

<b>Date:</b>			
<b>Issue:</b>	<b>Policy I - Development in the Cairngorms National Park</b>		
<b>Objector(s):</b>	Mrs Jane Angus	<b>Objection ref(s):</b>	437a
	Mrs. Sally Spencer		017a, 017b
	The Clouds Partnership		398a
	Frogmore Estates Scotland Ltd		026a
	The Cairngorms Campaign		448b
	SRPBA		429b
	Alvie and Dalraddy Estate		439c
	Sportscotland		380e
	Dr A Watson		020c
	Dunachton Estate		418a
	North East Mountain Trust		443b
	Woodland Trust Scotland		393b

<b>Reporter</b>	Mrs Jill Moody and Mr Hugh Begg
<b>Procedure</b>	Written

## 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 I Development in the Cairngorms National Park and supplements the response made to those objections by the Cairngorms National Park Authority in its report to Committee (CD7.3-7.5). No changes are proposed.

## 2.0 Provision of the Local Plan:

- 2.1 Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I.

## 3.0 Summary of objection(s)

- 3.1 13 objections raising some 13 issues have been lodged on Policy I Development in the Cairngorms National Park and wish to be considered by the written procedure:
- Policy I and para 3.14 of the DLP give the CNPA the right to do anything it wants if there is over-riding national importance regardless of the wishes of the inhabitants or the aims. This is not helpful to harmonious management. **(437a)**
  - Agree with Policy I on p14 of the DLP, but the first aim should give special consideration to those with strong local family connections to be able to build a house. Impossible “to conserve and enhance...the cultural heritage of the area” if those who have inherited its customs and traditions have to move away. **(017a)**
  - Need to ensure fairness for all in the planning system. Should state unequivocally in the Local Plan that retrospective planning permission will not be granted, there will be heavy fines, and an obligation to restore the site regardless of what has been built. Need caveat for “extremely rare

and exceptional circumstances”, but will have to be carefully worded. Need to do something about blatant deceptions as they cause resentment among the law-abiding who feel it is up to the planning authority to be fair to all. **(017b)**

- Maintain objection to Policy I b) as “significant adverse effects” needs to be quantified. It remains an open ended statement of policy intent that could have an impact on very planning proposal made in the National Park and therefore clarity is required in its application. **(398a)**
- Object to removal of Policies I-3 from Consultative Draft which allowed for a considered position on development in different landscape character areas. Cairngorms Landscape Assessment 1996 identified a range of landscape types and some areas of Cairngorms found to be more sensitive to development than others. The approach in the Consultative Draft would have been more appropriate and object to substitution of Policies I-3 with new Policy I and ask for replacement of Policies I-3. In response to 1<sup>st</sup> mDLP maintain the objection and point out that Policy I is a generic approach to development in each landscape character area and object to loss of the area specific approach and the unduly restrictive policy framework which would apply to those areas of lower landscape quality. **(026a)**
- Support comments on Policies I-6 by Mountaineering Council of Scotland, particularly on incremental accumulation of impacts. Inadequacy of data available on such sites is a particular problem. The plan should recognise this. In response to 1<sup>st</sup> mDLP strongly support this policy and supporting statements and believe plan is significantly strengthened. However, list of special qualities in para 3.1 needs to be more specific under the headings and now Wild Land is in the National Park Plan it should be included. **(448b)**
- In response to 1<sup>st</sup> mDLP we think there should be support for projects which provide social and economic benefits of local as well as national importance. **(429b)**
- If the approach taken is overly complicated and regulatory, development will not go ahead. Approach should be more strategic and less prescriptive and take account of local economic and social benefits, not just national. To simplify the situation the Local Plan should refer to other legislation and not seek to duplicate it. Amended wording suggested. In response to 1<sup>st</sup> mDLP, suggest insert “of local or” before “national” in b). Particularly in isolated communities there may be a serious local problem that is not reflected nationally that could be solved by a job opportunity which could relate to the survival of a whole community. Local Plan should reflect the views, needs and aspirations of its residents, it should not be imposed. **(439c)**
- In response to 1<sup>st</sup> mDLP, an addition should be made to Policy I d) that the precautionary principle is only applicable where the natural heritage under threat is important i.e. national and international designations. **(380e)**
- Para. 3.1 in Section 3 should recognise that Straths have habitats besides farmland. Policy I needs reference to fact that alternative sites have been investigated and found to be more damaging. Need to say how “outweighed” is assessed. Objection maintained in response to 1<sup>st</sup> and 2<sup>nd</sup> mDLP. **(020c)**
- Policy I should also include reference to social or economic of local importance in line with 4<sup>th</sup> aim of the Park. Wording should be amended to “outweighed by social or economic benefits of local and/or national importance...” Objection maintained to 1<sup>st</sup> mDLP. **(418a)**
- Support comments on Policies I-6 by Mountaineering Council of Scotland, particularly on incremental accumulation of impacts. A current example is cumulative impact of housing on ancient and semi-ancient woodland and species rich grasslands. Inadequacy of data available on such sites is a particular problem. The plan should recognise this. **(443b)**
- Support Policy I, final paragraph is most important with regard to 1<sup>st</sup> aim. Ancient and semi-natural woodland are an integral part of the natural; and cultural heritage of the Park. The Cairngorms Local; Biodiversity Action Plan also supports this view stating it is important not just at national, but also international scale. In response to 1<sup>st</sup> mDLP reiterate point b) in the policy, this is of course a subjective assessment and as environment is context for all social and

