

<b>Date :</b>		
<b>Issue:</b>	<b>Proposal sites AV/H2 and AV/H3, Dalfaber, Aviemore.</b>	
<b>Objector(s):</b>	Martin Reed, Dalfaber Action Group	<b>Objection ref(s):</b> 126a, 126b

<b>Reporter</b>	Mrs. Jill Moody
<b>Procedure</b>	Written Representation

## 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 proposal sites AV/H2 and AV/H3 at Dalfaber, Aviemore, and supplements the response made to those objections by the Cairngorms National Park Authority in its report to Committee (CD 7.3, 7.4 and 7.5).

## 2.0 Provision of Local Plan

2.1 The Cairngorms National Park Deposit Local Plan proposes sites AV/H2 and AV/H3 in Dalfaber, Aviemore for housing. The Plan clarifies that as a combined site these have an outstanding outline planning permission for up to 104 dwellings.

2.2 In addition, the text associated with proposal site AV/H2 notes that a further outline planning application is with the National Park Authority for the development of the 1.7Ha. site. Similarly reference is made in the text to the outline planning application with the National Park Authority for the development of the 5.5Ha. site which is identified as proposal site AV/H3. The text relating to both sites also clarifies the issues that would be considered in the event of applications for approval of reserved matters on the sites.

2.3 Other relevant policies :

Policy 22 – Housing Developments within Settlement Boundaries

Policy 18 - Design Standards for Development

Policy 7 – Landscape

Policy 1 – Development in the Cairngorms National Park

Policy 13 – Water Resources

## 3.0 Summary of Issues Raised

3.1 Two objections have been received raising the following issues –

- Objecting to the allocation of proposal sites AV/H2 (126a) and AV/H3 (126b) on the basis that the allocations would result in an unacceptable loss of amenity and recreational land, that part of the site is within the SEPA 1 in 200 flood plain, that the access route and the associated level crossing is incapable of coping with any further increase in traffic, and that designation of this area for development would be contrary to the aims of the national park (126a and 126b);
- Expressing concern that a ‘blanket approach’ is being taken to the zoning of AV/H3, and also that an area identified as ‘amenity woodland’ in the Badenoch and Strathspey Local Plan is included in the allocation at proposal site AV/H3 (126b).

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

- 4.1 The text associated with proposal sites AV/H2 and AV/H3 was amended in the 1<sup>st</sup> Modifications to reflect the latest position regarding an extant planning permission on the land.

#### 5.0 CNPA Commendation to Reporter

- 5.1 The Cairngorms National Park Authority commend to the Reporter that the objections listed above are rejected and that acceptance of the allocation of proposal sites AV/H2 and AV/H3 for residential development is confirmed.
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#### 6.0 Assessment / Scope of Evidence

- 6.1 As similar points are raised in objection 126a and 126b, in relation to the proposed allocations of AV/H2 and AV/H3 respectively for housing in Dalfaber, Aviemore, the following CNPA response addresses the issues raised collectively, except where it is necessary to include comment specific to either of the proposal sites.
- 6.2 **126a and 126b** : objects to the allocation of proposal sites AV/H2 and AV/H3 on the basis that the allocations would result in an unacceptable loss of amenity and recreational land, that part of the sites are within the SEPA 1 in 200 flood plain, that the access route and the associated level crossing is incapable of coping with any further increase in traffic, and that designation of this area for development would be contrary to the aims of the national park.
- 6.3 **Response** : An extant outline planning permission exists on proposal sites AV/H2 and AV/H3, together with adjacent land that forms proposal site AV/Env. The outline planning permission is for the development of 'up to 104 dwelling units' (CNPA planning ref. no. 05/101/CP refers). The land has also had a history of allocation for housing purposes, with the Badenoch and Strathspey Local Plan (1997) (CD6.6) identifying a number of housing development zones, surrounded by amenity woodland. The Plan also indicated that the 9.6 Ha area of Dalfaber North had a capacity of 250 housing units. To date approximately 100 units have been constructed.
- 6.4 The allocation of proposal sites AV/H2 and AV/H3 would not result in an unacceptable loss of amenity and recreational land. The majority of the woodland in the vicinity, where there is evidence of informal recreational use such as worn walking tracks through, is located adjacent to proposal sites AV/H2 and AV/H3 and is proposed to be allocated as AV/Env. Its allocation is recognition of the wooded character and its contribution to the setting of Aviemore. This allocation would also afford it protection from adverse development. The allocation of this land as AV/Env would also continue to provide and maintain opportunities for amenity and recreational use. The potential impacts on amenity and recreation were assessed as part of the consideration of the previous outline planning application on the land and will also be assessed in any future applications coming forward for detailed permission. In addition, any future development proposals coming forward on proposal sites AV/H2 and AV/H3 would be required to make adequate provision for amenity and recreation opportunities, in accordance with Policy 18 – Design Standards for Development and other supplementary guidance, including the Sustainable Design Guide.

