

Local Plan Inquiry Report - December 2009

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Abbreviations

CNPA	Cairngorms National Park Authority
CNPLP	Cairngorms National Park Local Plan
CNPP 2007	Cairngorms National Park Plan 2007
NPPG	National Planning Policy Guideline
NSA	National Scenic Area
PAN	Planning Advice Note
SAC	Special Area of Conservation
SEA	Strategic Environmental Assessment
SEPA	Scottish Environment Protection Agency
SPA	Special Protection Area
SPP	Scottish Planning Policy
SSSI	Site of Special Scientific Interest

Introduction to Section 1 of the Report

1.1 Cairngorms National Park Authority (CNPA), in exercise of the powers conferred on them by the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983 appointed us, on 6 February 2009, to hold a public local inquiry into objections made to the Cairngorms National Park Deposit Local Plan Modifications (1st and 2nd), dated October 2008 (CNPLP), and to report to them on those objections.

1.2 The CNPLP is the first land use plan to be produced by CNPA. In essence, it is intended to provide a framework of policies and proposals adequate to guide and manage the development and use of land for a 5 year period. It also identifies strategic sites and some other land for development beyond the next 5 years thereby providing a level of certainty about the use of land in the medium to longer term.

1.3 Successive versions of the emerging plan have attracted numerous objections covering matters of general principle, policies and proposals, and the detail of the supporting text. CNPA has provided us with the list of objections that it regards as properly made and not withdrawn and has instructed that these objections are the principal focus of our inquiry. We have placed our assessments, reasoning and recommendations on those objections within the statutory framework provided by the National Parks (Scotland) Act 2000 and the emerging changes consequent on the Planning etc. (Scotland) Act 2006. We have also borne in mind the policy framework set by the Cairngorms National Park Plan 2007 (CNPP 2007), the content of the various approved structure plans and extant local plans that cover the Cairngorms National Park area, as well as the current and emerging requirements of Scottish Planning Policy.

1.4 In carrying out our work we have compared the finalised version of the CNPLP with the initial deposit version, which is dated September 2007, as well as with the officer proposed post inquiry modifications that were presented to the inquiry (CD 7.28). We have also kept firmly in mind the 4 aims set out in its section 1 of the National Parks (Scotland) Act 2000:

- *To conserve and enhance the natural and cultural heritage of the area;*
- *To promote sustainable use of natural resources of the area;*
- *To promote understanding and enjoyment (including in the form of recreation) of the special qualities of the area by the public; and*
- *To promote sustainable economic and social development of the area's communities.*

1.5 It has been critical to our approach to those objections which state that the policies of the plan give disproportionate weight to one or more of the aims of the Park, that section 9 of the National Parks (Scotland) Act 2000 Act states that the general purpose of the National Park Authority is to ensure that the National Park aims are collectively achieved in a co-ordinated way. In exercising its functions, CNPA must act with a view to accomplishing this purpose. If in relation to any matter it appears to the authority there is a conflict between the first aim and the others, the authority must give greater weight to the first aim.

1.6 The CNPP 2007 approved by Scottish Ministers provides a strategic context for the new local plan. The stated purpose of the CNPP 2007 is to provide *a plan for the National Park as a whole, not just for the National Park Authority. It has therefore been developed and will be implemented through a wide range of partners and stakeholders* (section 2.1, page 10). The expectations of the content of the local plan are summarised in the following quote from the CNPP 2007: *The National Park Authority is also responsible for the preparation of the Local Plan for the area, setting out detailed policies to manage the spatial planning and built environment of the National Park. The policies of the Local Plan set out the means by which built development will contribute to the strategic objectives of the National Park Plan* (our emphasis) (section 7.6, page 125). The strategic objectives of the CNPP 2007 are to be found in section 5 under the headings: Conserving and Enhancing the Park; Living and Working in the Park; and Enjoying and Understanding the Park. We are in no doubt that these strategic objectives are the intermediate links which give a definitive steer on how the aims of the National Park must be progressed by the CNPLP.

1.7 In contributing to the delivery of the CNPP 2007 the local plan must also conform to the provisions of the Planning Acts (including Section 264A of the Town and Country Planning (Scotland) Act 1997 as amended) and other relevant legislation including the Nature Conservation (Scotland) Act 2004 and the Environmental Assessment (Scotland) Act 2005.

1.8 Although the CNPP 2007 provides a strategic context for the local plan, the policies and proposals of the CNPLP must have due regard to the relevant parts of the following approved structure plans: The Highland Structure Plan 2001; North East Scotland Together 2001; The Moray Structure Plan 2007; and the Dundee and Angus Structure Plan 2002. However, there is no requirement for slavish compliance with the any of terms of these plans because they all predate the designation of the Cairngorms National Park, so that they contain policies and proposals that apply to areas with a different geographic focus and that are not based on the 4 National Park aims described above. In short, it is open to the CNPLP to take a different approach to that of the structure plans where the CNPP 2007 provides alternative material guidance or direction.

1.9 The terms of the initial sections of the emerging consolidated Scottish Planning Policy, which was published in October 2008, have also guided our assessments. These sections provide a concise, clear and helpful statement of what will be expected of a local plan, i.e. that *They should indicate where development, including regeneration, should happen and where it should not. Development plans must be accessible to the communities they serve and they should be concise and written in plain English* (paragraph 11, page 3).

1.10 As far as the particular content of the plan is concerned the Scottish Government expects it to:

- *have a sharp focus on land and infrastructure;*
- *concentrate on what will happen, where and why;*
- *make use of maps and plans to explain and justify the long term settlement strategy; and*

- *contain policies and proposals that will achieve predictable outcomes* (paragraph 18, page 4).

1.11 In examining the CNPLP within that context, we are clear that our principal focus should be on the merits of objections made to the substance of policies and proposals. We regard it as counterproductive to consider at length the merits of the considerable array of minor matters and wording adjustments advocated, including to the supporting texts. CNPA is well aware of these objections and we leave it to the authority to take them into account in progressing the local plan towards adoption. Moreover, inclusion of such matters of fine detail within our report would hinder the Scottish Government's principle objective of securing at the earliest opportunity a properly functioning planning system in the National Park of which an adopted local plan is an integral part.

1.12 For the avoidance of doubt, and contrary to the apparent expectations of some objectors, it is not open to us to comment on CNPA's procedures, to recommend alterations to the approach taken in the approved CNPP 2007, or to recommend a revision of the CNPLP in its entirety, or even in large part. However, in March 2009 CNPA published the Cairngorms National Park Development Plan Scheme. That scheme confirms that the emerging CNPLP, which is the subject of this inquiry, is only the first stage in a series of land use plans intended to provide for the foreseeable future a level of certainty about the use of land within the National Park and the sorts of development which will, or will not, be acceptable within its boundaries. These plans will be prepared in a manner which is timely, up to date, valid and reflective of changing needs and context. CNPA has stated that it will start work in early course on a Local Development Plan to replace the CNPLP. In moving in that direction, we note the unequivocal commitment by CNPA to effective community engagement along the lines set out in Planning Advice Note 81: *Community Engagement*. We also note the new legislative engagement requirements for Local Development Plans that are described in Planning Circular 1/2009: *Development Planning* issued by the Scottish Government, with which CNPA must comply (paragraphs 43 to 48).

1.13 Bearing in mind its commitment to the Cairngorms National Park Development Plan Scheme we have been encouraged by CNPA to view its approach to land use planning within the National Park as a work in progress of which the CNPLP is but the first stage on the route. With that in mind, while retaining our focus on the merits of objections before us made to particular policies and proposals we have, on occasion, widened our scope to incorporate some suggestions on the form and content of the local plan which CNPA may find of some assistance either as it moves to the adoption of this local plan or as it progresses the preparation of the replacement Local Development Plan.

1.14 In structuring our report we have followed the sequence of text set out in the CNPLP:

- Section 1 covers objections made to: - Chapter 1: Introduction, Chapter 3: Context, and Chapter 3 Aims and Special Qualities of the Park;

- Section 2 deals with objections to: - Chapter 4: Conserving and Enhancing the Park, Chapter 5: Living and Working in the Park, and Chapter 6: Enjoying and Understanding the Park; and
- Section 3 is concerned with objections made to: - Chapter 7: Settlements and particular proposals for strategic, intermediate and rural settlements.

Following that structure, we move on in the remaining portions of this section to deal with objections made to Chapter 1: Introduction, Chapter 3: Context, and Chapter 3 Aims and Special Qualities of the Park.

Issue	General Issues including introduction, layout, vision, context, & links to other plans & policies		
Reporters	Jill Moody & Hugh M Begg		
Procedure	Hearing		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400a/b
	Scottish Campaign for National Parks		434a/b/s
	Scottish & Southern Energy plc		447j
	RS Garrow Ltd		464a
Procedure	Written submissions		
Objectors	Mrs Sally Spencer	Objection refs	017g
	Dr A Watson		020b
	DW & IM Duncan		037b
	Muir Homes		038b
	James Hall		371a
	Roy Turnbull		390a
	Alvie & Dalraddy Estate		439a/b/u
	North East Mountain Trust		443a
	Victor Jordan		537a

Reasoning

2.1 When we review the miscellaneous set of objections listed above that CNPA has asked us to consider, including the evidence provided by way of written submissions and at the relevant hearing sessions, we note that they cover an array of matters some of which strike at the heart of the plan. They include concerns, variously expressed, that the policies and proposals of the emerging plan when taken as a whole: do not comply with the aims of the National Parks (Scotland) Act 2000 Act; fail to meet the requirements of section 9 of the Act that the National Park aims must be collectively achieved in a co-ordinated way; fail to meet the strategic objectives of the CNPP 2007; and fail meet the requirements of national policy as set out in Scottish Planning Policy. As a result, we find that the overarching issue to be addressed is whether the content of Chapters 1 and 2 of the CNPLP meets the requirement of Scottish Planning Policy dated October 2008, that: *Development plans must be accessible to the communities they serve and they should be concise and written in plain English* (paragraph 11, page 3).

2.2 Other related concerns then flow from that, including: that the tone of successive drafts of the emerging plan is increasingly favourable to growth and economic development rather than conservation and natural heritage interests; that there is an over emphasis on the provision of housing land to the detriment of other important issues; and that the CNPLP simply fails to provide the clear guidance which is to be expected from a local plan. We deal with the particulars of all of these concerns elsewhere in the report as we consider objections to individual issues, policies, and proposals.

2.3 In the meantime, we find that, despite repeated attempts at clarification by CNPA, many of the difficulties can be traced to an apparent lack of a clear framework and understanding about the intention of the texts of Chapters 1 and 2 as

these appear in successive drafts of the emerging CNPLP. Given what they set out to achieve by way of introduction and context, we are clear that the texts of these chapters in the finalised draft are not fatally flawed. However, bearing in mind the focus on particular aspects signalled by the sub-headings, neither are they entirely adequate or clearly expressed.

2.4 With these defects in mind, we set out below a series of suggested adjustments that are intended to cover the overarching issue raised by the objectors and to address directly all of the other matters which flow from it. With 2 important exceptions our suggestions are largely cosmetic. Most involve some re-ordering of existing text, and others are suggested for clarity and to make the reasoning more accessible to the users of the plan. Our suggestions incorporate a range of concessions made by CNPA during the inquiry.

2.5 Our starting point is that the common feature of the objections is a concern that Chapters 1 and 2 of the CNPLP, even as these have been modified, do not achieve what appear to be their self imposed objectives as set out in the chapter headings and sub-headings. Taking that forward, we find that in addressing the overarching issue we must question whether the chapters, taken together, provide a clear, concise and otherwise satisfactory explanation of the following:

- the statutory context within which the plan has been prepared including the relationship between the approved structure plans and the CNPLP;
- the links between the aims of the National Park, the strategic objectives from the CNPP 2007, and the policies and proposals of the emerging local plan;
- how the vision of the CNPLP has been derived and will be taken forward;
- how the plan was prepared within the statutory context set by the National Parks (Scotland) Act 2000 Act and subject also to the objectives of the CNPP 2007, Scottish Planning Policy and advice, and other relevant plans and strategies;
- how it is proposed that the plan will be implemented and monitored; and
- how the plan is to be used by its readers, including community councils, to secure community engagement in development management.

Our first suggestion relates to the first 2 of these matters and, in addressing them, we bear in mind that we have found some confusion amongst other objectors about these relationships throughout the course of the inquiry. In seeking a remedy, we find that Topic Paper 1 in the revised form provided for us on 3 June 2009 states clearly the statutory planning context within which the emerging local plan has been prepared. It includes a succinct and readily accessible description of the relationship between the aims of the National Park, the CNPP 2007 and the CNPLP. It also assists in clarifying the role of the Planning Acts and in particular the relationship between approved structure plans, the CNPP 2007, and the CNPLP. Accordingly, subject to a further review of its content on matters of law, on which we are not qualified to report, we suggest that the revised text from Topic Paper 1 should form the basis for Chapter 1 of the adopted local plan which might be entitled *Statutory Context*.

2.6 Turning now to the 4 remaining matters, we are in the main satisfied with the general responses provided by CNPA to the concerns raised by the objectors.

Particular matters will be taken up elsewhere in this report, but at this stage we have a number of suggestions to make.

2.7 We consider that an explanation of the CNPLP's vision should be a priority for Chapter 2. Moving on, we are not satisfied that Figure 1 *The Local Plan in Context* (page 9), as presented in the finalised plan, is fit for purpose. If it is to be included, it must relate directly to the associated text as an aid to explaining clearly, accurately, and unambiguously how the local plan was prepared within the statutory context and subject to the objectives of CNPP 2007, Scottish Planning Policy and advice, and all other relevant plans and strategies. Related to that, we are in no doubt that CNPA is committed to the principle of *sustainable development* and to making progress towards achievement that goal through the creation and maintenance of *sustainable communities*. However, we suggest that those commitments should be made explicit to readers early in the text of the plan together with specific definitions and statements about what these terms mean.

2.8 In the session devoted to *links to other plans/policies* it was pointed out by an objector, and confirmed by CNPA, that it was the intention of CNPA to rely heavily on the issue of supplementary guidance. We do not doubt that CNPA will adopt best practice in engaging with relevant parties in the preparation of these documents. However, we required that CNPA provide for us a list of the supplementary guidance which it intends to prepare along with the timescale for issue. We agree with the objector who advocated that the list produced in response to our request should be attached to the local plan as an Appendix prefaced with associated text to make clear that the forthcoming guidance is supplementary to the CNPLP and does not form part of it.

2.9 We are satisfied that the text of Chapter 2, as provided in the finalised version of the plan, introduces adequately an explanation of how the CNPLP will be monitored and implemented. Nevertheless, we note on a number of occasions elsewhere in this report our reservations about the inclusion of lengthy and often repetitious wordage relating to these matters in the text associated some individual policies.

2.10 We can appreciate the general concerns of objectors about how the plan is to be used by its readers and, in particular, what is to be the role community councils. Development management is not a principle focus for the CNPLP. However, given CNPA's unusual circumstances, we find that some additional explanation, perhaps with the aid of a flow diagram, would help plan users understand more easily how a planning application will be dealt with. It is essential that any diagram which is introduced indicates the role to be played by the 4 constituent planning authorities in the initial submission of an application, the scrutiny which will be undertaken by CNPA, and the ability of CNPA to "call in" those applications which it regards as being of particular significance. Applicants must also be made fully aware that the test of significance will be an assessment of the proposal against the strategic objectives of the CNPP 2007 because these objectives have been approved by the Scottish Ministers as a means of taking forward the 4 aims of the Park.

2.11 We suggest that some text, particularly that relating to the Selected National Park Outcomes for 2012, should be considered for deletion because that material is

transferred in large part directly from the CNPP 2007. There will be undoubted benefit in pointing out to prospective applicants that they should consider their proposals against the text of the CNPP 2007 as well as the CNPLP and the links with the CNPP 2007 should be made explicit. However, repetition of text is confusing and unnecessary and we give weight to the requirement of Scottish Planning Policy that the CNPLP be concise.

2.12 Drawing all of these matters together, we return to the fundamental test set by Scottish Planning Policy *Development plans must be accessible to the communities they serve and they should be concise and written in plain English* (paragraph 11, page 3). Within the spirit of that requirement, we suggest that Chapter 2 of the adopted local plan might be entitled: *The Vision of the Local Plan, its Preparation and its Uses*. The content should address the matters set out in the last 4 of the 6 bullet points set out above, with attention paid to any minor changes to wording which CNPA may consider justified. This could be based on text from the headings and paragraphs in the Deposit Local Plan (Modifications 1st and 2nd) October 2008, re-ordered and augmented as follows:

- *The Vision and Guiding Principles of the Local Plan* - paragraphs 2.14, 2.15, 2.16 and 2.17, plus additional text to make clear the commitments to sustainable development and sustainable communities and defining these terms in the glossary;
- *Purpose of the Local Plan* - paragraphs 1.5, 1.6, and 1.7;
- *Relationship of the Local Plan to other Plans and Strategies* - Figure 1 The Local Plan in Context (as revised);
- *The Structure of the Local Plan* - paragraphs 1.13, 1.14, 1.15 and 1.11, and 1.12;
- *Implementation of the Local Plan* - paragraphs 1.16, 1.17, 1.18, 1.19, and 1.20;
- *Monitoring of the Local Plan* - paragraph 1.23; and
- *How to Use the Local Plan* - box and paragraphs 1.21, 1.22 (with accompanying flow chart) to which should be added text referring to supplementary guidance and an Appendix 4 to the plan setting out what is currently proposed.

Conclusions

2.13 When we review our findings, we note that these objections raise general matters some of which are fundamental to the content of the emerging local plan. We find that many, but certainly not all, of the concerns arise from misunderstandings which can be traced to shortcomings in the explanatory texts of Chapter 1 and Chapter 2. Those concerns which relate to particular policies and proposals are dealt with elsewhere in this report. In the meantime, we are driven to conclude that the contents of Chapter 1 and Chapter 2 fail against the requirement of Scottish Planning Policy that: *Development plans must be accessible to the communities they serve and they should be concise and written in plain English*. However, the deficiencies are not fatal to the plan and we have set out a number of remedial suggestions which may be of assistance.

2.14 We have considered all of the other matters drawn to our attention but find none of such weight that it alters our conclusions.

Recommendation

2.15 Subject to careful consideration of the suggestions set out above, we recommend that Chapters 1 and 2 broadly as set out in the Deposit Local Plan Modifications (1st and 2nd) can be taken forward into the adopted local plan.

Issue	General Maps		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400n
	Scottish Campaign for National Parks		434n
Procedure	Written submissions		
Objector	Dr A Watson	Objection ref	020o

Reasoning

3.1 Appendix 1 to the CNPLP contains several maps that provide information on the location and extent of various natural heritage and landscape designations. Amongst these, the proposals maps defined the extent of various settlements in the National Park and allocate development accordingly. In addition, Map D shows Semi-Natural and Ancient Woodland Inventories and it has been carried forward into the finalised version of the plan with the welcome addition of a scale in kilometres.

3.2 Based on the above objections that we have been asked by CNPA to consider, we find that the only matter to be addressed is whether these maps, and Map D in particular, are clear and understandable. In accordance with current best practice, we have not considered minor matters which do not materially affect our assessment of these objections. However, CNPA should take these into account in deciding which alterations may be appropriate as the CNPLP moves towards adoption.

3.3 We have noted the concern of those objectors who consider that the maps are fatally flawed. However, we accept from CNPA that the base maps are the most up to date Ordnance Survey available and the information imposed on them is derived from a variety of sources, many of which are not within CNPA's control. In particular, the designations on Map D regarding ancient woodland were provided by Scottish Natural Heritage. Accordingly, we are satisfied that the maps provide the most accurate information available on the designations to which they refer.

3.4 Next, we note that the maps in Appendix 1 to the CNPLP are not proposals maps. Instead, they are presented as a courtesy to users of the plan to assist their identification of areas to which particular policies will apply. However, it follows from that the maps should be clear and readily understandable and we cannot accept that they meet that standard. The challenge for CNPA is readily stated: how to identify relatively small pieces of land within the wider land area of the National Park. The answer is less easy, especially in view of the size of the National Park and the complexity of the detailed information involved.

3.5 We suggest that the whole suite of maps should be kept in the CNPLP, but that there should be related text which guides readers to places where more easily copies can be found in paper and electronic form. Appropriate attention should be paid to the special needs of those with some visual impairment. For example, the text associated with Policy 2 Natura 2000 Sites provides a hyperlink and details of CNPA's web site through which larger scale maps can be accessed (paragraph 4.7). In this way, the maps could provide, in sufficient detail, the information which CNPA

wishes to convey as it relates to particular sites, without excluding the interpretation of that information by any users of the plan.

Conclusions

3.6 When we review our reasoning above, we conclude that the information contained in the CNPLP maps is as accurate as might reasonably be expected from CNPA. However, CNPA should give further consideration to the various ways in which the information in the whole suite of Maps A to D could be most helpfully be conveyed to allow easy access and interpretation by all potential users of the plan.

3.7 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

3.8 Accordingly, subject to addressing the above reservations, we recommend that Map D as set out in the Deposit Local Plan Modifications (1st and 2nd) should be taken forward into the adopted local plan.

Issue	Policy 1 Development in the Cairngorms National Park		
Reporters	Jill Moody & Hugh M Begg		
Procedure	Hearing		
Objectors	The Proprietors of Mar Centre	Objection refs	394c
	Scottish & Southern Energy		447a
Procedure	Written submissions		
Objectors	Mrs Sally Spencer	Objection refs	017a/b
	Dr A Watson		020c
	Frogmore Estates Scotland Ltd		026a
	Muir Homes Ltd		038c
	James & Evelyn Sunley		056g
	Sportscotland		380e
	Woodland Trust Scotland		393b
	The Clouds Partnership		398a
	Dunachton Estate		418a
	Scottish Rural Property & Business Association		429b
	Mrs Jane Angus		437a
	Alvie & Dalraddy Estate		439c
	North East Mountain Trust		443b
	The Cairngorms Campaign		448b
	Glenmore Properties Ltd		453a
	Reidhaven Estate		456d

Reasoning

4.1 We note that Policy 1 forms the centre piece of Chapter 3 which is entitled *The Aims and Special Qualities of the Park*. Before turning to that policy, there are 2 preliminary matters with which we must deal. First, the boxes at the head of Chapter 3 add nothing to the data already provided at page 24 of the CNPP 2007. Second, as far as the *special qualities of the Park* are concerned this was a matter of considerable but largely fruitless debate at the hearing. There is introductory, descriptive text set out on pages 25 to 27 of the CNPP 2007. That statement has been endorsed by Ministers, and we find that the text provided in Chapter 3 does not take matters beyond that. We note in passing the numerous references by CNPA to Topic Paper 2 (CD 7.22) which was produced to elaborate its position at the inquiry. However, neither we nor the objectors found that text particularly helpful in either adding to, or clarifying, the CNPA position. We have given careful consideration to the considerable body of evidence presented in support of an alternative position taken by one of the objectors. This confirms us in our view that further attempts at describing and defining the special qualities of the Park in particular locations, whether taking a textual or spatial approach, are unlikely to be of much help in determining the merits of a particular planning applications. Indeed, we fear that spending further scarce resources in examining the limits of this cul-de-sac will not reveal a way forward for either developers or CNPA. Drawing these matters together, we find that the material in the boxes and the following text is redundant and should be deleted from the local plan.

4.2 With these matters out of the way we can turn to our consideration of the terms of Policy 1. As a starting point we note that there is a wide array of objections to this policy. These range from fundamental issues including its compliance with the National Parks (Scotland) Act 2000 and the emerging changes consequent on the Planning etc (Scotland) Act 2006 and the Planning Acts, through to its applicability to particular forms of development, and on to matters of detail including specific wording of the policy. CNPA has responded to the objections but it has taken the deposit plan and 4 subsequent proposed modifications to provide a form of words which the authority is satisfied with. It is of interest that in the deposit version of the plan there was no justification provided for the inclusion of Policy 1. In the first modifications the justification given is that: *the policy supports all of the National Park strategic objectives...* (paragraph 3.6). It is stated that: *It is the policy that will underlie all planning decisions within the Cairngorms National Park and will be the starting point and ending point in assessing planning applications* (paragraph 3.6). The text goes on: *Policy 1 will form a firm foundation for decision making and link the detailed policies back to the aims of the Park. This policy also provides a basis for the assessment of any proposals that have not been anticipated in the other policies of the Plan* (paragraph 3.9). Some of the objectors had considerable difficulty with this justification and, accordingly, we are bound to pay particular attention to it.

4.3 On the basis of the above objections, which we were asked by CNPA to consider and the evidence brought to the inquiry in written and oral form, we find that the main issues to be addressed are:

- whether Policy 1 forms an integral and necessary component of the local plan;
- if so, whether the form of words drafted by CNPA for its proposed post inquiry modifications acceptable; and
- if so, whether the associated text as it appears in the finalised version of the CNPLP would benefit from adjustments.

In accordance with current best practice, we have not considered minor matters that do not materially affect Policy 1. However, CNPA should take these into account in deciding which alterations may be appropriate as the local plan moves towards adoption.

4.4 As far as the first issue is concerned, the essence of the authority's extensive case for the inclusion of Policy 1 appears to us to boil down to 3 assertions:

- (1) the policy provides a necessary umbilical cord from the CNPLP to the aims of the National Park as set out in statute;
- (2) there is need for a policy so general in its application that it can be the starting point and end point in the assessment of the merits of each and every planning application; and
- (3) the policy provides a safety net should the detailed policies of the adopted CNPLP fail to address directly what is proposed in a particular planning application.

4.5 Taking the first of these assertions, we see no need for a policy whose principle purpose is to provide a link with the aims of the Park. The CNPP 2007 has developed its strategic objectives with these aims in mind and that plan has received

the approval of the Scottish Ministers. As we have noted in a previous section of this report, the CNPP 2007 is clear and unequivocal in stating that: *The National Park Plan provides an overarching context for development planning and management within the National Park. The Local Plan will set out detailed policies to guide development in ways that contribute to the strategic objectives of the National Park Plan. The National Park Plan is a material consideration in planning authority decisions* (section 2.4, page 14). We conclude that as far as this local plan is concerned the links which must be made are between the detailed policies to guide development and the strategic objectives of the National Park Plan. The link with the aims of the National Park has already been made through the CNPP 2007 which has been approved by Ministers.

4.6 Moving on to the second assertion, we note that, within the finalised version of the CNPLP, the requirement of users of the plan is that: *Everyone applying for planning permission must look at all of the policies in the Plan. Policies are not cross referenced. You must therefore make sure your proposal complies with all of the policies that are relevant* (Box preceding paragraph 1.21). In short, we are not persuaded that a well drafted local plan which conforms to the superior strategic guidance provided by CNPP 2007 requires the incorporation of a general policy to be applied to every application for planning permission. The terms of the objections confirm our own suspicion that the CNPA approach appears to be a recipe for confusion. It is essential that plan users have a clear steer provided in sufficient detail concerning what in the way of developments will, or will not, be acceptable. In our view none of the versions of Policy 1 to which our attention has been drawn meet that requirement.

4.7 Finally, the CNPP 2007 is a material consideration in all planning decisions and Ministers have agreed that its terms are sufficiently wide to meet the aims of the Park as these appear in statute. Accordingly, we see no need for a policy which “... *provides a basis for the assessment of any proposals that have not been anticipated in the other policies of the Plan.*”

4.8 It was put to us at the inquiry that removal of Policy 1 from the plan would require that there be substantial revision of the text of the detailed policies. That is a fundamental proposition which we must address. We take as our starting point that the National Park (Scotland) 2000 Act sets out the 4 aims for National Parks in Scotland. The CNPP 2007, as approved by Scottish Ministers, sets out the vision, guiding principles and strategic objectives within which the local plan must be evolved. As we have noted above, it is a requirement of the local plan that it set out detailed policies to guide development in ways that contribute to the strategic objectives of the CNPP 2007. Further, of course, the CNPP 2007 is a material consideration in planning authority decisions. It follows that each of the policies and proposals set out in the local plan can only be justified if it is demonstrably compatible with the CNPP 2007 and, in particular, its strategic objectives.

4.9 We find that the strategic objectives developed for Conserving and Enhancing the Park in broad terms can be readily related to the first 2 aims for National Parks set out by the Act: a) to conserve and enhance the natural and cultural heritage of the area; and b) to promote the sustainable use of natural resources of the area. Further, the strategic objectives developed for Living and Working in the Park can be

related in broad terms to the fourth aim: d) to promote sustainable economic and social development of the area's communities. Finally, we find that the strategic objectives developed for Enjoying and Understanding the Park in broad terms can be related fairly readily to the third aim for National Parks set out by the Act: c) to promote understanding and enjoyment (including employment in the form of recreation) of the special qualities of the area by the public.

4.10 It follows from these findings that policies devised to contribute to the strategic objectives relating to conservation and enhancement of the Park should be framed in such a way that they provide a presumption against development which would run contrary to the aims: a) to conserve and enhance the natural and cultural heritage of the area, and b) to promote the sustainable use of natural resources of the area unless, of course, material considerations suggest otherwise. On the other hand, policies devised to contribute to the strategic objectives relating to working and living in the Park should be framed in such a way that they provide a presumption in favour of development which would support the aim of promoting sustainable economic and social development of the area's communities. Likewise, policies devised to contribute to the strategic objectives relating to enjoying and understanding the Park should be framed in such a way that they provide a presumption in favour of development which would support the aim of promoting understanding and enjoyment (including employment in the form of recreation) of the special qualities of the area by the public. We find that it is by conforming to the strategic objectives of the CNPP 2007 and by framing policies in this way that the necessary balance between the 4 aims of the Park can be achieved.

4.11 As far as consideration of any relevant material considerations are concerned, that would require an appropriate balance to be struck between those factors running in favour of the development and those against. In achieving that balance, if it appears that there is conflict between the first aim and any of the others then section 9 (6) of the Act requires that greater weight must be given to the first aim. In short, we agree with the objector who pointed out that *whilst the NPA (sic) has a duty to promote sustainable economic and social development, this can only be achieved by promoting development on sound environmental principles*. For instance, where a development designed to promote sustainable economic and social development of the area's communities or to promote understanding and enjoyment (including employment in the form of recreation) of the special qualities of the area would clearly run contrary to the requirement to conserve and enhance the natural and cultural heritage, or to the promotion of the sustainable use of the area's natural resources, then these material considerations would be given decisive weight.

4.12 When we review the suite of policies which are contained within Chapters 4, 5 and 6 of the emerging local plan we find that, with minor exception, they are all framed to reflect the reasoning set out above. Any necessary amendments would be of a minor nature and would have the additional benefit of clarifying the criteria against which the merits of a proposed development would be judged. Accordingly we cannot agree with the proposition that deletion of Policy 1 would require that large parts of the plan would require to be redrafted.

4.13 Turning then to the second issue which we have identified above, we recognise that it is open to CNPA to reject our recommendation that Policy 1 be

deleted from the local plan. With this in mind, we are bound to consider what would be the appropriate form of words should Policy 1 be retained. As preliminary matters we note that wording of the policy has raised a considerable body of objections and we have considerable sympathy with the objector who considered that *it overcomplicates what should be easily understood*. For the avoidance of doubt, we reject any notion that the terms of NPPG 14: *Natural Heritage* should carry more weight than the terms of National Parks (Scotland) Act 2000 and the CNPP 2007 read together. We repeat again our view that all CNPLP policies must conform to the strategic guidance provided in the CNPP 2007, and CNPA has acknowledged that they should be read in tandem with the CNPLP.

4.14 We note that CNPA has had considerable difficulty in drafting a policy with which it can be satisfied. The authority brought to the hearing yet another further revised version of Policy 1 as part of its officer proposed post inquiry modifications to the local plan. Scottish & Southern Energy plc provided alternative text. When we assess both of these wordings against the elements of good practice we find that both are fatally flawed for the following reasons:

1. they do not provide clear guidance to developers and the public on the range of relevant planning issues likely to be raised in the lifetime of the local plan;
2. the policies are not expressed simply and unambiguously; and
3. because they would be applied in conjunction with other detailed policies, neither could be easily monitored.

4.15 Accordingly, we find that neither proposed policy, nor any of the other alternative wordings brought to our attention, meets the requirements of good practice. Nevertheless we are bound to make a judgement on the merits of the alternatives proposed. If CNPA decides to reject our recommendation that Policy 1 be deleted we have examined the text proposed by CNPA at the hearing and compared it with what appeared in the finalised version of the CNPLP. We agree with CNPA that the former is to be preferred.

4.16 In the event that CNPA elects to go ahead with any one of the wordings brought to our attention then it will require to consider each planning application against the criteria set out in its preferred wording of Policy 1. In that case, it will become abundantly clear fairly early in the lifetime of the plan whether the policy does or does not serve any useful purpose or whether, as some objectors fear, it is simply a recipe for confusion.

4.17 When we consider the third issue, we bear in mind our assessment of the utility of Policy 1. Within that context we find that the Background and Justification is admirably brief; and we are content that the remainder of the text, which has not been the subject of major criticism, should stand.

Conclusions

4.18 When we review our numerous findings in the foregoing paragraphs we can draw 3 simply stated conclusions. First, that Policy 1 serves no useful purpose and that, consequently, it should be removed from the local plan. Second, that should CNPA elect to reject that conclusion then the version of Policy 1 brought to the

inquiry by it as a proposed post inquiry modification is to be preferred to any other brought to our attention. Third, and related to that, the associated text should stand without adjustment.

4.19 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

4.20 Accordingly, we recommend that the text of Chapter 3 including Policy 1 Development in the Cairngorms National Park should be deleted in its entirety from the local plan. If that recommendation is not accepted then the post inquiry modifications proposed by CNPA for Policy 1 should be taken forward into the adopted local plan along with the associated text provided in the Deposit Local Plan Modifications (1st and 2nd) October 2008.

Introduction to Section 2 of the Report

5.1 In this second section of our report we are focussed on objections made and not withdrawn to the policies which lie at the heart of: Chapter 4: Conserving and Enhancing the Park; Chapter 5: Living and Working in the Park; and Chapter 6: Enjoying and Understanding the Park. Before we move on to a brief discussion of how we have set about our assessment of the merits of objections to particular policies we must deal with four related matters of general relevance.

5.2 First, we note that there has been an array of objections relating to detailed drafting of the introductory and subsidiary text of the various policies. As we have pointed out in the previous section of this report, the policies in Chapters 4, 5 and 6 of the emerging local plan are arranged to relate to the strategic objectives of the CNPP 2007. Indeed, if the CNPLP is to be concise yet fully understandable, we have suggested that it should be read with the strategic objectives of the CNPP 2007 to which it is clearly linked. If that suggestion were taken up then the introductory text to each of the chapters, and each of its sub-sections, could be restricted to references to the relevant strategic objectives and the way in which CNPA has gone about drafting policies in the local plan to make progress towards their achievement.

5.3 Second, many of the objectors who have concerns about the wording of policies have failed to indicate the changes in the text which would overcome their difficulties. In drafting our reasoning and moving to a recommendation on each of the policies we have paid particular attention to whether the objectors have proposals which could better achieve the strategic objectives of the CNPP 2007 than what is proposed by CNPA.

5.4 Third, when we look at the array of policies in the round, as each applicant for planning permission is required to do in the Box *How to Use the Local Plan* of the finalised version of the local plan (page 5), we find that a considerable body of text is given over to Background and Justification and, thereafter, to Implementation and Monitoring. In successive drafts of the CNPLP we have found some confusion about what should properly be the content of each of these sections. That problem, taken with the length and complexity of some of the text runs contrary to the Scottish Planning Policy requirement to have the plan written in plain English and readily accessible to its users. We have referred to this requirement in more detail in our introductory remarks for section 1 of our report. Nevertheless, we have noted a tendency always to refer back to the CNPP 2007 in each Background and Justification section, which we found repetitious, unnecessary, and potentially confusing. This overlapping also risks that some important linkage may be overlooked. We have noted elsewhere the need for a clear order and structure around what is meant as policy, what is supporting text, and what may be left aside and explained in supplementary guidance.

5.5 Against this, we find that the general approach to the text on Background and Justification and to Implementation and Monitoring as these appear in the deposit version of the CNPLP has much to commend it. The text is concise and drafted in plain English that is readily accessible to users of the local plan. In the same vein, we consider that Policy 30 Gypsies/Travellers and Travelling Show People, as that appears in the finalised version of the CNPLP, is an example of good practice in

drafting because the texts are clear and concise and, hence, readily accessible to the users of the plan. That policy is a model which might, with benefit, be applied throughout the CNPLP.

5.6 Therefore, irrespective of what may be decided for this land use plan, in future versions, of which the first will be the Local Development Plan, we suggest that the supporting text for each policy be limited to a reasoned justification for the particular policy along with references, only as appropriate, to supplementary guidance and any necessary detail on how the particular policy will be implemented. We note in passing here our continual concern that in many places supplementary guidance is either intended and not mentioned in the CNPLP, or it is mentioned only in the text without being linked into policy or listed in an Appendix to the local plan, along with an anticipated timescale and commitment to consultation. We recommend that this should be addressed, to overcome many objections, to give the guidance a clear role in the process of implementation, and to give CNPA flexibility in moving toward the next phase which is the Local Development Plan.

5.7 Fourth, we consider that it is contrary to good practice to clutter the body of a plan which is intended to be read as a whole with lengthy and, often, repetitious description of Implementation and Monitoring. We recommend that for future plans these matters might be consigned to a separate document in which these processes are described in general, with any exceptions and additions relevant to particular policies noted. In this regard, we draw attention to the requirement in Planning Circular 1/2009: *Development Planning* that a monitoring statement be published as a separate document from a Local Development Plan (paragraphs 34 to 37). It seems to us that the particular advantage of this process for CNPA is that it would allow the local plan to be adjusted more easily. That flexibility is significant because we have found that the evidence base for much the CNPLP appears to be incomplete.

5.8 With these 4 preliminary matters in mind, in carrying out our assessments of the merits of objections to particular policies we have applied, as appropriate, 3 fundamental tests:

- Does the policy as provided in the finalised version of the emerging local plan accord with the strategic objectives of the CNPP 2007 and with relevant national and strategic policy guidance?
- Does the policy identify sufficiently clearly the sorts of development which will, or will not, be permitted; and, if not, what adjustments are appropriate?
- Is the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring soundly based?

5.9 In unpacking the first test we have considered the relevance of the following:

- Does the policy further the aims of a National Park as set out in the National Parks (Scotland) Act 2000 at section 1?
- Does the policy contribute to the strategic objectives of CNPP 2007?
- Does the policy conform to any relevant requirements of the approved structure plans which cover parts of the National Park?

- Does the policy conform to the terms of any other obligations placed on CNPA?
- Is the policy compatible with the Scottish Ministers' current expectations of development plans as published recently, and including in October 2008?

5.10 Turning to the second test, bearing in mind the central role of the array of policies set out in the emerging local plan we have assessed objectors' concerns of about wording of each policy against the following elements of good practice:

- Does it provide clear guidance to the public and the developer about what or will not be acceptable?
- Is it expressed in simple, positive and unambiguous terms?
- Does it set out any criteria necessary for its interpretation?

5.11 Moving on from there to the third test, we have examined the concerns brought to our attention about the associated text against the following elements of good practice:

- Is the background material provided necessary and, if so, is it adequate?
- Does the justification describe adequately what the policy is intended to achieve?
- Is it clear that the policy can be implemented and, if so, how and by whom?
- Is it clear how the delivery and outcomes of the policy will be monitored?

5.12 In writing our report we have made use of the general framework introduced in the previous section in our consideration of the merits of the objections made to Policy 1 of the emerging local plan. While we have applied all of the tests outlined above to the each of the policies under consideration, we have not considered it necessary to make findings on each of the tests. Rather, for reasons of efficiency and effectiveness, we have concentrated on those which are of particular importance in particular cases.

Issue	General Economic development		
Reporters	Jill Moody & Hugh M Begg		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400I
Procedure	Written submissions		
Objector	Fergus Ewing MSP	Objection ref	041

Reasoning

6.1 CNPA has asked us to consider the above objections separately from those relating to Policy 27 Business Development and Newtonmore. Our conclusions on these other matters are set out elsewhere in this report, but we note in passing that we are satisfied that Policy 27 is compatible with the terms of the CNPP 2007 and relevant national policy. Our reasoning, findings and conclusions regarding the particular objections listed above should be read as extensions to those other discussions.

6.2 In this case, the objections require us to address the conflicting general propositions that either the CNPLP does too much or too little by way of encouraging economic development in the National Park. For practical purposes, we consider that this general proposition can usefully be unpacked into 4 component issues:

- whether the general approach to economic development as found in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007;
- whether it accords with relevant national planning policy guidance;
- whether the amount and location of the land allocated by way of the proposals maps is adequate to meet likely requirements for economic development as widely defined, for the life of the CNPLP and beyond; and
- in particular, what are the implications of our findings for Newtonmore.

6.3 In assessing the merits of the above objections, we have taken account of the evidence provided by way of written submissions as well as in discussion at the relevant hearing session. In accordance with current best practice we have not considered minor matters which do not materially affect the issue to which these objections refer. However, CNPA should take these into account in deciding which alterations may be appropriate as the CNPLP moves towards adoption.

6.4 Taking the first and second issues together, we note that the fourth aim of the National Park is *To promote sustainable economic development in the area's communities*. From that, the CNPP 2007 sets out 8 strategic objectives for Economy and Employment (section 5.2.3, pages 69 to 71), which include (a) creating conditions conducive to business growth and investment that are consistent with the special qualities of the Park, (b) encouraging entrepreneurship, (c) promoting 'green business' opportunities, and (d) promoting opportunities for economic diversification.

6.5 The CNPP 2007 makes perfectly clear that the strategic objectives for Economy and employment are not to be achieved at the expense of the special qualities and environment which have led to the designation of the National Park. The position is summarised in strategic objective (a) *The growth and diversification of the wider regional economy can be harnessed to reinforce and stimulate the*

economy within the Park, to benefit communities in the area and complement the conservation and enhancement of the special qualities, which give the Park its identity and provide many of its resources (page 70).

6.6 In terms of national planning policy, SPP 2: *Economic Development* encourages economic growth and opportunity (paragraph 31) and SPP 15: *Planning for Rural Development* draws attention to the role of planning in helping to *create opportunities for development in sustainable locations where appropriate e.g. where infrastructure capacity and good access exist, or can be provided at reasonable cost, or to meet justifiable social and economic objectives* (paragraph 9). SPP 15 goes on to require that *Planning authorities should support a wide range of economic activity in rural areas and seek environmental enhancement through development at every opportunity* (paragraph 13).

6.7 From this, we are satisfied that the national and strategic planning policy context for the CNPLP includes support for activities which generate income and employment, albeit in a sustainable way. The CNPLP defines sustainable development as meaning *that the resources and special qualities of the Park are used and enjoyed by current generations in such a way that future generations can continue to use and enjoy them to a comparable degree* (paragraph 5.2). In short, we find that there is a distinction to be made between sustainable development and economic development, with the latter being more narrowly defined. The practical implication of this for the National Park is that the approach adopted by CNPA to activities which generate income and employment must take full account of the conserving and enhancing strategic objectives which stem from the first aim, in addition to those which stem from the fourth aim. In that context, it is of critical importance that section 9(6) of the National Parks Act requires that where there appears to be a conflict between the aims of the Park, the first aim to conserve and enhance the natural and cultural heritage of the area is to have primacy over that of promoting sustainable economic and social development of the area's communities.

6.8 In the light of the above, we find that the principle of sustainable economic development is supported by the CNPP 2007 and by relevant national policy. However, when we take an overview of the emerging local plan we have some sympathy for those who fear that as the plan has progressed, the policies and the associated text have given more support to strategic objectives relating to Living and Working in the Park and less to those focussed on Conserving and Enhancing the Park. To address this, we consider that CNPA should review the plan against the strategic objectives of the CNPP 2007 before it is adopted, to make sure that the appropriate balance is achieved between too much or too little by way of encouraging economic development as narrowly defined.

6.9 We must also note in passing our doubts about whether the CNPA approach fully represents the kind of positive encouragement for economic development that the Scottish Ministers require. For example:

- SPP 2 expects that development plans should contain positive policies that favour rural diversification where that satisfies economic and employment needs, including for home working (paragraph 31);

- SPP 15 describes the role of planning in rural areas as including the encouragement of diversification, to help businesses, land managers, and farmers to expand existing or start new enterprises (paragraph 9);
- SPP 15 also expects that development plans should express an inspirational vision (paragraph 33); and
- PAN 73: *Rural Diversification* advises that development plans should contain positive policies that encourage rural diversification (paragraph 15).

6.10 Moving on to the third issue, SPP 2 expects that planning authorities should maintain a supply of sites that offers a choice of size, location, and amenity, with sufficient flexibility to provide for market uncertainty (paragraph 59). Section 7 of the finalised version of the CNPLP states that *Economic development sites are identified where new proposals have come to light, or have been earmarked as key to providing additional economic provision within settlements or where existing uses help to sustain communities* (paragraph 7.10, page 62). Text associated with particular proposals maps establishes the particular site specific circumstances under which various types of economic development will be supported. However, as we have explained elsewhere in our report, we have had difficulty in finding that the simple allocation of ED sites as described, represents genuine proactive promotion of opportunity of the kind envisaged by national planning policy. Instead, judging from our review of the provisions of the adopted local plans and from our site inspections, the ED designations seem simply to record existing sites where there may or may not be scope for business expansion or intensification of use.

6.11 Further, and still in relation to the ED designations, we have general concerns about:

- the lack of transparent assessment criteria and a firm link back into the CNPLP policies to underpin the designation;
- the lack of consistency of application; and
- the lack of clear guidance and vision on its practical value, as well as the implications for a specific development proposal.

6.12 However, our main concern is that despite the national planning policy requirements set out in SPP 2, we can find no calculation of future land requirements within the Park or an assessment of the value and scope of the specific allocations made to particular settlements. There is simply no evidence that CNPA has established an appropriate land supply for economic development within particular settlements even for the life of this local plan. Further, from the evidence before us, the approach adopted by CNPA to the land allocations is opaque and apparently takes no heed of well-established methodologies. At a minimum, these would entail a survey of the available resource, an assessment of constraints and a forecast of genuine opportunities, all to identify how much land should be allocated and in which locations, bearing in mind the objective of maintaining and supporting the hierarchy of sustainable communities within the Park. As a result of this, we are driven to find that neither we, nor indeed CNPA, is in a position to state with any certainty whether the amount and location of ED land allocated by the proposals maps is adequate to meet likely requirements for economic development as widely defined, for the life of the CNPLP and beyond.

6.13 Turning to the fourth issue, one of the objectors has used Newtonmore as an example of what he regards as shortcomings in the CNPA approach to determining the requirements for the supply of land for economic development. In examining the detail of this, we note that the deposit version of the local plan had no ED allocations for Newtonmore. However, 3 were added in the finalised version. These are NM/ED3, which is the existing Highland Folk Museum; NM/ED2, which is the existing business park; and NM/ED1, which is land associated with a café. CNPA's response to the objection was that these allocations represent opportunity enough, and yet neither we nor the objector has been provided with an assessment of need, demand, capacity, or potential to support that position.

6.14 From our assessment, including from our site inspections, we consider that:

- many economic developments would be incompatible with the museum;
- the space and thereby scope for business expansion in the business park is extremely limited; and
- discussion at the hearing for the housing land allocations at Newtonmore revealed that a considerable portion of NM/ED1 would very probably be needed to form a vehicular access into NM/H2.

6.15 As a result, we must agree with the objector that the CNPLP offers scant encouragement for any existing enterprise seeking to expand, or new business seeking to locate, in Newtonmore. In this regard, we remind that Newtonmore is a strategic settlement and focus for growth, as determined by the CNPP 2007 and reflected in the settlement hierarchy and housing land allocations of the CNPLP.

Conclusions

6.16 Based on all of the above, we conclude that the general approach to economic development as found in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and it accords with relevant national planning policy guidance. However, we can understand why there are those who fear that in successive drafts, the policies and the associated text have given more support to strategic objectives relating to Living and Working in the Park and rather less to Conserving and Enhancing the Park.

6.17 We have considerable reservations about whether the CNPLP provides sufficient land in appropriate places and does enough overall to encourage a broad economy for the Park to satisfy the strategic objectives from the CNPP 2007 and to meet the requirements of national planning policy. Allied to this, we are surprised that Policy 27 is the sole land use policy focussed principally on meeting the terms of the 8 strategic objectives for Economy and Employment which are set out in the CNPP 2007 (section 5.2.3, pages 69 to 71).

6.18 More specifically, there is no evidence that CNPA has established the land supply for economic development within particular settlements which would be appropriate even for the life of this local plan, to comply with SPP 2. Further, from the evidence before us, it seems that the approach adopted by CNPA to the land allocations that have emerged lacks meaning because it is not based on well-accepted and sound planning practice. That would have entailed a survey of the

available resource, assessment of constraints and genuine opportunities, as compared to need in particular locations and against the settlement hierarchy, all to identify what land might be necessary. That missing information would have enabled CNPA to plan for economic development and thereby to satisfy national and strategic planning policy more fully, including the contribution that the allocations could make to the achievement of sustainable communities.

6.19 Our general concerns are given particular point by our assessment of the position in Newtonmore. We agree with the objector that the CNPLP offers little encouragement for any existing business seeking to expand or new business to locate in Newtonmore.

6.20 These are serious deficiencies which, if they cannot be remedied before the adoption of this local plan, must be addressed in full in the forthcoming Local Development Plan.

6.21 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

6.22 Accordingly, we recommend that CNPA should review the local plan before its adoption to ensure that a proper balance has been struck and the right emphasis applied to the encouragement of economic development. We further recommend that the allocation of land for economic development in Newtonmore should be revisited.

Issue	General Housing land supply		
Reporters	Hugh M Begg & Jill Moody		
Procedure	Hearing		
Objectors	Ballater & Crathie Community Council	Objection refs	091a/b/g/h/j/ k/l/m/n
	Badenoch & Strathspey Conservation Group		400g(e)/n
	Mrs Jane Angus		437k/o/u
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020a/j
	DW & IM Duncan		037a/g/h/p
	Muir Homes Ltd.		038l
	James & Evelyn Sunley		056i/m
	Clare Jenkins		057
	Mr & Mrs Houston		096b
	John Davison		344
	Albyn Housing Association		385b
	John M Smith		387
	McLeod Building Ltd		389
	Roy Turnbull		390u
	The Proprietors of Mar Centre		394i
	The Clouds Partnership		398c
	Dinnet & Kinord Estate		438b
	North East Mountain Trust		443f
	Goldcrest (Highland) Ltd		445a
	The Cairngorms Campaign		448f
	Reidhaven Estate		456c
	Phillip John Swan		462a/b
	Victor Jordan		537c

Reasoning

7.1 The provision of an adequate supply of housing land to meet the needs of the National Park is a central and critical issue for the CNPLP to address. The basis on which CNPA has approached this task is set out on pages 39 to 43 of the finalised version of the emerging local plan. Specific allocations are then shown against each settlement in the National Park on the various proposals maps in section 7 of the plan, from page 61 onwards. The method used to reach the finalised local plan position is explained in more detail in Topic Paper 3: *Approach to Housing Land Supply and Affordable Housing* (CD 7.23) with site specific matters addressed in Topic Paper 4: *Background Information Regarding Allocated Sites* (CD 7.24).

7.2 Based on the above objections, which we were asked by CNPA to consider, as well as the evidence provided by way of written submissions and orally at the hearing, we find that the main issues to be addressed for housing land supply are:

- whether the approach to housing land supply relates well to the strategic context set by the CNPP 2007, the relevant structure plans and national planning policy;

- whether the population projections used in the CNPLP provide a reliable basis for establishing the amount and timing of the rise in population expected in the CNPP 2007;
- whether the housing land requirement calculation set out in Table 2 Housing land requirement calculation (page 41) is underpinned by a convincing rationale and, in particular, whether the upper household projection identified in the local plan is an appropriate basis for the housing land calculation;
- whether the 50% allowance for second homes and vacant property and open market housing, as well as the 15% flexibility allowance, are appropriate uplifts;
- whether the phased land supply by settlement as set out in Table 4 Phased land supply by local authority area (page 42) of the finalised version of the emerging local plan is underpinned by a convincing rationale.

7.3 In accordance with current best practice we have not considered minor matters which do not materially affect the issues to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

7.4 For all of these issues, we were told repeatedly by CNPA that Topic Papers 3 and 4 set out the context for the CNPLP and the approach to the allocation of land, including issues surrounding the collection of data. The allocations are a response to housing needs within the Park for all sectors of the community; they reflect the centres and levels of population as well as demand, taking account of geography and settlement pattern. From this, the CNPLP allocates a sufficient and adequate housing land supply. Given the reliance placed upon these Topic Papers as an expression of CNPA's written and oral evidence on such a significant subject area, we find it disappointing that they were only made available so late in the plan making process thereby leaving little time for objectors and ourselves to absorb and understand their extensive and detailed content.

7.5 In assessing the merits of the objections against the content of the emerging local plan as elaborated upon by the Topic Papers we have taken as our starting point that national planning policy towards housing land supply is set out in SPP 3: *Planning for Homes (revised 2008)*, which applies across the whole of Scotland. However, the Cairngorms National Park is recognised as exceptional by virtue of its designation, the specification of the 4 aims set by the National Parks (Scotland Act) 2007, and the requirements of section 9 of that Act. Accordingly, we find that although SPP 3 contains useful guidance on how housing requirements can be established and how housing should be delivered, the requirement that the CNPLP must meet all 4 of the aims of the Park, as carried forward in the expression of the strategic objectives of the CNPP 2007, means that SPP 3 cannot always carry the same weight within the National Park as outside it.

7.6 Similarly, the calculations of the housing land requirements made in the structure plans that cover the National Park have been made with the particular circumstances of their areas in mind. Because of their extensive geographic coverage, the structure plans for Highland and Aberdeenshire have been of most relevance during the preparation of the emerging CNPLP. Both of these were approved before the designation of the Park, so that they have been overtaken by events and, in future, they will exclude the National Park. In that context, we are

satisfied that it is open to the CNPLP to take a different approach to that of the extant structure plans where the CNPP 2007 provides material alternative guidance or direction. We find that the CNPP 2007, does indeed, provide alternative guidance, that it is material to the preparation of the CNPLP and that, consequently, the content of the approved structure plans should be seen in that light.

7.7 With these matters in mind, we turn to the strategic context set by the CNPP 2007. This document has been approved by the Scottish Ministers and it sets out how the aims of the National Park are to be achieved, which is through strategic objectives aimed at realising an array of desirable outcomes. It was stated in evidence by CNPA (Topic Paper 3, paragraph 57) that the Cairngorms Housing Strategy, adopted in 2002 by the former Cairngorms Partnership, formed the basis of the CNPA approach to housing when it came into being in 2003. From that, 2 particular objectives were drawn to our attention:

- to ensure that all groups of the population, who require to live in the Partnership Area, have equal access to an adequate range and choice of housing to rent or buy that is affordable to them; and
- to ensure the availability of sufficient effective land to meet housing need and demand for housing within the Partnership Area whilst taking account of wider community needs (our emphasis).

7.8 We accept from CNPA that since 2003 it has been refining, and certainly not rejecting, that approach. The CNPP was published in 2007 and it identifies population as one of the drivers of change within the National Park. It indicates: that the population in the Park is likely to increase by a small proportion; that the demographic profile is likely to become further unbalanced in favour of older age groups; and, in the light of that, the plan should include a series of objectives to encourage young people to move to, or remain in, the area (pages 66 and 67). At the heart of the response to these demographic trends and policy requirements is the accommodation of the majority of those living and working within the National Park in sustainable communities. It has been clarified for us that, as far as CNPA is concerned, sustainable communities are those which have a population level and mix that meets the current and future needs of its communities and businesses, focused around settlements where services, networks, expertise and experience support the population.

7.9 We have examined the basis for the current approach to housing in the CNPP 2007, the relevant strategic objectives and the desired outcomes for 2012 for their relevance to the emerging local plan. We find that amongst the key underlying themes relevant to the supply of housing land are (with our emphases added):

- the accommodation of the projected increase in population within the Park;
- within that, the provision of sufficient housing for those who require to live in the Park in order to take up current or prospective job opportunities; and
- within the confines of the projected population the proactive distribution of land for new housing in a way which will promote sustainable communities.

7.10 When we look at the text of the finalised version of the CNPLP in the round we can appreciate the disquiet of some objectors who suggest that in pursuing

these themes, too little emphasis has been placed on the first aim of the Park: *To conserve and enhance the natural and cultural heritage of the area* and rather too much emphasis on the promotion of the fourth: *To promote sustainable economic and social development of the area's communities*.

7.11 In particular, we can understand the concerns of those who can find no support for a policy approach which is directed towards:

- encouraging population growth in the Park rather than accommodating that which is projected;
- allocating substantial areas land for market house building in the expectation that this will ensure the provision of affordable homes for young people and the working population;
- encouraging a substantial increase in homes for commuters, retired persons or those purchasing second homes which will lie empty for considerable parts of the year.

7.12 Moving on to the second issue, we note that Table 2 in the finalised version of the emerging local plan (page 41) is entitled *Housing land requirement calculation*. Housing requirements are defined in the glossary of SPP 3 as *The total amount and type of housing necessary to accommodate a given (or projected) population at appropriate minimum standards. This includes both housing needs and housing likely to be demanded in the market*. Housing land requirements are defined as *The amount of land required to be allocated for housing to meet the identified housing requirement*. Table 2 seems to set out the CNPA view on the former rather than the latter, which we find leaves considerable room for confusion. CNPA must either adopt this nationally accepted definition, or must explain the reasons for rejecting it, before the local plan is progressed to adoption.

7.13 With all that in mind, we must address the question of whether the population and household projections adopted for use in the local plan provide a reliable basis for the calculation of the housing requirements. We note that the CNPP 2007 accepts that there will be a small increase in population, which it estimated as approximately 600 people, over the period 2007 to 2117 (page 66). Two further projections have been drawn to our attention. We have been told that the first, which was prepared by the University of Manchester, used assumptions fed into POPGROUP software. That projection shows that the population of the Park would increase from 15835 to 17238 (9%) between 2001 and 2025. The second, prepared by the GRO(S), used the same software to project a rise from 15410 to 18510 (20%) between 2001 and 2026. However, both projections show population growth that is driven by in-migration and they result in a demographic profile that is weighted disproportionately to the older age groups. Of particular practical importance in both calculations, the average household size is projected to decrease with the result that the number of households is projected to rise more than population. CNPA has adopted the calculations of the University of Manchester as the population and household projections in deriving policy and proposals for the local plan. While we have no particular quarrel with that, we note that it is not now the only available projection.

7.14 In assessing the usefulness of either of these projections for the derivation of policy it is critical to recall that they are both projections rather than forecasts. In short, in making the calculations there has been no attempt to influence the projected outcomes by the application of policies and proposals. The inputs to the projections are based on an array of assumptions derived mainly from national data. Of course, any changes in the assumptions adopted will affect the outputs generated from the POPGROUP software. Bearing in mind the different assumptions adopted by the University of Manchester and the GRO(S), we are not at all surprised that the projections are rather different, even although they were generated using the same software. At first sight the difference in the numbers generated as population increase may appear relatively small at 1403 against 3100. However, in the context of the National Park where the baseline population can be established at well below 16,000 the consequences for the derivation of policy and proposals become significant.

7.15 We have a particular concern about the migration assumptions adopted by the University of Manchester. No witness from that consultant was available to us but it was conceded at the hearing by CNPA that the trend over the period 2001 to 2004 had been used as input in projecting towards 2006. The dangers of assuming that short term trends will persist into the longer term are well known. Moreover, experience suggests that in-migration to attractive locations such as a National Park can be influenced by the availability of housing. We were told in evidence that over the last decade or so The Highland Council as a planning authority took a relatively relaxed view on land release for housing in what is now the Park area. The release of land at School Wood in Nethy Bridge was accepted as only one example. If that was the approach in the part of Highland not incorporated within the National Park then the availability of market housing to non-residents inevitably will have increased the in-flow of migrants in the years 2001 to 2004. In short, a relaxed view on housing release may have been built into the housing projections by way of the migration assumptions. Looking to the future, an overprovision of housing may lead to a projected population increase greater than even the trend migration assumed.

7.16 All of the above discussion confirms that the derivation of population projections for small, open economies such as the Cairngorms is fraught with difficulties and the output from the University of Manchester calculations must be treated with considerable caution. However, the study was conducted by experts in the field who used a methodology that is widely accepted as robust and fit for purpose. Furthermore there has been no serious attempt by objectors to dispute their main findings. On that basis we accept the conclusions of the commissioned research as the most reliable evidence available to CNPA on which to base the development of its policy towards the supply of housing land.

7.17 With these reservations in mind, we turn to the third and fourth issues, which raise a set of inter-related questions. The University of Manchester 2005 projections suggest that the population of the Park is likely to remain constant or rise slightly over the period 2006 to 2016. Because of the projected reduction in average household size, we accept that these estimates translate to between 750 and 950 households. We note that the upper household projection has been chosen by CNPA to reflect both the backlog of demand and the effect of inward migration. While we have no particular quarrel with that decision we note in passing our

understanding that the generous migration assumptions which have been discussed above are an integral part of the calculation of the population projections from which the household projections are derived. With that in mind, CNPA will wish to be certain that these projections do not involve any suspicion of double counting.

7.18 Taking the second set of questions to be addressed in dealing with this third issue, it was stated in evidence by CNPA that in developing the calculation of the housing land requirement, factors other than the projected increment in population were taken into consideration. In particular, it was stated that:

- the CNPP 2007 encourages a population that can continue to support thriving communities in the long term with an emphasis on retaining and attracting young people;
- the CNPP 2007 also reflects the objective of growing the population of the Highlands shared by Highlands and Islands Enterprise and The Highland Council including the flexibility allowance built into the latter's housing allocations;
- the only practical method of meeting the critical need for an increase in the provision of affordable housing is through an increase in market housing and the associated land supply for that.

We have significant reservations about this approach. Firstly, as noted above, our reading of the strategic objectives for sustainable communities does not lead us directly to the conclusion that population growth should be promoted as a policy objective in the local plan by the allocation of land for housing over and above that which is required to accommodate the households formed as a consequence of the projected increase in population. Secondly, we have searched in vain in the text of the CNPP 2007 for its endorsement of the objective of growing the population of the Highlands shared by The Highland Council and Highlands and Islands Enterprise. Lastly, elsewhere in this report we explain in detail why we consider that the provision of large areas of housing land for open market housing is a blunt weapon, ill-equipped to meet the formidable challenge of addressing the need for affordable housing in the National Park.

7.19 Moving on from there, in order to reflect these features, additional factors were added by CNPA to the housing land requirement calculation:

- a 50% additional allowance was made to ensure the land requirement reflected the growth component, vacant homes, second homes, and houses rented for holiday accommodation.
- a 15% flexibility allowance was made on top of the household projection figure to allow for uncertainty in the projections.

We have further concerns about these additional uplifts. We note in the first instance that they differ even from the approach taken by the extant approved structure plan for Highland. Next, we can readily accept that the existing housing stock available to those requiring accommodation because they have employment now in the National Park, or will have work in the future, is subject to erosion as a result of sales for second homes, houses rented for holiday accommodation, or for other reasons. However, we have serious problems with the pursuit in the local plan of what CNPA now term the growth component. Nowhere in successive versions of the CNPLP, or

in the evidence brought to the inquiry, have we been provided with a convincing explanation of why the increase in the numbers of houses required to accommodate the projected increase in population should be uplifted at all, and certainly not by the considerable amount of 50%. Similarly, we are also not convinced that an allowance should be made for uncertainty in the projections. Our preference is for the generation of scenarios based on an array of input assumptions whose realism can be tested by monitoring over time, along with the outcomes which they generate. As we understand it, that sort of approach led to the calculation of upper and lower projections by the consultants from the University of Manchester. If that is so, then the choice of the upper household projection will have dealt with the issue of uncertainty by going for the possibility of some over provision rather than under provision. That would have been good planning practice. In the event, the 15% uplift, as well as the 50% noted above, appears to have been plucked out of the air; and its adoption is in marked contrast to the painstaking approach of the consultants commissioned to produce the population and household projections.

7.20 Drawing these matters together, and with the difficulties encountered clearly in mind, we are not in a position to make a finding on whether 1639 units of housing is the housing land requirement for the Cairngorms National Park for the period to 2016. In the absence of more in the way of convincing explanation we cannot make a finding that 1850 units is the appropriate total to be allocated to sites within the 4 local authority areas within the Park for that period; nor can we find that 437 and 596 units are the consented land supply and new land supply respectively for the period 2006 to 2011.

7.21 With our reasoning on the first 4 issues as background, we can now examine the critical question of whether the allocation of housing sites to the settlements of the National Park as set out in Table 4, up to and including the adjustments contained in proposed the post inquiry modifications, is underpinned by a convincing rationale. We take as our starting point that Table 2 sets out to show the need and demand for housing in the Park while Table 3 Phased land supply by local authority area (page 41) and Table 4 are concerned with the related matter of the provision of an adequate land supply broken down by local authority area and settlement.

7.22 We have borne in mind the relevance within the National Park of SPP 3 in meeting the housing requirement in the development plan (paragraphs 31 to 33), which states: *In preparing the development plan and local housing strategy, consideration of a local authority's wider strategic policy objectives around political, economic, social and environmental matters will contribute to determining the appropriate scale and distribution of the housing requirement/ housing supply target for the relevant area. Combined with a realistic approach to the assessment of effectiveness of sites for housing, this should guide authorities to allocate more than enough land, i.e. a generous supply, to help ensure delivery of homes. This approach should provide sufficient flexibility to enable the continued delivery of new housing in response to unpredictable changes to the effective land supply which will occur during the life of the plan* (paragraph 33).

7.23 As far as Table 3 is concerned, we recognise that CNPA is not a housing authority. However, we must note that little or no information was brought to the inquiry regarding the monitoring of housing completions and the progress of sites

through the planning process to demonstrate the availability of an ongoing effective supply of land to meet identified requirements. This is the function of housing land audits, which planning authorities should undertake regularly in conjunction with housing and infrastructure providers. It is disappointing in the extreme that no substantive information on these matters was brought to the inquiry.

7.24 Turning to Table 4 we are disturbed that neither the table nor the text, nor indeed the proposals maps to which they should be seamlessly linked, makes any clear distinction between the established housing land supply and the effective land supply. Returning to SPP 3, we find that the glossary definition of established land supply is *The total housing land supply - including both unconstrained and constrained sites. This will include the effective housing land supply, plus the remaining capacity for sites under construction, sites with planning consent, sites in adopted local development plans and where appropriate other buildings and land with agreed potential for housing development.* The effective land supply is then defined as *The part of the established housing land supply which is free or expected to be free of development constraints in the period under consideration, and will therefore be available for the construction of housing.*

7.25 Relating these definitions to Table 4, it seems clear to us that it cannot refer to the effective land supply because there is no appraisal anywhere in the emerging plan of the sites identified in the proposals maps against the criteria set out in Annex A to SPP 3, regarding their effectiveness (paragraphs 16 to 20). This is a matter to which we must return when dealing with objections to some individual allocations as set out in the proposals maps. In the meantime, we have assumed that the table actually refers to the established land supply which is available to meet the housing requirement as set out in Table 2, but even then we find that Table 4 is opaque and difficult to interpret. We are well aware of the difficulty in capturing the most up to date relevant information. Moreover, in estimating the established land supply in this first local plan for the National Park, we can understand the pragmatic if perhaps overly bold assumption made by CNPA that all of the sites in the adopted local plans can be considered to be effective for the purposes of Table 4. However, to support this position, we would have expected to have seen the following essential information: the capacity of the sites under construction; the approved capacity of other sites with planning permission; the capacity of the remaining sites identified within the adopted local plans; and any other land with agreed potential for housing development.

7.26 At the inquiry, and in written evidence from CNPA, there was a repeated assumption that Table 4 should be read as linking seamlessly with the proposals maps. We question whether this can be the case. As we read the CNPP 2007, it recognises that, on the basis of past trends, some growth in population is projected. Given that fact, it then requires that the CNPLP makes proactive provision for a population level and mix that meets the current and future needs of its communities and businesses. With that in mind, we find that progress towards the CNPP 2007 vision for the Park adopted by the local plan, could with benefit be broken down to reflect the particular problems and potentials relevant to the settlements and their role in the hierarchy that is identified in section 7 of the emerging local plan. In other words, strategic, intermediate, and rural.

7.27 As an example, we can readily accept that the distinctive characteristics and hence future requirements of strategic, intermediate and rural settlements are rather different from one another. Even strategic settlements such as Aviemore and Ballater are clearly different, as are the intermediate settlements of Kingussie and Nethy Bridge. It is disappointing that no clear vision for these, or for any other settlement of the National Park, has been articulated by CNPA as an integral part of the local plan. Consequently, there should be no surprise that differing views from stake holders, including current residents, have emerged. Thus, for instance, as far as Ballater is concerned, it is a serious deficiency that CNPA has not explained briefly and clearly in the emerging local plan:

- why there is a combined requirement for 190 affordable and market houses over the period to 2016;
- what the impact would be on Ballater as a sustainable community of a large proportion of market housing within that total; nor
- why the need for affordable houses cannot be met by prioritising the development of windfall and brownfield sites.

Of course, making good these deficiencies is an entirely different matter from judging whether a particular allocated site in Ballater can contribute to the effective land supply. We assess that elsewhere in our report.

7.28 The provision of housing affordable to all sections of the community is a main driver of the population level and mix of any settlement; and it is a potent policy instrument in achieving the aim of a sustainable community. Consequently, the identification of the sites which make up the established land supply must be a proactive matter integral to securing the strategic objectives for sustainable communities and the vision for the Park. If Table 4 is to be read as the outcome of a process of land allocation to settlements then our inspection reveals that CNPA has taken a reactive rather than the required proactive approach to the identification of housing sites. The allocations made to strategic and intermediate settlements are with, minor exceptions, those in the extant adopted local plans, with rural settlements left to rely solely on windfall sites.

7.29 Drawing these matters together we find that Table 4 sets out the position inherited by CNPA as far as the established land supply is concerned. It does not go far enough in complying with the requirements of the CNPP 2007 or indeed SPP 3, by setting out, and explaining, the allocation of effective housing sites which would achieve its strategic objectives particularly, but not solely, as far as sustainable communities are concerned.

Conclusions

7.30 When we review our reasoning on the 4 main issues and the findings that have emerged, we note our considerable concerns about Table 2. It is also not at all clear to us: from the topic papers upon which CNPA has so heavily relied; from the text in the plan; nor from the oral evidence, how the phased land supply by local authority area and by settlement as set out in Table 3 and Table 4 has been derived. When inquiring about the methodologies and projections upon which these calculations are apparently based, we were directed to an array of background and

topic papers, as well as to text within the CNPLP. All of this was also supplemented by statements of case, written submissions, and some oral evidence. However, no professional witness directly involved in the process of calculation or projection was made available to answer our specific questions.

7.31 Given our experience of this, we can well understand that lay readers of the plan, some of whom have emerged as objectors, would have found it more helpful to have the essence of the methodology explained in a technical appendix or an associated document rather than scattered throughout the local plan and its supporting papers. The explanation need do little more than set out the basics of the methodologies, the assumptions made, and the links between the various stages involved in making the calculations and allocations. All of this could be drafted in readily comprehensible and accessible language. Preferably, this sort of material should be prepared to supplement the CNPLP but, at the very least, it should form the basis of the forthcoming Local Development Plan.

7.32 Based on our reasoning on the first issue, we conclude that the local plan should guard against the incorporation of policies and proposals which, whether by accident or design, give the impression that it is a document which runs contrary to the aims of the Park and the terms of the CNPP 2007 as the strategic expression of how these aims are to be achieved. Nowhere in the CNPP 2007 can we find a strategic objective which supports policies that encourage an allocation of housing land very considerably beyond that required to accommodate a population as reasonably projected on current trends. We conclude also that the designation of the National Park provides more than enough justification for CNPA to conduct its own assessment of housing land requirements within its area. Equally, we see no justification for CNPA to follow slavishly the content of the approved structure plans or the adopted local plans as they affect the designated area. As we have noted above, designation under the National Parks (Scotland Act) 2007 sets the Cairngorms apart from the rest of Scotland and even national planning policy cannot always be directly applied.

7.33 Turning to the third and fourth issues, we conclude that that the rationale for the calculation of the housing requirement is unconvincing and the connection with housing land requirement is not made sufficiently clearly. We have no particular quarrel with the adoption of the upper household projection identified in the local plan as the basis for the housing land requirement. However, we note that allows for some 25% more households than if the lower projection had been adopted. While we can understand the principles being relied upon, we can find no basis for the 50% allowance for second homes and vacant property even if that is prefaced as an open market housing allowance. Further, bearing in mind the adoption of the upper household projection we also have considerable doubts about the applicability of the 15% flexibility allowance. In the light of our own reservations, and in the absence of detailed evidence to explain these uplifts, we sympathise with the objector who took the view that the housing land supply should be based on a requirement to the year 2016 of 950 and no more. On the evidence before us, and bearing in mind the requirement of SPP 3 to provide a generous land supply, we would be reluctant to go that far. But we are in no doubt that the overwhelming weight of evidence before us leads to a conclusion that the calculation of 1568 housing units as the housing land requirement to 2016 is a substantial over estimate. Further, when we relate the

rationale and its outcomes to the specific requirements of SPP 3 (paragraph 33), the housing land requirement is overly generous in any context, let alone that set by the aims of the National Park.

7.34 We consider that the housing requirement as adopted by CNPA for its purposes and the housing land supply as inherited from the adopted local plans and allocated in the proposals maps may well be considerably more than is justifiable. However, CNPA is bound to monitor the rate at which the land supply is built out and we recognise that the phased release of land can be a mechanism for matching supply with the demand for market housing, taken with the need for affordable housing. In short, in the circumstances as explained to us, and bearing in mind the CNPA calculations, the phasing of development on the sites in each settlement will be of critical importance in providing a housing land supply which is appropriate to the requirements of the CNPP 2007.

7.35 Moving on to the final issue, as far as the content of Table 4 is concerned, we cannot be completely satisfied that the allocations contained in any of the versions in the emerging local plan refer to the established housing land supply in the various settlements let alone the effective land supply. In that respect Table 4 fails to meet the requirements of SPP 3 and it does not go far enough in setting out and explaining the allocation of effective housing sites that would achieve the strategic objectives of the CNPP 2007. All of the deficiencies that we have identified in the calculations and the allocations to particular settlements are very substantial defects and we are satisfied that serious consideration should be given to resolving them before the CNPLP can be progressed to adoption.

7.36 We have considered all of the other matters that have been drawn to our attention, including the officer proposed post inquiry modifications that were presented to the inquiry, but find none of such weight that it alters our reasoning or conclusions.

Recommendation

7.37 Accordingly, we recommend that paragraphs 5.35 to 5.40 should be deleted from the Deposit Local Plan Modifications (1st and 2nd) along with Tables 2, 3, and 4. All of this material should be replaced with text and associated tables that explains the assessment of housing land requirements in the National Park and the housing land allocations to particular settlements, in a manner which complies with the requirements of SPP 3: *Planning for Homes*, with the terms of the CNPP 2007, and which incorporates the most up to date information available to CNPA including the various housing land audits.

Issue	Policy 2 Natura 2000 Sites		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400f(b)
	Scottish Campaign for National Parks		434c
	Mrs Jane Angus		437b
	Alvie & Dalraddy Estate		439d
	The Cairngorms Campaign		448h

Reasoning

8.1 Policy 2 as it appeared in the deposit version of the plan was the subject of considerable redrafting at the 1st Modifications stage of the local plan process. Further minor amendments were made to the associated text as 2nd Modifications.

8.2 Based on the above objections which we were asked by CNPA to consider as well as from the evidence provided by way of written submissions we find that the main issues to be addressed are:

- whether Policy 2, as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies briefly and clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be made; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

8.3 In accordance with current best practice, we have not considered minor matters raised in the objections which do not materially affect our assessment of Policy 2. However, CNPA should take these into account in deciding any alterations that may be appropriate as the local plan moves towards adoption.

8.4 As far as the first issue is concerned, our starting point is that Natura 2000 is a European network of protected sites which represents areas of highest value for habitats and species of plants and animals which are rare, endangered or vulnerable in the European Community. The network was established in response to the 1992 Habitats Directive and 1979 Birds Directive, with the enabling legislation in the UK being provided by Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). We note in passing here that the CNPLP regularly misquotes the title of these Regulations, but there is no doubt that CNPA is bound to comply with their statutory requirements. The context for Policy 2 is also outlined in the CNPP 2007 and we find that it conforms to the strategic objectives for Biodiversity set out there (pages 42 to 45). Policy 3 National Natural Heritage Designations deals with Sites of Special Scientific Interest, and although we appreciate the strong links between these national designations and the Natura 2000 sites, we see no need for a further reference in Policy 2.

8.5 Turning to the second issue, we are satisfied that the wording of Policy 2 takes adequate account of the terms of paragraph 42 of NPPG 14: *Natural Heritage*; and there is no reference in that document to restoration of sites. In the light of the proposed modifications to the deposit plan we see no need for a specific reference to interim guidance on the licensing arrangements for European Protected Species, or to the Habitats Directive or Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). Nor are we persuaded of a need for the policy or, indeed the associated text, to make specific reference to when the planning authority must inform developers of any special requirements resulting from Natura 2000 interests.

8.6 Moving on to the third issue, the CNPP 2007 confirms that *the Park's biodiversity is of national and international importance*. However, some objectors are concerned that CNPA has insufficient survey information immediately available to permit the satisfactory achievement of the first aim of the Park and, hence its strategic objectives for biodiversity, let alone implement Policy 2. We note that the concern is carried forward into objections to Policy 4 Other Important Natural and Earth Heritage Sites and Interests and Policy 7 Landscape, as well as into proposals for certain of the settlements including Nethy Bridge and Kingussie.

8.7 In assessing the merits of this set of concerns we are in no doubt that CNPA is well aware that the application of all its policies and proposals including those relating to biodiversity and, in particular, Policy 2 should be underpinned with relevant, detailed and up to date information. The area now covered by the National Park designation has been the subject of an impressive array of studies and detailed research. In recognition that more is required, the CNPP 2007 has set out amongst its priorities for action for 2007 to 2012 an extensive programme of research whose output will further inform the implementation of the policies drafted specifically to conserve and enhance the biodiversity of the Park. Accordingly, we need do more than remind that CNPA should fully ascertain whether there is any evidence of protected species on a site and what the implications of that might be, before deciding any planning application. CNPA must then satisfy itself that the development is appropriate in the context of the particular value of the Natura 2000 site, before granting any form of planning permission. It might be helpful to developers if this position was explicit in the supporting text for Policy 2, perhaps at the end of paragraph 4.10.

8.8 We have explained elsewhere in this report our own reasons for suggesting that the maps associated with successive versions of the local plan could be improved to make the information contained within them more readily accessible to its readers. However, the text associated with Policy 2 provides a hyperlink and details of CNPA's web site through which larger scale maps can be accessed (paragraph 4.7).

8.9 Of greater concern, we note the lack of any reference to the application of a precautionary principle in the context of Policy 2, to cover circumstances where scientific evidence is inconclusive and the potential damage could be significant. NPPG 14 draws attention to this principle and makes clear that where appropriate, it should be reflected in development plan policies (paragraphs 80 and 81). Of course, application of the principle is not meant to be used as an embargo on development,

but rather as an indicator of a need for more research to remove uncertainty (paragraph 82).

8.10 Drawing these matters together, we find that to go as far as these objectors apparently wish by way of survey, research and presentation of results is to press for an ideal which is well beyond what can realistically be achieved with the resources available. In any event, it is open to CNPA to require that any planning application is supported by sufficient information that an adequate assessment of its merits can be made. In short, we are satisfied that CNPA has available, or is likely to have available, enough survey information to implement and monitor the operation of Policy 2. However, to cover circumstances where that information proves inconclusive, the CNPLP should make explicit reference to the precautionary principle as advised by NPPG 14.

8.11 Taking further the concerns expressed about the implementation of the policy, we note the text reference to the use of conditions on planning permissions as a means of securing mitigation (paragraph 4.10). In the first instance, we must remind that conditions that relate to Natura interests should not be suspensive, i.e. dependant upon some other action. Secondly, it might again help developers if the text were to be augmented with reference to the possible use of legal agreements to supplement conditions and cover matters that could not properly be the subject of planning conditions.