economic interests it should be of highest priority. Strongly support point c) in the policy with regard to 1<sup>st</sup> aim. **(393b)**

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

4.1 Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I. The CNPA has taken this approach in response to its duties as a National Park Authority and, within that context, as a planning authority. There is a clear link from the National Parks (Scotland) Act 2000 which sets out the 4 aims and the NPA's statutory purpose, through the National Park Plan, to the Local Plan and how it is to be delivered. Topic Paper 1 "Statutory National Park Context" (CD7.21) clearly sets out the link between the CNPA purpose and the local plan function. The adopted National Park Plan provides the strategic context for the Local Plan. This is implicit in the National Parks (Scotland) Act and Section 264A of the 1997 Planning Act and explicit in SPPI. The Local Plan is seeking to contribute to delivery of the National Park Plan and thus to the collective achievement of the 4 aims. This underpinning purpose has to be expressed at the outset within the Local Plan to provide the context within which all other policies will contribute to the assessment of development to ensure that it is contributing to collective achievement of the 4 aims. The CNPA sought to do this in the Deposit Local Plan and responded to comments on it by substantially rewriting Policy I and expanding on the accompanying text in 1<sup>st</sup> Modifications to offer further clarification of the intent behind the policy. The CNPA accepts and encourages the fact that appropriate development is required in order to promote sustainable economic and social development of the area's communities, and the Local Plan is intended to facilitate this. Policy I recognises this and para.3.3 specifically refers to the interdependence of people, places and special qualities of the Park. The Policy is seeking to collectively achieve the 4 aims in a co-ordinated way whilst recognising the weight accorded in statute to the 1<sup>st</sup> aim where there is conflict with other aims. On the issue of special qualities, the Deposit Local Plan in 3.1 and 3.2 refers specifically to Section 3 of the adopted National Park Plan. It is the position of the CNPA that it purposely does not have a specific list of special qualities as it is the way that various qualities combine that give the Park its richness and diversity thus creating its distinctive identity. Reference is made to Topic Paper 2 "The Special Qualities of the Cairngorms National Park" that deals with this issue at length. To sum up, Policy I is recognition that this is a National Park, it is a special place, and both Planning and National Park legislation recognise the responsibility to have the collective achievement of the 4 aims at the heart of both plan making and planning decisions.

#### **5.0 CNPA Commendation to Reporter**

5.1 It is commended to the Reporter that the objections to Policy I as listed above are rejected. No issues are raised that could lead the Cairngorms National Park Authority to consider the approach deficient.

#### **6.0 Strategic issues**

6.1 The National Park Plan 2007 (CD7.1), Topic Paper 1 "Statutory National Park Context" (CD7.21) and Topic Paper 2 "The Special Qualities of the Cairngorms National Park" between them set out the strategic context for Policy I and the approach to Special Qualities of the National Park.

