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SPEAKERS:

THE SIGNATORIES WILL SHARE AMONGST THEMSELVES THE TASK OF PRESENTING DIFFERENT PARTS OF THE CASE.

# Case Against Ballater H1

6<sup>th</sup> April

# 2009

Contained herein is an analysis and evidence of the reasons for the Cairngorms National Park Local Plan for Ballater housing allocation at site H1 to be rejected and for a new approach with full community engagement to be undertaken.

Objections to  
the CNP Local  
Plan for  
Submission to  
The Reporters

# **Index**

## **1. Introduction and Background**

## **2. Assessment of General Housing Needs**

### **2.1 Non- Conformity With the Structure Plan**

### **2.2 Realistic Assessment of Total Housing Needs**

## **3. Affordable Housing**

### **3.1 Qualitative Analysis of Ballater's Housing Needs**

### **3.2 Quantitative Analysis of Ballater's Housing Needs**

### **3.3 Ballater H1 – NOT the Solution**

### **3.4 The Solution**

## **4 Flood Risk at Site H1**

## **5 Tourism and Employment**

## **6 Access to the Site for Motor Vehicles**

## **7 Damage to the Natural and Cultural Heritage**

## **8 Amenities**

## **9 Reduction of Agricultural Land**

# **1. Introduction and Background**

**1.1** Ballater is on the edge of a national scenic area which is rich in pre-history and boasts a large number of historic sites. Ballater itself, however, is a relatively modern settlement. The village developed slowly and only started to take on the beginnings of what it is today in the early 19<sup>th</sup> Century. The strong associations with Queen Victoria and subsequent generations of the Royal Family have given the village its special popularity with visitors and contributed largely to its relative prosperity.

It is, therefore, not surprising that the lifeblood of the local economy is the attraction to visitors from, not only the United Kingdom, but from Europe and all over the world. The links to the Victorian age and the magnificent natural surroundings act to give the village and the surrounding area a special charm despite competition from other tourism destinations. In order to retain its place as a leading tourism destination it has to maintain a visually attractive profile to visitors approaching from the east and the west. Of particular sensitivity to, is the approach to Ballater from Tullich in the east, where the impact of the mountain backdrop with the village nestling in the valley gives a unique and lasting impression to both residents and visitors alike, and is a truly spectacular gateway to the Cairngorms National Park. What would be, in effect, a new settlement constructed in Ballater site H1 would mar and ravage this important natural vista and significantly affect the fragile local tourist industry.

**1.2** The other main industries in Royal Deeside are, of course, agriculture and forestry. The land available for sustaining a viable agriculture-based economy is limited by the topography and geological nature of the soil. In recessionary times it is important that as much good agricultural land as possible is maintained to sustain food production.

**1.3** Whilst there is a thriving industry in forest management and processing it is difficult to foresee prospects for massive expansion and job creation as the bulk of the work carried out in forest areas is largely mechanised.

**1.4** There are weaknesses of a general nature in the Deposit Local Plan (“DLP”) which are relevant to the proposed allocation for site “Ballater H1” for housing. These weaknesses are widespread; in general by ignoring government policies throughout the DLP (as modified) but in particular; the methodology used in determining the proposed number of housing units; the unsuitability of site H1 as a means of delivering the required numbers of affordable houses; the failure to adhere to flood risk policy in relation to the unsuitability of site H1 and the failure to address the consequential effects of these proposals.

**1.5** Whilst administrative failures by the CNPA are being separately pursued through the Complaints Procedure in accordance with paragraph 64 of Circular 32/1996, as useful background for Reporters, we can show that these failures have directly contributed to an ill-conceived Local Plan. We contend that the flawed proposal for allocation of Ballater H1 for housing has been put forward by the CNPA without the degree of public involvement envisaged by paragraphs 35 and 36 of SPP 15 Scottish Planning Policy 15: Planning for Rural Development . Paragraph 36 says, “It is important to ensure that a wide spectrum of community views is heard ..... The community planning process has a key role by acting as a framework for making services responsive to and organised around the needs of communities. It aims to ensure people and communities are genuinely engaged in the decisions made on public services that affect them.”

**1.6** Paragraph 6 of Circular 32/1996 (Code of Practice for Local Plan Inquiries) states that draft local plans are intended to be subject to wide public consultation and debate before the planning authority commits itself to any specific proposals. The original questionnaire, sent by the CNPA (it is said) to every home in the National Park in September 2004, did not mention the proposal for the development of Ballater H1. However, it seems probable, on present information, that the consultative draft plan, at least, for the eventual Aberdeenshire Local Plan, adopted in June 2006 by both Aberdeenshire Council and the CNPA would have already

revealed to the CNPA that the land in question was viewed as an area of search for sites for housing for the period beyond 2010, as expressed in the adopted DLP at pages 306 and 340 (Future Housing Land).

