

Date:			
Issue:	Policy 7 - Landscape		
Objector(s):	Mrs Sally Spencer	Objection ref(s):	017c
	Dr A Watson		020e
	The Mountaineering Council of Scotland		024f
	Roger Tozer		098b
	North East Mountain Trust		443c
	The Cairngorms Campaign		448c
	Novera Energy Plc		486a

Reporter	Mr Hugh Begg
Procedure	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 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 1st 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 2nd 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 Seven objections raising ten issues have been lodged to this policy and wish to have their objections considered by written representation:

- The policy should ensure development preserves the landscape character of the Park. **(098b)**
- The importance of wildness should be reinforced with a core area of the Park with a presumption against any development. **(024f, 443c, 448c)**
- Since any development might be considered to have a negative impact on the landscape, the policy is negative, and sets a standard for development that is unattainable and overly restrictive. The wording should be modified to allow minimal or neutral impact on the landscape. **(486a)**
- 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. **(486a)**
- The policy is contrary to the purpose of the Local Plan - to 'promote sustainable development and where possible, the enhancement of its outstanding natural and cultural heritage'. **(486a)**
- The policy is contrary to NPPG14. The precautionary principle should not be invoked to impede development unnecessarily. **(486a)**
- The policy should include reference to permitted development rights or control of vehicle tracks, as had been included in the Consultative Draft Plan. **(443c, 448c)**
- The protection of dark skies should be raised in the wording. **(020e)**
- The wording does not clarify how it will be implemented and monitored. **(017c)**
- Additional comments regarding the English used have been made. **(020e)**

4.0 Summary of Cairngorms National Park Authority Response

- 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. **(098b, 486a)**
- The wording of the policy is such that it allows for the proper and consistent consideration of development proposals against the impact it might have on the landscape character of the Park. It is not considered deficient in this regard. **(024f, 098b)**
- 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. **(425e, 486a)**
- 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 1st 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 1st paragraph. **(024f, 486a)**

- Wildness – 1st 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 CNPA on defining and mapping wildness (CD7.20). This work will form the baseline study for a forthcoming policy on Wildness and Wildland. 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. **(024f, 443c, 448c)**
- Permitted developments – these are a normal part of the planning process and as such do not require a policy within the local plan. No deficiency or change is therefore identified. **(443c)**
- Dark skies - the 1st modifications, in paragraph 4.42 added a clear reference to the need to ensure all developments minimise light pollution. The issue has therefore been addressed. **(020e)**
- Vehicle tracks – where planning permission is necessary, development proposals will be considered against all policies of the plan (paragraph 1.20) and there is not a need to include separate policy guidance. The Local Plan contains appropriate policies to assess applications affecting or creating vehicle tracks and is not therefore deficient. Where developments fall outwith the planning system, the policies of the Local Plan are not applicable. **(443c, 448c)**
- The issue of implementation is considered in paragraphs 1.16 – 1.23 and on adoption the Board members of the National Park Authority will be fully versed on the way in which the plan is to be used. **(017c)**

5.0 CNPA Commendation to Reporter

- 5.1 The CNPA commend 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 **425e** considers there should be a better balance between conservation in the landscape and economic viability and need.
- 6.2 **Response:** The wording of the plan in paragraph 1.16 to 1.23 sets out the way in which the plan will be implemented, and in particular, in 1.20 How to Use the Local Plan, the wording is clear in stating that applicants must look at all of the policies in the Plan. The policies are not therefore intended to stand alone or give an indication of the vision of the Plan through an individual policy.
- 6.3 The vision of the Local Plan, set out in paragraphs 2.14 to 2.16 supports this with a clear recognition of the importance of sustainable development. Paragraphs 5.77 to 5.79 also set out the approach to economic development within the Local Plan. This section identifies the National Park as having a strategic position, which creates an opportunity for prosperity.
- 6.4 The 4th aim of the Park is to promote sustainable economic and social development of the area's communities. In line with this aim, the local plan policies support developments which further this aim, and Policy 7 does not undermine this approach. The requirement that developments take a balanced view is reasonable, and this is confirmed through paragraph 1.20.