8.12 Next, we can well understand the concern of those objectors who have drawn attention to the role of the Water Authority in providing supplies to Badenoch and Strathspey from ground water sources and the effect this might have on Natura 2000 sites, both directly and indirectly. We can readily accept that if the Water Authority draws from groundwater and from the river systems in a piecemeal and haphazard way this could be damaging to some sites of recognised international and national importance. The associated text to Policy 2 makes specific reference to the potential of developments within the catchments of the rivers Dee and Spey to affect Natura 2000 sites (paragraph 4.8). The modified then points out that *it may in certain circumstances be possible to avoid or mitigate some of the potential adverse effects of developments so that the integrity of Natura sites is not adversely affected*. That may not be enough to overcome the concerns of these objectors. For our part, we are in no doubt that their concerns are matters to which special attention must be paid in implementing and monitoring the application of Policy 2. Failure in that regard could have catastrophic and irreversible consequences for internationally important areas within the National Park and hence damage irrevocably the reputation of CNPA in this important regard.

Conclusions

8.13 When we review our findings on each of the 3 main issues we conclude that Policy 2 as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and accords with national and other strategic planning policy guidance. It identifies briefly, sufficiently rigorously, and clearly what sorts of development will, and will not, be permitted within Natura 2000 sites. The associated text, including the manner of its implementation and monitoring is generally soundly based. However, we consider that the manner of implementation

and monitoring in this policy will be a severe test of how robust these proposed arrangements are. With that in mind, the text should be adjusted and augmented to take full account of the requirements of NPPG 14. In this regard, we consider that the associated text should:

- refer to the possible need for additional surveys;
- refer to the possible use of legal agreements to supplement planning conditions; and
- make explicit reference to the application of a precautionary principle in instances where scientific evidence is inconclusive and the potential for harm is significant.

However, we consider that the manner of implementation and monitoring in this particular case will be a severe test of how robust these proposed arrangements are.

8.14 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

8.15 Accordingly, subject to the reservations noted above, we recommend that Policy 2 Natura 2000 Sites as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan, but that the associated text should be corrected and augmented as described, to take full account of NPPG 14: *Natural Heritage*.

Issue	Policy 3 National Natural Heritage Designations		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	The Proprietors of Mar Centre	Objection refs	394d
	Badenoch & Strathspey Conservation Group		400f(c)
	Alvie & Dalraddy Estate		439e
	Scottish & Southern Energy plc		447b

Reasoning

9.1 The text of Policy 3 as it appears in the deposit version of the CNPLP was changed as part of the 1st Modifications and there were more minor changes to the text of the associated background and justification in the 2nd Modifications. The policy as it appears in the finalised version of the CNPLP refers to the National Park, Sites of Special Scientific Interest (SSSIs), Natural Nature Reserves (NNRs) and National Scenic Areas (NSAs).

9.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions we find that the main issues to be addressed are:

- whether Policy 3 as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies briefly and clearly the sorts of development that will, and will not, be permitted in sites benefitting from national designation and, if not, what adjustments should be made; and
- whether the associated text which deals with the background and justification for the policy as well as implementation and monitoring, is soundly based and, if not, what adjustments should be considered.

9.3 In accordance with current best practice, we have not considered minor matters raised in the objections which do not materially affect our assessment of Policy 3. However, CNPA should take these into account in deciding which alterations may be appropriate as the local plan moves towards adoption.

9.4 As far as the first issue is concerned, we are content that the inclusion of Policy 3 meets the strategic objectives of the CNPP 2007 for: biodiversity; geodiversity; and landscape, built and cultural environment. We are also satisfied that it accords broadly with national and other strategic planning policy guidance and more especially with the terms of NPPG 14: *Natural Heritage* as far as that deals with national designations (paragraphs 24 to 34). However, when we look closely at the wording of the policy we find some unexplained discrepancies with the terms of paragraph 25 from NPPG 14. For the reasons set out in the previous section of this report particularly when dealing with Policy 1, we agree that there should be a presumption against development which runs contrary to the reasons for the designation of areas of national importance. The relevant areas for Policy 3 are set out in its first paragraph. While we recognise that there will be difficulties in establishing what amounts to *enhancement of qualities of equal importance*, that

presumption does not place an embargo on worthwhile development which can meet the specified policy criteria. Nevertheless, we find that the relevant wording is clumsy and we suggest the following as an alternative:

- a) the objectives of designation and the overall integrity of the designated area would not be compromised; or*
- b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.*

Although that wording follows closely the advice on national designations in NPPG 14 (paragraph 25), there is, of course, no need for Policy 3 to follow it slavishly. Our suggestion adds the requirement for mitigation preferred by CNPA and we consider that is appropriate in the special circumstances of the Park.

9.5 Turning to the second issue, we must return to the fact that Policy 3 is intended to protect national natural heritage designations from development that would harm their interests or the qualities for which they were designated. We can readily accept that the range is wide and the wording in the policy is relatively short. However, it has not been explained to us by the objectors why there is a need for this policy to make specific reference to the provisions and duties of the Nature Conservation (Scotland) Act 2004 or why there should be concern that the policy will permit only large scale development. That said, we cannot agree that the CNPLP is an appropriate place, in either its policies or supporting text, to provide lists of the various species and habitats to be found within the National Park because it is not appropriate for a local plan to be burdened with that significant level of detail.

9.6 We repeat that there is no embargo on development within, or in the vicinity of, any of the national natural heritage designations. In considering any relevant planning application the planning authority will require to take into account all material considerations, which could include the local importance of the proposed development.

9.7 Moving on to the concerns arising under the third issue, we find the associated text for the policy is helpful in providing background and the justification for its inclusion in the CNPLP as well as demonstrating how it will be implemented and monitored. We note also that the special qualities of the Park are discussed in the CNPP 2007 (pages 25 to 27). As far as SSSIs and NNRs are concerned, they have schedules of the interests for which they are designated as well as statements on their conservation objectives. NSAs represent areas of national importance for scenic quality and the finalised version of the local plan provides additional information (paragraph 4.14).

Conclusions

9.8 When we review our reasoning in the above paragraphs we conclude that Policy 3 as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and broadly accords with national and other strategic planning policy guidance. However, we have some concerns about the wording of

the policy and, accordingly, suggest some adjustments intended to clarify the sorts of development which will, and will not, be permitted within sites benefitting from *National Natural Heritage Designations*. We find that the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based. Any further adjustments should focus on how the *enhancement of qualities of equal importance* is to be implemented; or, if our suggestion on policy wording is accepted, the rigour with which the term *appropriately mitigated* is to be interpreted.

9.9 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

9.10 Accordingly, subject to careful consideration of the above reasoning, including our reservations, the discrepancies which we have identified, and our suggested alternative wordings, we recommend that Policy 3 National Natural Heritage Designations along with its associated text, largely as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008, should be taken forward into the adopted local plan.

Issue	Policy 4 Other Important Natural and Earth Heritage Sites and Interests		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Muir Homes Ltd	Objection refs	038d
	Roy Turnbull		390d
	Woodland Trust Scotland		393c/h
	Badenoch & Strathspey Conservation Group		400f(d)
	Alvie & Dalraddy Estate		439f
	Scottish & Southern Energy plc		447c

Reasoning

10.1 Policy 4, and its associated supporting text, was subject to minor changes during the 1st Modifications to the CNPLP. We are content that Policy 4 supports the strategic objectives for biodiversity and geodiversity as set out in the CNPP 2007 (pages 42 to 44 and 46 to 47).

10.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the associated written submissions, we find that the main issues to be addressed are:

- whether Policy 4 as drafted in the finalised version of the CNPLP identifies briefly and clearly the sorts of development that will, and will not, be permitted in sites identified as being of importance to the wider natural heritage as envisaged by NPPG 14: *Natural Heritage* (paragraphs 46 to 62); and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

10.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 4. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

10.4 As far as the first issue is concerned, our starting point is that Policy 4 is intended to recognise the importance of a range of nationally, regionally and locally important natural and earth heritage sites and interests that are not afforded the protection of a statutory designation. For the reasons set out elsewhere in this report, we agree that there should be a presumption against development which runs contrary to the conservation and enhancement of areas within the National Park which are identified as being of special importance to its natural and cultural heritage.

10.5 We agree with the objector who has suggested the deletion of the word *area* in item a) of the policy and its replacement, for continuity, with the word *site*. Moving on from there, we can readily accept that the level of protection offered to sites dealt with under Policy 3 National Natural Heritage Designations is greater than those that fall under Policy 4. However, both refer to land considered to be of importance

within the National Park. Accordingly, there is merit in having the wording in similar terms but differentiating between the nature and extent of the mitigation required. If our suggestions regarding Policy 3 are accepted then we find that this will have been achieved in the wording of Policy 4. However, within that general context, we find that the focus of the policy and, indeed, the associated text regarding its background and justification is rather firmly restricted to ancient woodland sites, semi-natural woodland sites and Geological Conservation Review sites.

10.6 We can understand the concern of some objectors that the ancient woodland sites, semi-natural woodland sites and Geological Conservation Review sites once lost cannot be replaced. However, we find that to place an embargo on all development that might harm these sites would be a disproportionate response to what is, without doubt, a difficult problem. Where the objective of the identified site and overall integrity of the identified area would be compromised CNPA has required, by way of the 1st Modifications, mitigation through the provision of features of commensurate or greater importance to those that are lost. We welcome the clarification at paragraph 4.24 of the associated text of what is meant by *commensurate*.

10.7 In that connection, we recognise the difficulty of securing *a replacement habitat which has the capacity to support the genetic integrity and size of the population (which has) the same level of connectivity and the same level of complexity*. However, as far as ancient woodland sites and semi-natural woodland sites are concerned we find the approach adopted by CNPA to be pragmatic and proportionate. We accept that the more significant the site, and the greater the likely adverse effects on it, the more difficult adequate mitigation will be. Of course, where development would compromise a Geological Conservation Review the approach favoured by CNPA would not be available.

10.8 With all of these difficulties in mind, we suggest that this is one of the policies whose application should be monitored with particular care with the preparation of the forthcoming Local Development Plan in mind.

10.9 Taking the second issue, we share the concern of objectors that all of the features intended to be covered by this policy should be adequately identified. However, from the evidence before us, we are content that sufficient is known to CNPA for the locations of ancient sites, semi-natural woodland sites and Geological Conservation Review sites to be identified in adequate detail for this policy to be implemented and monitored.

10.10 In the same vein, in addition to ancient sites, semi-natural woodland sites and Geological Conservation Review sites the policy makes reference to *other nationally, regionally or locally important site(s)* none of which is afforded special protection by designation. cursory reference is made to some of these in paragraph 4.22 of the finalised version of the plan. However, we have searched in vain for text in the plan which would direct a prospective developer to where a list of those nationally, regionally or locally important sites to which the policy refers can be found. At a minimum, and bearing in mind the approach set out in NPPG 14, it would have been helpful to have reference to any lochs, watercourses and wetlands which fall into these categories along with Local Nature Reserves, Wildlife Sites and any relevant

Regionally Important Geological/Geomorphological Sites. With that in mind, we suggest that a comprehensive listing of the sites to which this policy refers be prepared. That, together with some associated text, should be issued as supplementary guidance to prospective developers and other readers of the plan.

Conclusions

10.11 When we review our reasoning in the above paragraphs we conclude that, with minor adjustment, Policy 4 as drafted in the finalised version of the CNPLP identifies briefly and sufficiently clearly the sorts of development which will, and will not, be permitted within sites identified as being of importance to the wider natural heritage as that is discussed in NPPG 14: *Natural Heritage*. In particular, the terms of the policy as set out in the finalised version of the plan are sufficient to cover any adverse effect on ancient sites, semi-natural woodland sites and Geological Conservation Review sites. However, we suggest that a comprehensive listing of *other nationally, regionally or locally important site(s)* should be included in supplementary guidance on how Policy 4 will be implemented.

10.12 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

10.13 Accordingly, subject to consideration of the reservations noted above and the preparation of supplementary guidance, we recommend that Policy 4 Other Important Natural and Earth Heritage Sites and Interests and its associated text, largely as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Policy 5 Protected Species		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400f(e)
Procedure	Written submissions		
Objectors	Mrs Jane Angus	Objection refs	437c
	Alvie & Dalraddy Estate		439g

Reasoning

11.1 Policy 5, as it appeared in the deposit version of the emerging CNPLP, was the subject of adjustment in both the 1st and the 2nd Modifications which were intended to clarify its meaning and its scope of application.

11.2 Based on the above objections, which we were asked by CNPA to consider, as well as the associated written submissions and the oral evidence from the hearing, we find that the main issues to be addressed are:

- whether Policy 5, as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance; and
- whether the policy identifies sufficiently clearly the nature and extent of the protection from development that will be given to protected species in the National Park.

11.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 5. However, CNPA should take these into account in deciding which alterations may be appropriate as the local plan moves towards adoption.

11.4 As far as the first issue is concerned, the strategic objectives for biodiversity are set out in the CNPP 2007 (pages 42 to 44). For the reasons explained elsewhere in this report, we agree that there should be a presumption against development which would adversely affect protected species. This does not amount to an embargo on such development and the criteria to be overcome in the interests, for instance, of promoting sustainable economic development of the hierarchy of communities within the Park are set out. We find that the terms of the policy as modified are compatible with the requirements of NPPG 14: *Natural Heritage* particularly as these are set out at paragraphs 17 to 20.

11.5 Turning to the second issue, we take as our starting point the confirmation by CNPA at the hearing that Policy 5 and Policy 6 Biodiversity should be read together. Thus, the associated text to Policy 5 states (subject to minor correction) that: *Protected areas and protected species play an important role in conserving biodiversity through giving legal protection to some of the rarest or best examples of habitats and species. However, the Cairngorms have many other habitats and species that are not protected that are also important to the biodiversity and ecosystems of the Park. Accordingly, developments which enhance or restore such habitats, habitat networks and species will be encouraged* (paragraph 4.30). Within

that general context we take it that Policy 5 refers to species which are protected by law under the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, and the Protection of Badgers Act 1992.

11.6 In response to one concern, we recognise that protecting one species may have an adverse effect on others. However, there is nothing in the evidence to persuade us that the policy as it appears in the finalised version of the plan provides insufficient protection, detail or clarity or that its application would override other biodiversity, social or economic objectives in the CNPP 2007 or the CNPLP.

Conclusions

11.7 When we review our reasoning and findings set out above, we conclude that Policy 5, as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and accords generally with relevant national and other strategic planning policy guidance. The policy identifies sufficiently clearly the nature and extent of the protection from development that will be afforded to species that have specific legal protection. Lastly, we have no reason to suppose that the implementation of Policy 5 would diminish the role of other applicable layers of protection, or that it would weaken unacceptably the overall integrity and connectivity of the ecosystems of the Park.

11.8 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

11.9 Accordingly, we recommend that Policy 5 Protected Species as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and its associated text should be taken forward into the adopted local plan.

Issue	Policy 6 Biodiversity		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020d
	Muir Homes Ltd		038e
	Scottish Campaign for National Parks		434d
	Alvie & Dalraddy Estate		439h

Reasoning

12.1 Policy 6, with its associated text on background and justification and implementation and monitoring, was adjusted as part of the 1st Modifications to the deposit version of the CNPLP. A further minor alteration was made in the 2nd Modifications.

12.2 Based on the above objections, which we were asked by CNPA to consider, the written submissions and the oral evidence from the hearing, we find that the main issues to be addressed are:

- whether Policy 6 as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the nature and extent of the protection from development that will be given to species not covered by specific legal protection; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

12.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 6. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

12.4 As far as the first issue is concerned, we take as our starting point the confirmation by CNPA at the hearing that it is intended that Policy 5 Protected Species and Policy 6 should be read together. Thus, the finalised version of the emerging local plan states (subject to minor correction) that: *Protected areas and protected species play an important role in conserving biodiversity through giving legal protection to some of the rarest or best examples of habitats and species. However, the Cairngorms have many other habitats and species that are not protected that are also important to the biodiversity and ecosystems of the Park. Accordingly, developments which enhance or restore such habitats, habitat networks and species will be encouraged* (paragraph 4.30). Within that general context we take it that the finalised version of Policy 6 refers to species which are important to the biodiversity and ecosystems of the Park but which are not protected by law.

12.5 The strategic objectives for biodiversity are set out in the CNPP 2007 (pages 42 to 44). For the reasons explained elsewhere in this report, we agree that there should be a presumption against development which would adversely affect species

important to the biodiversity and ecosystems of the Park. The policy sets out the criteria to be overcome if a proposed development is to be judged to be in the interests, for instance, of promoting sustainable economic development. Drawing these matters together, we find that Policy 6 reflects the first aim of the Park by way of its compliance with the strategic objectives of the CNPP 2007, that it conforms to the duty placed on CNPA in regard to biodiversity by the Nature Conservation (Scotland) Act 2004, and that it has been worded to reflect generally national policy as set out in NPPG 14: *Natural Heritage*.

12.6 Turning to the second matter, our reading of Policy 6 confirms that it achieves an appropriate balance between biodiversity and the social, economic and cultural consequences of a proposed development. Thus, it does not place an embargo on development but rather seeks to ensure that no proposed development would have an adverse impact on the habitats or species identified in various biodiversity action plans or as otherwise identified by the Scottish Ministers. We find that its application will protect, conserve and enhance natural and semi-natural areas where identified habitats, networks and species are present. In so doing it will direct development away from these sensitive sites; and where this is not possible, it provides for the provision of suitable mitigation, management or compensatory measures. With all these features in mind, we cannot agree that the policy is overly vague or that the wording in the deposit version of the CNPLP is to be preferred to that promoted in the finalised version.

12.7 Moving on from there, the planning authority is bound to take advice from, and consult with, relevant parties including Scottish Natural Heritage on a case by case basis. Accordingly, on this occasion, we have no quarrel with the introduction by CNPA of the reference in item a) *to the satisfaction of the planning authority*. We accept that development will impact to some degree on the natural environment and, in the event of harm or disturbance to habitats or species, it is clear that the provision of the *appropriate compensatory and/or management measures* presents a challenge for those charged with implementation. One example, referred to by an objector, is that old planted woods, moorland, and some semi-natural habitats within farmland, such as sandy hillocks, may have the same value as long established woodland. When habitats are newly recreated, they do not have equal wildlife value as a long established site. Nevertheless, we must find that such problems are inevitable and the fact that they present challenges to be overcome in the implementation of Policy 6 does not mean that part b) of the policy is fatally flawed and should be deleted.

12.8 Turning to the third issue, we find that paragraph 4.33 of the finalised version of the plan is clear and helpful. However, we note in passing that the reference to European Protected Species in the supporting text of this policy may be redundant.

12.9 Given the imperative to achieve the strategic objectives for biodiversity embedded in the CNPP 2007, we can readily agree that where there is any threat to specific habitats and species these must be taken into account in the allocation of land in the proposals maps. We share the concern of the objectors that the local plan must not allocate any areas for development that are particularly sensitive, designated or have a recognised biodiversity value. In addition, any application for planning permission on a particular site must be treated on its merits against the

terms of Policy 6, the other policies of the CNPLP, and any other material considerations. With adverse effects on habitats and species in mind, the policy places a requirement upon the developer to undertake a comprehensive survey to assess the likely impacts and effects consequent on the development. While we recognise that such work should be done properly, we cannot agree that it is vital that CNPA conduct or commission this work itself even with charges recouped from the prospective developers. Rather, we consider that the proper approach is that CNPA should have ready access to the professional skills required to judge the quality of the work undertaken by, or for, a developer.

Conclusions

12.10 When we review our reasoning and findings set out above, we conclude that Policy 6, as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and accords generally with relevant national and other strategic planning policy guidance. The policy identifies sufficiently clearly the nature and extent of the protection from development that will be afforded to species not afforded specific legal protection. Rigorous implementation of the policy as drafted will ensure that development does not weaken unacceptably the overall integrity and connectivity of the ecosystems of the Park.

12.11 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

12.12 Accordingly, subject to consideration of our reservations, we recommend that Policy 6 Biodiversity as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 along with its associated text should be taken forward into the adopted local plan.

Issue	Policy 7 Landscape		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400f(g)
	Scottish & Southern Energy plc		447d
Procedure	Written submissions		
Objectors	Mrs Sally Spencer	Objection refs	017c
	Dr A Watson		020e
	The Mountaineering Council of Scotland		024f
	Frogmore Estates Scotland Ltd		026b/c
	Muir Homes		038f
	Mr Roger Tozer		098b
	The Proprietors of Mar Centre		394e
	Scottish Campaign for National Parks		434e
	North East Mountain Trust		443c
	The Cairngorms Campaign		448c
	Glenmore Properties Ltd		453d
	Reidhaven Estate		456s
	Novera Energy plc		486a
	Mr Victor Jordan		537b

Reasoning

13.1 Policy 7 has been the subject of considerable change throughout the local plan process, up to and including the officer proposed post inquiry modifications (CD 7.28).

13.2 Based on the above objections, which we were asked by CNPA to consider, as well as the evidence provided by way of written submissions and discussion at the hearing, we find that the main issues to be addressed are:

- whether the finalised version of Policy 7 meets the strategic objectives of the CNPP 2007 and whether it accords with any relevant national and other strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted in the National Park and, if not, what adjustments should be considered; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

13.3 In accordance with current best practice, we have not considered minor matters raised in objections which do not materially affect Policy 7. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

13.4 We take as our starting point that the CNPP 2007 sets out 3 strategic objectives that are of particular importance for Conserving and Enhancing the Natural and Cultural Heritage of the Park (section 5.1.2, pages 37 to 39). These are:

- a) maintain and enhance the distinctive landscapes across the Park;
- b) conserve and enhance the sense of wildness in the montane area and other parts of the Park; and
- c) ensure development complements and enhances landscape character.

Under item a) the CNPP 2007 states that: *The designation of the National Park has highlighted the national importance and coherence of the landscape qualities throughout its area. The Park contains two previously identified National Scenic Areas and an equivalent level of consideration will be given to landscape throughout the whole Park (our emphasis).* Under item b) there is reference to sense of wildness in the montane area and elsewhere: *This sense of wildness and quiet enjoyment should be safeguarded from encroachment by human infrastructure, inappropriate activities or insensitive management and use.* In that connection there is further specific reference to tracks, paths, and other means of access. Under item c) we note that the CNPP 2007 explicitly sets the high standard with which the CNPLP must conform: all development must *complement and enhance* (our emphasis). Within that context, it is stated that: *All new development and infrastructure...should be designed to complement and enhance the landscape character of its setting* (our emphasis).

13.5 Related to all that, the desired outcomes for 2012 from the CNPP 2007 include that: *The location, scale, layout and design of all new development will make a positive contribution to the natural, cultural, and built landscapes of the Park and the adverse impacts of some existing developments will be reduced* (page 91).

13.6 NPPG 14: *Natural Heritage* confirms that the protection and enhancement of the landscapes of Scotland is national planning policy. In addition, the fact that the approach in NPPG 14 supports National Parks reflects in part a commitment to safeguarding landscapes of international importance (paragraph 13). National Scenic Areas (NSAs) are natural heritage designations of national importance (paragraph 24) and *Planning authorities should take particular care to ensure that new development in or adjacent to a NSA does not detract from the quality or character of the landscape* (paragraph 26). NPPG 14 adds that *It is Government policy to safeguard designated sites of national importance and ensure that their important natural heritage features are conserved and, where appropriate, enhanced by positive management* (paragraph 24). However, NPPG 14 emphasises that: *This does not mean that development is precluded by the presence of such a designation. Proposals require to be assessed for their effects on the interests which the designation is designed to protect. Designations which would affect a designated area of national importance should only be permitted where:*

- the objective of designation and the overall integrity of the area will not be compromised; or
- any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance (NPPG 14's emphasis) (paragraph 25).

When we review the above policy context we find that the whole of the Cairngorms National Park must be treated as a national designation for 2 reasons. Firstly, it has been designated a National Park under the National Parks (Scotland) Act 2000. Secondly, in approving the CNPP 2007 the Scottish Ministers have agreed that the whole Park, whether or not it is identified explicitly as a NSA, must be treated as if it had the benefit of that designation. Moving on from there, we find that NPPG 14 as quoted above, gives a firm steer on the general form for the wording of a related policy. In addition, NPPG 14's approach to NSAs, with the strategic objectives of the CNPP 2007, provides further detail for the drafting and implementation of a policy for CNPLP. In short, the above policy context supplies the basic building blocks from which an acceptable policy towards landscape within the National Park can be derived.

13.7 A review of the various drafts of Policy 7 that have appeared in successive versions of the emerging local plan confirms that CNPA has experienced difficulty in securing wording which it considers adequate. At the hearing we learned that the deposit version of Policy 7 was changed in the 1st Modifications in an attempt to clarify the role of the policy in the consideration of all development proposals and their potential impact on the landscape character of the Park. It was also brought to our attention that officers were proposing a further post inquiry modification because the second paragraph of the modified policy was considered not to allow for the proper assessment of all scales of development and referred only to those with a *significant adverse effect*. However, yet another proposed modification was introduced at the hearing because, on reflection, CNPA by then considered that its post inquiry modification does not allow for a criterion based assessment of those developments with *less than a significant adverse effect*. It was emphasised that the *better alternative* that CNPA has in mind is to be understood as one which has a practical application when a planning application is made.

13.8 In the light of the above, we can understand that there is room for confusion on the sum of the modifications which CNPA are finally promoting. Accordingly, to assist in following our reasoning, we set out below what we understand to be the wording favoured by CNPA by the end of the hearing.

There will be a presumption against development that does not make a positive contribution to the landscape character of the National Park by virtue of its location, siting and design. Such positive enhancement will be sought in all development proposals.

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, practical alternative solution elsewhere; 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.*

13.9 We have given careful consideration to the various concerns of those objecting to successive wordings of the policy which have appeared in the emerging local plan. To begin with, we can fully agree with the objector who favours a criteria based policy which is positive in its approach and contains echoes of national guidance. In that context, we recognise that, in accordance with section 9 of the Act, it is essential that all 4 aims of the Park as set out in the National Parks (Scotland) Act 2000 should be pursued at the same time and that, in the event of an apparent conflict between the first aim and any of the others, the first should prevail. The CNPP 2007 has developed its strategic objectives with the 4 aims in mind and that plan has received Scottish Ministers' approval. As we have noted in a previous section of this report, the CNPP 2007 is clear and unequivocal in stating that: *The National Park Plan provides an overarching context for development planning and management within the National Park. The Local Plan will set out detailed policies to guide development in ways that contribute to the strategic objectives of the National Park Plan. The National Park Plan is a material consideration in planning authority decisions* (section 2.4, page 14). We repeat here our conclusion that, as far as this local plan is concerned, the links which must be made are between the strategic objectives of the National Park Plan and the detailed policies of the emerging CNPLP. The terms of the local plan have already been linked to the aims of the National Park by way of the strategic objectives of the approved CNPP 2007.

13.10 Elsewhere in this report we have explained our reasoning for preferring policies that are framed to presume against development which would not achieve the strategic objectives that relate to the first aim of the Park. On the other hand, we have also explained why we favour policies which presume in favour of achievement of the fourth aim and its related strategic objectives. On the basis of that reasoning, we must discard as fatally flawed any wording, including that promoted by Scottish and Southern Energy plc, which is based on a presumption in favour of development in the landscape of the Park all of which, we recall, must be recognised as being of national importance. There is no embargo on such development, but its disadvantages must be outweighed by other material considerations.

13.11 At the hearing much was made of the differences between the wording of landscape policies in the approved Highland Structure Plan 2001 and Policy 7 as now proposed by CNPA. Clearly the structure plan policies were approved before the designation of the National Park in 2003, so we find that the decision to designate the present area of the Park and not the whole of Highland is sufficient reason for the CNPLP policies not to follow slavishly the approach taken in the rest of Highland. We are in no doubt from the description of the special qualities in the CNPP 2007 that the outstanding landscape of the Park was one of the reasons for its designation.

13.12 When we review all of our findings set out above on the first issue, we conclude that Policy 7 as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and accords generally with relevant national and other strategic planning policy guidance.

13.13 Moving on to the second issue and in addition to the matters already covered above, we can understand the misgivings of those who take the view that any development within the Park may be considered to have a negative impact on the

landscape. We agree that seeking positive enhancement in all development proposals sets a high standard. However, we remind that the CNPP 2007 landscape strategic objective c) requires that all development complements and enhances the landscape character of the Park and should be designed to complement and enhance the landscape character of its setting (our emphases) (page 38). Accordingly, since the CNPLP must conform to the strategic guidance set out in the CNPP 2007 there is no scope for a local plan policy which supports development that has even a minimal or neutral impact on the landscape.

13.14 We note that in successive versions of Policy 7 there have been changes to the criteria against which a development will be assessed as making a positive contribution to the special landscape qualities and landscape character of the Park. In the finalised version these are listed as: location, siting and design. However, when we turn to the adverse effects to be minimised and mitigated we find these listed as: siting, layout, design and construction. Even this partial repetition differs from the CNPP 2007 outcomes for 2012. From this, we are driven to the conclusion that the discrepancies confuse a policy which is pivotal to the credibility of the CNPLP and where precision is of the utmost importance.

13.15 Before moving on from the drafting of the first paragraph of the policy, we must address a further concern. We find that the sentence which states *Such positive enhancement will be sought in all development proposals* could with benefit be relegated to the associated text which describes how the policy will be implemented.

13.16 Turning now to the second paragraph of the policy, we agree with CNPA that strategic landscape objectives a) and c) of the CNPP 2007 would be met only if the policy referred to *any adverse effect* on the landscape character of the Park. We agree also that, at this stage of plan preparation, the term *landscape character* is to be preferred to that of *special landscape qualities* or, indeed, *to distinctive landscapes*. However, we share the concern of those who take the view that the listing which follows is indicative only and is not adequate to describe the landscape character of the Park. In common with some of the objectors, we have particular difficulty with the subjectivity of what amounts to *natural beauty* and *amenity*. That said, we note that CNPA has research underway which will lead, in due course, to supplementary guidance on Landscape Character Assessment and on Landscape. Given that, we consider that the indicative listing is enough to meet the needs of users of the CNPLP for the time being.

13.17 Taking now the material considerations which might be sufficient to overcome the presumption against development, we return to the requirement of the CNPP 2007 that the whole of the National Park must be treated as a NSA. We return also to NPPG 14 which reminds us that in dealing with national designations that: *Proposals require to be assessed for their effects on the interests which the designation is designed to protect* (paragraph 25). In short, we find that significant adverse effects on any part of the landscape of the National Park can only be outweighed by social and economic benefits of national importance (our emphasis).

13.18 Likewise, for designations of national importance there is no requirement for a demonstration that there is *no alternative solution*. That phrase appears only for

Natura 2000 sites which are an international designation (our emphasis). We are persuaded by what we heard at the hearing that it is CNPA's intention that applicants consider the spectrum of alternative means by which their objectives in proposing a development can be achieved. A demonstration in pre-application discussions that the applicant had carried out an examination of alternative sites and forms of development would be good planning practice. Indeed, just such an approach is advocated in NPPG 19: *Radio Telecommunications* because, in many cases, the developments with which it is concerned must be situated in prominent locations (paragraph 64). Accordingly, if item a) of the policy is to be retained we suggest the introduction of the word *practical* to form the phrase *better, practical, alternative solution*. Further, for the reasons stated above, we suggest that the reference to alternative solutions should be relegated to the associated text which can state clearly and firmly how Policy 7 will be implemented.

13.19 Looking at item b) we note the deletion from the deposit version of the word *minimised*. We do not consider this to be wise. In our experience, it is possible to introduce measures to minimise by design the adverse effects of a development when the principle of a development, in particular one of large scale, is being scrutinised. For most development proposals the next step is to moderate or mitigate, as far as possible, all residual adverse effects by way of siting, layout, detailed design, construction and, if appropriate, the approach to decommissioning.

13.20 We accept that the application of Policy 7 will require careful assessment and mature judgement; and experience suggests that it will give rise to conflicting opinions. With that in mind, we have no difficulty, on this occasion, with the inclusion of the term *to the satisfaction of the planning authority* because in the event of a dispute, as a matter of law, it is the view of that body which must prevail.

13.21 With all of the above in mind we set out below our suggestion for a revised wording for Policy 7, which we consider ensures that appropriate account is taken of the aims of the Park, the strategic objectives of CNPP 2007, together with national and local planning policy, and other material considerations.

There will be a presumption against any development that does not complement and enhance the landscape character of the Park and, in particular, the setting of the proposed development.

For the purposes of this policy the landscape character of the Park includes its distinctive landscape features, scenic qualities, natural beauty, amenity, historic landscapes and qualities of wildness.

Proposed development that does not complement and enhance the landscape character of the Park and the setting of the proposed development will be permitted only where:

- a) any significant adverse effects on the landscape character of the Park are clearly outweighed by social or economic benefits of national importance; and*
- b) all the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction all to the satisfaction of the planning authority.*

13.22 The first paragraph presumes against, but does not preclude, certain forms of development. It is worded to reflect the strategic objectives of the CNPP 2007 for landscape in the Park drawing a distinction, as do the objectives, between the distinctive landscapes across the Park and the particular settings on which a proposed development would impact. Likewise, it presumes against development which might be argued to have a neutral effect on the landscape. The second paragraph covers the critical matter of what is to be included in the assessment of landscape character for the purposes of implementing the policy. The paragraph is not definitive, but it is intended to assist until the relevant supplementary guidance is made available. We have placed it in the body of the policy to assist interpretation, although it might be better incorporated into the associated text that covers how the policy will be implemented. The third paragraph sets out criteria against which proposals will be assessed where they do not meet the standards set in the first paragraph. Item a) of the policy reflects the terms of NPPG 14; and item b) sets out the steps to be climbed if a proposed development with adverse effects is to be accommodated within the landscape character of its setting.

13.23 Moving on, when we consider the third issue we share some of the concerns of those who regard the general tone and particular wording of the associated text as being far from ideal. The background and justification, as they appear in the finalised version, address the fact that the policy is justified by the strategic landscape objectives of the CNPP 2007. Accordingly, the inclusion of other strategic objectives is redundant. Further, in the interest of brevity and clarity, we suggest that the last sentence of paragraph 4.37 and the whole of paragraph 4.38 are redundant and should be deleted from the text.

13.24 Likewise we share some of the concerns expressed by objectors about the text which deals with how Policy 7 will be implemented and monitored as well as with objections relating to: the sense of wildness in the montane and other parts of the Park; the encroachment of inappropriate uses including vehicular access, tracks, paths and bridges; and the pollution of the night skies. We deal elsewhere in this report with the suggestions that additional policies should be framed and inserted into the CNPLP to deal with these and other related matters.

13.25 Turning first to the sense of wildness and the protection of the montane, our starting point is the statement in the CNPP 2007 under Mountains that: *the visitor seeks out the wild land experience at its best* (section 3.2, page 25). The CNPP 2007 goes on to explain that *Despite the scale of the landscape, opportunities for most to experience wildness are relatively accessible* (page 27). We find that this is a powerful reason for protecting those areas of the Park that are valued for their wildness from intrusions which would degrade irrevocably their remaining quality. In that context, strategic landscape objective b) from CNPP 2007 makes specific reference to conserving and enhancing the sense of wildness in the montane area and other parts of the Park. It goes on to point out that *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* (page 38).

13.26 In response to objectors' concerns, paragraph 4.41 relating to wildness and its consideration in the planning process was added to the 1st Modifications to the CNPLP. At the hearing, we were told of work being undertaken by CNPA on defining and mapping wildness. We support that manner of progressing the local plan to cover more adequately the requirements of the CNPP 2007 and, in that context, we are not attracted to the proposition of one objector that montane areas should be defined simply by their height above sea level. However, we have sympathy with the view that in order to protect montane areas of the Park there should be a core within which there would be a presumption against any development including the intrusion of tracks. With the reservations noted above, and accepting the commitment of CNPA to progress matters towards the drafting of a separate policy on wildness and wildland in the forthcoming Local Development Plan, we find that the information in paragraphs 4.40 and 4.41 of the associated text is the minimum required to assist readers in understanding how Policy 7 will be implemented for montane and other wild areas.

13.27 We have concerns about the explanation of how light pollution of the "night skies" is dealt with in paragraph 4.42. Our starting point is item b) of the Strategic Objectives for Air in the CNPP 2007 (page 53), which confirms that *the low level of light pollution means the Park is one of the best areas in the UK for dark night skies*. It goes on to state *The low noise and light pollution contributes significantly to the sense of wildness and to people's enjoyment and perceptions of the National Park. Transport and settlement planning in particular should seek to maintain and enhance these qualities*. However, moving on from there, PAN 51: *Planning, Environmental Protection and Regulation* reminds us that *There are no specific legislative controls on light pollution The installation of domestic scale lighting on existing buildings does not normally amount to development requiring planning permission since it would not materially affect the external appearance of the building Stricter controls do apply in conservation areas and for listed buildings. Planning permission is however required for lighting installations which are either free standing or amount to engineering operations* (paragraph 8.5 of Annex A). Transport Scotland has also issued a Guidance Note *Controlling Light Pollution and Reducing Lighting Energy Consumption* (March 2007), which confirms that light spillage is an important matter. From all of this, we are surprised that, as the planning authority tasked with preparing a local plan in compliance with the strategic objectives of the CNPP 2007, CNPA apparently rejected in evidence the notion that it has any part to play in even discussing with The Highland Council as roads authority the lighting standards for roads requirements within the National Park.

13.28 Drawing these matters together, we have considerable reservations about the treatment of light pollution in general in the emerging local plan but particularly in areas currently characterised by *dark night skies*. We also agree with the objector who states that the plan should ensure that all approved development should minimise light pollution. In so far as it is open to the planning system to achieve this worthwhile objective, CNPA should review again the contribution which all of its relevant policies, including Policy 18 Design Standards for Development, can make to help minimise light pollution and maintain the extent and the quality of its *dark night skies*. We suggest that the forthcoming Sustainable Design Guide may be an appropriate way to move this matter forward.

13.29 Finally, in terms of implementation, despite the specific reference in strategic landscape objectives item b), we are surprised to find no reference at all to new tracks, paths and bridges, roads, and motorised access notably, but not exclusively, within the montane areas and other relatively remote areas. This is a matter to which we return elsewhere in the report, but we consider that it is a defect which should be rectified before this local plan is progressed to adoption.

Conclusions

13.30 When we review our findings in the above paragraphs we conclude that: Policy 7, as it appears in the finalised version of the emerging local plan, is not incompatible with the strategic objectives of the CNPP 2007 or with relevant national planning policy guidance. However, we suggest that some further adjustments to the deposit version would assist in underpinning its justification and making it more logical, clear and positive in its intention. Our suggestions provide criteria that are simply expressed and assist in its interpretation. They relegate from the policy matters which are more properly dealt with in a revised text which should set out exactly how the policy will be implemented and what is expected to be brought forward at pre-application discussions.

13.31 We have further concerns about the implementation of the policy and, in particular, in the manner in which it is intended to deal with matters of important detail only through reference to the terms of the CNPP 2007 and the generality of the wording of Policy 7. These include: the treatment of wildness in the montane area and other parts of the Park; the treatment of light pollution in general, but particularly in areas currently characterised by “dark night skies”; and failure to make any specific reference to the impact on the landscape of vehicular access, tracks and bridges notably in montane and other relatively remote areas.

13.32 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

13.33 Accordingly, we recommend that the wording of Policy 7 Landscape as it appears in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be deleted and we suggest that it could be replaced with wording along the lines set out above. We recommend also that a thorough review should be undertaken of the text associated with Policy 7 and, in particular, that which deals with implementation, all before the local plan is progressed to adoption. This review should take account of the discrepancies and areas of clarification that we have identified, the need for supplementary guidance, and the additional subject areas that we have identified, i.e. the treatment of wildness in the montane area and other parts of the Park; the treatment of light pollution in general, but particularly in areas currently characterised by “dark night skies”; and failure to make any specific reference to the impact on the landscape of vehicular access, tracks and bridges notably in montane and other relatively remote areas.

Issue	Policy 9 Archaeology		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	North East Mountain Trust	Objection refs	443d
	The Cairngorms Campaign		448d

Reasoning

14.1 Policy 9 relates to development proposals that may affect Scheduled Monuments and other important archaeological resources. The policy and its supporting text have been the subject of minor changes between the draft and finalised versions of the CNPLP.

14.2 Based on the above objections which we were asked by CNPA to consider, and the content of the written submissions, we find that the main issues to be addressed are:

- whether Policy 9, as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based.

14.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 9. However, CNPA should take these into account in deciding which alterations may be appropriate as the local plan moves towards adoption.

14.4 As far as the first issue is concerned, we have no difficulty in agreeing that Policy 9 is compatible with the terms of the strategic objectives for Landscape, Built and Historic Environment of the CNPP 2007 and in particular item e) on the archaeological record (page 39). With these matters in mind we agree that the policy meets the requirements of the Ancient Monuments and Archaeological Areas Act 1979, the policies contained in SPP 23: *Planning and the Historic Environment*, and the advice provided by the associated PAN 42: *Archaeology*. However, we note the following incorrect references in the wording of Policy 9 and in the associated text:

- NPPG 5: *Planning and Archaeology* was withdrawn in October 2008;
- PAN 45 in the text should in fact be PAN 42 as described above; and
- Reference to Scheduled Ancient Monuments should be replaced with Scheduled Monuments, to accord with the Ancient Monuments and Archaeological Areas Act 1979.

14.5 Turning to the second issue, Policy 9 was adjusted in the 1st Modifications to the CNPLP to clarify a presumption in favour of preserving *in situ* the affected resource, and to alter the term used regarding archaeological appraisals. With these

adjustments, we accept that the finalised version of Policy 9 gives a consistent framework for the consideration of development proposals and for the assessment of applications which are likely to affect Scheduled Monuments and other nationally and regionally important archaeological resources and their settings. The remainder of Policy 9 sets out clearly the steps that must be taken if development is to be permitted which runs contrary to the presumption in favour of preservation in situ. We note that SPP 23 contains a model policy *Scheduled Monuments, other Archaeological Sites and Monuments* (Model Policy 3, Annex A). However, there is no need for Policy 9 to slavishly follow that model and we accept that the minor variations from it proposed by CNPA are acceptable in the circumstances of the National Park. Policy 9 is linked sufficiently clearly to national policy on archaeology in a National Park.

14.6 In looking at the third issue, we note that the background text has been modified to include reference to where, it is stated, additional information may be found regarding sites, and to include reference to Scottish Government guidance which may also be taken into consideration when assessing a proposal for development. Those latter references should be deleted and replaced by references to SPP 23 and the advice provided by the associated PAN 42. We further consider that it would be worth reviewing all of Policy 9 and the associated text as it relates to Scheduled Monuments, in the light of Historic Scotland's recently issued Scottish Historic Environment Policy. That policy has now replaced the Memorandum of Guidance on Listed Buildings and Conservation Areas.

14.7 The only other matter to be addressed is whether a reference to military roads should be included within the background text to Policy 9 to draw attention to their particular significance in the Park. Given the historical importance of military roads, we agree with the objector that they are worthy of specific mention in the local plan. We note that CNPA has considered the nature of protection to be afforded to such undesignated routes; and we agree that the appropriate place for a reference is in the supporting text for Policy 12: The Local and Wider Cultural Heritage of the Park rather than in the supporting text for Policy 9. We suggest that the concern has been addressed satisfactorily by the reference to military roads at paragraph 4.69 of the finalised version of the CNPLP.

Conclusions

14.8 When we review our findings we conclude that Policy 9 as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and accords with relevant national and other strategic planning policy guidance. It identifies adequately the sorts of development which will, and will not, be permitted. Subject to the corrections required, which include the references to SPP 23 *Planning and the Historic Environment* and PAN 42: *Archaeology* there is no need for further adjustments to the associated text.

14.9 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

14.10 Accordingly, subject to the reservations noted above that include changes to take new and replacement national policies into account and attention to the protection of military roads, we recommend that Policy 9 Archaeology as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Policy 11 Conservation Areas		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	North East Mountain Trust	Objection refs	443e
	The Cairngorms Campaign		448e
	Glenmore Properties Ltd		453e

Reasoning

15.1 Policy 11 applies to the consideration of development proposals that may affect the character or appearance of a designated conservation area. The policy and its supporting text have been the subject of minor changes between the draft and finalised versions of the CNPLP.

15.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 11, as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted in conservation areas and, if not, what adjustments should be considered; and
- whether the associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, is soundly based.

15.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 11. However, CNPA should take these into account in deciding which alterations may be appropriate as the local plan moves towards adoption.

15.4 As far as the first issue is concerned, the CNPP 2007 recognises the built and historic environments as integral to delivering the objectives to Conserve and Enhance the National Park, and it sets out a variety of strategic objectives relating to this aspect of the CNPP 2007. Of particular relevance is objective d) which deals with new development in settlements and surrounding areas and the management of public spaces which, it is stated, should complement and enhance the character, pattern and local identity of the built and historic environment (page 38). This objective also follows the duties imposed by the relevant provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the terms of SPP 23: *Planning and the Historic Environment* (paragraphs 39 to 43).

15.5 Turning to the second issue, Policy 11 relates to the designated conservation areas at Ballater, Braemar, Inverey and Grantown-on-Spey. With the exception of Inverey, these are identified on the relevant CNPLP proposals maps. The policy has been altered in the 1st Modifications with wording changes that reflect the requirements of Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Related to that, additions to the supporting text refer to the role of

conservation areas within the National Park, to the protection given to trees within conservation areas, and to the need for wide public consultation in the preparation of conservation area appraisals.

15.6 Drawing these matters together, we find that Policy 11 is drafted such that it allows for a consistent framework for development of proposals and for the adequate assessment of applications which fall within designated conservation areas. We note that SPP 23 contains a model policy on conservation areas (Annex A, Model Policy 2). There is no need for the wording of Policy 11 to slavishly follow that model and we note that no objection has drawn attention to it. Nevertheless, we are bound to report that we find the model policy is worthy of consideration as a replacement for Policy 11 as currently drafted. That would provide an explicit link to national policy towards conservation areas within a National Park.

15.7 Turning to the third issue, we find that there are 3 matters which we must address:

1. whether the associated text requires amendment to take account of current policy;
2. whether there should be special mention of planned villages in the supporting text; and
3. whether there should be special mention of the requirement for wide public consultation in the preparation of a conservation area appraisal.

15.8 Taking the first matter, we recommend that paragraph 4.65 on implementation be redrafted, following consultation with Historic Scotland. The reference to NPPG 18 should be deleted because it was withdrawn in October 2008 and replaced by SPP 23. In addition, the policy and its associated text should be reviewed in the light of Historic Scotland's recently issued Scottish Historic Environment Policy. That policy has now replaced the Memorandum of Guidance on Listed Buildings and Conservation Areas.

15.9 Moving on to the second matter, there is no doubt that the planned villages of Scotland are of national cultural and historical interest. Indeed, the CNPP 2007 recognises planned settlements as part of the rich built heritage of the National Park and they are listed amongst the special qualities that are to be protected (pages 27 and 39). With all that in mind, we have no difficulty in agreeing that they deserve special mention in the emerging local plan. In response, CNPA proposes that planned villages should be referred to in the supporting text at paragraph 4.64 of the finalised plan, which points out that, in addition to the designated conservation areas, *the village centres of Tomintoul, Kingussie, and Newtonmore are also of historic and architectural interest*. However, we are uncomfortable with placing the reference to planned villages in that paragraph because these village centres are not part of designated conservation areas. Accordingly, until they have the benefit of that designation we consider that the appropriate place to draw attention to their particular qualities is within the supporting text to Policy 12: The Local and Wider Cultural Heritage of the Park at paragraph 4.69 of the finalised version of the CNPLP.

15.10 Taking the third matter, we note that paragraph 4.67 which has been added to the supporting text of the policy commits the planning authority to carry out full and comprehensive consultation to ensure appropriate future arrangements are secured for such areas. No objection has been raised to that proposed addition to the text of the deposit plan. Accordingly, we consider that this issue has been satisfactorily addressed.

Conclusions

15.11 When we review our findings on the main issues we conclude that Policy 11, as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and accords with the relevant statutory requirements and national planning policy guidance. Although we have a preference for the model policy on conservation areas to be found at Annex A of SPP 23, we find that Policy 11 identifies sufficiently clearly the sorts of development which will, and will not, be permitted in designated Conservation Areas within the National Park. The associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, requires further attention at paragraphs 4.64 and 4.65.

15.12 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

15.13 Accordingly, subject to review of the merits of adopting the model policy, to changes to take new and replacement national policies into account, attention to the protection of planned villages, and our reservations about paragraph 4.64 and paragraph 4.65 of the supporting text, we recommend that Policy 11 Conservation Areas as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Policy 12 The Local and Wider Cultural Heritage of the Park		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Dunachton Estate	Objection refs	418b
	The Crown Estate		419b

Reasoning

16.1 Policy 12 relates to the consideration of development proposals that might affect the cultural heritage of the National Park. The supporting text has been the subject of limited change during the 1st Modifications to the CNPLP.

16.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 12, as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with national planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted in the relevant parts of the Park; and
- whether the associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, is soundly based.

16.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 12. However, CNPA should take these into account in deciding which alterations may be appropriate as the local plan moves towards adoption.

16.4 As far as the first issue is concerned, we find that Policy 12 forms an integral part of a suite of policies that addresses cultural and historic matters associated with the built environment. Within that, Policies 8, 9, 10 and 11 refer to matters which are systematically protected by listing, designation or otherwise. Policy 12 not only recognises that the Park has numerous other features which are not so protected but nevertheless, are worthy of protection, conservation and enhancement. It extends that support to those parts of the built and natural environments which contribute to the cultural heritage of the Park and should be taken in to account in the assessment of planning applications. There is no dispute that Policy 12 should be included within the local plan in support of the CNPP 2007. In particular, we note that the built environment is identified as a special quality of the Park that should be protected (page 27) and the strategic objectives for Landscape, Built and Historic Environment (pages 37 to 39) and Culture and Traditions (page 48) all flow from that. Within that context, we find that Policy 12 is also compatible with the relevant parts of SPP 23: *Planning and the Historic Environment* including paragraph 19, and that it provides a consistent framework for the assessment of applications which affect sites, features or uses of land, or their settings within the Park that are considered to be of cultural or historic significance.

16.5 Moving on from there to the second issue, we can sympathise with the objection that the policy as drafted is rather vague and general. However, with the scope of the policy in mind, we find it inevitable that it should be drafted in fairly general terms. Nevertheless, for the reasons that we have explained elsewhere in this report, and for reasons of consistency notably with Policy 7 Landscape, we have a strong preference for framing the policy in such a way that it *presumes against development that does not protect or conserve and enhance a site, feature, or use of land of local or wider or cultural historic significance, or its setting*. The second paragraph sets out clearly enough the steps which must be taken if development which runs contrary to the presumption is to be permitted.

16.6 Turning to the third issue, the wording of the background text was changed in the 1st Modifications to provide some examples of features that can be considered through the policy. As we suggested in our assessment of Policy 11 Conservation Areas, we consider that a reference to planned villages should be incorporated into paragraph 4.69. Further modifications clarified the link between the policy and the first aim of the Park and how the policy will be implemented and monitored.

Conclusions

16.7 When we review our findings on the main issues we conclude that Policy 12, as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and accords with the relevant statutory requirements and national planning policy guidance. The policy is expressed in broad terms, and it identifies sufficiently clearly the sorts of development which will, and will not, be permitted in the National Park. However, we consider that the emphasis of Policy 12 should be changed to a presumption against development other than in the specified circumstances. Although we find that the intended modifications to the associated text address satisfactorily the concerns of the objectors we suggest that paragraph 4.69 of the text should be altered to reflect the importance of planned villages to the cultural heritage of the Park.

16.8 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

16.9 Accordingly, subject to our suggestion about the wording and emphasis of the policy and to the incorporation of a reference to planned villages in paragraph 4.69 of the associated text, we recommend that Policy 12 The Local and Wider Cultural Heritage of the Park as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Policy 13 Water Resources		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400j
	Jane Angus		437g
	B Garrow		464b
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020f
	DW & IM Duncan		037c
	James & Evelyn Sunley		056h
	Ballater & Crathie Community Council		091f
	Scottish Campaign for National Parks		434f
	Alvie & Dalraddy Estate		439k
	The Cairngorms Campaign		448i

Reasoning

17.1 Policy 13 is first in a suite of local plan policies that address the sustainable use of resources. The policy is intended to secure the integrity of the water environment in the consideration of development proposals and it includes measures towards the prevention of significant risk from flooding. Policy 13, including its supporting text, has been the subject of substantial alteration in successive drafts of the emerging local plan.

17.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions and from discussion at the hearing, we find that the main issues to be addressed are:

- whether Policy 13, as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring are soundly based.

17.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 13. However, CNPA should take these into account in deciding which alterations may be appropriate as the local plan moves towards adoption.

17.4 As far as the first issue is concerned, we can readily agree with the CNPA position that this policy supports the strategic objectives in the CNPP 2007 for water and biodiversity (pages 51 and 52). We have no reason to dispute that the policy will meet the relevant requirements of the Water Environment and Water Services (Scotland) Act 2003 which implements the EC Water Framework Directive in Scotland. Consequently, we do not see any need for further wording with regard to

the Directive to be added to the associated text. We are satisfied that the policy can be drafted to meet the requirements of national planning policy which are set out in SPP 7: *Planning and Flooding*.

17.5 As far as the second issue is concerned, we note that the wording of Policy 13 as it appears in the deposit version of the CNPLP was adjusted very considerably as part of the 1st Modifications particularly as these became related to a) use of resources and c) connection to sewerage. There were some alterations to the associated text as that relates to the background and justification and to the implementation and monitoring of the policy. Other relatively minor and largely technical changes were included in the 2nd Modifications.

17.6 In making our assessment of the merits of these adjustments and the objections not withdrawn, we take as our starting point the statement in the finalised version of the plan that: *The policy will be used to ensure that new development or engineering works requiring planning permission will not have significant adverse effects on the water environment of the Cairngorms National Park and areas around it* (paragraph 4.77). To that end the water environment is widely defined to encompass *the water quality, quantity, hydrology, hydromorphology and aquatic ecology of water bodies, river systems wetlands and groundwater* (paragraph 4.77).

17.7 Within that general context and while we would prefer to see the definition incorporated into the local plan glossary, we find it helpful that the modifications proposed to the finalised version of the plan divide the considerable array of matters covered by Policy 13 into discrete but related sections: *use of resources; flooding; and connection to sewerage*.

17.8 Taking first the objections which relate generally to use of resources, we are satisfied that the policy in the finalised version is worded such that it takes adequate account of all aspects of water resources found in the National Park. Nor do we see any need to make specific reference to upstream retention, reinforcement or erosion. Nevertheless, we share the concern that excessive water extraction or, indeed, inadequate disposal could have a considerable negative impact on biodiversity notably, but certainly not exclusively, along the River Dee. That is a matter which will require to be carefully monitored. In that context we note also that the policy relates to all development proposals within the National Park and that it is to be read in conjunction with all other relevant policies.

17.9 At the hearing we received interesting evidence in favour of incorporation of wording in Policy 13 which would encourage the use of proven newer technologies for drinking and waste water processing. It was argued that these would assist in achieving all of the 4 aims of the Park and, in particular, that of conservation and enhancement of the natural environment. It was claimed that the methods mentioned in the local plan would cause environmental degradation. After due consideration of all the evidence, we must agree with CNPA that, as drafted in the finalised version, the policy is not overly prescriptive. Indeed it seems that any form of technology which meets the necessary standards set out in the policy, in conjunction with other regulations and guidance, would have to be considered on its merits. In passing we note that a housing allocation, whether in Kingussie or

elsewhere, could not be considered to be effective unless a water supply to the appropriate standards could be provided.

17.10 Turning now to flooding, we are satisfied that the relevant wording meets the essential requirements of SPP 7. In particular, any application for a housing development in an area at risk from flooding would have to meet the appropriate requirements including provision of flood defences should that be necessary. As far as developer funded flood risk assessments are concerned, the essential requirement is not that CNPA conduct these exercises itself. Rather it must have ready access to suitably qualified professional advice in order to judge the merits of the developer funded flood risk assessment.

17.11 Moving on to the matter of connection to sewerage, we heard evidence at the inquiry that insistence on main sewer connection, other than in particular circumstances, is a backward looking approach. It was argued that encouraging modern package waste water treatment plants local to waste water creation would better match the aims of CNPA than requiring public network sewerage connection. We can agree that in particular circumstances and in some smaller settlements that may be the case. However, as we understand the position generally to be in the National Park, we are content that the conventional approach adopted by CNPA should prevail normally in this local plan. On the other hand, a requirement that mains sewerage be in place prior to any development starting is clearly unreasonable and Policy 13 deals with the circumstances in which alternative approaches may be acceptable. We note in passing the reference to the Scottish Water capital investment programme. We have no quarrel in principle with that. However, we must note that in our experience it is not always possible for interested parties to access readily an up to date version of that 4 year rolling programme.

17.12 There is one further matter with which we must engage while dealing with this second issue: the propositions that the policy as drafted is either too prescriptive or not sufficiently prescriptive. In considering this matter we remind ourselves of the importance ascribed to water resources within the CNPP 2007 and the requirement to achieve its strategic objectives for water. With that in mind, we recommend that the wording of Policy 13 be amended so that it emerges as a criteria based policy prefaced by a clear presumption against any development which would run contrary to conserving and enhancing the Park and meeting its strategic objectives for water. We suggest that consideration be given to redrafting the policy along the following lines:

There will be a presumption against development which does not meet all of the following criteria in the use of resources:

- 1) minimise the use of treated and abstracted water;*
- 2) not result in the deterioration of the current or potential ecological status or prejudice the ability to restore water bodies to good ecological status;*
- 3) treat surface water and foul water discharge separately and in accordance with SUDS Manual Ciria C697;*
- 4) have no significant adverse impact on existing or private water supplies or wastewater treatment services.*

There will be a presumption against development which does not meet all of the following criteria relating to flooding:

- 1) be free from significant risk of flooding;*
- 2) not increase the risk of flooding elsewhere;*
- 3) not add to the area of land that requires flood prevention measures;*
- 4) not affect the ability of the functional floodplain to store or move flood waters.*

Note: Development in areas susceptible to flooding will require a developer-funded flood risk assessment carried out by a suitably qualified professional.

There will be a presumption against development which is not connected to the public sewerage network unless:

- 1)*

17.13 When we consider the third issue, we welcome as essential the definition of the technical term *population equivalent* as inserted in the 2nd Modifications in the CNPLP glossary. Aside from noting minor inaccuracies in describing the legislative detail, we are satisfied that the associated text as modified in the finalised version is helpful in explaining the background and justification for the policy and how it will be implemented and monitored. We see no need for a specific reference to *headwaters*. However, we agree with CNPA that, in the interest of brevity and clarity, the first 2 sentences in paragraph 4.74 should be deleted. When we look at the array of matters covered by Policy 13, and bear in mind the fact that the associated text is lengthy and its content is fairly dense, we consider that this policy is a suitable candidate for supplementary guidance.

Conclusions

17.14 When we review our reasoning in the above paragraphs we conclude that Policy 13 can be drafted to meet the strategic objectives of the CNPP 2007 and accord with other statutory requirements and national planning policy guidance. However, we are concerned that successive drafts from the deposit version onwards do not meet the standards to be expected in the drafting of local plan policy. In particular, Policy 13 does not identify sufficiently briefly and clearly the sorts of development which will, and will not, be permitted. With that in mind attention should be given to those matters which should properly appear in the policy itself and those which could usefully be relegated to the associated text which deals with the manner in which the policy will be implemented, or to the glossary. Following on from that, consideration should be given to the issue of supplementary guidance for the benefit of prospective developers and to avoid burdening the CNPLP with such considerable detail.

17.15 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

17.16 Accordingly, we recommend that Policy 13 Water Resources as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and its associated text should be redrafted to take account of our reservations and suggestions set out above, before it is taken forward into the adopted local plan. This will include consideration of our suggested alternative wording, our recommended text changes, and the preparation of supplementary guidance.

Issue	Policy 14 Minerals and Soil/Earth Resources		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objectors	Mrs Jane Angus	Objection ref	437h
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020g
	Muir Homes Ltd		038g
	Dunachton Estate		418c
	The Crown Estate		419c
	Scottish Campaign for National Parks		434g
	Alvie & Dalraddy Estate		439l
	Glenmore Properties Ltd		453f

Reasoning

18.1 The title of Policy 14 in the deposit version of the CNPLP was described as Earth Resources, but the 1st Modifications changed that to become Policy 14 Mineral and Soil/Earth Resources. Other changes separated the approach to soil and peat from minerals in general and elaborated on the approach to the conservation or restoration of sites. Additional and consequent text was also incorporated into the background and justification for the policy and minor changes were made to the implementation and monitoring section. In response to evidence brought to the inquiry, CNPA suggested a further revised wording at the hearing.

18.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions and from discussion at the hearing, we find that the main issues to be addressed are:

- whether Policy 14 as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and national planning policy on mineral working in SPP 4: *Planning for Minerals*;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and
- whether the associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, is soundly based.

18.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 14. However, CNPA should take these into account in deciding which alterations may be appropriate as the local plan moves towards adoption.

18.4 As far as the first issue is concerned, within the broad heading of Conservation and Enhancing the Park, the CNPP 2007 recognises the importance of geodiversity and identifies 4 strategic objectives for it, as follows:

- Safeguard the geological and geomorphological features and associated processes that contribute to the landscape of the Park.*
- Raise awareness of the outstanding geology and geomorphology in the Park.*

- c) *Prevent degradation and erosion of soils, particularly vulnerable montane and organic soils.*
- d) *Safeguard against large-scale extraction and removal of mineral resource from the National Park (pages 46 and 47).*

We agree with CNPA that a), c), and d) are of particular relevance to the CNPLP and that Policy 14 should provide clear guidance on how proposed developments will provide for the achievement of these strategic objectives. We are surprised that there is no mention in the associated text of the national planning policy requirements for minerals that are set out in SPP 4. However, we are in no doubt that Policy 14 as drafted can be adjusted to meet the requirements of SPP 4.

18.5 We note that in the course of progressing the policy from the deposit version there have been changes to its title. We find that the title in the finalised version is rather cumbersome. We consider also that the wording of the policy as it appears in the finalised draft is equally clumsy and we make some observations on that in the following paragraphs. With that in mind, and to provide an explicit link to the relevant strategic objectives of the CNPP 2007, we suggest that the policy might be re-titled Policy 14 Geodiversity or Policy 14 Minerals and Related Matters. We consider also that the wording of the policy as it appears in the finalised draft is equally clumsy and we make some observations on that in the following paragraphs.

18.6 Turning to the second issue, we recognise that framing policy towards minerals and related developments is one of the most difficult challenges faced by CNPA in preparing the CNPLP. However, we agree with those objectors who, for various reasons, are concerned that Policy 14 should be clearer and stronger in its intent. Moving on from there, our starting point must be the primacy of the first aim of the National Park and the strategic objectives for geodiversity set out in the CNPP 2007 which stem from that aim. Prospective developers should be in no doubt that their proposals will be turned away unless they meet specific criteria. However, given the imperative of meeting all the aims of the National Park it is clear that some weight must be given to any development which creates employment and generates income within the Park. Moreover, in pursuing the strategic objectives of the CNPP 2007 there is no suggestion that there should be an embargo or even moratorium on all mineral extraction and related activities.

18.7 Looking at the objections relating to Policy 14, we find that it would run contrary to the tone and content of the CNPP 2007, and irrevocably undermine the intent of the policy, if text were included such that extensions to existing facilities would be possible where the market for what is extracted is not wholly within the National Park. Nor do we see any need to include a specific provision that the policy will be relaxed to meet what may be considered to be a national scarcity. There are other routes available to ensure that national need can be met should such a circumstance arise.

18.8 We agree with CNPA that the policy should apply to all developments of whatever scale other than those which can be properly considered as *de minimis* and thus not requiring planning permission. Any planning application will require to be supported by sufficient information for the planning authority to make an informed

decision on its merits. Accordingly, we see no need to make special reference to advice taken from local sources.

18.9 We can understand the introduction into the 1st Modifications of a separate section relating specifically to soil and peat. Indeed, given their importance to the landscape and biodiversity of the National Park, we would not have been surprised to find a separate policy given over to these features. SPP 4 makes special reference to peat at its paragraph 48. Be that as it may, it has not been explained why the references to soil and peat should have pride of place in the text of the finalised version. For clarity and ease of understanding, we prefer the positioning following the references to minerals which we see in the deposit version. We are also concerned that the text referring to soil and peat in the finalised version is rather awkward.

18.10 Drawing together the matters dealt with under this second issue, we suggest that the following should be considered in taking the policy forward:

- The policy as whole should be prefaced with text which reads along the lines: *There will be a presumption against approval of proposals for new mineral extraction or processing and any extension to existing developments unless...*
- If the division of a single policy into 2 components is to be retained then it would improve the quality of the text if the wording regarding minerals came first.
- The second paragraph of the section on minerals is of particular importance for prospective developers and a likely source of debate. There are 2 very minor adjustments that might assist in the avoidance of any doubt as to what is meant: the phrase *Developers will incorporate* could be replaced with the phrase *Developers must incorporate*; and likewise for clarity a comma should follow the word *aftercare*.
- In the third paragraph the 3 criteria should be numbered in sequence: i), and ii), and iii).
- In dealing with soil and peat the following wording is offered for clarity and in accordance with best practice:
*New areas of commercial peat extraction will not be permitted.
All development must avoid unnecessary disturbance of soils, peat and any associated vegetation. Where disturbance is necessary best practice must be adopted in their movement, storage, management and reinstatement.*

18.11 We turn now to the third issue where we find that, taken as a whole, the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based. However, we find that it is not without blemish in its extent, the ordering of the material, and in wording. Leaving the use of opaque phrases such as *environmental functionality through wash-out* to one side for CNPA to deal with, we find that the background and justification could with benefit be edited to restrict the content to a simple, concise justification for the appearance of the Policy 14 in the CNPLP and the particular wording that has been decided upon. The ordering of the material in the paragraphs dealing with implementation and monitoring should be revisited to make clear the difference between these completely separate processes. That task can provide an opportunity to take on board specific reference to the content of SPP 4. In particular, paragraph 21 provides a helpful steer on how the Scottish Ministers expect policy to

be formed and implemented in areas where conservation of the natural and built heritage are of particular importance.

Conclusions

18.12 When we review our reasoning in the above paragraphs we conclude that Policy 14 can be drafted to meet the strategic objectives of the CNPP 2007 and national planning policy as that is presented in SPP 4. However, successive drafts from the deposit version onwards fall below the standards to be expected in the formulation of local plan policy. In particular, the drafting of Policy 14 is opaque and does not identify sufficiently briefly and clearly for readers of the plan how the various impacts of mineral extraction and processing and the developments which involve the disturbance of soil and peat will be dealt with. With that in mind, the policy and its associated text should be redrafted to make explicit reference to the content of SPP 4.

18.13 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

18.14 Accordingly, in the light of our reservations set out above, we recommend that Policy 14 Minerals and Soil/Earth Resources as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and its associated text should be redrafted as we have suggested and in line with the requirements of SPP 4: *Planning for Minerals*.

Issue	Policy 16 Energy Generation		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400f(i)
	Scottish & Southern Energy plc		447e
Procedure	Written submissions		
Objectors	DW & IM Duncan	Objection refs	037d
	R B Tozer		098c
	Dunachton Estate		418d
	The Crown Estate		419d
	BWEA		427
	Scottish Campaign for National Parks		434h
	Alvie & Dalraddy Estate		439m
	Novera Energy plc		486b/c

Reasoning

19.1 Policy 16 applies to renewable energy schemes and their contribution to the minimisation of climate change. It sets criteria for the consideration of development proposals and the policy, with the associated text, has been the subject of considerable change in the 1st Modifications to the CNPLP. Further minor changes were added in the 2nd Modifications.

19.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions and from discussion at the hearing, we find that the main issues to be addressed are:

- whether Policy 16, as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of energy generation which will, and will not, be permitted within the landscape of the National Park and, if not, what adjustments should be considered;
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

19.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 16. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

19.4 As far as the first issue is concerned, we note that section 5.1.3 of the CNPP 2007 deals with the Sustainable Use of Resources. It states: *The special qualities that we value in the Park, together with the resources we use for much of our economy and communities, depend on the functioning natural systems which must be sustained* (page 49). Turning to Energy, the CNPP 2007 continues: *In pursuit of more sustainable development, there is a significant opportunity in the Park to develop renewable sources of energy (including heat) such as biomass, wind, hydro,*

geothermal, and solar to serve communities and households. Large-scale wind farms are not appropriate in the National Park due to landscape and natural heritage impacts, but the development of domestic, business and community-scale facilities in a full range of energy options should be pursued in appropriate location (page 49). Item a) in the CNPP 2007 strategic energy objectives is of particular significance for the CNPLP: *Contribute to national targets for greater renewable production through community, business and domestic-scale renewable energy schemes* (page 50). Within that whole context, we find that Policy 16 is compatible with the CNPP 2007 approach to the sustainable use of resources and supports its strategic objectives for energy. However, from the evidence before us, we find that the title of the policy may be open to misinterpretation. With that in mind, we suggest that the policy be re-titled Policy 16 Renewable Energy Generation.

19.5 SPP 6: *Renewable Energy* makes clear that *Support for renewable energy developments and the need to protect and enhance Scotland's natural and historic environment must be regarded as compatible goals if an effective response is to be made to the challenges of sustainable development and climate change* (paragraph 8). The principles of national policy are then confirmed as including that planning authorities must make positive provision for renewable energy (paragraph 17). Of particular importance, the planning authority is required at the same time to meet *international and national statutory obligations to protect designated areas, species and habitats and protecting the historic environment from inappropriate forms of development* (paragraph 17, bullet 5). Special attention is also drawn to the potential in rural areas of local projects for local benefit (paragraphs 18 and 19). When we consider these matters in the round, we accept that Policy 16 as drafted in the finalised version of the CNPLP supports a commitment to contribute to renewable energy and to provide positively for its development. It does so within the context of the CNPP 2007 as approved by Scottish Ministers as well as reflecting the aspirations of SPP 6.

19.6 Turning to the second issue, we must ask whether the policy and its associated text *provide a clear development management framework* (as required by SPP 6, paragraph 39, bullet 6). When we refer to the precise terms of strategic energy objective a) of the CNPP 2007 we see that this refers to the need to raise awareness of the range of renewable energy sources available and to encourage the necessary supply chains and infrastructure. However, it is plain that this is to be achieved by supporting small-scale schemes only. It would run contrary to the intention of the CNPP 2007 were the terms of Policy 16 in the CNPLP to make specific provision for medium to large scale renewable energy projects. We see no need for any specific reference to be made to Highland Council's Renewable Energy Strategy, or to transmission and distribution infrastructure. Policy 16 is intended to be read along with all other policies of the CNPLP and no evidence of fatal inconsistency with any of the versions of Policy 7 Landscape has been drawn to our attention.

19.7 Drawing these matters together, the policy as it appears in the finalised version should be redrafted to remove any doubt about its intention. In particular, we find that in order to comply explicitly with the terms of the CNPP 2007 the word *small-scale* should be inserted before renewable energy in the first line of the policy.

19.8 Moving on to the third issue, and continuing to assess whether Policy 16 can provide the clear development management framework required by SPP 6, we note that it is CNPA's intention to provide supplementary guidance on Sustainable Design and also on Energy Generation. We suggest that preparation of this guidance should be accorded a high priority. We agree with the objector who reminded that the preparation of these documents must involve full consultation with all interested parties including those who have made relevant objections to this policy.

19.9 In the absence of the supplementary guidance we are bound to focus on the associated text which is to be found in the emerging local plan. As a starting point, we find some confusion about what should properly be contained under the heading Background and Justification and what under Implementation and Monitoring. At a minimum we suggest that the break between these should occur after paragraph 4.98 as that appears in the finalised version of the plan.

19.10 As far as implementation of the policy is concerned, the CNPP 2007 states unambiguously that large scale wind farms are not appropriate in the National Park. While stating that a full range of energy options should be pursued at appropriate locations, it gives its explicit backing only to the development of domestic, business and community scale facilities. We agree with the objectors who suggest that the position on wind farms should be made absolutely clear to prospective developers notably, but not necessarily exclusively, in the text of paragraph 4.99. Contrary to the view of some objectors, and as we have found above, the text of the CNPP 2007 makes it clear that only small-scale renewable developments are to be supported. Following the advice contained in PAN 45: *Renewable Energy Technologies*, we suggest that clarification on wind farms might be achieved by modifying the text with Policy 16 at paragraph 4.99 along the following lines - delete: *large scale energy production schemes such as commercial wind farms*; and insert: *wind farms. For the purposes of this plan a wind farm is defined as a development of 2 turbines or more.*

19.11 We recognise that renewable energy schemes, especially where these are sited near existing settlements, can have adverse consequences on, for instance, birds, bats, vegetation, soils, watercourses, wild land, noise and light pollution, and may also involve decommissioning issues. However, in that context we note the terms of paragraph 100 in the finalised version of the CNPLP which deals with some relevant aspects of implementation of the policy. We recognise that all proposals for renewable energy development would have to comply with all other relevant policies in the CNPLP and we agree with CNPA that, taken together, these appear sufficient to cover the range of impacts of concern to these objectors. In addition, we note further relevant national planning advice on these issues in PAN 45 (paragraphs 36 to 93).

19.12 It is the intention that applications for planning permission dealt with under Policy 16 will also be assessed under all other policies of the CNPLP including Policy 7, Policy 18 Design Standards for Development, and Policy 19 Reducing Carbon Emissions in Development. The policies of the CNPLP, including Policy 16, can only apply within the boundaries of the Park, but CNPA has the opportunity to comment on the merits of other proposals where these might have an impact on the setting of the Park.

Conclusions

19.13 When we review our reasoning in the above paragraphs we conclude that, subject to the modifications set out above, Policy 16 and its associated text conforms to the strategic objectives of the CNPP 2007, and is compatible with the terms of national policy as set out in SPP 6. Subject to some adjustment, it identifies sufficiently clearly the sorts of energy generation which will, and will not, be permitted within the landscape of the Park. The associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based but it would also benefit from adjustments, including by the addition of definition for the term wind farm. The preparation and issue of supplementary guidance following appropriate consultation should be a priority for CNPA.

19.14 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

19.15 Accordingly, we recommend that subject to the findings set in the paragraphs above concerning the title of the policy, the detail of its wording and that of the associated text, as well as the need for definition and supplementary guidance, Policy 16 Renewable Energy as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Policy 17 Improvements to Settlements		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	Mrs Sally Spencer	Objection refs	017f
	Dr A Watson		020h
	DW & IM Duncan		037f
	Muir Homes Ltd		038h
	Alvie & Dalraddy Estate		439p

Reasoning

20.1 Policy 17 began as Policy 22 Settlement Improvements in the deposit version of the CNPLP in a suite of economic development policies aimed directly at achieving the fourth aim of the Park, i.e. the promotion of sustainable economic and social development of the area's communities. Between the deposit and the finalised version of the emerging local plan, this role seems to have changed significantly so that in the finalised version of the local plan, Policy 17 has become the first of several policies that address sustainable communities and development.

20.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 17 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough the kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

20.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 17. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

20.4 As a starting point, we have noted above that Policy 17 began amongst economic development policies. The first of those policies applies specifically to business development, the second to retail and commercial, and the third, i.e. Policy 22, expects that all developments should contribute to developing attractions, increasing accessibility, and improving amenity. Specific examples are given for each category and the range of issues covered includes shopping, housing, landscape, and open space. In that context, we find that Policy 22 was generally logical and it had a clearly defined role and function, which stemmed directly and obviously from the statutory National Park context, as well as from the economy and employment strategic aims and objectives of the CNPP 2007 (pages 69 to 71). However, this clear role changed significantly in the finalised version of the CNPLP and we have been unable to find neither an explanation nor a justification in any of the CNPA submissions for that change, or for the new role of Policy 17.

20.5 In the finalised version of the local plan, Policy 17 relates to sustainable communities and development and we accept that this new context away from economic development is not at odds with the CNPP 2007 overall. We also have no reason to dispute broad compliance with other national and strategic planning policy guidance. However, Policy 17 seems not to match the CNPLP stated purpose or its own specific detail. Our reason for this view is that other policies in the same suite relate to design standards, reducing carbon emissions, and developer contributions, in that order, while Policy 17 as worded, still seems to relate to the health and attractiveness of town and village centres, yet the policy would be applied to all development proposals throughout all settlements. This perception is reinforced by the unexplained deletion of the reference to housing development from the various examples. As a result, although we welcome the minor wording improvements in the finalised version, we agree with the objectors that Policy 17 lacks a clear intention or function.

20.6 Next, we find that the new placing in support of sustainable communities is confused and undermined by the lack of a clear definition of the dual concepts of sustainable communities and sustainable economic and social development.

20.7 The term sustainable is defined in the CNPP 2007 glossary as *A way of living and working which uses and manages environmental, social and economic resources in such a way that future generations will also be able to enjoy them*. One objector considers that this definition should be extended to include a concept of no net detriment for future generations. Given that the CNPP 2007 definition is approved by the Scottish Ministers and has simply been carried forward into the finalised local plan, we find that it would be inappropriate for CNPA to use a different and more onerous basic definition.

20.8 Sustainable development is defined in the general introduction to the Living and Working section of each version of the CNPLP (paragraph 5.2) as intending that *the resources and special qualities of the Park are used and enjoyed by current generations in such a way that future generations can continue to use and enjoy them to a comparable degree*. In other words, both versions of the CNPLP mean broadly the same as the CNPP 2007 but the CNPLP is more onerous than its strategic context without obvious explanation. Further, although each version is broadly consistent, the local plan definitions are detached from and not cross-referenced with any policies that mention sustainability, including Policy 22/17. The definitions are also not in the most obvious place, i.e. the local plan glossary and we recommend that this omission should be rectified.

20.9 In response to our request at the inquiry, CNPA has provided the following definition of sustainable communities *a population level and mix that meets the current and future needs of its communities and businesses, focussed around settlements where services, networks, expertise and experience support the population*. But that same paper quotes the Scottish Government National Outcome regarding sustainable places as meaning *well-designed, sustainable places where we are able to access the amenities and services we need*. In addition, we find that the CNPP 2007 seems to regard a sustainable community as stemming from a complex interaction of economic, physical, social, and environmental factors. Clearly these definitions are all worded slightly differently and, while each may be

appropriate for each specific context, we regard it as a major shortcoming of the local plan that the terms are used widely without a specific, clear, and easily found contextual definition.

20.10 Therefore, as it now stands, we have found considerable difficulty in appreciating how Policy 17 might contribute towards achieving sustainable communities and development, and the local plan offers considerable scope for misinterpretation.

20.11 As regards implementation, the deposit version of the supporting text for Policy 22 makes the position admirably clear. Policy 22 applies to those planning applications for economic and retail proposals, as well as to those affecting the status quo or disrupting the settlement hierarchy (paragraph 5.19). In contrast, the finalised version of the local plan applies Policy 17 *when considering the wider impacts of developments on settlements and their communities* (paragraph 5.7). We find that this does not make clear whether the policy applies to all developments, or only to those of a scale and type that might have a wider impact. Further, as now worded, we have considerable sympathy with a developer trying to understand what must be done to comply with Policy 17, or to anticipate the outcome of any planning application that might fall to be tested against its terms.

20.12 For monitoring, the deposit version of the local plan uses *health checks* and from the text (paragraph 5.20), we assume that this concept would be as described in national planning policy. In other words, it has a clear process and narrowly defined purpose in terms of the vitality and viability of town centres that is firmly rooted in SPP 8: *Town Centres and Retailing* (paragraph 35 and Box 4). Reference to health checks has been removed from the finalised version of the local plan, but the intention to monitor the impact of Policy 17 by assessing quality of design and respect for local character is retained, with the addition of reference to surveys and assessments to measure whether communities are sustainable and have a good range of facilities and amenities (paragraph 5.8). In short, the text says nothing about assessing the impact of a proposal. We assume that this text reference is intended as a link with the community needs surveys mentioned throughout the finalised local plan, but we find that their respective purposes are different. Accordingly, we consider that the finalised local plan's position on monitoring is left uncertain, incomplete, and thereby also unacceptable. Further, these implementation and monitoring shortcomings serve to underline our concerns about the lack of a clear purpose for the finalised local plan version of Policy 17.

20.13 Against the specific objections, we are satisfied that nothing in either version of the policy can override any other legislative requirements or the basic planning principle that each development proposal falls to be considered on its individual merits. In addition, it would be unreasonable to expect that a development plan allocation should exempt development from the need to comply with other policies, where these are appropriate. Other subject areas mentioned by the objections are dealt with more specifically by different finalised local plan policies. For example:

- the impact of retail development on settlement vitality and viability is covered by Policy 28;

- the impact of economic development is covered by Policy 27 and nothing in Policy 17 suggests that it only encourages tourism and related service industry;
- the importance of servicing is addressed in Policy 13;
- affordable housing is addressed in Policy 21; and
- the loss of infill spaces to development, which principle national planning policy generally supports, is addressed in many ways, including via Policy 21.