**1.7** It is an emphatic expression of great public concern that has persuaded the majority of residents of Ballater to register their disapproval and dismay at the proposals contained in the DLP by signing a petition opposing the allocation of site H1 for housing, that H1 be preserved for recreational/amenity, use and that focused attention be applied to affordable housing for local people. As at the end of March 2009, over 740 residents of Ballater, including over 640 on the electoral roll of 1264 signed the petition giving an overall majority opposing the proposals for H1. Of the total residents consulted, 80 per cent have signed the petition. In view of the statement of government policy quoted in 1.5 and 1.6 above, the petition referred to should be also admissible to prove public opposition to the proposal. There is a line of English cases where it has been held that public concern is a material consideration for the decision maker on planning applications, including the Minister on appeal. Thus in *West Midlands Probation Committee v Secretary of State for Environment* (1998) 76 P&CR at 594 the Court of Appeal adopted the following statement for an earlier case: "Public concern is of course and must be recognised by the Secretary of State to be a material consideration for him to take into account; but if in the end that public concern is not justified it cannot be conclusive." The petition represents the most potent and explicit statement of current opinion in the Ballater community on the most critical issue of housing. The original signed petition sheets, together with a report analyzing the data contained therein are to be submitted.

## **2. Assessment of General Housing Needs**

### **2.1 Non-Conformity with the Structure Plan**

**2.1.1** The assessment of housing needs in the DLP for that part of the National Park ("NP") east of the Cairngorm Massif is far greater than provided in the approved Aberdeen and Aberdeenshire Structure Plan ("N.E.S.T."). It is also quite likely that the methods used for assessing the housing needs for the National Park as a whole affect the assessment by the Cairngorms National Park Authority ("CNPA") of the

particular housing needs of Ballater. Moreover, the way in which the DLP assumes the need for affordable housing will be met appears to affect the whole DLP. The DLP proposes numbers of houses far in excess of what is needed and its divergence from the Aberdeenshire Structure Plan is discussed as follows.

**2.1.2** The number of houses planned for Ballater by the DLP conflicts with the relevant Aberdeen and Aberdeenshire Structure Plan which itself envisages a far fewer number for Ballater. Thus, Table 4 on Page 42 of the DLP (as modified) gives the total target for 2006-2016 as 190 units for Ballater (with a total capacity of 250) whereas the Structure Plan Policies 8, 9 and 10 on Page 32 to 34 envisage that, in the part of Marr in the Aberdeenshire Rural Housing Market Area, from January 2000 to December 2016 there will be a total of the order of 240 units for all settlements except for Aboyne, Alford and Huntly. Those settlements include, amongst other places, Torphins, Tarland, Braemar, Lumphanan, Lumsden, Rhynie and Kincardine O'Neil. At 2001 the populations of Torphins and Tarland alone in aggregate exceeded that of Ballater. It was clearly not the intention of the Aberdeenshire Structure Plan that all 240 units should be built in Ballater or, indeed in the part of Aberdeenshire which is now the Cairngorms National Park. The Aberdeenshire Structure Plan states that these units are to be provided by development on a small scale and in support of economic development or local services. The CNPA have not shown that the Park Plan, which has been approved by Scottish Ministers, justifies the big increase in numbers of houses for the part of the Park east of the massif nor that they have had due regard to this conflict with the Aberdeenshire Structure Plan.

**2.1.3.** The old section 11(5) of the Town and Country Planning (Scotland) Act 1997, in the form in which, by virtue of the transitional provisions, it continues to have effect for the purposes of the DLP, requires that in formulating their proposals in a local plan the planning authority shall secure that the local plan conforms generally to the structure plan as it stands for the time being whether or not it has been approved by the Scottish Ministers; but where the Scottish Ministers have approved a structure plan, the applicable section 17(3) states that the planning authority shall not adopt any plan or proposals which do not conform to the structure plan. The

Aberdeen and Aberdeenshire Structure Plan (NEST) was approved by the Scottish Ministers on 21<sup>st</sup> December 2001. There has been no subsequent structure plan embracing the National Park although the Cairngorms National Park Plan 2007 is said by paragraph 2.9 of the DLP (as modified) to have been approved by the Scottish Ministers on the 15<sup>th</sup> March 2007. Under section 14 of the National Parks (Scotland) Act 2000 public bodies or office holders must in exercising functions so far as affecting a national park, have regard to the National Park Plan, but there is nothing in the National Park Plan which alters the numbers of houses, which the Aberdeen and Aberdeenshire Structure Plan proposes for the part of Aberdeenshire now in the National Park.

## **2.2 Realistic Assessment of Total Housing Needs**

**2.2.1** As indicated on Page 6 of their report of December 2005 Manchester University's forecasts of population for 2001 to 2025 assume recent migration both ways will continue. In other words, if more houses are built, more people predominantly in the 40 to 60 age group will move into the area. The forecasts show a decrease of the younger population. Page 7 of the University's report forecasts that in 2025 nearly half the population of the Park will be aged over 65 compared with a quarter in 2001 and says that the impetus for the change is migration. It may be therefore that there needs to be less market housing and more affordable housing as market housing increases inward migration of the 40 to 60 age group.

**2.2.2** The planned number of houses should also have regard to provision planned for outside Ballater and in Marr but outside the National Park e.g. Aboyne and also the number of young people who would leave Ballater anyway.