## 7.0 Assessment / Scope of Evidence

- 7.1 **(437a)** Objection: Objects, Policy I and para 3.14 of the DLP give the CNPA the right to do anything it wants if there is over-riding national importance regardless of the wishes of the inhabitants or the aims. This is not helpful to harmonious management.
- 7.2 **Response:** Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I. The CNPA has taken this approach in response to its duties as a National Park Authority and, within that context, as a planning authority. The intention is not to give CNPA the right to do anything, but to recognise that in a national designation (para25 NPPG14) development that would have significant adverse effects on the qualities for which an area is designated can be permitted only where the effects outweighed by social or economic benefits of national importance. No further changes are proposed.
- 7.3 **(017a)** Objection: Objects, agree with Policy I on p14 of the DLP, but the first aim should give special consideration to those with strong local family connections to be able to build a house. Impossible “to conserve and enhance...the cultural heritage of the area” if those who have inherited its customs and traditions have to move away.
- 7.4 **Response:** Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I. The CNPA has taken this approach in response to its duties as a National Park Authority and, within that context, as a planning authority. There is a duty to collectively achieve the 4 aims. This will allow the scenario portrayed in this objection to be addressed by providing housing for a local person within the overall context of the 4 aims and in compliance with other policies in the Local Plan. No further changes are proposed.
- 7.5 **(017b)** Objection: Objects, need to ensure fairness for all in the planning system. Should state unequivocally in the Local Plan that retrospective planning permission will not be granted, there will be heavy fines, and an obligation to restore the site regardless of what has been built. Need caveat for “extremely rare and exceptional circumstances”, but will have to be carefully worded. Need to do something about blatant deceptions as they cause resentment among the law-abiding who feel it is up to the planning authority to be fair to all.
- 7.6 **Response:** The CNPA discharges its development management function in accordance with Scottish Government legislation and guidance. An Enforcement Charter is in the course of preparation and will be in place later this year. The CNPA will deal with everyone even-handedly on all issues. This objection has no bearing on Policy I. No further changes are proposed.
- 7.7 **(398a)** Objection: Objects, maintain objection to Policy I b) as “significant adverse effects” needs to be quantified. It remains an open ended statement of policy intent that could have an

impact on very planning proposal made in the National Park and therefore clarity is required in its application.

- 7.8 **Response:** Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I. Policy I has been redrafted since the initial objection and creates a clear link between the planning process, the aims of the Park and the National Parks (Scotland) Act 2000. It is not possible to list significant adverse effects as they will vary depending on what is being proposed and where it is being proposed. An assessment would be made on the merits of a specific proposal and it would be considered in the context of all policies in the plan and ultimately on the aims of the National Park via Policy I. No further changes are proposed.
- 7.9 **(026a) Objection:** Objects to removal of Policies 1-3 from Consultative Draft which allowed for a considered position on development in different landscape character areas. Cairngorms Landscape Assessment 1996 identified a range of landscape types and some areas of Cairngorms found to be more sensitive to development than others. The approach in the Consultative Draft would have been more appropriate and object to substitution of Policies 1-3 with new Policy I and ask for replacement of Policies 1-3. In response to 1<sup>st</sup> mDLP maintain the objection and point out that Policy I is a generic approach to development in each landscape character area and object to loss of the area specific approach and the unduly restrictive policy framework which would apply to those areas of lower landscape quality.
- 7.10 **Response:** Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I. The CNPA has taken this approach in response to its duties as a National Park Authority and, within that context, as a planning authority. There is a clear link from the National Parks (Scotland) Act 2000 which sets out the 4 aims and the NPA's statutory purpose, through the National Park Plan, to the Local Plan and how it is to be delivered. Topic Paper 1: Statutory National Park Context (CD 7.21) and Topic Paper 2: The Special Qualities of the Cairngorms National Park (CD7.22) explain this at length. The adopted National Park Plan provides the strategic context for the Local Plan. This is clear in the National Parks (Scotland) Act 2000 and Section 264A of the 1997 Planning Act and in SPP1. The Local Plan is seeking to contribute to delivery of the National Park Plan and thus to the collective achievement of the 4 aims. This underpinning purpose has to be expressed at the outset within the Local Plan to provide the context within which all other policies will contribute to the assessment of development to ensure that it is contributing to collective achievement of the 4 aims. The CNPA sought to do this in the Deposit Local Plan and responded to comments on it by substantially rewriting Policy I and expanding on the accompanying text in 1<sup>st</sup> Modifications to offer further clarification of the intent behind the policy. The approach set out in the Consultative Draft Local Plan using a variety of landscape character areas was considered by objectors and the CNPA Board to be confusing and a Park wide approach was considered to be the most appropriate way forward. The CNPA does not acknowledge that some parts of the Park are less important than others. The 1996 Landscape Character Assessment, like most others, does not address the issue of quality but is purely a descriptive tool. It does not identify any areas that are of lower landscape quality. The new LCA which is in the course of preparation