Therefore, in reading the local plan as a whole as it is properly intended to be used, we are satisfied that these subject areas need not be duplicated in Policy 17.

20.14 That said, we agree with the objectors' concerns about the general reference to the sustainable design guide that is mentioned in the finalised local plan introduction (paragraph 5.4). We are unable to see an explicit link between that guide and the implementation of Policy 17, so that any such intention must be clarified. In addition, while this kind of detail may be appropriate for the subsidiary and arguably more flexible role of supplementary guidance, we repeat that the sustainable design guide must also be the subject of full prior consultation, and it must be linked more firmly into the local plan via specific policies in the same way as supplementary guidance.

Conclusions

20.15 Overall therefore, we are satisfied that either version of the policy has an appropriate strategic context because the deposit version of the policy relates directly to the fourth aim of the Park and the finalised version fits broadly into the CNPP 2007 emphasis on the importance of sustainable communities and the role of economic development in achieving that aim. No other potential strategic or national planning policy conflict has been drawn to our attention, so we have no reason to dispute compliance. As a result, we conclude that Policy 17 meets the strategic objectives of the CNPP 2007 and accords with relevant national and other strategic planning policy guidance.

20.16 However, we have considerable reservations about the position and function of Policy 17 as worded, especially in comparison to its preceding and clearly defined role as Policy 22. In particular, we note the lack of consistent definitions to support easy interpretation, the doubtful applicability and means of monitoring, and the insubstantial linkages to the as yet unseen sustainable design guide as supplementary information for prospective developers. As a result, we consider that Policy 17 does not identify clearly enough the kinds of development that will and will not be permitted, and the associated text is neither soundly based nor capable of easy interpretation, implementation, and monitoring.

20.17 In terms of potential changes, we have no hesitation in finding that if Policy 17 is to be kept, it should be revisited to review and define exactly what CNPA is aiming to achieve. Having done that, it may be that Policy 17 becomes redundant and could be deleted, or it may return to its original town centre focus, or indeed it may be rebranded entirely to become a new sustainable community policy based on clear and consistent definitions of what that concept is intended to mean. Either way, we are in no doubt that as currently set out, Policy 17 should not remain in the local plan.

20.18 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

20.19 Accordingly, we recommend that Policy 17 Improvements to Settlements as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be removed from the adopted local plan. We further recommend that consideration be given to a replacement policy with a more clearly defined and explained purpose, based on meaningful and explicit text, which takes account of all of our comments above.

Issue	Policy 18 Design Standards for Development		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	Mrs Sally Spencer	Objection refs	017d
	Dr A Watson		020h
	Muir Homes Ltd		038h/i
	Albyn Housing Association		385d
	The Proprietors of Mar Centre		394g
	William Stuart Paterson		409k
	Dunachton Estate		418e/f/h
	Alvie & Dalraddy Estate		439z/d
	Scottish & Southern Energy plc		447f/g

Reasoning

21.1 Policy 18 has been the subject of a complete change of wording between the deposit and the finalised versions of the CNPLP. A further minor wording change is added in the officer proposed post inquiry modifications (CD 7.28), to encourage contemporary and innovative design.

21.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the issues to be addressed are:

- whether Policy 18 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough the kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

21.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 18. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

21.4 As a starting point, we note that the aims of the National Park include: (1) conserving and enhancing natural and cultural heritage; (2) the sustainable use of natural resources; and (4) the promotion of sustainable economic and social development. Towards satisfying these aims, the CNPP 2007 establishes that the special qualities of the Park include the built environment, which comprises amongst various things, character and materials (page 27). The CNPP 2007 also expects that the local plan will set out policies to implement its strategic objectives, including stating the means by which built development will contribute (page 125). The strategic objectives for landscape and the built environment (pages 38 and 39), the use of resources (page 49), housing (page 73), and for waste management (page 76) all relate to the 25 year outcomes that: new build development will complement or enhance its setting; business will ensure a positive contribution to environment

and the special qualities; housing will be of good quality and sustainable design; and use patterns will be sustainable, including the supply and management of e.g. water and waste (pages 5 and 6). The issues arising from these strategic objectives include:

- good, high quality design;
- development that suits and enhances the surroundings;
- development that makes the most sustainable use of resources, including for infrastructure developments;
- energy efficiency; and
- less waste and better management of that residual waste which still arises.

21.5 The CNPP 2007 specific outcomes for 2012 also include iii (page 91) and iv (page 111), from which a specific action is the preparation of a sustainable design guide to encourage new development and infrastructure to complement built and landscape character, as well as to meet high standards of energy efficiency and sustainable design (page 113).

21.6 Against this entire CNPP 2007 background, we have no hesitation in finding that the principle and the intention of the deposit and the finalised versions of Policy 18 stem directly from the National Park aims and, in turn, from CNPP 2007 as the strategic expression of those aims. Further, we are satisfied that Policy 18 implements a specific action from the CNPP 2007, i.e. the design guide, so that on both counts, that is an appropriate matter for incorporation into the local plan.

21.7 Next, it seems to us that Policy 18 is a deliberate attempt to raise the standard of design for development throughout the Park. SPP 1: *The Planning System* makes clear that design is a material consideration for all planning applications (paragraph 51), and national policy generally expects improvement, including for affordable housing. PAN 74: *Affordable Housing* acknowledges that local authorities may also wish to promote their own particular standards of design and external appearance (paragraph 54), which is exactly the role of Policy 18. Further, PAN 74 establishes the need to ensure the overall visual integration of affordable and market housing, noting that it should be indistinguishable from the surrounding general mix of development in terms of architectural quality and detail (paragraph 55). From this, we find that Policy 18 also accords with national planning policy.

21.8 Policy 18 amounts to a list of general expectations in the form of criteria to cover all potential kinds of development and it sets a high threshold. Compliance undoubtedly represents a challenge and it relies upon a positive and cooperative approach. However, given the quality of the area and the underlying reason for establishing the National Park as well as the context that we have described above, we find that adopting this threshold is justified and it should be achievable for all developments irrespective of size or type. Essential development might include infrastructure and affordable housing, and national planning policy has confirmed that good design need not necessarily add significantly to the cost of either, especially in the absence of firm or quantifiable evidence that shows otherwise.

21.9 Therefore, given the above whole background, we are satisfied that the approach taken by Policy 18 is capable of wide application, and we have no reason

to suppose that it would necessarily discourage growth or essential development, be incapable of implementation, or that it would necessarily slow or over complicate the planning application process.

21.10 Bearing the above in mind, we are not satisfied that it would be appropriate to specify particular exemptions in the policy because that would risk conflicting with the CNPP 2007, and it would send the wrong message about the design expectations for the Park. It will always be open to developers to agree with CNPA any particular individual policy criterion that need not be satisfied for a specific proposal. That said, we are concerned about incorporating the phrase “where appropriate” because best practice for local plan policies expects that a policy should be clear and without this kind of ambiguous expression. There are specific planning law procedures for dealing with developments that are contrary to the development plan and developments not built in compliance with permissions. Further, local plan policies should not be expected to be framed to accommodate every single possibility.

21.11 Between the deposit version of the local plan, the finalised version, plus the proposed modifications that were presented to the inquiry for consideration, the main changes are reference to: (a) impact on climate change; (b) innovative and contemporary design; (d) the sustainable use of resources; (e) waste segregation; (e) reduced need to travel; (f) take account of, as opposed to safeguard neighbours’ amenity; and a requirement to submit design statements. In the main, we find the structure of the revised policy is clear simply expressed, and we note that the augmentations address many of the matters of objection. However, our comments and reservations about these changes are as follows:

- We can find no clear explanation of the purpose and means of compliance for new criterion (a). The intention may be to address this via the as yet unseen design guide, but in the meantime, we find that in isolation, it is not capable of easy interpretation.
- Criterion (d) and both criterion (e)s seem to us appropriate because they draw the policy even closer to the CNPP 2007 strategic objectives.
- The language used in criterion (f) is a diminution of the deposit version and, like the objector, we prefer the earlier version which is clearer and stronger.
- Including a design statement requirement is appropriate in compliance with new planning legislation and it amounts to a suitable vehicle through which the majority of this policy’s requirements can be shown to be satisfied.
- It is not CNPA’s responsibility to draw up or require particular designs and, in any event, variety remains an appropriate aspiration for the Park.
- A design guide is an appropriate means of expressing the kind of detailed advice that would over burden and over complicate the local plan, and we are pleased to note the reference to this in the policy wording. Given this, the detail of what that guidance might say can be stripped from the plan text, broadly as the last set of modifications propose and, we note from the information provided in response to our request at the inquiry, that preparation of the guide is at an advanced stage with consultation due in July 2009.
- The implementation and monitoring section of the supporting plan text states clearly that the means of implementation will be gradually, via planning

applications. From that, it follows that a failure to comply with the relevant parts of Policy 18 might properly justify refusing planning permission in some cases.

- While we agree that much of the detail around monitoring the effect of Policy 18, including the reference to the sustainability score, should be removed, we find the policy should still be supported by some description of how it will be monitored and promoted.

Conclusions

21.12 Overall therefore and based on the above, we are satisfied that Policy 18 along with the associated intention to prepare a sustainable design guide has an appropriate strategic and national planning policy context because it relates directly to several aims of the Park and, in turn, to the CNPP 2007, as well as to a well-established material planning consideration. From this, we conclude that Policy 18 meets the strategic objectives of the CNPP 2007 and accords with relevant national and other strategic planning policy guidance.

21.13 Although we have expressed some comments and reservations above on the detail of Policy 18 which we encourage CNPA to take into account, we are in the main satisfied that it identifies clearly enough the kinds of development that will and will not be permitted. In the same vein, we further consider that the associated text is generally soundly based and capable of easy interpretation, implementation, and monitoring. Therefore, we are satisfied that the objections raise no strong reason to abandon or to vary the finalised version of local plan Policy 18 to a significant degree and we have found that only comparatively minor changes are necessary.

21.14 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

21.15 Accordingly, subject to addressing the above comments and reservations, we recommend that Policy 18 Design Standards for Development, broadly as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Policy 19 Reducing Carbon Emissions in New Development		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	Muir Homes Ltd	Objection refs	038j
	Homes for Scotland		391f
	The Proprietors of Mar Centre		394h
	The Crown Estate		419e
	Alvie & Dalraddy Estate		439z/e
	Glenmore Properties Ltd		453s

Reasoning

22.1 Policy 19 was added into the section of the emerging CNPLP that addresses sustainable communities and development during the 1st Modifications to the plan. It sets a threshold for development sizes, above which low carbon equipment must be incorporated.

22.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the issues to be addressed are:

- whether Policy 19 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough the kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

22.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 19. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

22.4 On the first issue, the general intention of Policy 19 is to help to slow the impact of climate change on the environment, which must be regarded as in the spirit of the first aim of the National Park, i.e. conserving and enhancing the natural environment. Next, we note that the CNPP 2007 sets a number of strategic objectives that are based upon conserving and enhancing the special qualities of the Park. These include the sustainable use of resources and energy, encouraging sustainable development, and improving the energy efficiency of housing and businesses (pages 49, 50, 66, and 73).

22.5 National planning policy in SPP 6: *Renewable Energy* states clearly that development plans should contain policies for the provision of on-site low carbon and renewable sources of energy in new developments. These policies *should ensure that, in all instances, opportunities for incorporating these technologies are fully explored by developers as part of the planning application process. The expectation should be that all future applications proposing development with a total cumulative*

floorspace of 500 sq metres or more should incorporate on-site zero and low carbon equipment contributing at least an extra 15% reduction in CO2 emissions beyond the 2007 building regulations carbon dioxide emissions standard. The development plan process should also be used to consider exceeding that level to secure a higher standard (paragraph 36). Planning applications should then only be exempt from achieving these targets where developers can show that technical constraints exist, in which case policies should secure equivalent carbon savings elsewhere in the area by agreement (paragraph 37). PAN 84: *Reducing Carbon Emissions in New Development* explains that SPP 6 uses the building regulations as a baseline standard from which the separate and extra planning requirement can be measured. PAN 84 also gives worked examples that show how compliance might be assessed (paragraphs 21 to 27).

22.6 Against all of this, we are satisfied that incorporating Policy 19 into the finalised local plan accords with current and relevant national and strategic planning policy. We also note that the chosen policy wording has been taken directly from SPP 6, and that national planning policy has confirmed that such policy should apply alongside and irrespective of the building regulations. Further, if proposals are assessed in accordance with the worked examples from PAN 84, then consistency of application and evaluation should be achieved as should compliance with the National Parks (Scotland) Act 2000.

22.7 The objections claim that compliance with this kind of policy could disrupt the viability of much needed development. We remind that the issue is set by national planning policy and note that these objections offer no firm or quantifiable evidence to show a negative impact on development, up to and including to a fatal extent.

22.8 As regards the second and third issues, we note with concern that SPP 6 refers to a form of offsetting in recognition of a need for flexibility, yet neither Policy 19 nor Policy 20 Developer Contributions from the CNPLP, incorporates this. We consider that this significant deficiency must be addressed.

22.9 Otherwise, we note that in addition to the clearly stated explanatory supporting text in the finalised version of the local plan (paragraph 5.13), CNPA intends to incorporate further information on compliance with Policy 19 in supplementary guidance. We presume that this guidance will also address monitoring the eventual success of the policy in terms of improved sustainability. In general, we welcome this approach, but we have expressed some reservations about the way in which the CNPLP uses supplementary guidance elsewhere in this report. In the meantime, at least until the supplementary guidance is in place, we suggest that the local plan text should be modified to refer to the worked examples in PAN 84 as guidance on how the policy will be implemented.

Conclusions

22.10 Based on all of the above, we are satisfied that Policy 19 meets the strategic objectives of the CNPP 2007 and that it accords directly with relevant national and other strategic planning policy guidance. Further, because the issue of addressing climate change by reducing carbon emissions is firmly rooted in national planning

policy, it should not be left as a matter for building regulations and it cannot be viewed as too heavy a burden for development.

22.11 Secondly, we are satisfied that Policy 19 identifies clearly enough the kinds of development that will and will not be permitted, and that it is supported adequately by succinct text that explains the background and justification for the policy as well as the manner of its implementation and monitoring. However, we have suggested cross-referencing with the examples in PAN 84 and, based on SPP 6, we have identified a need for flexibility to allow for offsetting.

22.12 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

22.13 Accordingly, subject to addressing the above reservations, we recommend that Policy 19 Reducing Carbon Emissions in New Development as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan, subject to:

- the introduction of flexibility to allow for the prospect of offsetting where technical constraints are shown to exist that otherwise prevent full compliance; and
- the consideration of cross-referencing with the examples in PAN 84: *Reducing Carbon Emissions in New Development*.

Issue	Policy 20 Developer Contributions		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objector	Scottish & Southern Energy plc	Objection ref	447h
Procedure	Written submissions		
Objectors	Mrs S Spencer	Objection refs	017e
	Mr & Mrs Duncan		037e
	Muir Homes Ltd		038k
	Network Rail		368a
	Dunachton Estate		418g
	The Crown Estate		419g
	Alvie & Dalraddy Estate		439n
	Glenmore Properties Ltd		453g
	Reidhaven Estate		456e
	Phillip Swan		462e

Reasoning

23.1 Although Policy 20 was formerly Policy 19 in the deposit version of the CNPLP, the requirement for a developer contribution that it contains remains largely unaltered, apart from reference to the need for a bond to secure remediation, restoration, or reinstatement works. The supporting text has been altered more extensively, in particular within Table 1 Developer Contribution Themes (page 38).

23.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions and from discussion at the hearing, we find that the issues to be addressed are:

- whether Policy 20 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough the kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

23.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 20. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

23.4 In relation to the first of these issues, we note that although SPP 1: *The Planning System* prefers the use of planning conditions, planning authorities have the power to enter into agreements, including with financial provisions, to overcome obstacles to the grant of planning permission (paragraph 55 and 56). SPP 3: *Planning for Homes* adds that development plans should be clear about the likely scale of any developer contributions associated with land allocations and the cost should be in proportion with the scale of development proposed (paragraph 100).

The replacement Scottish Planning Policy, which was issued as recently as October 2008, carries these statements forward and adds that development plans and supplementary guidance should be used to set out each planning authority's approach to the use of such agreements (paragraph 30). Circular 12/1996: *Planning Agreements* also requires that development plans should give guidance on the particular circumstances in which agreements will be sought. Further, such guidance should be expressed as precisely as possible, to let developers anticipate financial obligations and to avoid late surprises, but it need not anticipate every potential situation (paragraph 14).

23.5 Next, we note that:

1. Aberdeen and Aberdeenshire Structure Plan Policy 13 expects that developers will address the impact of their development, including in terms of exceptional servicing costs. Policy 13 also instructs local plans to set criteria and circumstances for contributions to infrastructure, community facilities, and any other elements. Such contributions must relate to the scale and kind of proposed development and they are to be based on community needs type assessments. The supporting structure plan text identifies a range of potential contributions, including: water and drainage; transport; schools; healthcare; social facilities like libraries and community centres; servicing costs; and mitigation for loss of amenity without which a development would be unacceptable (paragraph 3.25);
2. Dundee and Angus Structure Plan Implementation Policy 1 tasks local plans with identifying where planning agreements might secure developer contributions towards the provision of infrastructure, community facilities, and services;
3. Highland Council Structure Plan Policy G4 expects that development should benefit the local community and contribute to the well-being of the Highlands and that agreements will be sought for environmental and socio-economic purposes, including a fund for community initiatives and a bond for *long-term environmental restoration and/or socio-economic stability*; and
4. Moray Development Plan Policy S/F2 seeks developer contributions to benefit the community that are in proportion with the potential impact of development on public services and amenities.

These same principles underpin CNPP 2007. For example, we find them reflected in sustainable communities strategic objective (c), which states that *New development should seek to reinforce the sustainability of communities and support the provision of services in settlements* (page 67).

23.6 Based on the above clear and up to date national and strategic planning context, we find that of requiring developer contributions to offset the impact of development via policy supported by supplementary guidance is firmly rooted in the development plan. It is also well-established as acceptable, and it supports the strategic framework for the National Park set by the CNPP 2007. Accordingly, we are satisfied that a local plan policy like Policy 20 is appropriate in principle.

23.7 Turning to the second issue, we find that Policy 20 from the finalised version of the local plan is generally clearer and easier to understand than the deposit version of Policy 19. Policy 20 addresses many of the matters of objection and incorporates flexibility of application, as well as reference to consistency with the

scale and nature of the development proposed, each of which accords with Circular 12/1996. For example, it refers to community needs surveys as base information, it mentions transport not just roads, and it covers more than just the design capacity of schools, which embodies the potential to allow developer contributions to fund teachers. We also note and support the text recognition that contributions might be phased to avoid the kind of major initial expenditure that might deter development (paragraph 5.21). However, we are concerned that as yet, none of the local and detailed community needs base information is available to inform the implementation process for Policy 20. We would also prefer to see the terms 'planning authority' and 'local authority' used accurately and consistently throughout this policy and its supporting text, bearing in mind the significance that these terms have in the context of the National Park and the particular roles that CNPA and its partner local authorities play in handling the implementation and product of Policy 20.

23.8 We agree with the objectors that tying implementation to agreement via Section 75 of the Town and Country Planning (Scotland) Act 1997 might be overly restrictive in some circumstances and not always the best or only possible route for all development types. Although Section 75 has been widely used in the past, it would be unfortunate if the unintentional consequence of the policy reference to Section 75 was to rule out other forms of agreement that might better suit different types of development, especially bearing in mind current planning reforms and the prospect of changing legislation. Nevertheless, we are concerned that not using Section 75 takes away the inherent safeguard for developers of obliging full compliance with Circular 12/1996, i.e. including the requirement for a planning purpose and relationship to the scale a nature of development proposed. This kind of safeguard might not apply to other types of agreement. Given all of this, we recommend that while the policy wording and the supporting text could refer in more generic terms to appropriate legal agreement, it should make clear that this will usually be under Section 75. As a knock-on, CNPA should also review the associated glossary reference, which process should include specifying the source of Section 75.

23.9 Subject to these recommended changes and bearing in mind all of our comments above, we see no need to refer explicitly to compliance with the principle of Circular 12/1996 in Policy 20, especially as that would repeat much of the supporting text. However, we agree that it would improve the policy and address the above if the wording made clear that any agreement and contribution arising from Policy 20 would only occur where the matter in question relates to the impact of the proposed development and where that impact could not be dealt with through other legislation or the use of planning conditions.

23.10 CNPA's evidence confirms the intention to use supplementary guidance to support Policy 20. We agree with this intention, at least to inform the negotiation process, to give developers cost certainty, to give CNPA flexibility to update the guidance as necessary, and to avoid suppressing much needed development like affordable housing. Although we are satisfied that the guidance is currently in preparation, its absence in the interim is a considerable shortcoming. Another shortcoming is the lack of explicit reference in Policy 20 to implementation via supplementary guidance, to give the clearest and earliest advice to developers.

23.11 With full supplementary guidance, the local plan need not be burdened with the considerable level of detail contained in Table 1. However, the guidance should be augmented with explicit reference to community facilities like libraries and halls, to skills and employment training initiatives, and to existing local authority strategies like waste, recreation, and transport. Reference to these strategies would help to address the current lack of clear community based information about need referred to above, as well as several of the objections.

23.12 We also expect that the proposed supplementary guidance will address at least the following matters:

- the formula to be used in calculating the amount of any potential contribution;
- the level at which development impacts would trigger the application of Policy 20;
- the thresholds that would apply to phased developments;
- the circumstances in which a bond or cash contribution would be expected;
- information about how any money raised would be held and spent; and
- potential ways that the affected community might be involved in deciding certain of the spending priorities.

In connection with the last of these points, we accept that affected communities might spread beyond the CNPA's administrative boundaries, but still lie within a relevant local authority boundary, so that some crossover is appropriate.

23.13 We note that one objection questions the reference in Table 1 to offsetting the impact of development on biodiversity. We accept CNPA's position that this category is a clear response to the aims of the National Park and that it is not intended to duplicate other legislative controls, including planning conditions. Instead, biodiversity has been included to cover the possibility that development might have a significant impact on species and habitats that would not otherwise be protected. For example, species of local significance from the Local Biodiversity Action Plan or where a particular habitat strays beyond an application site boundary. Accordingly, we are satisfied that including biodiversity in Table 1 is a worthwhile safeguard that any negative impact will be mitigated.

23.14 Another objection proposes that companies responsible for electricity infrastructure in or through the National Park should be exempt from developer contributions. We find no basis in national planning policy or advice, or in the development plan, for agreeing to that proposition.

23.15 Several more objections claim that compliance with this kind of policy could jeopardise the viability of much needed development. In assessing the merits of this position, we are mindful that the issue stems from national and strategic planning policy and note that these objections offer no firm or quantifiable evidence to show a negative impact on development, up to and including to a fatal extent, in circumstances where a developer contribution would otherwise be necessary and appropriate.

Conclusions

23.16 Overall therefore, on the basis of the above, we are satisfied that Policy 20 has an appropriate strategic context because it relates directly to national planning policy, to the network of approved structure plans, and to the CNPP 2007. From that, we find that Policy 20 meets the strategic objectives of the CNPP 2007 and accords with relevant national and other strategic planning policy guidance. We are equally satisfied that the policy makes clear CNPA's intention to follow well-established and generally accepted planning practice on implementation as set out in Circular 12/1996, to avoid any potential overlap with other legislation or the prospect that it could be misused in influencing the development management process.

23.17 In general, we find that the finalised version of the policy wording identifies clearly enough the kinds of development that will and will not be permitted, subject to some concern about the lack of community information to underpin the policy and about inconsistent terminology. However and on balance, we conclude that Policy 20 should refer in more generic terms to legal agreements as opposed to the more narrowly defined Section 75 agreements, although we agree that some limited extra detail on this could usefully be added.

23.18 As regards implementation and monitoring, we have recommended some text changes above, and we have expressed concern about the current lack of supplementary guidance to aid developers. Aside from that general concern, we can see scope to streamline the text including, for example, by removing Table 1 to the guidance. We have also suggested specific steps towards implementation that we consider should be incorporated into supplementary guidance. Lastly, we note a lack of detail as to how the impact of the policy will be monitored. Subject to all of this, we are, in the main, satisfied that the objections raise no strong reason to abandon or to vary finalised local plan Policy 20 and we consider that the associated text which deals with the background and justification for Policy 20, as well as the manner of its implementation and monitoring is generally soundly based.

23.19 In reaching these conclusions, we have taken account of the suggested alternative wording promoted at the hearing, but we find that subject to our comments above, that altered text offers no significant improvement to the version already in the finalised local plan.

23.20 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

23.21 Accordingly, subject to addressing all of the above, including text changes and reference to the more generic legal agreements as opposed to the narrowly defined Section 75 agreements, we recommend that Policy 20 Developer Contributions should be taken forward into the adopted local plan broadly as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008.

Issue	Policy 21 Contributions to Affordable Housing		
Reporters	Jill Moody & Hugh M Begg		
Procedure	Hearing		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400g(f)
	Scottish Campaign for National Parks		434i/j
	Scotia Homes Ltd		452d/f
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020
	DW & IM Duncan		037j
	James & Evelyn Sunley		056n/o
	Ballater (RD) Ltd		076b
	Mrs Fiona Powell		089
	RB Tozer		098d
	Mr & Mrs WM Houston		096c
	Albyn Housing Association		385a/c
	Roy Turnbull		390
	Homes for Scotland		391a/b/c/ d/e
	The Proprietors of Mar Centre		394j
	Inverburn Ltd		408b
	William Stuart Paterson		409b/c/j
	Dunachton Estate		418l
	The Crown Estate		419l
	Barbara Paterson		426
	Alvie & Dalraddy Estate		439s
	Hamish Jack		440
	Rothiemurchus Estate		446b
	Glenmore Properties Ltd		453j
	Reidhaven Estate		456g
	Davall Developments Ltd		461c
	Phillip Swan		462i
	Mr & Mrs MacAllister		490a
	Mr & Mrs McKechive		491a
	Mr & Mrs Hempseed		492a
	Heidi Rattray		493a
	Susan Donald		494a
	Mary Mischie		495a
	Katrina Wimbush		496a
	P Brough		497a
	H & BD Wright		498a
	EJ Proctor		499a
	J Adams		500a
	Peter Gray		501a
	Aileen Mutch		502a
	Anna Hauley & Gavin Hedges		503a
	Mr Ian Duncan		504a
	Robert Moir		505a

Objectors	Occupier, 18 Sir Patrick Geddes Way, Ballater	Objection refs	506a
	Mane Fraser		507a
	A Esson		509a
	Linda Johnston		510a
	James Clark		511a
	Fred Vincent		512a
	Ian Black		513a
	Brian Gibson		514a
	Allyson Meechan		515a
	Mr & Mrs Hepburn		516a
	Helen Murray		517a
	Alan Henderson		518a
	Mr & Mrs D Milne		519a
	Mr A Myddleton		520a
	Mrs A Redland		521a
	Mr & Mrs Taylor		522a
	Mr J Cooper & Ms M Majzlikova		523a
	Occupier, Roaring Stag, Braemar		524a
	Occupier, Mar Cottage, Cambus o May		525a
	Jane Reynard		526a
	Mr W Sim		527a
	Mrs E MacNamee		528a
	E Black		529a
	Occupier, Rinelen, Glen Gairn		530a
	Graham Adams		531a
	WJ Romily		532
	Mr & Mrs Burrows		533
	Gordon Chaplin		535a
	Mr & Mrs S Barns		536
	Victor Jordan		537
	Capt J Schuneman		538a
	Frances Gibson		539a

Reasoning

24.1 Policy 21 addresses the significant issue of the provision of affordable housing in the National Park. Policy 21 began as Policy 24 Contributions to Affordable Housing in the deposit version of the CNPLP, but it has been the subject of considerable alteration as it moved forward into the finalised version of the plan.

24.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions and from discussion at the hearing, we find that the main affordable housing issues to be addressed are:

- whether Policy 21 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough the kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

24.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 21. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

24.4 Before considering these main issues, we take as our starting point the definition of affordable housing. The deposit version of the local plan describes affordable housing as *housing that costs less than market sale price or rent in perpetuity* (paragraph 5.49). The affordable housing section of the finalised version of the CNPLP, which incorporates the 1st and 2nd Modifications, omits that definition and makes no substitute. Appendix 2 of that version of the local plan is inconsistently titled *Housing background* on the contents page and *Affordable Housing* on page 111 and is not cross-referenced with the relevant policy section. Nevertheless, Appendix 2 substitutes the definition used in national planning policy SPP 3: *Planning for Homes*, which is *housing of a reasonable quality that is affordable to people on modest incomes*. Thus Appendix 2 uses a nationally consistent and generally accepted definition, but because there is no clear connection between the finalised version of the local plan and its appendix, users must inevitably experience considerable difficulty firstly in establishing what definition of affordable housing CNPA has used in the local plan and secondly, in understanding how that has been used in the context of the local plan. It seems to us that the simplest solution to the second part of this difficulty would be to incorporate the SPP 3 definition into the plan glossary.

24.5 As regards the first main issue, we note that several objections relate to whether affordable housing is an appropriate planning consideration and, from that, whether it is a suitable subject for incorporation into the local plan. In response, we refer to SPP 3, which establishes that provision for affordable housing can be a valid planning matter and that *the development plan should be clear on the scale and distribution of affordable housing, including an outline of what is expected from prospective developers*. Further, SPP 3 and PAN 74: *Affordable Housing* recognise that affordable housing can take many different forms, including social and private rented. Therefore, we are in no doubt that the provision of sufficient land to accommodate that portion of the housing requirement which is to be met by affordable housing is a matter which should be addressed by the CNPLP.

24.6 Moving on from there, each applicable part of the extant development plan confirms that the current lack of affordable housing is a major problem affecting the National Park area. Each part then sets out a range of policies to address the problem, based largely on a requirement for developments of different sizes to provide varying percentages of affordable housing as compared to housing for sale

on the open market. But in the main, the approved structure plans leave it to the network of local plans to prescribe how much is to be delivered and by what specific means. The Highland Structure Plan contains the broadest range of potential solutions, many of which have been carried forward into the CNPP 2007.

24.7 The CNPP 2007 also clearly recognises the issue and identifies it as a priority. The Park's fourth aim is *To promote sustainable economic and social development of the area's communities*, and the plan text confirms that the lack of access to affordable and good quality housing has been identified by many communities as a key issue and challenge towards achieving that aim (page 111). In addition, the plan's short-term Priorities for Action include making housing affordable and sustainable and increasing the supply of quality affordable rented properties (pages 11, 112 and 113). The Strategic Objectives include ensuring greater access to affordable and good quality housing, keeping housing affordable in the long-term, and ensuring land and investment for the provision of affordable housing to meet the economic and social needs of communities (pages 72 and 73). The CNPP 2007 Specific Outcomes for 2012 include reducing the gap between housing need and supply, reducing the number of businesses who identify housing as a barrier to staff recruitment and retention, and increased numbers of quality affordable private rentals. Accordingly, we are in no doubt that addressing the issue of affordable housing need is significant and appropriate for the local plan in its role of satisfying the CNPP 2007 strategic objectives and outcomes.

24.8 As we have noted elsewhere in this report in the context of housing land supply, we regard it as crucial in assessing the approach to affordable housing that CNPA suffers from the following constraints on its freedom of action. It has:

- no direct control over the allocation of new or existing houses to those in need;
- no ability to build or to directly grant aid new build affordable housing; and
- no means of incentivising new build private rental housing including by altering housing waiting list criteria or by favourable loan arrangements.

24.9 It must also be borne in mind that even if it were a housing authority, CNPA could not decide simply to abandon the legal framework that binds the sale of council housing. Nor can CNPA disregard the various housing strategies prepared by the relevant local authorities, which have informed the development plan process overall, up to and including the CNPLP. All of these housing strategies confirm the need for affordable housing, albeit that the extent has been assessed in different ways and with a different emphasis, depending on the characteristics and orientation of their respective housing market area. For example, Aberdeenshire tends to focus on the effects and implications of Aberdeen city as a significant draw affecting Upper Deeside and the Highland strategy deals with the equivalent impact of Inverness for Badenoch and Strathspey. The Highland Strategy paints the most positive picture of what has been achieved on the ground so far, but the more recently approved CNPP 2007 confirms that a substantial problem clearly remains.

24.10 When we review our findings above, we conclude that a local plan policy towards the provision of affordable housing is compatible with relevant national and strategic planning policy.

24.11 Turning to the second main issue and, based on the above, it is obvious that CNPA has inherited a problem of considerable proportions, but the assessment of that problem was based on disparate sources and information. To mesh and update the available information, and to turn the focus directly onto the National Park, CNPA commissioned 2 pieces of research (CD 7.8 and CD 7.9). Taken together, these confirm the following main conclusions:

- the need for affordable housing is increasing and that trend is expected to continue for the foreseeable future;
- a growing proportion of the total need is made up of newly emerging smaller households, many of which comprise younger people;
- the problem of affordability is compounded by generally low wages in the National Park and a shortage of housing stock overall;
- the above factors mean that a sizeable element of new build housing is essential;
- the size and nature of the problem varies across the Park, but to eliminate it entirely, an estimated 90 to 121 affordable homes would need to be built every year;
- based on past completion rates for all housing, the above amount equates to building each new house every year as an affordable house;
- apart from in Kingussie, the greatest sector of need is for social rented accommodation, but other forms of affordable housing have a role to play in addressing the broad range of need; and
- Aviemore seems to be in greatest need, followed by Upper Deeside, Grantown-on-Spey, Kingussie, and Tomintoul.

24.12 It was accepted in discussion at the hearing that because calculations and projections of affordable housing are not an exact science, they are inevitably subject to margins of error. For example, the first research report accepts that because the geographic areas on which the calculations were based are so small, complete accuracy cannot be guaranteed. Despite these issues, we are satisfied that:

- the research which underpins the local plan approach to affordable housing was conducted by recognised experts in the field;
- it used recognised methods and the best available data, so that it is robust;
- the main findings arising are not in dispute; and
- neither piece of research has been disproved or discredited by evidence of equivalent stature.

Therefore, the figures arising amount to the most comprehensive and quantifiable evidence of the extent of the affordable housing problem across the National Park that has been placed before us. Given that, we accept the research conclusions as the most reliable evidence upon which to base a local plan affordable housing policy.

24.13 The above, along with all of the evidence presented in support of CNPA's local plan position, points to a conclusion that the need for affordable housing in the National Park exceeds the available supply whereby addressing the current chronic lack of affordable housing is a major problem affecting the National Park which must be addressed by the local plan. The CNPP 2007 clearly regards it as of vital importance that those who have current or future employment prospects in the Park

but cannot find adequate housing to meet their needs should have access to affordable housing. In that respect, we draw a clear distinction between those who cannot afford to rent or buy homes but whose current or likely future employment requires that they be housed in the National Park, i.e. need, and those who have no such requirement but would simply prefer to live in the National Park for lifestyle reasons, i.e. demand.

24.14 The above conclusions raise 2 particular concerns. Firstly, we note a practical difficulty in eliminating the need for affordable housing over the lifetime of the local plan, given the above stated upper estimate of need as compared to overall housing completion rates in the Park, the limited availability of public subsidy, and the fact that the CNPLP response to the need for affordable housing must comply with the 4 aims of the Park. In other words, we see a tension between the level of housing growth needed to eliminate the need for affordable housing and what the local plan policy response can achieve realistically to reduce the problem in the plan period and thereby also to meet the strategic objectives set by the CNPP 2007, bearing the particular National Park constraints in mind. We have discussed this same tension in the context of housing land supply.

24.15 Secondly, we have particular concerns about the way in which the geographical breakdown of need by settlement has been quantified. Based on the commissioned research, Aviemore seems to be in greatest need, followed by Upper Deeside, Grantown-on-Spey, Kingussie, and Tomintoul. However, other settlements, including some that the local plan categorises as strategic, appear to have been omitted from specific consideration. In addition and of vital importance, little or no attention has been paid to the:

- assessment of locally arising need in each settlement;
- development potential of each settlement given its size and role;
- proportionate impact of development on each settlement; and
- potential ability for each settlement to meet and absorb the identified need.

24.16 As a result, the commissioned research cannot provide a guide to the number of affordable homes that each settlement requires and it cannot assist in the allocation of housing land within those settlements to meet the affordable housing need. CNPA must address these settlement specific shortcomings in the future as a more locally consistent and appropriate information base develops. In the meantime, we find that while the assessment of the overall size and shape of the affordable housing problem is broadly credible, it cannot provide a context for a more local interpretation. It is simply not possible to use the commissioned research to be sure that the housing land allocations in the local plan have been put in the right places to suit the settlement hierarchy and to address a specific locally generated need for the specified amount of additional housing.

24.17 With these reservations in mind, we turn to look at the policy wording and we see that in attempting to produce as much new affordable housing as possible, the local plan generally proposes 2 main approaches. Firstly, Policy 26 of the deposit version of the CNPLP gives favourable consideration to affordable housing outside settlements where there is no suitable provision inside *and/or* it meets a demonstrable local need. Policy 24 from the finalised version of the plan, which

deals with the same subject, adds impact on landscape setting as an additional criterion. Our main concern here is that *and/or* raises doubt over whether all criteria must be satisfied, in which case it should be *and* for each stage, or whether one criterion or another is all that must be addressed.

24.18 Secondly, the deposit plan allocates substantial greenfield areas for the development of new open market housing, with an expectation via Policy 24 of a cash or kind contribution by each developer towards the provision of additional affordable housing. The principle of a cash or kind contribution accord with national planning policy as well as with the extant development plan. However, based on all of the above, on our reasoning elsewhere about the general over allocation of housing land, as well as our inability to conclude that each settlement needs the amount of new housing that the allocated sites could deliver, we have fundamental concerns about this blunt approach.

24.19 We accept from CNPA that more detailed research will be undertaken which will lead to a more refined and targeted approach in subsequent development plans. We recognise also the need for an interim solution to be incorporated within this local plan to provide at least some additional affordable housing. Nevertheless, we are driven to the conclusion that an over provision in the general land supply in the hope that will deliver enough affordable housing to meet the need of each settlement in the Park as well as the surrounding rural areas is a blunt policy instrument. It leaves the CNPLP ill-equipped to address one of the most formidable land use challenges presented by the strategic objectives of the CNPP 2007.

24.20 For single houses, Policy 24 from the deposit plan expects a cash contribution. For bigger developments, a target of 30% or 50% of all homes to be built on-site must generally be affordable. Although the supporting deposit plan text aims to provide a range of different types of affordable housing, it sets a baseline assumption that the majority should be social rented, with a clear minority of other kinds, which could include serviced plots (paragraph 5.52). However, the balance between these types can vary and developments of as few as 2 or 3 homes should not include social rented housing. This general approach seems to us to be satisfactory because it means that every development contributes to addressing the problem of affordable housing provision, and the greater part of that contribution should be in the form of social rented housing.

24.21 The different percentages in Policy 24 relate to the availability of public subsidy, so that 30% would apply if there were no subsidy and 50% if there was. PAN 74 recognises that because affordable housing can be provided in so many different ways, it might include unsubsidised higher density entry level housing for sale with missive conditions to keep it affordable. However, PAN 74 also recognises that much affordable housing will only be delivered with public subsidy and the hearing discussion confirmed that this is particularly the case for the National Park. Given this, we agree with CNPA that it is appropriate and inevitable that public subsidy is relied upon as a mechanism to decide the differing amount of affordable housing to be realised from each site.

24.22 Following consultation on the deposit plan and receipt of the commissioned research, CNPA varied this approach for the equivalent Policy 21 of the finalised

version of the local plan. Firstly, the policy threshold was raised to 3 homes, with single and 2 home developments being expected to make cash payments towards meeting local need. Against that, we note an implication in Appendix 2 that a sales burden would be imposed on self-builders of discounted serviced plots. Each approach accords with the general principle of requiring a cash or kind contribution from all new developments to help address the wider shortfall and, in the latter case, the burden would help to maintain a stock of affordable housing. However, we have described above our concerns about the indistinct links and relative roles of the local plan policy, its associated supporting text, and Appendix 2, which we find must be revisited and clarified. Indeed, given the amount of duplication with the finalised local plan text, the simplest solution might be to delete Appendix 2 entirely, and to rationalise any essential content with the policy, as well as with its supporting text and the intended supplementary guidance, as appropriate.

24.23 The finalised local plan also replaces the emphasis on the development of social rented housing with a link to housing need and demand assessments, as well as to other community based information. In short, social rented housing becomes only one component of that overall mix. This approach recognises the mix as described in SPP 3 and PAN 74 and superficially, it seems to be a more flexible response. However, we find that it suffers 2 main shortcomings. Firstly, the commissioned research has already established that the greatest overall need is for social rented housing and, secondly, discussion at the hearing session confirmed that none of this highly local information regarding particular settlement need was currently available to inform site negotiations. Therefore again, we find that the finalised local plan reduces the deposit plan text, steps back from addressing the specific conclusions from the commissioned research, and it suffers the same underlying and considerable weakness of a lack of attention to settlement specifics.

24.24 The objections raise concerns about the low cut-off point used in each version of the local plan. In recommending a benchmark percentage, SPP 3 makes no reference to any thresholds, stating instead that each site should contribute and that local authorities should determine exactly how. PAN 74 guides that urban developments of 20 or more homes should make on-site provision, but that in rural areas, a lower threshold maybe appropriate because the general scale of development tends to be smaller. We consider that the dispersed settlement pattern of the National Park area, the comparatively small scale of the settlements within it, and the lengthy and often awkward travel connections between many of these settlements are factors that combine to justify greater local provision and a lower threshold than PAN 74, especially as PAN 74 is only advisory. Therefore, we are satisfied that in general, CNPA's threshold approach creates a satisfactory framework whereby virtually every housing development site should contribute in some cash or kind way, with only the larger sites being expected to make an on-site percentage provision.

24.25 In setting the threshold at 2 or 3 houses, CNPA has had regard to its most recently commissioned study (CD 7.9), which finds no evidence to support the house builders' widely promoted view that smaller sites should be exempt because they provide a weaker return. No firm or quantifiable evidence has been submitted to support these objections by showing that smaller sites are far more expensive to develop, or that they are considerably less valuable, whereby site size should have a

defining role in setting a policy threshold. As a result, we are not persuaded that smaller sites are far more expensive to develop, or that they are considerably less valuable and we cannot find that should have a defining role in setting a policy threshold. In practice, the financial viability of each scheme will depend on a unique interaction of a wide range of factors instead of the average figures that experience suggests are often quoted to support the objectors' view. Further, we consider that the low threshold increases the potential that new affordable housing can be dispersed, including throughout the smaller settlements of the Park, to meet locally arising small scale need, as opposed to being concentrated on large sites probably in the strategic settlements.

24.26 Given all of this, we find no compelling case to support a recommendation that the basic local plan policy approach should be altered in the light of these objections, although we consider that the distinctive nature of the National Park housing market justifies more detailed research than has been submitted to this inquiry.

24.27 That said, the finalised local plan text exempts single and 2 home developments where the occupants would qualify for an affordable house by reason of need or income (paragraph 5.50). Further, Appendix 2 of the finalised plan adds a sales restriction presumably for all cases where the exemption applies. As a result, we find that this basic increase from one to 2 homes is justifiable and it addresses some of the objections. However, scope for misinterpretation remains and generally, the local plan approach fails against commonly applied best practice standards because:

- the relevant finalised local plan Policy 21 does not incorporate the Appendix 2 exemption, which undermines certainty especially in terms of Section 25 of the Town and Country Planning (Scotland) Act 1997;
- the amount of the cash contribution is not specified;
- the concept of a local area is not defined until the finalised local plan text;
- neither version of the plan indicates how the money raised will be controlled or spent; and
- there is no clear connection or flow between policy and supporting text, or with Appendix 2, to differentiate policy from the subordinate supporting justification.

CNPA may intend to tackle these issues in due course through supplementary guidance, but there is no indication of that intention in the plan, which leaves the developers with no clear guidance on what to expect.

24.28 CNPA tabled a further set of officer proposed post inquiry modifications (CD 7.28) for the inquiry. We find it a considerable weakness that these late and substantial changes have not been the subject of public consultation or scrutiny. These modifications increase the threshold again from 3 to 4 houses, but the reason for this change has not been explained or justified in detailed, robust evidence. Moreover, the principle of a further increase seems to conflict with the research findings discussed above and the source of the number is unclear. In combination, these shortcomings lead us inevitably to a conclusion that the change to 4 houses has no sound basis.

24.29 SPP 3 and PAN 74 confirm that as a matter of national planning policy, applying a percentage contribution is one appropriate way of making affordable housing available, so that this part of the local plan approach is satisfactory. The deposit local plan target of 30% exceeds the benchmark figure of 25% from SPP 3, but PAN 74 provides for higher percentages on specific sites, as well as in exceptional circumstances such as where it is linked to a substantial greenfield land release. Clearly the National Park is exceptional because it suffers a considerable shortfall in affordable housing and the local plan facilitates substantial greenfield land releases. Therefore, notwithstanding our concerns about the lack of any site specific requirements in the local plan, which we consider causes considerable uncertainty for developers, we find as a matter of principle, that using a percentage figure of more than the benchmark of 25% is justified.

24.30 The finalised plan changes the percentage figures for larger developments so that every development of 3 or more homes must include an element of affordable housing. For developments with no public funding, the percentage contribution is unspecified, which seems to be an unjustified diminution of the 30% approach taken in the deposit version of the plan. Where up to one third of the development cost can be funded by public subsidy, the finalised local plan applies a 25% contribution, which is another diminution from the deposit local plan 50%. Above that, a maximum contribution of up to 40% would apply. These new percentages are based on the commissioned study assessment that any more than 40% is likely to render a development non viable, and developments with contributions in the range 25 to 40% can only be viable with a degree of public funding and depending on the severity of other applicable constraints. Accordingly, we find that the finalised version of the plan has responded to many of the original objections concerning development viability. However, while the percentage figures now chosen are more soundly based and robust than the range used in the deposit plan, and they are unchallenged by evidence of equivalent weight, we consider that CNPA must provide clearly and obviously for a contribution of some kind from unsubsidised developments. Without this the basic, transparent and fair cash or kind position of the local plan for all developments will be undermined. It also follows from that:

- investment may be choked off because developers will be left uncertain about what is required of them;
- developers will be not be protected from unjustified demands by a policy framework; and
- small development house builders could be left at a disadvantage.

The additional set of proposed pre inquiry modifications changes the percentage requirement to a target, although the amounts do not vary.

24.31 Several of the objectors have recommended a 25% baseline as an overall alternative. There is no indication in SPP 3 that this kind of 'one size fits all' approach is appropriate in terms of national planning policy and we have misgivings because it detaches entirely from the issue of public subsidy and development economics, and because our experience suggests that it tends to become a fixed and maximum contribution. As we have stated above, this kind of percentage contribution approach cannot resolve the whole shortage of affordable housing for CNPA, but relying on as little as 25% overall further reduces the likelihood of

meeting as much of that need as possible. It also discourages the potential for appropriate sites to contribute more.

24.32 CNPA confirmed during the affordable housing hearing that variations to these percentage figures would be negotiable to take account of the characteristics of particular development proposals. We find that Policy 21 does not reflect this, although the associated text (paragraph 5.46) and Appendix 2 explain that the planning authority would take market economics, site constraints, and the amount or the target occupants into account. In other words, while the totality implies that the contribution for each site is negotiable and flexible, we repeat that the linkages between these plan parts are unclear.

24.33 Appendix 2 to the finalised local plan refers to a toolkit or model to be used within CNPA in the negotiating process to calculate the amounts for each site. We have considerable reservations about the way in which this issue is revealed in the plan. Firstly, the approach seems to contradict national planning policy which stresses that in all circumstances the need for negotiation should be reduced. Secondly, we agree with those objectors who raise concerns about the objectivity and efficiency of this process in delivering affordable housing. Thirdly and to accord with SPP 3, any such toolkit must be developed in consultation with the industry and should be clear and transparent. We recognise that supplementary guidance may address these last 2 concerns but have no evidence to confirm the timing, content, and link between that guidance and the CNPLP.

24.34 The officer proposed third set of modifications changes the focus of the policy entirely by dropping any reference to public subsidy and by resting far more heavily on site by site negotiations that aim towards achieving a target range of 25 to 40%. The final amount of affordable housing then realised would become dependent upon the type of affordable housing required and the financial viability of the development. Further, the modified version of policy 21 states clearly that even the minimum 25% requirement could be waived if addressing site constraints would harm the financial viability of the development. We find that this is a considerable step backwards from the original standpoint whereby every development must contribute something to addressing the clear affordable housing shortfall. From this latest and very significant change, compliance with SPP 3 is compromised and it is easy to understand why many objectors feel CNPA has simply bowed to pressure from house builders, especially as the latest position has not been explained or supported by robust evidence. We consider that the change further reduces the prospect of delivering as much affordable housing as possible in the National Park. The change also reinforces the view that the CNPLP is promoting considerably more land for market housing than is required to accommodate the increase in population envisaged by the CNPP 2007 and projected by CNPA's consultants.

24.35 The objections raise an issue around the prospect of achieving a mixture of types of occupants and a social range across developments where the percentage is as high as the deposit version of the CNPLP would require, partly because it was feared that this could stigmatise an area. We accept the findings from the commissioned study that a large percentage is likely to render most developments non viable and we agree with the objectors that seamless integration and proper social and affordable house type mix must be paramount. It is central to national

planning policy that development plans should provide for properly mixed and diverse communities. Accordingly, we agree that the local plan should make specific provision for this additional strand. Paragraph 5.46 of the finalised version may be an attempt to address the issue of mix and integration but we find that it is insufficiently clear.

24.36 The third set of post inquiry proposed modifications introduces the wider option of off-site contributions for all developments as opposed to small-scale only. We consider that this suggestion represents another unjustified dilution of both earlier versions of the local plan, and it suffers the same problem as those earlier versions over how this money will be controlled and spent. In particular, the proposed change does not address the distinct possibility that the size of the market housing allocation will use up the supply of effective housing land, nor does it link to any specific allocations for affordable housing. In other words, there can be no certainty that the money raised could be targeted and spent in an appropriate way to address a clear and distinct local need.

24.37 The finalised plan introduces the notion that development solely for affordable housing will be favourably considered. However, we note with concern that this presumption in favour is not carried forward into the proposals maps for individual settlements as seems to be required by SPP 3 and the CNPP 2007. SPP 3 states that *Planning authorities should also consider allocating sites specifically for affordable housing This approach is most likely, but not exclusively, to be appropriate for small-scale sites within or adjoining existing villages to provide for locally arising needs* (paragraph 95). We find that this description reflects reasonably accurately the character of most of the settlements in the National Park. PAN 74 adds that allocating sites specifically for affordable housing in a local plan is one means whereby a local authority can influence the delivery of affordable housing (paragraph 29). Further, Strategic Housing Objective (a) (page 72) and the Priorities (pages 112 and 113) from the CNPP 2007 imply likewise. We must add to this:

- our concerns about the over allocation of housing land and the lack of settlement specific assessments and allocations;
- the need to ensure that the right kinds of sites in the right locations are safeguarded to address this specific aspect of housing need; and
- the lack of any clear and quantifiable evidence to explain and support this most recent changes,

24.38 Given all of the above, we have distinct reservations about the approach adopted in this further evolution of the local plan.

24.39 The objectors make 3 other suggestions that have relevance for the wording of the policy, namely:

- make better use of brownfield and infill sites;
- allow developments of about 75% affordable housing on and beside existing community areas; and
- encourage particular kinds of affordable housing on some crofting land.

For all of these suggestions, we note that the wider local plan policy framework does not exclude such developments and that they could be considered favourably on an individual basis.

24.40 Moving on to the last main issue, i.e. the text associated with Policy 21. Each successive version of the local plan relies on planning conditions and Section 75 agreements as a means of securing the implementation of policy. Against this, the objectors express concerns about inherent delays and the lack of transparency in that negotiating process, and about the basic notion of keeping those homes released through the local plan policy locked into the affordable housing stock in perpetuity.

24.41 SPP 3 leaves it to policy and supplementary guidance to specify delivery mechanisms for affordable housing and it recognises that there may be circumstances in which such housing would need to be kept affordable in perpetuity (paragraphs 94 and 96). PAN 74 states clearly that the provision of land can be the subject of planning conditions, but that commuted payments and the retention of affordable housing may need to be the subject of a Section 75 agreement (paragraph 41). SPP 3 then adds that using Section 75 agreements can result in delays (paragraph 106), but PAN 74 advises that the negotiating process need not delay development if model agreements are used, and with a positive, cooperative attitude from all participants (paragraph 42). Therefore, we find that in principle, the use of these mechanisms is appropriate. In addition, we agree that further measures such as model agreements and supplementary guidance have the potential to reduce the prospect of delays and increase the transparency, obvious fairness, and ease of comprehension of the process. Fairness is an especially significant issue for the objectors.

24.42 Several objectors suggested options to avoid the need to keep homes affordable in perpetuity, some of which were based on practice in other national parks. For example, a cut-off point might be introduced beyond which a home might be released from the affordable stock onto the open market if it has not been sold to a local resident at an affordable price. Alternatively, a home could be released automatically after perhaps 15 or 20 years. Given the severity of the local need for affordable housing, we accept the importance of taking all reasonable steps to keep that stock available and affordable for as long as possible, but any mechanism must always have an opportunity for review and a break point to be used as necessary. That said, there are practical aspects around the suggestions that give us cause for concern. For example:

- the implications for lenders seem not to have been considered in the inquiry submissions;
- the way in which a temporary mechanism might be monitored and enforced has not been described; and
- there could be potential for a temporary mechanism to be circumvented inappropriately.

More significantly, adopting a position of less than perpetuity as an initial standpoint sends out the wrong message about how severe the local problem is and how

seriously CNPA takes implementation of its local plan policies to address that problem.

24.43 We note that the finalised local plan and the proposed third set of modifications include text references to the possibility of controlling the size, mix, and long-term availability of affordable housing stock by restricting residents' permitted development rights to extend their houses without needing formal planning permission. While this might be an attractive option, again we are concerned that this intention is not properly justified in the local plan and the practical implications seem not to have been fully examined. For example, the restriction might act as a disincentive to the improvement and maintenance of homes, leading to the kind of degradation and stigmatisation that policy is specifically aiming to avoid. The restriction might also run counter to the ethos of the current planning reforms which include unburdening householders. Therefore, while the restriction may be appropriate for specific sites, we consider that it needs more detailed attention before it could be considered for general application.

24.44 The CNPP 2007 refers in the Priorities for Action and in the glossary to Rural Housing Burdens as a way of ensuring the properties stay in the affordable housing stock (pages 112, 113, and 139). We have not been presented with any evidence to evaluate what contribution these burdens might make towards keeping housing stock affordable, nor has any justification been given for rejecting that option. As a further link and means of compliance with the CNPP 2007, we find this surprising.

24.45 National planning policy stresses that in some circumstances more innovation may be required in providing affordable housing. In addition, many objectors recommend that CNPA ought to have followed the example of other UK national parks in introducing restrictions on the occupancy of new homes either for a prolonged period or permanently. CNPA rejected this in favour of increasing the supply of housing land and requiring that a percentage of that should be built with affordable housing in an attempt to increase the rate of the creation of new affordable housing. The given reasons for this approach include that an occupancy restriction would:

- distort the housing market in the National Park relative to surrounding areas;
- be a disincentive to developers leading to stagnation of development and a reduced supply of market and affordable housing;
- divide the existing and new housing markets within the Park;
- provide for those in greatest need but abandon those in lesser but still genuine need;
- make progression from the new to the existing market difficult to achieve;
- lead to increased housing need overall; and
- harm the house building industry and could have a range of associated knock-on economic effects from reduced employment and spending.

24.46 One of CNPA's commissioned research pieces conducts a cursory review of practice in 7 other UK national parks where policy restrictions are in place to restrict the sale of new market housing to those with a local connection, and to limit the size of new market housing (CD 7.9, Appendix 4, pages 40 to 49). The research concludes that the circumstances of each national park vary widely, as does

residency approach taken. Further and with hindsight, the research also concludes that approach has not always guaranteed a supply of truly affordable housing mainly because parks also differ over how they interpret and apply residency requirements. Further, we note that the residency approach is used mainly in England and that Scotland differs significantly because the National Parks (Scotland) Act 2000 imposes a fourth aim which is reflected in the CNPP 2007 strategic objectives for Living and Working in the Park. Nevertheless, CNPA did not produce firm, quantifiable evidence to justify either the above arguments or the exclusion of occupancy restrictions and we recommend further detailed research and consideration of this approach.

Conclusions

24.47 In drawing all of this together and based on the above, we conclude that the issue of affordable housing is a considerable problem for CNPA and the CNPLP to address. It is also an appropriate planning consideration that stems from national and strategic planning policy, including in the CNPP 2007. Therefore, in general, Policy 21 meets the strategic objectives of the CNPP 2007 and accords with relevant national and other strategic planning policy guidance.

24.48 We have found that the application of Policy 21 to the sites identified in the housing land allocations will contribute towards achieving the affordable housing outcomes for 2012 in the CNPP 2007. However, we have been unable to find through successive versions of the local plan or in CNPA's inquiry evidence, a succinct and readily understandable explanation of how CNPA intends to maximise the supply of affordable houses at the places where they are most needed within the life of the local plan. Accordingly, we are not entirely satisfied that Policy 21 identifies clearly enough the kinds of development that will and will not be permitted and, on the available evidence, we can only conclude that the nature and location of the housing land supply favoured by CNPA has been the critical factor.

24.49 Faced with the imperative of providing as many affordable houses as possible, but in the absence of any clear idea of the total number of affordable houses needed in each settlement within the Park, the CNPA approach has been to allocate substantial greenfield areas for the development of new open market housing and to devise a policy whereby the developers of these sites make a cash or kind contribution towards the provision of affordable housing. We have considerable reservations about this overall approach, especially bearing in mind the impact of the current economic downturn on house building. Further, from our experience, we find it probable that providing a more generous supply of market housing land than is required will encourage greater second home and ownership by retired persons, to further skew demographics and undermine the contribution of development to vibrancy of the local economy. In short, it will not make enough specific contribution to the needs of young and employed residents towards achieving sustainable communities. We are firmly of the view that CNPA's approach lacks the precision and refinement needed to meet the considerable magnitude of the affordable housing challenge. However, we do not advocate the removal or substantial amendment of Policy 21 because:

- the policy approach is compatible with relevant planning policy at all levels, including with the strategic objectives of the Park;

- its implementation will contribute to the CNPP 2007 outcomes for 2012; and
- it will make some limited but much needed contribution towards addressing the affordable housing shortfall.

24.50 We have set out elsewhere in this report our serious reservations about the amount of the housing land supply in the local plan. We recall also that the commissioned research did not provide a guide to the number of affordable housing units required for any of the settlements in the Park. Unfortunately, these deficiencies have been taken forward through successive drafts of the local plan. In short, we conclude that the local plan is not sufficiently clear or focussed enough on the scale and distribution of affordable housing that can be delivered. However, the supporting text commits to monitoring these outcomes during the lifetime of the local plan, so that if, as seems highly likely, the overall policy approach fails to deliver affordable housing in a timely, efficient and effective manner, the review process will reveal that shortcoming and create an opportunity for review. We strongly recommend that review should examine in more depth the potential value of the various options rejected by CNPA, including the examples provided from other UK national parks and the occupancy restriction for new dwellings. Other research should include the capacity of particular allocated sites to deliver affordable housing and the amount needed per settlement.

24.51 We are not persuaded that the criticisms presented of the CNPLP thresholds and percentage approach are so damaging that they lead inevitably to the conclusion that, at this stage, it should be abandoned in whole or in part in favour of occupancy restrictions. Nevertheless, we are not convinced that Policy 21 can ensure that the delivery of affordable housing is maximised in the life of the local plan and, related to that, that the local plan sufficiently clear about the scale and distribution of affordable housing that can be delivered in the settlements. Given these circumstances, we suggest that the outcomes of the policy for the Park and for each settlement should be monitored closely to provide sufficiently robust evidence to show that restrictions on the occupancy of new dwellings in some or all circumstances would not be a useful way forward.

24.52 We have noted the absence of a clear link between what might properly be regarded as policy and associated supporting text including that which deals with its background, justification, implementation and monitoring, as well as that which appears in Appendix 2. We have also noted considerable repetition and scope for misinterpretation. Therefore, we conclude that the associated plan text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is not entirely soundly based. Against this, we note CNPA's commitment to prepare detailed supplementary guidance covering how the affordable housing requirement will be delivered, and we consider this should be linked into the local plan and progressed after full consultation without delay. In this way, any residual doubts about how the policy will be operated can be resolved.

24.53 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

24.54 Accordingly, with the considerable reservations and necessary further action noted above firmly in mind, we nonetheless recommend that Policy 21 Contributions to Affordable Housing as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and generally as amended by the third set of officer proposed post inquiry modifications (CD 7.28) should be taken forward into the adopted local plan.

Issue	Policy 22 Housing Development within Settlement Boundaries		
Reporters	Jill Moody & Hugh M Begg		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400k
Procedure	Written submissions		
Objectors	DW & IM Duncan	Objection refs	037i
	Muir Homes Ltd		038m
	Mr & Mrs Houston		096c
	James Hall		371c
	The Proprietors of Mar Centre		394k
	Dunachton Estate		418k
	Alvie & Dalraddy Estate		439r
	Phillip Swan		462j

Reasoning

25.1 Policy 22 is the first in a suite of policies aimed at the consideration of new housing proposals. These policies have changed considerably between the deposit and finalised versions of the CNPLP because the deposit version of the plan includes Policy 23, which seeks to limit the size of a percentage of all new build housing, and Policy 25, which applies to housing in small rural settlements as defined. However, the deposit plan does not contain any policies to address new housing inside the other National Park settlements. The finalised version of the local plan deletes that former Policy 23 and adds a new Policy 22 to cover this settlement omission, along with a new Policy 23 for development in small housing groups and Policy 24 for development outwith the settlements.

25.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions and from discussion at the hearing, we find that the issues to be addressed are:

- whether Policy 22 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough the kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

25.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 22. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

25.4 As a starting point, we note that the stated intention behind Policy 22 is to achieve, encourage, and support sustainable communities in accordance with CNPP 2007. The CNPP 2007 makes clear that *The long-term vision of the national Park needs communities that are sustainable in social, economic and environmental*

terms (section 5.2.2, page 66). The preamble to the strategic objectives on housing in the CNPP 2007 points out, amongst other things, that *The need to ensure greater access to affordable and good quality housing to help create and maintain sustainable communities is a key challenge in the National Park* (section 5.2.4, page 72). Referring to the supporting text, CNPA confirmed in evidence that a quality residential environment is an integral aspect of a sustainable community and the clear intention behind Policy 22 is to achieve, encourage, and support sustainable communities. As a result, we are satisfied that Policy 22 is in general accord with the CNPP 2007.

25.5 At our request during the inquiry, CNPA provided the following definition of sustainable communities: *a population level and mix that meets the current and future needs of its communities and businesses, focussed around settlements where services, networks, expertise and experience support the population*. As we have stated elsewhere, including against Policy 17 Improvements to Settlements, we find that this definition lacks consistency with the CNPP 2007, with other parts of the local plan, and with various parts of the inquiry evidence. In the context of Policy 22, we find a further difference between the definition and the supporting text because there is no reference, either explicit or implicit, to the theme of residential quality, which is a substantial shortcoming.

25.6 Further, SPP 3: *Planning for Homes* describes sustainable communities as providing *high quality affordable homes for all sectors of the community, with opportunities for the creation of jobs, provision of education other services necessary to enable high standards of living, cultural identity and creation of environments which encourage healthy and active living*. *They should fit well in the local landscape, maximise the opportunities of the location and should be fully integrated with both public transport and active transport networks, such as footpaths and cycle routes, rather than being dependent on the car*. *They should make a significant contribution to reducing emissions of carbon dioxide* (paragraph 50). CNPA has not explained why this ready made definition has not been followed. Nor is there any reference in Policy 22 to the theme of residential quality which was referred to in the CNPP 2007 and also in SPP 3. We find that this is a substantial shortcoming.

25.7 From the above, we find that Policy 22 lacks a clear focus and intent in seeking to fulfil the strategic objectives of the CNPP 2007. Policy 22 is also inconsistent with other applications of the same theme in the local plan and beyond. However, the matter could be rectified by adjusting the supporting text justification.

25.8 Moving on, national and strategic planning policies focus development on settlements in preference to in rural areas. They also encourage making the best use of land resources in and around those settlements, including the use of brownfield and infill sites, for development. Additional greenfield land may be included, where that release to development is clearly justified. Given this firmly rooted and well-established sequential approach, we are satisfied that it is an appropriate function of the finalised local plan to identify settlements. It follows from that, we also consider it is entirely proper for a local plan to define a boundary between land that may reasonably be considered as inside a settlement, where development may be appropriate, and land that is more properly outside and therefore in the countryside where a more restrictive approach should apply. For the

National Park, this function is given greater emphasis by the significance of the first aim, i.e. the need to conserve and enhance the special qualities of the Park. These qualities include the natural environment and the aim is carried forward into the strategic objective objectives of the CNPP 2007. We interpret this as justifying policies that are designed to contain the existing built up areas and to protect the surrounding countryside from unrestricted and undesirable development.

25.9 Based on this context, we disagree with the objectors who argue that settlement boundaries should be more fluid, to accommodate development where proposals arise. On the contrary, we are satisfied that settlement boundaries should be clearly identifiable and preferably permanent features. In short they should be robust enough to last at least into the medium term, to give some certainty about what will, and will not, be allowed by way of development. If these characteristics can be achieved, at least for the lifetime of a local plan, then the resultant boundaries will be defensible against piecemeal development and will allow applications for contrary development to be resisted. That said, we have some reservations about the way that the settlements have been identified and categorised, as well as the way that boundaries have been derived and justified. We discuss these concerns in more detail this below and throughout other report sections.

25.10 Turning to consider the second main issue, we have described above the background to Policy 22, i.e. that it was introduced into the finalised version of the local plan to cover an omission in the deposit version in terms of the lack of a policy to address new housing inside settlements. CNPA conceded in the hearing discussion that the wording of Policy 22 offers scope for improvement. For example, we note that criterion (b) refers to impact on landscape setting, as well as to appropriate amenity space, parking and access. We find that landscape setting would normally be a consideration for development outwith settlements, but because Policy 22 applies to a more urban style of development, it is not immediately obvious how this impact might be assessed. We also learned at the hearing that the constituent local authorities covering the National Park apply varying amenity and transport standards. We note that neither the policy wording nor the supporting text guides the user in how to satisfy either of these explicit requirements.

25.11 Next, we note a reference to derelict or underused land that is also not explained or defined. If CNPA means this to refer to brownfield land, the plan should say that, especially as the term has a clear, particular, and generally recognised meaning including in national and strategic planning policy.

25.12 SPP 3 defines brownfield as *land which has previously been developed. The term may cover vacant or derelict land, infill sites, land occupied by redundant or unused buildings, and developed land within the settlement boundary where further intensification of use is considered acceptable* (page 29). PAN 73: *Rural Diversification*, which applies generally to rural areas and not just in the context of housing development, defines brownfield as *sites that have previously been developed. In rural areas, this usually means sites that are occupied by redundant or unused buildings or where land has been significantly degraded by a former activity* (paragraph 33). However, we note with concern that brownfield is defined differently in the finalised local plan glossary as *land previously used for industrial or commercial uses that has the potential to be reused once any contamination, waste*

or pollution has been cleaned up. Reuse of abandoned rural dwellings will not be considered as brownfield. CNPA has not explained the reason for these differences and, if something different again is intended in Policy 22, which may be for good reason, the departure must be explained and justified and an alternative definition must be provided. We recommend reconciling the finalised local plan with national planning policy in SPP 3.

25.13 CNPA may intend to support the finalised local plan policies and address many of these detailed issues via supplementary guidance. However, no such guidance was made available for scrutiny and the intention is not mentioned in the policy or in the associated finalised local plan text. Further, during the inquiry we sought a list from CNPA of the proposed supplementary guidance topics with information on timescales and progress achieved so far. We note nothing on that list to cover Policy 22. Accordingly, based on all of the above, we find that the policy suffers considerable shortcomings on matters of detail.

25.14 Moving on to the third issue, CNPA conceded in the hearing discussion that the finalised version of the supporting text to Policy 22 could be streamlined and clarified, with much repetition removed. An opportunity was also recognised to consolidate part of the implementation and monitoring text with other plan policies. We support this general intention.

25.15 More specifically, the supporting text for Policy 22 links with issues of population growth and affordable housing by referring to increasing numbers of smaller households generating a need for lower value, smaller homes. Other finalised local plan policies deal in more detail with these issues and we have discussed against those other policies our concerns about the CNPLP approach. These concerns include the attitude towards population growth, its fragmentary database, and the calculations relating to housing land supply. Within that general context, we can readily understand that the wording of Policy 22, and its associated text (paragraph 5.52), might be construed as facilitating growth and development across the National Park.

25.16 We learned during the hearing discussion that growth may indeed be CNPA's intention and were not reassured by the repeated oral evidence regarding balance with the various recognised constraints, like the first aim of the Park, with no clear indication of how that would be achieved. We regard that as a major deficiency in the apparent approach of CNPA to the drafting and subsequent implementation of this and related policies. We are in no doubt that the imperative for Policy 22, as for all other policies in the CNPLP, is that it complies in full with the strategic objectives of the CNPLP 2007 that flow from the 4 aims of the Park. From that, in considering any apparent conflict, section 9 of the National Parks Act means that the first aim must take precedence. Drawing these matters together, we find that the terms of the policy as well as the associated text must be clarified to explain this and to remove any suggestion of support for unrestricted growth in the National Park.

25.17 Further, and in addition to all of the above, we note that the finalised local plan text for Policy 22 (paragraph 5.52) refers broadly to the notion of a settlement hierarchy. This notion is expanded elsewhere in the finalised local plan, including especially in Section 7 Settlement Proposals. While we have no particular

disagreement with CNPA using this approach, we are extremely concerned that the finalised local plan offers no clear assessment of why this approach has been adopted, of how each tier within the hierarchy has been defined, and of how each settlement placing is justified. In addition, we note no specific policy to support and explain the use of a hierarchy in the CNPLP. With all this in mind, along with the fact that Policy 22 applies to every settlement irrespective of its placing in the hierarchy, we suggest that all reference could be deleted from the Policy 22 text.

25.18 Next, we note that the supporting text expects that proposals for new housing must respond to local need. Where no such information is available, the plan text applies a benchmark requirement of 75% 2 and 3 bedroomed homes to secure a supply of smaller accommodation without harming development viability (paragraphs 5.57 to 5.59). The finalised local plan confirms that this text is based on information from the CNPA commissioned affordable housing study. We accept that there is a general need for smaller houses, and that this overall conclusion is supported by the modelling in the CNPA commissioned study regarding affordable housing need. However:

- we have not been directed to any support for this percentage house size approach in national or strategic planning policies;
- the finalised local plan is not yet supported by information on local need, so that all proposals would be subject to the 75% requirement, even although that may not be an appropriate response to local circumstances;
- CNPA has presented no evidence to show that the benchmark could be achieved without harming financial viability of developments;
- we can find no evidence to support the choice of the 75% figure in place of any other percentage, and we note that it is different to the affordable housing targets used elsewhere in the plan;
- relying on a broad percentage figure cannot guarantee the desired end result;
- the benchmark requirement could be seen to conflict with other plan policies like the presumption in favour of alterations and extensions, as well as with the new national planning context of allowing householders more scope to extend their homes without the need for formal planning permission;
- no such limit has been applied via Policies 23 and 24 to housing outwith settlements, so that the benchmark is inequitable and it fails to address the rural areas where the same need for smaller homes must be presumed to exist; and
- we agree with the objectors that reliance on such a high percentage of small homes could be seen as a mismatch with the desire to encourage working from home, which could in turn be construed as: contrary to the Park's aims and CNPP 2007; contrary to national planning policy that encourages alternative work patterns to stimulate the rural economy; as well as undermining the prospect of a more sustainable alternative to commuting.

For all of these reasons, we support the recommendation in the officer proposed post inquiry modifications (CD 7.28) that the benchmark should be deleted. However, if any such requirement were to be retained or reintroduced, the above issues should all be addressed. In addition, the percentage requirement should be highlighted as an obvious policy requirement instead of being relegated to the subordinate role of text.

25.19 The associated text describes that in implementing Policy 22 for allocated proposal sites, CNPA will work with developers and partners to prepare development briefs to set out the approach to be used in developing these key sites (paragraph 5.56). We support this intention, although we agree with the objectors that such briefs should be the subject of wide community consultation, including with relevant community councils. Having done that, it would then seem reasonable to assume that the agreed development parameters arising would also generally accord with remaining finalised local plan policies. However, we can see no reason to agree with the objectors who seek to exempt allocated sites from the application of policies like Policy 22. It is a generally accepted principle that the development plan should be read and applied to a particular proposal as a whole, and not just on an individual policy basis. All developments fall to be tested against the whole development plan, of which a specific proposal or allocation for development is only one part, and it is an established planning principle that to accord generally with the development plan it may not be necessary for a proposal to conform explicitly to all of its terms.

25.20 It follows from the above that we are equally satisfied that there is no need for Policy 22 refer explicitly to issues like the planning gain expectations that are covered in more detail in other policies. In reading the plan as a whole, these issues are clearly covered by other policies and need not be duplicated in Policy 22.

25.21 As regards monitoring the effect of Policy 22, we note that the text describes this in terms of reviewing future housing needs surveys and maintaining a 5 year supply of suitable and available land for housing development (paragraph 5.60). Given that the policy sets criteria for assessing the impact of new housing development occurring inside established settlement boundaries on the character of that settlement, we have been unable to connect that apparent intent and the maintenance of a housing land bank to address housing need. Similarly, we cannot link that outcome with the design quality of new residential environments as is the stated intention behind Policy 22. It may be that the reference was linked to the now to be deleted 75% benchmark that we have discussed above. Either way, we consider that the monitoring section needs substantial redrafting to apply directly to the application of Policy 22, without repeating and confusing the outcome of other policy subject areas.

Conclusions

25.22 Based on all of the above, we are satisfied that Policy 22 meets the strategic objectives of the CNPP 2007 and it accords broadly with relevant national planning policy and guidance. However, within that context, Policy 22 lacks a clear focus in seeking to fulfil the strategic objectives of the CNPP 2007 and its definition of sustainable communities is inconsistent with the use of that important term elsewhere and notably in national guidance. These matters must be rectified. We further conclude that Policy 22 does not identify clearly enough the kinds of development that will and will not be permitted. We can also see considerable scope for improving and clarifying the way in which the policy and its supporting text are worded.

25.23 Lastly, we are satisfied that although it would be inappropriate and unnecessary to incorporate explicit links to other local plan policies or exemptions for

local plan proposals, Policy 22 would benefit from supplementary guidance. However, like the development briefs mentioned in the text, this guidance should be the subject of the widest possible community consultation.

25.24 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

25.25 Accordingly, subject to a substantial redrafting of the policy wording and of the supporting text, which should address in particular:

- the definition and application of the term sustainable communities and of the settlement hierarchy;
- the clarity of what is needed to comply with criterion (b);
- the definition to derelict and underused land;
- the reference to housing growth; and
- the deletion of the unjustified 75% benchmark.

we recommend that Policy 22 Housing Development within Settlement Boundaries should be taken forward from the Deposit Local Plan Modifications (1st and 2nd) October 2008 into the adopted local plan.

Issue	Policy 23 Housing Development in Rural Building Groups		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	Mr & Mrs Duncan	Objection refs	037k
	Little Tolly Properties Ltd		039
	Lorna Fraser		352
	Rosslyn Oakes & Garry Fowler		353
	The Proprietors of Mar Centre		394l
	Alvie & Dalraddy Estate		439t
	Glenmore Properties Ltd		453k
	Reidhaven Estate		456v

Reasoning

26.1 Policy 23 is the second in the suite of policies aimed at the consideration of proposals for new housing development. This policy and its supporting text have been revised almost entirely between the various versions of the CNPLP.

26.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the issues to be addressed are:

- whether Policy 23 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough the kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based and, if not, what adjustments should be made.

26.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 23. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

26.4 To begin with, we note that SPP 3: *Planning for Homes* directs the majority of new housing to sites in settlements to make effective use of infrastructure and services, as well as to reduce energy consumption (paragraph 60). Housing in rural areas can still be appropriate, but it is for planning authorities to set out the circumstances. Limited new housing may be acceptable where it results in a cohesive grouping that is well-related to its landscape setting (paragraphs 96 to 99). SPP 15: *Planning for Rural Development* also recognises that there is scope for small-scale rural housing development, including in clusters and groups, and that the circumstances for allowing this should be expressed in development plans (paragraphs 18 and 22). Accordingly:

1. Aberdeen and Aberdeenshire Structure Plan Policy 12 presumes against new housing in the countryside unless in certain circumstances, which include in an existing cohesive group of at least 5 homes.

2. Highland Council Structure Plan Policy H3 focuses new housing on existing and planned settlements. Otherwise, new houses are generally not acceptable in the countryside.
3. Dundee and Angus Structure Plan Housing Policy 5 directs new housing in the countryside to existing settlements, the boundaries for which will be defined in local plans. Beyond these settlements, new build may be acceptable, but only in certain circumstances, such as where the house is essential to a rural occupation or where it makes use of brownfield land.
4. Moray Development Plan Policy S/H4 presumes in favour of house building on sites in rural communities or on open sites where local plans have accepted that a natural boundary exists.

We note that these same principles underpin the CNPP 2007. For example, we find them reflected in the aims of the National Park, which include conserving and enhancing the natural environment, the sustainable use of natural resources, and the promotion of sustainable communities (page 19). The restrictive and sequential principles are also consistent with conserving the Park's special qualities, such as its open landscapes and traditional settlement patterns (page 27) and with the strategic objectives that include bolstering the role and value of the established communities.

26.5 Therefore, although we note a spectrum of strategic policy attitudes to new housing in the countryside, we are satisfied that they are all based generally on the principle of restricting uncoordinated growth, while allowing some development on a more sequential basis, focussed on settlements first, followed by limited scope elsewhere, including in established building groups. We are equally satisfied that a radically different approach with development being allowed in the countryside on a less restricted basis, as several objectors recommend, would fail against the duty of a local plan to conform with its strategic context which is set by Sections 11(5)(b) and 17(3) of the Town and Country Planning (Scotland) Act 1997.

26.6 Turning next to consider the second and third issues together, we start by noting that the finalised version of the CNPLP applies housing policies in a distinct sequence. If a site falls into a settlement with a defined boundary, then new housing development will be favourably considered if the criteria in Policy 22 are satisfied. If the site is not in a defined settlement boundary, then development will still be permitted if either:

- the site is in a group and the Policy 23 criteria are satisfied; or
- the proposal is for new build affordable housing or essential worker housing anywhere, or the site amounts to degraded land, subject to satisfying the various criteria set out in Policy 24.

26.7 As a result, we find that overall, the policy attitude supports development in these circumstances, the definition of a settlement is key to the application of this sequence of policies and, if a proposal fails the various sets of site character related criteria, then a refusal of permission is to be expected. We have discussed elsewhere in this report our distinct misgivings about the way in which the settlements have been derived, defined, and used in the finalised local plan and we note that the sum total of our comments reflect issues raised by the objectors in the context of Policy 23. All of these concerns are further reinforced as follows.

26.8 In the deposit version of the local plan, Policy 23 was covered in part by Policy 25, which refers to a cohesive group of 15 or more dwellings, and by Policy 26 where a cohesive group is 5 or more houses. Policy 25 is supported by text that uses Laggan Bridge and Dinnet to illustrate that a cohesive group is one with a clear connection through built form, settlement pattern, and landscape features (paragraph 5.61). In changing to the finalised local plan, the 1st Modifications add several rural settlements to section 7, including Dinnet and Inverdrue, whereby development inside their settlement boundaries would be subject to finalised local plan Policy 22. We can find no explanation for why these locations have been added as settlements to the finalised local plan, especially when as noted above, Dinnet was regarded as a cohesive group in the deposit version. Given that, we also have been unable to establish why Laggan Bridge is excluded and, in turn, why Inverdrue is then proposed for deletion in the 2nd Modifications, especially as we perceive that Inverdrue bears all the hallmarks of what might be regarded as a settlement. The only potential definition that we can find is in Section 7 of the finalised local plan, which identifies opportunities for limited growth in small rural settlements where that helps to consolidate the settlement. New facilities that support the community will also be encouraged (paragraph 7.2). But that phrase incorporates yet another different threshold, i.e. small rural settlements.