## **3 Affordable Housing**

### **3.1 Qualitative Analysis of Ballater's Need**

Ballater has a need for affordable housing for local people; this has been acknowledged by the CNPA Planning Paper 5 of the 7<sup>th</sup> May 2004 para. 4. The main complaint is that

young people, including young couples, find it difficult to find affordable accommodation to rent. There is evidence that young people who would otherwise have stayed in the village have left because they have not been able to find accommodation. Rents on the open market in Ballater are high in relation to local incomes.

The departure of such young people from Ballater aggravates the fact that, despite the building of over 290 new dwellings in Ballater since 1984 onwards including about 20 initially affordable houses sold at Craigview and some affordable dwellings for rent in or near Craigview, the number on the roll of Ballater School in 2008 was 108 compared with 110 in 1980. To illustrate this, we shall submit a spread sheet showing houses built in Ballater from 1984 to 2007 and the numbers on the rolls of Ballater School from 1980 to 2008. Both sheets were supplied by Aberdeenshire Council.

Research relied on by the CNPA in the DLP indicates that there is a more severe need for affordable housing in that part of the National Park in Upper Deeside than in the National Park as a whole. Paragraph 5.31 of the DLP (as modified) states that Heriot Watt's report of 2006 concluded that there would be a need for between 99 and 132 new affordable dwellings per year in the National Park. The DLP does not say how much of this yearly total is for Upper Deeside. Heriot Watt's report of 2008 (Report 99 referred to in paragraph 5.28 of the DLP - as modified) states in paragraph 2.34 that the new estimate of overall need for affordable housing in the Cairngorms National Park is "121 units per year". (The DLP - as modified refers to the new yearly total of 121 at paragraph 5.43 on page 44). However, Table 4 on page 10 of the Heriot Watt report of 2008 reveals that, of the 121, the number attributable to Upper Deeside is 29 (which may be an error for 28). Thus 24% of the total is attributable to Upper Deeside despite the fact that the population of Upper Deeside is just under 3000 representing 18% of the population of the National Park. Heriot Watt report of 2006 in Table 7 on page 21 states the total population of the National Park is 16,295. Our estimate of Upper Deeside's population is based on a figure given in the CNPA's publication "Have Your Say," referred to below, with an addition for Braemar.

Facts published by the CNPA support the view that Ballater is part of an area where there is a greater reliance on affordable housing than in the National Park as a whole. The document "Have Your Say" in the form in which it was sent to households in Ballater by the CNPA in 2004 states that nearly a third of the population of Ballater and Crathie,



Cromar and Mid-Deeside areas live in rented accommodation with the majority renting from Aberdeenshire Council or an Housing Association. From the map at the end of “Have Your Say” it appears that the reference is to those parts of Cromar and Mid-Deeside that are within the National Park. Though it is not a direct comparison Heriot Watt’s report of February 2006 in Table 18 on page 30 indicates that in the National Park, as a whole, most rented dwellings are rented from private landlords.

We are aware that the research by Heriot Watt (as stated on page iv of the Executive Summary of the report of 2008) is largely desk-based. In our view there is a need for realistic surveys. Nevertheless, it seems reasonable to refer to what Heriot Watt’s research reveals as to comparisons between Ballater and the rest of the Park.

### **3.2 Quantitative Analysis of Ballater’s Housing Needs**

**3.2.1** The CNPA has acknowledged that there are three major issues (CNPA Planning Paper 5 Consultation Draft 010705 26<sup>th</sup> June 2005 paragraph 12) that it faces, notably:

- The lack of affordable housing
- The impact of second homes
- Overdevelopment of settlements

The CNPA housing proposals for Ballater involve the allocation of 16.12 hectares of good quality farm land to the north east of Monaltrie Park (designated site H1) for the construction of up to 250 new houses by a private developer. This is to be the primary and only specific means under the CNPA’s proposals for the provision of affordable housing in Ballater.

We contend that the CNPA proposals will:

- not solve the problem of affordable housing for local people
- aggravate the existing problem of second homes
- result in an unacceptable level of overdevelopment of Ballater

The issue of overdevelopment of Ballater is implicit in various criticisms elsewhere in this document.

**3.2.2** The phasing of new house building at site H1 as described in the DLP is:

- 90 units in the current Plan Period (to 2011)
- 100 units in the period 2012 to 2016
- 60 further units in later years

The developer will be required to provide a percentage of the houses as affordable units, dependent on the level of public subsidy. Under the latest terms defined by the CNPA, in response to current market conditions, the developer may be required to provide as few as 25 per cent of the new houses on site H1 as affordable. This means that the resultant supply of affordable houses would be:

- 22-23 units in the present Plan Period (notionally 2006 to 2011)
- 25 units in 2012 to 2016
- 15 units after 2016

