

Date:			
Issue:	Policy 34 Outdoor Access		
Objector(s):	James and Evelyn Sunley	Objection ref(s):	056r
	Badenoch and Strathspey Conservation Group		400h(b)
	Scottish Council for National Parks		434m
Reporter	Mrs Jill Moody		
Procedure	Informal Hearing		

1.0 Overview

1.1 This statement sets out the CNPA's position in relation to objections raised to the Deposit Local Plan, as modified, in respect of Policy 34 Outdoor Access and supplements the response made to those objections by the CNPA in its report to Committee (CD7.3, 4 and 5). It recommends no further modification is made to the Plan in respect of this policy.

2.0 Provision of the Local Plan

2.1 Policy 34 encourages development which improves opportunities for responsible outdoor access. Any development must adhere to the Cairngorms Outdoor Access Strategy and will also be required to be consistent with the Scottish Outdoor Access Code and the Cairngorms National Park Core Paths Plan.

2.2 Development proposals which would result in a reduction of public access rights, or loss of linear access (such as core paths, rights of way, or other paths and informal recreation areas, or loss of access to inland water) will only be permitted in instances where an appropriate or improved alternative access solution can be secured to the satisfaction of the planning and access authorities.

2.3 The policy is intended to assess the impact of proposals on outdoor access opportunities, in doing so it reflects the 3rd aim of the National Park: to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and also ensures that the requirements of the Land Reform (Scotland) Act 2003 are taken into account, which applies a right of responsible access to almost all land and water within the National Park.

2.4 The Policy has been modified in the 1st modifications of the Deposit Local Plan with additional and altered wording, to draw in reference to the Scottish Outdoor Access Code, and the Core Paths Plan. Other changes include the substitution of wording 'significant loss' to read 'a reduction.'

3.0 Summary of Objection(s)

3.1 The 3 objections to Policy 34 cover the following issues:

- A road should be created between Braemar through Glen Feshie and on to Kingussie to link both sides of the Park to improve access. **056r**
- The tone of the policy is too permissive and implies bypassing the planning process in parts. Object to the absence of reference to impact on natural and cultural heritage in these policies. **400h(b)**

- The requirements associated with this policy may be problematic to implement, it raises concerns regarding an Open Space Strategy. **434m**

4.0 Summary of Cairngorms National Park Authority Response

- 4.1 Policy 34 Outdoor Access seeks to protect and promote public access rights, including proposed and adopted core paths, wider path networks and rights of way. It reflects the desire to maintain and enhance the international reputation of the Cairngorms National Park for outdoor access and recreation, whilst recognising the need for protecting its special qualities and promoting responsible behaviour.
- 4.2 The policy was modified as part of the 1st Modifications to incorporate further references to ensure it is clear, reasonable and will deliver the aims as intended. The policy should be read in conjunction with the other policies in the plan, in particular those regarding natural and cultural heritage and with the relevant policies in the Outdoor Access Strategy which are material considerations in any planning application. Other forms of development associated with access and tourism will be considered under the various other policies of the plan. It is considered that the policy as worded is suitable in that it provides clarity, appropriate levels of guidance and detail. No further modifications are therefore proposed.

5.0 Recommendation

- 5.1 The CNPA recommend that the Reporter reject these objections. The policy looks to assess development proposals against the impact they may have on outdoor access opportunities, in doing so, seeks to protect and promote public access rights. No further modification is considered.

6.0 Assessment / Scope of Evidence

- 6.1 **056r** The writer is firmly of the belief that a public road should be created between the Braemar (Linn of Dee) through Glen Feshie to Kingussie so as to join the East and West sides of the Park. This would do a great deal to unify the Park which as you must be aware is somewhat divided, it also would provide better access and encourage tourists to visit both sides of the Cairngorms. Two thirds of the required road already exists and only require upgrading and the provision of some bridges.
- 6.2 **Response:** The policy is worded to consider applications for development which impact on outdoor access, is not site-specific but broad-based across the area of the Park. It is considered that should such a proposal come forward as mentioned in the representation it would be considered on its merits and judged against this policy and others of the local plan. The feasibility, demand or desire for such a road has not been raised by any other party and is highly unlikely to go forward; it is unlikely to be supported due to the significant impact on landscape, environment, wildness and loss of an important path network. No modification is considered necessary as a result of this representation.
- 6.3 **400h(b)** Policy 34 - Object to “will” be permitted on grounds that this policy appears to bypass the planning process. Object to “proposals will be favourably considered”, “will be permitted”, “will be supported” and similar statements used in these policies as this pre-empts the planning process. Object to the absence of reference to impact on natural and cultural heritage in these policies.