26.9 The practical implication, including of the Dinnet and Inverdrue transition, is considerable uncertainty at the lower end of the settlement spectrum over what may be regarded as a settlement within the terms of the local plan, and what is not. If locations like Inverdrue and Laggan Bridge are not settlements, then they must fall to be considered as building groups. Another implication is that new housing proposals in Inverdrue, as with other non-listed and equivalently sized places like perhaps Laggan Bridge, will be considered in terms of Policy 23, which sets slightly different parameters to Policy 22. For example, Policy 22 refers to amenity space and parking standards, whereas Policy 23 does not. In addition, notwithstanding our specific comments in the Policy 22 section of our report, we note that developments inside settlements and subject to Policy 22 could be affected by the 75% benchmark for small houses whereas building groups subject to Policy 23 would not.

26.10 Allied to this problem of interpretation is our next fundamental concern about the lack of any obvious justification for the group sizes used in either version of the policy. Firstly, we note that each plan stipulates a building group size, but we can find no justification or explanation for how these sizes have been chosen. As a result, we are unable to be certain:

- that the size is right and the growth impact arising would be acceptable or desirable for the whole settlement, or
- that other numbers might not be more appropriate, such as the figure of 5 used in former Policy 26 and suggested by the objectors.

26.11 Secondly, the deposit plan sets the limit at a cohesive group of 15 or more dwellings. The finalised local plan completely redrafts that and sets a new threshold of an existing rural building group that comprises 3 occupied dwellings. We find that this amounts to another unexplained and distinct change of emphasis between these versions of the local plan. The deposit plan is looking for cohesion and numbers of

homes, whether occupied or empty, provided they are in a rural settlement. In contrast, the finalised local plan looks for a minimum number of occupied homes in a rural situation and in a group that may include other non-residential buildings. Further, the finalised CNPLP supporting text implies that, at this level, a building group functions as something less than a traditional village (paragraph 5.61). As a result:

- all references to settlements and cohesion have been dropped from the finalised version of the local plan with no replacement;
- that version of the plan adds yet another undefined concept, without justifying or explaining this new assumption that a building group may be other than a settlement or a traditional village; and
- again, we can find no explanation of how CNPA intends to use or interpret any of these terms.

26.12 Moving on from there, each plan sets an overall growth limit. For the deposit plan, this is 20% for at least 15 homes in Policy 25, which amounts to a minimum 3 home potential for the life of the plan. The same 20% applies to Policy 26 from the deposit plan, which for a group of 5 houses amounts to a single new house. The finalised local plan changed this to 33% of a minimum group size of 3 homes, which produces potential for slightly less than one home. Clearly this arithmetic does not make sense. Even 34% would be better because that would at least achieve a growth potential of more than one whole home. An alternative would be to change the size of the group and to revert to deposit plan Policy 26. In addition to highlighting these practical issues, we have stated above our concern that the group sizes chosen are unexplained. The same criticism applies just as much to the percentage thresholds chosen.

26.13 In looking at how the policy might be implemented, we have been unable to establish how it might deal with extant but unimplemented permissions. For example, if a permission brought the settlement size up to the policy limit, would the existence of that permission, even in outline, prevent more development at least until it expires? We are also uncertain as to how Policy 23 might regard conversions and whether these count towards the growth percentages. Arguably they should not, being the product of a different local plan policy, but they could add new housing.

26.14 That said, we find that the policy can only apply for the life of the local plan, i.e. for 5 years, after which its continued applicability will inevitably become subject to review. Therefore, we cannot agree with the objectors that phasing, or a review breakpoint would be appropriate.

26.15 The finalised local plan supporting text repeats much of the policy wording, which we are satisfied is unnecessary and offers scope for reduction. However, it also sets additional tests. For example, we note that the Policy 23 text carries the ribbon development reference forward from the deposit plan (paragraph 5.63). We consider that this is a material issue that ought properly to be incorporated into the policy. As it stands, because it is text and not an additional policy criterion, the reference has a lesser emphasis. However, we note that the officer proposed post inquiry modifications (CD 7.28) propose to delete this requirement, in recognition that ribbon development could be the best or most traditional development form, and as a

direct response to several objections. For these same reasons, we agree that deletion is appropriate, but if the reference were to be retained or reintroduced, the intention must be justified, the concept must be clearly defined, and the status of the reference must be addressed.

26.16 We also note a text reference to other expectations such as appropriate scale, materials and details, integration of built form, settlement pattern, and landscape features (paragraphs 5.62 and 5.63). While most of this needs further explanation to show the plan user exactly what CNPA is expecting in compliance, we acknowledge that at its root, Policy 23 supports the aims of the National Park and that in turn, attention to these details will help safeguard the special qualities that include settlement character and built form. As with other policies, we note CNPA's intention that much of this detail will be incorporated into supplementary guidance, but so far:

- we have not seen this;
- guidance for this subject is not linked into the plan in any way; and
- all the indications are that it is not yet even in the early stages of preparation.

26.17 In the interim, pending this guidance, we find that Policy 23 is not capable of clear and easy interpretation. We are also concerned that the finalised local plan adds all of the above as additional and detailed assessment criteria beyond those set in the policy wording. CNPA should consider incorporating these matters into Policy 23.

Conclusions

26.18 Overall therefore, while we have no hesitation in finding that the general approach taken in Policy 23 meets the strategic objectives of the CNPP 2007 and accords with relevant national and other strategic planning policy guidance, we are extremely concerned about its detailed expression.

26.19 Our reasons for this conclusion include the lack of definition over the various concepts used, in particular over what might constitute a settlement or a small building group. We also find that these concepts have been used inconsistently in the finalised local plan, to an extent that raises practical problems for any ability to apply Policy 23. Next, we find that the thresholds used to determine building group sizes and then to limit growth are without justification, and we find a general lack of clarity in the supporting text. We also have considerable sympathy with the objectors' view that the finalised local plan suffers a basic lack of clear, cohesive, and transparent vision and we find it extremely difficult to understand how a proposal for an individual site might be assessed. Under all of these circumstances, we conclude that Policy 23 fails to identify clearly enough the kinds of development that will and will not be permitted.

26.20 Finally, we have found considerable scope for streamlining and improving the supporting plan text and we have had difficulty in understanding how it would deal with conversions and extant permissions. We also note issues such as ribbon development which, if they are to be kept in the plan, should be positioned properly as policy not subordinate text. As a result, we conclude that the associated text

requires substantial further alteration before it can be carried forward into the adopted local plan.

26.21 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

26.22 Accordingly, we recommend that Policy 23 Housing Development in Rural Building Groups as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should only be taken forward into the adopted local plan once our findings on matters that include definitions, justifications, and explanations are addressed.

Issue	Policy 24 Housing Developments Outside Settlements		
Reporters	Jill Moody & Hugh M Begg		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400g(h)
Procedure	Written submissions		
Objectors	Frogmore Estates Scotland Ltd	Objection refs	026h
	Muir Homes Ltd		038o
	Graham McPherson		100
	Colin Lawson (Builders) Ltd		341
	The Proprietors of Mar Centre		394m/p
	William S Paterson		409i
	AW Laing		410
	Alvie & Dalraddy Estate		439u
	Glenmore Properties Ltd		453l/t
	Reidhaven Estate		456h/u

Reasoning

27.1 Policy 24 is one of the suite of policies aimed at the consideration of new housing proposals. As we have noted before, the coverage, numbering and text of these policies have all been changed considerably between the deposit and finalised versions of the CNPLP. Policy 24 appeared in a different form as Policy 26 in the deposit version and it was the subject of substantial alteration in the 1st Modifications. CNPA has also drawn to our attention some officer proposed post inquiry modifications. Policy 24 is intended to allow housing development outside settlements, but only in specific circumstances.

27.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- whether Policy 24 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough the kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy as well as its implementation and monitoring is soundly based.

27.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 24. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

27.4 As far as the first issue is concerned, we have commented already on the national and strategic planning policy background to development in the countryside in our report on Policies 22 and 23. Suffice to say for Policy 24 that we remain satisfied that taking a generally restrictive attitude and following a sequential

approach to finding sites for new housing development in the countryside remains appropriate and fully justified. It follows from that, we are also satisfied that the principle of Policy 24 accords with national and strategic planning policy, as well as with the strategic objectives of the CNPP 2007.

27.5 Turning to the second main issue, CNPA accepted in the hearing that, as with Policy 22, there is further scope to revisit and improve the clarity of Policy 24. For example, the section on affordable housing mentions *and/or* but on asking for clarification of which should apply, CNPA has since confirmed that it should be *and*.

27.6 Moving on to other housing outside settlements, subject to minor alterations, section (b) of the finalised local plan matches almost exactly section (e) from the deposit version of the plan. Our understanding of the aim of both is to allow retiring farmers or crofters who must vacate their home, to build a new house to enable them to remain in their accustomed local area. In this regard, we note and support that in response to the objections, CNPA has broadened the deposit plan restriction in the finalised local plan to include reference to other essential rural workers.

27.7 Policy 24 applies 2 tests to this circumstance, namely that the old house is needed for the replacement rural worker or that the retiring farmer or crofter must be able to show that the land in question has been managed by them for at least the previous 10 years. No explanation has been provided for choosing the 10 year residency requirement as opposed some other time period, and we note that Policy 24 does not apply an additional sequential test whereby sites in settlements or other existing housing options must first be considered and discounted for good reason. The finalised local plan supporting text implies such a test for all circumstances (paragraph 5.67), but the policy only applies it in the context of affordable housing. Clearly this has generated confusion over whether such a test should apply to proposals under sections (a) and (b) as well. If this test is to be applied as an additional criterion, then that should be explicit in the policy wording. Further, if CNPA proposes to apply it in all circumstances, it must first show that the approach is reasonable in the context of section (a) and (b). For example, how rigorously would the requirement to consider a location in a settlement be applied in these particular circumstances.

27.8 Section (c) from Policy 24 refers generally to brownfield land. The supporting text explains that this is taken to be *land previously used for industrial or commercial uses that has the potential to be reused once any contamination, waste or pollution has been cleaned up. Reuse of abandoned rural dwellings will not be considered as brownfield and applications on such sites will be considered under Policy 25* (paragraph 5.70). We note that the Policy 24 text definition is to be found in the local plan glossary as well and we question the need for repetition.

27.9 Several of the objectors would prefer that the finalised local plan description of brownfield land should be replaced with that from SPP 3: *Planning for Homes*, which is *Land which has previously been developed. The term may cover vacant or derelict land, infill sites, land occupied by redundant or unused buildings, and developed land within the settlement boundary where further intensification of use is considered acceptable* (page 29). However, we can understand that CNPA might wish to take a more restrictive approach in the interests of achieving the strategic

objectives of the CNPP 2007 which flow from the first aim of the Park. CNPA's evidence identifies the PAN 73: *Rural Diversification* definition as an appropriate alternative to either SPP 3 or the finalised local plan, but we note that PAN 73 defines rural brownfield sites having *previously been developed*. *In rural areas, this usually means sites that are occupied by redundant or unused buildings or where land has been significantly degraded by a former activity* (paragraph 33). In other words, even that is not consistent with the finalised local plan glossary definition because the latter is restricted to industrial and commercial land.

27.10 The officer proposed post inquiry modifications (CD 7.28) substitutes *land which has previously been degraded by a former activity* for *brownfield*. However, that merely raises the problem of defining what is meant by *degraded land* and establishing how it differs from *brownfield land* in whatever way the latter may be defined. If the term *brownfield land* or *degraded land* is to be used in the CNPLP then it must be appropriately defined and consistently applied. We recommend reconciling the finalised local plan with the definition of brownfield land in SPP 3. At the very least, any deviation from that must be clearly identified and adequately justified.

27.11 Policy 24 applies in a rural context whereas Policy 22 does not and, consequently, we can accept that a different interpretation and application may be appropriate. That leads to the option of removing reference to brownfield from Policy 24 altogether, for the potentially inadvertent connotations that it carries, and replacing it with a more issue specific description of what CNPA actually means for this particular kind of situation. We note here that the third set of officer proposed post inquiry modifications (CD 7.28) follows that second route by substituting reference to degraded land in the text and the policy wording. However, that side-steps the problem of defining what is meant by degraded land and establishing how it differs from brownfield land in whatever way that may be defined.

27.12 Overall, the matter of brownfield land highlights a defect which we have found elsewhere in the emerging local plan. In the interests of a clear and robust plan, CNPA must take an overview of the use of this kind of terminology which, experience suggests, causes difficulty for users of the plan and provokes avoidable debate at appeal. If the term brownfield land is to be used in the CNPLP then it must be appropriately defined and consistently applied and we recommend reconciling the finalised local plan with national planning policy in SPP 3. At the very least, any deviation from that must be clearly defined and adequately justified.

27.13 National and strategic planning policy clearly views brownfield land as a resource with considerable potential and it encourages the re-use and restoration of this resource often by development. However, that should not be construed as an automatic presumption in favour of development in all instances. Any proposal must satisfy other relevant policy requirements, including those related to biodiversity and the preservation of natural heritage. These issues are covered elsewhere in the CNPLP, including by Policy 6, which requires that a prospective developer must respond to evidence of a potentially important habitat or species. We can appreciate the objectors' concerns about a potential gap in this process where the evidence needed to trigger the Policy 6 response might not emerge until late on. However, we can see no justification for imposing what would amount to a development embargo

on every brownfield site because it might have some unspecified biodiversity potential. This view is based on:

- the prevailing and generally supportive attitude of national and strategic planning policy to the development of brownfield land;
- the overriding expectation that greenfield land resources will receive a higher level of protection; and
- the need to balance conservation of the natural environment with the fourth aim of the Park which relates to its socio-economic development.

27.14 We have considered whether an option to redevelop an abandoned or ruined house in the countryside should be built into this policy. However, our reading of SPP 15: *Planning for Rural Development* is that while it recognises scope for housing development in rural areas, it defers mainly to SPP 3 and, in all cases, it recommends a plan led approach to deciding whether or not to encourage significant amounts of new development in the countryside. We also find nothing in SPP 15 that recommends unrestricted development, or that implies support for using the existence of any ruin to facilitate building a new house. Instead, clear emphasis is placed on assessments based on local circumstances and impacts, and on local plan policies framed to achieve that end. We are satisfied that the finalised local plan broadly accords with this. Further, we have received no firm, quantifiable evidence to show specific economic benefit arising from unrestricted housing development in the countryside, and to such a significant extent that it would justify setting aside CNPLP policies framed to achieve the relevant strategic objectives of the CNPP 2007 which flow from the first aim of the Park.

27.15 SPP 15 identifies that in rural areas, sites like former sawmills and brickworks can contribute development potential (paragraph 18), which could arguably amount to another justification for using the more restricted definition of brownfield than is currently in the finalised local plan. SPP 15 also mentions affordable housing and the scope for new build in small clusters and groups of buildings, and for replacement houses (paragraph 18). These development types are covered explicitly by finalised local plan Policies 21 and 24, plus Policies 23 and 25 in the finalised version of the CNPLP. Similarly, SPP 15 encourages opportunities for conversions (paragraphs 18 and 23), to which finalised local plan Policy 29 refers. We are satisfied that incorporating these other policies into the local plan is enough to address the additional requirements arising from SPP 15. From that, we find no need to augment Policy 24 by burdening it with extensive cross-references.

27.16 Finally under this second issue, we recognise the role that comparatively low output building firms play in the local housing market, in satisfying need and demand in their particular niche, as well as in providing employment, income, expenditure, and broad economic opportunity. However, we cannot agree that a local land use plan should allocate land specifically for any particular scale of enterprise. The contribution of small enterprises to achieving the strategic objectives of the CNPP 2007 is catered for adequately within the framework provided by the suite of housing policies, by the allocations of housing land, and by the positive attitude towards windfall sites within settlements. Within that context, we note that Newtonmore NM/H1(ii) refers specifically to opportunities for large and small scale developers. We see scope to extend this approach across many of the allocated sites, including

via the masterplan process, and we have commented elsewhere in this report about the need to make these desired site specific outcomes more explicit.

27.17 Turning now to the third issue for our consideration, we are bound to note again that the current lack of a community needs information base to guide implementation of this policy is a flaw that we have detected repeatedly throughout the emerging local plan. We found it to be especially critical for Policy 21 on affordable housing and we do so again for Policy 24. The lack of this important information is a significant shortcoming.

27.18 As regards the implementation mechanism proposed for Policy 24, we note that the deposit version of the local plan text states that developers may be required to enter into a Section 75 agreement to make sure that another house built via this policy remains linked to the relevant rural business (paragraph 5.67). While we have no doubt that Section 75 could be used in this way, we note that reference has been deleted from the finalised version of the local plan. Were it to be reinstated, we remind of the views that we have expressed elsewhere in this report regarding the use of agreements, including in the context of Policy 20. These same views apply here for Policy 24. However, if the reference to a Section 75 agreement is not reinstated, there may nonetheless be circumstances in which CNPA might seek to control or restrict the occupancy of a new or vacated rural house, when the use of an agreement or a planning condition might still arise. In that context, SPP 15 states that occupancy conditions may be appropriate where a new house is obviously tied to an agricultural or forestry use of land (paragraph 22). This same point arises in the Annex to Circular 4/1998: *The Use of Planning Conditions* (paragraphs 100 to 102).

Conclusions

27.19 Overall therefore, we conclude that the Policy 24 approach to new housing outside settlements meets the strategic objectives of the CNPP 2007 and accords with relevant national and other strategic planning policy. We are also satisfied that, in the main, Policy 24 identifies clearly enough the kinds of development that will and will not be permitted. The policy offers an appropriate balance between protection and encouragement for all housing development in the countryside. Further, we consider that the principle of a sequential approach is appropriate, subject to further thought about where and how that approach is incorporated into the plan, as well as how it is to be applied. An allowance for retiring workers to stay in their local area seems to us to be fair and reasonable, as set out in the finalised local plan. However, we have reservations about the associated text and about some of the terminology used.

27.20 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

27.21 Accordingly, subject to addressing all of the above, we recommend that Policy 24 Housing Developments Outside Settlement as generally set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the

adopted local plan. However, we further recommend that particular attention should be paid to:

- explaining the 10 year threshold;
- clarifying Policy 24 and its supporting text, as CNPA now accepts;
- addressing the lack of an information base with a local focus that is currently undermining the ability to implement Policy 24; and
- as with Policy 22, reviewing the definition and use of the phrase brownfield land.

Issue	Policy 25 Replacement Houses		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020q
	Frogmore Estates Scotland Ltd		026e/f
	The Crown Estate		419p
	Alvie & Dalraddy Estate		439w
	Glenmore Properties Ltd		453n
	Reidhaven Estate		456i

Reasoning

28.1 Policy 25 has been restructured significantly in the finalised version of the CNPLP. Reference to replacement houses appears as Policy 28 in the deposit version of the plan and the subsequent changes in the finalised version include extending the period of occupation from 5 years to 25 years, introducing scope to keep existing houses where they have significant cultural merit or as part of a wider redevelopment scheme, and expanding the instances when the policy can be applied.

28.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 25 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough the kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy, as well as the manner of its implementation and monitoring, are soundly based.

28.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 25. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

28.4 On the first issue, we have commented in detail in the context of Policies 23 and 24 on the general principle of restricting housing development outside the defined National Park settlements. Based on our description there of national and strategic policy, we repeat our conclusion that a restrictive approach is generally appropriate. We have also looked in detail at the specific requirements of SPP 15: *Planning for Rural Development* and we are satisfied that the local plan approach accords because it recognises that there are circumstances in which a replacement house should be allowed, and because it sets parameters with flexibility to allow variable house sizes and plot locations. In doing this, it also preserves an existing dispersed settlement pattern without allowing housing to become a more pronounced feature in the countryside at the expense of the rural character that contributes to the special qualities of the National Park, as these have been

identified by the CNPP 2007 (pages 25 to 27). However, within that generally benign context we have reservations about the way in which the policy and the associated text is worded, so that we question whether the policy can meet in full all of the relevant strategic objectives of the CNPP 2007.

28.5 Taking the second and third issues together, we find that the matters to be considered are:

- whether a more relaxed attitude should be adopted to create more scope to develop ruins;
- whether a site should be allowed to contain more than just a replacement house, where suitable circumstances exist;
- the extent to which original building materials should be salvaged and reused, and
- whether the structural and occupation tests are appropriate.

28.6 On the first of these matters, we discussed the redevelopment of ruins in the context of Policy 24. For Policy 25, we repeat our conclusion that this is not generally acceptable. We find nothing in national or strategic policy that supports an unrestricted approach to this and, while we agree that ruins can appear unsightly, we are satisfied that there are other ways of addressing that injury to amenity without redevelopment with new housing. We have noted the objectors' references to other local plans that they regard as taking a more accommodating approach. These plans will have been drafted to suit the specific circumstances of their respective areas and there is no justification for following the same approach in the distinctively different circumstances of the National Park.

28.7 We have considered the suggestion that where a house is to be replaced on the site of an existing one, more development might be permitted on that same site than just the single new replacement house. In this regard, we note 2 matters with some concern. Firstly, both versions of Policy 25 refer to the site of the existing house without defining whether this means its precise footprint or its existing curtilage. Secondly, the requirement that the number of homes should not normally increase is positioned in the policy beside other provisos in such a way that it seems to apply only if an adjacent site is to be permitted. We assume that this is not CNPA's intention. That said, we find nothing in national or strategic policy to support the principle of allowing more housing and we consider that goes against the primary purpose of Policy 25, which is to facilitate the necessary upgrading of the Park's housing stock, in accordance with the strategic aims and objectives of CNPP 2007. Moreover, we can see considerable risk in agreeing to this change because it might encourage the demolition of adaptable housing stock to make way for a much higher density of rural development than would otherwise be appropriate.

28.8 We note that another objection recommends making the policy more restrictive by limiting how much bigger a new house might be, as compared to the house that it replaces. In this regard and subject to our above reservations, Policy 25 requires that a replacement house should reflect the scale of the existing. We consider that provision is enough to safeguard against the potential that a comparatively small house could be replaced by one with a much bigger floor area.

28.9 Moving next to the second of the above matters, we agree with CNPA that demolition materials should generally be salvaged for reuse. However, we can also understand the objectors' concerns that this may not always be practical. The finalised version of the local plan attempts to address these concerns by referring to salvage *where appropriate*, but using that phrase fails best practice for local plans whereby policies should be clear without this kind of ambiguous expression. It will always be open to developers to agree with CNPA any particular individual policy criterion that need not be satisfied for a specific proposal, there are specific planning law procedures for dealing with contrary developments, and local plan policies should not be expected to be framed to accommodate every single possibility. That said, another way of incorporating the same flexibility would be via a requirement that a planning application for a replacement house should be supported by a statement to explain why materials cannot be salvaged and reused. This kind of approach places an explicit requirement at the forefront of the application process and it allows retention of the proper presumption that materials will be salvaged.

28.10 We note that the above 2 matters are linked in each version of the replacement house policies and in the associated supporting text. Further, these matters have been the subject of considerable change between the various plan versions. In looking at the detail of these changes, we note that in the deposit version of the CNPLP Policy 28 criterion (b) requires:

- a traditional vernacular style of building; and
- demonstration that the building is structurally incapable of rehabilitation; and
- that the building cannot be kept.

Criterion (c) then adds *largely intact with external walls and roof or permanently occupied in the last 5 years*. Our concern with this policy is that it does not make clear if either criteria (b) or (c) must be satisfied, or both. In addition, the deposit version of Policy 28 does not ask for proof of occupancy. While these shortcomings affect whether the policy might be capable of effective implementation, we note that the explicit test in (c) is whether the building in question is either structurally intact or lived in. Next, finalised Policy 25(a) expects demonstration that a house is *structurally unsound or incapable of rehabilitation*, and that it should have been *occupied at some stage in the previous twenty five years*. In other words, it drops any reference to traditional buildings and walls or roofs, and the time period has expanded 5 fold without adequate explanation. When we compare the versions of the policy, we note that occupancy is an additional requirement in Policy 25 as opposed to an option. Nevertheless, we find that on balance, Policy 25 dilutes the deposit plan policy position.

28.11 The finalised local plan situation is further confused by the text reference to *permanently lived in at some stage over the past twenty five years* (paragraph 5.72) and the requirement for evidence showing that the property has been simply *occupied* in the previous 25 years (paragraph 5.73). These tests are different and, by our reading, the text seems to be more onerous than the policy. In short, we find considerable uncertainty over what requirements CNPA is even now seeking to apply and it is unacceptable that the associated text should apparently contradict the terms of the superior policy.

28.12 The practical effect of Policy 25 is that an applicant need do little more than assert that a house, up to and including a ruined house, was occupied in 1984 to have an expectation of gaining planning permission for a new replacement house. The house need not have been lived in permanently because that text test is always subordinate to the policy, and the text contradicts itself anyway. We find that this effect is also potentially out of accord with the text for Policy 25 because that maintains the deposit plan specific exclusion for abandoned house sites and ruins (paragraph 5.72). In assessing whether a use has been abandoned, planning practice normally applies a rule of thumb of at least 10 vacant years or years in another use, to assess whether a property might reasonably be viewed as having been abandoned. Given this, we can envisage a situation where a property that has been abandoned in planning terms, could justify the construction of a replacement house based on the CNPLP.

28.13 Our main concern with these significant and complex policy changes is that they are not adequately explained or justified. The only explanation given for the extended time period is that the shorter times are too rigid and 25 years is better, because it ensures that an abandoned house may still be largely intact and have become derelict recently. We have been unable to understand the logic of this. The changes may well address the objections that find deposit plan Policy 28 too onerous but, in doing so, we are extremely concerned that the essential purpose of the policy has become confused and even lost.

28.14 The stated intention of Policies 28 and 25 is to allow for the replacement of existing unsound houses that cannot be rehabilitated (paragraphs 5.71 of the deposit version of the CNPLP and 5.72 of the finalised version). That intention links back to the housing and landscape objectives of the CNPP 2007. In particular, strategic objective 3(a) expects sustainable development that complements landscape character (page 113) and objective 3(c) envisages measures to improve house condition (page 113 and paragraph 5.24(c) page 73). We consider that Policy 25 is in danger of conflicting with these aims and that it represents a significant move in the direction of allowing a generally unacceptable form of redevelopment. We have stated above that this should not be encouraged in view of the restrictive national and strategic planning policy background. Accordingly, CNPA must find a form of words for this policy which will not conflict with the national and strategic policy background as well as with the strategic objectives which flow through the CNPP 2007 from the first aim of the National Park. In short, we find that the policy must be redrafted to remove the problems that we have identified and that exercise should include a root and branch revision of the associated text.

Conclusions

28.15 Based on all of the above, we conclude that Policy 28 from the deposit plan meets the strategic objectives of the CNPP 2007 and accords with relevant national and other strategic planning policy because it permits but restricts the circumstances in which a house in the countryside can be replaced. Further, if as the supporting text describes, the spirit and purpose of finalised local plan Policy 25 remains the same as its predecessor, then that policy should also accord. However, in modifying the plan, the tone and emphasis has changed without adequate explanation and the ability to interpret the policy has become confused to such an extent that the original

purpose of the policy and its current wording appear no longer to match. As a result, while there should be no difficulty with monitoring the effectiveness of Policy 25, it does not identify clearly enough the kinds of development which will and will not be permitted, nor does it describe adequately the means of implementation.

28.16 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

28.17 Accordingly, we recommend that Policy 25 Replacement Houses should only be taken forward from the Deposit Local Plan Modifications (1st and 2nd) October 2008 into the adopted local plan if all of the above reservations are addressed. In particular, we recommend that particular attention should be paid to:

- the incorporation of a presumption against replacement houses unless specific criteria are met;
- deletion of the second clause of item a) and replace with item b) *the existing house has been vacant for at least 10 years*;
- reversing the order of existing items b) and c) to improve clarity;
- relegating all of the rest of the wording to the section of the associated text which deals with implementation; and
- a root and branch review of the text in the light of our findings above.

Issue	Policy 27 Business Development		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	James & Evelyn Sunley	Objection refs	056k
	Ballater & Crathie Community Council		091i
	The Proprietors of Mar Centre		394n
	Badenoch & Strathspey Conservation Group		400g(b)
	Dunachton Estate		418i
	Mrs J Angus		437n
	Alvie & Dalraddy Estate		439o
	Glenmore Properties Ltd		453h

Reasoning

29.1 Policy 27 relates to all business development proposals within the National Park and it appeared as Policy 20 in the deposit version of the CNPLP. The modified version in the finalised local plan generally supports proposals that encourage local economic development and sets a sequential approach to the consideration of such proposals, depending upon the type of location and compliance with various specified criteria.

29.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 27 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough those kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy, as well as the manner of its implementation and monitoring, are soundly based.

29.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 27. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

29.4 As a starting point for the first issue, we note that encouraging economic development stems directly from the fourth aim of the National Parks (Scotland) Act 2000, which is *to promote sustainable economic and social development of the area's communities*. The Economy and Employment section of the CNPP 2007 adds that *The sustainable growth of the economy is key to maintaining sustainable communities and to creating a strong and vibrant National Park which also stimulates and supports the wider regional economy* (section 5.2.3, page 69). The CNPP 2007 then sets out 8 strategic objectives to implement this, and those of specific relevance to these objections include: addressing the imbalance evident in the Park's demographic profile by stemming the outward migration of young,

economically active residents, and improving the value and permanence of jobs, all towards achieving a vibrant and diverse economy. Broadly, this is to be achieved in the following 3 main ways:

1. by supporting the diversification of traditional rural enterprises such as agriculture;
2. by creating conditions conducive to business growth including through an appropriate development plan framework; and
3. by addressing prospective barriers to that growth, for example poor access to transport (pages 66, 67, 70 and 71).

Accordingly, we are satisfied that as a general principle, using the local plan to promote business development is appropriate in the context of the strategic policy framework for the National Park.

29.5 Next, we note that the finalised version of the CNPLP essentially does 2 things: it identifies economic development sites in various of the settlements; and it establishes the general circumstances under which business development will be supported. These circumstances include development of the allocated sites. As a third and ancillary strand, CNPA confirmed in evidence to the inquiry that it will continue to work in partnership with other bodies including local enterprise organisations, towards increasing opportunity and further satisfying the strategic objectives. In principle, we can find no fault with this basic approach. However, we would expect to see an explicit connection between the finalised local plan text on economic development, the wording of Policy 27, and the land allocations. We appreciate that the first paragraph of the policy favours development on an allocated site and we note the reference in Section 7 of the finalised local plan, but we find these links to be remote and insubstantial.

29.6 Against national planning policy, SPP 2: *Economic Development* contains clear instruction on what development plans must do towards achieving the same broad ends as CNPP 2007 (paragraphs 11, 31, and 59). We have no evidence to show that all of these steps have been satisfied. In particular, we have no indication that any review of marketability has been undertaken, no supporting action is identified such as infrastructure provision, and there is no reference to any linked action or improvement plans arising, all as specified in SPP 2. These omissions plainly affect the extent to which the finalised local plan achieves full compliance with the last strategic aim set out above in particular, i.e. the removal of barriers to economic growth.

29.7 We also have no masterplans or development briefs for any of the ED designations, or any indication that such guidance is intended. Clearly, this contrasts with the detailed provision for housing in the finalised local plan, where consultants have already been employed to prepare development briefs for 8 of the allocated sites. This mismatch reinforces the basic concern of many objectors, which we share, that housing development and growth has been relied upon heavily as an economic driver for the region. Further and in comparison, limited attention seems to have been paid to the encouragement of other economic activities that are just as central to the achievement of the strategic objectives integral in the CNPP 2007, albeit a different set.

29.8 In taking a general overview of those sites that have been identified on the proposals maps, we have difficulty in understanding the extent to which many represent genuine proactive promotion of opportunities because they seem simply to record existing business ventures without setting out the scope for intensification or enhancement. For example, the allocations cover existing caravan sites at Ballater and Grantown-on-Spey, they also cover the Highland Folk Museum at Newtonmore. These facilities are all of undoubted importance to the local economy and, as such, they deserve support and protection. However, it is misleading to suggest that they represent development opportunities or that they satisfy the SPP 2 requirement to provide a *supply of sites offering a choice of size, location and environmental amenity, and which allow flexibility to provide for market uncertainty* (paragraph 59), especially with no associated action plan by way of explanation. As with the allocation of housing sites, we have also found no evidence to link the economic development allocations with a community based assessment of need or capacity. This considerable defect must be rectified.

29.9 It follows from this that we cannot conclude that the detail of the finalised local plan accords fully with strategic or national planning policy regarding economic development because it does not do enough to satisfy the strategic objectives, to encourage a broad economic base, or to make sure that enough business land is allocated in all the right places. In other words, to ensure an adequate and realistic supply of business land for the life of the local plan, as instructed by SPP 2.

29.10 Turning to consider the second issue and the specific wording of Policy 27, we note that SPP 15: *Planning for Rural Development* requires that planning authorities make clear in their policies how they expect to react to a proposal (paragraph 34). Therefore, we have no difficulty with the positive attitude of Policy 27 or with any of the circumstances where the principle of economic development is being encouraged. However, we would prefer to see the policy expressed more clearly, to establish exactly which criteria must be satisfied in each instance. This applies especially to the first paragraph because as it stands, we are not sure whether the criteria apply on the basis of either or, or whether all must be fulfilled. We are also not sure how (c) might be satisfied and we find that the final paragraph could be misinterpreted. For example, does it mean simple displacement of an existing use or final extinguishment? Subject to these matters being addressed, we are satisfied that Policy 27 identifies in an appropriate way those kinds of development that will and will not be permitted.

29.11 The lack of action plans and development briefs discussed above also fuels some objectors' concerns that potential encouragements have been overlooked. However, because development plans can only influence planning related issues, it would be inappropriate to include policies that relate to matters properly covered by other legislation such as tax relief and grant assistance. That said, we find that there is scope to explore and identify physical incentives including infrastructure, transport, and the construction of starter industrial and business units via CNPA's partnership working. Such issues could also be addressed in the action plans referred to above, again in compliance with the strategic aims of the CNPP 2007 and SPP 2. We find again that the failure to make use of this specific opportunity undermines the value of the local plan.

29.12 Moving to consider the last of the issues, CNPA has not presented evidence to analyse and support a specific need for the amounts and locations of the land allocated for economic development. However, the spaces allocated are generally not excessive. Further, losing them would almost certainly carry the consequent need to make compensatory provision. SPP 2 accepts that there may be a case to review the continued marketability and relevance of an industrial type allocation and, as part of that process, to release unwanted sites for other forms of development. However, such a release should only occur where the allocation is long-standing and it is demonstrably no longer appropriate (paragraph 16). In this case, the objectors have submitted no evidence to show either. In addition, the planning system allows for the consideration of non-conforming uses in appropriate circumstances. Given all of this, we have no hesitation in rejecting the suggestion that the economic development allocations should incorporate the possibility of an automatic extinguishment or default in the event that the allocation is not taken up.

Conclusions

29.13 Based on the above, we conclude that Policy 27 as drafted in the finalised version of the CNPLP is broadly compatible with the strategic objectives of the CNPP 2007 but it does not accord fully with the requirements of national policy as set out in SPP 2. Further, it does not entirely identify clearly enough those kinds of development that will and will not be permitted, and we have suggested various adjustments that should be considered to address this. However, we conclude that the additional encouragements of the kind suggested by the objectors would not be appropriate and we reject the suggestion that the economic development allocations should incorporate the possibility of an automatic extinguishment or default in the event that the allocation is not taken up.

29.14 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

29.15 Accordingly, subject to addressing the above matters, which aim to augment Policy 27 Business Development and improve its clarity of expression, we recommend that Policy 27 should be taken forward into the adopted local plan broadly as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008.

Issue	Policy 28 Retail Development		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020i
	Cooperative Group		370a/b
	Alvie & Dalraddy Estate		439z/f

Reasoning

30.1 Policy 28 relates to all retail development proposals within the National Park and it appeared formerly as Policy 21 in the deposit version of the CNPLP. The finalised version has been modified extensively and generally supports retail proposals and sets a sequential approach to their consideration, depending upon the type of location and compliance with various specified criteria.

30.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 28 in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies clearly enough those kinds of development that will and will not be permitted and, if not, what changes should be made; and
- whether the associated text which deals with the background and justification for the policy, as well as the manner of its implementation and monitoring, are soundly based.

30.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 28. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

30.4 To begin, we note that encouraging business and economic development generally, which would include retail, stems directly from the fourth aim of the National Parks (Scotland) Act 2000. That aim is *to promote sustainable economic and social development of the area's communities* and it is implemented via the CNPP 2007 strategic objectives on Living and Working in the Park (pages 66 to 71), towards making sure that communities thrive. Accordingly, we are satisfied that as a general principle, using the finalised local plan to encourage retail development in the right circumstances is appropriate in the context of the strategic policy framework for the National Park.

30.5 Turning to consider national planning policy, SPP 8: *Town Centres and Retailing* requires that the development plan process should entail the assessment and identification of a network or hierarchy of centres, down to and including village centres (paragraphs 10 and 36). We have commented elsewhere in this report about the lack of a clear and consistent rationale for the settlement hierarchy in the finalised local plan. In particular, we have identified the lack of definitions and consistency of application as substantial shortcomings. We find that Policy 28 adds

scope for further confusion because the supporting text refers to a hierarchy of centres (paragraph 5.81) but this seems to mean something different from the strategic centres described in the CNPP 2007. Further, it is not possible to distinguish a town from a village in the finalised local plan because of inconsistent wordings. For example, Aviemore is identified as a strategic settlement in the CNPP 2007 and in the CNPLP. It is also one of the biggest settlements in the National Park based on its population at the 1991 census. Despite this, it is often referred to by CNPA as a village. AV/ED3 in particular refers to the village centre (page 66). A potential developer is entitled to understand what these terms mean and the confusion must be clarified.

30.6 Next, SPP 8 looks for more from the development plan process than criteria for the consideration of unforeseen development proposals. In particular, SPP 8 expects enhancement strategies and links to other significant, supporting policies like design and transport (paragraph 36). We appreciate that design is covered via the application of a separate and specific suite of policies including Policy 18, as well as by proposed supplementary guidance. However, neither town centre strategies nor related policies are addressed, other than by allocating more housing in the hope that the additional residents will support existing local services.

30.7 As a result of the above, Policy 28 as set out in the finalised version of the local plan does not satisfy a number of the basic requirements of national planning policy in SPP 8 and that limits full compliance with the above strategic objectives. Further, we find that Policy 28 is insufficiently proactive in pursuing the relevant strategic objectives set out in the CNPP 2007.

30.8 Looking then at the second issue and the ability to interpret Policy 28, we can see that clear account has been taken of many of the valid matters of objection, leading to improvement from the earlier deposit version in terms of expression and general compliance with SPP 8. However, we find that a number of issues remain.

30.9 Firstly, in addition to our comments above about a settlement hierarchy, we note from the proposals maps that some settlements have no identified centre. This is of specific relevance to Boat of Garten and Carr-Bridge, which are otherwise classed as intermediate settlements, so that some development pressure must be anticipated. From that, we have considerable difficulty in understanding how development proposals might be categorised and how Policy 28 might be applied in such circumstances.

30.10 Secondly, for those settlements with an identified town centre, the extent is indicated on the proposals maps by no more than a single purple line along a relevant street. We find that this unhelpful because it does not explain how far back from a building frontage the centre extends and a proposal might be construed to accord. For example, we note that in Ballater, the Old Station complex of shops, halls, offices, and restaurants could be interpreted as not part of the identified town centre because it is away from the purple line. Despite this, we found at our site inspections that the complex functions as part of Ballater's core. This kind of contradiction must be resolved by delineating town centres with more clarity and precision.

30.11 Thirdly, from the structure of part a) of Policy 28 it appears that developments which add to economic vitality and do not harm neighbours comprise one whole category that will receive favourable consideration. In other words, the tests of harm and vitality do not apply to new developments or to extensions. We are equally uncertain how this fits with the expectation in SPP 8 that the development of a town centre type use in a town centre location will not need to be assessed for its impact on the viability of similar uses in that same centre (paragraph 17).

30.12 Fourthly, we note that part a) refers to settlement strategies and supplementary guidance that is not yet available, leaving developers unable to comply in the meantime.

30.13 Fifthly, the reference to economic vitality in part a) and to commercial vitality and viability in parts b) and c) combine into another unexplained variation from the approach taken by national policy. SPP 8 uses vitality and viability as specific indicators of the health and general success of a town centre. It gives them definite meanings that cover more than just economic factors. For example, they include changes in the pattern and use of spaces, physical structures, and crime rates (page 9, box 4). The use of these interrelated concepts must be clarified. Thereafter, either the wording of Policy 28 should be altered to accord with SPP 8, or the divergences from national policy must be justified.

30.14 Lastly, the sequential approach followed by Policy 28 reads as slightly different to SPP 8, again with no obvious justification. In particular, part b) mixes sites within settlements with edge-of-centre sites, but edge-of-centre is given a quite specific definition by SPP 8 that does not include any site inside a settlement boundary (paragraph 18). Next, SPP 8 refers to other commercial sites identified in the development plan. We have no evidence to show whether such sites exist, or whether any have been discounted from the finalised local plan for specific reasons. For example, we are not clear how might this apply to Aviemore Highland Resort where an overall development with outline planning permission includes an element of retail, to site BG/C1 in Boat of Garten where CNPA indicated in evidence to the inquiry that a form of retailing might be acceptable, and to Ballater BL/H1 where a mixed development is in prospect that might incorporate a level of retailing. Part c) then mentions out-of-centre and out-of-settlement locations. Again, these are not necessarily the same thing and SPP 8 only refers to out-of-centre development. In addition, part c) does not say whether development in the described circumstances will be looked upon favourably or not.

30.15 Overall, we find that to accord with best practice, any developer must be able to understand from a policy what CNPA means and why, as well as to have any difference to national planning policy justified. Developers must also be able to establish what must be done to secure planning permission. Based on all of the above, we cannot confirm that these requirements are satisfied by the finalised version of Policy 28. However, subject to our concerns being addressed, Policy 28 should give adequate protection to town and village centres and we see no reason to do more. In particular, we see no reason to try to anticipate and then control proposals arising from rural diversification, nor do we see a justification based on the application of national planning policy to exempt small shops from the sequential test. In such cases, it is enough that the basic planning principle of considering each

proposal on its individual merits and bearing in mind local circumstances, should continue to apply.

Conclusions

30.16 When we review our reasoning as set out above, we conclude that Policy 28 as drafted in the finalised version of the CNPLP is in general accord with the strategic objectives of the CNPP 2007 but it does not meet fully the requirements of national policy as set out in SPP 8. Neither does it identify clearly enough those sorts of development that will and will not be permitted, and we suggest adjustments that should be considered. However, we reject the objectors' arguments that specific controls should be added for developments associated with rural diversification and that small shops should be exempt from the sequential approach to retail development.

30.17 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

30.18 Accordingly, subject to addressing the above reservations in full, we recommend that Policy 28 Retail Development as generally set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan. Our reservations include:

- the need for closer compliance with national planning policy in SPP 8: *Town Centres and Retailing* or justify the divergences;
- the lack of town centre strategies and supplementary guidance to support the CNPLP and to enable it to comply more fully with the strategic objectives of the CNPP 2007; and
- define the various concepts and terms used in Policy 28, including vitality, town centres, and the settlement hierarchy, consistently with other parts of the CNPLP SPP 8 and the CNPP 2007.

Issue	Policy 29 Conversion and Reuse of Existing Traditional and Vernacular Buildings		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objector	The Crown Estate	Objection ref	419o

Reasoning

31.1 Policy 29 addresses the potential conversion of existing buildings to unspecified uses. It was formerly Policy 27 in the deposit version of the CNPLP and, apart from the renumbering, only minor alterations have been made in the transition to the finalised version, all for clarification. Fundamentally, Policy 29 encourages the conversion of all existing traditional and vernacular buildings in circumstances that include b) where the conversion is designed to keep the style and character of the original building, in terms of its form, scale, materials, and detailing, where these make a positive contribution to local character. The associated text in the finalised version has been expanded to cover the range of potential uses that might be acceptable and the list includes housing.

31.2 Based on the above objections, which we were asked by CNPA to consider, and the associated written submissions, we find only one central issue that needs to be addressed in this case, which is whether Policy 29 is overly restrictive when compared to the requirements of SPP 15: *Planning for Rural Development*.

31.3 To begin, we are in no doubt that various expressions of national planning policy support the principle of the conversion of redundant buildings to a range of uses. For example, SPP 15 covers conversions to business diversification (paragraphs 17 and 18), as well as steading conversions into housing (paragraph 23). In addition, SPP 3: *Planning for Homes* recognises that redundant non-residential buildings offer scope for conversion to housing, while residential and business conversions can each contribute to local character (paragraph 99). Against these, we have no hesitation in finding that the principle behind Policy 29 accords entirely with the general approach of national planning policy.

31.4 Next, the objector is especially concerned with the cost implications of keeping original vernacular features for the delivery of affordable housing. In the first instance, housing is not the only possible outcome from conversion via Policy 29 and, in particular, affordable housing is not mentioned as a specific product. From our reading, Policy 29 is clearly intended to apply more broadly than just to the delivery of affordable housing, although clearly that use is not precluded. Secondly, part b) expects a high standard of design based on keeping the original style and character by keeping form, scale, materials, and detailing. However, this requirement should not necessarily prevent conversion to affordable housing because that housing should still be of good quality. In any event, Policy 29 does not stipulate the retention of all vernacular features in every case and the objector has submitted no firm, quantifiable evidence to support the claim of prejudice to the financial viability of conversions. Thirdly, we are satisfied that Policy 29 accords with the encouragement in SPP 15 for conversions that produce a net environmental benefit (paragraph 18), subject always to compliance with criteria that include design considerations (paragraph 21).

Conclusions

31.5 Overall therefore, we are satisfied that the purpose and content of Policy 29 is appropriate against the relevant national planning policy context. Further, we find no reason to alter its terms in the light of the objection that has been referred to us for consideration.

31.6 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

31.7 We recommend that Policy 29 Conversion and Reuse of Existing and Vernacular Buildings as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Policy 30 Gypsies/Travellers and Travelling Show people		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Mr P J Swan	Objection refs	462h
	Mr & Mrs MacAllister		490b
	Mr & Mrs McKechive		491b
	Mr & Mrs Hempseed		492b
	Heidi Rattray		493b
	Susan Donald		494b
	Mary Mischie		495b
	Katrina Wimbush		496b
	P Brough		497b
	H & BC Wright		498b
	E J Procter		499b
	Jill Adams		500b
	Peter Gray		501b
	Aileen Mutch		502b
	Anna Hauley & Gavin Hedges		503b
	Mr I Duncan		504b
	Robert Moir		505b
	Occupier, 18 Sir Patrick Geddes Way, Ballater		506b
	Mane Fraser		507b
	A Esson		509b
	Linda Johnson		510b
	James Clark		511b
	Fred Vincent		512b
	Ian Black		513b
	Brian Gibson		514b
	Allyson Meechan		515b
	Mr & Mrs Hepburn		516b
	Helen Murray		517b
	Alan Henderson		518b
	Mr & Mrs Milne		519b
	Mr Myddleton		520b
	Mrs A Redland		521b
	Mr & Mrs Taylor		522b
	J Cooper & M Majzlikova		523b
	Occupier, Roaring Stag, Braemar		524b
	Occupier, Mar Cottage, Cambus o May		525b
	Jane Reynard		526b
	Mrs W Sim		527b
	Mrs R MacNamee		528b
	E Black		529b
	Occupier, Rinelen, Glen Gairn		530b
	John Taylor		534
	Gordon Chapin		535b

	Victor Jordan		537e
	Capt J Schuneman		538b
	Frances Gibson		539b

Reasoning

32.1 The deposit version of the CNPLP contains no policy to deal specifically with proposals for the development of sites to accommodate gypsies, travellers, and travelling showpeople. CNPA stated in evidence that Policy 30 *has been added as an additional policy in the 2nd modifications to the Deposit Local Plan to ensure appropriate compliance with SPP 3 (para 83-86) and establish the considerations which will be taken into account in the determination of proposals for the development of such sites. The background text clarifies the reasoning behind the inclusion of the policy, and the options for inclusion of allocation sites within the Proposal maps. No sites are included.*

32.2 The introduction of a policy to address this specific issue required a renumbering of the sequence in the finalised version of the plan from Policy 29 onwards. The newly inserted Policy 30 has attracted numerous objections, many of which state as follows *Is it really the CNPAs (sic) to encourage into the area such a potential social issue. This and other amendments are of a substantial nature and require, clear consultation with local residents.*

32.3 Based on the objections, which we were asked by CNPA to consider, as well as the content of the written submissions, we find that the issue to be addressed is whether it is the intention of CNPA to take Policy 30 forward into the adopted local plan and, if so, whether CNPA will consult fully in line with the requirements of Circular 32/1996: *Code of Practice for Local Plan Inquiries.*

32.4 For completeness and to address the concerns which we take to underlie the objections we go on to consider:

- whether Policy 30 as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring are soundly based.

32.5 As far as the first issue is concerned, CNPA states in evidence that Policy 30 *gives policy guidance to allow a consistent framework for development proposals and for the assessment of applications for the development of sites for Gypsies/Travellers and Travelling Show People. 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 SPP1 (para 37-38), Scottish Planning Policy (CP2.1 para 15-18) and SPP3 (CP2.4*

para 83-86) and ensure that such proposals are considered in a consistent way. Based on that evidence we are in no doubt that it is CNPA's intention take Policy 30 forward into the adopted CNPLP.

32.6 As far as consultation is concerned, the officer proposed post inquiry modifications (CD 7.28) includes Policy 30 and hence that policy is included in the CNPA commitment to fully consult *in line with Circular 32/1996 following receipt of the Reporters Report giving their conclusions and recommendations on each matter of objection.*

32.7 With that commitment in mind we turn now to the 3 remaining matters. Taking the first, we can find no specific reference to gypsies, travellers, or travelling showpeople in the CNPP 2007. However, SPP 3: *Planning for Homes* makes specific provision (paragraphs 83, 84, 85, and 86). Paragraph 83 states that *Planning authorities should identify suitable locations for sites for Gypsies and Travellers and set out policies for dealing with planning applications for small privately-owned sites.* Paragraph 85 confirms that *Travelling Showpeople are a separate community from Gypsies and Travellers, and may have different housing needs.* Paragraph 85 then adds that *The typically transient nature of many Travelling Showpeople means that local authorities should consider the accommodation needs of those communities in their area already, as well as those who may arrive at a later date.* In the light of these national planning policy requirements in SPP 3, it is appropriate for CNPA to introduce a policy to address the specific land use needs of gypsies, travellers, and travelling showpeople.

32.8 As far as the remaining 2 matters are concerned we would suggest only that the title of the Policy 30 should be revised to read *Gypsies and Travellers, and Travelling Showpeople* to match national planning policy in SPP 3. We have looked carefully at the CNPP 2007 strategic objectives for *Landscape, Built and Historic Environment; Air; and Transport and Communications*, but have not been able to establish why these objectives in particular are listed in the background and justification text as underpinning Policy 30. With these minor exceptions, we take no issue with the wording of Policy 30 or its associated text. Instead, we regard them as models of brevity and clarity which might, with benefit, be followed in the forthcoming Local Development Plan.

Conclusions

32.9 When we review our findings we conclude that Policy 30 should be taken forward into the adopted local plan. Further, as drafted in the finalised version of the CNPLP, Policy 30 meets the strategic objectives of the CNPP 2007 and other relevant national and strategic guidance; it identifies sufficiently clearly the sorts of development which will, and will not, be permitted; and the associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, is soundly based.

32.10 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

32.11 Accordingly, subject to the minor title change and reservations about the associated supporting text that we have noted above, we recommend that Policy 30 Gypsies/Travellers and Travelling Show People as introduced in the 2nd Modifications to the Deposit Local Plan should be taken forward into the adopted local plan.

Issue	Policy 31 Integrated and Sustainable Transport Network		
Reporters	Hugh M Begg & Jill Moody		
Procedure	Written submissions		
Objectors	Frogmore Estate Scotland Ltd	Objection refs	026g
	DW & IM Duncan		037l
	Ballater (RD) Ltd		076d
	Mr & Mrs Houston		096d
	Mr & Mrs MacAllister		490c
	Mr & Mrs McKechevie		491c
	Mr & Mrs Hempseed		492c
	Heidi Rattray		493c
	Susan Donald		494c
	Mary Mischie		495c
	Katrina Wimbush		496c
	P Brough		497c
	H & BC Wight		498c
	E J Procter		499c
	Jill Adams		500c
	Peter Gray		501c
	Aileen Mutch		502c
	Anna Hauley & Gavin Hedges		503c
	Mr I Duncan		504c
	Robert Moir		505c
	Occupier, 18 Sir Patrick Geddes Way, Ballater		506c
	Mane Fraser		507c
	A Esson		509c
	Linda Johnson		510c
	James Clark		511c
	Fred Vincent		512c
	Ian Black		513c
	Brian Gibson		514c
	Allyson Meechan		515c
	Mr & Mrs Hepburn		516c
	Helen Murray		517c
	Alan Henderson		518c
	Mr & Mrs Milne		519c
	Mr Myddleton		520c
	Mrs A Redland		521c
	Mr & Mrs Taylor		522c
	J Cooper & M Majzlikova		523c
	Occupier, Roaring Stag, Braemar		524c
	Occupier, Mar Cottage, Cambus o May		525c
	Jane Reynard		526c
	Mrs W Sim		527c
	Mrs R MacNamee		528c
	E Black		529c

	Occupier, Rinelen, Glen Gairn		530c
	Capt J Schuneman		538c
	Frances Gibson		539c

Reasoning

33.1 The deposit version of the emerging CNPLP contains Policy 30, as the first in a suite of policies that address transport and communications issues. Policy 30 is entitled *Integrated and Sustainable Transport Network*. The finalised version of the CNPLP renumbers that policy to become Policy 31, with the same title. However, the policy wording and that of the associated text has been altered, in the latter case radically, including in the 1st and 2nd Modifications. The purpose of Policy 31 is to reduce car dependency by improving access to alternative transport modes.

33.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether the policy dealing with the *Integrated and Sustainable Transport Network* has been deleted from the emerging local plan and, if not:
- whether Policy 31 Integrated and Sustainable Transport Network as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based.

33.3 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 31. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

33.4 As far as the first issue is concerned, Policy 30 Integrated and Sustainable Transport Network appeared in the deposit version of the emerging local plan and it was continued into the 1st Modifications. That policy requires explicitly that proposals should contribute to improving the sustainable transport network within the National Park, and it expects assessment of the transport impacts of proposed developments. The 2nd Modifications renumbered Policy 30 to become Policy 31, to make way for the introduction of a new Policy 30 Gypsies/Travellers and Travelling Show People. However, the title and general content remains the same in either version of the CNPLP. Particular alterations have been made to the policy wording to clarify how the positive contribution might be achieved, but the basic intention of deposit version Policy 30 has not changed.

33.5 The majority of the above objectors write in the following terms *Another significant change is the alteration of original policy 30 (Integrated and Sustainable*

Transport Network) by removing the developers (sic) responsibility to provide an Integrated and Sustainable Transport system you remove any obligation to provide non-drivers living within the Park area the support offered by a meaningful transport network, I therefore object to the manner in which this policy has been eliminated from the Local Plan and request that it be re-instated.

33.6 Given all of the above, it is not clear to us why so many of these objectors should assume that the policy dealing with the *Integrated and Sustainable Transport Network* had been deleted from the CNPLP when in fact it has been retained, albeit under a different number. Their explicit wish is that Policy 30 should be re-instated, which presumably stems from their related objections to the new Policy 30. We have addressed these objections in a separate section of this report with the broad conclusion that the new Policy 30 should be carried forward into the adopted local plan. As a result, we cannot agree that Policy 31 should revert to its previous number Policy 30.

33.7 Taking the second issue, the CNPP 2007 sets out 4 strategic objectives relating to Transport and Communications (section 5.2.5, pages 74 and 75). We find that Policy 31 from the finalised version of the CNPLP is wide ranging in its scope and it supports all of these.

33.8 In terms of national planning policy SPP 17: *Planning for Transport* is relevant and it sets clear objectives for transport integration (paragraphs 6 and 7). Further advice on relevant best practice is to be found generally in PAN 75: *Planning for Transport* and more specifically in the Scottish Transport Appraisal Guidance published in 2003 by the Scottish Executive. We find that the terms of Policy 31 are compatible with all of this national planning policy and advice. Further, Policy 31 is adequate to ensure that the impact of any development on the transport network within the National Park is considered in a consistent way.

33.9 Moving on to the third issue, we are sympathetic to the objectors' concerns that *the proposed house building programme will inevitably lead more private vehicles on the roads, thus making cycling a less attractive option unless there is a huge investment in separate cycle tracks*. However, SPP 17 as a material planning consideration for every planning application is relevant to that concern, and we note the commitment of CNPA to make sure that where additional traffic might occur as a result of new development, Policy 31 will be used to give the impact of that appropriate and consistent consideration.

33.10 One objector is concerned that Policy 31 should not apply to all developments, and especially not to minor developments, because that would be overly restrictive. To remove this concern, the objector suggests deleting the first sentence of the policy and adding *Such proposals should make a positive contribution towards the sustainable transport network in the Cairngorms National Park*. We agree with the objector that the first paragraph of the policy does not distinguish between those developments likely to have a significant impact on the transport network and those whose impact is likely to be minor or insignificant. We consider that it is unnecessary for the latter category to make the sorts of positive contribution envisaged by the policy as drafted. However, we agree with CNPA that it would be beneficial, and in compliance with national policy, if all development

proposals were to be scrutinised for their potential impacts and that there should be a presumption against approval of proposals which have not given adequate consideration to the criteria that are then set out in the first paragraph of Policy 31.

33.11 We understand that CNPA now accepts that some adjustment to the policy is required and we note the officer proposed post inquiry modification that the first sentence should read *Development proposals will seek, where appropriate, to make a positive contribution...* (our emphasis) (CD 7.28). However, we find that these terms fail the critical test of giving adequate guidance to a prospective developer about the sorts of development which will, and will not, be given favourable consideration.

33.12 With that potential change and our findings on all of the above in mind, we suggest that the words *Development proposals should make a positive contribution towards the improvement of the sustainable transport network within the Cairngorms National Park through the use of:* should be deleted from the first paragraph of Policy 31. We further suggest that they should be replaced by the following *Development proposals will be favourably considered where the planning authority is satisfied that adequate consideration has been given to maintaining or improving the sustainable transport network within the Cairngorms National Park through the use of..* In that way, sufficient flexibility would be built into Policy 31 while retaining the integrity of its original purpose, in accordance with national planning policy and advice.

33.13 Turning to the second paragraph of Policy 31, we find that it deals adequately with the need to assess proposed developments that are likely to have a significant impact on the sustainable transport network of the National Park. However, for larger projects we agree with the objector that there could be merit in adding the sentence *Such proposals should make a positive contribution towards the sustainable transport network in the Cairngorms National Park.*

33.14 Taking, finally, the fourth issue we note that no objection has been raised to the associated text; and we find that our proposed adjustments to the policy do not require any consequential adjustments.

Conclusions

33.15 Based on the above reasoning, we conclude that the policy dealing with the *Integrated and Sustainable Transport Network* has been renumbered and relocated, not deleted from the finalised version of the emerging local plan.

33.16 New Policy 31 meets the strategic objectives of the CNPP 2007 and it accords with relevant national planning policy and guidance. However, we consider that as drafted in the finalised version of the CNPLP, Policy 31 does not identify sufficiently clearly the sorts of development which will, and will not, be permitted. To address that, we have suggested changes to both paragraphs of the policy.

33.17 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

33.18 Accordingly, subject to the consideration of our suggested amendments, we recommend that Policy 31 Integrated and Sustainable Transport Network should be taken forward into the adopted local plan broadly as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008. Our recommended changes comprise:

- substituting *Development proposals will be favourably considered where the planning authority is satisfied that adequate consideration has been given to maintaining or improving the sustainable transport network within the Cairngorms National Park though the use of:* for the first sentence in the first paragraph of Policy 31; and
- adding the sentence *Such proposals should make a positive contribution towards the sustainable transport network in the Cairngorms National Park* to the end of the second paragraph.

Issue	Policy 31 Telecommunications		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objector	Dr A Watson	Objection ref	020I

Reasoning

34.1 Policy 31 Telecommunications relates to all telecommunications development proposals within the National Park.

34.2 An objection has been raised to the wording of the policy as that appeared in the deposit version of the CNPLP. The text of the second sentence of the first paragraph reads *All related power-lines will be routed underground where this does not have an unacceptable impact on affected ecology, habitats, or archaeology* (our emphasis). The objector points out that the sentence *misuses the terms “ecology” and “archaeology”*. *Ecology is a science, likewise archaeology. I suggest “impact on affected wildlife species, habitats or archaeological features”*.

34.3 We note that the 1st Modifications to the Deposit Local Plan change this sentence to become *where this does not have an unacceptable impact on natural and cultural heritage* (our emphasis).

34.4 We agree with the objector’s concerns about the use of these terms and are satisfied that they should be changed. CNPA’s proposed replacement phrase is less specific than the objector’s alternative, but we are satisfied that because it covers a wider range, it, can afford more protection for the Park against unwelcome developments.

34.5 In this regard, we note that CNPA states in evidence that *The Policy has been modified in the 1st modifications to the Deposit Local Plan to clarify the aspects of development that are to be considered under the policy. It also clarifies the impact of underground lines in regard to natural and cultural heritage, and the role played by financial bonds. Greater clarity on the use of concealment promoted through PAN 62 (4.11) is also given in the supporting text.*

34.6 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

34.7 Accordingly, we recommend that Policy 31 Telecommunications as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Policy 32 Waste Management		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objector	Mr & Mrs Sunley	Objection refs	056p
	Badenoch & Strathspey Conservation Group		400g(i)
	Scottish Campaign for National Parks		434k

Reasoning

35.1 Policy 32 as it appears in the finalised version of the emerging local plan deals with 2 separate but related issues: proposals for the development of sites which will support the constituent local authorities in the delivery of their Area Waste Management Plans/Strategy; and the development of new and existing landfill sites.

35.2 CNPA has stated in evidence that the 1st Modifications to the policy were made to clarify that developers must take into account issues relating to waste management. The associated text was modified to clarify the need to comply with national policy and advice on best practice. The 2nd Modifications included text to ensure proper demonstration of consistency with Area Waste Plans, National Waste Strategy and National Waste Plan. Further modifications to the policy are now proposed, designed to clarify *what sites may be considered favourably, highlight the importance of waste management as a potential business within the National Park*, and to replace the term *landfill site* with *waste management facility*. It is proposed to further adjust the supporting text to reflect the need to exploit emerging technologies, and to recognise the importance of waste as a resource. It is also stated that the changes will be linked to an additional designation map in appendix 1 which will identify sites where *There will be a presumption in favour of safeguarding existing strategic waste management facilities and all sites required to fulfil the requirements of the Area Waste Plans* (CD 7.28)

35.3 When all of these proposed modifications are viewed in the round what CNPA now proposes is a criteria based Policy 32 which: sets out the tests against which proposals for new waste management facilities broadly defined will be assessed; sets a presumption against new landfill sites unless in specific circumstances; indicates that proposals for the extension of waste management facilities may be considered acceptable; and sets a presumption in favour of safeguarding existing strategic waste management facilities.

35.4 Based on the above objections which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 32 as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and

- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based.

35.5 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 32. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

35.6 As far as the first issue is concerned, Section 5.2.6 of the CNPP 2007 sets out the strategic objectives for waste management in the Park and notes that *Current waste management schemes vary across local authority areas and include some kerbside provision and a number of recycling points. The long-term approach to waste management in the Park should be firstly to reduce the amount of waste to the minimum through careful use and re-use, then to ensure that there are easily accessible recycling facilities within communities.* In pursuit of that the CNPP 2007 goes on to identify 3 strategic objectives: *a) Minimise waste and encourage better waste management through community and domestic-scale recycling facilities; b) Increase awareness of the benefits of effective waste management through reducing, re-using and re-cycling; and c) Reduce litter in the Park* (page 76).

35.7 We can find no specific reference to land fill in Section 5.2.6 of the CNPP 2007. However, with that reservation and provided that it is applied with proper regard to the content of Policy 18 Design Standards for Development part e) and Policy 20 Developer Contributions, we find that Policy 32 as drafted in the finalised version of the emerging local plan and incorporating the proposed post inquiry modifications is broadly compatible with the strategic objectives for waste management in the CNPP 2007.

35.8 Moving on from there, SPP 10 *Planning for Waste Management* requires that development plans should provide for the spatial dimension of waste management requirements (paragraph 21). No evidence on that was placed before us. SPP 10 also requires that development plans should contain a strong vision statement and proactive provision for waste minimisation, management, and disposal (paragraph 22). In that respect in the proposed post inquiry modifications CNPA makes references to an additional Map E to be included in Appendix 1. We understand that the map will include Scottish Environment Protection Agency registered waste management sites but the modifications go no further than that (CD 7.28 at renumbered paragraph 5.126).

35.9 A model policy is suggested in SPP 10 which would enable a consistent approach to the siting of installations to be adopted by all local authorities with responsibilities for waste management. We note that *Planning authorities are encouraged to integrate...the model policy into development plans at the next available opportunity* (paragraph 26). SPP 10 goes on to say that *The model policy is not mandatory, to allow for local variation where there is a sensible justification for doing so* (paragraph 27). We regard it as a considerable flaw that, CNPA has not provided any explanation either in the text of the plan or in evidence to the inquiry to justify why it has not adopted the model policy.

35.10 Drawing these matters together, when we review the text of the policy against the requirements of SPP 10, we find that is deficient and, consequently, we are unable to find that the finalised local plan is in complete accord with national planning policy and advice or with relevant strategic guidance to which that refers. Turning to the second issue, we must start by noting that the numerous modifications to what has been renumbered as Policy 33 in the proposed post inquiry modifications, have considerably increased the size of the text and the result is rather cluttered and clumsy all to detriment of its brevity and clarity. Moving on from there, we suggest that in order to address clearly and precisely the particular land use issues which CNPA apparently has in mind the proposed Policy 33 within the CNPLP might be divided into 2 separate but related policies. The first would deal with proposals for waste management installations such as waste transfer stations and materials cycling facilities; and the second would address the challenges presented by new, existing and any proposed new landfill sites.

35.11 Taking the first possibility, and given the division of responsibilities for waste management in the National Park, we can well understand the concerns of those objectors who consider that land use planning for waste management should be carried out in a consistent manner and following a common agenda across the 4 local authorities: Aberdeenshire, Angus, Highland and Moray. In seeking a policy approach which might be adopted by CNPA, and possibly also by each of these other authorities thereby ensuring a united approach to the common challenges of waste management in the National Park, we refer again to the advantages of using the model policy in SPP 10. There is no need to follow that model slavishly, but we suggest that the text presuming in favour of existing strategic waste management facilities might be included in an amended Policy 33, which in turn would remove the need for the repetitive text at paragraph 5.126 of the proposed post inquiry modifications.

35.12 Taking the second possibility, we suggest that a second, separate but related, policy would deal with landfill and we see no reason for any amendment to the text as that appeared in the 1st Modifications regarding new sites. However, there could be benefit in providing additional policy on existing sites and any proposed extensions. Assistance in drafting such a policy is provided by SPP 10 particularly at paragraphs 29, 37, 38, and 40 to 43 and within PAN 63: *Waste Management Planning*.

35.13 We recognise that, CNPA may decide not to take up the above suggestions in the course of progressing this local plan to adoption. In that circumstance, we recommend that the text brought to our attention as a post inquiry modification be incorporated into the finalised version and taken forward. There is no need for the text referring to Map E to find a place in the policy itself since there is adequate reference to that in the version set out in the proposed post inquiry modifications (paragraph 5.126). Likewise we suggest that the text which forms the first part of the emerging Policy 33 incorporating items a) to d) along with the text regarding the extension of waste management facilities in the penultimate paragraph could, without detriment to the thrust of the policy and with benefit to its brevity and clarity, be relegated to the associated supporting text relating to implementation.

35.14 When we look at the third issue, we recognise that some aspects of the objectors' concerns reflect wider debates on national waste management policy broadly defined which extend well beyond the confines of this local plan. Notwithstanding the specific concerns that we have described above, we find that the associated text, including the post inquiry modifications, is now soundly based. However, if our suggestions are accepted then Policy 32 will require to be redrafted. Furthermore, if a separate policy on landfill is introduced than a new batch of associated text will be required.

Conclusions

35.15 When we review our reasoning as set out above, we conclude on the first issue that Policy 33 as drafted in the proposed post inquiry modifications is compatible with the strategic objectives of the CNPP 2007. However, when we review the text of the policy against the requirements of SPP 10, we are unable to find that the policy is in complete accord with national planning policy and advice or with relevant strategic guidance.

35.16 On the second issue, we have specific concerns about the wording of the policy in the finalised version even as adjusted by the proposed post inquiry modifications. We conclude that the text is cluttered and clumsy and we make some suggestions to address that defect and thereby provide briefly, clearly and unambiguously for readers of the plan guidance on the sorts of development which will, and will not, be permitted with regard to: firstly, waste management installations, waste transfer facilities and material recycling facilities; and secondly, the related but separate matter of landfill.

35.17 On the third issue, we conclude that the associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, is soundly based. However, all of that will have to be revised if our suggestions regarding the policy are taken forward by CNPA.

35.18 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

35.19 Accordingly, we recommend that Policy 32 as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and adjusted by the proposed post inquiry modifications should not be taken forward into the adopted local plan. The policy should be deleted and its content taken forward in a form which takes full account of our suggestions and complies with national planning policy as that is set out in SPP 10: *Planning for Waste Management*.

Issue	Policy 33 Tourism Development		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	James & Evelyn Sunley	Objection refs	056a
	Forest Holidays LLP		397
	The Crown Estate		419r
	Scottish Campaign for National Parks		434l
	Mrs Jane Angus		437r
	Alvie & Dalraddy Estate		439y/z
	Reidhaven Estate		457

Reasoning

36.1 Section 5.3 of the CNPP 2007 sets out a series of strategic objectives which relate to Enjoying and Understanding the Park. These objectives are themselves underpinned by the third aim of the Park *To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public.* In the emerging local plan it is Chapter 6: *Enjoying and Understanding the Park* that takes the objectives forward by way of a suite of policies of which Policy 33 is the first. We note that paragraphs 6.3 to 6.7 of the prefatory text to Chapter 6 serve as an introduction to sustainable tourism but no such emphasis is given to any of the other policies of the suite. We accept that tourism is one of the key economic drivers within the National Park, but that should not diminish the importance to be ascribed to the provision of outdoor access, sport and recreation facilities, and open space in the local plan. All of these make a substantial contribution to the amenity enjoyed by permanent and part-time residents of the Park but they are also major contributors to the offer available to the day-visitors, holiday makers, and tourists.

36.2 We note in passing that paragraph 6.3 introduces for the first time in the text of the emerging plan the Brundtland definition of *sustainable development*. We find that late entry to be rather surprising since that general approach permeates much of the preceding chapters of the emerging local plan. We have suggested in the introduction to section one of this report that the commitment to sustainable development and the creation and maintenance of sustainable communities could with advantage be introduced in a revised Chapter One of the CNPLP.

36.3 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions we find that the main issues to be addressed are:

- whether Policy 33 as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and whether it accords with relevant national and other strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and
- whether the associated text which deals with the background and justification for the policy as well as the manner of its implementation and monitoring is soundly based

36.4 In accordance with current best practice, we have not considered minor matters which do not materially affect Policy 33. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

36.5 As far as the first issue is concerned, section 5.3 of the CNPP 2007 is concerned with Enjoying and Understanding the Park and within that section 5.3.2 deals with sustainable tourism. It points out that *It is already an important asset and has the potential to make a significant contribution to the regional and national economy, helping to promote Scotland on the world stage* (page 78). The CNPP 2007 goes on to set out strategic objectives for sustainable tourism. Of particular relevance to the emerging local plan is item e) *Strengthen and maintain the viability of the tourism industry in the Park and the contribution that it makes to the local and regional economy* (page 80).

36.6 The associated text for item e) points out that *Despite the importance of tourism to the local and regional economy, many individual businesses are relatively fragile and are seeking additional income to underpin their viability*. It goes on to emphasise that *Investment in tourism infrastructure, including accommodation, is also needed in some areas of the Park and should be encouraged through a co-ordinated approach to development planning and management that contributes to all four aims of the Park* (page 80).

36.7 SPP 2: *Economic Development* states that *In making provision for economic development and considering proposals, planning authorities should seek to minimise adverse effects on the natural and built heritage, consistent with national planning policies Particular care should be taken to safeguard places and areas of national and international importance. New industrial and business development should not be located in such areas unless there is particular economic or locational requirement where an exception is necessary to maintain Scotland's competitiveness* (paragraph 51).

36.8 Seen in that context we are in no doubt that Policy 33 meets the strategic objectives of the CNPP 2007 and accords with relevant national planning policy guidance. We cannot agree that additional, more detailed policies are required to support tourist related development; and, of course, it is only policies related to land use which should be incorporated into the CNPLP. In short, we find the inclusion of Policy 33 is justified because it promotes tourist related development with its associated creation of employment opportunities in the National Park and it recognises that this must not be at the expense of the strategic objectives of the CNPP 2007 which stem directly from the first aim of the Park.

36.9 Turning to the second issue, we suggest that in order to reflect the range of land use implications of item e) of the strategic objectives of CNPP 2007 on sustainable tourism a renumbered Policy 34 might usefully refer to *Tourism Related Development* rather than simply *Tourism Development*.

36.10 Taking the wording of the policy itself, we note that the deposit version of the plan sought to secure the promotion of tourism without detriment to the National Park by requiring from proposed developments *a beneficial impact on the local economy and without adverse environmental or landscape impacts*. In the finalised version of

the CNPLP that becomes *a beneficial impact on the local economy and do not have any adverse impact on the special qualities of the National Park*. We agree that the policy should be supportive of tourist related development but we cannot accept the proposed change to the deposit version to read *without significant adverse environmental impacts* (our underlining). Nor do we find the wording of the proposed modification entirely satisfactory. We have recorded elsewhere in this report our concern about any policy which relies for its implementation on the identification of the *special qualities* of the Park. There is a description of these *special qualities* in the CNPP 2007 (pages 25 to 27) but that falls far short of what is needed to establish what will, and will not, be permitted under the terms of the policy.

36.11 Moving on from there, we return to first principles by remembering that the presumption in favour of tourist related projects is justified by their contribution to Enjoying and Understanding the Park and, in particular, item e) of the strategic objectives for sustainable tourism. That presumption in favour can be reinforced by assessment against the terms of the policies drafted to take forward the strategic objectives of the CNPP 2007 concerning Living and Working in the Park including, in particular, Policy 27 Business Development. However, these considerations must be weighed in the balance with the safeguards embedded in the strategic objectives regarding Conserving and Enhancing the Park. These safeguards have been incorporated into Policies 2 to 12 of the emerging CNPLP which take forward relevant strategic objectives relating to: landscape; built and historic environment; biodiversity; geodiversity; and culture and traditions. We find that it is against these policies that the significance of any adverse impacts of tourism related development should be assessed.

36.12 Dealing with matters of detail, we note that Policy 33 refers to *tourism-related facilities/attractions* but makes no mention of the tourism related infrastructure including accommodation identified in the CNPP 2007 text. We agree with the objector who is concerned that there should be explicit recognition of the importance of supporting the provision of an array of tourist accommodation of the right quality in suitable places and geared to the spectrum of demands. An appropriate reference to that would make explicit the link between the wording of item e) of the strategic objectives and Policy 33 as the land use policy by which it is intended that will be taken forward.

36.13 In the first paragraph of the policy it is difficult to see how adding to the range and quality of tourism attractions or lengthening the tourist season can do anything other than add to the quality of the visitor experience and have a beneficial impact on the local economy. Turning to the second paragraph, the first sentence appears to be redundant in the light of the content of the first. While the first paragraph refers to *impact on the local economy* the second paragraph refers to *adverse impact on the sustainability of the surrounding community*. Drawing these matters together, we note that it is the evidence of CNPA that it has set out to *provide a clear, consistent development framework to guide individual planning applications*. We are bound to record that this has not been achieved. We find the wording to be clumsy and insufficiently linked to the strategic objectives for sustainable tourism on which it relies for its justification.

36.14 With all of the above in mind we suggest that the wording of the policy might be adjusted along the following lines.

Tourism related development which has a beneficial impact on the local economy through enhancement of the range and quality of tourism attractions and related infrastructure including accommodation will be supported provided that the development will not have adverse impacts on the landscape, built and historic environment, or the biodiversity, or the geodiversity, or the culture and traditions of the National Park which, in the judgement of the planning authority, outweigh that beneficial impact.

Any proposal which would reduce the range and quality of tourism attractions and facilities will be resisted unless it can be demonstrated to the satisfaction of the planning authority that there will be no adverse impact on the local economy.

We are not entirely convinced that it is necessary to elevate the second paragraph of the above to the status of part of the policy. Any application for a change of use will be dealt with under the relevant policy or policies of the CNPLP; and that appears to be recognised in paragraph 6.13 of the associated text in the finalised version of the emerging local plan.

36.15 When we look at the third issue, we note that the deposit version differs considerably from the finalised version but we have been offered no explanation or justification for that. We also note in passing that paragraph 6.8 of the latter states that *Planning Advice Note 73 sees tourism as being of vital importance to the social, economic environmental and cultural well being of rural Scotland*. However, PAN 73 is concerned with Rural Diversification and nowhere within it is the focus of either the advice or good practice on tourism. Indeed, in all of its 44 pages the word *tourism* appears only 6 times (paragraphs 11, 34, and 54) and 3 of these references are within case studies of good practice rather than the advice itself (case studies 4,6 and 21). Accordingly, we find that the reference to PAN 73 is misleading and it adds nothing of value to the associated text.

36.16 We have considered whether the associated text should be amended to make specific reference to an information and interpretative facility, and recognition of the importance of the A9 as key tourist artery, and of Blackmount as the northern gateway to the Park. However, we are not persuaded of the need to make specific reference to these matters of detail in either the policy or the associated text.

Conclusions

36.17 When we review our findings we conclude that the inclusion of a policy dealing with *Tourism Related Development* can meet the strategic objectives of the CNPP 2007 and can accord with the relevant national planning policy guidance. However, successive versions of the policy within the emerging local plan fail to identify sufficiently clearly the sorts of development which will, and will not, be permitted. We conclude that the deficiencies leave the policy fatally flawed and we have made some suggestions about how the deficiencies might be rectified. We have also made suggestions on how the associated text might be adjusted.

36.18 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

36.19 Accordingly, we recommend that Policy 33 Tourism Development as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should not be taken forward into the adopted local plan. Consideration should be given to its replacement with text which meets the reservations set out above before a policy on tourism related developments is taken forward into the adopted local plan.

Issue	Policy 34 Outdoor Access		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020n
	James & Evelyn Sunley		056r
	Badenoch & Strathspey Conservation Group		400h(b)
	Scottish Campaign for National Parks		434m
	Mrs Jane Angus		437s
	Alvie & Dalraddy Estate		439z

Reasoning

37.1 Policy 34 and its associated supporting text, was subject to significant adjustments as part of the 1st Modifications. These included specific references to The Land Reform (Scotland) Act 2003, the Scottish Outdoor Access Code, the Cairngorms Outdoor Access Strategy 2007 (CD 7.11), and the Draft Cairngorms Core Paths Plan (CD 7.12). In the officer proposed post inquiry modifications Policy 34 is renumbered as Policy 35 (CD 7.28).

37.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 34 as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and other relevant national and strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and
- whether the associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, is soundly based.

37.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 34. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

37.4 As far as the first issue is concerned, Section 5.3.3 of the CNPP 2007 deals with Outdoor Access and Recreation. It points out that *The National Park is internationally renowned for the exceptional range and quality of outdoor access and recreation opportunities*. It goes on to state that *The Land Reform (Scotland) Act 2003 gives Scotland what is probably the best system for outdoor access in the world* (page 82). With only minor exception, the Act applies a right of responsible access to all land and water within the National Park. Within that benign framework the CNPP 2007 sets out 7 strategic objectives for outdoor access and recreation. Although all of these have some relevance for the CNPLP it is item g) that is of particular importance: *Protect the more fragile areas of the Park from pressures*

arising from outdoor access and recreation (page 83). SPP 11: *Open Space and Physical Activity* deals with core path plans and access rights (paragraphs 20 to 22). It confirms that the Land Reform Act requires each national park authority to guide access provision by preparing a Core Paths Plan. The Cairngorms Outdoor Access Strategy was approved in March 2007; and we understand that the Cairngorms Core Paths Plan Draft was put out to consultation in April 2008.