This would equate to about 5 affordable units per year. If the affordable percentage is raised to 40%, by means of increased public subsidy, the supply from Ballater H1 would rise to 7- 8 affordable units per year. The Heriot Watt Report , March 2008, Table 4, page 10, estimated a net need for Upper Deeside of 28 affordable units per year, which is equivalent to a net need of about 15 units per year if pro-rated against the Ballater population. We note that Ballater H1 development as proposed by the CNP Local Plan would deliver at 40% (8) affordable units per year or at 25% some 5 affordable units per year. This based on the Heriot Watt study, would leave a residual shortfall for Ballater of 10 affordable units per year at 25%, for which the DLP has no specific proposals and very few generic options which it has elected to endorse. Even after making allowance for the benefits of pillaging Ballater H1, there remains a very heavy reliance on other sources of land for affordable housing. While it is not for us to elucidate the “other sources” of land for affordable housing, we are not aware that the CNPA has applied any focused attention to this question. We believe, however, that there are probably sufficient alternatives to H1 that are both compliant with relevant regulations and have the capacity to deliver Ballater’s need for affordable housing with far greater effectiveness than by the mass development of site H1. We will submit details of a number of alternative options, both generic and specific in nature, which we propose be considered as potential candidate solutions to Ballater’s affordable housing needs. It behoves the CNPA to pursue and develop these alternative opportunities with at least a

little energy, as it currently is in breach of paragraph 64 of SPP3: “*redevelopment of brownfield sites for housing should be preferred to development on greenfield sites*”.

**3.2.3** Local research has identified alternative sites on which houses could be built that would cause less damage to the environment and otherwise be more suitable. Paragraph 33 of Circular 32/96 (Code of Practice for Local Plan Inquiries) accepts that alternative sites may be put forward. The CNPA has not made any attempt to investigate the feasibility of utilising a number of identifiable brown-field sites.

**3.2.4** The DLP has paid scant regard to the overall problem within the National Park of second or holiday homes. This feature of settlements in the CNP area is acknowledged by the CNPA as a serious concern (CNPA Planning Paper 5 Consultation Draft 010705 26<sup>th</sup> June 2005).

Figures produced by Aberdeenshire Council’s Area Manager (Marr) on the 4<sup>th</sup> March 2009 show there are 246 holiday homes and 4 second homes in Ballater. This represents some 25% of all residences in the village. The combined uplift factors proposed in the CNP Local Plan would give rise to a possibility that almost 100 of the 250 houses on H1 will be vacant. This would result in a total housing stock of, say 1200, of which as many as 350, or almost 30% could be vacant.

**3.2.5** Our concern here is specifically that the proposals for Ballater H1 will most probably increase the overall number of vacant properties and, perhaps more important, will create a localised area with 40% vacant properties. This, needless to say raises the spectre of possible vandalism, squatting and other forms of social unrest.

### **3.3 Ballater H1 – Not the Solution**

**3.3.1** To use planning powers to encourage the building of a very large private estate at the sacrifice of much land and amenity for the purpose of ensuring that about 25% of the dwellings on the estate are affordable is not the way to provide the specific and focused solution which will deal with the need of Ballater for affordable housing. We say that for the following reasons:

- **Uncertainty** – even in normal times and especially in the current financial crisis, market forces render the amount, type and timing of the availability of the affordable housing on Ballater H1 uncertain. This is illustrated by the modifications to the main

body of the DLP relating to affordable housing. For example policy 21 on page 43 of the DLP as modified by the first modifications in June 2008 states in the second paragraph that where public funding is available to help fund affordable housing, 40% of the development would be expected to be affordable housing but the second modifications in October 2008 replaced 40% with between “25% and 40%”. The reason given for the change was that it “reflects the current market conditions and the aspiration to secure a realistic provision of affordable housing from all developments.” We respectfully point out that, under paragraph 56 of PAN 74 “Even where circumstances change, the detailed components of the policy should not be adjusted, including the affordable housing or financial contribution, until the proposed changes have been subject to full consultation and subsequent approval by the Council.” Our concern here is that, the above change to the affordable percentages was introduced in the second modifications to the DLP, which have not yet been subjected to full consultation, instead of which the CNPA intends, we are told, to have these issues resolved as part of the inquiry.

**3.3.2** Even in normal times the percentage of housing to be affordable is likely to be prescribed as 25% (referred to in paragraph 94 of SPP3 “Planning For Homes (Revised 2008) as the benchmark) but could well in implementation of the planning condition result in fewer than 25% of the houses being affordable. It is clear from paragraphs 38 and 39 of Planning Advice Note 74: Affordable Housing (PAN 74) that, for example, in some cases the number of plots required to be provided by the developer may be reduced in return for the developer also building houses on the reduced number of plots.

**3.3.3** People on the housing waiting list who are in immediate need should not be exposed to this uncertainty.

- **Delay for Services** – The affordable houses could not be built until the massive provision of sewers and other services for the large estate as a whole were sufficiently in operation whereas such delay would be unlikely if an infill site were devoted exclusively to affordable houses or a small number were built as an extension to an existing street.
- **Less Rented Accommodation** – In a large private estate it is not likely that all the affordable housing will be for rent, not only because of financial constraints but also because government policy, in the words of paragraph 40 of PAN 74, is that there should be a range of housing types and tenure which can share facilities so as to achieve “the

development of mixed, sustainable communities”. A large private estate would not be a mixed community without affordable houses for sale.

### **3.4 The Solution**

**3.4.1** Over 290 new dwellings having been built in Ballater since 1983, about 10% of which were affordable, it is now surely time to concentrate on providing affordable houses for renting in order to deal with the need of local people for such housing.