by CNPA and scheduled for consultation as SPG later in 2009 will not identify different quality areas either. The overall integrity of the Park is the sum of the component parts. There is a duty to enhance as well as conserve. It is therefore important to have a consistent approach across the National. Policy I as currently drafted is a consistent framework that allows for each proposal to be determined on its merits taking account of what is being proposed and where it is being proposed. Policy I is recognition that this is a National Park, it is a special place, and both Planning and National Park legislation recognise the responsibility to have the collective achievement of the 4 aims at the heart of both plan making and planning decisions.

- 7.11 **(448b)** Objection: Object and support comments on Policies I-6 by Mountaineering Council of Scotland, particularly on incremental accumulation of impacts. Inadequacy of data available on such sites is a particular problem. The plan should recognise this. In response to 1<sup>st</sup> mDLP strongly support this policy and supporting statements and believe plan is significantly strengthened. However, list of special qualities in para 3.1 needs to be more specific under the headings and now Wild Land is in the National Park Plan it should be included.
- 7.12 **Response:** Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I. The CNPA has taken this approach in response to its duties as a National Park Authority and, within that context, as a planning authority. The Plan has been prepared with the best data available, the CNPA with partners continues to improve its databases and implementation and monitoring of the Plan will enhance this process. On the issue of special qualities, the Deposit Local Plan in 3.1 and 3.2 refers specifically to Section 3 of the adopted National Park Plan. It is the position of the CNPA that it purposely does not have a specific list of special qualities as it is the way that various qualities combine that give the Park its richness and diversity thus creating its distinctive identity. Reference is made to Topic Paper 2 “The Special Qualities of the Cairngorms National Park” that deals with this issue at length. To sum up, Policy I is recognition that this is a National Park, it is a special place, and both Planning and National Park legislation recognise the responsibility to have the collective achievement of the 4 aims at the heart of both plan making and planning decisions.
- 7.13 **(429b)** Objection: Objects, in response to 1<sup>st</sup> mDLP we think there should be support for projects which provide social and economic benefits of local as well as national importance.
- 7.14 **Response:** The intention is not to specifically give support to national projects without proper scrutiny, but to recognise that in a national designation (para25 NPPG14) development that would have significant adverse effects on the qualities for which an area is designated can be permitted only where the effects outweighed by social or economic benefits of national importance. Projects that give local social and economic benefits will be supported where they comply with the policies in the Local Plan and contribute to the collective achievement of the 4 aims. There are policies in the Plan that strongly support local business and community developments. No further changes are proposed.
- 7.15 **(439c)** Objection: Objects, if the approach taken is overly complicated and regulatory development will not go ahead. Approach should be more strategic and less prescriptive and take account of local economic and social benefits, not just national. To simplify the situation the Local Plan should refer to other legislation and not seek to duplicate it. Amended wording suggested. In response to 1<sup>st</sup> mDLP, suggest insert “of local or” before “national” in b).

Particularly in isolated communities there may be a serious local problem that is not reflected nationally that could be solved by a job opportunity which could relate to the survival of a whole community. Local Plan should reflect the views, needs and aspirations of its residents, it should not be imposed.