37.5 Following a review of all of the above, including the adjustments made to Policy 34 in the 1st Modifications, we are content that Policy 34 supports the strategic objectives for outdoor access and recreation in the CNPP 2007 and conforms generally to national planning policy as set out in SPP 11.

37.6 Turning to the second issue, the proposal from objectors that a road should be created between Braemar through Glen Feshie and on to Kingussie to link both sides of the National Park is a matter of strategic concern. There is no mention of this proposal in the CNPP 2007 and, accordingly, there can be no place for it in the CNPLP.

37.7 We cannot agree that the tone of Policy 34 is too permissive. Although the policy will be implemented in tandem with the work of other departments there is no doubt that the planning authorities will be at the heart of the process. A fair reading of the Cairngorms Outdoor Access Strategy and the Draft Cairngorms Core Paths Plan reveals that proper attention has been paid to matters of natural and cultural heritage in the drafting of this policy. On the other hand we cannot agree that the policy is too prescriptive and we reject the relaxation of its terms implicit in the suggestion that *will only* should be replaced with *may* and that *particularly* should be added after *permitted*.

37.8 There is no site specific mention of replacement paths, new paths, bridges, huts or facilities for walkers and other users. However, where proposals involve development as defined in the Planning Acts then Policy 34 and the other relevant policies of the CNPLP will come into play and each case will be determined on its individual merits. Repair and maintenance is not a planning matter but we note that CNPA has committed to keep the matter under review by way of other avenues. We have considered all other changes in wording proposed by objectors but must agree with CNPA that no further alterations are justified.

37.9 Drawing these matters together, we find that Policy 34 identifies sufficiently clearly the sorts of development which will, and will not, be permitted and no further adjustments are necessary.

37.10 Taking the third issue, we can accept that Policy 34 may well be difficult to implement and that the growth in access will need to be carefully managed to ensure it does not result in disturbance for wildlife, especially water and natural interests. We note that work is ongoing to commission an Open Space Audit with subsequent production of both an Open Space Strategy and related supplementary planning guidance on Open Space to follow. We note also the commitment from CNPA that it, and the relevant local authorities, will consult and work with landowners and occupiers to protect and promote access rights throughout the National Park area. We are satisfied that the associated text as modified in the finalised version of the

CNPLP is helpful in explaining the background and justification for the policy and how it will be implemented and monitored.

Conclusions

37.11 When we review our findings we conclude that Policy 34 as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and other relevant national and strategic guidance; it identifies sufficiently clearly the sorts of development which will, and will not, be permitted; and the associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, is soundly based.

37.12 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

37.13 Accordingly, we recommend that Policy 34 Outdoor Access as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and its associated text should be taken forward into the adopted local plan.

Issue	Policy 35 Sport and Recreation Facilities		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020n
	DW & IM Duncan		037m
	Sportscotland		380c

Reasoning

38.1 Policy 35 as drafted in the deposit version of the emerging local plan has been the subject of substantial alteration in the 1st Modifications to the CNPLP, including with the addition of criteria against which proposals that would result in a reduction in current provision will be assessed.

38.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 35 as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and other relevant national and strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and
- whether the associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, is soundly based.

38.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 35. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

38.4 As far as the first issue is concerned, Section 5.3.3 of CNPP 2007 deals with *Outdoor Access and Recreation*. As we have noted already with reference to Policy 34 Outdoor Access, it points out that *The National Park is internationally renowned for the exceptional range and quality of outdoor access and recreation opportunities* (page 82). CNPP 2007 sets out 7 strategic objectives for outdoor access and recreation. Although all of these have some relevance for CNPLP it is item d) that is of particular importance for Policy 35. Item d) is entitled *Plan for future outdoor recreation needs and opportunities in a co-ordinated way across sectors* (page 83). SPP 11: *Open Space and Physical Activity* requires that: *Planning authorities should plan positively for sports and recreation facilities and opportunities. Where, through a local facility strategy or playing field strategy, a need has been identified for new indoor or outdoor facilities within an area, the local development plan should identify sites where they can be appropriately be located* (paragraph 65).

38.5 Policy 35 and its associated supporting text, was subject to significant adjustments as part of the 1st Modifications. We are disturbed that not all of these are noted in the finalised draft of the plan. Of particular importance is the deletion of

item b) in the deposit version which was the subject of an objection. However, we agree that it was the subject of confusion and should be deleted. We also welcome the fact that the policy in the finalised draft makes provision for development which would result in the reduction of current levels of facilities, in these instances, development will only be supported where:

- i) the development is ancillary to the principal use of the site as formal sport and recreation facilities; and*
- ii) the development would not affect the use of the site as a formal sport and recreation facility; and*
- iii) a compensatory site is created which is convenient to users, or an existing facility is upgraded to maintain and improve the overall capacity in the area (page 58).*

No local facility strategy or playing field strategy for the National Park as a whole or for any of its constituent settlements has been drawn to our attention, but that is a matter to which CNPA can turn its attention in the preparation of the forthcoming Local Development Plan.

38.6 Turning to the second issue, we accept that there is no site specific mention of replacement paths, new paths, bridges, huts or facilities for walkers and other users. However, where proposals involve development as defined in the Planning Acts then Policy 35 and the other relevant policies of the CNPLP will be come into play and each case will be determined on its individual merits.

38.7 We agree with CNPA that Policy 35 has been worded to support a wide range of facilities and, properly applied, it can direct suitable proposals to appropriate locations across the National Park. Any proposal which would support the range of facilities in Aviemore, including at the former ice-rink, would be supported under the terms of the policy. We note the commitment by CNPA that it will continue to work closely with partners and developers to encourage and facilitate the provision of such facilities in key settlements.

38.8 Moving on to the third issue, we see that the Background and Justification, and the text relating to Implementation and Monitoring is shared with Policy 36 Other Open Space Provision. We have already noted that Policy 33, Policy 34, Policy 35 and Policy 36 (as numbered in the finalised version of the emerging plan) should be considered as an inter-related suite. However, we have found above that Policy 35 is worthy of independent identification and related to that we expected to find, as a matter of good practice, at least a separate justification for its inclusion within the local plan.

Conclusions

38.9 Drawing these matters together, with the proviso that CNPA will prepare a local facility strategy and a playing field strategy in the context of the forthcoming Local Development Plan, to comply with SPP 11, we find that Policy 35 as drafted in the finalised version of the CNPLP, meets the strategic objectives of the CNPP 2007 and other relevant national and strategic planning policy. Further, bearing in mind the adjustments made to the wording in deposit plan, we find that the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and,

if not, what adjustments should be considered. Lastly, we must conclude that sharing of the associated text with Policy 36 Other Open Space Provision in the finalised version of the CNPLP is an unsatisfactory way forward and CNPA should consider adding a separate and specific justification for Policy 35.

38.10 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

38.11 Accordingly, subject to careful consideration of the reservations set out above we recommend that Policy 35 Sport and Recreation Facilities as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and its associated text should be taken forward into the adopted local plan.

Issue	Policy 36 Other Open Space Provision		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400h(c)
	Mrs Jane Angus		437t
	Reidhaven Estate		456j

Reasoning

39.1 In part, Policy 36 augments Policy 35 Sport and Recreation Facilities by addressing the issue of open space provision. Policy 36 includes criteria for the assessment of proposals for development where a loss of such space would arise and where the site in question has been identified on the local plan proposals maps. Policy 36 and its associated supporting text was subject to significant adjustments as part of the 1st Modifications to the CNPLP. Policy 36 is to be renumbered as Policy 37 in the officer proposed post inquiry modifications (CD 7.28).

39.2 Based on the above objections, which we were asked by CNPA to consider, as well as from the evidence provided by way of written submissions, we find that the main issues to be addressed are:

- whether Policy 36, as drafted in the finalised version of the CNPLP meets the strategic objectives of the CNPP 2007 and other relevant national and strategic planning policy guidance;
- whether the policy identifies sufficiently clearly the sorts of development which will, and will not, be permitted and, if not, what adjustments should be considered; and
- whether the associated text, which deals with the background and justification for the policy as well as the manner of its implementation and monitoring, is soundly based.

39.3 In accordance with current best practice we have not considered minor matters which do not materially affect Policy 36. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

39.4 As far as the first issue is concerned, although Section 5.3.3 of the CNPP 2007 deals with Outdoor Access and Recreation there is no specific mention of the provision of open space. Accordingly, we must rely even more heavily than usual on the terms of national policy which is contained in SPP 11: *Open Space and Physical Activity*. Further advice on good practice and other relevant information is found in PAN 65: *Planning and Open Space*.

39.5 SPP 11 specifies a fundamental presumption *against development on open spaces which are valued and functional, or which are capable of being brought into functional use to meet a need identified in the open space strategy*. *Local development plans will identify and protect such open spaces, in line with the findings of the open space audit and strategy* (paragraph 40). In addition, SPP 11 points out that *In order to deal strategically with open space provision, local*

authorities must have an accurate understanding of the current open space resource in settlements within their area (paragraph 23, our emphasis). SPP 11 then adds Only where there is strong justification should open space protected by the development plan be developed either partly or fully for a purpose unrelated to use as open space. Justification must include evidence from the open space audit that the development will not result in a deficit of open space provision of that type within the locality and that alternative sites and any community concerns have been properly considered. Where, exceptionally, it is proposed to grant permission for development which would result in or exacerbate such a deficit, replacement open space of appropriate type, quantity, accessibility and quality must be provided (paragraph 41).

39.6 Once again we must note our concern that many of the significant adjustments to Policy 36 in the 1st Modifications are not signalled in the finalised draft version of the plan on which we have been asked to report. This is more than an inconvenience to readers of the plan: it is a flaw in the whole plan making process that must be remedied. We must also comment that the CNPLP does not accord entirely with the requirements of national planning policy for the lack of an open space audit upon which to base a judgment concerning the loss of any open space. PAN 65 contains specific advice on how such an audit might be undertaken and we regard this lack as another significant flaw that must be addressed in the forthcoming Local Development Plan. However, we are satisfied that Policy 36 as set out in the finalised version of the CNPLP accords entirely with the spirit and intention of SPP 11 as we have set out above.

39.7 Turning to the second issue, while we welcome the addition to the glossary of a definition of *open space*; we note that is yet another unrecorded variation from the deposit version of the CNPLP.

39.8 Moving on to the third issue, we note the evidence of CNPA that, in compliance with the requirements of the CNPP 2007 it will *work closely with the 4 Local Authorities and other partners to provide and support an appropriate level of recreational provision for communities across the Park....The broader issues of open space and allocations will be addressed in the Open Space Strategy, and will also be identified through community needs assessments. The CNPA will work with central and local government along with other public and private partners to obtain appropriate levels of funding for facilities.* We accept that modifications to the associated text have highlighted the requirement for an Open Space Audit and an Open Space Strategy and suggest that these should be issued as an integral part of wide ranging supplementary planning guidance on open space and related matters. With implementation of Policy 36 in mind, we have noted our considerable concern that apparently this work has only just been started. If the concerns of the objectors are not to re-emerge the work must be completed expeditiously, in complete compliance with the requirements of SPP 11 and taking full account of the advice on good practice and other relevant information which is found in PAN 65.

Conclusions

39.9 Drawing these matters together, we have found no relevant strategic objectives in the CNPP 2007. As a result, we have relied upon SPP 11 as the

strategic context for Policy 36. Against that, while we have noted a significant shortcoming in terms of the lack of an open space audit to form a firm basis for Policy 36, we are satisfied that the broad objective of the policy accords with relevant national and strategic planning policy.

39.10 Next, with the glossary definition of the term *open space* as clarification, and with the reference to maintenance that has been added to the wording of Policy 36, we consider that it identifies sufficiently clearly the sorts of development which will, and will not, be permitted.

39.11 Lastly, we stress again our concern about the lack of an audit to secure the implementation of Policy 36. As a result of that, we consider that the associated CNPLP text is not soundly based.

39.12 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

39.13 Accordingly, subject to consideration of the reservations set out above we recommend that Policy 36 Other Open Space Provision as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and its associated text should be taken forward into the adopted local plan.

Issue	Policy omissions		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Dr A Watson	Objection refs	020k/m/p
	DW & IM Duncan		037u
	Reidhaven Estate		456b

Reasoning

40.1 CNPA has asked us to consider the above objections which relate to potential policy omissions. Based on these objections, as well as the evidence provided by way of written submissions, we find that the main issues to be addressed are whether the CNPLP should contain specific policies to control:

- access paths, foot bridges, vehicle tracks especially in remote areas;
- forestry and agricultural operations;
- advertisements and other signage; and
- roads standards.

40.2 In accordance with current best practice we have not considered minor matters which do not materially affect the omissions to which these objections refer. However, CNPA should take these into account in deciding which alterations may be appropriate as the CNPLP moves towards adoption.

40.3 To begin with, and by way of background, we accept without question CNPA's basic position that the CNPP 2007 and the CNPLP local plan should be read in tandem. The CNPP 2007, approved by Scottish Ministers, provides a strategic framework within which the policies for land use in the CNPLP must be framed, it is a material consideration in any planning application, and it provides detail on strategic considerations which further the aims of the National Park. Within that context, we can understand that CNPA has set out to prepare a local plan which will provide a general framework of policies sufficient to assess the merits of all forms of development, with no unnecessary proliferation. Nevertheless, it is good practice that local plans should set out specific policies for the development and use of land to guide developers and inform the vast majority of day to day planning decisions.

40.4 Turning to the concerns expressed about access paths, foot bridges, and vehicle tracks we note that these are focussed mainly, but not solely, on the impacts in relatively remote areas of the National Park. In that connection, we see that amongst the CNPP 2007 strategic objectives for *Landscape, Built and Historic Environment* is item b) *Conserve and enhance the sense of wildness in the montane area and other parts of the Park*. The accompanying text points out that *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* (section 5.1.2, page 38). We note in passing our understanding that CNPA conceded at the hearing on Policy 7 Landscape that consideration should be given to the introduction of a separate policy on *wildness* and related matters in the forthcoming Local Development Plan. We welcome that, and urge that any work

required to justify the new policy and establish how it will be implemented and monitored be progressed as a matter of urgency.

40.5 Moving on from there, we see that the CNPP 2007 text for item b) continues as follows *New tracks, paths, roads structures, motorised access, aircraft and organised outdoor access events should seek to minimise effects on the experience of wildness. The removal of inappropriate vehicle tracks and the repair of badly eroded footpaths should be pursued where possible* (page 38). As we understand CNPA's position, it recognises the damage to the sense of wildness and the unfortunate impacts on the landscape within the Park of the spread of upland tracks, paths, and bridges and related intrusions. In assessing those which fall within the locus of the planning system CNPA intends to rely on the strategic guidance provided in the CNPP 2007 and the application of local plan Policy 7 supplemented by reference, as appropriate, to relevant portions of *Enjoying the Cairngorms: The Cairngorms National Park Outdoor Access Strategy 2007 – 2012* (CD 7.11). That general framework is seen as sufficient to deal with new developments. CNPA has rejected, at least for the time being, the inclusion within the emerging local plan of a particular policy which sets out in rather more detail what will, and will not, be acceptable in the form of upland tracks and related matters.

40.6 In considering the merits of that position in the light of the objectors' concerns we can readily agree that the spread of tracks and their penetration into the wild areas of the Cairngorms has been a matter of concern for decades; and the nature and extent of the problem has been the subject of detailed, authoritative research. Whether the tracks are made by bulldozers, repeated movements of all-terrain vehicles, or by other means, there is no doubt that the unfortunate results of intrusion and the scarring of the landscape are obvious. Were that all that is involved then we could accept that the approach adopted by CNPA might be adequate at least until its policy toward *wildness* has been established. However, there is more to it than that because the effects on *wildness* and landscape are only parts of a complex interaction of impacts on vulnerable terrain which in many cases include damage to soils, vegetation, habitats and watercourses. The potential to damage extremely fragile and endangered environments is significant and only reversible at considerable expense, if at all. While we recognise that there are policies within the emerging local plan which deal with each of these matters, we fear that their application to particular cases may prove cumbersome for the planning authorities to manage and opaque to prospective developers.

40.7 Drawing these matters together, we cannot agree that the approach adopted by CNPA is enough to address these concerns, even in the interim between the adoption of this local plan and emergence of the forthcoming Local Development Plan. We note that Policy Env\21 of the adopted Aberdeenshire Local Plan 2006 states: *Development involving vehicle hill tracks, insofar as it is not Permitted Development, will be refused unless it can be integrated satisfactorily into the landscape and minimise detrimental impact, such as soil erosion, on the environment including habitats and watercourses* (CD 6.5, page 34). While we do not necessarily advocate the transfer of that policy verbatim to the emerging CNPLP, we see it as a way forward worthy of immediate investigation.

40.8 Moving on to concerns about the omission of a policy to control forestry and agricultural operations, we are in no doubt that the use of land for agriculture or forestry does not constitute development as defined by the Planning Acts with the result that it falls outwith planning control. Some building, excavation and engineering works in connection with such uses are development as defined, but because they enjoy extensive permitted development rights by virtue of Parts 6 and 7 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, formal planning permission is often not required. As a result, we are satisfied that it would be ineffective and inappropriate for the CNPLP to contain a policy that sought to control these activities. However, we note that some issues of concern to objectors such as the design and siting of proposed developments may be relevant to CNPA's forthcoming supplementary guidance and there may be scope to incorporate within this the sound advice in PAN 39: *Farm and Forestry Buildings*.

40.9 As far as advertisements are concerned, statutory control is exercised through the Planning Acts by way of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended). From these, Regulations 4(1) and 4(2) limit the exercise of the powers of control for advertisements solely to the interests of amenity and public safety. We note also that section 4 of the Roads (Scotland) Act 1984 makes it an offence to place anything on or beside a public road without the consent of the roads authority. Next, SDD Circular 10/1984 sets out the Secretary of State's (now the Scottish Ministers') view that properly displayed and well designed advertisements are well accepted and approved by the general public; that advertisements are an integral part of modern commercial life; and that their presence in many street scenes will enhance and improve the environment by adding colour and interest. The Circular therefore encourages planning authorities to consider proposals for the display of advertisements in as favourable a light as possible and, in particular, to take account of their positive effects. The Circular then adds that while a planning authority may adopt and publish policy guidelines, possibly in a local plan, and that these can often serve a useful purpose, failure to conform to such a policy or guideline cannot be cited as the sole reason for the refusal of express advertisement consent. Each application remains to be considered on its merits.

40.10 Given all of this, although we appreciate the Circular is of a considerable vintage and the landscape, built and historic environments are of special importance in the National Park, we see no overwhelming need for an additional policy on advertisement control should be incorporated into the CNPLP. However, we are aware that some planning authorities have issued helpful guidance and CNPA may also wish to address this in due course.

40.11 Finally, CNPA is not the roads authority for the National Park and the setting of standards for the design, building and maintenance of roads is covered by other, non-planning legislation. It follows that the CNPLP is not the place to set standards for these issues. However, we have noted that the constituent authorities for the National Park apply different standards for transport issues, which include for the formation of vehicular accesses and for parking. That must be confusing for developers. As a result, we recommend that CNPA should at least encourage these authorities to devise common standards to apply across the Park. In the meantime,

we recommend further supplementary guidance be issued to make clear which standards apply to which developments, and in which particular places throughout the Park.

Conclusions

40.12 Based on all of the above, we agree with CNPA that the CNPP 2007 and the CNPLP should be read together as components of a single policy framework. Within that context, we can readily appreciate that CNPA has set out to prepare a local plan with policies that, when read together, are sufficient to assess the merits of all forms of development. We also agree that there should be no unnecessary proliferation of policies within the local plan. However, for the various reasons set out above, we are satisfied that in the special circumstances of the National Park serious consideration should be given to the addition of a policy designed to manage the development of access paths, foot bridges, and vehicle tracks particularly in remote areas. On the other hand we are not persuaded that additional policies should be added to the emerging local plan to deal with forestry and agricultural operations; advertisements and other signage; and road standards. These matters should be considered as candidate for supplementary guidance.

40.13 We have considered all of the other matters drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

40.14 Accordingly, we recommend that a policy designed to manage the development of access paths, foot bridges, and vehicle tracks especially in remote areas should be incorporated into the CNPLP before it proceeds to adoption. We further recommend that CNPA considers farm and forestry buildings, amenity considerations for advertisement control, and access and parking standards as matters for inclusion within supplementary guidance.

Introduction to Section 3 of the Report

41.1 In this section of our report we are focussed on objections made and not withdrawn to the content of Chapter 7 Settlements and its particular proposals for land allocations within a hierarchy of strategic, intermediate and rural settlements. Before moving on to the particulars of these objections there are a number of general matters with which we must deal.

41.2 First, by national standards the settlements in the National Park are all relatively small, free standing, predominantly built up areas set in countryside. Although we have considerable concerns about the settlements identified in its third tier, we have no fundamental quarrel with either the principle of a hierarchy or with the structure that has been identified: *strategic, intermediate* and *rural*. From evidence supplied in response to our specific request, CNPA appears to have assumed that an inspection of key features including the resident population, the housing stock, and the existing levels of supporting services for the community has revealed the hierarchy as self evident. That may be so, but it would have been helpful to have further explanation and an indication of the resident population size and array of service provision which would maintain the position of a settlement within the hierarchy or justify its promotion upwards.

41.3 Second, and moving on from there, we note that the local plan has a vision which has been transposed from the CNPP 2007. We suggest that a way forward for CNPA in clarifying its approach to land allocations to particular settlements might be to prepare a vision for each of constituent settlement of the hierarchy to explain the direction in which it is proposed that the settlement would progress as a sustainable community within the Park and in accordance with its role in the hierarchy. We consider that such a vision should be central to the masterplans which, we understand, are to be prepared for a number of settlements. The absence of such direction in the text which supports the proposals maps has presented us with serious difficulties in assessing the merits of CNPA's responses to the concerns of particular objectors to land allocations for settlements within the hierarchy.

41.4 Third, and related to the above, it is not clear how the allocations of land for development within the proposals maps have been established or how these contribute to addressing local need and to the creation and maintenance of the sustainable communities, each of which lies at the heart of the CNPP 2007 vision for the Park. The allocation of housing land is of critical importance, and in the previous section of this report we have set out our considerable concerns about the reasoning used to justify the content of Table 2 Housing land requirement calculation, Table 3 Phased land supply by local authority area, and Table 4 Phased land supply by local authority area. We have looked in vain in Chapter 5 and now in Chapter 7 for an explanation of how the allocations between the various settlements could be justified. Our concerns regarding housing are continued and, indeed, magnified when we consider the approach taken to the allocation of land for economic development and community purposes. Most of the allocations brought forward in the proposals maps reflect the content of the relevant adopted local plans. We have no quarrel with that if the allocations can be justified in the changed circumstances consequent on the designation of the National Park and against the strategic guidance contained within the CNPP 2007. However, when we review matters the

round, we are driven to share the concerns of those objectors who suggest that the CNPA approach to land allocation appears to lack the rigour which this task demands. This deficiency in presentation and any related defect in process should be rectified by the introduction of an explanation of the approach to land allocation which is fully justified and readily accessible to all users of the plan.

41.5 Fourth, the finalised local plan points out that within the proposals maps 3 key development types have been identified: housing, economic development; and community. However, the plan also indicates that, within these types, *mixed uses which support sustainable development and communities will also be supported* (paragraph 7.4). We fear that this typology does not give adequate guidance to users of the plan on what will, or will not, be acceptable in the way of proposed development at a particular location. Thus, for instance, it became abundantly clear at the hearing to deal with objections to housing allocation BL/H1 at Ballater that some of the objectors had misunderstood what the plan has in mind as being acceptable on the site. Many appeared to assume that what was in prospect was the development of a tract of housing and nothing else. We suggest that if it is the intention of CNPA to support mixed uses at a particular location then that should be made clear both in the proposals map and in the supporting text. On the other hand, if the intention is to support developments which are wholly or predominantly related to housing, economic development or community uses however these may be defined, then the plan should follow the requirements of current Scottish Planning Policy and indicate concisely and in plain English where these developments should happen and where they should not.

41.6 Fifth, what are identified as key open spaces and also land which contributes to the setting of settlements is identified as a fourth type of land use: *environment*. In the supporting text it is stated that: *They are protected from future development* (paragraph 7.12). We have had no difficulty in identifying this land allocation on the proposals maps. However, we have searched in vain for the policy which would provide the protection for these pieces of land which the designation purports to give. We have commented on the various specific shortcomings of the application of this allocation throughout our report. Suffice to say here that we are surprised to see land in a proposals map which has no readily identifiable policy underpinning and if the intention is that there is to be a moratorium on development in the identified areas then that should be made plain and be justified. If it is not, then that also should be made clear and justified. In support of that position we return again to the requirement that the local plan should indicate concisely and in plain English where developments should happen and where they should not.

41.7 Sixth, the proposals maps identify settlement boundaries beyond which it is expected that proposals will require justification for their selected location. Clearly the delineation of the boundaries is an important matter which will come into play in determining particular planning applications. An inspection of the settlements which compose the hierarchy in the National Park reveals that the delineation of robust, defensible boundaries is no easy task. In these circumstances and for the sake of consistency and transparency, we suggest that the criteria adopted by CNPA in drawing boundaries on the proposals maps be made clear and justified.

41.8 In the pages which follow this introduction to section 3 of our report we assess the merits of the particular objections to the land allocations made in the proposals maps. While bearing in mind the particular circumstances of each of the settlements we have attempted to make our findings capable of comparison across the Park. While not following slavishly any particular framework we have addressed, as appropriate, the following general questions:

- What allocations have been identified in the adopted local plan and what has been carried forward into the emerging local plan ?
- Is the amount of the allocation appropriate for the role of the settlement in the settlement hierarchy identified in the CNPP 2007 and the CNPLP ?
- Are there any landscape, biodiversity or other matters which constrain the allocation of land for this purpose ?
- How robust and defensible are the delineated settlement boundaries ?
- Are the housing sites effective in terms of SPP 3: *Planning for Homes*, Annex A, paragraph 17 ?
- Are there any further site specific material considerations ?

Issue	An Camas Mòr		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400i(g)
	Scottish Campaign for National Parks		434p
Procedure	Written submissions		
Objectors	DW & IM Duncan	Objection refs	037o
	Roy Turnbull		390o
	The Clouds Partnership		398f
	Aviemore & Vicinity Community Council		416o
	Jim Cornfoot		432c

Reasoning

42.1 The adopted Badenoch and Strathspey Local Plan 1997 carries forward provision from the Highland Council Structure Plan 1990 for the possible development of a new community at Cambusmore (now An Camas Mòr). This proposal stems from:

- the rate of growth then affecting the area that was creating pressure for development in the countryside;
- prevailing socio economic factors that justified a major development as part of an overall settlement policy; and
- an objective that although Aviemore should remain the main growth point for the area, it should not be over-stressed by too much expansion (pages 5 and 6).

The adopted local plan does not detail potential house numbers but it envisages that Cambusmore should be a freestanding village until the development of a road bridge over the River Spey, when it could prove to be an option for the long-term expansion of Aviemore (page 6). The adopted local plan support is also subject to a formal environmental assessment showing no unacceptable impacts and no development until after 2005, with screen planting to take place in the interim. Development should then proceed on the basis of an agreed masterplan showing a community that includes:

- a mix of facilities and development types with housing, employment, social and community facilities, and a possible university out-station;
- a ski road, other necessary infrastructure, footpaths, and cycle ways;
- major buffer zones that are to be safeguarded from development to keep the setting of and separation from Aviemore and other nearby communities like Inverdrue, as well as from nature conservation sites; and
- a probable new secondary school to serve the new community plus the Aviemore area (pages 51, 52, and 55).

42.2 The next Highland Council Structure Plan, which was approved in 2001, plans for substantial housing growth in an already fast growing market area because it regards housing as a pre-requisite of economic growth (paragraphs 2.2.1 and 2.2.2). The plan also focuses on Inverness as the area's main settlement, and aims to

relieve pressure there by diverting growth to existing settlements and especially to those within commuting distance of Inverness. These specific drivers give rise to structure plan Policy H1, which expects the allocation of land for 1050 homes in Badenoch and Strathspey for 1998 to 2007, followed by an indicative additional 700 for the period 2007 to 2017. Figure 8 notes that this housing land supply can only be maintained beyond 5 years if infrastructure is in place to develop Cambusmore (page 29).

42.3 The approved 2001 structure plan notes that the Badenoch and Strathspey Local Plan 1997 already provides for a new community at Cambusmore and quotes the recognition in national policy that new settlements can help to meet housing demand, especially where infrastructure or other constraints inhibit the growth of existing settlements. Although new settlements would comprise 500 to 1000 homes, they should not be residential dormitories. Instead, they should be balanced communities acting as local centres in the settlement hierarchy (paragraph 2.2.7). Appendix 1 from the approved structure plan then describes the facilities that characterise a local centre as including access to regional centres, a petrol filling station, a bank and post office, a secondary school, health centre, foodstore, business and small-scale office development, plus tourist information. Grantown-on-Spey and Kingussie are listed as examples, but no mention is made of Aviemore, although it is annotated as a local centre on the key diagram and in Appendix 2 to the plan.

42.4 The approved CNPP 2007 is silent on the subject of An Camas Mòr. The main settlements are listed as Aviemore, Ballater, Grantown-on-Spey, Kingussie, and Newtonmore (page 66) and strategic objective (b) focuses growth on these main settlements because they have infrastructure that can best accommodate growth. Otherwise, growth is intended only to meet settlement needs and the whole strategy is based on a long-term vision of achieving communities that are sustainable in social, economic, and environmental terms (page 67).

42.5 Although the deposit version of the CNPLP carries the designation of a new settlement at An Camas Mòr forward from the approved 2001 structure plan and the adopted local plan, the delineation of the site is different in that the boundary is farther from the Spey at the north and it excludes some woodland to the south. The deposit plan also makes An Camas Mòr a strategic settlement and envisages a community of up to 1500 homes, starting with 100 in the 5 year plan period, followed by 300 in 5 to 10 years and 1100 thereafter (Table 4). The plan states that the community should incorporate new and improved roads infrastructure, a pedestrian link to Aviemore, and community uses, all based on a masterplan. Development must avoid and minimise impacts, mitigate any significant effects, and generally avoid harming the integrity of the nearby River Spey Special Area of Conservation (page 64).

42.6 The finalised version of the CNPLP also includes An Camas Mòr in the Table 4 land supply calculations. It goes on to state firstly, that proposals for new land uses are identified where key uses support the sustainable communities found in settlements across the Park (paragraph 7.3) and secondly, that the larger sites in the main settlements and An Camas Mòr provide a medium and longer term land supply (paragraph 7.7). However, the size of the allocated site returns to be more like the

adopted local plan proposal and the allocation is noted as being wholly inside the National Scenic Area. The proposal also relies upon:

- a detailed transport assessment to assess any potential impact for traffic flow on the A9 trunk road, any impact for the rail network, and the need for a non-motorised link across the Spey to Aviemore; and
- a masterplan to incorporate housing, commercial and economic development opportunities, community facilities, detailed design guidance to achieve high standards of design and sustainability, mitigation of impacts, opportunities for large and small scale developers.

Overall, development must not harm the integrity of either the Spey Special Area of Conservation or the National Scenic Area.

42.7 Otherwise, the finalised version of the CNPLP still identifies An Camas Mòr as a strategic settlement where the majority of development facilities should be provided to support a sustainable approach to site selection and to ensure that key areas of growth are focussed where development pressure can be managed (paragraph 7.2). The plan also confirms that CNPA will work in partnership to set and then adhere to realistic delivery timescales for the new settlement (page 64).

42.8 Discussion at the hearing revealed that an application has since been submitted for outline planning permission for the development of a new community of 1500 homes with associated business and community facilities and infrastructure. The application relates to the whole of the site allocated in the finalised version of the local plan, it specifies a first phase of 100 homes, and CNPA expects to call it in for determination. In addition and very recently, the An Camas Mòr proposal has been recognised by the Scottish Government as one of 11 exemplar projects that are working towards "Creating a Scottish Sustainable Community" via the Scottish Sustainable Communities Initiative. These projects have been selected as being best capable of demonstrating how sustainable communities can be delivered.

42.9 Based on the above objections, which we were asked by CNPA to consider, as well as the written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- whether a new settlement of the size and hierarchy position is appropriate and in accordance with strategic and relevant national planning policy;
- whether there are any landscape, biodiversity or other matters which constrain the allocation of land for this purpose;
- whether An Camas Mòr can be regarded as an effective land supply contribution in terms of SPP 3: *Planning for Homes*, especially for the local plan period; and
- whether land at Kinakyle should be substituted as a better alternative that could deliver the required amount of new housing.

42.10 In accordance with current best practice we have not considered minor matters which do not materially affect the proposal to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

42.11 In considering the first of the above issues, matters relevant to the principle of compliance with the aims of the Park are discussed throughout our report. In summary, we have concluded that if an allocation accords with the strategic aims of the CNPP 2007 it can also be taken to accord with the aims of the National Park. The CNPP 2007 is also now part of the strategic context for the proposal, which we discuss next, in response to the second of the above issues.

42.12 From the evidence before us, An Camas Mòr was first proposed in the 1990 Highland Council Structure Plan. It was then carried forward into the adopted local plan in 1997, and then again into the current approved 2001 structure plan. In this context, we note an apparent contradiction because the 2001 structure plan classes An Camas Mòr as a local settlement and explains what that might comprise. However, nowhere is Aviemore mentioned, nor is there any evidence of need or demand for the facilities envisaged at An Camas Mòr, or of the impact of these new facilities on those existing in Aviemore. Further, no mention is made of significant constraints like the National Scenic Area or the River Spey Special Area of Conservation. The latter exclusion might be attributed to the timing of the designation, but the former is long-standing and therefore cannot be so explained. Further, at least the last 2 of the above plans were based entirely on encouraging population and housing growth as an economic driver for the region and on dispersing housing growth to settlements within commuting distance of Inverness. Each plan also predates the National Parks (Scotland) Act 2000 and the subsequent creation of the Cairngorms National Park. The Act justifies a re-evaluation of the inherited development plan approach. In other words, the designation of a site in the existing development plan does not mean that it should be carried forward automatically into the CNPLP.

42.13 A number of significant changes have also occurred to the nature of the development envisaged for An Camas Mòr. Firstly, the adopted local plan, which has been used extensively by CNPA to justify the new settlement, describes that it would only start as a separate village. At a later stage, it would have a road bridge link to merge it with Aviemore. In the meantime, an environmental assessment plus screen planting were required but we have no evidence that either is in place. Next, the deposit version of the CNPLP increases the number of homes from that envisaged in the approved structure plan and reduces the site area, so that the density must increase, which leaves less space for all of the other supporting facilities. The deposit plan also changes the eventual road link into an immediate pedestrian link, it does not mention the secondary school or the National Scenic Area, and it gives no indication of phasing for the facilities to support the first phase of housing. As a result, we find that the CNPLP diminishes the essential nature of the proposal and that it does not:

- justify any particular remaining need for the settlement; or
- explain why the new settlement should immediately be identified as a strategic settlement, especially given the approved structure plan classification as a local centre and its proximity to Aviemore.

42.14 Information that we requested at the hearing suggests that the classification of a strategic settlement relates to projected population numbers and available facilities. Clearly there are currently none at An Camas Mòr that could justify the

proposal in those terms, although we accept that with the proposal, population numbers would far exceed the determining threshold of 1000 existing and projected residents. The finalised version of the local plan gives some more detail and it raises significant issues like the National Scenic Area but it does not address any of the above critical impacts and issues and, without explanation, it restores the size of the area covered by the allocation to be more like the adopted local plan.

42.15 In considering the strategic planning policy justification for An Camas Mòr, we find that the CNPP 2007 is more up to date than the current development plan framework, it takes account of the changed status of the area as a National Park where a different attitude to urban development is justified, and the current applicable structure plan will soon be replaced by a network of new style Strategic Development Plans, which excludes the National Park. From that, we find it surprising that the CNPP 2007 does not mention An Camas Mòr. The proposed size of this new settlement is such that it must be regarded as being of strategic importance, whereby it seems reasonable to assume that if the CNPP 2007 had required its development to achieve the strategic objectives, then that would have been stated. Nevertheless, An Camas Mòr might still be acceptable in terms of the CNPP 2007 if it can be shown to satisfy relevant strategic objectives. There is no evidence before us that the merits of this proposal were assessed in this way and in the light of the new situation caused by the designation of the National Park.

42.16 We accept that An Camas Mòr might help to deliver other strategic objectives like tourism and recreation, but we have no evidence of need or demand for this. Next, the CNPP 2007 emphasises the importance of keeping Aviemore as the main settlement, and yet in comparison, An Camas Mòr would ultimately have a population of the same size or more, based on the 2001 census which records Aviemore as having a population of 2397. Further, we are not convinced by the available evidence that the identification of Aviemore as a main growth centre and the requirement for proactive provision for that implies support for An Camas Mòr. Finally, the explicit aim of the finalised local plan allocation is to create a sustainable community, whereas the CNPP 2007 emphasis is on support for the existing communities and CNPA has not given a detailed explanation of why or how An Camas Mòr would achieve that.

42.17 Drawing these strands together, we cannot conclude that a new settlement at An Camas Mòr is supported by the strategic context set out in the CNPP 2007 or that it accords with the strategic objectives of the CNPP 2007.

42.18 We accept that An Camas Mòr might help to deliver other strategic objectives like tourism and recreation, but we have no evidence of need or demand for this. Furthermore, the CNPP 2007 emphasises the importance of keeping Aviemore as the main settlement, and yet in comparison, An Camas Mòr would ultimately have a population of the same size or more, based on the 2001 census which records Aviemore as having a population of 2397. Further, the explicit aim of the finalised local plan allocation is to create a sustainable community, whereas the CNPP 2007 emphasis is on support for the existing communities and CNPA has not given a detailed explanation of why or how An Camas Mòr would achieve that. Drawing these matters together, we find that a new settlement at An Camas Mòr is contrary to

the strategic objectives of the CNPP 2007. In other words, we cannot conclude that An Camas Mòr is supported by the strategic context set out in the CNPP 2007.

42.19 CNPA argued at the hearing that removing An Camas Mòr would produce a knock-on impact on the amount of affordable housing that could be delivered via the CNPLP. In other words, that the only way of achieving the required amount of extra housing land, and thereby also contributing to reducing the significant shortfall of affordable housing, is via the whole 1500 home allocation at An Camas Mòr.

42.20 Elsewhere in this report we have concluded that the amount of housing land allocated in the CNPLP is overly generous. That general conclusion has particular relevance to An Camas Mòr, which would become a substantial new settlement.

42.21 Our comments on housing land supply elsewhere in this report apply directly to the background of An Camas Mòr and we have identified a number of significant shortcomings. Our overall conclusion is that we cannot support the allocation of so much housing land across the Park on the evidence available to us. Further, the CNPLP appears to represent a considerable over supply and, taken together, these factors give us difficulty in justifying An Camas Mòr. Table 4 sets out a total allocation for all settlements in Highland up to 2016 and beyond of 3008 homes, including An Camas Mòr and 1508 without it. The total figure for Aberdeenshire is 317 homes; and for the rest it is 40 homes. These figures provide an overall total of 3365 homes, of which An Camas Mòr makes up 44.5%. From this calculation, we are concerned that the finalised version of the local plan is placing a disproportionate reliance on An Camas Mòr to provide what it considers to be an appropriate housing land supply. As we have pointed out elsewhere in our report in dealing with housing land supply in general and with that needed for affordable housing in particular, CNPA appears to be promoting this crucial and highly significant local plan proposal without the benefit of a full understanding of the geographic spread of need for all forms of housing, but especially for affordable housing. We have concerns about concentrating the provision of so much housing on a single location without a full assessment of need across the settlements of the whole Park.

42.22 We have also made clear elsewhere in this report that we agree with CNPA that a major issue for the local plan is addressing the acute lack of affordable housing in the Park. However, the amount currently needed for the whole Park is between 90 and 121 homes each year, or 450 to 605 for the whole plan period. CNPA's commissioned research found that Aviemore suffers the greatest affordable housing need and estimates that amounts to 54 homes each year, or 270 homes for the plan period. The allocated Aviemore sites already have capacity to contribute towards addressing this affordable housing need. For example, 31 affordable homes have been secured for housing site AV/H1, and AV/H2 and AV/H3 have outline planning permission subject to their providing up to a further 25 affordable homes for the plan period, i.e. an anticipated total of 56 affordable homes, which leaves 214 more to be found for the plan period. Clearly An Camas Mòr could contribute to addressing this shortfall, but only to a limited extent in the short-term. If we apply finalised local plan Policy 21, 100 homes at An Camas Mòr would produce 25 to 40 affordable homes in the plan period, which means that at best, 174 affordable homes would still be needed. Given all of this, we cannot agree with CNPA that the affordable housing case for An Camas Mòr is persuasive and overriding.

42.23 Turning next to consider the requirements of national planning policy, SPP 3 expects the reuse of existing land and buildings before any greenfield land is released (paragraph 58). We accept that brownfield land is not a significant resource available to CNPA, but as with the CNPP 2007, SPP 3 prefers that most greenfield land releases are directed to existing settlements (paragraph 60). In this regard, CNPA argued at the hearing that the proposed new community shows a proactive approach to conserving the character of existing communities by not letting them grow too large. Without An Camas Mòr, CNPA believes that housing allocations would have to be diverted to other communities, many of which, like Aviemore, it regards as being at capacity. We can accept the possibility that the character of many of these other settlements may be harmed by further development, but no detailed, quantifiable evidence in the form of a capacity study or assessment of settlement constraints has been submitted to support this position. Further, we have concluded elsewhere in the report that the CNPP 2007 does not support a growth in population beyond that which is required to accommodate the level projected by the consultants from Manchester University and, with that in mind, the housing land supply favoured by CNPA is a substantial over estimate.

42.24 The SPP 3 concept of a new settlement is based heavily on a proper assessment and demonstration of need for housing land (paragraph 56) as well as the consideration of reasonable alternatives (paragraph 58). We are not convinced that a proper assessment has been made in this case because the need for such a significant land release has not been demonstrated and no other potential options have been evaluated, including the possibility of growing an existing intermediate settlement to strategic standing. Unlike the CNPLP, the development plan was based on a consistently applied and regularly calibrated audit trail for housing land need. Without that, and in the absence of evidence to show the consideration of reasonable alternatives or to explain why other solutions might have been rejected, we find that the basic need for An Camas Mòr is questionable and we cannot justify it against national planning policy.

42.25 SPP 3 recognises that a new settlement can be useful where there are physical, environmental, or infrastructure constraints to the growth of existing settlements (paragraph 70). However, we have no firm evidence before us to explain those constraints or to show that a new settlement at An Camas Mòr is a satisfactory or appropriate solution. SPP 3 then points out that a new settlement might also be appropriate where it could relieve pressure on the countryside. We accept that this function is relevant in the Park, but only if the essential need is proven, if growth remains the prime policy aim, and without other mechanisms such as restricting housing development and occupancy. We have expressed our concerns about each of these issues elsewhere in this report.

42.26 SPP 3 and the CNPP 2007 place a high importance on the landscape and on safeguarding natural heritage interests, especially where these are recognised by national or international designations as having exceptional quality. NPPG 14: *Natural Heritage* also regards the Special Area of Conservation and the National Scenic Area as designations of national importance and points out that Special Areas of Conservation are designated under the Habitats Directive to form a network of protected areas to help ensure that rare, endangered or vulnerable habitats and species of European interest are either maintained or restored to a favourable

conservation status (paragraphs 37 and 39). The Conservation (Natural Habitats &c.) Regulations 1994 place a duty on planning authorities to meet the requirements of the Habitats Directive and they require that where a proposal is likely to have a significant impact on such a site, even where that proposal is outwith the designated area, an appropriate assessment must be undertaken of the implications for the conservation interests for which the area has been designated (paragraphs 40 and 41). We have explained the background to this in more detail in the Boat of Garten section of our report. We remind here that while the Habitats Directive does not prohibit development in or beside a Special Area of Conservation, it requires that development must not detract from the site's character and quality. Accordingly, national planning policy will only permit development where the overall integrity of the designation will not be compromised, or where any significant harm is outweighed by imperative and overriding public interest reasons of a social or economic nature of national importance. CNPLP Policy 7 accords with the above by presuming against development in these circumstances where it does not make a positive contribution to landscape character by virtue of location, siting, and design.

42.27 The only evidence before us to help us to evaluate these environmental impacts comprises Topic Paper 4a (CD 7.24), which expands upon the findings of the general Strategic Environmental Assessment (SEA) undertaken for the CNPLP, and the Cairngorms Landscape Capacity for Housing Study (CD 7.19). In total, Topic paper 4a identifies 5 positive aspects of the An Camas Mòr proposal. These relate to the sustainable use of resources, maintaining a sustainable and healthy population, energy efficiency, reduced waste and pollution, and quality of the built environment. However, the evidential basis for these conclusions has not been provided and we can see a possible contradiction between the positive conclusion that the proposal would reduce pollution and the prediction of a significant negative impact for the natural environment.

42.28 Topic Paper 4a also identifies 7 negative or uncertain aspects of development at An Camas Mòr that include all of the natural heritage objectives numbered 1 to 5. For the water environment, which must include the River Spey Special Area of Conservation, the paper states that the effect would be either significantly negative or that it is uncertain and cannot be predicted. Therefore, we find that An Camas Mòr has been incorporated into the finalised version of the local plan with no supporting appropriate assessment or information about mitigation and based on an SEA report that predicts a significant negative effect for the water environment, i.e. the River Spey Special Area of Conservation. That effect might be capable of mitigation, but again there is no substantial evidence to explain and support that proposition. Given the importance of the designation, we have significant concerns about this, as well as about the fact that Topic Paper 4a, as part of the SEA process, can do no more than describe any impact as uncertain or incapable of prediction. We have no doubt that CNPA would intend to address this deficiency at planning application stage, but in view of the international status of the natural heritage designation, we find that to be too late in the process. We also draw attention to this enhanced environmental status as of particular significance in the context of why the National Park was designated and as an example of a major change that has taken place since the proposal was first allocated in the development plan.

42.29 Next, Topic Paper 4a summarises the findings of the landscape capacity study but we note with concern that the summary focuses on the development potential of the woodland and does not make clear that the study envisages that area would be a later development phase. The clear preference of the study is for the first phase of development to be on the lower lying banks of the River Spey, which it characterises as cultivated fields. These fields are located outwith the finalised version of the local plan designation for An Camas Mòr. Accordingly, we cannot conclude that the attitude of the capacity study to development is as favourable as Topic Paper 4a might imply.

42.30 The landscape capacity study identifies the following 3 main landscape types:

1. elevated woodland that contributes to the setting of Aviemore;
2. cultivated fields that are well contained and sheltered; and
3. low-level grazing that is subject to flooding, but which is also enclosed and secluded.

Against the study assessment criteria, all of these landscape types are judged to be highly sensitive to new housing development in terms of impact on landscape character and experience because development would disrupt the existing scenic character and value and because it would be visually and physically detached from the core of Aviemore. The landscape types are all also highly sensitive in terms of impact on settlement form because development would be separated from, and unrelated to, the established form of Aviemore. For landscape setting and for visual features and views, some or low sensitivity is concluded because development could be hidden by woodland and the limited views would be worsened by removing woodland. Therefore, we consider that the issues arising from the landscape capacity study are:

- a. The relationship between the site and Aviemore the resulting change to that settlement form, which gives rise to the need for a strong link across the Spey to cement the relationship. In other words, the landscape capacity study recommends that development should be undertaken as part of Aviemore and that it should reflect the well-established settlement form of Aviemore by developing those areas closest to the Spey. In stark contrast, the finalised version of the local plan envisages a separate community from Aviemore, set back from the banks of the Spey.
- b. If the site is to be developed, the landscape capacity study strongly recommends development of the cultivated fields. Only later should development encroach into the woodland, again to reflect the development pattern of Aviemore on the opposite riverbank. Despite this, the finalised version of the local plan focuses new settlement allocation on the woodland. We note also that the landscape capacity study does not cover the whole allocated area leaving the impact of development on some parts largely unknown.
- c. The capacity study recommends that heather moorland to the north of Dell Farm, which is incorporated in the proposed allocation, should be kept as open space yet we find no mention of this in the finalised CNPLP text that supports the allocation. Similarly, no mention is made of the recommendation in the capacity study that trees should be kept to create a strong settlement edge along the B970.

42.31 We would have expected either that CNPA would explain any disagreement with the study findings, or that they would have been embodied into the CNPLP to guide any prospective developer on the form of development CNPA expects for the site. These defects further reduce the prospect that An Camas Mòr can be seen to comply with planning policy for its landscape impact.

42.32 Moving to consider the third issue, Annex 1 to SPP 3 sets out criteria for establishing whether a site may be regarded as an effective part of the housing land supply with the aim of achieving a realistic picture of what might be delivered (paragraphs 16 and 17). In other words, whether a site, or a portion of a site, is constrained and, if so, whether the constraints can be overcome in time to have homes completed and available for occupation inside the relevant 5 year plan period.

42.33 The SPP 3 criteria include ownership, contamination, and physical characteristics and, from the evidence before us, none of these seem to represent an insurmountable obstacle to development at An Camas Mòr. Infrastructure is also mentioned, and we note that although the 2001 approved structure plan implied that this was a significant constraint, it did not explain the nature of that. While road improvements are outstanding and the Scottish Environment Protection Agency has advised that further consultation will be required on specific proposals, flood risk is not identified as a significant constraint and there is no suggestion in evidence that either of these issues would necessarily prevent development. However, these issues would affect the financial viability of any development and consequently the remaining effectiveness criteria from SPP 3. A further time and cost implication stems from the significant natural heritage designations described above, which demand considerable detailed study and set a high bar of acceptability. We have no evidence that the implications of this have been taken into account.

42.34 The above matters are all related to the lack of a demonstrable need for the new settlement at An Camas Mòr. Firstly, no detailed evidence has been presented for consideration at this inquiry to address development economics. Secondly, An Camas Mòr was in the 2001 approved structure plan and the housing land supply for Badenoch and Strathspey relied heavily upon it. Despite this encouraging attitude and a buoyant housing market, it has not been explained to us why the site has never yet been developed. Thirdly, the objections raise unresolved doubts about whether an initial phase of 100 homes in the local plan period is a sufficient base from which to deliver the range of facilities needed to make An Camas Mòr a genuine and whole new strategic settlement. We appreciate that these 100 homes will form part of a phased masterplan, but the terms of that are not yet available for scrutiny and we have no evidence to show demand for that initial phase in the lifetime of the CNPLP. Neither do we have evidence to show that the initial phase can support the cost of the infrastructure and facilities needed to prevent the development becoming no more than an enclave of new housing wholly reliant upon existing facilities elsewhere.

42.35 To address some of these concerns, CNPA has presented a committee report that sets principles for the development of An Camas Mòr (CD 7.25). While we welcome this as a vision statement to guide generally how CNPA expects that development will proceed, we find that it raises additional unresolved concerns. For

example, we remind here about the lack of a secure planning mechanism to prevent a significant number of the new homes produced by An Camas Mòr from being sold on the open market to become second or holiday homes. In this way, despite CNPA's best endeavours, we could envisage that An Camas Mòr could perpetuate the particular problems that large numbers of holiday or second homes have caused for communities in the past, especially for Aviemore. In addition, we question whether it is realistic to expect a first phase of 100 houses to generate early and affordable public transport links, enough to discourage private car use. We also find no reference to the Special Area of Conservation and the consequent environmental matters and appropriate assessments, or to realistic timescales as expected by the finalised version of the local plan. Lastly, we find no expectation that proposals must comply with the various applicable CNPLP policies that cover topics like retail and affordable housing. Therefore, we find that the principles set out in the committee report are not enough to remove our concerns that An Camas Mòr cannot make an appropriate contribution to the effective land supply during the life of the CNPLP.

42.36 The fourth issue relates to the displacement of housing need and the prospect that land at Kinakyle would be a better and more realistic alternative. As we have stated already in this report, we have found no essential need for substitute housing land to accommodate a significant displacement from any of the sites in and around Aviemore, to which this same objection relates. But even if there was such a need, we have explained in these other sections why we consider that Kinakyle is not an appropriate substitute.

Conclusions

42.37 Taking all of the above together, we have found that there are contradictions and unaddressed issues inherent in the existing development plan that seem to have been carried forward without question into the finalised version of the CNPLP. In addition, the nature of the proposal has altered and the policy context has changed significantly with the designation of the National Park. As a result of all of this, a re-evaluation of the An Camas Mòr proposal is justified and over reliance on policy history is not appropriate. The designation of the National Park represents a significant change in circumstances and the continued relevance of development plan policy history is consequently diminished by approval of the CNPP 2007.

42.38 We have found no explicit reference to a new settlement in the CNPP 2007, which is surprising given the established site history, the wide significance of the proposal, and current apparent progress towards delivery. Further, on the evidence before us, we cannot find that the CNPP 2007 implies support for the new settlement or that the proposal accords with relevant strategic objectives from the CNPP 2007. This view is based on the following.

42.39 It appears that An Camas Mòr has been designated as a strategic settlement in the finalised CNPLP without adequate assessment of whether that role remains necessary, appropriate, and justified. This is a considerable shortcoming given the potential for harm to the established strategic settlement of Aviemore, which other planning policies aim to protect and grow. Turning to national planning policy, An Camas Mòr could be justified by settlement capacity and constraint, but again we have been shown insufficient evidence to justify the proposal in these terms.

42.40 We have concluded elsewhere that CNPA has been overly generous in the calculation of the housing land supply required for the National Park as a whole. While this may be deliberate policy, as far as An Camas Mòr is concerned, the available evidence does not support the allocation of so much housing land in one place. Further, we have no capacity study information to show that the proposal is the only way of providing enough extra housing to satisfy the requirements of residents of the Park. This argument applies, in particular, to affordable housing, where we also question whether the amount that An Camas Mòr could produce on application of Policy 21, especially in the first phase of development, is as significant or as persuasive as CNPA has suggested. We remain uncertain about whether that need could and should be accommodated in a different way.

42.41 Planning policy at all levels requires the consideration of landscape and natural heritage impacts and both are of considerable importance for An Camas Mòr given its National Scenic Area and Special Area of Conservation status. Despite this, the only evidence available to us is Topic Paper 4a and the Landscape Capacity for Housing Study. On close examination, neither of these endorses the proposal as put forward in the finalised local plan. The Special Area of Conservation in particular demands a rigorous assessment of necessity and an appropriate assessment where harm is likely. It is of major concern to us that negative impacts are predicted and no appropriate assessment has been provided. Similarly, no details of mitigation have been provided and no socio-economic benefits of national importance in the public interest have been described.

42.42 Overall therefore, on the evidence before us, we cannot conclude that the proposed new settlement at An Camas Mòr accords with strategic and relevant national planning policy. There are landscape and biodiversity matters that constrain the allocation of land to a significant extent, which have not been satisfied and again, on the evidence before us, An Camas Mòr may satisfy many of the effectiveness criteria set out in SPP 3, but it leaves unanswered some significant issues about the financial viability of the development and phasing. Consequently, we must recommend a thorough re-evaluation of the An Camas Mòr proposal, which process should include justifying it against the strategic objectives of the CNPP 2007 and satisfying the requirement for an appropriate assessment, before the new settlement proposal is taken forward. Nevertheless, for all of the above reasons, we have found no need to compensate for the displacement of housing land at An Camas Mòr and, even if there was such a need, again on the evidence before us, Kinakyle is not a better substitute for development.

42.43 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

42.44 Accordingly, given the considerable uncertainty that we have described above, especially about environmental issues including the lack of an appropriate assessment, and about the housing land position, we cannot endorse the proposal for a new settlement at An Camas Mòr. However, given the site history in particular, we recognise that CNPA may wish to continue to promote this proposal. Under those circumstances, the shortcomings that we have described above should be

addressed and we recommend that the plan text should be modified to make clear that the local plan support for the proposal is in principle only. Further detailed evaluation is required and CNPA must be completely satisfied regarding all of the potentially negative impacts of the proposal before development can proceed. In addition, if CNPA decides to continue to promote development at An Camas Mòr, we commend the development principles produced to the inquiry (CD 7.25), subject to augmentation and adjustment as described in our findings and conclusions that are set out above.

Issue	Aviemore settlement boundary		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	DW & IM Duncan	Objection refs	037n
	Roy Turnbull		390n
	The Clouds Partnership		398e
	Aviemore & Vicinity Community Council		416e
	Scottish Campaign for National Parks		434o

Reasoning

43.1 The settlement boundary for Aviemore is drawn more tightly and distinctly in the finalised local plan than it was in the preceding adopted Badenoch and Strathspey Local Plan 1997. There are minor differences between the deposit and finalised versions of the CNPLP, but in the main, the settlement boundary has been drawn from the roundabout at the entrance to Aviemore in the south, along the A9 trunk road carriageway in the west and around the existing extent of development to the east and north. The only exception to this is land west of the A9 at the north end of the town, which is referred to in the adopted local plan as housing site 1.2(b) Edenkillie. This area has been included in the CNPLP settlement boundary.

43.2 Based on the above objections, which we were asked by CNPA to consider, as well as the written submissions, we find that the main issues to be addressed are:

- whether the delineated settlement boundary for Aviemore is appropriate, robust, and defensible; and
- whether Aviemore should have scope to expand either to the west, across the A9 trunk road, or to the south to include either the Speyside Leisure Park or land at Kinakyle.

43.3 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals map to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

43.4 In considering the first issue, we are satisfied that establishing a settlement boundary is an appropriate task for the CNPLP. The planning policy background to this is discussed in more detail in this report in the context of housing Policies 22, 23 and 24, with our conclusion that the point of defining a settlement boundary is to differentiate which policies would apply to development proposals in particular kinds of locations. We have demonstrated in the context of these policies that in principle, the overall aim of containing urban expansion accords with relevant national and strategic planning policy, as well as with the legislative basis for the National Park designation.

43.5 As a next step, it is good planning practice to make sure that defined settlement boundaries are clearly defined, defensible and robust. We have set out elsewhere in this report our significant concerns that CNPA has not explained its general approach to delineating the settlement boundaries, nor has it described the

specific criteria applied to that assessment and decision making process, all to show transparency and consistency. Nevertheless, we are satisfied in the main, that the boundary chosen for Aviemore seems to meet the above good planning practice requirements. Further, although Aviemore lacks a vision statement to set out how CNPA envisages that the town will develop and satisfy its role as a strategic settlement in the hierarchy, which is set by the CNPP 2007, the proposals map shows clear scope over the local plan period for a variety of developments inside the settlement boundary. Therefore, although the settlement boundary has been drawn tightly around the town, there is no obvious reason to suppose that it is too constricting or that an additional greenfield land release is needed to provide scope for development.

43.6 The only qualification that we would apply to this general proposition relates to the second of the above issues and to Edenkillie in particular. We believe from the inquiry evidence that Edenkillie has been incorporated into the settlement boundary to reflect the current adopted local plan and an extant and partially implemented planning permission. While we can see logic in doing that and we accept that housing on the site will function as part of Aviemore for simple proximity reasons, we find that this housing site relates poorly to the established form of Aviemore in that it breaches the A9 as an obvious, strong, and well-established western boundary. In addition, even the limited amount of existing development on the site is extremely prominent, especially to views from the elevated A9 carriageway. As a result, we are satisfied that Edenkillie should be taken out of the defined settlement. Taking it out would not undermine the benefit of the extant planning permission and it would send a strong signal that CNPA is setting a fresh development plan framework within which no development will be permitted west of the A9 at least for the plan period. In contrast, leaving Edenkillie in the settlement boundary:

- could be seen as a favourable precedent leading to pressure for more development to haemorrhage across the A9 in that location or elsewhere in breach of the west town boundary; and
- would generally undermine the use of settlement boundaries as a means of containing urban development.

Fundamentally, we see no scope for further development in this westerly direction mainly because that would worsen the visual damage and encroach further into the natural environment, both of which are potentially in breach of the strategic aims of the CNPP 2007.

43.7 Looking to the south of the town, the recognised built up area currently begins at the B9152 and B970 junction. Farther south of that junction, the character of the area is generally rural, as opposed to the undisputedly urban feel of Aviemore. The south area also seems to be part of the designated National Scenic Area. These distinctions are recognised by a gateway roundabout at the junction, as well as by the adopted local plan and the finalised local plan proposals map boundary. We accept that the urban fringe type area to the south contains some sporadic development as well as the Speyside Leisure Park. However, we find that none of this is especially dominant partly because of the substantial tree cover, particularly at the north end, and because of separation by the tall railway embankment. Therefore, we cannot agree with the objectors who argue that this area is a natural

expansion of Aviemore that ought to be included in the settlement boundary because it relates well to the established form of the town.

43.8 Further, incorporating land to the south of Aviemore would amount to a substantial greenfield land release, which national planning policy in SPP 3: *Planning for Homes* confirms is not appropriate, at least until all options inside the urban area are used up or are accepted as ineffective during the plan period. In other words, a greenfield land release could be justified to achieve an adequate development land supply for the town. We have dealt with this issue in more detail in the relevant housing land supply and housing site specific Aviemore sections of this report. In summary, we have found no firm or quantifiable evidence to show that situation applies, so that we find no reason to extend the settlement boundary to the south. In addition, we believe that a town expansion in this direction risks absorbing and losing the distinct identity of satellite settlements like Inverdrue, and creating a precedent that would lead eventually to the uncontrolled expansion of Aviemore. As with the suggested west boundary extension, it also sends the wrong message about CNPA's development intentions for the town.

Conclusions

43.9 The defined settlement boundary for Aviemore is appropriate in principle and it has been defined reasonably, logically, and defensibly in the finalised local plan, albeit that the underpinning rationale is not transparent.

43.10 The only exception to this is at Edenkillie, west of the A9, which we consider should be taken out of the settlement for its poor relationship to the town and its negative visual impact. Doing this would not reduce the value of the extant and partially implemented planning permission but it would emphasise the significance of the A9 settlement boundary. It follows from this that we see no scope to expand Aviemore farther in this westerly direction.

43.11 Fundamentally, we consider that Aviemore needs no more housing land, and releasing more under these circumstances would establish a precedent especially as the proposed south town boundary is logical and defensible, and land beyond it has a different and more rural character. Moving the boundary farther south as the objectors suggest would also send the wrong message about CNPA's intentions and about the prospect of uncontrolled urban expansion in the National Park. Therefore, we see no strong reason to support, and several distinct disadvantages in accepting, these objections.

43.12 We have considered all of the other matters drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

43.13 Accordingly, we recommend that with the exception of Edenkillie to the west of the A9 trunk road, which should be subtracted, the defined settlement boundary as shown on the proposals map for Aviemore in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Aviemore economic development allocations AV/ED1 & AV/ED2		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400i(c/d)
Procedure	Written submissions		
Objectors	R B Tozer	Objection refs	098a
	Roy Turnbull		390n
	Reidhaven Estate		456l

Reasoning

44.1 The deposit version of the CNPLP allocates the following as sites for economic development in Aviemore:

- AV/ED1, which is a 0.5 hectare extension to the north of the existing Dalfaber Industrial Estate: and
- AV/ED2, which is a 3.5 hectare allocation that covers the whole of the existing Technology Park and includes extra space for its expansion.

The finalised version of the plan enlarges the AV/ED1 allocation to cover the whole of the existing industrial estate and includes a text expectation that existing pedestrian links across it should be protected.

44.2 Based on the above objections, which we were asked by CNPA to consider, as well as the written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- whether there are any landscape, biodiversity or other matters such as its current value as open space which constrain the allocation of land for this purpose; and
- whether AV/ED2 should incorporate the possibility of residential use in the event that the economic allocation is not taken up.

44.3 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

44.4 In terms of the first issue, the objections apply to the proposed expansion areas as opposed to the existing industrial estates. For AV/ED1, this means the additional strip of ground to the north, which allocation seems to have been carried forward from the adopted local plan, and for AV/ED2, it entails a central area of undeveloped open space. Currently, both of these areas support a range of natural habitats and uses with some informal parking and recreational use. Accordingly, the decision on the proposed allocation hinges on whether keeping the sites as they stand would better fit the CNPP 2007 and serve the needs of the community than the possibility of developing them for economic or business type uses.

44.5 SPP 2: *Economic Development* expects that development plans should maintain a supply of industrial type sites that offer differing sizes and standards of environmental amenity (paragraph 59). In addition, because allocated sites should be sustainable in terms of their accessibility by public transport, sites inside urban areas have clear advantages (paragraph 32 to 35). For the National Park specifically, we note that the fourth aim promotes sustainable economic and social development and the strategic objectives arising in the CNPP 2007 include (a) creating encouraging conditions for business growth and investment and (d) promoting opportunities for businesses to diversify (page 70). Lastly, we note that the finalised local plan incorporates policies that address specific and sustainability issues like protection and mitigation for the natural environment, access by a range of means including pedestrian access, and the implications of engineering accommodation works. Any development proposal would still need to satisfy these policies, irrespective of a favourable allocation in the finalised local plan.

44.6 Bearing all of the above in mind, especially the importance placed by SPP 2 on the sustainability advantages of utilising comparatively central and accessible urban sites like these, we cannot agree with the objectors that the current natural and recreational value of these sites should outweigh their economic development potential. In this regard we are mindful also that Aviemore is surrounded by easily accessible high quality countryside and that the finalised local plan allocates substantial areas inside the defined settlement boundary as a network of protected open spaces. We have raised uncertainty elsewhere in this report about the level of protection that the ENV designation conveys and we have recommended that those concerns should be addressed. Nevertheless, we find no firm or quantifiable evidence to show that these open space resources are not enough to meet residents' needs.

44.7 In connection with both of the above objection issues, land with potential for economic development is a valuable commodity and, as we have stated above, AV/ED1 and AV/ED2 are well located and highly accessible. Although CNPA has not presented evidence to analysis and support a specific need for these amounts of allocated economic land, the spaces are not excessive. Further, losing them either to residential development or to no development at all would almost certainly carry an equal or worse knock-on impact for the natural environment through the consequent need to allocate other replacement sites. Therefore, deleting the sites or releasing them for residential development would result in a displacement that in turn risks conflicting with the strategic policy framework in the CNPP 2007.

44.8 Turning to the second issue, SPP 2 accepts that there may be a case to review the continued relevance of an industrial type allocation and, as part of that process, to release unwanted industrial sites for other forms of development, which might include housing. However, such a release should only occur where the allocation is long-standing and it is demonstrably no longer appropriate (paragraph 16). In this case, the objectors have submitted no evidence to show either that AV/ED2 is no longer marketable or otherwise viable, or that residential use is the only suitable alternative. In any event, we have concluded elsewhere in this report that Aviemore suffers no current shortage of effective housing land. Given this, plus all of the above, we have no hesitation in rejecting the suggestion that the AV/ED2

allocation should incorporate the possibility of an automatic default to residential use in the event that the economic allocation is not taken up.

Conclusions

44.9 Overall, we consider that using these comparatively small undeveloped areas for economic uses accords generally with relevant national and strategic planning policy. We are satisfied that the potential harm from development for the natural environment is restricted, and is outweighed by the benefit of using these sustainable urban locations to the socio-economic advantage of the Park and its residents. We regard the loss of informal recreation space in this case as insufficient reason to oppose the allocations, given the plentiful supply of safeguarded open space elsewhere in Aviemore as well as the rural character and accessibility of its surroundings. Further, if these sites were to be taken out of the CNPLP, alternative provision would be needed and the implications of doing that would more than likely be significant for the natural environment because it is unlikely that such urban and functionally well located alternative sites could be found. Therefore, we conclude that the allocation of these sites for economic development is not constrained to a significant degree by landscape or biodiversity matters, or by its current value as open space.

44.10 If neither site is taken up, the local plan process automatically provides for a review of their continued marketability and relevance in accordance with SPP 2. If that review shows the sites to be no longer appropriate, then and only then should alternative uses be considered. However, there is no current evidence before us to show: that stage has yet been reached; to support a view that housing is needed on either of these sites; or to show that housing is the only or the best alternative use. Therefore, we are satisfied that allocation AV/ED2 should not incorporate the possibility of residential use in the event that the economic allocation is not taken up.

44.11 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

44.12 Accordingly, based on all of the above, we recommend that the economic development allocations shown on the proposals map for Aviemore in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Aviemore environment allocations		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400i(f)
Procedure	Written submissions		
Objector	Roy Turnbull	Objection ref	390n

Reasoning

45.1 The deposit version of the CNPLP identifies a number of sites inside the Aviemore settlement boundary as AV/OS1. The associated plan text describes them as open spaces that *will be protected from development*.

45.2 The size and distribution of these spaces has changed in the finalised version of the local plan. In particular, the golf course at Dalfaber Village has been added and an area of ground beside housing site AV/H1 has been subtracted. In addition, the designation has changed to AV/ENV and the associated text describes the sites as being areas that contribute to the setting of Aviemore that *will be protected from adverse development*.

45.3 Based on the above objections, which we were asked by CNPA to consider, as well as the written submissions and the discussion at the hearing, we find that the main issue to be addressed is whether more ENV allocations, especially more land at Milton Wood, Edenkillie, and around the sewage works, should be added to the plan. In accordance with current best practice we have not considered minor matters which do not materially affect the issue to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

45.4 As a preliminary matter, we point out that discussion on the change to the space beside AV/H1 is to be found in the section of this report that deals with Aviemore West.

45.5 Next, we are satisfied that the ENV designation could address several of the strategic objectives set by the CNPP 2007 including those related to the conservation, enjoyment and understanding of the special qualities of the Park, as well as the promotion of biodiversity, and responsible outdoor access and recreation. However, we have stated repeatedly throughout this report our view that, as currently used, the ENV designation fails against generally applied best practice for local plans.

45.6 We have particular and significant concerns about inconsistencies in the CNPLP. For example, section 7 of the finalised version of the local plan describes these ENV spaces as protected from future development (paragraph 7.12). In contrast, the plan text for some settlements, including Aviemore, only protects from adverse or harmful development (page 66). Further, the CNPLP describes the ENV spaces as important to the amenity, setting and the overall fabric of settlements and sometimes, but not always, allocates land that straddles settlement boundaries as ENV. These different approaches are not explained, nor does the plan justify the

spatial differences between the local plan versions and the apparently diminished level of protection, such as we have described above for Aviemore. Other problems associated with the ENV designation include:

- no secure policy footing for the designation;
- no clear purpose or transparent and consistent evaluation process for the allocations;
- no clear correlation between the sensitive areas identified in the landscape capacity studies and the ENV allocations; and
- unclear guidance for the plan user about what the practical implications of the allocations might be in terms of a specific development proposal.

Taken together, the inconsistencies and the related problems lead to our conclusion that the ENV designation suffers a serious flaw and a substantial review is justified. Nevertheless, we can see that if the shortcomings were to be solved, the designation could add value to the plan, especially in implementation of the CNPP 2007 strategic objectives.

45.7 Turning next to consider Aviemore, we agree with the objectors that there are additional sites that straddle the settlement boundary that satisfy the general description of what these ENV allocations are meant to represent. For example, land at Milton Wood and around Edenkillie contributes to the setting of Aviemore, it is well used for informal recreation, and it has accepted natural heritage value. Meaningful and explicit protection from development for that land would also help to further strengthen that settlement boundary. Similarly, land to the east of Aviemore, between the established settlement boundary at Dalfaber and the River Spey would maintain a protective buffer against development pressure for the natural environment along the highly important river corridor. All of these green areas also influence the relationship between Aviemore and its wider surroundings and the way in which it is perceived in the landscape, which becomes even more significant given the new settlement proposal for An Camas Mòr. Therefore, protecting these urban fringe type spaces from development would offer cumulative benefit in terms of their natural heritage value and send a strong message about CNPA's attitude to environmental protection.

45.8 Much of this was accepted by CNPA in discussion at the hearing, although it was generally agreed that further work was needed to assess each of the objectors' recommended sites. Fundamentally, we consider that CNPA must first decide what the aim of these ENV spaces is to be and it must then allocate land and set a level of protection accordingly, including via an appropriate additional local plan policy. That process should embody the allocation of additional ENV land around Aviemore, which should include the land referred to by the objectors, subject to attention to all of the above detailed matters.

Conclusions

45.9 Therefore in general, we see that the ENV designation could be an important element of the local plan in addressing several of the CNPP 2007 strategic objectives. However, the value, force, and relevance of the designation is

undermined to a significant extent by the flawed way in which the concept has been incorporated into the finalised version of the local plan.

45.10 For Aviemore, if these shortcomings are addressed as we have recommended in various places throughout this report, then we agree with the objectors that additional sites including around Milton Wood, Edenkillie, and the sewage works will almost certainly merit ENV allocation.

45.11 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

45.12 Accordingly, we recommend that the Deposit Local Plan Modifications (1st and 2nd) October 2008 ENV allocations on the proposals map for Aviemore should all be reviewed as we have described, and that as part of that review, other areas including land around Milton Wood, Edenkillie, and east of Dalfaber, should all be evaluated for incorporation as appropriate.

Issue	Aviemore housing allocations AV/H2 & AV/H3		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400i(e)
Procedure	Written submissions		
Objectors	RM Lambert	Objection refs	032
	Catherine Hilary Mordaunt		063a/b
	Martin Reed for Dalfaber Action Group (DAG)		126a/b (247 proformas attached)
	Roy Turnbull		390n
	Woodland Trust Scotland		393d
	The Clouds Partnership		398e
	Jim Cornfoot		432a/b
	Reidhaven Estate		456m

Reasoning

46.1 The adopted Badenoch and Strathspey Local Plan 1997 envisages the whole of Dalfaber North as a main expansion area for Aviemore (1.2(c)). It describes the 9.2 hectare zone as having a development capacity of some 250 homes, based on densities that range from 10 to 25 homes per hectare. The specified requirements for development proposals include retention and management of birch woodland to sustain the integral natural habitats, as well as the provision of footpaths and open space. Currently, some 100 homes have been developed from this allocation, around Dalfaber Park and McInnes Place, which leaves a balance that equates broadly to the combined housing allocation in the deposit version of the CNPLP, plus the intervening AV/OS1 protected open space. The supporting text for the deposit version of the local plan describes these housing sites as:

- AV/H2, which is 1.7 hectares of land east of Dalfaber Park, with capacity for around 10 homes. Development here must *work within the woodland clearings to minimise tree loss*, and keep the natural screen and setting.
- AV/H3, which is 5.5 hectares east of Dalfaber Village, with capacity for some 70 homes.

Parts of both sites fall into the Scottish Environment Protection Agency's identified flood risk area so that any development proposals must be accompanied by detailed flood risk assessments.

46.2 The finalised version of the local plan re-designates the open space area as AV/ENV, to be protected from adverse development, and it keeps the same housing allocations but with changes to the supporting text to refer to an outstanding outline planning permission. That permission (reference 05/101/CP) covers the whole 11 hectare housing and open space area and it was granted on appeal in November 2006 (reference P/PPA/001/8), although the decision was the subject of an unsuccessful challenge in the Court of Session ([2007] CSOH 180). The permission specifies up to a total of 104 residential units, of which 25 must be affordable, and it is subject to conditions that include: submitted layout not approved (2); development

to be implemented in 3 phases with the completion of each phase required before the next can start (5); detailed flood risk and vehicular access specifications (6); and landscaping specifications, including assessment of all existing trees on the site and the protection of those to be kept as part of the development (12). CNPA has since received application 07/00144/CP for 12 plots on AV/H2 and application 07/00145/CP for 88 homes on AV/H3. Both of these are for outline planning permission and they are based on a joint site layout plan that includes the AV/ENV central space. Neither has yet been determined.

46.3 Based on the above objections, which we were asked by CNPA to consider, as well as from the written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- whether housing land allocations AV/H2 and AV/H3 are appropriate for the role of Aviemore in the settlement hierarchy identified in the CNPP 2007 and the CNPLP;
- whether sites AV/H2 and AV/H3 are effective in terms of SPP 3: *Planning for Homes*, Annex A, paragraph 17 bearing in mind the flood risk and access over the level crossing on Dalfaber Drive;
- whether the whole of the AV/H2 and AV/H3 allocations should be deleted, with the sites kept as open space for their significant amenity and recreational value;
- whether the AV/ENV open space area should be reduced and the boundary between housing and open space be altered to match the current planning application layout plan;
- whether the issue of too many second homes in Aviemore will be addressed and whether land at Kinakyle should be substituted as a better alternative that could deliver the required amount of new housing.

46.4 In accordance with current best practice we have not considered minor matters which do not materially affect the housing allocations to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

46.5 In dealing with the first issue, the adopted local plan identifies Aviemore as the area's strongest growth point before Grantown-on-Spey, Kingussie and Newtonmore which are other main service and employment centres (page 5). The CNPP 2007 then adds Ballater to this list but notes that Aviemore is distinct in being a significant economic driver and a growth centre for the wider region (page 66). From that, the living and working strategic objectives for sustainable communities include (b), which expects proactive provision for settlement growth (pages 66 and 67). Given all of this, we are satisfied that Aviemore's position at the top of the established settlement hierarchy is appropriate because it stems directly from the strategic planning framework, which the local plan is bound to follow.

46.6 As a next step, and setting aside completely the potential role of the nearby proposed new settlement at An Camas Mòr for the purposes of this section of our report, we remind that we have explained elsewhere our significant misgivings about the way in which the amount of housing land has been estimated and the lack of audit data to support the land supply figures that have been used in the CNPLP. In other words, we are concerned that the CNPLP does not analyse in appropriate

detail housing completions, supply, and requirement for the plan period. We have also set out the reasoning for our view that the local plan allocates an overly generous supply of housing land across the Park. Nevertheless, we would expect to see provision for housing development in Aviemore given its accepted position at the top of the Park's settlement hierarchy. Accordingly, we note that Table 4 in the finalised version of the local plan reflects the 235 consented supply of homes and adds a further 80 as an indicative capacity for the identified additional sites, i.e. a total of 315 homes. This total is then divided over time to produce 250 homes in the plan period, followed by a further 50 in the medium term, and another 15 for the longer term.

46.7 In deciding which sites to allocate, CNPA has used the adopted local plan allocations and those with unimplemented permissions as a resource, which is a logical and appropriate start. The deposit version of the local plan capacity figure for these Aviemore sites was for audit purposes only. It was never intended to be any more than an estimate to guide developers on the kind of density that CNPA had in mind. The finalised version of the local plan confirms this (paragraph 7.8) and, although we are satisfied that approach was suitable, we note that it has since been overtaken by events in that outline planning permission has been granted for a development of up to a specific number of homes. We support the finalised local plan changes that reflect that up to date position. However, against Table 4, the deposit version of the local plan represents an apparent shortfall because all 3 allocated sites in Aviemore only total 200 homes, based on 120 with outline planning permission for AV/H1 and an indicative capacity of 10 for AV/H2 and 70 for AV/H3. The situation changes in the finalised version of the plan, which notes AV/H1 as having detailed planning permission for 161 homes and a combination of AV/H2 and AV/H3 as having outline planning permission for 104 homes, i.e. 265 in total. This latter figure amounts to an oversupply against the 250 envisaged by Table 4 for the plan period, but it also:

- encroaches into the medium term target;
- means that the finalised version of the local plan is allocating no more housing land for Aviemore than already has outline planning permission;
- offers a margin of flexibility to allow for the prospect that the number of houses might be less than the outline planning permissions envisage; and
- removes any possibility that, as a matter of principle, more land is needed for the plan period.

Careful review will be needed in future for all of the reasons set out elsewhere in this report, but for the time being at least, Aviemore seems to be adequately supplied with housing land.

46.8 As regards the relationship between the development of these sites and the aims of the Park, we note firstly that the appeal court challenge decision establishes that fundamentally, this is a matter from the decisions maker. Secondly, we note that the previous Reporter considered this issue explicitly and placed weight as he saw appropriate, before concluding that subject to all of the conditions imposed on the outline planning permission, the development represented no essential conflict with the Park's aims. No new evidence has been presented to us of sufficient weight to justify our taking a different view. On the contrary, one significant change is the

approval of the CNPP 2007, which now sets a strategic framework towards satisfying the four aims of the Park. As a result, proposals now fall to be tested against its objectives and, in doing that, we remind that proactive provision for growth is expected for Aviemore.

46.9 The next issue to be considered is whether these housing sites can be regarded as effective for the plan period. There is no suggestion in evidence that the sites suffer a flood risk so severe that it reduces the number of homes that they could yield to such a major extent that more land must be allocated immediately to compensate for the loss. In reaching this view we are relying on the:

- lack of any detailed specific objection from the Scottish Environment Protection Agency regarding unacceptable flood risk;
- information in the detailed flood risk assessment from the current planning applications that was submitted by CNPA; and
- conditions imposed on the outline planning permission.