**3.4.2** The immediate solution is to look for small in-fill or other small sites (local research confirms such sites could be made available) compatible with the environment and the provision of services for the number of affordable houses for which public money is available and to provide on such sites dwellings, wholly or mainly, to be rented. The provision of houses to rent by Housing Associations and by Aberdeenshire Council has been encouraged by the suspension of the right to buy in Ballater as for Braemar, Aboyne and 85 other places in Aberdeenshire with effect from 6<sup>th</sup> November 2008 in relation to tenancies begun on or after the 30<sup>th</sup> September 2002. As the market is currently rather slow moving there could also be an opportunity for Housing Associations to consider buying existing dwellings.

**3.4.3** The course we have proposed would be in accordance with government policy at paragraph 95 of SPP 3 “Planning for Homes (Revised 2008)” where it is said “Planning Authorities should also consider allocating sites specifically for affordable housing to meet requirements identified by HNADA and LHS. This approach is most likely but not exclusively to be appropriate for small-scale sites within or adjoining existing villages.”

**3.4.4** Such a policy would allow more flexibility as results are monitored and sites are considered, than would an irrevocable commitment to a percentage of a large estate. Abandonment of Ballater H1 would enable innovative solutions to be considered as urged in paragraph 93 of SPP 3 Planning for Homes (Revised 2008) where it is said that in some areas as an alternative to requiring developers to provide affordable housing “local authorities may need to consider more innovative approaches to deliver housing for those in need.”

**3.4.5** It would allow time for consideration to be given as to whether planning conditions should be imposed requiring that affordable homes on a particular site or sites be for local people or people with a demonstrable link with Ballater e.g. a job in Ballater. Such provision has been made by some authorities in England, including Chelmsford Borough Council at East Hanningfield, and we understand in Scotland including in the Loch Lomond and Trossachs National Park. In giving the results of a survey of that national park and six English national parks, Heriot Watt's report of 2008 in the last paragraph of page 41 indicates that there are policies in force whereby those who have lived in the area for a number of years get first call on housing. Such provision would be exceptional and most suited for a small site consisting wholly or mainly of affordable houses for rent or subject to a suitable rural housing burden preserving houses for such use *in perpetuity*. If the law as to allocation of social housing in Scotland needs to be altered the CNPA should consider seeking an amendment.

**3.4.6** There are two big problems facing the CNPA, the need for affordable housing and the net emigration of young adults. As we have suggested, the two are linked. The Cairngorms National Park Plan 2007 states on page 66 at paragraph 5.22 that more young adults are emigrating from the National Park than migrate into it and on page 67 that for the National Park to continue to support thriving communities in the long term means in the short term seeking to retain or attract more young people. We cannot speak for the rest of the National Park but it is clear even from the evidence we have supplied that Ballater H1 will do little, if anything, to solve either problem. Heriot Watt's report of 2008 in the last paragraph on page iv of the Executive Summary states that the overall need of 121 affordable "units per year" is "not far short of the expected total rate of new building and household growth (130 per annum)".

**3.4.7** In these circumstances it would be quite wrong for Ballater H1 to be approved when no policy has been worked out for Ballater to reconcile the various pressures in the light of a vision for Ballater in a way which contributes to solving these two problems nor, indeed, the many others in this report.

## **4 Flood Risk of Site H1**

**4.1** The site H1 in Ballater is affected by the risk of flood. Therefore, it is affected, as is the whole plan, by the fact that, in preparing the DLP, the CNPA have allocated land for housing and other development without considering the potential for sites to flood in the manner as recommended in paras. 42 and 43 of Scottish Planning Policy 7: Planning and Flooding (“SPP 7”).

**4.2** Within the DLP the CNPA have identified a number of sites (as shown by the indicative Scottish Environment Protection Agency (“SEPA”) maps) to be subject to a medium to high risk of flooding. This means an annual probability of more than 0.5% or more than 1 in 200 years. It is clear from paragraph 34 of SPP7 and SEPA’s statement that the one in 200 layer on their indicative map embraces areas liable to a risk of more frequent flooding than once in 200 years. It is an historical fact to note as evidence that in 1829 the “Muckle Spate” manifested itself in Ballater. The heavy and persistent rains of August 1829 (one sixth of the total annual rainfall came in 24 hours) together with earlier heavy downpours had caused nine rivers to spate. The bridge over the River Dee at Ballater was swept away, property and livestock were to be found in Aberdeen Harbour and the whole valley suffered devastation.

**4.3** However, as far as the CNPA is concerned, in those cases where no planning application has been received, the DLP has merely stated that a detailed flood risk assessment will be required to accompany any development proposals for the site. The DLP gives no sign of having considered other material in accordance with paragraph 42 of SPP 7 and it is clear that the Risk Framework has not been applied to each site as laid down in Paragraph 43 of SPP 7.