- 6.5 In response to the objectors reference to part of the proposed site areas lying within the SEPA 1 in 200 flood plain, the CNPA refer to section 1.8 of the Plan, which details the fact that the Local Plan has been prepared following periods of public consultation, community engagement and detailed discussions with key stakeholders, local development forums and the four Local Authorities. SEPA have fully engaged as part of the process and have provided vital expert input and are continuing to do so at the present time. The CNPA are therefore satisfied that all relevant information and expert advice regarding the extent of flood plains etc. has been sought and is in the process of being received. In the event of further relevant information coming forward in respect of the extent of the flood plain as it relates to proposal sites AV/H2 and AV/H3 the final allocation proposals will be re-assessed and where necessary amended. However, at the present time, based on the most recent responses (response dates 24<sup>th</sup> February 2009 and 11<sup>th</sup> March 2009, ref. 399) SEPA does not object to the allocation of proposal sites AV/H2 and AV/H3. SEPA accept the proposed text associated with proposal site AV/H2 that “part of the site lies within SEPA’s indicative 1 in 200 year flood risk area. A detailed flood risk assessment will therefore be required to accompany any development proposals for the site” and also accept the text relating to proposal site AV/H3 which states that “the consideration of reserved matters on this site will have to take into consideration the SEPA indicative 1:200 year flood risk maps and a detailed flood risk assessment will be required.” In addition to the policies and measures included in the Local Plan to address hydrological issues, the CNPA also wish to point out that outline planning applications are currently with the National Park Authority on each of the proposed sites and as part of the assessment of the applications, detailed flood risk assessments have been provided and are currently being assessed by SEPA.
- 6.6 In response to the concerns raised regarding vehicular access to proposal sites AV/H2 and AV/H3, as already referred to an extant outline planning permission for up to 104 dwelling units exists on the land encompassed within proposed allocation sites AV/H2 and AV/H3 together with the adjacent proposal site AV/Env. The potential traffic impacts of the development were assessed as part of the consideration of the proposal, with that assessment being informed by the submission of a Traffic Impact Assessment which was submitted as supporting information.
- 6.7 The CNPA reject the objectors view that the allocation of lands at AV/H2 and AV/H3 would be contrary to the aims of the National Park. The proposed allocation of sites AV/H2 and AV/H3 has been considered in the context of the aims of the National Park (CD 1.3 The National Parks (Scotland) Act 2000). The Local Plan and its proposed allocations have also been subject to Strategic Environmental Assessment (SEA) (CD 7.15 SEA Non-Technical Summary of Deposit Local Plan, and CD 7.16 SEA and Appropriate Assessment Local Plan Final) throughout its development, including in the consideration of the allocation of sites. As detailed in para. 1.12 of the Plan, the SEA assessed the likely significant environmental effects. The confinement of the proposed housing allocations to the extent of area identified in proposal site AV/H2 and AV/H3 and the proposed allocation of the adjacent woodland area at AV/Env (for open space / environmental protection) was informed by the SEA and an awareness of the natural heritage value of the land proposed as AV/Env. The CNPA submit that the combination of housing and open space / environmental protection allocations proposed on the lands at Dalfaber accords with the 1<sup>st</sup> aim of the National Park.
- 6.8 In landscape terms, the overall area covered by AV/H2, AV/H3 and AV/Env forms an important part of the setting to Aviemore. There are two particularly key landscape characteristics, the first of which is the birch woodland which screens some of the built development from areas outwith the settlement. It also forms an integral part of the tree and woodland structure for the area by providing a degree of continuity along the eastern edge of the settlement. The second landscape characteristic is the open spaces between the woodland which provides high quality

pedestrian access to the riverside area and also allows broad views towards the mountain core. The proposed allocations would not significantly alter these key features and the AV/Env allocation will preserve the integrity of the woodland on the site, as well as continuing to provide the opportunity to maintain access through the woodland.

