the provisions of a) and b). Mention is made of wording previously deleted by the 1<sup>st</sup> modifications. In b) the list provided should not be exhaustive but indicative and wording clarified to this effect. In terms of the supporting text, the objection refers to suggested wording which has already been included within paragraph 4.38. The policy in total should be reviewed in light of the new report by Scottish Landscape Forum. No modification is suggested by the objector.

6.19 **Response:** In considering the issues raised, the policy does not imply any bypass of due process in the consideration of applications, and paragraph 1.20 of the Plan states clearly how the plan will be implemented, taking into consideration all policies relevant to the proposal. The wording of the 1<sup>st</sup> and 2<sup>nd</sup> paragraphs of the policy is not considered contradictory as the 1<sup>st</sup> paragraph presumes against, but does not preclude certain forms of development, and the 2<sup>nd</sup> paragraph sets out criteria against which proposals will be assessed where they do not fall within the 1<sup>st</sup> paragraph.

6.20 The further comment made regarding the supporting text relates to the 'sum' of activities considered to make up the landscape. The wording in paragraph 4.38 refers to the variety of forms which make up the landscapes of the Park, which are recognised for their special qualities. The objector proposes the word 'some' but the sentence is not considered to be erroneous and no change is suggested.

6.21 **537b** questions the reference to the landscape framework.

6.22 **Response:** Throughout the local plan, reference is made to supporting documents and other material to which developers and decision makers should refer in the consideration of proposals, and this list includes the landscape framework which will be available as required. The reference is considered to add clarity and is not therefore considered unclear or deficient.

## 7.0 Strategic Issues

7.1 The experience of wildness is a perceptual quality that is of particular importance to the Cairngorms National Park. The quality is recognised within the National Park Plan (CD7.1). In the section 3.2 (Special Qualities) under Mountains, it states that "the visitor seeks out the wild land experience at its best". The special qualities for recreation and enjoyment also recognises that "the wildness of the plateau has attracted visitors for centuries, each seeking the tranquillity, inspiration and spiritual renewal that the mountains provide". It goes on to explain that "Despite the scale of the landscape, opportunities for most to experience wildness are relatively accessible."

7.2 However it is not just within the mountains that the experience of wildness can be found. The National Park Plan Strategic Objectives (CD7.1 page 38, 5.1.2b) specifically address wildness: “Conserve and enhance the sense of wildness in the montane area and other parts of the Park”. “Large areas of the Park, not restricted to the montane area, are valued for their innate qualities and the experience of wildness that many people come to the area to enjoy. This sense of wildness and quiet enjoyment should be safeguarded from encroachment by human infrastructure, inappropriate activities or insensitive management and use”.

## **8.0 Other considerations**

8.1 The Cairngorms National Park Authority is currently working on a joint project with SNH and Loch Lomond and the Trossachs National Park to take previous assessment methodology regarding special qualities used in National Scenic Areas and applying it to both National Parks. This will go beyond work previously done to assess the National Scenic Areas found within the Parks. This work will give a professional assessment of the special qualities. This work is being undertaken in April/May 2009 and will inform both the Local Plan on adoption, and also the additional work being undertaken for the Landscape Framework to be consulted on and adopted as supplementary planning guidance.

## **9.0 List of documents (including Core Documents)**

- CD1.3 The National Parks (Scotland) Act 2000
- CD2.1 Scottish Planning Policy 2008 Parts 1 and 2
- CD2.2 SPPI The Planning System
- CD2.11 SPPI5 Planning for Rural Development
- CD4.6 PAN49 Local Planning
- CD7.1 Cairngorms National Park Plan 2007
- CD7.3 CNPA Committee Report Consultation May 2008
- CD7.4 CNPA Committee Report 1<sup>st</sup> Modifications October 2008
- CD7.5 CNPA Committee Report 2<sup>nd</sup> Modifications February 2009
- CD7.20 Wildness in the Cairngorms National Park University of Leeds March 2008
- CD7.22 Topic Paper 2 The Special Qualities of the Cairngorms National Park
- CD8.4 European landscape convention Florence 20.10.2000
- CD8.5 Wildness in Scotland’s countryside, policy statement 02/03

## **10.0 Cairngorms National Park Authority Witnesses for Informal Hearing**

- Karen Major – Local Plan/Policy Officer
- Matthew Hawkins – Landscape Advisor