**4.4** Paragraph 43 says, amongst other things, “each local plan should for watercourse and coastal flooding ..... select development sites on the basis of the Risk Framework providing full justification if different probabilities are chosen.” The Risk Framework in paragraph 37 of SPP 7 states that in medium to high risk areas there should not generally be development of undeveloped or sparsely developed sites. The site at Ballater is undeveloped and the other sites referred to appear to be undeveloped or sparsely developed. The DLP does not dispute the risk

assigned to these sites by SEPA's map. (These sites are thus dealt with on the following pages of the DLP, namely 66, 68, 78, 84).

**4.5** Again and again in the proposals for settlements, the text, after referring to the fact that the site is within SEPA's "indicative 1 in 200 year flood risk area" says, that a "detailed flood risk assessment will therefore be required to accompany any development proposals for this site." See for example the proposals for Aviemore (page 66 of DLP as modified), Ballater P68, Braemar P78 and Dalwhinnie P84.

**4.6** Furthermore, within DLP Policy 13(b) and para's 4.77 to 4.79 on Page 29 there is the same tendency to postpone consideration of suitability of particular sites till the stage of application of planning permission. Discovery of the unsuitability of a site at that stage could clearly impede the programmed delivery of land for needed housing as advised in SPP 3 (Planning for Homes)(2008) paragraphs 40 to 42.

**4.7** These faults are exposed in SEPA's objection to the finalised draft the DLP 2007 and (with their letter of the 28<sup>th</sup> June 2008) their objection to that plan as modified in June 2008. It will be seen from the second page of Table 1 of the 2008 paper at the penultimate item, that SEPA say that their previous warning of the need for the CNPA to demonstrate that all allocations have been appraised for flood risk, has not been addressed. Moreover, it is clear that the fact that in two cases planning applications have been received is no excuse for the failure in those cases to apply the Risk Framework before finalising the draft plan, as two pages on SEPA say they warned in January 2006 that appraisal of flood risk was required.

**4.8** More serious is the fact appearing from SEPA's objection that it is not just the seven sites currently objected to by SEPA that are affected by the CNPA's failure to follow paragraphs 42 and 43 of SPP 7. As will be seen from their objection SEPA's clearance of thirty other allocations is strongly qualified, principally in two respects: firstly their indicative map does not estimate probability of flooding on catchment areas of less than 3km<sup>2</sup> and secondly SEPA has not appraised all of the allocations.

**4.9** In a written "DLP update", issued by the CNPA at the end of September 2008, they say that a prospective developer is "currently" preparing a "Flood Risk Assessment" for submission to SEPA. This way of dealing with the matter suggests that the CNPA are too committed to this allocation to approach the issue in an open-minded manner which should be employed when preparing the DLP. It appears that the CNPA are evading their responsibility and making it an issue between the



prospective developer and SEPA, thus denying the CNPA to acquire expertise in this aspect of planning – namely implementing paragraphs 42 and 43 of SPP 7.

**4.10** If the site were designated for environmental/community use, the flood risk could easily be managed.

## **5 Tourism and Employment**

**5.1** Crucial to any tourism destination is its visual attractiveness to the discerning visitor. The originators of the DLP have apparently chosen to ignore the fragile nature of the local economy and its dependence on tourism in both summer and winter. The final report of the Heriot Watt University to the CNPA February 2006 states on P18 para 3.9 “The Cairngorms is an area with a significant degree of dependency on tourism .....” The village prides itself in providing a unique “highland village” atmosphere through the annual Highland Games and Victoria Week which make extensive use of Monaltrie Park. It has hosted the World Pipe Band Championships and is a popular gathering place for Scottish Caravan Club Meetings. Blocking the view down the strath will reduce the attractiveness of this very small area used by the community at large for various events and despoil the uniqueness of the area itself. Furthermore, the phased construction of 250 houses over a period of several years would have a permanent degradation of the visual aspect and reputation of the village as a tourism destination.

**5.2** The DLP holds out the hope that the developers would be required as a *quid pro quo* for planning to give land to the community for the enlargement of Monaltrie Park. This could be regarded as something of a red herring because the extra land in question by kind permission of the landowner is already used, and has been for many years, as the car park for any large events *viz* the Games.

**5.3** Building houses on Site H1 would make Ballater itself less attractive to tourists who have just entered the National Park at Dinnet and in approaching Ballater at Tullich they breast the hill and would be confronted with what in a few years time would be a new town, or a construction site. SPP 15 Paragraph 8 states “The aim is not to see small settlements increase in size to the extent that they lose their identity, nor to suburbanise the Scottish countryside or to erode the high quality of

its environment.” Scottish Government Publication Pan 44 also states that “the absence of a properly conceived and implemented landscape framework and urban form leads to visual intrusion and visual confusion at the edge of Scottish towns, particularly when viewed from important routes and railways.”

**5.4** It is further contended in Scottish Government Publication PAN 44 that “the construction of houses is driven by the house-building company’s objective to add value to its investment and, in general, this demands a maximisation of the number of dwellings to be developed”. This, it is suggested, is precisely the situation that prevails in Ballater H1.