- 6.9 From an ecological perspective proposal sites AV/H2 and AV/H3 are not of high biodiversity value. Proposal site AV/H2 is characterised by scattered mature birch and semi improved grassland, and also displays signs of previous livestock grazing. Proposal site AV/H3 is characterised by areas of horse-grazed grassland, broom scrub and disturbed ground, with evidence of the area having experienced considerable ground vegetation disturbance. Based on the limited ecological value of proposal sites AV/H2 and AV/H3, their allocation for housing purposes is not considered contrary to the first aim of the National Park, and the allocation of the adjacent land area as AV/Env will ensure the safeguarding and protection of the area which is of significant natural heritage value.
- 6.10 As regards the second aim of the National Park which is to promote the sustainable use of natural resources, the CNPA are of the view that it is not possible at this stage of establishing the general acceptability of the use of land for housing purposes, to determine whether or not development proposals would promote the use of sustainable natural resources. It is therefore suggested that a more appropriate forum in which to assess this is in the context of any planning application made on the land.
- 6.11 With regard to the third aim of promoting the understanding and enjoyment of the special qualities of the area (including in the form of recreation) by the general public, the CNPA accept that the lands at AV/H2, AV/H3 and AV/Env are utilised for an element of informal recreational use. In recognition of this (as well as in recognition of the natural heritage value of the woodland area), proposal site AV/Env, lying adjacent to the proposed housing allocations at AV/H2 and AV/H3, has been specifically identified in order to ensure its retention and protection as open space, thereby providing continued opportunities for the general public to enjoy the special woodland qualities of the area. The allocation of the lands at AV/H2 and AV/H3 for housing would not detract from the potential to promote the understanding and enjoyment of the special qualities of the area, although the CNPA consider that it is only through the assessment of detailed proposals for the development of AV/H2 and AV/H3 that a definitive assessment can be made on the extent to which a development proposal would accord with the third aim of the National Park. A definitive judgement on the matter is considered premature at this stage of establishing the general acceptability of the allocation of AV/H2 and AV/H3 for residential development. Supplementary planning guidance, including the Sustainable Design Guide, will also be produced in order to assist further in the formulation of development proposals to ensure consistency with the aims of the National Park.
- 6.12 The allocation of proposal site AV/H2 and AV/H3 for housing is consistent with the approach advocated in SPP3 – Planning for Housing (CD 2.4 SPP3 Planning for Housing 2003 and 2008) and in the strategic objectives of the National Park Plan (CD 7.1 Cairngorms National Park Plan 2007), of allocating an appropriate supply of land to meet identified housing requirements across all tenures, and in sustainable locations. In principle this involves directing the majority of new development into existing settlements in order to make efficient use of service infrastructure and capacity. In doing so, there is the potential to limit the extent of development outside settlements, thereby offering continued opportunity to retain the wider rural areas of the National Park in their natural state, and providing further opportunity for the general public to enjoy the special qualities of the Park.

- 6.13 Finally, in respect of the fourth aim of the National Park, which is to promote the sustainable economic and social development of the area, the allocation of AV/H2 and AV/H3 for housing is considered to be entirely consistent with this aim. There is clear evidence of the extent of housing need in the National Park. Proposed allocation sites AV/H2 and AV/H3 lie within the settlement boundary of Aviemore (which is identified as a strategic settlement), and on land which was previously allocated for housing in the Badenoch and Strathspey Local Plan 1997 (CD 6.6). As stated in paragraph 6.12 above, the allocation of land within the settlement is consistent with SPP 3 - Planning for Homes (CD 2.4), which seeks to encourage housing at appropriate locations, in order to create successful, sustainable communities. The CNPA therefore contend that this approach offers the potential to promote the sustainable economic and social development of this area of the National Park.
- 6.14 Housing allocation sites within the Local Plan have been identified following a comprehensive assessment process, where reference has been had to aspects such as location, physical features, natural heritage, landscape capacity findings, and the history of allocations within existing adopted Local Plans. The identification of sites has also been subject to a Strategic Environmental Assessment. In relation to proposal sites AV/H2 and AV/H3 the CNPA has analysed the policy wording and cross checked its delivery aspirations against the aims of the National Park and is satisfied that no conflict or contradiction exists. In addition, the CNPA contend that the allocations are in line with the need to provide housing land within the area and stress the expectation that any developments on the proposed allocated sites would be required to comply with the relevant policies of the plan, as well as the four aims of the National Park, in order to secure planning permission. Policy I of the Deposit Local Plan is the overarching policy dealing with Development in the Cairngorms National Park, with one of the key aspects of the policy being (a) which states that “development will be supported where the aims of the Park are collectively achieved in a co-ordinated way.”
- 6.15 In addition, as already detailed the sites proposed for allocation at AV/H2 and AV/H3 have the benefit of an extant outline planning permission for the development of up to 104 dwelling units. The permission was granted on appeal to the Scottish Government Development Department Inquiry Reporters Unit (appeal decision reference no. P\PPA\001\8 refers), with the decision being taken with reference to the four aims of the National Park. The extent to which the appeal decision from the Inquiry Reporters Unit took into account the four aims of the National Park is a point which has also been considered by the Court of Session in an appeal brought under Section 239 of the Town and Country Planning (Scotland) Act 1997 ((2007) CSOH 180 refers). Amongst other issues considered, the Court of Session ruled that the four aims of the National Park were material considerations and that the appeal decision had been made with reference to the four aims.
- 6.16 **126b**, in addition to the above detailed points, also objects to the proposed allocation of AV/H3 on the basis that a ‘blanket approach’ has been applied to the proposed zoning and also objects to the text associated with AV/H3 as it does not mention “ensuring that development will minimise the loss of trees and retain natural screening.” Specific areas within AV/H3 are also referred to, with objector **126b** stating that the area to the immediate south of the present access track is currently zoned in the existing Local Plan as ‘amenity woodland’ and requesting that it retain this allocation in the new Local Plan.
- 6.17 **Response** : The CNPA consider that the approach taken to the proposed allocation of the sites reflects the most appropriate means by which to plan for the future development of the area, providing clarity within the Local Plan of the general acceptability of development in identified areas. It is acknowledged that the approach differs from that previously employed in Highland Council’s Badenoch and Strathspey Local Plan, where the emphasis was on the identification of