- 7.16 **Response:** Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I. The CNPA has taken this approach in response to its duties as a National Park Authority and, within that context, as a planning authority. The policy recognises that in a national designation (para25 NPPG14) development that would have significant adverse effects on the qualities for which an area is designated can be permitted only where the effects outweighed by social or economic benefits of national importance, it is not possible to substitute “local”. This does not mean that the plan is not supportive of local people, indeed in order to deliver the 4<sup>th</sup> aim of the Park it has to be, and it is. Development by or for local communities that contributes to the collective achievement of the 4 aims and complies with relevant policies of the Local Plan will be supported. No further changes are proposed.
- 7.17 **(380e) Objection:** In response to 1<sup>st</sup> mDLP, an addition should be made to Policy I d) that the precautionary principle is only applicable where the natural heritage under threat is important i.e. national and international designations.
- 7.18 **Response:** The National Park is a national designation. No further changes are proposed.
- 7.19 **(020c) Objection:** Objects, para. 3.1 in Section 3 should recognise that Straths have habitats besides farmland. Policy I needs reference to fact that alternative sites have been investigated and found to be more damaging. Need to say how “outweighed” is assessed. Objection maintained in response to 1<sup>st</sup> and 2<sup>nd</sup> mDLP.
- 7.20 **Response:** Policy I has been substantially redrafted since the objection was made. Para 3.1 is a direct link to a list produced from the National Park Plan and is for information only. No further changes are proposed.
- 7.21 **(418a) Objection:** Objects, Policy I should also include reference to social or economic of local importance in line with 4<sup>th</sup> aim of the Park. Wording should be amended to “outweighed by social or economic benefits of local and/or national importance...” Objection maintained to 1<sup>st</sup> mDLP.
- 7.22 **Response:** The intention is not to give support to national projects without proper scrutiny, but to recognise that in a national designation (para25 NPPG14) development that would have significant adverse effects on the qualities for which an area is designated can be permitted only where the effects outweighed by social or economic benefits of national importance, it is not possible to insert “local”. Projects that give local social and economic benefits will be supported where they comply with the policies in the Local Plan and contribute to the collective achievement of the 4 aims. No further changes are proposed.
- 7.23 **(443b) Objection:** Objects, support comments on Policies I-6 by Mountaineering Council of Scotland, particularly on incremental accumulation of impacts. A current example is cumulative

impact of housing on ancient and semi-ancient woodland and species rich grasslands. Inadequacy of data available on such sites is a particular problem. The plan should recognise this.

7.24 **Response:** Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I. The CNPA has taken this approach in response to its duties as a National Park Authority and, within that context, as a planning authority. The Plan has been prepared with the best data available, the CNPA with partners continues to improve its databases and implementation and monitoring of the Plan will enhance this process. To sum up, Policy I is recognition that this is a National Park, it is a special place, and both Planning and National Park legislation recognise the responsibility to have the collective achievement of the 4 aims at the heart of both plan making and planning decisions.

7.25 **(393b) Objection:** Objects, support Policy I, final paragraph is most important with regard to 1<sup>st</sup> aim. Ancient and semi-natural woodland are an integral part of the natural; and cultural heritage of the Park. The Cairngorms Local; Biodiversity Action Plan also supports this view stating it is important not just at national, but also international scale. In response to 1<sup>st</sup> mDLP reiterate point b) in the policy, this is of course a subjective assessment and as environment is context for all social and economic interests it should be of highest priority. Strongly support point c) in the policy with regard to 1<sup>st</sup> aim.

7.26 **Response:** Section 3 and Policy I of the Deposit Local Plan as modified sets out the role of the 4 aims and the special qualities of the National Park in planning decisions with reference to the National Park Plan and Scottish Planning Policy. Policy I will underlie all planning decisions within the National Park and will be the starting point and ending point in assessing planning applications. Developments must comply with all relevant policies in the Plan to comply with Policy I. The CNPA has taken this approach in response to its duties as a National Park Authority and, within that context, as a planning authority. To sum up, Policy I is recognition that this is a National Park, it is a special place, and both Planning and National Park legislation recognise the responsibility to have the collective achievement of the 4 aims at the heart of both plan making and planning decisions.

## 8.0 Conclusions

8.1 It is commended to the Reporter that the objections to Policy I as listed above are rejected. No issues are raised that could lead the Cairngorms National Park Authority to consider the approach deficient.

## 9.0 List of documents (including Core Documents)

- CD1.3 The National Parks (Scotland) Act 2000
- CD1.18 Cairngorms National Park Designation Order 2003
- CD7.21 Topic Paper 1 “Statutory National Park Context”
- CD7.22 Topic Paper 2 “The Special Qualities of the Cairngorms National Park”
- CD6.13 Cairngorms National Park Deposit Local Plan as at 2<sup>nd</sup> modifications
- CD7.1 Cairngorms National Park Plan 2007
- CD6.10 Consultative Draft Local Plan 2005
- CD7.3-7.5 CNPA Committee Reports



- CD2.2 SPPI The Planning System
- CD3.2 NPPG14 Natural Heritage
- CD7.7 Cairngorms Landscape Character Assessment 1996