**5.5** On the employment issue let it be assumed that 250 houses are to be eventually constructed in the area H1 proposed in the DLP. This means that 250 rents and/or mortgages would have to be paid, which means that the potential residents need to have employment locally, or bring imported wealth in the form of capital savings or pension income. There are three main industrial sectors in the area – tourism, agriculture and forestry. The first is, by nature transient and seasonal and usually employing base rate minimal wage rates. The Heriot Watt Report of 2006 Page18 para 3.9 states “One of the main issues is the relative decline of the service sector in the Scottish context.” The Report goes on to say on P17 para.3.5 “The largest employment sector is in the service industry of hotels and restaurants. This accounts for over 1500 jobs equivalent to nearly one fifth of total employment in the Park. It also emphasizes the tourist based nature of the economy.” The second (agriculture) is largely mechanised with little opportunity for the sort of expansion needed to provide many new jobs. Further reference is made to Heriot Watt’s report of 2006 Page18 para 3.10 “The agricultural industry is characterised by a trend towards farming becoming a part-time occupation.....” The third, namely forestry, is one where massive expansion in terms of new employment is hard to envisage. The DLP on P 38 under “Economic Development” and Policy 20 “Business Development” makes vague references to the “employment needs and aspirations of local communities” and “new proposals for business development will be favourably considered” but offers no suggestions as to how this might be achieved. It would appear that in most economic models, if employment opportunities are created or already exist in a particular area, it is usual for the vacancy to be filled

and then appropriate accommodation requirements are addressed. The DLP proposes 250 houses (90 in the short term) where job opportunities do not exist on the scale suggested in the plan and no suggestions are made as to how vague policies are to be translated into jobs - unless the CNPA plans to inflate an already bloated public sector by employing yet more staff. CNPA Planning Paper 5 of the 7<sup>th</sup> May 2004 paragraph 4, expresses a view that “speaking to local people and the business community .... the lack of affordable housing is the single most important constraint on economic development....” This seemingly sympathetic sound-bite makes no economic sense as far as the creation of new employment is concerned. However, the views said to have been expressed by interested sections of the community certainly apply to the need for affordable homes to existing local people. To expect new jobs to appear “out of the blue” simply because a clutch of affordable homes have been constructed on H1 is simply naïve and worrying that policies like this can emanate from such quarters.

**5.6** Further evidence of the CNPA ignoring Policy and employing back-to-front economic planning is indicated by reference to the Aberdeenshire Local Plan, Chapter 4 – Housing Policies entitled “New Housing in the Countryside including the Aberdeenshire Part of the Cairngorm National Park”

Part 1: Erection of new housing

The erection of new housing in the Countryside will be approved, in principle, **IF**

- a) It is a full time worker in an enterprise which itself is appropriate to the Countryside
- b) The presence of that worker on-site is essential to the efficient operation of the enterprise
- c) There is no suitable alternative residential accommodation available
- d) The proposed house is within the immediate vicinity of the worker’s place of employment

The Aberdeenshire Local Plan clearly identifies the need to have sustained employment present in the area before the housing need is identified. The exact opposite applies where the DLP illogically postulates a massive new settlement where sustainable employment opportunities are both scarce and barely exist. This makes no economic sense.

## **6 Access to the Site for Motor Vehicles**

**6.1** The creation of a new built-up community tacked-on to the existing village would lead to massive disruption to existing street lines and traffic patterns. Scottish Government Consultation Paper “Designing Streets” draws a clear distinction, in functional terms, between roads and streets. Roads are concerned with traffic movement and streets are typically lined with buildings and public places. Constructing access for motor vehicles to the new development on Ballater H1 would add to the damage to the environment and there is no obvious link to the existing village. From the south east a road would need to cut through the old railway line (a popular cycle and footpath known as the Deeside Way) probably at two points namely from the existing extension of the village along Tullich Road, the A93, and further north east directly from the A93 across existing fields.

**6.2** In the proposed plan for area H1 the road patterns would have to be laid in anticipation of the area H1 being filled with houses or indeed for further extensions of building eastwards. As has been pointed out on page 33 of consultation draft “Designing Streets” January 2009 the layout of streets in the north-east of the existing village “does not allow for a connected growth of the village.” From the north west a road would need to cross the much-prized footpath that runs from the village to the Pass of Ballater, again at two points, namely from Monaltrie Avenue near the Primary School and further north east from the development proposed between Monaltrie Avenue and Monaltrie House.

**6.3** It is suggested that access routes to and through this “new town” would in reality by-pass the existing main road route into Ballater and create a main through-route to link up with the existing road and street network. At the very least the environment and the amenities would be damaged by a road crossing the old railway line which is part of the Deeside Way. For the “new village” to be linked to the existing village there is likely to be road works for an extended period of a number of years which will further detract during the period from the amenities of Monaltrie Park and the existing houses.

**6.4** For example the Prince’s Foundation in the plan on page 19 of their summary report suggests that Craigendarroch Walk (a quiet winding road) should be extended across Monaltrie Avenue and across Monaltrie Park to provide a link to the new estate. Such a road would pass close to the school as well as damaging the environment of Craigendarroch Walk and Monaltrie Avenue. The disruption to traffic flows and the additional stress on parking areas would be unacceptable apart from the road safety aspects of traffic moving through a housing estate. The plan on Page 19 of that summary report shows how the new road system envisaged there would have a devastating effect on the north east of the existing village with amongst other things land being taken either from Monaltrie Park or private properties.