numerous smaller development zones. Subsequent planning applications coming forward on many of those previously allocated areas, where the application detail has been informed by a more detailed analysis of a variety of factors such as natural heritage issues, hydrology etc. have demonstrated the difficulties and impracticalities of detailed proposals according with the identified zones. The CNPA instead consider that an approach in which a general land allocation has been proven, through its overall assessment and through the SEA process, not to present environmental or infrastructural constraints or raise any other fundamental issues, is more appropriate. Having ascertained this it would not be practical or appropriate at the stage of developing the Local Plan to impose unjustified constraints on the development area. Specific issues such as minimising the loss of trees or retaining natural screening on proposal site AV/H3, or indeed any other proposed allocation site, are matters which would be more appropriately dealt with in the assessment of the detail of a planning application.

## **7.0 Other considerations**

- 7.1 As referred to in paragraphs 6.3 and 6.15 outline planning permission exists on the combined area of land encompassed within proposal site allocations AV/H2, AV/H3 and allocation AV/Env which lies between the two housing allocations (CNPA planning ref. no. 05/101/CP and Scottish Executive Development Department Inquiry Reporters Unit reference P\PPA\001\8 refers).
- 7.2.1 The Badenoch and Strathspey Local Plan (1997) identified significant areas of the land that now forms proposal sites AV/H2 and AV/H3 for housing purposes, with pockets of land being identified for 'new development' and 'long term' development, with each pocket surrounded by land allocated as 'amenity woodland.'
- 7.2.2 Proposal site AV/H2 is the subject of a current planning application (CNPA planning ref. no. 07/144/CP refers), in which outline planning permission is being sought for the development of 12 serviced house plots. Proposal site AV/H3 is also the subject of a current planning application (CNPA planning ref. no. 07/145/CP refers), in which outline planning permission is being sought for a housing development, with indicative plans showing the identified site area accommodating 88 dwelling units. The 1:200 year flood risk maps have been analysed in the course of the assessment of the applications and a flood risk assessment has been requested.

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

- CD 1.3 The National Parks (Scotland) Act 2000
- CD 2.4 SPP3 Planning for Housing 2003 and 2008
- CD 6.6 Badenoch and Strathspey Local Plan 1997
- CD 7.1 Cairngorms National Park Plan 2007
- CD 7.3 CNPA Committee Report Consultation May 2008
- CD 7.4 CNPA Committee Report 1<sup>st</sup> Modifications October 2008
- CD 7.5 CNPA Committee Report 2<sup>nd</sup> Modifications February 2009
- CD 7.15 SEA Non-Technical Summary of Deposit Local Plan
- CD 7.16 SEA and Appropriate Assessment Local Plan Final
- CNPA planning file reference no. 05/101/CP
- Scottish Executive Development Department Inquiry Reporters Unit, Appeal decision – ref. no. P\PPA\001\8
- Outer House, Court of Session decision – (2007) CSOH 180
- Current CNPA planning file 07/144/CP
- Current CNPA planning file 07/145/CP