- 6.4 Further comments received to the modifications included: Built development on greenfield sites outwith a curtilage reduces public access. We object to the general lack of acknowledgement of this within the mDLP. Referring specifically to this policy, we object to the lack of qualification for encouraging developments in the first para. It should be made clear that development of outdoor access must take account of impacts on natural heritage e.g. biodiversity and disturbance.
- 6.5 **Response:** The wording of the policy has been revisited to ensure it is reasonable, is not contradictory and will deliver the aims of the policy, which are to protect public access rights, the core path network and wider path network, and other rights of way. The policy should be read in conjunction with the other policies in the plan, in particular those regarding cultural and natural heritage. Additional information has been included to ensure that users of the local plan are clear that all policies must be taken into account in all applications for development; policies are not cross-referenced.
- 6.6 The terms utilised within the policy include 'encouraged,' 'will only be permitted' and other such wording does not assert that planning permission is to be granted by default, or any part of the planning application process bypassed, every application will be assessed on a site-by-site basis and the individual merits evaluated appropriately. The policy expects all development to make a contribution to promoting improved access. It is to be reiterated that all policies of the plan where relevant must be complied with. The impact on natural and cultural heritage would be covered under policies in the 'conserving and enhancing' section. The policy supports improved access, the impact of development on natural heritage will be considered under the policies in the plan relating to natural heritage.
- 6.7 It is not considered that further detail in qualifying the types of development to be encouraged is required; the Local Plan is broad-based and not intended to be prescriptive. No further modifications are therefore proposed.
- 6.8 **434m** Policy 34, on outdoor access, is specific in only allowing development proposals which would result in significant loss of access right if an adequate or improved access solution is also provided. A policy statement to be watched with interest! Para. 6.17 states that the planning authority will work with the relevant local authorities on an open space audit, from which an overall strategy will be developed to guide the future scale and direction of outdoor recreational activities. This is a further space to be watched, this time for adequate implementation.
- 6.9 **Response:** The wording of the policy and the references made to an Open Space Audit/Strategy (found within Policy 36 other open space provision) have been revisited to ensure it is both reasonable, is not contradictory and will deliver the aims of the policy, which are to protect public access rights, the core path network and wider path network, and other rights of way. The wording 'significant loss' has been replaced with 'a reduction' to provide clarity and is considered less onerous. The policy expects all development to make a contribution to promoting improved access or safeguarding existing opportunities.
- 6.10 Work is ongoing to commission an Open Space Audit with subsequent production of both an Open Space Strategy and related Supplementary Planning Guidance on Open Space to follow. It is expected to be put in place to assist with implementation of the plan. The comments are noted. No further modifications are therefore proposed

7.0 Strategic issues

7.1 The National Park Plan 2007 provides a number of strategic objectives based around the enjoyment and understanding of the special qualities of the area; including the promotion of responsible outdoor access and recreation. This aims to encourage high standards of responsible enjoyment of the Park, sustainable management of outdoor access and the protection of more fragile areas. The Park Plan recognises the significant recreational appeal of the Park while realising that special habitats and species may be vulnerable to damage or disturbance, the key challenge is to establish exemplary recreation management practices.

8.0 Other material considerations

8.1 The following are relevant:

- None

9.0 List of documents (in addition to Core Documents)

- CD1.15 The Land Reform (Scotland) Act 2003;
- CD7.13 The Cairngorms Outdoor Access Strategy 2007;
- CD8.6 Scottish Outdoor Access Code;
- CD7.12 Cairngorms National Park Core Paths Plan
- CD7.3 CNPA Committee Report Deposit Local Plan May 2007
- CD7.4 CNPA Committee Report 1st Modifications October 2008
- CD7.5 CNPA Committee Report 2nd Modifications February 2009

10.0 Cairngorms National Park Authority Witnesses for Formal Hearing

- Robert Grant – Planning Officer