**6.5** It is interesting that the Scottish Executive’s consultation paper of January 2009 “Designing Streets” uses Ballater as an example on Page 33 and the caption to figure 3.3 reads “Ballater, Aberdeenshire – the ability for future growth is not compromised in the south west of the village .....with its permeable street pattern but some recent cul-de-sac type development in the north east.....does not allow for a connected growth of the village.”

## **7 Damage to the Natural and Cultural Heritage**

**7.1** Development of Site H1 for housing would damage the natural and cultural heritage of Ballater by cutting off that part of Ballater and Monaltrie Park from the open countryside and detract from the full beauty of the vista down to Tullich. Sections 1 and 9(6) of the Act of 2000 makes the main aim of the National Park to conserve and enhance the natural and cultural heritage of the area. From this point

of view any building that is situated in the gap between Monaltrie House and the proposed housing to the south so as to block this view would in practicable terms be irrevocable.

**7.2** Changing the character and suburbanising the countryside by the development of the site H1 would breach the principle stated in Paragraph 8 of SPP 15 (Planning for Rural Development). It states that “the aim is not to see small settlements increase in size to the extent that they lose their identity nor to suburbanise the Scottish countryside or to erode the high quality of its environment”. It seems from the terms of Policy 13(c) of the DLP on Page 29(as modified in 2008) that Ballater is a small settlement as it has a population of less than 2000. The proposed development for Ballater H1 would by itself change the identity of Ballater. It would be the tipping point in conjunction with the existing developments north eastwards, suburbanise the strath and would, with absolute certainty, lead to more development down the strath towards Tullich since there would seem to be no logical limit until the burn at Eastfield.

**7.3** Viewed from the tops of Craigoilich or Craigendarroch (each an ascent of some 200 metres) much visited by tourists, the vista down to Tullich is spectacular in following the course of the River Dee. It is strongly arguable that paragraph 26 of SPP 15 applies where it says: “One of rural Scotland’s special features is the extent to which environmental quality is high outwith protected areas as well as within them. Some parts of these valued environments can accommodate certain types of development, where it can be demonstrated that there will be no adverse environmental impact.”

**7.4** The CNPA’s Environmental Report of June 2008 understates the position when it states at paragraph 9.17 that development of this site (H1) “could lead to negative effects on the landscape and settlement character of Ballater.” It is argued that the strath on which H1 sits is analogous to a protected area like a national scenic area.

## **8. Amenities**

**8.1** Before the CNPA came into existence a proposal was put to Aberdeenshire Council for the creation of an amenity area on site H1 by the Community Economic Development Company (a registered Scottish Charity) with the full support of the

community as a whole. Despite the area being zoned for housing the Council withdrew its plans to allow the community ideas to proceed. These were to include the extension of the path network around Ballater, inclusion of bio-diversity areas and public recreational amenities.

**8.2** The plans were the product of widespread community consultation, expert advice from The Cairngorms Partnership and Aberdeenshire Council. The CNPA have not acknowledged or have apparently ignored all previous plans prior to their inception and have through the DLP housing proposal on site H1 imposed an over-riding blanket solution of 250 houses.

**8.3** There may be certain technical difficulties with site H1 which the CNPA have overlooked in relation to the main drainage for the village. The addition of a large number of housing units may place an unacceptable strain on the existing drains. This together with the parking difficulties when new residents travel into the village to shop will certainly create job opportunities for traffic wardens because the proposed development is too far from the village centre for most people to walk. This further strengthens the opinion voiced by many residents that the building of 250 new homes will in effect create a new separate community with its own diverse claims and stresses on the local provision of services and amenities.

## **8 Reduction in Agricultural Land**

This development would diminish the supply of good agricultural land which rather rare in this part of Deeside. It is Class 3:2. It is not classed as prime agricultural land, which embraces Classes 1, 2 and 3:1 and therefore is not subject to an automatic presumption against development. Nevertheless, all land in the Dee Valley upstream of Newton of Gairn is of a lower quality than Class 3:2.

Although the European Union and the British authorities appear to be reacting very slowly, if at all, to the widely reported global shortage of food and need for bio-fuel, these are surely matters that need to be borne in mind. A flourishing agricultural industry will surely contribute to the sustainability of Ballater and its environs in a way more compatible with conservation of the natural heritage than the building of

far more houses than are needed to house the employees of any likely businesses in this part of the National Park.

## **9 Conclusion**

We assert that the allocation of site H1 at Ballater is ill-conceived and fails three major tests of its legitimacy as a solution to Ballater's housing problems (which the CNPA have acknowledged) namely:

- a) fails to deliver the required quota of affordable houses;
- b) aggravates an already serious issue with empty houses and
- c) creates overdevelopment of Ballater.

It is essential that amenity areas are now developed to provide appropriate environmental/recreational assets. Site H1 is the only suitable area for this purpose. If designated for housing, agricultural land would be permanently lost; but if designated for environmental/recreational use, the area could be brought back to agriculture if necessary. This is of relevance to the present concern regarding food security.

For these and the other reasons laid out in this submission, we respectfully request that the proposed allocation of site H1 be withdrawn.