All of these information sources confirm that the sites are reasonably capable of supporting most of the development envisaged. Likewise the level crossing capacity issue that was raised by the objectors. No firm, quantifiable evidence has been produced for us to suggest that the level crossing is not capable of being improved to a standard that could cope with the extra traffic arising from the housing developments, albeit at extra cost to the developer. Therefore, although we would have expected to see more detail about the flood risk and the level crossing constraints in the finalised local plan supporting text, to guide a prospective developer more accurately on the potential cost implications of developing these sites, we find no evidence that sites AV/H2 and AV/H3 are not effective as defined in the annex to SPP 3.

46.10 We have no doubt that as they stand, sites AV/H2 and AV/H3 offer a high standard of amenity, and recreational value. However, these sites have been allocated for development consistently since the adopted local plan and the CNPLP allocations do no more than recognise their current planning status, i.e. that they both have outline planning permission for residential development for up to 104 homes. Those permissions can be implemented irrespective of any local plan designation and we must assume that they will be implemented. Therefore, removing the local plan allocation would not remove the benefit of the permission, nor would it safeguard the sites and prevent development as the objectors might wish. That said, development must respect that essential character and safeguard as much of their current value as possible and we note that this will more than likely be achieved in the following 4 main ways:

1. by adhering to the reference in AV/H2 to the need to work with the woodland, and we note here our agreement with the objectors that the same text reference should be attributed to AV/H3;
2. by full compliance with the conditions imposed on the outline planning permission and with condition 12 in particular;
3. by keeping development clear of the central space that the CNPLP designates as protected AV/ENV. Despite our comments elsewhere in our report about the exact status of these ENV areas, there can be no doubt that CNPA intends that

this space should not be given over to housing development and we support that view; and.

4. by ensuring that any subsequent development proposals are not approved unless they comply with the raft of other relevant CNPLP policies including those related to the conservation of the natural environment and the provision of open space inside developments.

Subject to all of this, we agree with the previous Reporter's view that a sensitive development could be achieved on these sites, which would retain natural and recreational amenity value without necessarily reducing the overall number of homes referred to in the outline planning permission by a substantial margin. It also follows from this that we cannot justify deleting sites AV/H2 and AV/H3 from the finalised local plan for their amenity value.

46.11 One objector has suggested that the ENV designation should be reduced and that the boundary between it and AV/H2/AV/H3 should be blurred to reflect the layout plan submitted to support the current planning applications. We have no hesitation in rejecting this proposition for the following reasons.

46.12 Firstly, no evidence has been submitted to show that the ENV area is incorrect because it does not satisfy its finalised local plan stated function. In other words, to show that it does not have important amenity value or importance to the setting and overall fabric of Aviemore, or that it does not provide locally important habitats, or landscape and recreational resources (paragraph 7.12).

46.13 Secondly, it would be wrong to use the local plan as a vehicle to endorse a particular site layout when that layout does not yet have planning permission and it may well be subject to change given the constraints discussed above. In this regard, we note that the layout has already changed between the August 2005 and November 2008 versions of the plans that CNPA submitted as inquiry documents. Further, this consideration is of particular relevance because agreeing to the objector's suggested change to the CNPLP could inadvertently produce an unacceptably higher density development on site than might otherwise be deemed appropriate.

46.14 Thirdly, if the detailed site analysis process associated with consideration of the planning applications reveals that the integrity of AV/ENV can best be served and secured by moving the shape of the boundaries set by the CNPLP to divide the housing from the open space, then due planning process can accommodate this modification.

46.15 As regards the objectors' comments about the strong potential for second home purchases from these sites, we remind of the affordable housing requirements set out elsewhere in the finalised local plan. We have expressed our concerns about the principle of CNPA's approach to affordable housing. We have also indicated that on its own, it may not be enough to address the dual and linked problems of a lack of affordable housing and too many second or holiday homes, especially in a town like Aviemore where the incidence is acknowledged to be high. However, we agree with the previous Reporter's view that there is no planning mechanism available to address this issue directly and we support CNPA's intention to use the affordable

housing requirement as far as possible to at least limit the potential for second home ownership in the local plan period.

46.16 We also find no evidence to support a need for an alternative allocation to replace any housing potential that might be lost as a result of the acknowledged constraints. But even if there was such a need, we have set out in the other Aviemore sections of this report strong reasons why Kinakyle would not be the best alternative candidate site, especially in comparison to Dalfaber, which fits into the well-established urban area of Aviemore.

Conclusions

46.17 Drawing all of the above together, we have shown that Aviemore sits at the top of the settlement hierarchy which has been established by the strategic planning policy framework set by the CNPP 2007. Therefore, some housing development is to be expected and we conclude that it accords with that role.

46.18 The combined consented total development potential of all of the allocated housing sites in Aviemore is more than Table 4 requires for the local plan period, so that the allocations amount to an over supply of housing land. However, although the finalised version of the local plan offers guidance on housing numbers, issues like the final capacity of the sites and the amount of affordable housing that they might yield will be addressed at detailed planning application stage, in compliance with the conditions imposed on the outline planning permission and the requirements of the remaining relevant finalised local plan policies. In this way, compliance with the strategic planning framework, including the CNPP 2007, will be enhanced and issues like the incidence of second home ownership should be minimised.

46.19 No firm evidence has been submitted to show that the acknowledged constraints of flooding and level crossing traffic capacity limit the potential number of new homes that the sites could deliver to a significant extent or to show that the allocated housing sites are not effective as defined.

46.20 Given the evidence before us, the background of development allocations, the outline planning permission, and the safeguards inherent in that permission plus the other finalised local plan policies, we cannot justify deleting the AV/H2 and AV/H3 allocations in favour of keeping the sites as open space. However, we are equally unable to justify altering the balance between developable land and protected open space in the absence of compelling evidence and on the basis of an application plan that has yet to be approved.

46.21 For all of the above reasons, we find that there is no need to substitute other land for housing sites AV/H2 and AV/H3, but even if there were such a need, Kinakyle is not an appropriate alternative.

46.22 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

46.23 Accordingly, we recommend that housing allocations AV/H2 and AV/H3 as shown on the proposals map for Aviemore in the Deposit Local Plan Modifications (1st and 2nd) October 2008, should be taken forward into the adopted local plan.

Issue	Aviemore West incorporating Aviemore Highland Resort		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400i(f)
Procedure	Written submissions		
Objectors	Roy Turnbull	Objection refs	390n
	Woodland Trust Scotland		393e
	The Clouds Partnership		398e
	Aviemore & Vicinity Community Council		416e
	Aviemore Highland Resort Ltd		441 & 435a/b

Reasoning

47.1 The west side of Aviemore has an extensive and complex planning history. From the evidence available to us, we believe that it includes the following.

47.2 The adopted Badenoch and Strathspey Local Plan 1997 supports redevelopment of the whole Highland Resort area on the west edge of Aviemore, subject to an overall masterplan. At the heart of any redevelopment is a major refurbishment of the hotel facility. Otherwise, it should incorporate commercial, civic and community uses including a substantial central parking facility, plus:

- 4.6 hectares of housing in the Centre Lands with capacity for some 120 homes, which should have good separation from the A9 trunk road, a 30 metre buffer to the Scandinavian Village, and a section of village park; and
- a linear park/walkway and open space corridor to the burn.

Centre Lands is covered by a Tree Preservation Order and areas to the south, i.e. opposite and near the train station, and to the north, i.e. between the school and the A9 trunk road carriageway, are allocated for recreation and open space (paragraphs 6.2.1 to 6.2.8, pages 52 and 53). The adopted local plan is supported by the Aviemore Masterplan 1997, which proposes initiatives like a new public/community village green linked to the existing landmark green space in front of the Four Seasons Hotel, as a focal point for central Aviemore.

47.3 The CNPLP divides the area on the west edge of Aviemore into 4 distinct parts. Starting from the south:

1. Both versions of the local plan designate economic development area AV/ED3. The most southerly portion of this allocation consists of the existing caravan park and motel. The supporting local plan text makes no mention of this area and it is not the subject of any outstanding objections. CNPA accepted at the hearing that because this area is separate from the Aviemore Highland Resort and the rest of AV/ED3, it ought to have a different and discrete designation.
2. To the north of the caravan park, the Aviemore Highland Resort includes the remainder of AV/ED3. The supporting text from both versions of the local plan refers to a potential flood risk on this site and to the need develop closer links to

integrate with the rest of Aviemore. The finalised version of the local plan also refers to the Aviemore Design Framework, which is in preparation as supplementary guidance and is intended to supersede the above mentioned masterplan. The middle area also contains open space around Loch Puladdern, which the finalised local plan designates as AV/ENV to be protected from adverse development, as well as AV/C2 at the existing central car park, which is to be kept as a public park. However, the whole resort area is the subject of outline planning permission reference 07/445/CP, which is for a mixed use development comprising retail, business/office, storage and distribution, residential, leisure, other commercial, holiday lodges, open space, and car parking. The indicative layout submitted to support application shows:

- commercial or leisure and chalet development encroaching into the designated open space;
- housing, business, retail, and town square space on AV/C2; and
- the remainder is a consolidation of the existing hotel and related uses.

The outline planning permission was granted in December 2008 subject to conditions that include approval for the principle of the masterplan. Other conditions require the submission of details for subsequent approval of: community engagement; landscaping and tree management; flood risk assessment; and provision for a community green space as generally indicated on the approved masterplan. The decision was subject to a Section 75 agreement to secure a north/south link road, which is not yet finalised. In the meantime, application 08/241/CP was submitted for full planning permission for the demolition of an existing administration building and the construction of a mixed use development comprising residential, retail, office, community, leisure, environmental improvements, roads, and additional lodges, as well as an hotel extension. The submitted layout follows the broad lines set by the outline permission and CNPA resolved to grant permission in February 2009. This decision is again subject to conditions and a Section 75 agreement that covers a north south access, access to Grampian Road, community provision, affordable housing provision, and developer contributions towards transport improvements. The agreement also remains outstanding.

3. North of the resort area is housing site AV/H1, which the deposit version of the local plan notes has outline planning permission for around 120 homes. The finalised local plan updates this to refer to detailed permission for 161 homes and increases the size of the designation to cover the whole area between Craig-na-gower and the A9 trunk road corridor *to reflect planning permission*. The bulk of the area is covered by approval of reserved matters 05/306/CP for 140 homes, which was granted in March 2008. The approved layout plan includes a broad margin of open space along the west site boundary to the A9 and the conditions imposed include flood control measures, access, nature conservation measures, and tree preservation. The remainder of the AV/H1 site, i.e. the space between the Highland Resort and the above consented site, and west of the Scandinavian Village, has full planning permission for 21 houses. This was also granted in March 2008 and again, the conditions include flood protection, access, and nature conservation measures.
4. The remaining area is a strip of land to the north of all of the above and between Aviemore Burn and A9. This area is designated AV/OS1 in the deposit version

of the local plan, which changes to AV/ENV in the finalised version whereby it becomes protected from only adverse development. The size of the space has also reduced in the finalised local plan as AV/H1 has increased.

47.4 Based on the above objections, which we were asked by CNPA to consider, as well as the written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- whether the allocations are appropriate for Aviemore's role in the settlement hierarchy identified in the CNPP 2007 and the CNPLP;
- whether there are any matters which constrain these allocations;
- whether housing site AV/H1 is effective in terms of SPP 3: *Planning for Homes*, Annex A, paragraph 17 bearing in mind that it suffers a flood risk; and
- whether land at Kinakyle should be substituted as a better alternative that could deliver the required amount of new housing.

47.5 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

47.6 Turning to the first of the above issues, matters around the position and role of Aviemore in the settlement hierarchy are discussed in detail elsewhere in this report, including in particular in the context of housing allocations AV/H2 and AV/H3. In summary, we have concluded that because Aviemore is identified in the CNPP 2007 as a main growth settlement for the Park and the development allocations are inside the well-established and defined settlement boundary, they accord with the strategic objectives of the CNPP 2007.

47.7 As regards the second issue, discussion at the hearing revealed that much of the western edge of Aviemore is covered by a Tree Preservation Order, so that many of the attractive and mature trees that enhance local amenity benefit from explicit and statutory protection. Beyond that, CNPA has a statutory duty under Section 159 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, to ensure that in granting any permission for development, adequate provision is made for the preservation and planting of trees. Therefore, while we are satisfied that it would be helpful if CNPA makes this position clear at least in the plan text, we find no need to add another explicit layer of tree protection via the local plan.

47.8 Moving on to consider the demarcations shown on the finalised local plan, we find that the size and shape of the AV/H1 allocation shown on the proposals map in the finalised version of the local plan is misleading because the colouring on the map implies that AV/H1 has expanded at the expense of protected open space. While we have explained elsewhere our concerns about the way in which the ENV allocations are handled throughout the finalised local plan, we accept and support CNPA's intention to keep this area free of built development and we understand that the approved housing development layout plan from permission 05/306/CP keeps a broad swathe of open space along the boundary of the A9 corridor. As a result, the spirit and integrity of the deposit version of the plan seems to have been preserved

in that permission. However, our major concern is the possibility that the consent might lapse unimplemented, leaving a local plan allocation that suggests housing development is encouraged across the whole of AV/H1. This shortcoming must be addressed and it could be resolved either by inserting a text reference to cover the retention of that area of open space, or by simply reinstating the allocations from the deposit version of the local plan.

47.9 We are also satisfied from the discussion at the hearing that there are some significant differences between the plan and the permissions covering that part of the western edge that we have described above as area 2. For example, we note that the approved lodges encroach into the AV/ENV area and that AV/C2 is to be largely covered by built development not given over to use as a public park. In deciding to grant the permissions, the finalised local plan should have been treated as a material consideration and the differences should have been justified explicitly. We have no evidence to show that this was done or that the finalised local plan losses will be compensated elsewhere on the overall site in equivalent or better locations. That said, if CNPA releases the permissions, they will co-exist and not replace the local plan and we find no strong reason to change the finalised local plan demarcations because:

- the permissions have not yet been issued, pending the Section 75 agreements, and they might conceivably change again leaving the finalised local plan out of accord;
- the finalised version of the local plan accords with the aspirations of the current adopted local plan and the masterplan; and
- the essential purpose of the finalised CNPLP is to set out a broad framework and to describe CNPA's expectations for the area, not to prescribe in fine detail precisely what development must occur exactly where.

47.10 While we accept that core paths are being dealt with via a separate statutory process, we find that it is appropriate for the local plan to set out the aspiration that the resort area should be better integrated with the rest of Aviemore, to the mutual benefit of both. Integration is a valid planning objective irrespective of land ownership and again, it reflects the adopted local plan, the masterplan, and the CNPP 2007 strategic objectives for access and recreation. Further, improved footpath linkages accords directly with national planning policy, including as set out in SPP 17: *Planning for Transport*, which aims to reduce the use of vehicular transport. Therefore, we are satisfied that it is appropriate for the local plan to retain this general objective, especially as CNPA's evidence, which has not been disputed, is that permission 08/241/CP would improve integration anyway, by virtue of the footpath links shown on the application plans.

47.11 Next, we note that CNPA is in the process of updating the 1997 masterplan and changing the format to become a design framework. The information supplied after the inquiry, at our request, confirms that this new version is intended to provide supplementary guidance on design in Aviemore. A draft framework has been produced, which has not yet been released for consultation. We expect that, in accordance with PAN 81: *Community Engagement* and with new planning legislation, CNPA will publicise and consult widely on this, and we anticipate that the process will include landowners and the Community Council. Against that

background, we have no hesitation in finding that it would be wrong to burden the finalised local plan with details like a list of specific parties to be consulted on the framework.

47.12 Turning then to the third issue of effectiveness, the deposit version of the local plan makes explicit reference to flood risk affecting housing site AV/H1 but there is no evidence before us to show that the risk is so great that the whole allocation must be regarded as not effective and deleted from the local plan accordingly. Further, although the text reference to flooding has been removed from the finalised version of the local plan, the permissions granted are all subject to detailed conditions that address the impact of any risk arising from development. We must assume that these permissions will be implemented whether or not the allocation remains in the plan. Therefore, while we accept that AV/H1 is affected by a flood risk, the evidence before us is that the risk can be managed without a major reduction in the number of houses that the allocation can produce. Accordingly, we find no need for substitute housing land to accommodate a significant displacement.

47.13 The last issue relates to the need for housing land and the amount allocated in the finalised local plan. We have discussed this issue elsewhere in our report and we have concluded that overall, the finalised local plan produces an overly generous supply. For Aviemore in particular, we have concluded that AV/H2 and AV/H3, where the consented supply is 265 homes, is also an over supply. As a result and in principle, we find no need for extra land to be allocated and there is an in-built margin of flexibility to cope with a degree of constraint on the allocated housing sites. We have also found no evidence to support a need for an alternative allocation to replace any housing potential that might be lost because of the constraints that are acknowledged to affect any of the allocated housing sites. But even if there was such a need, we have set out in the other Aviemore sections of this report strong reasons why Kinakyle would not be an appropriate alternative site, especially in comparison to AV/H1, which fits into the well-established and clearly defined urban area of Aviemore.

Conclusions

47.14 Based on all of the above, we find that the development allocations for the west side are appropriate for Aviemore's role in the settlement hierarchy and they accord with the strategic objectives of the CNPP 2007.

47.15 The whole of the west side of Aviemore contains mature trees that enhance local amenity. These trees already have a high level of statutory protection at least by virtue of a Tree Preservation Order, and we find no need to add to that protection via the CNPLP although it would be helpful if the associated plan text made the Tree Preservation Order position clear.

47.16 The finalised local plan proposals map makes AV/H1 look as if it encroaches into open space that was protected from development in the deposit version of the local plan. However, the approved site layout plan for 05/306/CP shows that the area in question is reserved open space, so that development should not in fact encroach. As a result, the finalised version of the local plan is capable of misinterpretation on this and the shortcoming should be rectified but, for the reasons

set out above, we cannot agree that the finalised local plan should be altered to match the application plans for the Highland Resort area.

47.17 Matters related to the designation, location, and use of paths throughout the area are all currently being investigated via a separate statutory process. However, the general aim of better access by non car transport and integration between the Highland Resort and the rest of Aviemore is a longstanding and valid planning aspiration, which accords with national and strategic planning policy. On that basis, we are satisfied that it should remain in the finalised CNPLP.

47.18 CNPA is in the process of updating the existing masterplan for Aviemore, to turn it into a design framework that will act as supplementary guidance to the local plan. This process must entail wide public consultation, including with affected landowners and the local community council. However, it would be wrong to burden the finalised local plan with explicit detail covering this procedure.

47.19 No quantifiable evidence is before us to show that the flood risk affecting housing site AV/H1 is so great that the site is not capable of development in the relevant plan period, or that it would yield far less housing than the finalised local plan anticipates. As a result, we find that the site is effective as defined in SPP 3.

47.20 The housing land allocated at AV/H1 reflects the adopted local plan as well as the various extant planning permissions. Therefore, for this reason and given all of the above, we have no reason to look for an alternative housing site, but even if there were such a need, Kinakyle is not an appropriate substitute, especially in comparison to AV/H1 which is inside the well defined and established urban boundary.

47.21 Drawing these matters together, the objections raise no significant concerns that would prevent the allocation of land on the west side of Aviemore for development as proposed by the CNPLP. We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

47.22 Accordingly, subject to our comments set out above and while we suggest that:

- the issue of the delineation of the protected open space at AV/H1 should be addressed; and
- reference to the Tree Preservation Order should be added to the supporting plan text,

we recommend that the allocations shown on the proposals map along the west side of Aviemore, including AV/H1 and AV/ED3, should be taken forward into the adopted local plan broadly as described in the Deposit Local Plan Modifications (1st and 2nd) October 2008.

Issue	Ballater housing allocation BL/H1		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objectors	Stuart Wright	Objection refs	030
	James & Evelyn Sunley		056d/j/l/q/s/t/u
	Ballater (RD) Ltd		076a
	B Wright		076
	Ballater & Crathie Community Council		091a
	Mr & Mrs J Houston		096a
	Harry Wight		401
	Phillip John Swan		462c/d/f
	J A Lovie		488
	G Adams		531
	Victor Jordan		537
	Captain J Schuneman		538
Procedure	Written submissions		
Objectors	DW & IM Duncan	Objection refs	037q
	Colin Robertson		050
	George Inglis		053
	Serena Humphrey		066a
	Michael F Franklin		078
	Gordon Cowie		085
	Aileen M Barbour		356
	Scottish Environment Protection Agency (SEPA)		399r(b)
	Scott Fraser		404
	M Pietranek		405
	Scottish Campaign for National Parks		434r
	Dinnet & Kinord Estate		438c
	David T Lapsley		451
	Carole Dickson		481
	Gordon Chaplin		535c

Reasoning

48.1 The adopted Aberdeenshire Local Plan 2006 identified a site fh1 to the northeast of Monaltrie Park but provided no indication of the capacity of the site or when it might be built out. The deposit version of the emerging CNPLP identified a site of 10.99 hectares in this vicinity as providing an opportunity for housing land. In the finalised version of the CNPLP the site is extended further to the northeast to cover a total area of 16.12 hectares that is identified as an opportunity for housing and mixed use for the longer term in Ballater. The emerging local plan considers that the site has a capacity for around 250 units with 90 dwellings envisaged for construction during the life of the local plan. The plan expects a further 100 houses will be built in the period to 2016 with the remaining capacity available to meet medium to long term need.

48.2 There have been a substantial number of objections raised with regard to the allocation of site BL/H1 and these were supported by a petition with numerous signatures. For the avoidance of doubt, the number of objections or objectors cannot be the deciding factor in assessing the merits of the allocation. In our reasoning set out below it is the quality and relevance of the arguments placed before us which are paramount.

48.3 Based on the above objections that we have been asked by CNPA to consider, as well as the written submissions and the evidence from the hearing, we find that the considerable list of concerns raised to allocation BL/H1 can be boiled down to 3 principle propositions: first, there is no need in this local plan for the allocation of a site within Ballater in order to meet current and likely future demand for market housing and the need for affordable housing in the National Park; second, even if a site is required, the dimensions and location of site BL/H1 render it unsuitable for the sort of mixed development apparently envisaged by CNPA; and third, the text accompanying the proposals map does not describe adequately the changes in land use which are proposed and how these will be managed.

48.4 As far as the first proposition is concerned we find that the main issue to be addressed is:

- whether the allocation meets the strategic objectives of the CNPP 2007 towards: sustainable communities; housing; landscape, built and historic environment; and sustainable tourism.

48.5 As far as the second proposition is concerned we find that the main issues to be addressed are:

- whether any settlement specific factors run against the identification of the objection site; and
- whether site BL/H1 is effective in terms of the criteria set out in SPP 3: *Planning for Homes*, Annex 3, paragraph 17.

48.6 As far as the third proposition is concerned, we find that the main issues to be addressed are:

- whether the masterplan approach is appropriate for implementation; and,
- if so, are there adjustments to the CNPLP text which will assist in demonstrating the intended pattern of the development of BL/H1.

48.7 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

48.8 Turning to the first proposition, we must note at the outset that we agree with Aberdeenshire Council and CNPA that the terms of the emerging Aberdeenshire Structure Plan and that of its predecessor can carry little weight in reaching our findings. We must look to the terms of the CNPP 2007, which has been approved by the Scottish Ministers, for the strategic guidance within which the CNPLP should be

prepared. Within that we take as our starting point that: *The National Park Plan provides an overarching context for development planning and management within the National Park. The Local Plan will set out detailed policies to guide development in ways that contribute to the strategic objectives of the National Park Plan. The National Park Plan is a material consideration in planning authority decisions* (page 14). We find that there are sound reasons for drafting policies for application Park wide, but the proposals maps and their associated texts should reflect the needs and potentials of individual communities. In short, we agree with the objectors who state that *What is good for Aviemore is not necessarily correct for Ballater*.

48.9 Section 5.2 of the CNPP 2007 sets out strategic objectives for Living and Working in the Park; and section 5.2.2 deals with sustainable communities. Neither the CNPP 2007 nor the emerging local plan provides a definition of a sustainable community and we have set out elsewhere in this report our doubts about the usefulness of the definition proposed by CNPA at the inquiry. In the absence of a better approach we recommend the adoption by CNPA of the description of sustainable communities which appears in of the recently issued SPP 3: *Sustainable communities provide high quality, affordable homes for all sectors of the community, with opportunities for the creation of jobs, provision of education and other services necessary to enable high standards of living, cultural identity and creation of environments which encourage healthy and active living. They should fit well in the local landscape, maximise the opportunities of the location and should be fully integrated with both public transport and active transport networks, such as footpaths and cycle routes, rather than being dependent on the car. They should make a significant contribution to reducing emissions of carbon dioxide* (paragraph 50).

48.10 We will return to applicability of that definition to Ballater later in our reasoning. In the meantime, we move on to the strategic objectives for Sustainable Communities set out in the CNPP 2007. Of particular relevance are: *a) Encourage a population level and mix in the Park that meets the current and future needs of its communities and businesses; and b) Make proactive provision to focus settlement growth in the main settlements and plan for growth to meet community needs in other settlements* (page 67).

48.11 The CNPP 2007 identifies the main settlements of the Park as Aviemore, Grantown-on-Spey, Kingussie, Newtonmore and Ballater; and it confirms that they all play a strategic role in the wider region (page 66). Ballater is the largest settlement on the eastern side of the National Park. We note that in the middle of the last century the resident population was around 1300 and in decline. However, in its last 2 decades the trend was reversed. In 1991 the resident population was 1362, in 2001 it was 1496, and the mid-year estimate for 2006 is 1520. We can accept from the objectors that some 290 houses have been built since 1984. Seen in that context we do not regard the allocation of BL/H1 with a capacity to provide around 250 units up to and beyond 2016 as a major discontinuity in trend.

48.12 There can be no doubt that Ballater is also the settlement in the eastern edge of the National Park with the *greatest range of existing services and infrastructure which can best accommodate increased growth in a sustainable way* (CNPP 2007, page 67). We accept without question that there are brownfield and infill sites within Ballater which may have potential for development. We do not rule out the

possibility that some of these may provide windfall additions to the effective land supply. However, no evidence has been brought to the inquiry which demonstrates how any, let alone all, brownfield and infill sites can be made available for development over the lifetime of the local plan. In these circumstances we must agree with CNPA that an allocation of greenfield land is necessary if the strategic objectives of the CNPP 2007 are to be achieved.

48.13 In that context, SPP 3 reminds us that: *Where brownfield and infill sites cannot meet the full range of housing requirements, it may be necessary to release greenfield land next to built-up areas. Meeting housing requirements through extensions to existing towns and villages can have a number of advantages. Servicing costs can be reduced and new housing may benefit existing communities by helping to sustain local school, shops and services* (paragraph 68). From our site inspections it is obvious to us that, given its current population of around 1600 the residents of Ballater are relatively well served in terms of the range of shops, private and public services. These include the essential elements of post office, library, medical centre and a primary school, which is currently working around 20% below its permanent capacity of 145 pupils. There is no doubt that the underlying trend throughout rural Scotland is for the concentration of commercial ventures and also public sector provision into fewer, larger centres. That was the trend in the second half of the last century which saw the closure of the cinema, the secondary school, a bank, a chemist and principal post office status in Ballater. With that in mind, we have noted the comments of the Ballater and Crathie Community Council and are in no doubt that the provision of further “close support” for existing facilities in Ballater will underpin the activities of locally based enterprises and other providers of job opportunities. It will also assist in the selective regeneration necessary to ensure that the urban fabric delivers the requirements of the 21st century while maintaining the distinctive character and appearance valued by existing residents and attractive to visitors using Ballater as an entry into the National Park.

48.14 Drawing these matters together, we find that allocation BL/H1 within Ballater is compatible with the strategic objectives of the CNPP 2007 and national policy towards sustainable communities. The CNPLP must conform to the requirements of the CNPP 2007 in meeting its objectives for sustainable communities. Accordingly, the question to be addressed by the local plan is not *whether* Ballater should accommodate some of the population increase projected for the Park. Rather it is how much, where and when ?

48.15 Section 5.2.4 of the CNPP 2007 sets out strategic objectives for housing. These include: a) *Increase the accessibility of rented and owned housing to meet the needs of communities throughout the Park*; and d) *Ensure there is effective land and investment for market and affordable housing to meet the economic and social needs of communities throughout the Park* (pages 72 and 73). In dealing with the objections relevant to housing we are bound to focus our reasoning solely on those properly made and not withdrawn to the allocation of site BL/H1. However, we accept that by the time the hearing sessions were scheduled there were some objectors who took the view that it might have been advantageous in promoting their case that BL/H1 should be deleted from the proposals map if they had referred in their objections to matters relevant to housing land supply and affordable housing in the Park as a whole. These matters of general interest were scheduled for hearings

at the inquiry and they were dealt with in adequate detail for us to make findings that are set out in detail elsewhere in our report. In order to provide a link with matters relating to land supply and affordable housing, and to place the properly made objections within their wider context, we repeat some of our general findings below.

48.16 We have considerable concerns about how the calculation of the housing requirement which appears as Table 2 in the CNPLP has been derived. Nor is it clear to us how the phased land supply by local authority area and by settlement as set out in any of the various versions of Table 3 and Table 4 has been arrived at. We have found that both the housing requirement as adopted by CNPA and the housing land supply largely inherited from the adopted local plans and allocated in the proposals maps is likely to be considerably more than is justifiable for the Park as a whole. Nevertheless, CNPA is bound to monitor the rate at which the land supply is built out and we recognise that the phased release of land can be a powerful mechanism for matching the supply of land with the demand for market housing and the need for affordable housing.

48.17 As far as the content of Table 4 is concerned, we cannot be satisfied that the allocations contained in any of its successive versions refer to the established housing land supply in the various settlements let alone the effective land supply defined as that part of the established land supply which is free, or is expected to be free, of development constraints in the period under consideration. In that respect the emerging local plan fails to meet basic requirements of SPP 3. The deficiencies which we have identified in the overall calculations, and the allocations to particular settlements including Ballater, are serious deficiencies in the preparation of the CNPLP; and they should be rectified before the plan is progressed to adoption.

48.18 Taking forward the question of the allocation of land to meet locally generated demand for market housing and need for affordable housing, we doubt that an over generous provision of land for market housing without occupancy restrictions is the way to address these challenges in the special circumstances of the National Park. We have suggested that outcomes should be monitored carefully and further research undertaken. Only then can CNPA provide robust evidence that shows that restrictions on the occupancy of new dwellings in some or all circumstances would not be a useful way forward for at least some settlements of the Park including Ballater.

48.19 Turning specifically to affordable housing, we have found that the general approach in the local plan accords with the terms of the CNPP 2007, the structure plans as far as relevant, national planning policy and, as far as possible in the special circumstances of the National Park, with the advice on good practice contained in PAN 74: *Affordable Housing*. Despite the margins of error endemic in such calculations, we have found that the estimates of need for affordable housing adopted by the local plan are a sufficiently reliable evidence base on which to develop policy for the Park as a whole. However, the formulation of proposals to deliver affordable housing has been undermined by the failure to disaggregate need to the settlement level. This is serious failing with inevitable consequences for the housing land allocations in the hierarchy of settlements. The absence from the emerging local plan of an estimation of the extent of local need for affordable

housing is a flaw which should be remedied before the local plan is progressed to adoption.

48.20 With these general findings in view, we can turn now to their particular applicability to Ballater. Some objectors have suggested that the allocation of land within the settlement should be restricted to what is needed to meet the locally generated housing requirement for market and affordable housing i.e. the number of units of each type required for existing residents, those with strong local connections, and to meet local employment opportunities. In that context, based on our findings above, we agree that reliance on the provision of market housing as a driver for the provision of affordable housing leaves open the possibility that the supply of land will exceed that which is required to meet all local requirements. Ballater lies some 65 kilometres from the centre of Aberdeen and hence it is outside of easy commuting distance. In any event other communities including Banchory and Aboyne present intervening opportunities. In these circumstances, on the basis of past trends, it is reasonable to suppose that some proportion of the new build will be purchased as second or holiday homes and that may leave some locally generated requirement unfilled. It is also probable that the demographic profile for Ballater will be further skewed towards the older age groups by in-migration from those at, or approaching, retirement age attracted by the availability of market housing within the high amenity provided by the National Park.

48.21 There is no dispute that there is a requirement for affordable housing to provide adequate accommodation for those, particularly in younger age groups, who have, or have expectation of, employment in Ballater and its immediate vicinity. That fact is common ground between CNPA and the objectors. Where the parties differ is in the mechanisms that they propose to deal with the challenges. We saw at our site inspections some parcels of land that may have some potential for development for market and affordable housing. However, identification of sites with potential is only the start of the complex process of delivery. That is dependent on developers coming forward with appropriately devised planning applications capable of being implemented. In any event, successful developments of small sites, whether for market or affordable housing, are properly treated as “windfalls” which are additional to the allocation which appears on the proposals map and need not be identified within it. The role of windfall sites is discussed in detail in Annex A to SPP 3 (paragraph 24), which makes clear that the fact that such sites are not specifically identified in no way diminish their potential to be built out. We find that the abandonment of allocation BL/H1 would not trigger sufficient units on brownfield or windfall sites to meet the need for affordable housing within Ballater. Nor does the fact that these sites are not identified in the CNPLP preclude some contribution to the supply of affordable housing.

48.22 When we review our findings in the round, we must emphasise again our view that the over provision of land for housing is a blunt weapon which leaves CNPA ill-equipped to meet the challenges it faces in terms of the provision of accommodation to meet need and demand for houses affordable by all members of local communities. However, as far as Ballater is concerned, we must conclude that the allocation of BL/H1 will contribute to the strategic objectives of the Park for housing by: increasing the accessibility of rented and owned housing to meet the housing needs of communities of Ballater; and seeking to ensure that effective land and

investment for market and affordable housing is available to meet the economic and social needs of Ballater. The period covered by this plan allows for 90 units and monitoring of its implementation together with the preparation of the forthcoming Local Development Plan will allow the situation to be kept under review.

48.23 Having dealt with the contribution of BL/H1 to the objectives of the CNPP 2007 towards the creation of sustainable communities and the provision of housing, we can turn now to the objectors who fear that development of BL/H1 will change irrevocably, and for the worse, the character, appearance and ambience of Ballater. Those fears are neatly summarised as follows: *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 development north eastwards, suburbanise the strath and would, with absolute certainty, lead to more development down the strath towards Tullich...*

48.24 When we consider the design, layout and materials of the most recent housing built in Ballater we can understand what is troubling these objectors. The objection site lies between fingers of housing which extend the built up area along the flanks of the strath with one development bordered by the steep slopes of Craigendarroch to the west and the other by the A93 trunk road to the east. We were able to confirm at our site inspections that although they are not well integrated with the settlement core, both are well planned neighbourhoods designed with different sectors of the market in mind. Both would fit readily into a suburb of any major city. However, neither incorporates any echo of the vernacular architecture of the Park nor makes much use of traditional materials. In short, both sit rather uneasily as additions to the long established core of the settlement of Ballater. We agree with the objectors that any further development along these lines at BL/H1 would suburbanise the countryside contrary to the requirements of SPP 15: *Planning for Rural Development*.

48.25 Nevertheless, what is feared by the objectors need not be the actual outcome. Of critical importance, the policies and proposals of the emerging local plan must comply with the strategic guidance provided by the CNPP 2007. Section 5.1.2 of the CNPP 2007 sets strategic objectives for Landscape, Built and Historic Environment. Of particular relevance is item d) *New development in settlements and surrounding areas and the management of public spaces should complement and enhance the character, pattern and local identity of the built and historic environment* (page 39). When we examine the historic environment, certain essential and enduring elements emerge. Following the extension of the rail link to Aberdeen in 1866, Ballater built on its village origins and reputation as a “spa” to become a place of resort and second homes for the affluent as well as a fashionable destination for “Royal watchers”. Important elements retained from that period include the field of the Ballater Games (first held in 1864), a gridiron street pattern (laid out by mid century), and the open space dominated by the Glenmuick Parish Church (rebuilt in 1874). Important also are the former railway station (rebuilt in 1886), the qualities of public buildings (including the Albert Memorial Hall, 1875) and of commercial concerns (including the former Invercauld Arms Hotel, 1882). To the mansions (including Darroch Learg, 1880) were added numerous stone built dwellings with slated roofs sited in their own considerable garden grounds. The Victorian setting for the settlement was completed by the bridge over the Dee (rebuilt in 1885) and the purchase of land for

the golf course (1892) along with its Edwardian extension to 18 holes (1905). Drawing these features together, we find that the distinctive *character, pattern and local identity* of Ballater today reflects the structure and morphology of the area of Victorian times. The merits of the core area have been recognised in its designation as a conservation area.

48.26 It follows from the requirements of the CNPP 2007 that, in order to comply with its terms, a proposal to develop BL/H1 must have substantially more in common with the character, pattern and local identity of the built and historic environment of conservation area than with the layout, massing, and materials employed in the most recently developed neighbourhoods. All of the evidence brought to the inquiry suggests to us that CNPA is well aware of its obligations in that regard and also the need to avoid the banal and the pitfalls of pastiche in the development of the objection site. In addition, any planning application must satisfy all of the policies of the adopted local plan. These provide a formidable bundle of further safeguards against the sort of development which the objectors fear. Further reassurance is provided by the commitment of CNPA to prepare a masterplan to ensure the orderly development of the site.

48.27 Moving on from there, we agree that the northern edge of BL/H1 is not marked by an easily recognisable, robust and defensible boundary. This is a matter to which considerable attention should be paid. At the very least, we would expect a requirement in any planning approval for the provision of adequate structure planting. In addition, we note the evidence from CNPA that it would not rule out the allocation of adjacent land to the north for the planting of a community woodland.

48.28 When we review our reasoning with regard to this set of objections, we find that the concerns regarding the impact of the development of BL/H1 on the identity of Ballater and the consequent suburbanisation of the strath are perfectly understandable. However, the requirements of the CNPP 2007, the policies of the emerging local plan, and the commitment to prepare a masterplan in consultation with all interested parties are sufficient to reassure us that development need not change irrevocably the identity of Ballater as characterised by its Victorian heritage nor necessarily lead to the suburbanisation of the strath to the north along the strath.

48.29 We can turn now to the concerns of objectors regarding the impact of the development of BL/H1 for housing and mixed development on the tourist industry in Ballater. Section 5.2.3 of the CNPP 2007, which deals with Economy and Employment, confirms that: *The sustainable growth of the economy is key to maintaining sustainable communities and to creating a strong and vibrant National Park which also stimulates and supports the wider regional economy* (page 69). The CNPP 2007 also makes specific mention of the importance of tourism in generating employment opportunities. In that respect, as we have seen, the development of BL/H1 will provide year round close support for the shops and other facilities and assist in maintaining them as an attraction for visitors.

48.30 We agree with those objectors who state that: *Crucial to any tourism destination is its visual attractiveness to the discerning visitor*. It is perfectly understandable that these residents should seek reassurance that development within BL/H1 should not detract from the experience of visitors. We find that the

concerns of the objectors relate to the impact of development of BL/H1 on: views out from the Monaltrie Park towards Tullich; the views into the settlement taken from the heights of Craigendarroch and Craig Coillach; and views into the settlement as approached along the A93 from Dinnet, Aboyne and beyond. In assessing the weight to be given to these concerns we have taken account of the findings of the Cairngorms Landscape Capacity for Housing Ballater Final Report (August 2005) (CD 7.19) and supplemented that with our own extensive site inspections from each of these viewpoints.

48.31 While it is clear that the uninterrupted view northwards down the strath from Monaltrie Park Avenue will be impeded by development of BL/H1 we do not see this as crucial to the enjoyment of the annual Ballater Highland Games, the meetings of the Ballater Boules Club, vintage car and caravan rallies or any other event which, from time to time, may be staged there. We note in passing that surrounding development may be beneficial to users of the proposed sports pitches during inclement weather. The development of part of the site as a community woodland, as some objectors propose, would also cut off the view down the strath as seen from the Park. As far as the long views from the tops Craigendarroch and Craig Coillach are concerned, the site is always going to be read as part of the settlement which is already part of these views. We are satisfied that the impact of a well planned development will be slight and the consequent reduction in the attraction of these places to walkers would have no significant impact for businesses focussed on tourism. We have paid particular attention to the approach to Ballater as viewed from the heavily trafficked A93. We recognise the importance of this entrance to the National Park and the significance to the visitor experience of providing an attractive gateway. The development of BL/H1 could be used as an opportunity to incorporate improvements to the current position by means of well chosen structure planting and a built environment more attractive than that which is currently available to visitors as their first impression of the built up area of Ballater. Drawing these matters together, we find that there need be no significant net impact on the income and employment generated by tourism in Ballater consequent on the development at BL/H1.

48.32 Turning now to the second proposition and taking the first issue, as we have seen the CNPP 2007 identifies the main settlements of the Park as including Ballater; and it confirms that they play a strategic role in the wider region. The main settlements have been carried into the CNPLP as *strategic settlements* and chapter 7 states that: *The majority of development and provision of facilities should be provided within strategic settlements. This is supportive of sustainable approaches to site selection and ensures that the key areas of growth are focused in a number of areas where development pressure can be managed appropriately* (paragraph 7.2).

48.33 With that requirement in mind, we go on to discuss whether the identification of site BL/H1 amounts to a sustainable approach to site selection. The Cairngorms Landscape Capacity for Housing Ballater Report (August 2005) (CD 7.19) identifies within site BL/H1 land providing opportunities for housing development, as well as the elevated grassland and some managed farmland to the north that is judged to be constrained by its landscape character and its visibility from the north. There are some flooding issues on parts of the site with which we will deal later. When we look at the site in the round we must agree with the landscape capacity study that: *There are very clear physical restrictions to the future expansion of Ballater. The steep*

slopes of Craigendarroch Hill to the north west, and the golf course/ flood plain to the south clearly limit development. In addition, the River (Dee) creates a very clear boundary to the town to the east... In the light of these physical obstacles, and bearing in mind the characteristics of the site, we find that the only realistic direction for an extension to the built up area of Ballater is to the north.

48.34 Many of the objectors are concerned that site BL/H1, even at 16.12 hectares, is simply too small to accommodate at satisfactory densities the 250 housing units and all of the other development which CNPA apparently has in mind, while taking into account landscape constraints and the possibility of flooding on part of the site. In addressing these concerns we have relied heavily on the capacity evidence brought to the inquiry by CNPA from their consultants. We find that the consultants have adopted realistic assumptions regarding the land required for ancillary uses including: spine/distributor roads, structural landscaping, play areas/open space; sustainable urban drainage schemes, and land for commercial uses other than residential. From the total has also been subtracted areas to remain undeveloped because of flood risk (1.28 hectares) and the elevated grassland which contributes to the setting of Monaltrie House (1.28 hectares). Based on a developable area of 13.85 hectares the consultants have demonstrated that 250 houses can be accommodated on the site at average densities of between 23 and 30 to the hectare. We agree that these densities can be describes as low to medium. We find that they would not be out of place in Ballater always provided that development can be managed appropriately. As the consultants point out, the ideal capacity for any site must result from wider consideration of site capacity and design issues. We turn to these matters later in our reasoning when we consider masterplanning.

48.35 Before that, we must consider whether the site BL/H1 can make a contribution to the effective land supply. To assess a site, or portion of a site as being effective, it must be established that residential units can be completed and available for occupation in the relevant plan period. SPP 3 sets out the criteria against which a site can be assessed as free of constraints (Annex 3, paragraph 17) and no insuperable obstacles have been brought to our attention regarding ownership, contamination, deficit funding, or marketability. Concerns have focussed on what are regarded as constraints imposed by alternative land use, the provision of infrastructure, and the physical characteristics of the site.

48.36 As far as alternative land use is concerned, we saw at our site inspections that the objection site is currently in grass and we are aware of the proposal that part or all of the objection site should be allocated for community woodland. With regard to the former we note that the Macaulay Institute Soil Survey of Scotland identifies this land as suited to arable cropping and within that as Class 3.2 *Land capable of producing a moderate range of crops*. While we recognise that it would be unwise to encourage profligate loss of arable land we note that only Classes 1, 2 and 3.1, as identified by the Institute, are judged to be the prime quality land that should be offered special protection. With regard to the establishment of a community woodland, no evidence has been provided to demonstrate how this aspiration would be implemented either on site BL/H1 or nearby. With these matters in mind, we cannot agree that the allocation should be removed from the proposals map, replaced with the notation ENV and indicated as reserved solely for recreational or community use in the associated text.

48.37 Only one tentative concern was raised concerning the provision of infrastructure: *There may be certain technical difficulties with site BL/H1 which the CNPA have overlooked in relation to the main drainage of the village.* We were reassured by CNPA at the hearing that water and drainage capacity was adequate for the development site.

48.38 Looking now at what were identified as the physical constraints to the development of the site, we have been provided with a map which shows the area identified as at risk of flooding during a 1 in 200 return period flood event. We heard evidence that we should be sceptical of SEPA's general approach and its particular application at this site. However, we are bound to give considerable weight to SEPA's assessment of what is required if the site as a whole is to be judged to be effective; and we find that its generally supportive advice should be incorporated into the text associated with the proposals map.

48.39 Turning to the question of vehicular access we reject at the outset any notion that the development at BL/H1 can be considered as a "new town" or even "new village". Good planning requires that it be an integral part of Ballater and the question is whether problems of vehicular access, internal circulation or parking are sufficient to preclude its development. We are in no doubt that access to the site from the A93 and the B972 presents difficulties but the lines drawn to our attention by the objectors can only be speculation at this stage. The difficulties presented by access to the site are challenges to be overcome when a specific proposal comes forward rather than insuperable obstacles to development. In that connection we support the protection to be given to the elevated grassland to Monaltrie House, which may assist in meeting the particular concerns of the residents of Monaltrie Avenue and Monaltrie Close.

48.40 As far as traffic circulation generally is concerned, we agree with those objectors who point out that the layout of the streets in the recently developed neighbourhoods in Ballater is not perfect and does not present *connected growth of the village*. In that context PAN 67: *Housing Quality* reminds us that *Culs-de sac need to be used with care in housing layouts, as they can put pressure on the local network of streets without making any positive contribution to it* (page 30). Looking to the future, PAN 75: *Planning for Transport* advises that *All new and re-development proposals should be designed for safety and the convenience of all users. Good design and layout of a development can significantly improve the ease of access by non-car modes* (paragraph 34). We can understand that existing residents, particularly in the newer neighbourhoods might be irritated and inconvenienced if some of the traffic generated from the objection site appeared on the existing street pattern and made demands on parking space in the core of Ballater. However, improvement could be achieved through traffic management and the provision of pedestrian and cycle paths designed to link all of the new neighbourhoods with the school and the settlement core. When we review all of the evidence from the objectors relating to access and circulation we cannot find evidence of such serious difficulty, or detriment to general amenity, or hazard to pedestrian or vehicular safety in Ballater that the site BL/H1 should be deleted.

48.41 Drawing all of these matters together we have no evidence that there are constraints on the development of BL/H1 of such magnitude that the site cannot make a contribution to the effective land supply.

48.42 We note that the text associated with BL/H1 in the CNPLP states in part (iv) that: *The National Park Authority will work with the community, developers, and the Prince's Foundation, to ensure that a masterplan that reflects the community's needs and the special character of Ballater is prepared for the site.* PAN 52: *Planning in Small Towns* and PAN 71: *Conservation Area Management* provide sound advice that is relevant to Ballater. Moving on from there, PAN 83: *Masterplanning* adds the following on good practice: *Key factors which are important from the start include having a clear vision, writing a good brief, getting the right, committed, team, strong leadership and working together in partnership* (page 9).

48.43 As far as the *clear vision* is concerned, we have noted elsewhere in our report that there are sound reasons for having a vision for the Park as a whole. The proposals maps and their associated text must then be specific about the needs of individual communities. PAN 83 advises that: *The vision for a particular site should form part of, or respond to, the larger strategic vision for an area and should, ideally, be set out initially in the development plan* (page 9). The CNPLP text associated with Ballater contains no indication of how the distinctive problems and potentials of this main settlement, and the land allocations within it, can fit into the long term vision for the Park. As far as strategic settlements, including Ballater, are concerned, paragraph 7.2 of the finalised version of the emerging local plan, which we have quoted above, takes matters only a little way forward and we find that this is unsatisfactory.

48.44 Within that general context, we find that none of the land allocations within the proposals map for Ballater are underpinned by concise, clear, reasoned justifications and an explanation of the contribution that they can make to the achievement of a sustainable community compatible with the vision for the Park. This general deficiency has contributed unnecessarily to confusion and concern amongst the objectors on how the proposals map is to be interpreted and what it is intended to achieve. Drawing all of the above matters together, we find that a vision which reflects the problems and potentials of Ballater and complies with the overall vision for the Park should preface the proposals map; and the vision for the masterplan for BL/H1 and its immediate vicinity should flow seamlessly from that.

48.45 Moving on to the challenge of writing a *good brief*, PAN 83 advises that: *Developing a good brief depends on an understanding of the social, environmental and economic context, the dynamics that drive investment decisions, and consideration of how the development will be implemented* (page 9). For BL/H1 to meet this practice, the brief should go further than urban design and include the following: what the allocation is intended to achieve by way of housing and associated mixed development; how, and by whom, it will be implemented; how the development of the land will be phased; what proportion of affordable housing will be delivered; how any environmental impacts will be dealt with; and the relationship to other components of the settlement including the historic core. We return to these and related matters when we consider what adjustments should be made to the associated text.

48.46 In the meantime, we note that the preparation of the masterplan can take full account of thinking from a variety of relevant sources including: the thinking of that son of Ballater, Professor Sir Patrick Geddes; the work of The Prince's Foundation; and the guidance emanating from the Sustainable Communities Initiative. Finally, we note the intention of CNPA to issue a Sustainable Design Guide as supplementary guidance and that will also have relevance for the development of BL/H1.

48.47 Turning to the inter-related matters of *getting the right committed team, strong leadership and working together in partnership*, precisely how that is to be achieved is a matter for CNPA to decide. We note in passing that The Prince's Foundation for the Built Environment held an Enquiry by Design workshop in November 2006. We recognise the merits of that in stimulating debate, and we have noted the conflicting observations of the Community Council and other objectors on what emerged in the subsequent report. However, the contribution of the representatives of the Foundation cannot be a substitute for the statutory planning process. Accordingly, in order to avoid any misunderstanding, we recommend that all reference to that workshop be deleted from the CNPLP text.

48.48 While recognising the constraints on resources, we support the implication that CNPA will assume the role of leader in the masterplanning exercise while accommodating the key roles to be played by other interested parties including the developer(s) and the various communities of interest in Ballater. Community consultation, participation and engagement are integral to the reforms to the planning system now coming into force. In that context, we commend the advice on good practice in PAN 81: *Community Engagement* (page 6).

48.49 When we come to consider whether there are adjustments to the CNPLP text which will assist in demonstrating the intended pattern of the development of BL/H1 we must take account of the matters raised by objectors concerned at the lack of detail on how the site will be developed. These drew a variety of concessions, clarifications and elaborations from CNPA in the course of the written submissions and the hearing. Taken together we find that evidence addresses, as far as is appropriate within the context of local plan the concerns about the detailed implementation of site BL/H1. We find also that the CNPA approach is compatible with the requirements SPP 3 with respect to sustainable communities.

48.50 In the interest of brevity and clarity we present below our suggestions on how the supporting plan text might be adjusted to incorporate what we understand to be the CNPA position at the end of the hearing.

Site BL/HI, of 16.12 hectares, is located to the northeast of Monaltrie Park and provides an opportunity for housing and mixed use. The site has a capacity for around 250 units with 90 dwellings envisaged for construction during the life of the local plan. It is expected that a further 100 houses will be built in the period between 2011-2016 leaving capacity for 60 for the longer term.

A flood risk assessment has shown the site to be affected by flooding. Any future development proposals will be required to avoid the area identified at flooding risk,

i.e. no development is to take place below the 193.8 metre contour and minimum finished floor levels are to be 194.3 metres or above OD.

The National Park Authority will work with the community, developers and all other interested stakeholders to ensure that a masterplan that reflects all of the following as well as the community's needs and the special character of Ballater is prepared for the site.

- i. The area allocated is intended to provide for a range of needs for the community, including housing, business and recreation. There will be scope for the provision of services for residents, day visitors and tourists. An innovative approach to design and layout including access and movement within the site will be encouraged; and a variety of densities and designs and pockets of mixed uses will be supported.*
- ii. The masterplan approach to detailed implementation will facilitate the achievement of a high quality layout and consistent design. It will respect the historic quality of the existing built environment including the conservation area. Listed buildings, including the B listed Monaltrie House, and their settings will also be protected.*
- iii. Monaltrie Park will form a core part of the new development. The area identified as open space will allow for provision of sports pitches and parking for events including the Ballater Games.*
- iv. There will be a network of pedestrian and cycle paths throughout the development. Particular attention will be paid to linking the park with the historic core of the village; and there will be links to the primary school and to the Deeside Way.*
- v. The masterplan will incorporate a full range of sustainability measures. The provision for biodiversity throughout the development will include special attention to relevant habitats and wildlife networks.*
- vi. The masterplan will incorporate a comprehensive landscaping strategy which will include structure planting on the edges of the site and within the development to integrate it with the existing landscape and ensure that there is no hard edge when viewed from the east.*
- vii. The development of the site will present an excellent opportunity for large and small scale developers and builders to work together to bring forward the delivery of the masterplan.*

Conclusions

48.51 When we review the reasoning which led to our numerous findings set out above, we draw the following conclusions. First, the allocation of site BL/H1 does not offend and, in the main promotes strategic objectives of CNPP 2007 particularly as these relate to: sustainable communities, and housing, and landscape, built and historic environment, and sustainable tourism. Second, within that context, there are no settlement specific factors which rule out the objection site for consideration as a housing allocation. Assessed against the criteria set out at paragraph 17 of Annex 3 of SPP 3, the site can be considered to make a contribution to the effective housing land supply within the life of the local plan. Third, in the circumstances which pertain in Ballater, the masterplan approach is an appropriate forward for the development of the site. However, with that and related matters in mind, the text associated with

the proposals map should be the subject of substantial adjustments that reflect fully the CNPA position on relevant matters. We have set out above our suggestions for CNPA to consider on how this altered text might read.

48.52 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

48.53 Accordingly, subject to addressing all of the above reservations, we recommend that the allocation BL/HI as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan. We further recommend that the supporting text should be adjusted to take into account the position of CNPA at the close of the inquiry.

Issue	Ballater other land uses		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	James and Evelyn Sunley	Objection refs	056
	Ballater & Crathie Community Council		091

Reasoning

49.1 The deposit version of the emerging CNPLP plan makes a variety of provision for Ballater. Land is identified at BL/ED1 and BL/ED2 for economic development sites, BL/ED3 for potential business use of the bus station if that is vacated. Site BL/C1 is reserved for community use of the former school. In the finalised version of the plan the existing caravan and camping site is added as BL/ED4. There are 3 areas which are identified as open spaces and land which contributes to the setting of Ballater which, it is stated, will be protected from adverse development. The supporting text was the subject of considerable adjustments and CNPA brought to the inquiry a series of officer proposed post inquiry modifications. These involve the removal of BL/ED2, the subsequent renumbering of the economic development allocations, and associated adjustments to the associated text to reflect a requirement to undertake flood risk assessment in the light comments from Scottish Environment Protection Agency (SEPA). We have no difficulty with what is now proposed as far as it relates to these objections.

49.2 Based on the above objections, which we were asked by CNPA to consider, as well as the written submission, we find that the main issues to be addressed are:

- whether the sites identified for economic development in the finalised version of the emerging local plan are sufficient and effective;
- whether the settlement boundary should be extended to take in other nearby development; and
- whether the sites identified as BL/ENV are appropriately identified.

49.3 In accordance with current best practice, we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

49.4 Taking the first issue, the CNPP 2007 points out that *The sustainable growth of the economy is key to maintaining sustainable communities and to creating a strong and vibrant National Park which also stimulates and supports the wider regional economy* (page 69). We agree with the objectors that, if Ballater is to play its proper part in all that there should not be an over reliance on home working and commuting. There must be sufficient land on effective sites to meet likely demand from existing, new start and incoming enterprises. At our site inspection, we noted that there is vacant space within BL/ED1 and we find that is available for a range of enterprises including the IT sector. Turning to BL/ED2, we must give appropriate weight to SEPA's advice that development should not take place in the area identified as at risk during a 1 in 200 return period flood event. Accordingly, we find that BL/ED2 should be removed from the proposals map and the other allocations renumbered. As a corollary to that we find that all of the text associated with BL/ED1

and BL/ED3 in the proposals map should be amended as set out in the proposed post inquiry modifications. BL/ED3 is a small site but it is within a strategic location and we agree that, if it becomes vacant, the land should be reserved for employment purposes.

49.5 We recognise that the tourist industry plays an important role in the local economy of Ballater; and we understand that provision of relevant facilities is becoming polarised with a decline in the business available to middle market providers. The conversion of hotels to flatted development is only one manifestation of readjustment which can take place within the existing built up area; and we agree with CNPA that there is no need to allocate sites specifically for tourist related development. However, we note that there has been no objection raised to the identification of the existing caravan and camping site as BL/ED4 in the finalised version of the plan.

49.6 Drawing these matters together, although the allocations are limited in extent we find that there is sufficient in the way of land earmarked for economic development purposes to meet likely need for the life of the local plan.

49.7 As far as the second issue is concerned, we take as our starting point that it is normal in the preparation of local plans that policies towards proposed development within the predominantly built up areas of settlements will differ from those relating to proposed development in the rural areas outwith settlements. It is good planning practice to establish boundaries which are sufficiently robust to endure into at least the medium term and sufficiently defensible to enable the planning authority to resist any attempts to breach them with unacceptable development. In the case of Ballater, with the exception of the objection site BL/HI, which we have covered elsewhere in our report, and some related ground marked ENV, the boundaries of the settlement are drawn tightly around the curtilages of properties. We have no difficulty with that. It provides sufficient certainty about what will, and will not, be acceptable. Although we recognise the relationship of the Craigendarroch complex which has the Craigendarroch Hotel at its centre with local businesses and services in Ballater, we cannot agree that the settlement boundary should be extended to the north across undeveloped wooded ground in order to include the complex.

49.8 Turning to the third issued, we note that the deposit version of the emerging local plan states that *Protected open space is identified where it is important to the amenity, setting and the overall urban fabric of settlements. These areas also provide locally important habitats or landscape features, or are important recreational resources within settlements. They are protected from future development. Settlements also have networks of open spaces, footpaths and recreational spaces that are not identified but that would be material considerations in the determination of planning applications that affected them* (paragraph 7.11).

49.9 Although no explanation of changes to the title or text was provided for us, we note that the 1st Modifications amended the text in what became paragraph 7.12 as follows (amendments underlined) *Land is identified where it is important to the amenity, setting and the overall fabric of settlements. These areas also provide locally important habitats or landscape features, or are important recreational resources within settlements. They are protected from future development.*

Settlements also have networks of open spaces, paths and recreational spaces that are not identified but that would be material considerations in the determination of planning applications that affected them. Without explanation, 3 areas identified as ENV were added to the proposals map for Ballater: the area to the west of the built up area which extends to the River Dee and is occupied by Ballater Golf Course lies outside the settlement boundary; the area to the east of the built up area which contains the Monaltrie Park; and other land north of Paanich Road but not extending as far as Aberdeen cottage. The associated text in the finalised version states: *A number of open spaces and land which contributes to the setting of Ballater are identified and will be protected from adverse development.*

49.10 We have searched in vain for a policy within the CNPLP which relates to areas labelled ENV in the proposals map. In short, the CNPLP fails to make clear how the protection referred to in the text under BL/Env will be implemented and what form it will take. The areas are not related to a development management policy which is drafted to indicate clearly, concisely and in a readily accessible form exactly why and how they will be protected from development. Consequently, the plan and its text fail to meet the expectations of Scottish Planning Policy for the content of a local plan. The result is a proposals map that is not sufficiently precise to inform users of the plan about what development will, and will not, be acceptable.

Conclusions

49.11 When we review our findings we conclude that the sites identified for economic development are sufficient and effective; and there is no need to extend the settlement boundary to encompass the Craigendarroch complex; but it is not clear to us how the sites identified as ENV are to be protected from adverse development.

49.12 We have considered all of the other matters drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

49.13 Accordingly, subject to dealing with the reservations noted above, we recommend that the proposals map and associated text as set out in the proposed post inquiry modifications to Deposit Local Plan Modifications (1st and 2nd) October 2008 be taken forward into the adopted local plan.

Issue	Grantown-on-Spey economic development allocation GS/ED2		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objector	Speyburn Homes Ltd	Objection ref	485

Reasoning

50.1 The proposals map in the 1st Modifications to the finalised version of the CNPLP allocates land inside the defined settlement boundary and on the south edge of Grantown-on-Spey as GS/ED2 for economic development. This site is described in the plan text as having *Opportunities for economic growth to complement the existing Woodlands Industrial Estate exist, and any new developments should complement existing uses, and also seek to enhance the area and its surroundings. Options to develop a terminus within this area, to support the growth of the Strathspey Railway will be supported* (page 68). The 2nd Modifications propose to remove West Station Cottage and its curtilage from this designation in response to the above objection, and because the site is in residential not economic use.

50.2 Based on the single objection that we have been asked by CNPA to consider, we find that the issue to be addressed is whether West Station Cottage should stay in the finalised local plan as part of economic allocation GS/ED2 or whether it should be removed as proposed in the 2nd Modifications to the CNPLP.

50.3 While we see no reason to disagree with the joint request to remove the ED allocation and to have the current use of the site reflected in the local plan, we consider that it raises the following 2 issues. Firstly, the site is located amongst industrial type uses and it has obvious locational and historic connections with the railway. Therefore, if the residential use should ever finish, an alternative use along either of these lines would almost certainly be the most appropriate. Secondly, the objector's suggestion that the site might be allocated for housing as an alternative to the GS/ED2 allocation, should be resisted because:

- as discussed in detail in the Grantown-on-Spey housing section we have no evidence of need for more housing land to be allocated in the town; and
- the character of the West Station Cottage surroundings raises the strong possibility of conflict between the residential use of the site and the neighbouring industrial operations.

Conclusions

50.4 Based on the above, we are satisfied that West Station Cottage should be taken out of the GS/ED2 designation as proposed by the 2nd Modifications to the CNPLP. However, the economic development allocation should not be replaced by an additional specific housing land allocation.

50.5 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

50.6 Accordingly, we recommend that the proposals map for Grantown-on-Spey should be amended as described in the Deposit Local Plan Modifications (1st and 2nd) October 2008 as it moves forward into the adopted local plan.

Issue	Grantown-on-Spey environment allocations		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objector	Reidhaven Estate	Objection ref	456w

Reasoning

51.1 The 1st Modifications to the Grantown-on-Spey proposals map in the finalised version of the CNPLP allocate 4 areas outwith the defined settlement boundary as GS/ENV. The associated plan text describes these areas as comprising *open spaces and land which contributes to the setting of the town*, which spaces are to be protected from adverse development (page 68). The 2nd Modifications propose to remove two of these areas, i.e. adjoining fields on the north edge of the town, north of the B9102 and opposite the school.

51.2 Based on the above objection, which we were asked by CNPA to consider, as well as the written submissions, we find that the issue to be addressed in this case is whether the GS/ENV allocations outwith the defined settlement boundary, and especially those on the north east edge, should be deleted from the CNPLP.

51.3 As a preliminary, we find that the preservation of landscape character generally is a theme that underpins much of national and strategic planning policy whether or not the spaces involved have a specific designation including for natural heritage value, amenity, or for recreational use. In particular, landscape is identified in the CNPP 2007 as one of the special qualities of the National Park (page 25) and the linked strategic objectives a) and d) set out to conserve and enhance that quality (pages 38 and 39). Related to this, we are satisfied that preserving significant spaces around towns can help to protect their setting, which is linked to preservation of landscape character. Therefore, we find that the general aim of protecting significant spaces from development accords with the strategic objectives of the CNPP 2007, irrespective of whether those spaces fall into or lie outwith a defined settlement boundary.

51.4 However, we have detailed elsewhere in this report our significant concerns about the way in which the ENV designation has been applied in the finalised version of the local plan and about whether as used, it satisfies the strategic objectives entirely and adds value to the CNPLP. We are especially concerned that we have been unable to understand how these allocations are derived and justified, what role they are intended to perform, and why inconsistent levels of protection occur between settlements. In some cases, the text only refers to adverse or harmful development as opposed to all development, and the designation is not supported by a firm explanation of the kinds of development that CNPA considers might harm the particular attributes of each site. In addition, we find that the effectiveness of the designation in protecting sites is hindered by the lack of a secure policy footing. Instead, the CNPLP relies on a subordinate text reference alone.

51.5 Nevertheless, we can envisage that if these serious flaws are resolved, this kind of protective designation could enhance the CNPLP treatment of the various towns and settlements in the Park in accordance with the CNPP 2007 strategic objectives. In particular, it could be used to analyse the important features of

settlements, to inform vision statements, and to help identify areas with growth potential as opposed to those with none.

51.6 Turning next to focus on the role and value of the allocated spaces around the outside of the defined Grantown-on-Spey settlement boundary, we note that CNPA describes these spaces in only the most general and collective terms as having significant community, landscape, recreational, access, and natural habitat value. We can find no other more detailed explanation for why any of these sites and not others were included in the 1st Modifications to the deposit plan, only to have some of the allocations removed later, again without a reasoned justification. Further, from the evidence before us, it not clear whether the sites that the 2nd Modifications propose to subtract are the same as those referred to in the objector's specific request.

51.7 The only detailed and analytical information available to us that might be used to assess the contribution that these sites make to the landscape character and setting of Grantown-on-Spey is the Cairngorm Landscape Capacity for Housing Study (CD 7.19). From this, we note that the ENV areas to the north and east of the town comprise a mixture of wooded policies and grassland, plus a golf course and pine woodland. As such, their sensitivity to new housing development, and presumably also many other forms of urban development, is judged in that report to be high or very high. The reasons for this include that as open spaces, they provide:

- a counterpoint to the urban character of the town;
- a setting for the designed landscape at Castle Grant;
- a recreational resource;
- a contribution to the town's landscape setting;
- a well-established and clearly defined green backdrop to the town; and
- a sense of arrival on approaches from the main A95 as well as along other lesser routes.

From our site inspections we agree with this assessment and we can see why the spaces justify an enhanced level of protection from development. It follows from this assessment that subject to addressing our comments above, we consider the GS/ENV urban fringe allocations around the settlement edge should be retained.

Conclusions

51.8 Based on all of the above, we consider that the principle of protecting spaces around towns via an ENV designation satisfies broadly a genuine and relevant strategic planning policy objective, including in the CNPP 2007, so that some form of designation has merit. However, the value, force, and relevance of the designation is undermined to a significant extent by the flawed way in which the concept has been incorporated into the finalised version of the local plan. These serious flaws must be addressed as the planning process moves forward and if the ENV designation is to be retained.

51.9 For Grantown-on-Spey, once these shortcomings are addressed as we have recommended throughout this report, then we are satisfied that the allocated GS/ENV spaces around the settlement edge should remain protected from

development at least to some degree. This conclusion is based on the landscape capacity study information and our site inspections, which confirm that the spaces have amenity value and that they contribute to the setting and landscape character of the town.

51.10 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

51.11 Accordingly, we recommend that the Deposit Local Plan Modifications (1st and 2nd) October 2008 ENV allocations on the proposals map for Grantown-on-Spey should all be reviewed as we have described, but in the meantime, we further recommend that the GS/ENV sites around the defined settlement boundary should be kept in the Deposit Local Plan Modifications (1st and 2nd) as it moves forward into the adopted local plan.

Issue	Grantown-on-Spey housing allocations GS/H1 & GS/H2		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objectors	James Mitchell	Objection refs	051
	Badenoch & Strathspey Conservation Group		400i(h)/i(i)
Procedure	Written submissions		
Objectors	Mr & Mrs L Evans	Objection refs	014
	Janet Eileen Jemmett		028
	Muir Homes Ltd		038n
	Bryan Grozier		046
	Alistair McLeod		062
	Frank Jemmett		090
	Miss Margaret Ann Campbell		101
	Basil Dunlop		358a
	Roy Turnbull		390p
	Scottish Environment Protection Agency (SEPA)		399r(g)
	Mrs Beryl McRae		402
	Scottish Campaign for National Parks		434q
	Gregor MacKenzie		444
	Goldcrest (Highland) Ltd		445c
	Reidhaven Estate		456o/p/q

Reasoning

52.1 The finalised local plan identifies Grantown-on-Spey as a strategic settlement where the majority of development and facilities should be provided (paragraph 7.2). Two housing sites are allocated inside the defined settlement boundary on the relevant proposals map, as follows:

- GS/H1, which is a 9.6 hectare site that wraps around the northern edge of the existing settlement, between the caravan park on Seafield Avenue and the hospital on Castle Road. The associated text in the deposit version of the plan states that the site has a capacity for around 200 homes, but this has been changed in the finalised version of the local plan to refer to the existence of an application for full planning permission for a housing development, reference 06/320/CP. That application is for 228 houses and 7 plots, plus associated engineering work that includes vehicular access to *Seafield Road* and Castle Road. A decision remains outstanding due to the significant amount of further information being sought to assess the potential impacts of development.
- GS/H2, which is a 3.25 hectare site to the north of Beachen Court. Each version of the plan envisages that this site has capacity for some 50 homes and notes that because the site is known to be used by wading birds, more detailed survey information is required to establish its ecological importance and the potential impact of any development.

52.2 Based on the above objections, which we were asked by CNPA to consider, as well as the written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- whether the amount of allocations GS/H1 and GS/H2 is appropriate for the role of Grantown-on-Spey in the settlement hierarchy identified in the CNPP 2007 and the CNPLP;
- whether there are any landscape, biodiversity or other matters which constrain the allocation of land for this purpose;
- whether the housing sites are effective in terms of SPP 3: *Planning for Homes*, Annex A, paragraph 17; and
- whether the 3 suggested additional sites should be allocated for housing development in the CNPLP.

52.3 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

52.4 Taking the first matter, the fact that Grantown-on-Spey is identified as a strategic settlement stems from the extant development plan and in particular from the adopted Badenoch and Strathspey Local Plan 1997. From that, the designation has been carried forward into the CNPP 2007, where Grantown-on-Spey is described as a main settlement that plays a strategic role in the Park (paragraph 5.2.2, page 66). Strategic objective (b) for sustainable communities then expects proactive provision to focus settlement growth in the main settlements because they *have the greatest range of existing services and infrastructure which can best accommodate increased growth in a sustainable way* (page 67). We have explained elsewhere in our report our concerns about how other parts of the settlement hierarchy have been derived, but we find no doubt that the position of Grantown-on-Spey as main settlement and focus for growth has stayed constant throughout and that this role stems directly from the strategic policy background, which the finalised local plan is bound to follow.

52.5 From that, Table 4 of the finalised version of the local plan has identified an indicative capacity for Grantown-on-Spey of 250 homes and 2 sites are proposed to accommodate that, i.e. GS/H1 and GS/H2. The deposit version of the plan estimates the capacity of these sites as 200 and 50 respectively, but the number of 200 for GS/H1 has been dropped entirely from the finalised version. We have explained elsewhere our particular concerns about CNPA's approach to establishing how much housing land should be allocated in the Park. In particular, we have identified the lack of a settlement specific assessment of need, including affordable housing need, as a major shortcoming for the plan. We have also identified the lack of a clear vision statement for each settlement as another major shortcoming. For Grantown-on-Spey, we would expect that vision statement would show how CNPA proposes to comply with the above strategic objective (b) by making proactive provision for growth. Without this kind of supporting information, the allocations can be criticised as lacking logic and cohesion, especially as CNPA claims that they are necessary to deliver an effective housing land supply and affordable housing, yet we

have no clear settlement specific evidence to support that claim or to describe how much affordable housing each site is expected to produce.

52.6 CNPA explained at the hearing that it used the adopted local plan as a starting point in choosing sites to allocate for development, before evaluating these against CNPA principles and refining the allocations accordingly. We find that CNPLP site GS/H1 broadly matches sites 1.1(b) and 1.1(d) from the adopted local plan. However, GS/H1 extends to 9.6 hectares and the approximate capacity was thought to be around 200 homes. Sites 1.1(b) and 1.1(d) extend to 15.6 hectares and the capacity was 180. In other words, CNPA appears to have reduced the size of the allocation site by about 30% while increasing the development density on the remaining site by about 11%. This difference is significant and surprising, given the site constraints that we will discuss in a moment. Similarly, GS/H2 roughly accords with site 1.1(a) west of The Dulaig in the adopted local plan, but 1.1(a) was 6 hectares, as compared to 3.25 hectares for GS/H2, and the capacity of 1.1(a) was 30 as opposed to 50 for GS/H2 in the finalised version of the local plan. Therefore again, site 1.1(a) was bigger by almost half but the finalised local plan density seems to have increased by some 60%. The annotations on the adopted local plan proposals map are indistinct and we accept that some difference is inevitable, especially if CNPA is looking to achieve a significant amount of affordable housing from these sites. However, we are concerned about the apparent inconsistencies and whether such high densities would be compatible with the surroundings of both sites, but especially GS/H1. In addition, no evidence has been provided to explain and justify these significant differences, including as we have noted, in the form of a settlement vision statement, or a site specific affordable housing requirement for Grantown-on-Spey.

52.7 Moving to the second issue, and looking in detail at GS/H1, the objections refer to the probability that development of the site will worsen the existing traffic problems at key junctions in Grantown-on-Spey. However, we have no firm, quantifiable evidence to support that claim, or to justify deleting the site altogether for that reason alone. Nevertheless, we note that CNPA has altered the configuration and the spread of developable areas in the site by placing them mainly towards the margins. In this way, development would avoid a central space that is known to have significant biodiversity value. The deposit version of the local plan allocates this area as protected open space, but the finalised local plan changes this to an ENV designation whereby the site is only protected from adverse or harmful development. We have detailed elsewhere in this report our particular concerns about the lack of a clear sighted and consistent approach to the use of this ENV designation, i.e. the purpose of the designation is not explained, it is used inconsistently throughout the plan, the degree of protection that it gives differs, and it has no policy footing. These issues are common to most of the settlements and, while the differences may be appropriate, they are without explanation. Suffice to re-emphasise here that we are simply unable to understand the role of these spaces. However, we accept that for Grantown-on-Spey, CNPA's general intention is that this central area should be excluded from development and regarded as not part of the housing allocation.

52.8 For the remaining GS/H1 space, which is envisaged for housing development, we note that the adopted local plan safeguards land behind the hospital, as well as

beside and behind the care home, for amenity reasons and to allow for the possible expansion of each (paragraph 3.3.9, page 24). We also note CNPA's input to the hearing discussion that more recent information than the local plan Strategic Environmental Assessment shows that at least part of this space around the hospital and care home has significant biodiversity value linked to that of the adjoining ENV area. As a result, CNPA agrees that this land is no longer suitable for development. The change raises 2 significant issues:

1. Taking this extra area out of GS/H1 marginalises the space left in the north eastern corner to an extent that brings into question the logic of this whole part of the allocation in terms of its relationship to the established and cohesive development pattern of Grantown-on-Spey.
2. Gaining access to the remaining corner of GS/H1 would almost certainly entail forming a road across this fragile space, which is also likely to be unacceptable for all of the above biodiversity reasons.

CNPA has not explained the decision to move away from the adopted local plan safeguard for this part of GS/H1 and the recent biodiversity information suggests that the safeguard should be reintroduced.

52.9 As far as the west end of the GS/H1 allocation is concerned, we consider that development would bridge the gap between the existing built up area and the well-established caravan site, which the operators clearly view as having a countryside setting. They also regard the character of this setting as an important factor for people choosing to use the caravan site. We are in no doubt: that the caravan site is a quality facility; that visitor numbers, with their consequent expenditure, will be a significant boost for the local economy; and that all of this accords with the strategic and local plan tourism policy framework. However, we cannot ignore the facts that:

- the caravan site is close to the current edge of Grantown-on-Spey;
- the space between has been allocated for housing development for some considerable time;
- if Grantown-on-Spey is ever to expand, in accordance with the CNPP 2007 objectives and its role in the Park's settlement hierarchy, this general area has logic in landscape and development pattern terms because it is seen as a clear, cohesive, and easy extension of the existing urban area; and
- the caravan site use is not essentially at odds with housing; these kinds of uses should be able to coexist, given this and without controlling the land, the caravan site cannot expect to sterilise the adjacent land to maintain its status quo.

52.10 Further, the ENV designation behind the caravan site means that a substantial, albeit partial countryside outlook and setting will be retained. We appreciate that parts of the caravan site orientate away from this area towards the south west end of GS/H1, but we consider that the caravan site will still feel spacious and, with the same proximity to the town's services, it should keep a steady customer base. Nevertheless, CNPA conceded at the hearing that safeguards could and should be put in place to protect the caravan site users' amenity. These safeguards would include restricting building operations. They might also include restricting ground levels and the height of houses in key positions, and incorporating buffer zones, to separate the uses and soften the visual impact of development

along the Seafeld Avenue approaches. For all of the above reasons, and subject to these safeguards, which we appreciate have cost and capacity implications, we find that we cannot justify turning the whole allocation down for its possible impact on the caravan site.

52.11 That said, these necessary measures are yet another space constraint that reduces even more the potentially developable area of GS/H1. As such, they also reduce the number of homes that the site might accommodate which in turn undermines whether CNPA can expect to realise the full Table 4 estimated product. It also calls into question whether the 235 homes proposed in the current planning application can be achieved and whether any affordable housing can be expected from the site, given all of the other costly engineering constraints to be addressed, as well as the potential expectation of necessary developer contributions to address infrastructure shortcomings, e.g. any need for increased school capacity. As a result, we question how much of a contribution, if any, the site might make to addressing the need for affordable housing in Grantown-on-Spey. CNPA has not been clear about its particular expectations in this regard for GS/H1, leaving it to negotiation to resolve. We consider it highly likely that, for all of the above reasons, the negotiating process might ultimately produce no affordable housing, which undermines a significant part of CNPA's essential purpose in allocating the site. We certainly have difficulty in accepting one objector's claim that the site could produce as much as 25% affordable housing.

52.12 Moving on to consider flood risk, we note that GS/H1 was allocated on the understanding that it did not appear to be at risk, based on information gained from SEPA's flood risk maps. In other words, it was believed to be free from this kind of constraint. However, the objectors' evidence, which is based on intimate local knowledge, shows clearly that the site floods and this is confirmed by the flood risk assessment that was submitted to support the current planning application. SEPA has adopted that evidence and has objected to the allocation accordingly. SEPA and CNPA agree that the whole site is not at risk from flooding, and that some may still be developable. The problem is that as yet, neither knows where the demarcation might fall. From that, SEPA takes the view that until the outcome is known, the site is not effective and should not be allocated. CNPA on the other hand considers it prudent to keep the whole allocation meantime.

52.13 We are satisfied that SPP 7: *Planning and Flooding* expects that local plans must take flood risk into account, based on information from a variety of sources including SEPA's flood risk maps, records of floods, advice from consultees, and flood risk assessments undertaken by developers (paragraph 42). From that, sites should then be identified that are constrained by flooding (paragraph 43) and there is now general agreement that GS/H1 is constrained by flooding at least to some extent. We are not able to be certain that the impact of that risk for the site's development potential is insignificant, especially given the realistic prospect of ground level engineering alterations and the implications of that for groundwater. Further and surprisingly, the finalised local plan up to and including the officer proposed post inquiry modifications (CD 7.28), does not identify this flood risk.

52.14 Next, SPP 3 expects a realistic assessment of a potential housing site for its effectiveness, which assessment is based on criteria that include:

- the site being free from constraints related to flood risk that would preclude its development; or
- there is a solid commitment to removing the constraint to allow development within the relevant plan period; or
- the market is strong enough to fund remediation (paragraph 17).

In this case, because the extent of the flood risk is unknown, the fundamental ability to address that risk is also unknown, as are the cost implications of doing so. Further, we have no evidence of a solid commitment to remove that unquantified risk and, in line with the current national economic downturn, the local housing market is weak. All of this is underlined by the lack of developer pressure and progress on determining the planning application that was submitted in 2006. Together, this means that we cannot agree with CNPA's view that the site is effective and should be allocated in the finalised local plan.