- 6.5 No proposed alternative wording has been proposed by the objector, and the policy is not considered deficient in terms of the objection raised.
- 6.6 **486a** also objects to the presumption against development that does not make a positive contribution with particular reference to the impact of the policy on proposals for wind farms that the Cairngorms National Park Authority may be consulted on.
- 6.7 **Response:** The issue raised is one of applications made outwith the Park boundary to which the National Park Authority are asked to comment. In the formulation of these comments the National Park Authority would not use the local plan as the basis for its approach, but rather use the National Park Plan (CD7.1), which is a material consideration in the determination of applications within the Park boundary and those affecting its setting. There is not therefore any justification to amend the policy within the Local Plan as this will not impact the consultation responses to development proposals outwith the local plan area.
- 6.8 **024f** maintain their objection that the policy is weak in particular regard to wild land. A core mountain area should therefore be protected against development.
- 6.9 **Response:** The Cairngorms National Park Authority has undertaken a Park wide study to map and analyse wildness, and on completion this will help inform the application of the policy, and will remove any subjectivity from the term. (CD7.20) This study identifies the strength of wildness qualities across the National Park and unsurprisingly in the mountain core they are particularly strong. The wording of the policy and the supporting text is not considered to be weak and gives an appropriate level of guidance. No further changes are therefore proposed.
- 6.10 Original objections to the wording of the policy in the deposit plan also remain, in regard to social and economic benefit.
- 6.11 **Response:** The 1st modifications removed this reference, and this part of the objection is now considered to have been addressed. The 1st modifications also included direct reference to the Landscape Character Assessment and Landscape Framework (paragraph 4.43) in line with the objections to the deposit plan.
- 6.12 **448c** objects to the omission of a policy or direct protection in regard to vehicle tracks in wild land. A request to have permitted developments removed in this regard is proposed.
- 6.13 **Response:** Paragraphs 1.16 to 1.22 state clearly how the plan and its policies should be used, and paragraph 1.20 states that *'everyone applying for planning permission must look at all the policies of the plan. Policies are not cross referenced. You must therefore make sure your proposal complies with all of the policies that are relevant.'* The plan is therefore intended to contain policies which guide the consideration of all forms of development, rather than listing many policies on particular issues. Applications for hill tracks would therefore be considered against Policy 7 amongst others, and no additional policy is considered necessary.
- 6.14 The objector also raises the point that much development in Aviemore does not comply with the requirement to make a positive contribution to the landscape.
- 6.15 This comment is noted, and new development across the Park, including Aviemore, will be judged against the new policies of the Plan. The issue will therefore be dealt with as new development proposals come forward.

- 6.16 **443c** also objects to the issue of wild land and vehicle tracks, making the same points as 448c.
- 6.17 **Response:** The issues and how they are addressed are therefore the same. The objector also raises the issue of permitted developments, seeks a return of a proposal included in the consultative draft plan to consider the removal of these. Permitted developments are a normal part of the planning process and as such do not require a policy within the local plan. The Cairngorms National Park Authority can therefore consider taking actions to remove various permitted development rights in the normal way, and no deficiency or change is therefore identified.
- 6.18 **098b** objects to the policy on the grounds that all development should enhance the landscape character.
- 6.19 **Response:** The policy as modified above will ensure that all forms of development can be appropriately considered in a consistent manner, and no further change is proposed.
- 6.20 **017c** considers the policy wording first class but objects to the loop holes which seem to exist within the decision making process and implementation of policies at determination stage. No modification is suggested.
- 6.21 The comments regarding the decision making process are noted but the local plan and its policies cannot legislate for this, but must set clear standards to allow the decision takers a clear remit for the decisions taken.
- 6.22 **020e** has raised a number of grammatical corrections and the policy through 1st modifications has been altered to ensure the wording is appropriate and clear. The issue of dark skies has also been raised and this has been included through the 1st modifications in paragraph 4.42. The issue is considered to have been addressed and no further change

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 material 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)

- CD2.1 Scottish Planning Policy 2008 Parts 1 and 2
- CD2.2 SPPI The Planning System
- 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 1st Modifications October 2008
- CD7.5 CNPA Committee Report 2nd 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