52.15 Grantown-on-Spey is undoubtedly constrained, and we have considerable sympathy with CNPA in finding appropriate development sites to satisfy the CNPP 2007 growth aspirations. Therefore, although we consider that GS/H1 is not effective meantime and should not be allocated in the plan, it has some, albeit considerably reduced, development potential. As a result, the site should be revisited in the future once the flood position has been clarified, but only when the housing land requirement issue has also been revisited and properly justified. However, if GS/H1 is reintroduced, CNPA must make all of its expectations abundantly clear in the plan framework, as well as in a masterplan or development brief for the site. In that context, we find that it is fundamentally unacceptable to make an allocation of this size and under these highly constrained circumstances with no text explanation or support, as the officer proposed post inquiry modifications to the finalised version of the local plan now intend (CD 7.28). At the very least, we would expect to see phasing information to accord with Table 4. Leaving such significant issues aside to be dealt with at planning application stage is quite simply too late in the process, for all of the reasons that we have explained against Policy 20 Developer Contributions in our report. Developers must be made aware of these kinds of costly and constraining expectations far sooner than application stage, especially as the local plan process moves forward into the new planning regime.

52.16 In response to our questions on these constraints at the hearing and after the inquiry, CNPA circulated proposed text to be inserted into the local plan against GS/H1 that refers to the need for a detailed flood risk assessment and to the use of the site by wading birds as justification for more ecological survey work. Given all of the above, we consider that even this late addition is too unspecific and too encouraging of development. We consider that the text under-estimates the strength of SEPA's fundamental objection and the habitat survey work referred to at the hearing, as well as in CNPA's site specific documents, which confirms that additional survey work has already been done with the outcome that more of the site should be regarded as without development potential.

52.17 We realise that taking GS/H1 out in the meantime will affect the housing land supply calculations including in Table 4, but these figures would be subject to considerable change anyway, given the impact of the significant constraints

discussed above. In addition, we have concluded elsewhere in this report that these figures have not been adequately justified and that they are too generous anyway.

52.18 Several objectors for site GS/H2 argue that development would harm the natural value of the Park. However, the evidence simply is not available to dispute the CNPA strategic assessment findings that the impact of development on the site's natural value would be no more than slightly negative. Unlike GS/H1, we have insufficient information on which to base a conclusion that the natural value of GS/H2 is so important that it justifies removing it entirely from the local plan because any development would cause considerable damage. Equally and again unlike GS/H1, we have no reason to suppose that the caveat in the finalised version of the local plan that refers to the use of the site by wading birds and the consequent need for more survey work to establish its development potential is not an appropriate way forward. Further, even although we have misgivings about the wider housing and supply position of the CNPLP, some development is essential if Grantown-on-Spey is to meet its role as a strategic settlement in the hierarchy and thereby also the consequent CNPP 2007 expectations for growth. In other words, we find no evidence that the natural value of the site outweighs the need to find some space in Grantown-on-Spey to accommodate housing development, to satisfy the CNPP 2007 strategic objectives and thereby also the fourth aim of the Park, i.e. to promote sustainable economic and social development.

52.19 In terms of development pattern, GS/H2 appears to us to be read mainly as part of the built up area of Grantown-on-Spey in terms of its landscape profile and its relationship to the established settlement edge. Therefore, while development cannot avoid having an amenity impact, we consider that this is unlikely to be significant in terms of the perception of the overall size and shape of the town. Further, from our site inspection, we are satisfied that the site offers informal recreation space for Grantown-on-Spey, which will be lost. However, the size of the site is comparatively small and the importance of the recreational use to the majority of residents in the town has not been quantified. In addition, we are recommending that the nearby GS/H1 is preserved from development, so that it will remain as amenity space to help to offset the impact of the loss of GS/H2 at least in the immediate future.

52.20 As regards the relationship between GS/H2 and the adopted local plan, we have stated above that GS/H2 is smaller than the equivalent site 1.1(a) and yet the anticipated density of proposed development is much higher. The finalised version of the local plan indicates that even GS/H2 could be constrained to some extent by its natural value, which might mean again that parts cannot be developed. With this in mind, along with the fact that CNPA has not explained the apparent increased density between the adopted and emerging local plans, it seems likely that the development potential of the site has been over-estimated. We consider that this raises several issues, namely:

1. If the higher density is because CNPA is looking for a considerable amount of affordable housing, then the finalised local plan should make that explicit.
2. Unlike adopted local plan site 1.1(c), CNPA has not really explained what is wrong with developing the balance of 1.1(a) on both sides of Revoan, both of

which are inside the defined settlement boundary and where no strong physical reason has been given whereby they might not be regarded as effective.

3. While there is a fenceline, we see little difference either on site or from the inquiry evidence, to enable us to differentiate the character of GS/H2 and the balance of 1.1(a).
4. CNPA's given reason for not enlarging GS/H2 to incorporate the rest of 1.1(a) was based on the development of potential of GS/H1, which is now at best in doubt.
5. If the balance of 1.1(a) is incorporated into GS/H2, that offers a chance to offset some of the loss from GS/H1 as well as to ease the impact of such a significant increase in density.

52.21 From the evidence before us, the only doubt about the effectiveness of the site relates to the formation of vehicular access and it stems from one objector's concern that this may not be achievable.

52.22 Access is one of the SPP 3 criteria for establishing whether a site is effective and can contribute to meeting the overall housing land requirement within the 5 year plan period. The adopted local plan indicates a route from site 1.1(a) north east through to Seafeld Avenue, to the south east of an existing house at Revoan, between it and Rhuarden Court. The finalised version of the local plan makes no such suggestion either on the proposal map or in the supporting text. Despite this, the finalised local plan does not explain either what route it prefers or why the adopted local plan route to Seafeld Avenue seems to have been abandoned. Further, we can see immediately that accessing even an enlarged GS/H2 might still involve crossing a ransom strip in that direction. We note an alternative access south, through to Beachen Court, but no evidence has been submitted to confirm the choice of that route, and whether the roads beyond and through the housing area could cope with the extra traffic arising. Therefore, we sympathise entirely with the objector's concerns in this regard.

52.23 The last issue relates to whether in principle, any more housing land is needed for Grantown-on-Spey over and above that identified in the finalised local plan. We take as our starting point our finding above of considerable uncertainty over the basic need for even the amount that is set out in Table 4 and proposed for allocation in the finalised version of the local plan. Next we note that the objector has not supplied firm, quantifiable evidence to show otherwise.

52.24 We appreciate that we have recommended that GS/H1 should be removed from the equation meantime, which could be construed as introducing a shortfall. Further, even if that site is reinstated, the amount of housing that it can produce will inevitably be far less than Table 4 currently estimates given our recommendations and the above identified constraints. However, we are not convinced from the available evidence that taking GS/H1 out will create such a significant shortfall in terms of local need that another site must be added immediately to offset that shortfall.

52.25 For the above reasons we have supported the intention to carry site GS/H2 forward from the adopted local plan and to allocate it for housing development in the CNPLP, but we can also see advantage in expanding the allocation to match more

closely the general area of the adopted local plan site 1.1(a), i.e. to include additional ground between GS/H2 and Seafield Avenue. Clearly that would help to offset any shortfall arising from the loss of GS/H1.

52.26 Nevertheless, some of the objectors propose the following 3 areas of additional housing land:

1. an extension of GS/H1 into the OS1/ENV area, with the loss of some of that open space being compensated by a buffer strip alongside the caravan park;
2. forestry to the west of GS/H1 and outwith the current settlement boundary; and
3. forestry to the west of GS/H2 and outwith the current settlement boundary.

52.27 Starting with the first suggestion, i.e. the GS/H1/OS1/ENV designation, we have firm and recent evidence that shows that the ENV area has considerable biodiversity and natural heritage value because it is at least:

- rich in invertebrates, including several UK Biodiversity Action Plan (BAP) butterfly species;
- a spawning ground for toads and frogs;
- a breeding ground for wading birds; and
- a host to aspen, which is a priority species for the Cairngorms Local BAP.

We also have up-to-date evidence that shows additional and adjoining grassland that is of significance because it supports the value of the ENV site. In contrast, we have no evidence to support the objection by showing that none of this is correct, or to explain in detail how development could avoid disrupting the fragile hydrological balance that is so important to this mosaic of biodiversity. Accordingly, we see no reason to depart from our conclusions above that this space should not be allocated development or indeed that CNPA should consider expanding the ENV designation in response to the most recent study information. We have noted the offer of a buffer strip beside the caravan site as compensation for the loss of some of the ENV site, but there is no evidence that it is or can be made to have an equivalent high standard of natural heritage value. We also consider that this buffer should be set aside anyway, as well as the ENV site, to safeguard amenity at the caravan site. In other words, we see the buffer strip as an addition to the ENV designation as opposed to a swap, especially where such a swap would not compensate for a more important part of the designation.

52.28 As regards suggestions 2 and 3, we have stated elsewhere in this report our general misgivings about the way in which the settlement boundaries have been derived and the lack of a full explanation for them, as well as their relationship to clear and easily discernible and defensible physical features. We consider that the defined north boundary for Grantown-on-Spey is an example of this shortcoming, especially across the ENV space at GS/H1, where it joins the caravan park and the ED1 designation, as well as between the railway route and the corner of GS/H2. However, the other GS/H1 and GS/H2 boundaries are clearly defined on the ground. For example, the rest of the outer GS/H1 boundary is defined by the forest edge and by a water course and GS/H2 by a fenceline. But in any event, a weak settlement boundary does not justify allowing encroachment by housing development of the kind proposed by the objectors. Arguably and given all of the above, it justifies the

alternative of enlarging the ENV designation to wrap around behind the caravan site, albeit subject to our reservations about the basic value of the ENV designation as it has been used in the CNPLP.

52.29 We have also commented above that the constraints that affect GS/H1 are increasingly marginalising the developable ground in its north east corner to an extent that calls into question whether that part of the overall designation makes sense at all in terms of Grantown-on-Spey's development pattern. These same views apply, if not even more so, to the space beyond GS/H1 that is the subject of this objection.

52.30 Next, we agree with the findings of the CNPA Landscape Capacity for Housing Study (CD 7.19) that land to the west of GS/H1 and GS/H2 forms part of a continuous steep wooded slope that contains and defines the developed settlement area of Grantown-on-Spey. This slope forces the town to focus onto the flat River Spey valley floor and the orientation is a key characteristic of the development pattern. Therefore, the slope has a high sensitivity to development and allowing housing to rise up the slope would cause substantial harm to the town's essential character. In addition, the woodland contributes to the town's landscape character and setting by providing a well-established and defining visual backdrop. Erosion of the wooded slope under such circumstances would also be contrary to the strategic objectives for the landscape, built and historic environment of the CNPP 2007, which relate in turn to the first aim of the Park, including (a) *Maintain and enhance the distinctive landscapes across the Park*, and (c) *Ensure development complements and enhances the landscape character of the Park* (pages 38 and 39). Further, no evidence has been provided to show that the woodland has no natural heritage or biodiversity value, or that the impact of engineering the slopes to accommodate development would not also harm the considerable biodiversity value of the nearby ENV space. Instead, discussion at the hearing suggested the direct opposite.

Conclusions

52.31 Based on all of the above, we note that placing Grantown-on-Spey as a strategic settlement at the top of the hierarchy stems directly from the strategic planning policy framework, including the CNPP 2007. Accordingly, we are satisfied that it is appropriate and should be maintained. As a consequence, CNPA is obliged to plan for growth in Grantown-on-Spey, but the amount of housing growth incorporated in the finalised local plan has not been adequately justified or explained, for example by way of a settlement vision statement. The housing land allocations that have been proposed are said to stem from the extant adopted local plan, but in comparing these plans, we see a number of significant differences that have not been explained.

52.32 Proposed housing site GS/H1 from the finalised local plan is constrained by its biodiversity value and by probable flood risk to such a significant extent that we consider it cannot all be regarded as effective when matched against the criteria from SPP 3. However, we recognise that GS/H1 could have some future development potential if the flood issue in particular is resolved. If the site is ever to be reinstated, we find that the developable area must be less than the CNPLP proposals map suggests and requirements like the amount of affordable housing

required and a substantial buffer to protect the amenity of the caravan site must be made clear in the associated plan text from the outset.

52.33 We support the intention to allocate housing site GS/H2, but we recommend that consideration should be given to enlarging it slightly towards Seafield Avenue. In part this would offset some of the loss from GS/H1, but it would also accord more closely with the extant adopted local plan. Again though, the associated local plan text must make CNPA's expectations and preferences clear, including about affordable housing and vehicular access.

52.34 On the evidence available to us, we consider that the additional sites proposed by the objectors should not be allocated for development because the basic need for any more land in the immediate future has not been proven. But even if it had, each proposed site suffers major shortcomings in terms of the impact of development on biodiversity and on the landscape character and setting of Grantown-on-Spey. These impacts are so significant that we consider that none of the suggested sites would be appropriate for development.

52.35 We have considered all of the other matters drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

52.36 Accordingly, we recommend that housing site GS/H1 should be deleted from the proposals map and that none of the suggested additional housing sites should be added. We further recommend that subject to addressing the above suggestions and reservations that include matters such as the:

- extent of the site;
- amount of affordable housing that CNPA expects from it; and
- preferred vehicular access route,

housing allocation GS/H2 on the proposals map for Grantown-on-Spey in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Kingussie economic development allocation KG/ED1		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objector	Davall Developments	Objection ref	461d

Reasoning

53.1 The Deposit Local Plan contained no allocation of land for economic development in Kingussie. Site KG/ED1 and site KG/ED2 were included amongst the 1st Modifications to the CNPLP. The former, which is the subject of this objection, is in a prominent location immediately to the north of the A86. The introduction of KG/ED1 requires an extension eastwards of the settlement boundary of Kingussie as drawn in the deposit version of the local plan.

53.2 Based on the above objections, which we were asked by CNPA to consider, as well as the written submissions, we find that the main issues to be addressed are:

- whether the site is suitable for economic development as defined in the CNPLP;
- whether the settlement boundary at this location is robust and defensible; and
- whether the site can be considered to be effective in providing additional economic provision in Kingussie.

53.3 In accordance with current best practice we have not considered minor matters which do not materially affect the proposal to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

53.4 Turning to the first issue, the CNPP 2007 at section 5.2.3 provides the strategic objectives for Economy and Employment. Strategic objective a) seeks to create conditions conducive to business growth and investment that are consistent with the special qualities of the Park and its strategic location. We accept that Kingussie is a main settlement within the National Park and we can understand that the addition of KG/ED1 and KG/ED2 within the 1st Modifications was intended to support business growth and investment.

53.5 The objector has stated that he is prepared to withdraw the objection subject to the assumption that approximately 0.85 hectares of KG/ED1 can be developed for economic development with a further 0.25 hectares for tourist related uses. However, no sites within the emerging local plan have been identified specifically for tourism. We have set out elsewhere in this report our reservations about such a wide interpretation of the term *economic development* as CNPA has adopted for use in the emerging local plan. However, as far as this case is concerned, CNPA has made clear that it is not identifying or ruling out any particular form of economic development for the site and a wide range of economic uses may be appropriate. Accordingly, we consider that, were the site to be retained within the local plan, the concerns of the objector would be met.

53.6 In that context we must return to strategic objective a). With that in mind we saw at our site inspection that this site is part-wooded and in a very prominent location. We have noted that the associated text to the proposals map now

states: *design of any development will be to the highest standards and both the siting and design should integrate with the landscape.* Nevertheless, all of the policies of the CNPLP have to be satisfied before a planning application can be approved. We have serious reservations that development of this part-wooded, prominent could ever be consistent with the policies of the Park towards landscape and the built environment.

53.7 Moving on to the second issue, we have doubts also about the proposed extension to the settlement boundary. We consider that the line of General Wade's Military Road as it runs from the A86 north east to Kerrow Cottage provides a clearly identifiable boundary for the settlement which is sufficiently robust to endure well into the medium term and readily defensible against unwelcome attempts to breach its integrity.

53.8 Taking the third issue, from our site inspection we find that access to the objection site solely by way of the western portion of site KG/H1 would be a contrived and entirely unacceptable solution. On the other hand, we understand that Transport Scotland has serious, and as yet unresolved, concerns about the taking of an access directly from the A86 trunk road. It was submitted in written evidence and at the hearing that discussions are far advanced. That may be so. Nevertheless until a solution which is satisfactory in all of its detail has been found, access to the objection site will remain a substantial, perhaps insuperable, obstacle to its contributing to the provision of employment opportunities in Kingussie and the economy of the Park. All of the concerns of Transport Scotland regarding access from the A86 must be overcome before the site can be considered effective.

Conclusions

53.9 Drawing together our reservations noted above, we are driven to the conclusion that this prominent site has serious disadvantages as an allocation for economic development broadly defined. On the basis of the evidence before us, problems of access render the site ineffective as an allocation for business growth and investment. However, even if these problems can be overcome no overwhelming need for the allocation of this site for the uses proposed by the objector has been established; and the development of this land would breach irrevocably a long established, robust and defensible stretch of the settlement boundary.

53.10 We have considered all of the other matters drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

53.11 Accordingly, we recommend that land allocation KG/ED1 as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be deleted from the adopted local plan.

Issue	Kingussie housing allocation KG/H1		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400i(k)
Procedure	Written submissions		
Objectors	Mr Duncan	Objection refs	037p
	Mr JS Grant Washington		413
	Mr L Aardenburgh		433
	Scottish Campaign for National Parks		434r
	Davall Developments		460 & 461b
	Mr R J Kinnaird		480
	Mr RJ Morris		487

Reasoning

54.1 The housing allocation to which these objections refer is situated within the settlement boundary of the strategic settlement of Kingussie. The objection site KG/H1 is an extensive area of undulating land sloping generally southwards with views across the Spey Valley. It is bounded to the north east by General Wade's Military Road which runs from the A86 towards Kerrow Cottage and thereafter to Kerrow Farm. To the north it follows field boundaries beyond which is a plantation of Scots Pine. To the west and south the site follows the rear boundaries of properties within the built up area of Kingussie. At the time of our site inspection, the site was grazing land.

54.2 The objection site is allocated in the adopted Badenoch and Strathspey Local Plan 1997 for housing and commercial uses. The deposit version of the CNPLP identified site KG/H1, of 16.05 hectares, to provide short and longer term housing supply in Kingussie for around 300 houses. The 2nd Modifications recognise in the supporting text that this is a prominent site that will require careful design and landscaping. This version of the local plan also identified the adjacent site KG/ED1 to provide opportunity for economic development. We were told at the hearing that KG/H1 is currently the subject of an outline application for 300 houses (09/048/CP), that a masterplan is being prepared, and that there are ongoing discussions with Transport Scotland regarding access to KG/H1 and KG/ED1 from the A86 trunk road.

54.3 Based on the above objections, which we were asked by CNPA to consider, as well as the written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- Is the allocation contrary to the strategic objectives of CNPP 2007?
- Is the scale of the housing allocation at H1 excessive?
- Are there environmental factors which render H1 unsuitable for consideration as a housing site?
- Is part, or all, of H1 effective i.e. can the homes allocated to the site be completed and available for occupation within the life of this local plan.

54.4 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

54.5 As far as the first issue is concerned, this inquiry into objections made to the local plan is not the appropriate forum in which to raise concerns about the content of the CNPP 2007. The latter has been approved by the Scottish Ministers as complying with all 4 aims of the Park including the first and third. It sets out strategic objectives with which CNPA is bound to comply in the preparation of the CNPLP. Section 5.2 of the CNPP 2007 makes clear the central role in implementing the plan to be played by encouraging sustainable development. It states that: *As well as being a national asset and a place of recreation and enjoyment, the Park is a place of work and daily life...its designation as a National Park brings a new focus to finding solutions that are sustainable in the long-term.* The text goes on: *Sustainable development means that the resources and special qualities of the National Park are used and enjoyed by current generations in such a way that future generations can continue to use and enjoy them* (paragraph 5.2.1, page 66). We note in passing that this definition could, with benefit, be referred to in the introductory text to the plan and incorporated within the glossary in order that there need be no further misunderstanding about what the term means in the context of land use planning.

54.6 Paragraph 5.2.2 of the CNPP 2007 points out that: *The long-term vision for the National Park needs communities that are sustainable in social, economic and environmental terms* (page 66). Kingussie is identified as a main settlement which has a strategic role to play in achieving the strategic objectives for sustainable communities in the Park. The strategic objectives for sustainable communities are set out on page 67 of the CNPP 2007. In response to our questioning CNPA confirmed that by *sustainable communities* is meant: *a population level and mix that meets the current and future needs of its communities and businesses, focused around settlements where services, networks, expertise and experience support the population.* Drawing these matters together, we reject the notion that any allocation at KG/H1 within Kingussie runs contrary to the aims of the CNPP 2007 or to its strategic objectives.

54.7 Turning to the second issue, as we have made clear elsewhere in this report, we have considerable reservations about the manner of the preparation of Table 4 in the emerging local plan and, consequently, about the indicative figures which it presents. In short, we are in no doubt that the total land supply allocated to settlements is over generous and, certainly, a substantial overestimate of what can be justified for the lifetime of this plan. However, Kingussie is identified in the CNPP 2007 as a main settlement, and we accept that an allocation of housing land there is appropriate as part of a strategy which, within the trends in population expected in the CNPP 2007, will focus growth on a number of main settlements where development pressures can be appropriately managed.

54.8 Within that general context, we cannot agree with the objector who argues that there should be no mention of the number of units to be built out within the life of the local plan. That would be directly contrary to good planning practice as set out in SPP 3: *Planning for Homes* in Annex A and elsewhere. We consider that an

allocation at KG/H1, when taken with what may arise by way of windfall sites, provides sufficient by way of choice of housing sites in Kingussie. With that in mind, we can see no reason to identify specifically further sites within Kingussie whether at West Terrace/Ardvonie Road, St Vincent's, Ardbroilach Road or, indeed, anywhere in the vicinity of West Terrace. We do not rule out the possibility that some or all of these may benefit from approvals which treat the units to be built out as windfalls.

54.9 Moving on to the third issue, in discussion at the hearing, the Badenoch and Strathspey Conservation Group clarified that its opposition was not to all development, at all places, and at all times within the Park. On the contrary, it supported proposed development of the right type, built out in the right place and at the right time. However, it was argued that in the case of KG/H1, the whole of the objection site is simply unsuitable for allocation mainly, but not necessarily solely, because of its prominent location within the landscape setting of Kingussie and the absence of extensive preliminary surveys which had established beyond reasonable doubt whether any valued or valuable habitat or species was present which would suffer detriment from development of the site.

54.10 Taking the first of these points, we note that the Cairngorms Landscape Capacity for Housing Final Report (August 2005) (CD 7.19) judges that the site can be considered as composed of 3 segments. Although we recognise that all of KG/H1 contributes to the existing pleasant landscape setting of Kingussie, and that the eastern portion occupies a prominent position easily identifiable from at least as far away as Ruthven Barracks, we are persuaded that landscape considerations do not preclude the development of the western portion of the site for detached housing with more dense development a possibility immediately adjacent to that. On the other hand, we also accept the assessment that the land to the east should be released for development only if that is required in the long term.

54.11 On the second point, there is no evidence before us to suggest that any part of the site is identified for special protection. Nor did the Strategic Environmental Assessment (CD 7.14) find any insuperable obstacle to development. Drawing these findings together, we find no factors which render KG/H1 unsuitable for consideration as a housing site at this stage of the planning process. Of course, any part of the site which is proposed for development will come under closer scrutiny at the planning application stage.

54.12 Taking the fourth issue, we must consider whether the proposed additional housing sites are effective in terms of SPP 3, Annex A at paragraph 17 and the evidence before us on that is fragmentary. At the hearing we were told that ownership is not an issue, despite the slope of the site there are no insuperable obstacles to be overcome and there is no evidence of contamination. It was acknowledged that school and medical facilities are close to capacity. On marketability, we note that the site was identified in the Badenoch and Strathspey Local Plan which was adopted as long ago as 1997. No satisfactory explanation has been provided to explain why no part of the site has been developed in the intervening period. However, we received an assurance from CNPA that any constraint imposed by the capacity of the Kingussie Waste Water Treatment Works has been, or is about to be, lifted.

54.13 There is reference within the supporting proposals map text to the preparation of a master plan for the site as a whole. We understand that a “concept master plan” has been submitted by a prospective developer who envisages the phased development of 300 houses, economic development uses, community uses, paths, road network, open space and landscaping all to be achieved over a time period yet to be established. We have not seen the “concept master plan”; and no evidence of the marketability of even 55 homes in Kingussie at this site in the lifetime of the plan and beyond has been placed before us. We would expect the masterplan to consider, amongst other things, structure planting, footpath connections and other features to enhance amenity and ensure the relationship of the provision of all of these to the settlement of Kingussie as a whole, paying adequate regard to the provision of open space.

54.14 Road and pedestrian access to the objection site raises difficulties. The deposit version of the plan referred to a requirement for a major new access off the A86. However, in the 2nd Modifications reference was made to access to be taken from *the local road network*. Notwithstanding the tortuous nature of that local road network, we accept that access for the number of cars calculated to serve 55 housing units can be provided from the A86 by way of Dunbarry Road and Dunbarry Terrace. However, from our site inspections, we can well understand the difficulties encountered in achieving adequate access to the eastern part of the site from the A86. The owner of the land has suggested that vehicle access should be taken from the A86 incorporating the existing access road to Kerrow Cottage; and that the text associated with the proposals map should be altered to that effect. We have been told that access to the eastern portion of the site, and related matters, is the subject of ongoing discussions with Transport Scotland. We consider that any relaxation of normal standards which may be envisaged must not be at the expense of pedestrian or road safety in the vicinity. As things stand, the failure to establish an access from the A86 must mean we cannot find that the part of the site not served from Dunbarry Terrace is effective.

Conclusions

54.15 When we review the findings set out in the above paragraphs, we conclude that there should be an allocation of land for housing within Kingussie and that the vicinity covered by site KG/H1 is a suitable area of search. However, we have reservations about what is proposed in the finalised version of the local plan. If CNPA decide that the whole of site KG/H1 should continue to be incorporated within the proposals map for Kingussie then the phasing of land release becomes a critical factor. As things stand, on favourable assumptions, only 55 units can be accommodated on the western portion of the site accessed from Dunbarry Terrace, and even then we remain to be convinced that these are marketable over the life of the plan. We conclude that only that portion of the site which can be considered to be effective at this time should be allocated within this local plan. Any masterplan which is prepared should incorporate the probability of sequential development with land released in a measured, phased manner. The masterplan must also overcome the difficulties posed by the need for access at the eastern edge of the site.

54.16 We have considered all of the other matters that have been drawn to our attention, including that there be more open space in Kingussie and the benefits of

dualling the A9, but find none of such weight that it alters our reasoning or conclusions.

Recommendation

54.17 Accordingly, we recommend that KG/H1 as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be amended to a size which can deliver 55 houses within the life of the adopted local plan; and that continuing consideration be given to the subsequent phased release of the remainder of the site.

Issue	Newtonmore housing allocations NM/H1 & NM/H2 & road issues		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400i(l)
Procedure	Written submissions		
Objectors	Mrs Sally Leslie Melville	Objection refs	079
	Max & Tricia Brown		357
	James Hall		371b
	Transport Scotland		423h

Reasoning

55.1 The finalised version of the CNPLP identifies Newtonmore as one of the strategic settlements of the National Park, where the majority of development and facilities should be provided (paragraph 7.2). Two housing sites are allocated on the proposals map, as follows:

- NM/H1, which is an 11.7 hectare site on the south edge of the town between the main Inverness railway line and the B9150 Perth Road. The supporting plan text indicates that the site would provide land for around 120 homes and it refers to opportunities for large and small scale developers to deliver this jointly, to the requirement for a development brief, and to the need for visual mitigation for this prominent site. Since preparing the finalised local plan, CNPA has resolved to grant planning permission for 81 houses/flats on the north western section of NM/H1 subject to community planning contributions (application reference 07/230/CP).
- NM/H2, which is a 5.2 hectare site on the west edge of the town, between Perth Road, and the A86 Laggan Road trunk road. The capacity of this site is estimated to be around 100 homes and again, the plan recognises the prominence of the site and refers to the need for a development brief as well as visual mitigation. The plan text also advises that vehicular access must be taken from the local road network, not from the trunk road.

55.2 The finalised version of the local plan also refers to the community's aspiration that the A86 should by-pass the town centre along a route that links the B9150 to Perth Road around the outside edge of NM/H2, before crossing NM/H1 to the railway station. Development of the housing sites may offer an opportunity to realise this. CNPA's post inquiry modifications (CD 7.28) propose to change the wording of this section to become *While there remains within the community an aspiration that the A86 should bypass the village centre, any transport intervention requiring Scottish Minister/Scottish Government/Transport Scotland consent and/or funding, would require to undergo appropriate transport appraisal*. Subject to this change being incorporated, Transport Scotland would withdraw its objection.

55.3 CNPA also proposes to amend the plan text to refer to the potential that part of site NM/H1 suffers a flood risk, based on information from the Scottish Environment Protection Agency. Accordingly, a detailed flood risk assessment will be needed to support development proposals for that area.

55.4 Based on the objections that we have been asked by CNPA to consider, as well as the written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- whether the amount of the allocations is appropriate for Newtonmore's role in the settlement hierarchy identified in the CNPP 2007 and the CNPLP;
- whether the housing sites are effective in terms of SPP 3: *Planning for Homes*, Annex A, paragraph 17;
- whether either housing land allocation be more explicit in terms of sustainable design and access aspirations and, related to that, whether either should be dedicated solely to the development of affordable housing or housing for sale only to local residents; and
- whether the problems presented by the trunk road and the proposed by-pass are handled adequately in the finalised version of the local plan.

55.5 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

55.6 As a starting point, we note that Newtonmore is identified as a strategic settlement in the extant development plan and, in particular, in the adopted Badenoch and Strathspey Local Plan 1997. The CNPP 2007 also describes Newtonmore as a main settlement that plays a strategic role in the Park (paragraph 5.2.2, page 66). From that, strategic objective (b) on sustainable communities expects proactive provision for settlement growth (page 67). Therefore, the position of Newtonmore has stayed consistent throughout and it stems directly from the strategic policy background, which the finalised local plan is bound to follow. However, we note with regret the lack of a vision statement in the CNPLP to explain in more transparent and cohesive terms how CNPA envisages that Newtonmore will develop in future to fulfil that strategic role and potential.

55.7 Next, Table 4 of the finalised version of the local plan has identified an indicative capacity for Newtonmore of 220 homes and 2 sites are proposed to accommodate that, i.e. NM/H1 and NM/H2. We have explained elsewhere in this report our concerns about CNPA's approach to establishing how much housing land is required in the Park. We have particular reservations about the basic assumptions that underpin these calculations and we have identified the lack of a settlement specific assessment as a major shortcoming for the plan. The practical effect of this is that we are unable to say with certainty whether or not the finalised local plan provides a reliable assessment of demand and need for housing land in Newtonmore. That said, we consider that in general, the allocations throughout the Park amount to an over-generous supply of housing land and we have no evidence to show that Newtonmore is an exception to this. We also have no evidence to justify why more housing land should be allocated to Newtonmore, or to quantify exactly how much is needed over the plan period.

55.8 With Newtonmore, like other settlements, we also have concerns about the way in which the potential capacity of each allocated site has been assessed. For example, we note that NM/H1 is quoted as being 11.7 hectares in the deposit and

the finalised versions of the local plan, and yet the boundary of the allocation has moved and the site has grown between these versions. Similarly, the given area for NM/H1 does not accord with the bigger space shown as 1.1(a) in the adopted local plan. The site seems to cover much the same location, but the area figure given has nearly doubled in the finalised local plan, as has the potential capacity. Site 1.1(a) was 5.2 hectares, with a capacity of 65 homes. NM/H1 covers that, plus tourism allocation 2.5(a) as well, which was 1.1 hectares. It also includes a slice of land from a light and service business allocation that in total only amounts to 2.2 hectares. Therefore, the total area of this allocation cannot have been more than 8.4 hectares as previously estimated, and the difference has not been explained. Likewise, the capacity of the site has increased from 65 to 120. To some extent this difference might result from the inclusion of flats in the planning approval, which leaves 39 homes to be accommodated in the balance of the site. However, this number of homes, plus the required additional space for infrastructure, landscaping, tree preservation, flood management measures, and recreational pedestrian access, raises considerable doubt over whether the estimated capacity is realistic.

55.9 Site NM/H2 raises similar issues because although it has been reduced by some 4 hectares from adopted local plan allocation 1.1(b), the given capacity has remained the same, and CNPA has recognised that it has access, tree preservation, and landscaping space constraints. In particular, CNPA accepts the strong need to preserve the avenue of substantial mature trees along the site frontage that contribute much to the high standard of amenity and the particular character of this part of Newtonmore. Again, we have some difficulty in accepting that all of these perfectly proper planning aspirations are realistically compatible with the estimated site capacity.

55.10 Nevertheless, against a background of a probable over supply of housing land, we see no particular short-term difficulty if the estimated capacity total capacity of 220 homes is not ultimately realised in the short or even the medium term. Further, we would not wish to see the above other important considerations sacrificed in pursuit of such a large total number of new homes and we recognise that the allocated sites almost certainly offer enough development potential for the plan period, for Newtonmore to grow in accordance with its strategic role in the settlement hierarchy. Growth potential also offsets the comparative stagnation of housing development that Newtonmore has suffered since 1997 because of the sewage constraints that are now resolved. However, beyond the current plan period, we expect to see a stronger and more detailed assessment of completions and predicted need to support future local plans, with the housing land situation being kept under close review as the finalised local plan moves forward.

55.11 On the second of the above issues, we have assessed the allocated sites against the criteria in the Annex to SPP 3 and we find no reason to disagree with CNPA's view that both are effective. Clearly both have space constraints as discussed above, and there are issues to be addressed like the flood risk in the south corner of NM/H1 and the inability to access NM/H2 from the trunk road. However, the plan text accounts for these issues and there is no reason from the inquiry evidence to suppose that they cannot be managed and that a satisfactory development solution is not achievable.

55.12 Turning to the third issue, we note that although CNPA proposes to deal with some design matters by way of a development brief for each site, these were not available for scrutiny at the inquiry. However, we have been assured that the briefs will require a substantial amount of landscaping to soften and contain development, given that they are both prominent in a low-lying landscape, as well as to reinforce the new settlement boundary on the outside edge of both sites. We accept that both of these boundaries are already defined and to some extent defensible, but we agree that additional reinforcement would be of benefit. The briefs will also secure the existing trees on both sites and will set the framework for a recreational circular walk, part of which will follow the route of the historic Coffin Path around NM/H1. Other non-site specific issues like sustainable design principles are covered by other finalised local plan policies. Therefore, provided any planning approvals accord with the development briefs and the additional relevant CNPLP policies, then all of these design, layout, and sustainability issues should also be secured.

55.13 We have dealt with the principle of the way in which CNPA has addressed the issue of affordable housing and local residency in commenting on Policy 21. Suffice to say here that we consider CNPA has not established how much affordable housing is needed for each settlement, including Newtonmore, and that CNPA will need to revisit the potential of a local residency requirement. That said, we consider that it would be unreasonable to require as one objector suggests, that the Newtonmore allocations should only be developed with affordable housing, or subject to a restrictive residency requirement at least in the short-term, especially without more detailed information on the extent and nature of Newtonmore's precise local need. Nevertheless, we note and support the substantial contribution that the planning approval on site NM/H1 will make because out of 81 homes, 20 affordable homes have already been secured and discussions are ongoing to add a further 20 as a priority purchase scheme for locals. This favourable precedent can be applied across the remainder of both allocations and we have no doubt that it will contribute to addressing any local affordable housing need, albeit that has not been quantified adequately.

55.14 Turning to the last issue, we find that the finalised version of the local plan text mentions the community's aspiration of a town by-pass and we expect that provision will be made for this in the development briefs along with all of the above. In the absence of any firm commitment by a relevant roads authority to implement this aim during the life of the plan, we agree that CNPA can do no more meantime. As regards access to the trunk road from NM/H2, we support inclusion of the revised wording set out above, which has been agreed with the trunk roads authority. We also note that site NM/H2 could be accessed via other routes, so that a vehicular access from Laggan Road is not essential and without it, the site can still be regarded as an effective allocation of housing land.

Conclusions

55.15 Newtonmore has seen little development since 1997 due to sewage infrastructure constraints that have now been removed, so that the way is now clear for growth and development in accordance with Newtonmore's strategic role in the settlement hierarchy, as set by the CNPP 2007. The finalised local plan allocates housing land for 220 units, but we have been unable to establish how that figure has

been derived in terms of settlement need. Our view is that the finalised local plan is too generous in its estimate of the amount of housing land that the Park needs and we have no reason to suppose that general opinion does not apply specifically to Newtonmore. Given the town's strategic role this is not necessarily a fatal flaw in the plan, but it does undermine one objector's argument that the town actually needs more housing land during the plan period, especially as that view is not supported by firm or quantifiable evidence that contradicts CNPA's position.

55.16 Allied to that, we have concerns about the estimated capacity of each allocated housing site. We have found unexplained differences between the adopted local plan, the deposit version of the local plan, and the finalised version of the local plan. We also have no evidence, including in the form of a development brief, to give certainty that the sites can accommodate comparatively high density development, or to commit CNPA to addressing design issues like landscaping, tree preservation, recreational provision, and vehicular access. That said, broad sustainable design issues are the subject of other CNPLP policies which must be applied to any subsequent planning applications that might emerge in implementation of these housing land allocations.

55.17 The finalised local plan also expects that each site will contribute affordable housing, and a precedent has already been set for this as well as for a priority purchase scheme for locals on NM/H1. However, we cannot agree with an objector's suggestion that both sites should only be developed for these particular kinds of housing, especially in the absence of detailed information on the level and specific nature of Newtonmore's housing need.

55.18 Roads issues are covered in the finalised local plan as far as CNPA is able for the by-pass and in the form of an agreed wording for the trunk roads access restriction.

55.19 Therefore, subject to all of the above being realised as well as to the clarification and re-ordering of the plan text, which CNPA accepted at the hearing would be beneficial, we find no reason to oppose the designation of NM/H1 and NM/H2 for housing development.

55.20 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

55.21 Accordingly, we recommend that, subject to addressing all of the above comments and reservations, allocations NM/H1 and NM/H2 should be taken forward into the adopted local plan broadly as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008.

Issue	Boat of Garten housing allocation BG/H1		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400i(m)
Procedure	Written submissions		
Objectors	G Simpson	Objection refs	381
	Roy Turnbull		390q
	Scottish Campaign for National Parks		434r
	Seafield Estate		455a

Reasoning

56.1 The deposit version of the CNPLP, which was published in July 2007, identifies Boat of Garten as an intermediate settlement. It also allocates a 5.8 hectare site fronting Deishar Road on the western edge of the settlement as BG/H1 for 70 housing units. The supporting text indicates that the allocation is to provide housing land for Boat of Garten's needs for the lifetime of the local plan and it expects that any development will keep as much woodland as possible.

56.2 The finalised version of the local plan maintains the same allocation, but breaks the housing numbers down into an initial phase of 50 homes for the first 5 years, i.e. 2006 to 2011, with a further 20 being set aside to meet needs after that. The finalised local plan also specifies that:

- the site contains and is affected by important natural heritage interests and any development must incorporate appropriate mitigation and access management to protect those interests;
- as much woodland as possible must be kept; and
- access must be formed to the adjoining BG/C1 community land allocation.

56.3 BG/H1 broadly matches 2 pockets, or about one third, of housing land allocation 6.2 from the adopted Badenoch and Strathspey Local Plan 1997. The adopted local plan allocation amounts to 7.7 hectares in total, with 120 homes envisaged, all subject to The Highland Council preparing a development brief. The remaining balance of BG/H1 comprises:

- allocation 7.5 from the adopted local plan, whereby 0.4 hectares is reserved for service businesses and lorry parking; and
- allocation 7.6, which amounts to 0.2 hectares reserved for commercial facilities linked to 7.5, with the possibility that development might include a petrol filling station and workshops.

56.4 In both cases tree retention and buffering to screen and separate development from the woodland are pre-requisites. The adopted local plan also allocates land south of Deishar Road and west of Kinchurdy Road in Boat of Garten wood as 6.1(b) for housing. The plan estimates that this 1.3 hectare site could accommodate 15 homes, which should include *sheltered housing*.

56.5 BG/H1 also forms part of the area covered by planning application reference 02/230/OUTBS. That application sought outline planning permission for housing and other development across a site that covers most of adopted local plan allocations 6.2, 7.5, and 7.6, as well as several other nearby allocations. In other words, the whole application site was far greater than BG/H1. That application was lodged with The Highland Council in 2002 and it was the subject of an appeal against non-determination in January 2006 (reference P/PPA/270/380). Immediately prior to the appeal, in November 2005, the inquiry evidence suggests that The Highland Council had resolved to grant outline planning permission for the proposal, albeit subject to reference to the Scottish Ministers because of the potential impact of development for natural heritage. CNPA objected to that proposal for reasons that include:

- the adopted local plan was out of date;
- the housing projections upon which it was based were no longer relevant; and
- the proposal would result in considerable loss of habitat and thereby also cause consequential damage to populations of endangered species.

Scottish Natural Heritage also objected because of: the loss of habitat used by capercaillie, which were seriously endangered; the potential for increased disturbance to discourage use of the woodland by capercaillie; and the probability of knock-on implications for populations of capercaillie in the nearby Special Protection Areas (SPAs) of Kinveachy Forest, Abernethy and Craigmore Wood. The appeal was dismissed by the Scottish Ministers in June 2006, following an accompanied site inspection and report by an Inquiry Reporter. His recommendation was that permission should not be granted because the proposal carried uncertain, but potentially highly significant natural heritage implications, especially for capercaillie.

56.6 In October 2005, while the above application was under consideration, CNPA published its consultative draft version of the local plan, which included the 6.2 adopted local plan site as LA1, with the annotation that if the application for outline planning permission was refused, it is unlikely that CNPA would zone the site for development. However, by July 2007 and about a year after the appeal was dismissed, part of the site was proposed for allocation in the deposit version of the CNPLP with no explanation for this change of position.

56.7 Subsequently, BG/H1 has again become the subject of a planning application (reference 08/272/CP). This time, full permission is being sought for the erection of 73 houses and the formation of 6 house plots, along with associated infrastructure and a primary school site. The application was lodged in July 2008 and CNPA confirmed at the hearing that it remains undecided because of outstanding issues including a request for more environmental information. Scottish Natural Heritage has objected to the proposal because the mitigation conditions set out in CD 7.18 have not been incorporated.

56.8 Based on the above objections, which we have been asked by CNPA to consider, as well as the written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- whether the amount of housing land allocated is appropriate for the role that Boat of Garten plays in the settlement hierarchy;

- whether the natural heritage value of BG/H1 and the potential for harm from development is so significant that development should be presumed against;
- whether BG/H1 is effective in terms of SPP 3: *Planning for Homes*, Annex A, paragraph 17;
- whether adequate safeguards can be put in place to restrict the number of second homes that BG/H1 might produce, to secure a high standard of design and layout and to prevent development with highly suburban and inappropriate in context developments, and
- whether additional housing land should be allocated near to BG/H1, also in Boat of Garten wood.

56.9 In accordance with current best practice we have not considered minor matters which do not materially affect the proposal to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

56.10 On the first of these issues, Boat of Garten is identified as an intermediate settlement in the hierarchy. CNPA confirmed in evidence to the inquiry that this classification is based on population size and the range of facilities on offer. The available information and our site inspection confirm that:

- at the 2001 census the resident population of Boat of Garten numbered 533; and
- the village services currently include a school, shops, post office, hotel, other tourist facilities including the steam railway, and a new community centre.

On that basis, we take no issue with the classification of Boat of Garten and, from that, the CNPP 2007 supports growth *that meets the communities' needs, but that also reflects the scale and quality of the settlements, as well as the viability of services and infrastructure present* (page 67). In other words, to sustain the future of that community. However, we can find no explanation in the finalised local plan or in any of the inquiry evidence to establish why BG/H1 in particular is needed to achieve this, or to justify specifically how BG/H1 will deliver these outcomes. In this regard, we remind of our concerns about a general over supply of housing land in the finalised local plan, although these concerns are balanced by the fact that Boat of Garten has seen only a limited amount of new build housing development in the recent past. Further, BG/H1 would add in the region of 50 homes in the lifetime of this local plan and 70 homes overall. While that might be more than is needed to sustain this comparatively small intermediate settlement during the life of the local plan, these concerns would almost certainly be addressed by the phasing proposed in the finalised local plan. Given all of this, an allocation of housing land at this stage may be appropriate in principle, but we have no evidence to support a conclusion that it is essential.

56.11 Turning to the second main issue, we note that Boat of Garten wood is a high quality habitat that supports a wide range of species of varying degrees of significance for nature conservation. Many of these species ought to be protected from harm and we note that Topic Paper 4a, which expands on the findings of the general Strategic Assessment (SEA) undertaken for the CNPLP, predicts a significant negative effect for the conservation and enhancement of species diversity in the Park (CD 7.24, objective 1, page 30). However, BG/H1 is not designated as

having any particular outstanding intrinsic value. Despite this, all of the submitted evidence confirms beyond doubt that the wood is used to some extent by capercaillie. This bird is an Annex 1, UK priority species that has been 'red listed' because it is close to extinction. Capercaillie are known to inhabit 4 nearby SPAs at Kinveachy Forest, Cairngorm, Abernethy and Craigmore Wood. Boat of Garten wood is located between these SPAs and it seems to be used by the birds as a link between them. Because of this, Regulation 48 of the Conservation (Natural Habitats, &c) Regulations 1994 as amended, specifies that before deciding to authorise a plan or project that:

- is likely to have a significant effect on a European site such as an SPA; and
- is not directly related to the necessary management of that site,

a competent authority shall make an appropriate assessment of the implications for the site. This requirement also extends to land outwith the designated site boundary.

56.12 CNPA has produced a report for the inquiry by Scottish Natural Heritage that confirms the proposed housing land allocation is likely to have a significant effect on populations of capercaillie in the SPAs because they may inhabit the site or use it as a route between designated SPAs (CD 7.18, paragraph 1.5, page 8) and there is no suggestion that the second bullet point above is in anyway relevant. Therefore, an appropriate assessment must be made by the competent authority for BG/H1. In this case, the competent authority is the body that will ultimately authorise the plan, so that it must be CNPA. Scottish Natural Heritage makes this clear in other local plan consultation replies as well as in the above report (CD 7.18, page 3), which is also clearly entitled 'natura appraisal' not appropriate assessment. Because of this, the core document list description is incorrect. Further, we note that Topic Paper 4a also refers to an appropriate assessment having been undertaken (CD 7.24, page 30). Appropriate assessment is not the same as an SEA, but they can run in parallel and share base information. In this case, aside from the fact that this entry appears in the SEA in the context of conclusions from landscape capacity findings, which in this case are not related to natural heritage, we have been unable to locate the source of the conclusions in the evidence before us, especially in the Cairngorms Landscape Capacity for Housing Study (CD 7.19). Accordingly, we have no evidence to confirm either that such a necessary appraisal has been prepared for BG/H1, or to advise on the outcome.

56.13 Interim guidance issued by the Scottish Executive in May 2006 on the need for appropriate assessment in development plans sets out a clear expectation that appropriate assessment should be undertaken prior to consultation on the plan, with a short paper on the subject being published at each consultative stage thereafter setting out the authority's conclusions and proposed action to secure compliance with the Habitats Directive (paragraph 7, page 2). Scottish Natural Heritage will then state whether they are content with the appropriate assessment findings. The guidance adds that appropriate assessment should be carried out from the earliest possible stage and should then be reviewed and refined at each relevant subsequent stage of plan preparation (paragraph 15, page 4). Where a firm proposal with an identified scale or locational components is involved, this is capable of more detailed assessment than might be applicable to a generic policy (paragraph 16, page 4).

56.14 Where appropriate assessment shows no harm to a European site, the subject element can be approved for inclusion into the plan. Approval maybe subject to caveats by way of safeguarding wording, particularly where the implementation will require a further level of assessment at a more detailed stage and it is important that approval makes clear that further assessment is not exempt (paragraph 19, page 5). We note no reference to this explicit procedure in the finalised local plan text associated with BG/H1 and we regard this as a significant omission especially because it carries major implications for any prospective developer's ability to implement the allocation. Safeguarding via a generic policy is not enough, but cross-referencing is appropriate, and even this is absent from the finalised local plan (paragraph 20, page 5). Where an appropriate assessment indicates that there will be a negative impact that has an adverse effect on the integrity of a European site, then the subject should be removed from the plan or an alternative approach adopted to avoid the problem. It is for the planning authority to consider alternatives and, if removal is not an option, the authority must then justify the proposal against issues of overriding public interest. In these circumstances, it is essential that discussion takes place with the Scottish Executive at the earliest opportunity (paragraph 21, page 5).

56.15 In short, the above demonstrates that an appropriate assessment is undoubtedly required for BG/H1, and it must be prepared by CNPA. The process set out above has not been followed and, without it, we are unable to be satisfied that the integrity of the designated sites will not be harmed and the allocation in the finalised local plan cannot proceed to adoption. Further, it is not enough for CNPA to rely upon the Scottish Natural Heritage report or the SEA summary in Topic Paper 4a in lieu of appropriate assessment, nor can CNPA pass the matter to a developer to address, including through the application of other related finalised local plan policies.

56.16 By way of assistance and in the context of the local plan objections we have nonetheless reviewed and considered the evidence that has been placed before us about the natural heritage value of Boat of Garten wood, with a view to establishing how harmful the proposal might be for capercaillie, and for the integrity of the SPAs. From this evidence, we are satisfied that Scotland supports 6 meta-populations of capercaillie and Boat of Garten is part of the largest meta-population at Strathspey. CNPA advised at the hearing that this year's survey information reveals that capercaillie are still in decline across the whole of Scotland.

56.17 Capercaillie tend to roam and locally, they use Boat of Garten wood as a stepping stone to link habitats in the 4 surrounding SPAs across distances that range from 0.9 kilometres to 8 kilometres. Capercaillie are known to range freely and easily over these substantial distances. However, Boat of Garten wood is not designated as being of European significance because Scottish Natural Heritage believes that the resident population of capercaillie is not as much as 1% or more of the national population. As of 2004 and again in 2006, the wood is known to have contained one lek, so that it probably supports at least 6 cocks and one nesting brood, but numbers of chicks and breeding hens are notoriously difficult to establish. Accordingly, the exact and up to date position is not and probably cannot be known beyond doubt.

56.18 To overcome this uncertainty and to estimate the total population from the available survey information, Scottish Natural Heritage doubles the number of cocks, which for Boat of Garten wood produces a figure of 12 or 0.6% of the national population. Scottish Natural Heritage believes that this multiplier is the most robust because it has been subject to peer group verification. The objectors dispute this assessment, believing instead that a multiplier of 4 should be used, whereby the percentage would increase to 1.2%, which is nationally significant. CNPA accepted in discussion at the hearing that:

- this higher multiplier may be more accurate because it takes account of peak activity;
- it is now used by RSPB as well as the UK Action Plan Group to calculate numbers; and
- Scottish Natural Heritage may change its approach in future, once a similar test of robustness has been applied and satisfied.

Therefore, we are satisfied that the current Scottish Natural Heritage assessment may well under estimate the importance of the Boat of Garten wood by a significant margin and the impact of the proposed allocation could be far greater for the security and future of capercaillie as a species. From this and to safeguard the integrity of the species, it seems appropriate to us that a precautionary approach should be applied in the interim, at least until the uncertainty around the multiplier is removed. It would be extremely unfortunate if Scottish Natural Heritage were to change its approach in future to use the higher multiplier because by then, BG/H1 may be developed and this highly vulnerable and threatened species could have suffered further marginalisation and decline.

56.19 As with overall population numbers, the level of use of the area by capercaillie is also uncertain. The objectors believe that if the overall population is greater than estimated, then so too might the level of use be. Further, if left undisturbed, the habitat value of the wood could improve and thereby encourage greater use. In this regard, the objectors argue that Scottish Natural Heritage has under estimated the size and value of the blaeberry food resource on the site and in the wider wood.

56.20 Scottish Natural Heritage believes that as of January 2008, BG/H1 was little used by capercaillie because of proximity to the road and disturbance from recreational use, but the wider wood was being used, primarily as a stepping stone. The precise importance of that activity and use to the general well-being of capercaillie is not known but they are accustomed to free movement and the link effect of Boat of Garten wood may be a key factor in their use of the SPAs. Development could threaten that relationship. Nevertheless, the level of use of the wider wood by capercaillie will always fluctuate depending on conditions in the surrounding SPA habitats, but the opposite is unlikely. In other words, capercaillie are unlikely to leave their SPAs just because of development on the site. Further, the proposal would not fragment their territory, although it would reduce the amount of roaming space albeit by only a limited proportion of the overall available area, and Boat of Garten wood has potential to help to maintain the population by acting as a back up habitat to compensate for a catastrophic and mass migration from one of the SPAs. However, the true impact of each of these use issues is unknown and, in response, Scottish Natural Heritage comments that *if this allocation is made and the*

site developed, connectivity between the two sides of the valley might be impaired and the “meta-population” could suffer as a result (CD 7.18, page 10).

56.21 Next, we understand that capercaillie are notoriously sensitive and susceptible to disturbance at all life stages, but especially when tending leks. The proposed housing development of BG/H1 could produce disturbance in 3 main ways, and we have noted comments on these as follows.

1. Disturbance from noise and activity during construction, but if the survey data is correct and the wood is not used extensively by capercaillie then the impact for them is not likely to be significantly negative. This is because the impacts would be short-lived and could be minimised and contained to a comparatively small area; the distance to the most sensitive part of the wood, i.e. the lek, is considerable; and the existing sources of disturbance by BG/H1 discourage use anyway (CD 7.18, paragraph 3.1, pages 10 and 11).
2. Direct disturbance from the occupied housing, which would spread out from BG/H1 and thereby render about 9 hectares of otherwise suitable woodland permanently unusable for capercaillie (CD 7.18, paragraph 3.2, page 11).
3. Disturbance from increased recreational use of the wood, which is of greatest concern to Scottish Natural Heritage and the objectors alike. Based on the size of the housing allocation as compared to the 2001 census population of Boat of Garten as a whole, the natura appraisal estimates that activity in the wood would increase permanently by a factor of 26%. In addition to this general overall increase in the number of people and dogs using the wood, more people would make more use of the existing formal and informal paths that penetrate deep into the wood.

56.22 As regards item 3, Scottish Natural Heritage quotes evidence that capercaillie currently use the wood up to within 100 metres from the paths and considers that they might be capable of developing avoidance behaviours to cope with the extra recreational use. Field research from elsewhere suggests that they might come even closer. However, the objectors argued at the hearing that their on-site observations of a reduced prevalence of droppings closer than 250 metres from the paths shows that capercaillie are discouraged from approaching any closer. Either way, there seems to be little doubt that increased recreational activity, especially with the prospect of free-roaming dogs, will disturb capercaillie in the wider wood and thereby will also reduce its overall carrying capacity for the species. Further, it is not known whether this disturbance could have a more widespread impact. We compare this situation to strategic objective (g) from the CNPP 2007 which relates to outdoor access and recreation and which expects that the more fragile areas of the Park will be protected from pressures arising from recreation (page 83).

56.23 In assessing the overall significance of the impact of disturbance arising from the proposed allocation, Scottish Natural Heritage has recommended mitigation, whereby possible damage from disturbance could be avoided, the effect of the likely impacts would become insignificant, and the allocation could proceed. These conditions are as follows:

1. no new direct access to the wood from BG/H1;
2. operational conditions for construction activity;

3. keeping trees around the edge of BG/H1 from screening;
4. using signs to encourage people to stick to the paths and to keep their dogs on leads;
5. increasing vegetation and cover for the lek to screen it from the paths;
6. all of this to be in place before the houses on BG/H1 are occupied

It is of considerable concern to us to note that these conditions are not mentioned in the finalised local plan. However, we are also concerned about the possible effectiveness of the conditions. For example, we doubt whether conditions that encourage particular behaviours such as the display of signs would be a secure, effective, and enforceable mechanism to offset the potentially harmful impact of a 26% increase in recreational activity in the wood that could be attributed directly to the proposed allocation.

56.24 Therefore, while we accept that CNPA has adopted the evidence of its statutory consultee, i.e. Scottish Natural Heritage, all of the evidence before us points to a conclusion that there is reasonable scientific doubt about the absence a significant and permanently harmful effect on capercaillie from allocation BG/H1. This same conclusion applies equally to the potential impact on the wider integrity of the conservation objectives that underpin the SPAs and the usefulness of Boat of Garten wood in supporting those SPAs, including because knock-on effects and displacement cannot be ruled out. For example, we find that the most recent survey is of some vintage, the size of population using area is not known, and nor is the exact level of use. The true value of the area to the continued existence of the local population in and around the SPAs is also uncertain and may be capable of improvement if development were not to proceed. Under all of the above circumstances we are satisfied that it would not be good planning practice to promote development on BG/H1.

56.25 A related matter covered by the objectors is the potential for development of BG/H1 to harm the landscape and character of Boat of Garten. In this regard, we have considered the findings of CNPA's Landscape Capacity for Housing Study (CD 7.19) and the potential defensibility of BG/H1, as well as Topic Paper 4a, which summarises the SEA findings.

56.26 The landscape capacity study categorises BG/H1 as forming part of a pine woodland with landforms, which combine into a containing edge for Boat of Garten. The study also notes that the woodland is well-used for recreation before judging that it has a high sensitivity to development in terms of:

- landscape character and experience because it could affect the integrity of the woodland and the ability to enjoy it;
- impact on landscape setting because the woodland provides a strong visual backdrop for Boat of Garten; and
- loss of containment and definition of the settlement edge, which is currently strongly delineated by the woodland.

From this, the study then finds no obvious opportunities to expand Boat of Garten because the pine woodland is seen as a significant constraint. From our site inspections, we agree with these conclusions and add that housing allocation BG/H1

would amount to a significant loss of valuable woodland, without the benefit of an established strong alternative edge. The effect of this leads to concerns that the character of Boat of Garten would be diminished by the allocation and further development would become more difficult to resist. In this regard, we note that Topic Paper 4a judges the inability of the proposal to maintain and enhance the distinctive landscape and cultural character of the Park, i.e. objective 6, as a significant negative effect.

56.27 In turning to consider the third main issue, while we accept that site BG/H1 is almost certainly effective in terms of the criteria set out in SPP 3, to overcome all of the constraints that we have described above, and thereby also to comply with the aims of the National Park and the strategic objectives of CNPP 2007 as well as other finalised local plan policies that govern the protection of the natural environment, CNPA would need to show an overwhelming need for the housing that would comprise BG/H1. From the evidence before us, we consider that requirement is not satisfied.

56.28 Moving on to the fourth issue, the objectors raise concerns about safeguarding against development that would not suit the village context. At the hearing, discussion confirmed that Boat of Garten suffers a high incidence of second homes, which harms the year round viability of local services. Local services undoubtedly deserve support and should be helped to thrive. Expanding the resident population is generally believed to be of assistance in this, but we have particular concerns about the lack of an available and secure planning mechanism to prevent more new housing from simply perpetuating the second home problem. Next, we agree that affordable housing is a critical issue for CNPLP and we have stated our position elsewhere in this report, including in the context of Policy 21. Broadly, we are concerned that CNPA's approach would not deliver enough affordable housing generally, and we have noted the lack of a community based assessment of need to make sure that development is focussed accordingly. Against this, we have difficulty in accepting that the provision of some affordable housing on the site is enough to justify the allocation, especially given the other highly significant shortcomings set out above. Lastly, we agree with the objectors that in order to fit the village context, a suburban style and layout of new housing would not necessarily be suitable. However, precise visual amenity impacts should be assessed against firm development proposals, when issues around the layout, design, and external finishes of any new buildings would fall to be addressed through compliance with finalised local plan Policy 18, as well as through the implementation of specific design principles. CNPA will set these out in supplementary guidance that is currently in preparation and we find that this general approach is appropriate, to avoid burdening the local plan with too much detail. Subject to this, we are satisfied that BG/H1 could be implemented without necessarily harming local character and visual amenity.

56.29 On the final main issue, one of the objectors is promoting another site near BG/H1 as a housing land allocation. The site is roughly 'L' shaped, it is located east of BG/H1, and it occupies a corner behind existing development at Deishar Road and Kinchurdy Road. The site is also in Boat of Garten wood and it broadly comprises adopted local plan housing land allocation 6.1(b). Aside from any issue about housing land supply and the amount of allocated land, we note that this site

suffers the same shortcomings that we have described for BG/H1. In particular, because of its location in the wood, the objector's site also raises concerns about the preservation of capercaillie and development would more than likely have a similar negative impact on the landscape value of the wood including for the degree of containment that it gives the settlement. The objector has submitted no detailed evidence to show otherwise and, given all of this, we are satisfied that the site should not be allocated.

Conclusions

56.30 Drawing the above matters together, while we have concerns about CNPA's general approach to the housing land allocations, we are satisfied that there should be scope for a housing land allocation in Boat of Garten. Such an allocation would accord with the strategic objectives of the CNPP 2007. From that, the size proposed for BG/H1 is not disproportionately large and, subject to phasing, there is no reason to suppose that it would be inappropriate for the role that Boat of Garten plays in the settlement hierarchy, but we cannot conclude that it is essential.

56.31 We have serious concerns about the impact of the proposal for one Scotland's most threatened species, i.e. capercaillie. We also agree with the submitted capacity assessment findings that development of the site would have a significantly negative impact on the landscape character of Boat of Garten. Based on these findings, we conclude that the natural heritage and landscape value of BG/H1 and the potential for harm from development are so significant that development should be presumed against. These same conclusions apply to the objector's suggested additional site nearby in Boat of Garten wood.

56.32 We conclude that BG/H1 can make a contribution to the effective land supply in terms of Annex 1 of SPP 3: *Planning for Homes*. However, to overcome all of the constraints and to comply with the aims of the National Park and the strategic objectives of CNPP 2007 as well as other finalised local plan policies that govern the protection of the natural environment, CNPA would need to show an overwhelming need for the housing that would be accommodated in BG/H1. We cannot conclude that requirement has been satisfied. Nevertheless, we accept that adequate safeguards can be put in place to secure an appropriate standard of development, but we regard all of the shortcomings discussed above as being of such overriding significance that neither allocation BG/H1 or the objector's suggested additional site in Boat of Garten wood should proceed.

56.33 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

56.34 Accordingly and based on all of the above, we recommend that allocation BG/H1 should be deleted from the Deposit Local Plan Modifications (1st and 2nd) October 2008 as it proceeds to adoption. We further recommend that the additional site suggested by the objector, which is also in Boat of Garten wood, should not be allocated for housing development.

Issue	Boat of Garten other allocations		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objector	Boat of Garten Community Council	Objection ref	092d

Reasoning

57.1 Based on the above objection, which we have been asked by CNPA to consider, as well as the written submissions, we find that the main issues to be addressed are:

- whether Milton Loch should be safeguarded by an ENV allocation on the proposals map for Boat of Garten in the CNPLP; and
- whether the Boat of Garten Hotel should be allocated for economic development and tourism purposes on the proposals map for Boat of Garten in the CNPLP.

57.2 In accordance with current best practice we have not considered minor matters which do not materially affect the matters to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

57.3 In addressing the first of these issues, we remind of the concerns repeated throughout this report about the way in which the ENV designations have been applied in the finalised version of the emerging local plan. We restate here that as currently used, the ENV allocations fail against generally applied best practice for local plans because:

- there is no secure policy footing nor any transparent purpose or evaluation process for the designation;
- the level of protection varies from protecting from all future development to only adverse or harmful development;
- the designations are used inconsistently;
- there is no clear correlation between the sensitive areas identified in the landscape capacity studies and the ENV allocations; and
- the plan lacks guidance on the practical implications of the designation for a specific development proposal.

Accordingly, we have recommended elsewhere that a substantial review is justified. Without that, we see no particular benefit in applying the ENV designation to Milton Loch because that would not necessarily bring the high degree of protection that the objectors seek. Nevertheless, if the shortcomings were to be resolved, the designation could send a strong message about CNPA's attitude to environmental protection, add general value to the plan, produce cumulative benefit in preserving natural heritage, and address several of the strategic objectives set by the CNPP 2007. For example, the designation could relate well to objectives about the conservation, enjoyment and understanding of the special qualities of the Park as well as the promotion of biodiversity and responsible outdoor access and recreation.

57.4 More specifically for Boat of Garten, we agree with the objectors that the designation has already been used to cover sites that straddle the settlement

boundary here and in other settlements. Therefore, that locational issue need not prevent the allocation of Milton Loch as ENV. Further, we note that Section 7 from the finalised version of the local plan describes the ENV designations as land that is important to the amenity, setting, and overall fabric of settlements, as well as locally important habitats, or landscape features, or recreational resources (paragraph 7.12). Milton Loch fits into this general description because the CNPA commissioned Landscape Capacity for Housing Study (CD 7.19) confirms that the loch is an attractive feature that is key to the:

- dramatic sense of arrival experienced on entering Boat of Garten;
- definition of a strong settlement edge in that direction; and
- provision of an important recreational resource for the settlement.

In general, the study concludes that the loch area has a high or very high sensitivity to development and that it is a significant development constraint.

57.5 As regards the second issue, we agree with CNPA's general response to the objection that it is not normal practice to use planning procedures to safeguard individual commercial interests. However, we note that the finalised version of the local plan states explicitly that ED designated sites are identified where they are key to providing additional economic provision in settlements *or where existing uses help to sustain communities*. In such circumstances, the finalised local plan *will seek to protect the business use of existing businesses which provide key services to communities in the Park* (paragraph 7.10, page 62). In implementation of this, we also note that in common with many other settlements in the Park, the local caravan site is allocated as BG/ED2 because it provides *continued support to the provision of tourism accommodation within Boat of Garten and will be protected from adverse development*. In other settlements, the following sites are all safeguarded by a similar kind of designation:

- an established folk museum (Newtonmore NM/ED3);
- existing council owned business units (Ballater BL/ED1);
- the Landmark Forest Adventure Park (Carr-bridge C/ED3); and
- the Loch Ericht Hotel (Dalwhinnie DW/ED2).

57.6 Again, we have general concerns about an apparent lack of consistency of application of the ED designation, as well as the lack of clear vision and guidance on its practical value and the implications for a specific development proposal. These concerns raise the same issues as described above in the context of the ENV designation. Aside from this, the above examples show that the finalised local plan is protecting other commercial interests and the difference in attitude between these facilities and the Boat of Garten Hotel has not been explained in the inquiry evidence. The list and the lack of justification for its content makes it difficult for us to understand CNPA's resistance to the local community council's request to have what that organisation clearly judges to be an important local facility, safeguarded at least to the same degree as these other facilities.

57.7 From our site inspections, we note that the hotel offers tourist accommodation, albeit off a different kind to the caravan park. The hotel also offers non-residents dining, function facilities, conference rooms, as well as sports and

other related facilities. All of this confirms that the hotel is a tourist and local community asset, as well as a source of direct and indirect employment and economic support for Boat of Garten. From that, we are satisfied that the hotel fits well with the general expectations for the ED sites from Section 7 of the finalised local plan, as described above.

Conclusions

57.8 Overall therefore, we consider that the use of the ENV designation should be the subject of a thorough review and, after that, it should be used in a consistent way throughout the local plan. In the meantime, allocating Milton Loch a safeguarded environmental area would nonetheless be appropriate because it would:

- support the strategic planning policy background for the finalised local plan;
- fit the general description of ENV land in the finalised version of the local plan;
- reinforce the findings of the landscape capacity study including by strengthening the robust and appropriate settlement boundary for Boat of Garten; and
- safeguard a resource that local residents value.

57.9 We have the same basic concerns about the relevance and value of the ED designation, including about the lack of transparent assessment criteria to underpin it and the lack of consistency of its application. However, from the evidence before us, including other sites that have a similar designation and the local significance of the hotel facility, we see no justification for excluding the Boat of Garten Hotel from the ED allocations as they have been used in the CNPLP.

57.10 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

57.11 Accordingly and based on all of the above, we recommend in general that the ENV and ED designations should be reviewed and amended. We further recommend that in the meantime, Milton Loch should be included as BG/ENV and the Boat of Garten Hotel should be incorporated as BG/ED3, as the Deposit Local Plan Modifications (1st and 2nd) October 2008 proceeds to adoption.

Issue	Braemar economic development allocations		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objector	The Proprietors of Mar Centre	Objection ref	394b/o
Procedure	Written submissions		
Objector	Braemar Community Council	Objection ref	428a

Reasoning

58.1 Based on the above objections, which we were asked by CNPA to consider, as well as the written submissions and the hearing discussion, we find that the main issues to be addressed are:

- whether the economic allocations shown on the finalised version of the CNPLP proposals map for Braemar are compatible with the strategic objectives of the CNPP 2007, the relevant approved structure plan and with relevant national planning policy;
- what are the contributions that these proposed allocations for economic development in Braemar make in Braemar; and
- whether more land is required in Braemar for business and commercial development to meet the strategic objectives for sustainable communities in the CNPP 2007.

58.2 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the plan moves towards adoption.

58.3 As far as the first issue is concerned, the deposit version of the CNPLP did not identify any existing or proposed sites in Braemar for business or commercial uses. This approach was reviewed and in the 1st Modifications when 3 sites for potential economic growth were identified: BM/ED1, BM/ED2 and BM/ED3. Respectively, these relate to the former ambulance station, the existing Mews Square development, and the existing caravan and camping site. These sites remain in the 2nd Modifications; and we note that Policy 27 Business Development relates to them.

58.4 When we consider the allocation of land for economic development within the emerging local plan as modified, the objectors have not disputed with CNPA that it meets the strategic objectives of the CNPP 2007, or the general requirements of the approved structure plan, or the terms of any relevant national policy guidance. We concur with the assessment of the parties. In short, we find that the sites are compatible with strategic guidance and that the approach taken in the CNPLP accords generally with national planning policy.

58.5 Turning to the second issue, we have no difficulty in finding that all 3 of the sites now identified in the finalised version of the local plan are suitable for business and commercial development. Their allocation responds, in part, to the concerns of the objectors. However, we agree with the objectors who maintained that: the ambulance station allows for only limited opportunities within a predominantly

residential area; the Mews Square is an existing site with some vacant property; the caravan and camp site simply retains the land in its existing use; and, on the face of it, there is little in the way of opportunities for new development or the expansion of existing enterprises. We have commented in more detail on this particular issue as it affects other settlements elsewhere in our report.

58.6 In addressing the third issue, the first key question is whether the allocations for Braemar meet the objectives for sustainable communities as set out in the CNPP 2007. The CNPLP makes provision to focus growth in the main settlements and it plans to meet community needs in the others, which includes Braemar. We are in no doubt that over the past decade local initiative and business enterprise have made major contributions to the regeneration of Braemar as an attractive destination for visitors as well as a pleasant place in which to live and work. However, there was no evidence brought to the inquiry of particular initiatives from business, commercial or other sources that persuades us that employment opportunities are being choked off by the absence of suitable sites. There is more to securing a sound employment base for sustainable communities than merely allocation additional land in the hope that it will attract new business or encourage the expansion of existing enterprises. In that context, we are bound to note in passing that the existing land at, and adjacent to, Memorial Park appears to an, underutilised asset which has potential for the mounting of additional events which might attract worldwide attention all to the considerable benefit of the local economy.

58.7 We are satisfied that there is sufficient provision to meet the demand for land for economic development likely to emerge during the life of the local plan. However, we do not rule out that the allocated sites may be the minimum required to facilitate the continuing process of regeneration in Braemar. Accordingly, looking to the future beyond the life of CNPLP, we agree with the objectors that there would be benefit in deriving a forward looking strategy which would clarify the place of Braemar within the settlement hierarchy of the Park and provide guidelines on the role which tourist related and other employment might play in securing this intermediate settlement as a sustainable community. Within that general context we suggest that the identification of some additional land for economic development within revised settlement boundaries might be a focus of attention for a masterplanning exercise and the parallel process of preparing the forthcoming Local Development Plan.

58.8 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

58.9 Accordingly, subject to the above reservations, we recommend that the allocation of land for economic development as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Braemar housing allocations		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objector	The Proprietors of Mar Centre	Objection refs	394a
Procedure	Written submissions		
Objector	Braemar Community Council	Objection ref	428b/c

Reasoning

59.1 The deposit version of the CNPLP 2007 identified 3 housing sites within the Braemar settlement envelope: BM/H1, BM/H2 and BM/H3. Following objections, the 1st Modifications removed BM/H3 but BM/H2 and BM/H3 were retained with the addition of land for 12 houses at Invercauld Farm. The 2nd Modifications maintained that position and Table 4 Phased Land Supply by Local Authority Area includes the additional 12 houses under its *approximate consented supply but not yet built* calculation for Braemar (total 32). We note that it is proposed that the proposals map for Braemar be the subject of consequential modification as a post inquiry change. Site BM/H1 has outline planning permission for 20 dwellings.

59.2 Based on the above objections, which we have been asked by CNPA to consider, the written submissions, and the discussion at the hearing we find that the main issues to be addressed are:

- whether Braemar been identified properly within the National Park settlement hierarchy;
- whether more housing land is required to meet the strategic objectives for sustainable communities in the CNPP 2007; and
- whether the settlement boundaries shown on the finalised version of the CNPLP proposals map for Braemar are robust and defensible.

59.3 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

59.4 Taking the first matter, the CNPP 2007 identifies the strategic settlements in the National Park as: Aviemore; Grantown-on-Spey, Kingussie; Ballater; and Newtonmore (page 66). The CNPLP is bound to follow that broad lead. In developing its hierarchy of settlements Braemar is identified consistently as an intermediate settlement within successive versions of the emerging local plan. We agree with the objectors that Braemar is set at the heart of the Park and in that sense it has a strategic location within the Park; but that is not enough by itself to enhance its status to a strategic settlement as this is described by CNPA. We have no quarrel with its description as an intermediate for the purposes of this local plan. However, as we have pointed out elsewhere in this report, it would have been preferable if readers of the plan had the benefit of a succinct explanation from CNPA of how it had come to its conclusion.

59.5 Moving on from there, we have also pointed out that a local plan which looks beyond the immediate future in terms of land allocations should have the outcomes

of that process underpinned by a statement of where the settlement will fit with the vision for the Park as a whole and the way forward for it as a constituent settlement within the hierarchy. In that respect we note that the objector, who is a major land owner in the area, has undertaken such an exercise. From the list of proposed supplementary guidance with which we were provided following the inquiry we note also the intention of CNPA to assist in the preparation of a masterplan for Tomintoul. We agree with the objector that a similar exercise led by CNPA and with the active participation of interested parties, including the local community, could with benefit be undertaken for Braemar.

59.6 With all that in mind, we agree with the CNPA witness who conceded at the hearing that text prefacing the proposals for Braemar might be inserted as follows: *Braemar is situated in the heart of the National Park and there is a recognised need to ensure the community remains sustainable with improved facilities and housing provision to meet local needs. To progress this in a co-ordinated way a masterplan is proposed to assess development options for the medium and long term, drawn up in consultation with the community and key stakeholders.*

59.7 Moving on to the second issue, CNPA has acknowledged that it is required to deliver effective housing land for the local plan period on the basis of the housing needs established for the Park. The key question as far as Braemar is concerned is whether the allocations for that settlement meet the objectives for sustainable communities as set out in the Park. We have found elsewhere that the CNPP 2007 requires that the CNPLP identify sufficient land to accommodate the additional households calculated to emerge from the projected increase in population. It is within that context that the strategic objective of encouraging a population level and mix in the Park that meets the current and future needs of its communities and businesses must be achieved.

59.8 We have made clear elsewhere our reservations about the form and content of Table 4 and the manner of its preparation in the emerging local plan. When we look again at Table 4 we have sympathy for the view that, on the face of it, the allocations produce an east-west split with settlements in the west such as Aviemore receiving a greater allocation. However, we are in no doubt that the CNPLP does make provision to focus settlement growth in the main settlements and plans to meet community needs in other settlements including Braemar. In this case we accept that the land allocations appear to be of an appropriate size to support the local community and ensure its sustainability for the life time of the local plan. We have no difficulty with any of the modifications as proposed and note that these appear to meet certain of the concerns raised by objectors. We accept from CNPA, and it is not disputed by the objectors, that the proposed additional housing sites are effective in terms of SPP 3: *Planning for Homes*, Annex A at paragraph 17.

59.9 As far as the strategic objectives for housing are concerned, the requirement is to increase accessibility of rented and owned housing to meet the needs of Braemar. The pivotal concern of the objector is *that housing land allocations are generally too low and will not help deliver the required affordable housing.* In that connection, we have read with interest the Housing Needs Analysis (May 2007) which appears to confirm the need identified by the objector, and by CNPA, for the provision of affordable housing in Braemar. That housing is required to support the

local economy and, in particular, to provide adequate accommodation for younger persons with existing or future employment prospects in the area. When we consider the allocation of housing land within the emerging local plan, and the provision made for affordable housing within that, we are satisfied that there is sufficient provision to meet the requirements likely to emerge and be built out during the life of the local plan. However, looking further ahead we suggest that the identification of some additional land for that purpose might be a focus of attention for the forthcoming Local Development Plan.

59.10 Moving on to the third matter, it is normal, and perfectly understandable, that in the preparation and implementation of local plans the policies towards proposed development within the predominantly built up areas of settlements will differ from those concerned with proposed development in the predominantly rural areas outwith settlements. In order that there be sufficient in the way of certainty about what will, and will not, be acceptable at particular sites it is good planning practice to establish boundaries which are sufficiently robust to endure into at least the medium term and sufficiently defensible to enable the planning authority to resist any attempts to breach them with unacceptable development. As we have noted elsewhere in our report, CNPA has not set out within the CNPLP any general criteria which they would apply in delineating appropriate boundaries. Indeed, in this case it appears that the settlement boundary from the adopted Aberdeenshire Local Plan 2006 was simply assumed to be adequate.

59.11 For the reasons that we have explained in detail elsewhere in our report, we have no difficulty in rejecting the notion that the settlement boundaries of Braemar should be flexible. Nevertheless, it is clear that the settlement boundary has been drawn very tightly round the boundaries of the existing built up area. Furthermore, it appears that these boundaries were drawn some time ago to meet the needs of the adopted local plan. With this in mind we undertook a comprehensive accompanied site inspection of the 7 sites promoted by the objector for inclusion within the CNPLP: Linn of Dee Road; both sites at Chapel Brae; Auchendryne West; Broombank Terrace; and both sites at Cluniebank. From what we saw, and giving adequate weight to all of the evidence at the hearing, we consider that the settlement boundaries proposed by CNPA are adequate for the purposes of this local plan and sufficiently robust for otherwise unacceptable applications for proposed development outwith these boundaries to be resisted. However, we are in no doubt that delineation of the boundaries of Braemar in the vicinities of the sites identified by the objectors should be revisited in future. This could be undertaken within the context of the masterplanning exercise which we favour for this settlement and the parallel preparation of the forthcoming Local Development Plan.

Conclusions

59.12 When we review our reasoning in the above paragraphs we conclude that: Braemar has been identified properly within the National Park settlement hierarchy as an intermediate settlement; that there is no difficulty with any of the modifications to the deposit plan as proposed; and that the housing sites identified in the finalised plan can be considered to be effective. No more housing land is required to meet the strategic objectives for sustainable communities in the lifetime of CNPLP; and the settlement boundaries are sufficiently robust to meet the needs of this local plan.

However, looking to the longer term, we suggest that the identification of some additional land for housing, particularly affordable housing, within revised settlement boundaries might be a focus of attention for a masterplanning exercise and the parallel process of preparing the forthcoming Local Development Plan.

59.13 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

59.14 Accordingly, subject to addressing the above reservations, we recommend that the allocation of land for housing development as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and as subsequently altered in the proposed post inquiry modifications should be taken forward into the adopted local plan.

Issue	Carr-Bridge housing allocation C/H1 & environment allocations		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400i(n)
Procedure	Written submissions		
Objectors	DW & IM Duncan	Objection refs	037r
	Roy Turnbull		390r
	Woodland Trust Scotland		393f
	Scottish Campaign for National Parks		434r

Reasoning

60.1 Carr-Bridge is categorised as an intermediate settlement in the CNPLP with housing allocated for C/H1, which is a large, fragmented site. The largest portion of C/H1 is located on the eastern extremity of the settlement opposite an existing crescent of houses at Carr Place and off Carr Road, which is a minor road. That portion of the site comprises a field and woodland and it adjoins extensive additional woodland beyond the defined settlement boundary. The field is known locally as the Boys Brigade Field. The other parts of C/H1 include a small site south of Rowan Park and land fronting the B9153 on the south edge of the settlement. This last area is referred to as the Horse Field, it is located generally opposite and is visible from the Landmark Forest Adventure Park, and it lies outwith the urban speed limit. It also contains and is surrounded by woodland.

60.2 The deposit version of the local plan indicates that C/H1 has outline planning permission for 89 market and 28 affordable houses, all to provide for Carr-Bridge's housing needs for the life of the CNPLP. The plan text also notes that the allocated housing areas are surrounded by bog woodland that is designated as C/OS2 because it contains habitats that cannot be developed for housing and that should be protected from future development.

60.3 The finalised version of the CNPLP states that development in the intermediate settlements should support those local communities and ensure their future sustainability (paragraph 7.2). In addition, the reference to affordable housing is removed from C/H1 and the text has been updated to reflect that a detailed planning application for 117 homes is under consideration by CNPA. The OS designation has also been changed to become ENV, which in the case of Carr-Bridge, is still to be protected entirely from development.

60.4 C/H1 broadly reflects the allocations in the adopted Badenoch and Strathspey Local Plan 1997. The land at Rowan Park is part of allocation 1.1(e) from the adopted local plan, where the whole 1.2 hectare site had an estimated capacity of 16 houses. The site off Carr Road incorporates most of adopted local plan allocation 1.2(b), which was stated as comprising 3.8 hectares with a capacity of 50 to 60 houses. This allocation was set aside for the longer term and development depends upon access, a woodland buffer, and a development brief. In addition, a Section 50 legal agreement was to be used to secure access, as well as management of the woodland edges and the open spaces. The Horse Field was allocated as 5.3 in the

adopted local plan on the basis that it contains important woodland to be safeguarded.

60.5 C/H1 has an extensive history of planning applications, which we believe includes the following:

- Outline planning permission reference 03/292/OUTBS, which was granted on appeal in February 2005 (reference PPA/270/312). That proposal followed 2 previous ones in 2002 and it was granted subject to conditions that set a range of constraints, including: (2) reserved matters to be submitted for approval; (3) development to start by a date in February 2010 or within 6 months of approval of the last reserved matter, whichever is the later; (4) a requirement for a detailed wildlife survey and a hydrological study to look at the behaviour of surface and ground water, to avoid causing harm to the natural environment and worsening flood risk; (4) reference to an indicative capacity of 24 affordable homes, which should be amongst the earliest completions but with an overall development rate of no more than 15 homes per year; (5) no more than 117 homes overall; and (7) not less than 24 homes to be affordable.
- Application reference 05/495/CP, which we understand relates to reserved matters consent for plots 1 to 24, and which although called-in for determination by CNPA in December 2005, remains undetermined.
- Application reference 07/400/CP, which we understand seeks to vary condition 4 from the outline planning permission in terms of the set back distance from the B9153 carriageway and the phasing. This application has been registered as seeking full planning permission and, although called-in for determination by CNPA in October 2007, remains undecided.

At the hearing, we were advised by CNPA that negotiations were on-going regarding the proposed layout of development on the site, as well as the in response to challenges to the content of much of the survey information submitted in response to the outline planning permission conditions. CNPA also conceded that if the reserved matters application is refused, then the outline planning permission will fall and the outcome of the challenges could prove fatal to development on the site. Nevertheless, CNPA believes that the issues can be resolved and, that as a result, the finalised local plan proposes a housing allocation that can be construed as effective in terms of SPP 3: *Planning for Homes*.

60.6 Based on the objections that we have been asked by CNPA to consider, the written submissions, and the discussion at the hearing, we find that the main issues to be addressed are:

- whether the amount of the housing land allocated in the finalised version of the CNPLP is appropriate for the role that Carr-Bridge plays in the settlement hierarchy;
- whether there are landscape or natural heritage matters which constrain the allocation of C/H1 to such an extent that housing development should be presumed against;
- whether C/H1 is effective in terms of SPP 3, Annex A, paragraph 17; and
- if C/H1 is deleted from the CNPLP, whether the sites covered should be redesignated as part of an extended network of ENV spaces inside and outwith

the defined settlement boundary, all to be protected from development and to contain the built up area of Carr-Bridge.

60.7 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

60.8 Firstly, Carr-Bridge is identified as an intermediate settlement in the hierarchy. CNPA confirmed in evidence to the inquiry that this classification is based on population size and the range of facilities on offer. The available information and our site inspection confirm that:

- at the 2001 census the resident population of Carr-Bridge numbered 652; and
- the village services currently include a school, shops, tourist facilities, and some industrial type activities.

Therefore, we take no issue with this settlement hierarchy classification. From that, the CNPP 2007 supports growth to meet community needs and to sustain the future of that community. However, we can find no explanation in the finalised version of the local plan or in any of the inquiry evidence to establish why C/H1 in particular is needed to achieve this for Carr-Bridge, or to explain how C/H1 will deliver that outcome. In this regard, we also remind of our concerns that the supply of housing land in the finalised local plan is over generous, and about the lack of any community based housing need information to support the principle of allocating such a large amount of additional housing to an intermediate settlement.

60.9 Turning next to assess the second of the above issues, the evidence before us confirms that C/H1 has no particular designation whereby its natural heritage value must be safeguarded automatically. We also note that Scottish Natural Heritage has raised no objection to development either in response to planning applications or to the CNPLP. However, the material presented to this inquiry establishes beyond doubt that the central bog woodland area has significant biodiversity value. Consequently, it has been allocated as ENV in the finalised version of the local plan and not for housing development as it was in the adopted local plan. The available information about the remainder, i.e. the areas that make up C/H1, is less conclusive.

60.10 Outline planning permission was granted with a specific requirement to undertake detailed surveys of wildlife and local hydrology. Some survey information has been submitted to CNPA by a prospective developer, but the results have been challenged and undermined to the extent that more information has been sought.

60.11 The dispute over the submitted survey information centres primarily on the woodland parts of C/H1 where the objectors' research has revealed numerous red squirrel dreys along with activity by capercaillie and by several other significant organisms. Red squirrels are protected under the Wildlife and Countryside Act 1981, so that development resulting in disturbance to them could not be granted. However, a related issue is the complex interaction between soil composition, water levels, and biodiversity, as well as between C/H1 and the ENV designation because

development might cause harm through displaced impacts to an extent that it should be prevented. While we are satisfied that this represents an obvious constraint to development, our difficulty is that we only have limited information on which to base a conclusion.

60.12 On the one hand, CNPA has not furnished the developer's survey information and on the other, the only evidence from the objectors was presented orally to the hearing, which limits our ability to verify it. However, that evidence described site conditions in considerable detail and it showed an obvious and intimate local knowledge, which must carry weight. The objectors' position is also supported by Topic Paper 4a (CD 7.24), which summarises the findings of the Strategic Environmental Assessment (SEA) of the CNPLP. From that, C/H1 scored a significant negative against each environmental impact objective. Of particular note are objectives 1 and 2, which relate to the conservation and enhancement of the diversity of species and habitats, as well as objectives 4 and 5 that cover the protection and improvement of water bodies and the maintenance of catchments and hydrological systems.

60.13 Therefore, while the position on biodiversity is not yet certain, the balance seems to be shifting in favour of protecting more of the woodland from development than had previously been thought necessary, and certainly from when the site was designated in the adopted local plan and the outline planning permission was granted. Further, without a satisfactory outcome from this process, CNPA accepted at the hearing that other legal requirements, like the degree of protection afforded to the squirrel dreys, might make the outline planning permission incapable of implementation. As a result, we find that the existence of the outline planning permission does not support an assumption that the houses will or even can be built. The subsequent and related planning applications have been with CNPA for 4 years and 2 years respectively, and the fact that both stand undetermined after such an inordinately long time indicates to us that the issues remaining to be addressed are significant impediments to development.

60.14 A related matter covered by the second of the above issues is the potential for development of these C/H1 sites to harm the landscape and character of Carr-Bridge. In this regard, we have considered the findings of CNPA's Landscape Capacity for Housing Study (CD 7.19) as well as the potential defensibility of each constituent part of C/H1.

60.15 The landscape capacity study categorises the Boys Brigade Field as part of an area of elevated farmland. All of the rest is either woodland or woodland with wet land. In addition, the study notes that the Horse Field adjoins an important entrance to Carr-Bridge that contributes to its landscape setting. From this, the study concludes that the woodland would be highly sensitive to the impact of development against each specified criterion, for the harm it would cause to:

- the integrity of the woodland;
- its recreational value;
- the high degree of settlement containment that it offers;
- the attractive visual backdrop that it forms; and
- the sense of arrival into Carr-Bridge.

In contrast, the elevated farmland is generally not sensitive, so that the Boys Brigade Field is the only part of C/H1 that is recommended for development. The landscape study also recognises that development there could create a new, robust settlement edge and bring logic to the development pattern of Carr-Bridge by absorbing Carr Place. From our site inspections, we agree with these conclusions and we add that building housing on the Horse Field would create a pocket of development isolated from the established and clearly defined built up area of Carr-Bridge. The housing site would be separated from the rest of Carr-Bridge only by the ENV allocation, ground conditions between these area look to be very similar, and there is no easily identifiable physical feature to establish a clear and defensible new boundary between the housing and the ENV allocations. We also note with concern that the landscape capacity study findings are only partially summarised in the SEA in that the quotation relates only to the elevated farmland and does not include reference to the woodland. Further, the quotation includes land farther north, which is not part of C/H1. Accordingly, we are satisfied that development on most of C/H1 would harm the landscape value of Carr-Bridge.

60.16 Turning next to consider the third issue and the effectiveness of the site, CNPA's inquiry evidence indicates that because C/H1 was allocated in the adopted local plan and currently has an outline planning permission, it must be regarded as a contributor to the effective land supply, as expected by SPP 3. We have set out above our concerns about placing such heavy reliance on the outline planning permission, which we regard as a fundamental weakness. Otherwise, Annex A to SPP 3 sets out specific tests for effectiveness and, against these:

- we have no reason to suppose that the landowner is not a willing participant;
- we have no evidence to suggest that housing is not the most appropriate or marketable form of development;
- we have not been made aware of any physical constraint to development that could not be resolved;
- the site is not contaminated; and
- the prospect of development seems not to depend upon public subsidy or the provision of specific infrastructure.

60.17 However, the remaining test of marketability is of concern. Firstly, we note that Table 4 allocates all of the consented homes to the 5 year plan period. As we have stated above, we have not yet established that the site is capable of development for biodiversity reasons and the relevant subsequent planning applications have been undecided for a considerable length of time. We remind here that CNPA conceded at the hearing that failure to satisfy these requirements would be fatal to the allocation. Further, condition 4 of the outline planning permission set a rate for housing completions across the site of no more than 15 homes per year, so that from now until 2011, no more than a maximum of 45 homes could be built in accordance with that permission even assuming that work began immediately. Alternatively, the rate set by the outline planning permission would not allow the completion of more than 75 homes in the full 5 year period. Accordingly, we find a significant mismatch between Table 4 and the extant permission. We appreciate that CNPA has an application under consideration to vary that rate, but even if it is granted now, the amount of time available and current market conditions suggest that the completion of 117 homes in 5 years remains unlikely. Related to this, we

note that C/H1, which is in a location that must be attractive to Inverness commuters for its proximity, has lain effectively with permission since February 2005. Despite these advantages, no development has taken place. We find that all of the above casts doubt on compliance with this final effectiveness criterion. Moreover, relying on the extant local plan allocation to such a major extent as an indication of continuing effectiveness is not necessarily appropriate, especially given the changed priorities introduced by the designation of the National Park and the new strategic planning framework set by the CNPP 2007.

60.18 To overcome all of these constraints, and thereby also to comply with the aims of the National Park and the strategic objectives of the CNPP 2007 as well as other finalised local plan policies that govern the protection of the natural environment, CNPA would need to show an overwhelming and locally driven need for the housing that would comprise C/H1. As we have stated above, we consider that requirement is not satisfied.

60.19 Turning then to the final issue for consideration, the objectors suggest that C/H1 should be designated as ENV, to safeguard it from development as has been done for other Park settlements. While this seems to be an attractive option, we have expressed our significant concerns elsewhere in this report about the principle of the ENV designation and the way that it has been described and applied. Given these views and without a considerable re-evaluation of the ENV designation, we consider that such an allocation for Carr-Bridge would not necessarily achieve the high level of long-term protection that the objectors seek. Nevertheless, designating much of C/H1 as ENV could reinforce the findings of the landscape capacity study and establish a robust and appropriate settlement boundary for Carr-Bridge still with some scope for additional development on the elevated farmland including at the Boys Brigade Field.

Conclusions

60.20 Overall therefore, we conclude that the allocations in the finalised version of the CNPLP rely too heavily on those inherited from the extant adopted local plan, without adequate demonstration that these allocations continue to fit the prevailing and fundamentally changed circumstances. These new circumstances include the requirement to comply with the strategic objectives set by the CNPP 2007. In the absence of an overarching vision for the settlement, and evidence which demonstrates a locally generated housing need, we have difficulty in concluding that the amount of housing land allocated is appropriate for the role that Carr-Bridge plays in the settlement hierarchy.

60.21 We are also concerned about placing such heavy reliance on the existing outline planning permission as a driver for the allocation when there are clear indications that biodiversity issues may now render that permission incapable of implementation. Allied to this is strong evidence that the landscape implications of developing all bar the Boys Brigade Field could cause significant harm to the character and amenity of Carr-Bridge.

60.22 The marketability and thereby also the effectiveness of C/H1 are at best doubtful, whereby we cannot conclude that C/H1 is effective in terms of Annex A of SPP 3: *Planning for Homes*.

60.23 In view of our reservations about the wider application of the ENV designations throughout the plan area, we are unable to conclude that allocating the woodland as such would achieve the level of safeguarding that the objectors might hope. Nevertheless, this kind of designation could help to contain and define Carr-Bridge and create robust boundaries for the future.

60.24 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

60.25 Accordingly, we recommend that with the exception of the Boys Brigade Field opposite Carr Place, housing allocation C/H1 should be deleted from the Carr-Bridge proposals map in the local plan. Only the Boys Brigade Field, broadly as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan. We further recommend that the ENV designations around Carr-Bridge should be reviewed towards the possible inclusion of some or all of the rest of C/H1.

Issue	Cromdale housing allocations CD/H1 and CD/H2		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400i(o)
	Scottish Campaign for National Parks		434r
	Glenmore Properties Ltd.		453q

Reasoning

61.1 Cromdale is identified in the CNPLP as an intermediate settlement and the deposit version of the plan proposes the following 2 housing land allocations:

- CD/H1, which is a 3.6 hectare site on the north eastern edge of the settlement. The estimated capacity of the site is given as around 50 homes; and
- CD/H2, which is a 3.03 hectare site to the west of the settlement and south of the dismantled railway. That site is described as appropriate for around 30 homes.

The finalised version of the CNPLP increases the size of CD/H1 by an unspecified amount and the supporting plan text notes that *Access to the site should utilise the existing local road network where possible, and should not have an adverse impact on the trunk road.*

61.2 Based on the above objections, which we were asked by CNPA to consider, and the associated written submissions, we find that the main issues to be addressed are:

- whether the amount of housing land allocated on the proposals map is appropriate for the role of Cromdale in the settlement hierarchy as identified in the finalised version of the CNPLP;
- whether there are any landscape or other matters which constrain the allocation sites CD/H1 and CD/H2 for this purpose;
- whether the delineated settlement boundaries are robust and defensible; and
- whether the allocated housing sites are effective in terms of SPP 3: *Planning for Homes*, Annex A, paragraph 17.

61.3 In accordance with current best practice we have not considered minor matters which do not materially affect the matters to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

61.4 As far as the first issue is concerned, CNPA advised us that the placing of Cromdale as an intermediate settlement in the hierarchy is based on population size and the range of facilities on offer. The available information and our site inspection confirm that Cromdale had a resident population of 293 at the 2001 census and the services currently include a community hall, shop, post office, hotels, and some employment uses. Therefore, we take no issue with this hierarchy classification. From that, matters relating to compliance with the aims of the National Park are discussed throughout our report. In summary, we have concluded that if an

allocation accords with the strategic objectives of the CNPP 2007 it can also be taken to accord with the aims of the National Park.

61.5 The strategic objectives for Living and Working in the Park from the CNPP 2007 are intended to meet the fourth aim of the Park, i.e. the promotion of sustainable socio-economic development of the area's communities. These strategic objectives include (b), which relates to sustainable communities and expects growth that meets community needs. However, that growth should reflect the scale and qualities of the settlement, as well as the viability of services and infrastructure present (page 67). The finalised version of the emerging local plan states that: *Within intermediate settlements, development should support the local communities and ensure their sustainability for the future* (paragraph 7.2), but there is no explanation in the text supporting the proposals map or, indeed anywhere else in the plan, of why the land allocated is necessary to support the community of Cromdale and to ensure its future sustainability. Nor is there any explanation of how the land once allocated would achieve the strategic objective. That is a defect which should be rectified.

61.6 Next, we note that it gives the indicative capacity for the 2 allocated sites as 80 with a delivery of 60 by 2016. However, we have stated elsewhere in our report our general concerns about the content of Table 4 Phased land supply by local authority area from the finalised version of the local plan (page 42). The situation is worsened when we include the new housing that was allocated in the adopted local plan, to which there is no reference in the CNPLP. Assuming that these sites will be developed, the reason for this apparent omission has not been explained. We are also extremely concerned that these sites have apparently not been taken into account in calculating the housing land requirement for Cromdale. Based on the indicative capacity figures in the adopted local plan, adopted local plan housing sites 6.1(c) and (d), which adjoin CD/H2, could contain 27 houses and we noted at our site inspection that only limited development has taken place to date. If this figure is added to the indicative capacity of CD/H1 and CD/H2, the total would become 107 new houses in Cromdale and 77 in the life of the CNPLP. The need for such a significant total amount of new housing in Cromdale has not been justified and it seems to us to be disproportionate in scale and in excess of what might reasonably be expected to sustain this comparatively small intermediate settlement during the life of the local plan, especially in the context of strategic objective (b). However, certainty on this matter is hampered by the lack of any community based assessment of housing need.

61.7 Turning to the second issue, we note that site CD/H1 forms part of allocation 6.1(a) in the adopted Badenoch and Strathspey Local Plan 1997 with an indicative capacity of 36 homes. In comparison to this existing allocation, CD/H1 is smaller in both versions of the CNPLP than the adopted local plan and yet the indicative density has increased to 50. The reasons for this substantial increase, as well as for the increase in land area between the deposit and finalised versions of the local plan, have not been explained. Similarly, no assessment seems to have been made as to whether this density suits the character of the surroundings or CNPA's vision for Cromdale as an intermediate settlement.

61.8 From there, we note that the adopted local plan allocation was subject to a legal agreement requiring the formation of a new access from the A95 trunk road. As described above, the finalised version of the local plan departs from this again apparently without explanation. All that the plan now says is that such an access should be avoided *where possible* and we can find no realistic assessment of the implications of this change. Firstly, we have no indication that the existing road network can cope with the extra traffic arising from up to 50 new homes. Secondly, from the site boundary shown in the finalised version of the local plan the only possible locations for access onto the trunk road are at the northernmost end of the site where ground levels are steep and where a new access would either be outside or on the edge of the existing urban speed limit. Given all of this, we find that the terminology used in the finalised supporting text is unacceptably vague.

61.9 We note from our site inspection that CD/H1 is a sloping site, broadly rectangular in shape, and that it is located well above and behind a finger of housing that stretches along the south-east side of the A95. The back gardens of these houses currently constitute the settlement edge and the steep rise from the A95 adds to the strong sense of containment of Cromdale. The settlement pattern is equally linear nearby. Given these characteristics and the fact that much of the site is well above the existing built up area, we consider that development would:

- be intrusive in the surroundings;
- breach the established settlement pattern; and
- disrupt the sense of containment that the slope currently establishes.

Consequently, CD/H1 suffers considerable disadvantage in terms of impact on landscape and amenity. We note that these views are supported to some extent by the CNPA Landscape Capacity for Housing Study (CD 7.19), which recommends development of only a very tightly prescribed and limited portion of CD/H1.

61.10 CD/H2 is shown as an area of forestry/restraint in the adopted local plan and the associated plan text implies that the site is to be safeguarded from development that is unrelated to forestry. CNPA has not explained the reason for departing to such a significant degree from the adopted local plan position. Further, CNPA has also not explained why the site is being brought forward while the adjoining adopted local plan sites lie undeveloped, especially in the short-term. The only argument that has been presented relates to the need for a housing land supply, but as we have described above, we are satisfied that the overall local plan position is very generous and is not related closely enough to the role of Cromdale in the settlement hierarchy.

61.11 One of the objectors argues that the adopted local plan ground beside CD/H2 should be allocated in the CNPLP. In response, CNPA has stated that this area has been left as “white land” in the finalised local plan because it has outline permission for residential development with at least 12 homes, subject to completion of a Section 75 legal agreement. Four issues stem from this. Firstly, the area left as “white land” on the proposals map equates to adopted local plan allocations 6.1(c) and (d), whereas the plan accompanying the objection only shows 6.1(d). CNPA has not confirmed whether the outline planning permission only covers that portion of the site or whether it includes 6.1(c). Secondly, the 12 unit capacity figure quoted by CNPA differs to a significant degree from the 27 units envisaged for the combined

sites in the adopted local plan. Thirdly, it is not clear to us why the “white land” is not included in the proposals map as an allocation in the same way as allocation NB/H2 seems to have been treated in Nethy Bridge and DB/H2 has been used in Dulnain Bridge. Lastly, we noted at our site inspection that the area behind Auchroisk Park has been left in a degraded state. As a result, we consider that the local plan should take every opportunity to encourage completion before additional land is released because that would benefit local amenity to a considerable degree.

61.12 We note that, for the time being at least, the objector’s site 6.1(d) cannot be accessed by way of the adjacent Auchroisk Park as well as the stated terms of the objection that *Taking access through the CD/H2 site will allow the objection site to be adequately accessed and subsequently developed. Given that it is highly likely that both sites will take access from a single point on Kirk Road, it makes sense to allocate them as a single site.* Further, and again from our site inspection, we accept that CD/H2 integrates with the settlement pattern in a far more cohesive way than CD/H1 and that because of the low-lying nature of the land, development on CD/H2 would be far less intrusive. Therefore, if additional housing land is to be allocated in Cromdale over and above that which is already provided for in the adopted local plan, we consider that CD/H2 has scope. However, at the very least, these portions of land should be allocated in the CNPLP as one development to be undertaken in 2 phases.

61.13 The total amount of housing that these combined sites might deliver reinforces our view that there is no need for the allocation of site CD/H1 within the life of this local plan or in the immediate future beyond that, especially bearing in mind the shortcomings that we have described above.

61.14 As far as the third issue is concerned, the allocation of CD/H1 would extend the boundaries of the settlement well beyond the existing built up area. We are not convinced that the field boundaries which delineate the proposed allocation can be considered to be either robust or defensible as limits to the settlement.

61.15 Taking the fourth issue, it has not been demonstrated to us that either of the sites can be found, incontrovertibly, to be effective. We have particular concerns about CD/H1 because accessing it would appear to have implications for traffic on the busy A95 trunk road.

Conclusions

61.16 Drawing all of these findings together, we conclude that there is no sound reason to include sites CD/H1 and CD/H2 for housing for the intermediate settlement of Cromdale. On the evidence before us, the provision of both sites would be an over generous allocation in comparison to the role and scale of Cromdale for lifetime of this plan and for the foreseeable future. Of the 2 sites, CD/H1 is especially disadvantaged by its elevated, intrusive character, lack of robust and defensible boundaries, and by access which might affect the A95. The characteristics of CD/H2 are more favourable, but we consider that any need for housing land in Cromdale should be met from completion of the adjoining adopted local plan sites first, before any additional land is allocated. At the very least, the potential contribution from this adjoining “white land” that was allocated for housing development in the adopted

local plan, should be taken into account in the calculation and, if CD/H2 is nonetheless to be allocated, it should be combined with the “white land” into one development to be undertaken in 2 phases.

61.17 We have taken account of all of the other matters that have been drawn to our attention but find none of such weight that it alters our conclusions.

Recommendation

61.18 Accordingly, we recommend that allocation CD/H1 should be deleted from the Cromdale proposals map as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008. We further recommend that adopted local plan allocations 6.1(c) and (d) should be taken account of in calculating the amount of housing land to be allocated in Cromdale and, if more land is required, these sites should be allocated with CD/H2 in the CNPLP as one development to be undertaken in 2 phases.

Issue	Dulnain Bridge housing land allocations		
Lead Reporter	Jill Moody		
Procedure	Written submissions		
Objector	Seafield Estate	Objection ref	455b

Reasoning

62.1 Dulnain Bridge is identified as an Intermediate Settlement in the emerging CNPLP, with 2 sites allocated for housing development, namely:

- DB/H1, which is a field of 1.51 hectares on the south edge of the settlement that has an estimated capacity of around 30 dwellings. This site resembles allocation 6.1(a) in the adopted Badenoch and Strathspey Local Plan 1997; and
- DB/H2, which is around 1 hectare, expands the settlement to the north west along the A938, and broadly matches allocation 6.1(b) from the adopted local plan. The finalised version of the emerging local plan notes that this site has extant planning permission for 10 dwellings.

62.2 The above objection, which we have been asked by CNPA to consider, argues that an additional one or more of 3 sites to the south of the settlement should be allocated for housing along with those mentioned above. From this, we find that the following main issues arise:

- whether further allocations of housing land would be appropriate for the role of Dulnain Bridge in the settlement hierarchy identified in the CNPLP;
- whether the delineated settlement boundaries are robust and defensible;
- whether the objection sites are effective in terms of SPP 3: *Planning for Homes*, Annex A, paragraph 17; and
- whether there are landscape or biodiversity matters that constrain the allocation of the objection sites for development.

62.3 In considering the first issue, we note that Dulnain Bridge has an estimated resident population of about 250 and, at our site inspection we noted that the range of local services available include a village hall, church, garage, post office/shop, and primary school. Accordingly, subject to the general reservations about the settlement hierarchy that we have expressed throughout our report, we take no issue with the placing of Dulnain Bridge as an intermediate settlement based on its population and services.

62.4 Given that placing, the strategic objectives for Living and Working in the Park from the CNPP 2007 are intended to meet the fourth aim of the Park, i.e. the promotion of sustainable socio-economic development of the area's communities. These strategic objectives include (b), which relates to sustainable communities and expects growth that meets community needs. The finalised version of the local plan states that: *Within intermediate settlements, development should support the local communities and ensure their sustainability for the future* (paragraph 7.2), but there is no explanation in the emerging local plan text supporting the proposals map or, indeed anywhere else in the local plan, of why the land that has been allocated for housing is necessary to support the community of Dulnain Bridge and to ensure its future sustainability. Nor is there any explanation of how the land once allocated

would achieve the strategic objective. While that defect should be rectified, it follows that we find no justification in terms of the CNPP 2007 strategic objectives for the principle of allocating even more housing land over and above DB/H1 and DB/H2.

62.5 Next, we have stated elsewhere in our report our concerns about the content of Table 4 Phased land supply by local authority area from the finalised version of the local plan (page 42). In general, we have misgivings about the method of calculation used in compiling that table and we have concluded that the overall amount of housing land supply allocated in the CNPLP is overly generous.

62.6 Based on the above, it follows that we are unable to justify allocating more housing land for Dulnain Bridge, especially in the absence of an estimation of housing need for this particular settlement.

62.7 Moving to the second issue, the settlement boundary drawn in the emerging CNPLP follows closely the existing built up area. The CNPA Landscape Capacity for Housing Study (CD 7.19) concludes that the character of Dulnain Bridge is derived from the strong attachment of its core to the old stone bridge across the River Dulnain as well as to the A938 corridor, which runs through the north side of the settlement. Buildings are clustered on either side of the bridge and the settlement edges are clear and well-defined by the mature native pine woodlands as well as by the hill slopes, which contain the valley. From our site inspections, we agree with that assessment. Further, we note that within the defined settlement boundary there are opportunities identified for growth and housing development, i.e. DB/H1 and DB/H2. Consequently, we find that the CNPLP offers choice and there is no need to expand the defined settlement to provide for this. In addition, the settlement boundaries identified in the CNPLP should be retained at least for the life of this local plan.

62.8 Taking the third and fourth issues together, we have no evidence to suggest that the objection sites are not effective as defined by SPP 3 and we accept that some of the land referred to was allocated for housing in the adopted local plan as 6.1(f). However, the adopted local plan coverage was partial and development was envisaged for the longer term, once short-term allocations like those carried forward into DB/H1 and DB/H2 are used up. Clearly that point has not yet been reached. In addition, as noted above, the wooded character of the sites defines and contains the settlement, so that its loss to development would harm the landscape character and setting of Dulnain Bridge. Further, the evidence from CNPA states that parts of the objection sites are listed on the Ancient Woodland Inventory, and that they have good natural heritage value. For example, records show recent capercaillie activity and the nature of the environment offers potential for more. Records also show heavy use by red squirrels and a degree of use by a range of other significant species including possibly Scottish crossbill. These factors point to a conclusion that development should be presumed against on all of these objection sites and no firm, quantifiable evidence has been submitted to show otherwise.

Conclusions

62.9 Dulnain Bridge is an intermediate settlement in the hierarchy set by the CNPLP. While we have some general concerns about the way the hierarchy has

been applied in the plan, we accept that the size of the resident population and the range of services currently on offer justify that placing. From this, it follows that some development is to be expected to sustain the community, in accordance with the strategic objectives set by the CNPP 2007. However, the link between that role and the size of the CNPLP housing allocations is not adequately formed. In addition, we are satisfied that the CNPLP provides an over generous supply of land for housing development overall, with no settlement specific estimate of need available to us to justify the allocations arising. It follows from this that we cannot conclude that yet more land is needed.

62.10 Even if the release of more land for housing development could be justified, the boundary of Dulnain Bridge is properly defined and the CNPLP identifies development opportunities within it. As a result, we conclude that there is no reason to expand the settlement at least for the life of the emerging local plan. In addition, developing the objection sites would more than likely have a negative impact on the landscape character of Dulnain Bridge as well as on the natural heritage value of the surroundings.

62.11 We have taken account of all of the other matters that have been drawn to our attention but find none of such weight that it alters our conclusions.

Recommendation

62.12 Accordingly, we recommend no change to the housing allocations for Dulnain Bridge as these appear on the proposals map and associated text set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008.

Issue	Kincraig housing allocation KC/H1 & economic development allocation KC/ED1		
Lead Reporter	Jill Moody		
Procedure	Hearing		
Objector	Badenoch & Strathspey Conservation Group	Objection ref	400i(q)
Procedure	Written submissions		
Objectors	Ralph C Wylie	Objection refs	087
	Roy Turnbull		390s
	Alvie & Dalraddy Estate		439z/c

Reasoning

63.1 The finalised version of the CNPLP identifies Kincraig as an intermediate settlement and allocates housing site KC/H1, which extends to 5.7 hectares. The plan estimates that this site could contain 40 homes and it states that development should incorporate a wetland area to the south of the site in a Sustainable Urban Drainage scheme for the housing. KC/H1 broadly resembles housing site 6.1(d) from the adopted Badenoch and Strathspey Local Plan 1997, whereby 1.9 hectares was allocated for 18 to 23 homes subject to a detailed hydrological and ground survey, adequate flood protection, and waste water disposal. KC/H1 also incorporates one hectare of land that the adopted local plan set aside via allocation 8.2 for a playing field or amenity park (page 66).

63.2 The finalised version of the local plan also envisages an economic development opportunity at the former Baldow Smiddy and allocation KC/ED1 has been carried forward from 7.1 in the adopted local plan (page 66).

63.3 Based on the above objections, which we have been asked by CNPA to consider, the written submissions and the discussion at the hearing, we find that the main issues to be addressed are:

- whether the scale of the KC/H1 allocation accords with the CNPP 2007 and is appropriate for the size and function of Kincraig;
- whether there are any landscape, biodiversity or other matters which constrain the allocation of sites KC/H1 and KC/ED1; and
- whether adequate safeguards can be put in place to restrict the number of second homes that KC/H1 might produce, to secure a high standard of design and layout, all to protect local natural and visual amenity.

63.4 In accordance with current best practice we have not considered minor matters which do not materially affect the proposals to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

63.5 As a starting point, CNPA advised us that the placing of Kincraig as an intermediate settlement in the hierarchy is based on population size and the range of facilities on offer. The available information and our site inspection confirm that the village:

- had a resident population of 272 at the 2001 census;
- currently contains some 129 homes; and
- offers services that currently include a primary school, shop, post office, hotel, and sports pitch.

Therefore, we take no issue with this hierarchy classification. From that, matters relating to compliance with the aims of the National Park are discussed throughout our report. In summary, we have concluded that if an allocation accords with the strategic objectives of the CNPP 2007 it can also be taken to accord with the aims of the National Park.

63.6 The strategic objectives for Living and Working in the Park from the CNPP 2007 are intended to meet the fourth aim of the Park, i.e. the promotion of sustainable socio-economic development of the area's communities. These strategic objectives include (b), which relates to sustainable communities and expects growth that meets community needs. However, that should reflect the scale and qualities of the settlement, as well as the viability of services and infrastructure present (page 67). Other objectives include the promotion and expansion of the Park's economic base and we find it logical to conclude that this must entail the allocation of development sites like KC/ED1 (pages 70 and 71). Given this context, we find that KC/ED1 is explicitly in support of the CNPP 2007. However, we can find no explanation in the finalised version of the local plan or in any of the inquiry evidence to establish why KC/H1 is needed to it deliver that outcome or to describe how it will maintain the status of Kincaig as an intermediate settlement.

63.7 Throughout this report, we have expressed our continuing concern that the amount of housing land allocated in the finalised version of the local plan via Table 4 is too generous in addressing housing need and demand from within the National Park for the immediate future. KC/H1 would add in the region of 40 more homes and roughly 100 more people to a resident population of 272. This seems to us to be in excess of what might reasonably be expected to sustain this comparatively small intermediate settlement during the life of the local plan. However, certainty on this issue is hampered by the lack of any community based assessment of housing need and any negative impact could be minimised by phasing new development to avoid harming the character of the existing settlement.

63.8 Moving on to consider the second of the above issues, Kincaig is currently well contained and it has well defined boundaries. The B9152 local distributor road forms a strong westerly edge and the railway plus a very distinct drop in ground levels down to Kincaig Bridge and Loch Insh establishes a firm easterly limit. To the south, development already abuts and is contained by a substantial wooded plantation, leaving the north settlement edge as the only one that lacks definition and containment. Development in this direction risks merging Kincaig with the hamlet of Baldow, but the local school is at Baldow, so there is already a functional link. In addition, KC/H1 comprises the only remaining space to the north before the same degree of woodland containment would be achieved in that direction. Therefore in terms of the local development pattern, we are satisfied that local topography is such that KC/H1 represents a logical and reasonable extension that would complete development of the settlement at least for the foreseeable future.

63.9 Turning to consider biodiversity, sites KC/H1 and KC/ED1 have an inherent natural heritage value for the range of habitats and species that they undoubtedly support. They also contribute to the general patchwork of habitats that make up the richness of the wider area. That said, apart from some limited areas that CNPA has agreed to review and to show more clearly and accurately on the finalised local plan proposals map, neither site is designated as having exceptional value whereby legislation or planning policy might prevent development. Further, no firm quantifiable evidence was presented to the inquiry to justify precluding them from development. Nevertheless, CNPA agreed at the hearing to review the boundaries of KC/ED1 to better reflect and protect its natural value whereby land to the back of the site and away from the B9152, plus the riparian strip along its south west edge, could be excluded from the development designation. In addition, natural heritage issues and the impact of development for these are important considerations in terms of the National Park designation as well as for other finalised CNPLP policies such as Policy 6 Biodiversity and Policy 7 Landscape. As a result, we would expect that any development brief would highlight and cover natural heritage issues in more detail than is generally appropriate for a local plan. For example, CNPA accepted at the hearing that:

- parts of KC/H1 should be excluded from development;
- birch woodland should be safeguarded;
- a circular walk could be developed for the village using parts of both sites; and
- planting along the burn edge of both sites could be enhanced.

Otherwise, policies demand that development proposals should be supported by survey, protection and mitigation information covering the natural environment. We consider that this process ought also to explicitly include ground conditions, the local water regime, and the prospect of achieving an effective Sustainable Urban Drainage scheme, at least to accord with the current adopted local plan.

63.10 The objectors suggested at the hearing that the more environmentally sensitive parts of KC/H1 could be designated as ENV, to safeguard them from development as has been done for other Park settlements. While this seems to be an attractive option, we have expressed our significant concerns elsewhere in this report about the way that this designation has been used. Given these views, we are satisfied that an appropriately worded development brief has the potential to offer stronger and more explicit long-term protection.

63.11 On the last issue, discussion at the hearing raised the issue of the disproportionately high incidence of second homes in Kincaig and the consequent harm that causes to the year round viability of local services. Local services undoubtedly deserve support and should be helped to thrive. Expanding the resident population and the creation of specific economic development opportunities are generally believed to be of assistance in achieving this. Nevertheless, we repeat our concerns about the lack of an available and secure planning mechanism to prevent more new housing from simply perpetuating the second home problem.

63.12 As regards other safeguards, KC/ED1 and KC/H1 are fairly prominent in the local landscape so that a sympathetic approach is undoubtedly justified and suburban style housing like that nearby is not necessarily an appropriate model. For

example, many of the new houses elsewhere in Kincaig are not designed to suit the local vernacular or to make best use of traditional materials. That said, KC/ED1 is centred on an existing brownfield site that has been used for industry before and KC/H1 is big enough to accommodate 40 homes without necessarily harming local character and amenity. KC/H1 also offers an opportunity for enhancement by containing and screening the adjacent new housing with a more appropriate and cohesive form of development, including new trees.

63.13 Once firm proposals emerge for both sites, the visual amenity impacts can be anticipated. From that point, issues around the design and external finishes of any new buildings will fall to be addressed through compliance with finalised local plan Policy 18 Design Standards for Development, as well as through the implementation of specific design principles. CNPA intends to set these out in supplementary guidance as well as in the anticipated Kincaig development brief, and has confirmed that a draft development brief is currently in preparation. We are satisfied that this general approach is appropriate to avoid burdening the CNPLP with too much detail. Subject to the incorporation of all of the above into the brief, we are further satisfied that KC/H1 and KC/ED1 are suitable development sites that could be developed without necessarily harming local amenity.

Conclusions

63.14 Drawing the above matters together, we consider that Kincaig has been classified at an appropriate level in the settlement hierarchy given its population size and the range of facilities on offer. We are satisfied that neither allocation breaches the essential aims of the National Park although we have concerns about the lack of clear evidence to show a specific local need for the extra housing proposed in the finalised local plan, especially in view of the amount of development that has taken place in the recent past. The number of additional new homes envisaged by KC/H1 is comparatively large. However, at worst, we are satisfied that it raises issues of phasing rather than unacceptable scale, especially as KC/H1 is well contained and represents a logical development area that would complete the expansion potential of Kincaig for the foreseeable future.

63.15 Neither site KC/H1 nor KC/ED1 has been proven to be of such high biodiversity quality that development should be prevented, as a matter of legislation or policy. Instead, the development of them both offers potential to enhance the quality of local biodiversity directly and indirectly, subject to the agreed adjustments described above.

63.16 Kincaig currently contains a high incidence of second home ownership, which must impact on the viability of local services like the primary school. Simply adding more open market housing will almost certainly not resolve this, but it may offset the imbalance at least to some extent.

63.17 As regards local amenity, both sites merit careful treatment but both can be developed in a sympathetic manner. KC/H1 in particular offers potential for enhancement as described above, and part of KC/ED1 has been developed before for industrial purposes.

63.18 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

63.19 Accordingly, subject to our comments above, we recommend that allocations KC/H1 and KC/ED1 as shown on the proposals map in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Nethy Bridge community land allocation NB/C1		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Alan & Olwen Billington	Objection refs	093 & 094
	J M Gaukroger		104
	Paul & Susan Culliford		355
	Mrs A D Wallace		366
	William G Templeton		407a
	William Stuart Patterson		409h
	Barbara Paterson		426

Reasoning

64.1 The deposit version of the CNPLP identifies 1.09 hectares west of the playing fields in Nethy Bridge for community use and also indicated that some of the site could be developed to provide affordable housing for the community. The text associated with proposal site NB/C1 was amended in the 1st Modifications to take account of concerns raised regarding the reference to its potential to accommodate affordable housing. The amended plan text now refers to the *site west of the playing fields which plays an important role in supporting the Abernethy Games is identified for community use and will be protected from development.*

64.2 Based on the above objections that we have been asked by CNPA to consider, as well as the written submissions, we find that the main issues to be addressed are:

- whether some part of objection site NB/C1 should be identified in the CNPLP for affordable housing; and
- whether specific mention should be made in the supporting text of the plan to the value of the site in supporting the annual Abernethy Highland Games.

64.3 In accordance with current best practice we have not considered minor matters which do not materially affect the issues to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

64.4 We can readily understand the concerns of the objectors about inappropriate development on this important site. We can also agree with CNPA that the wording inserted in the 1st Modifications that we have detailed above addresses both issues in a satisfactory manner.

64.5 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

64.6 Accordingly, we recommend that the amendments to the supporting text for site NB/C1 as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Issue	Nethy Bridge environment allocations		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400i(r)
Procedure	Written submissions		
Objectors	Steven Broadhurst	Objection refs	055
	J M Gaukroger		104
	David Dean		354
	P Boyce Kenyon		373
	Roy Turnbull		390t
	William Stuart Paterson		409f/g
	Barbara Paterson		426

Reasoning

65.1 Based on the above objections that we have been asked by CNPA to consider, as well as the written submissions and the oral evidence at the hearing, we find that the main issues to be addressed are:

- whether the identification of the areas labelled OS and ENV in the emerging local plan meet the expectations of national planning policy for the content of a local plan;
- whether additional land should be identified as ENV within the settlement boundary of Nethy Bridge; and
- whether additional land should be identified for that same purpose outside the settlement boundary of Nethy Bridge.

65.2 In accordance with current best practice we have not considered minor matters which do not materially affect the matters to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

65.3 As far as the first issue is concerned, we must take as our starting point the terms of the initial sections of the consolidated Scottish Planning Policy published in October 2008. These provide a concise, clear and helpful statement of what will be expected of a local plan:

- (1) Does it indicate where development, including regeneration, should happen and where it should not?*
- (2) Is the plan accessible to the communities which it serves?*
- (3) Is it concise and written in plain English?*

There is no specific reference to proposals maps in that statement. However, it has long been held as good practice that every local plan must be precise enough to inform the public and developers not only of the location of development opportunities but also to provide a detailed basis for development management. The main purpose is to identify policies and proposals which affect any given piece of land. We are in no doubt that good practice requires that all parts of the area covered by settlement proposals should be covered by development management

policies. However, the parts of the settlement proposals labelled OS and ENV are not covered by a development management policy within the emerging CNPLP.

65.4 Section 7 of the emerging local plan deals with Settlement Proposals and it provides proposals maps including one for Nethy Bridge. Three key proposal types are identified: housing; economic development and community. Discussion of these types is followed without a break to another form of land use which is identified in the deposit version of the plan as *protected open space* and in the finalised version as *environment*. CNPA has apparently had some difficulty in deciding how this land should be referred to and what, precisely, is the purpose of its separate identification within the CNPLP. The deposit version of the local plan states that *Protected open space is identified where it is important to the amenity, setting and the overall urban fabric of settlements. These areas also provide locally important habitats or landscape features, or are important recreational resources within settlements. They are protected from future development. Settlements also have networks of open spaces, footpaths and recreational spaces that are not identified but that would be material considerations in the determination of planning applications that affected them* (paragraph 7.11). The deposit version of the local plan identifies open space and woodland areas along the River Nethy as NB/OS1.

65.5 Although no explanation of changes to the title or text was provided for us, we note that the 1st Modifications amended the wording in what became paragraph 7.12 of the associated text as follows (amendments underlined): *Land is identified where it is important to the amenity, setting and the overall fabric of settlements. These areas also provide locally important habitats or landscape features, or are important recreational resources within settlements. They are protected from future development. Settlements also have networks of open spaces, footpaths and recreational spaces that are not identified but that would be material considerations in the determination of planning applications that affected them.* Without explanation, on the Nethy Bridge the title of the NB/OS1 area was changed to NB/ENV, and numerous additional areas within and beyond the settlement boundaries were labelled on the proposals map as ENV. The text supporting the label states *A number of open spaces within Nethy Bridge are identified as contributing to the setting of the village and will be protected from adverse development. Open space adjacent to Mountview Hotel is also protected by means of a planning condition (page 90).* Clearly these statements are contradictory, at least in so far as the level of protection from development that the ENV spaces might expect.

65.6 The text associated with proposed allocations of land at NB/H2 and NB/ED1 offers some clarification on how parts of School Wood will be dealt with. However, at the hearing CNPA could not confirm that the term *would be protected from adverse development* as applied elsewhere in Nethy Bridge and its immediate vicinity placed an embargo on development within these areas. Nor could any specific guidance be provided on the nature and extent of the protection that could be offered. It was accepted by CNPA that it was unusual in this local plan to identify land outside a settlement for a specific purpose. It was confirmed that in the case of Nethy Bridge certain areas had been identified because of their importance to the setting of the settlement.

65.7 Based on the criteria established above, we find that the identification of the areas labelled OS and ENV in the emerging local plan fails to meet the expectations for the content of a local plan as set out above and in Scottish Planning Policy. Specifically, the areas are not related to a development management policy which is drafted to indicate clearly, concisely and in a readily accessible form exactly where, why and how certain areas will be protected from development. The result is a proposals map not sufficiently precise to inform users of the plan about where development will, and will not, be acceptable. We are in no doubt that good practice requires that all parts of the area covered by settlement proposals should be covered by development management policies. With all this in mind we are convinced that a new policy dealing specifically with *open space* within settlements should be introduced into the CNPLP to underpin the intentions of CNPA towards protection of the environment within settlements as they are set out in section 7 of the emerging local plan.

65.8 In turning to the second issue, in order to assist our assessment we have undertaken an extensive unaccompanied inspection of all of the sites of concern to the objectors. That has enabled us to identify 5 discrete areas of what might usefully be defined as *open space* albeit the principal reason for the identification of 3 of them is their contribution to the setting and character of the “forest village” of Nethy Bridge. Taking first the land to the west of allocation NB/C1, we can readily agree that the football pitch, which is also used in connection with the Abernethy Games, should be retained as *open space*.

65.9 Moving on, we understand that the piece of land, triangular in shape, to the east of the B970 between the Mountview Hotel and the Nethy Bridge Hotel is *open space* protected from development by way of a planning condition in line with the planning permission for the adjacent housing development. We agree that the small piece of woodland, again roughly triangular in shape, lying to the east of the land now under development for housing is also worthy of retention as *open space*. Turning to the largely wooded areas bounding the River Nethy, we are in no doubt that these are integral to the distinctive character of the village and are important habitat and recreational resources. In our view that is enough to justify their designation as *open space*.

65.10 Finally under this issue, we must address the concerns raised about Balnagowan Wood and School Wood both of which are composed predominantly of fine stands of mature Scots Pine. Balnagowan Wood extends into the centre of the settlement of Nethy Bridge and we are in no doubt that its retention is important to the amenity and distinctive character of the settlement and the setting of the built up area. Accordingly, we find that the wooded area should be retained as *open space*. In order that it can fully benefit from the policy towards *open space* which we recommend should be introduced into the local plan we suggest that the village boundaries be redrawn to include Balnagowan Wood within the settlement envelope. We deal with the proposed allocation of NB/H2 and NB/ED1 within School Wood elsewhere in the report.

65.11 As we understand it, School Wood extends well beyond the settlement boundary as now drawn for Nethy Bridge. It is an area of some 50 hectares of ancient woodland lying between Abernethy Forest and Craigmore Wood, both of

which are designated as Special Protection Areas. Section 7 Settlement Proposals of the finalised version of the emerging local plan explains that outwith recognised settlements, development proposals will be considered against other policies of the plan (paragraphs 7.2 and 7.5). We are satisfied that this approach is adequate and that any further extension of the boundary beyond what is proposed in the emerging local plan is neither necessary nor practical.

Conclusions

65.12 When we review our reasoning in the above paragraphs we conclude that in order to meet the expectations of Government for the content of a local plan a new policy entitled along the lines of *open space within settlement* should be introduced to underpin the identification of the areas labelled ENV in the proposals maps of the emerging local plan. As far as Nethy Bridge is concerned, the modifications introduced into the deposit version of the plan cover adequately the principle concerns of the objectors. The settlement boundary should be extended to include Balnagowan Wood but there is no need for any extension of the settlement boundary at School Wood.

65.13 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

65.14 Accordingly, we recommend that a new policy should be introduced to the emerging local plan to underpin the identification of the areas labelled ENV in the proposals map of the Deposit Local Plan Modifications (1st and 2nd) October 2008. Subject to that and the proviso set out above concerning the settlement boundary, the areas labelled ENV in the proposals map for Nethy Bridge should be taken forward into the adopted local plan.

Issue	Nethy Bridge housing allocations, including NB/H1 & NB/H2 & economic development allocation NB/ED1		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objectors	Badenoch & Strathspey Conservation Group	Objection refs	400i(r)
	CP Group		459a
Procedure	Written submissions		
Objectors	DW & IM Duncan	Objection refs	037t
	D Black		047
	Lorna Crane		345
	Paul & Susan Culliford		355
	P Boyce Kenyon		373
	Roy Turnbull		390t
	Woodland Trust Scotland		393g
	William G Templeton		407b
	Inverburn Ltd		408a
	William Stuart Patterson		409d
	Scottish Campaign for National Parks		434r
	Hamish Jack		440
	Goldcrest (Highland) Ltd		445b
	Speyburn Homes		450
	Reidhaven Estate		456r

Reasoning

66.1 Nethy Bridge is identified as an intermediate settlement in the CNPLP. The relevant proposals map shows allocation NB/H1, which is an infill site within a finger of development towards the eastern edge of the built up area. The associated text in the deposit version of the emerging local plan states that *the 0.47Ha site opposite the football pitch is suitable for affordable housing or sheltered housing and has space for around ten units*. The text in the 1st Modifications omitted the reference to affordable housing and reflected the extant planning permission to read *This 0.47Ha site opposite the football pitch has detailed planning consent for 13 amenity dwellings*.

66.2 The local plan also allocates NB/H2 for residential development of 40 houses. The supporting text in the deposit version of the plan advises that the 2 components of NB/H2 *have permission for housing development in School Wood. Development on these sites will retain enough woodland to allow for movement of species between areas of woodland to the sides of these sites*. The 1st Modifications added reference to the need to retain the woodland setting of this part of the village.

66.3 Allocation NB/ED1 is a 0.76 hectare site adjacent to NB/H2, which is shown on the proposals map for business use. The deposit version of the supporting text advises that any development will need to take account of its position within the woodland and at an entry point to the village. The 1st Modifications added reference to retention of enough woodland to allow for movement of species between areas of

woodland to the sides of the sites, and to retain the woodland setting of this part of the village.

66.4 Based on the above objections that we have been asked by CNPA to consider, as well as the written submissions and the oral evidence from the hearing, we find that the main issues to be addressed are:

- whether the allocations are appropriate for the role of Nethy Bridge as identified in the settlement hierarchy described in the CNPLP;
- whether there any landscape, biodiversity or other matters which constrain the allocation of land for this purpose;
- whether the delineated settlement boundaries are robust and defensible;
- whether the housing sites are effective in terms of SPP 3: *Planning for Homes*, Annex A paragraph 17; and
- whether there are any other material considerations which should be taken into account.

66.5 In accordance with current best practice we have not considered minor matters which do not materially affect the issues to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

66.6 As far as the first issue is concerned, we have stated elsewhere our serious concerns about the content of Table 4 Phased land supply by local authority area (page 42). However, we note that it reflects the 13 units with planning permission at NB/H1 and land carrying outline permission for 40 units at NB/H2. Nethy Bridge has an estimated resident population of around 500 persons and is identified as an intermediate settlement in the hierarchy described in the emerging local plan. In the finalised version of the plan it is stated that *Within intermediate settlements, developments should support the local communities and ensure their sustainability for the future* (paragraph 7.2). However, there is no explanation in the text supporting the proposals map or, indeed anywhere else in the local plan, of why the land allocated is necessary to support the local communities of Nethy Bridge and ensure their future sustainability. Nor is there any explanation of how the land once allocated will achieve that objective. No evidence been brought to our attention of any business, whether a commercial or industrial initiative, which has been choked off by the absence of land specifically allocated for economic development.

66.7 The site at NB/H1 has the benefit of full planning permission for 13 amenity dwellings and other land at Braes of Balnagowan has the benefit of planning permission for 12 houses. Construction of these units is underway. We have been made aware of other applications for planning permission on what may be described as windfall sites. With all of this in mind we find that there is no evidence of an overwhelming need within the life of this local plan for the allocation of either of the components of NB/H2.

66.8 Moving on to the second issue, none of the parts of School Wood covered by the objection sites have the benefit of any specific protection other than Ancient Woodland designation. As far as biodiversity is concerned, we understand from evidence given at another hearing that the importance of capercaillie in School Wood

is still the subject of legitimate debate. Authoritative research has revealed that the parts of School Wood taken by the objection sites accommodate numerous dreys used by red squirrels. Red squirrels are protected under schedule 5 of the Wildlife and Countryside Act 1981 and Section 9(4) of that Act makes it an offence to intentionally or recklessly damage a red squirrel drey. Under the terms of the Act a licence could not be granted that would allow the disturbance of the dwelling place of a schedule 5 species for the purposes of development.

66.9 There can be no doubt that the fine stands of mature Scots Pine within both components of NB/H1, and also at NB/ED1, are a valuable and a valued part of the setting of this part of Nethy Bridge. Their contribution to visual and general amenity represents an obvious constraint on any development. We have made our findings elsewhere in this report on the content of Policy 4 Other Important Natural and Earth Heritage Sites and Interests, Policy 5 Protected Species, and Policy 6 Biodiversity. In our view, in order to comply with the intent of the strategic objectives of the CNPP 2007, and the content of these policies as supported by CNPA at this inquiry, the various constraints on NB/H2 can only be overcome by a demonstration of overwhelming need for housing for those who currently live and work in the Park, or have employment prospects which require them to live in the Park. There is no evidence at all that NB/ED1 is necessary to meet a particular need for land for economic development however widely defined that might be.

66.10 As far as the third issue is concerned, we can see some logic in extending the boundary of the settlement to incorporate the component of NB/H2 which lies to the east of School Road. That would link the built up area to the south with the primary school to the north while accommodating the existing path and cycle track. Given our findings above and the view that we take elsewhere regarding the adjacent Balnagowan Wood we suggest that the area be identified as ENV in the proposals map. We can see no similar logic in the extension of the settlement to the east thereby violating a further piece of School Wood and providing nothing at all by way of an easily recognisable robust and defensible boundary.

66.11 Taking the fourth issue, CNPA state in terms that sites NB/H2 and NB/ED1 have *been allocated in the adopted Badenoch and Strathspey Local Plan ...and have extant planning permissions. They are therefore considered to be effective.* We cannot go along with the objector who has stated that because the sites have not been developed since their allocation in the adopted local plan in 1997 they can be considered on that ground alone not to be effective. However, neither is it conclusive that they will be built out just because outline planning permission has been granted. Permission 02/00045/OUTBE is the subject of 10 reserved matters any one of which may prove to be an insuperable obstacle to the land being developed. We understand that an application seeking approval of the reserved matters has been called in for determination by CNPA (09/052/CP). The assessment will require to take into account all matters of law, and the content of the CNPP 2007 is a material consideration along with the latest position of CNPA on land use matters as set out in the emerging local plan.

66.12 When we turn, finally, to the fifth issue we must confront the array of suggestions for further housing allocations in, and immediately adjacent to, the built up area of the settlement. In short, we must assess our general conclusions against

the matters raised by particular objectors. We understand that the sites at Dell Road Nursery and Duackbridge are the subject of live planning applications. For the avoidance of doubt, it is not part of our remit to intrude into CNPA's development management function. Our findings are restricted to whether particular sites should be added to the proposals map as making a contribution to the effective land supply within the life of the local plan and immediately beyond that. In that respect we have been hindered by the failure of CNPA to estimate anywhere in the emerging plan the number of housing units to be considered as a "windfall" and, hence, not to be separately identified on the proposals map.

66.13 The objection site at Duackbridge was identified in adopted Badenoch and Strathspey Local Plan 1997 as site 1.1(a) suitable for development for housing. We understand that an application has been submitted and that outline planning permission is being sought for the erection of 12 houses and the formation of an access road (reference 09/030/CP). That application was not carried forward into the emerging CNPLP because it was *Identified in Landscape Capacity Study as having constrained opportunity for development due to the importance of the wood land in providing a visual backdrop and setting to the settlement. It is also a rich recreational resource.* The objection site lies to the west of the centre of Nethy Bridge and, although it is readily accessible from the B970, we cannot agree with the objector that the site is a logical extension to the built up area. Rather we find that it would amount to a further incremental incursion into the countryside along the B970 and, for the reasons given by CNPA, it would affect adversely the integrity of the settlement edge.

66.14 The site of the former nursery at Dell Road was identified in adopted Badenoch and Strathspey Local Plan 1997 as site 1.1(h) suitable for development for housing. We understand that an application for outline planning permission has been submitted for the erection of 8 dwelling houses and the formation of an access road (reference 09/024/CP). The objection site was not carried forward into the emerging CNPLP because it was *Identified in Landscape Capacity Study as having constrained opportunity for development due to the importance of the wood land in providing a visual backdrop and setting to the settlement. It is also a rich recreational resource. The site is also affected by the adjacent Ancient Woodland.* The site lies to the south east of the built up area within the settlement boundary in an area now identified as NB/ENV. We cannot agree with the objector that the site should be included within the CNPLP for development because we concur with the CNPA assessment that the open space should be considered *as contributing to the setting of the village and will be protected from adverse development.*

66.15 The objection site at Lettoch Road lies immediately to the south east of the settlement boundary adjacent to the residential development at Lynstock Park. At our site inspection we noted that the latter is an extension of the built up area into open countryside. The land suggested for allocation is in the Upper Nethy Farmland area; and we agree with CNPA that further housing there would not only interrupt the subtle balance of field and woodland in the vicinity but also result in a significant detachment from the core of the settlement.

66.16 A factor common to each of these 3 proposals for the allocation of additional land for housing is the unfortunate impact that their development would have on the

setting and gateways into what is already a dispersed settlement. That factor is sufficient for us to find that none of them should be added to the housing allocations identified on the proposals map.

66.17 The land which slopes towards the B970 between the Mount View Hotel and the Nethy Bridge Hotel is one of the open spaces within the Nethy Bridge area identified for its contribution to the setting of the village and to be protected from adverse development. We understand that assessment is consistent with an extant planning permission (reference 06/106/CP), which secured the on-going management and maintenance of this area as open space.

66.18 There is a further group of objections which argue for the allocation of land at School Wood/Craigmore Wood to the north and north east of the settlement, at Culstank Moss to the east, and within Balnagowan Wood. A common feature linking these is the aspiration to develop substantial parcels of land within these woodland areas with low density housing. Balnagowan Wood is identified as NB/ENV and we agree with CNPA that the allocation of any of the large swathes of woodland suggested by the objectors would adversely affect the integrity of the settlement edge. Quite apart from biodiversity issues, that factor is sufficient for us to find that none of them should be added to the housing allocations identified on the proposals map. We note in passing that we have already explained our deep concern about the allocation of the 2 segments of NB/H2 for housing. That these objectors have sought to use that allocation as a precedent in promoting their interests, simply underscores our concern.

66.19 Drawing these matters together we are satisfied that no evidence has been drawn to our attention concerning these particular sites that would justify our altering the general conclusion which follow. On the contrary there are strong reasons for not including the sites from the proposals map as housing allocations.

Conclusions

66.20 When we draw together our findings on whether these proposed allocations should be included within the adopted local plan and review them within our findings for other objections made to what appear in the proposal map for Nethy Bridge we are driven to some uncomfortable conclusions. In summary, our findings highlight in the particular context of Nethy Bridge what we regard as fundamental weaknesses in the approach generally adopted by CNPA to its Settlement Proposals as found in Section 7 of the finalised version of the local plan.

66.21 In short, there is an over reliance on land allocations inherited from extant adopted local plans without adequate consideration of whether these fit well with the aims of the Park as these are taken forward through the strategic objectives of the CNPP 2007. Related to that, there is no evidence of a proactive approach to land allocation and no explanation of why and how the proposed allocations will contribute to the creation and maintenance of a sustainable community. Insufficient attention is paid in the text to landscape, biodiversity or other matters integral to achieving the objectives of the CNPP 2007 which are fundamental to achieving the first, and predominant, aim of the Park. Nor is there adequate explanation of how settlement boundaries have been delineated such that they are sufficiently robust to

endure into the medium term and provide some certainty about policy implementation while remaining defensible against extensions to accommodate proposed developments which would be unacceptable. Finally, there is no assessment for the specific purposes of the local plan of whether the allocated land is effective as defined by SPP 3.

66.22 In the case of Nethy Bridge, our reservations about what is proposed are so varied and of such intensity that we are driven to the conclusion that the proposals for the settlement should be the subject of a root and branch review. That would provide an opportunity to reflect on the role of “the forest village” within the Park. The output might take the form of a masterplan prepared in accordance with the good practice set out in PAN 83: *Masterplanning* and with engagement of all stakeholders including the local communities along the lines of what we understand is envisaged for Tomintoul. In the meantime, bearing in mind the nature and extent of current construction in Nethy Bridge, we conclude that there should be a moratorium extending for the lifetime of the local plan on all housing and economic developments, other than on windfall sites, that do not already have detailed planning permission.

66.23 We have taken account of all the other matters that have been drawn to our attention, including the various objections which amount to pleading for further allocations within and outside the settlement boundaries, but find none of such weight that it alters our conclusions

Recommendation

66.24 Accordingly, we recommend that there should be a moratorium extending for the lifetime of the local plan on all housing and economic developments in Nethy Bridge, other than on windfall sites that already have detailed planning permission.

Issue	Nethy Bridge other development		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Steven Broadhurst	Objection refs	055
	David Dean		354
	Paul & Susan Culliford		355
	P Boyce Kenyon		373
	William G Templeton		407c
	William Stuart Paterson		409d/e
	Barbara Paterson		426

Reasoning

67.1 Based on the above objections that we have been asked by CNPA to consider, and the written submissions, we note that the concerns of the objectors are interlinked and we find that the main issues to be addressed are:

- whether the policies set out in the finalised version of the CNPLP can meet the concerns expressed about development within the settlement of Nethy Bridge;
- whether the settlement boundaries for Nethy Bridge are robust and defensible and drawn in the right places; and
- whether the policies in the finalised version of the CNPLP can meet the concerns expressed about development within the immediate vicinity of the settlement.

67.2 In accordance with current best practice we have not considered minor matters which do not materially affect the matters to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

67.3 Taking the first issue, we note that the deposit version of the plan includes Policy 25 Housing Development in Small Rural Settlements which provides support for new housing development within small settlements of more than 15 houses where that reinforces and enhances the character of the settlement. That version of the plan also includes Policy 18 Design Standards for New Development which sets out criteria against which new development would be assessed. The 1st Modifications replaces Policy 25 with Policy 22 Housing Development within Settlement Boundaries which states that housing proposals within settlement boundaries will be considered favourably where they comprise infilling, conversion, small scale development, the use of derelict or underused land or the redevelopment of land, and where the proposal reinforces and enhances the character of the settlement. There were also some adjustments made to the wording of Policy 18 now entitled Design Standards for Development. In the 2nd Modifications there were some further minor changes to the wording of the renumbered Policy 22 and renumbered Policy 18. We have provided our assessment of all of these policies elsewhere in the report and we note the intention by CNPA to issue a Sustainable Design Code.

67.4 As far as the particulars of these objections are concerned, we can well understand the concerns of those who are fear that new building might fracture

irrevocably the appearance and character of “the forest village” that is Nethy Bridge. However, we are satisfied that Policies 25 and 18, when sensitively applied, will be sufficient to ensure that any infill development will not alter irrevocably the ambience of the settlement and that the height of any new buildings and their detailing can be controlled to respect the existing built environment.

67.5 It is not open to us to recommend that either Balnagowan Wood or School Wood should be accorded the same degree of protection as Abernethy Forest which carries a number of important natural heritage designations including Site of Special Scientific Interest, Special Protection Area and Special Area of Conservation. However, we recognise that Balnagowan Wood it is an important area within “the forest village” of Nethy Bridge. It contains ancient woodland, it has been identified as ENV in the proposals map, and we expect that it will be covered by the terms of Policy 4 Other Important Natural and Earth Heritage Sites and Interests. We consider that development outside the existing settlement boundary extending into the woodland would be to the detriment of the setting of Nethy Bridge. With all that in mind, elsewhere in this report we have suggested that Balnagowan Wood be included within the settlement boundary of Nethy Bridge thereby confirming its role as an integral part of the setting of the existing built up area. Elsewhere also, we have expressed our deep concern that the proposed boundaries for NB/H1 and NB/ED1, as far as they penetrate School Wood, are not easily recognisable on the ground and are neither robust nor defensible.

67.6 That finding leads us to a consideration of the second issue. We note that some minor amendments were made in the 1st Modifications to the settlement boundary for Nethy Bridge. There was also some added text relating to the approach to development proposals outwith the defined settlement boundaries (paragraphs 7.2 and 7.5).

67.7 With the obvious exception of the allocations NB/H2 and NB/ED1, the settlement boundary for Nethy Bridge in the finalised version of the plan is drawn tightly around the perimeter of the curtilages of properties within the existing built up area. We have set out our reservations about the delineation of the settlement boundary elsewhere in this report; and we have also made findings on the allocations NB/H2 and NB/ED1. At our site inspections we saw the considerable amount of ongoing construction within this small rural settlement. With all of these factors in mind we have considerable sympathy with the view that the settlement boundary of Nethy Bridge should be retained and recent development allowed to integrate into the village.

67.8 When we examine in detail the objections to the existing settlement boundary and the numerous relaxations proposed by objectors we find that these are not based on the application of criteria designed to provide easily recognisable limits which are robust and defensible. Rather the extensions are proposed by prospective developers with particular sites for housing in mind. We have dealt with the merits of those aspirations elsewhere in the report. For the avoidance of doubt we repeat here that we cannot support any of them as allocations within the lifetime of this plan.

67.9 Moving on to the third issue, Nethy Bridge is a dispersed settlement with the built up area heavily concentrated along, or accessed from, only a few existing

roads. Within that context we recognise that each of the entrances to the village has its own distinctive character and we can understand the concerns of those objectors who consider that the gateways of the village need special attention. However, as we have noted above, the approach to development proposals immediately outside settlement boundaries has been clarified in paragraphs 7.2 and 7.5 of Section 7 Settlement Proposals. Proposals will require justification and where no locational need exists development will be resisted. All proposals must consolidate the existing urban form, and not result in ribbon development or the sprawl of development into the countryside. We find that within that context strict application of the terms of Policy 24 Housing Development Outside Settlements should be sufficient to meet the concerns of objectors on this issue.

Conclusions

67.10 When we review our findings as set out above, we are satisfied that the suite of policies set out in the finalised version of the emerging local plan can meet the concerns expressed about development within the settlement; that, as far as these objections are concerned the settlement boundaries are not fatally flawed; and that the policies set out in the finalised plan can meet the concerns expressed about development within the immediate vicinity of the settlement.

67.11 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

67.12 Accordingly, subject to our related findings elsewhere in this report, as far as these particular objections are concerned, we recommend no change to the Deposit Local Plan Modifications (1st and 2nd) October 2008.

Issue	Nethy Bridge tourism development		
Lead Reporter	Hugh M Begg		
Procedure	Hearing		
Objector	C P Group	Objection ref	459b

Reasoning

68.1 The objector has identified a strong demand for self-catering accommodation in the vicinity of Nethy Bridge but has been unable to identify a suitable site within the settlement for development for that purpose. However, there is a site approximately 1.2 kilometres to the north east of the settlement boundary which, it is stated, is suitable for the siting of a maximum of 20 timber holiday lodges.

68.2 Based on that single objection, which we were asked by CNPA to consider, as well as the evidence provided within the written submissions and orally at the hearing, we find that the main issues to be addressed are:

- whether the approach to tourism development in the CNPLP is adequate to meet the strategic objectives of the CNPP 2007 and the relevant national policy guidance; and
- whether a specific site should be allocated within the CNPLP in order to accommodate the sort of development which the objector has in mind.

68.3 In accordance with current best practice we have not considered minor matters which do not materially affect our assessment of the merits of the objection. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

68.4 As far as the first issue is concerned, section 5.3.2 of the CNPP 2007 sets out a number of strategic objectives for Sustainable Tourism. Of particular relevance to this objection is item e) *Strengthen and maintain the viability of the tourism industry in the Park and the contribution that it makes to the local and regional economy* (page 80). Within that objective there is specific reference to: *a need to support business development and increase the economic benefits generated in the local and regional economy through strengthening local supply chains. Investment in tourism infrastructure, including accommodation, is also needed in some areas of the Park and should be encouraged through a co-ordinated approach to development planning and management that contributes to all four aims of the Park.*

68.5 These objectives for Sustainable Tourism are taken forward in the finalised version of the CNPLP at Chapter 6 Enjoying and Understanding the Park notably within paragraphs 6.3 to 6.14, which are associated with Policy 33 Tourism Development. That policy provides general support for new or enhanced tourism-related facilities/attractions where these would enhance the range and quality of attractions and facilities on offer, and/or lengthen the tourism season, with a beneficial impact on the local economy and without adverse environmental or landscape impacts. Proposals which would reduce the tourist facilities of an area would be resisted. There was some alteration to the wording of the policy in the 1st Modifications, but the general approach was maintained. We deal with objections to that policy elsewhere in the report, but we are satisfied that the general approach

adopted to sustainable tourism in the CNPLP meets the strategic objectives of the CNPP 2007. The approach is also compatible with the relevant national planning policy as that is set out in and SPP 2: *Economic Development* and SPP 15: *Planning for Rural Development* and with the advice provided in PAN 73: *Rural Diversification*.

68.6 Turning to the second issue, all proposals for tourism development, whether within or outside the boundaries of the settlements identified on the various proposals maps in the CNPLP, will be assessed against the terms of Policy 33. As far as the settlements are concerned, the proposals maps do not identify any particular sites for tourism infrastructure and the promotion of the tourism industry. However, economic development sites are allocated in order to provide economic provision within settlements or where existing uses help to sustain communities. We have noted elsewhere our concern that only 3 key proposal types have been identified in the plan: housing, economic development and community. However, in the case of tourism developments which straddle a number of industrial classifications we can understand the reluctance of CNPA to allocate sites for that specific purpose.

68.7 Moving on to proposals outside settlement boundaries, we find that the sort of development which the objector apparently has in mind wherever that is proposed will be assessed under the terms of Policy 33 and implemented and monitored in the manner described in the associated text.

Conclusions

68.8 Drawing together these considerations, we are satisfied that there is no need, and it would be inappropriate, to identify any particular site near Blairgorm or anywhere else in the CNPLP for the purpose of tourism development.

68.9 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

68.10 Accordingly, we recommend no change to the Deposit Local Plan Modifications (1st and 2nd) October 2008 with regard to this objection.

Issue	Dinnet		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Serena Humphrey	Objection refs	066b
	Elizabeth Gillanders		343
	Pamela Thain & Scott Michie		360
	Mrs I & Mr J Crichton		362 & 363
	Mrs J & Mr Greenlaw		364 & 365
	Mr T Ross		375
	Dinnet & Kinord Estate		438a

Reasoning

69.1 Based on the above objections, which we have been asked by CNPA to consider, and the written submissions, we find that the main issues to be addressed are:

- whether Dinnet should be identified as a Rural Settlement within the CNPLP; and
- whether land should be allocated within Dinnet for housing.

69.2 In accordance with current best practice we have not considered minor matters which do not materially affect the matters to which these objections refer. However, CNPA should take these into account in considering which alterations may be appropriate as the local plan moves towards adoption.

69.3 As far as the first issue is concerned, Dinnet occupies an attractive predominantly wooded location located just within the boundary of the National Park. It was included as a Rural Settlement within the finalised version of the local plan as part of the 1st Modifications. At our site inspection we noted that Dinnet supports a range of businesses including a hotel, self-catering accommodation, a restaurant, an antique shop, the offices of Dinnet and Kinord Estate, and a public hall. There is also the site of a former garage at the eastern end of the built up area. Consequently, we agree with the objectors that Dinnet should be identified as a settlement; and we agree also with CNPA that the obvious place for it in the hierarchy is as a Rural Settlement.

69.4 Turning to the second issue, we note that the text from the finalised version of the CNPLP envisages that *Within rural settlements, there are opportunities for limited growth which helps consolidate the settlement* (paragraph 7.2, page 61). The plan text also acknowledges that *Dinnet commands an important location at one of the key entrances to the National Park there are opportunities to enhance tourism and recreation facilities, and consolidate the settlement, providing additional housing to secure a sustainable community* (page 94). We have no quarrel with that assessment.

69.5 Taking it forward, an inspection of the settlement boundary for Dinnet reveals that it has been drawn fairly tightly round the curtilages of properties within the existing built up area. It follows that there is little scope to take advantage of the opportunities for tourism and recreation and consolidation of the settlement to which the plan text refers. However, at our site inspection, we noted that there are

brownfield sites within the settlement. The footpath network for the Loch Kinord National Nature reserve starts in Dinnet; it lies on the Deeside Way; and, of course, opportunities to enhance tourism and recreation facilities in the vicinity can be assessed against other relevant local plan policies. Accordingly, we cannot find that the failure to allocate land within the settlement boundary of Dinnet fatally undermines the commercial aspirations of the Dinnet and Kinord Estate and hence sustainable tourism in this area. There is more to achieving this end than merely the allocation of land in the hope that it will attract new ventures or encourage the expansion of existing ones.

69.6 We have commented elsewhere in our report about the lack of any settlement specific assessments of need. We see this as a significant flaw in the CNPLP and, without this kind of information, we are unable to justify the allocation of housing land in Dinnet based on local need.

69.7 We have given careful consideration to the suggestion that that a reallocation of housing land in the east of the National Park would still focus the majority of housing growth in the strategic settlement of Ballater while meeting a supposed need in Dinnet. We have remembered also that some of those opposed to the allocation of housing proposed for Ballater were enthusiastic about a substantial allocation for Dinnet. However, given our conviction that rather too much land for housing has already been allocated within the National Park, we consider that an allocation in Dinnet would run contrary to the strategic objectives of the CNPP 2007. With that in mind, we cannot recommend the relaxation of the settlement boundaries or the allocation of housing land in Dinnet.

69.8 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

69.9 Accordingly, we recommend that Dinnet should be identified as a Rural Settlement in the adopted local plan, as described in the Deposit Local Plan Modifications (1st and 2nd) October 2008.

Issue	Settlement omissions		
Lead Reporter	Hugh M Begg		
Procedure	Written submissions		
Objectors	Mr & Mrs J Sunley	Objection refs	056b
	Aviemore & Vicinity Community Council		416p
	Glenmore Properties Ltd		453r

Reasoning

70.1 Based on the above objections, which we have been asked by CNPA to consider, and the written submission, we find that the main issues to be addressed are:

- whether the third tier in hierarchy of settlements identified in the CNPLP is adequately defined; and, if so,
- whether Dinnet, Crathie, Balmenach and one or more groupings in Glenmore should be identified as Rural Settlements.

70.2 In accordance with best practice we have not considered minor matters which do not materially affect the matters to which these objections refer. However, CNPA should take these into account in its consideration of what alterations to the plan may be appropriate as it moves towards its adoption.

70.3 Turning to the first issue, as we have noted elsewhere in our report, we are surprised to find that the prefatory text to Section 7 Settlement Proposals in the deposit version of the emerging local plan makes no mention of the hierarchy of settlements, how it is defined, or the purpose of identifying a 3 stage hierarchy. In the 1st Modifications matters are taken only a little way forward with the inclusion of some description of what is intended by strategic, intermediate and rural settlements. However, there is no consistent definition of what amounts to a sustainable community at each of these levels. Similarly, there is no justification for the identification of the particular tiers, nor explanation of how the settlements at each level in the hierarchy fit into the overall vision for the Park. These flaws are not fatal to the adoption of this local plan but we suggest strongly that they should be remedied as the plan is progressed to the Local Development Plan.

70.4 Moving on to the second issue, the list of Rural Settlements has been amended in both the 1st and 2nd Modifications to the CNPLP. We find it surprising that the final list comprises only 3 settlements: Bellabeg, Insh and Dinnet. We have no quarrel with the identification of these 3 as Rural Settlements with opportunities for limited growth, but only if that would help to consolidate the settlement within the existing settlement boundaries. We note in passing that Policy 23 Housing Development in Rural Building Groups provides additional opportunity for growth within groups of three or more occupied dwellings. That possibility only adds to our concern that the third tier of the settlement hierarchy requires to be revisited in order that its place in achieving the vision of the CNPLP is made absolutely clear. We have expressed our considerable and detailed concerns about this matter elsewhere in our report, but especially in commenting on Policy 23. We highlight there the poor definition of what might be regarded as a Rural Settlement as opposed to a rural

building group and the lack of justification for moving settlements between these categories as the local plan has progressed.

70.5 Moving on to the second issue, we have discussed Dinnet in detail elsewhere in our report. We remind here that CNPA is minded to include it as a Rural Settlement and we have supported that intention.

70.6 Moving on from there, we note that the Glenmore corridor was treated as a single entity in the adopted Badenoch and Strathspey Local Plan 1997. We also agree that the western end of the Glenmore corridor, which includes Inverdrue, faces considerable pressure for new developments and we are disappointed that CNPA has not explained why Inverdrue was removed as a Rural Settlement in the 2nd Modifications. We have commented further on this in the context of Policy 23.

70.7 As far as Crathie is concerned, in our discussion of objections relating to Ballater we have stated our conviction that, for sound planning reasons, the settlement boundary of Ballater should not be extended to include Crathie. In the absence of persuasive arguments we cannot agree that Crathie should be identified as a Rural Settlement.

70.8 Turning to Balmenach, the existence of a distillery at that location does not justify its identification as a Rural Settlement. There is no evidence that Balmenach is functionally a part of Cromdale and, based on our site inspections, we are satisfied that it is visually and physically separated from Cromdale which is clearly defined and contained within its own particular landscape setting. In short, proximity to Cromdale is not a sufficient reason for the inclusion of Balmenach within that settlement.

70.9 Drawing these matters together, while we agree that Dinnet should become a Rural Settlement, there is no evidence before us sufficiently persuasive for us to find that Crathie, or Balmenach, or one or more groupings in Glenmore, should be identified as a Rural Settlement. However, a location outwith the boundaries of settlements does not place an embargo on proposals for development which satisfy the terms of Policy 23 and all other relevant policies of the local plan.

Conclusions

70.10 When we review our reasoning in the above paragraphs we conclude that: there are serious flaws in the identification of the settlement hierarchy which become acute when we assess what is apparently intended by the identification of its third tier. We do not find the third tier redundant but we suggest the flaws which we have identified should be remedied as this local plan is progressed to the Local Development Plan.

70.11 We find no reason to oppose the addition of Bellabeg, Insh and Dinnet as Rural Settlements for the purposes of this local plan but we cannot agree that the Glenmore corridor, Crathie or Balmenach should be similarly defined. None of this precludes development at these locations, or the possibility that the listing will be revisited for the purposes of the forthcoming Local Development Plan.

70.12 We have considered all of the other matters that have been drawn to our attention but find none of such weight that it alters our reasoning or conclusions.

Recommendation

70.13 Accordingly, subject to addressing the above reservations, we recommend that the Rural Settlements and their associated text as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.

Summary of recommendations

General Issues including introduction, layout, vision, context, & links to other plans & policies	Subject to careful consideration of our suggestions, Chapters 1 and 2 broadly as set out in the Deposit Local Plan Modifications (1 st and 2 nd) can be taken forward into the adopted local plan.
General Maps	Subject to addressing our reservations, Map D as set out in the Deposit Local Plan Modifications (1 st and 2 nd) should be taken forward into the adopted local plan.
Policy 1 Development in the Cairngorms National Park	The text of Chapter 3 including Policy 1 Development in the Cairngorms National Park should be deleted in its entirety from the local plan. If that recommendation is not accepted then the post inquiry modifications proposed by CNPA for Policy 1 should be taken forward into the adopted local plan along with the associated text provided in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008.
General Economic development	CNPA should review the local plan before its adoption to ensure that a proper balance has been struck and the right emphasis applied to the encouragement of economic development. We further recommend that the allocation of land for economic development in Newtonmore should be revisited.
General Housing land supply	Paragraphs 5.35 to 5.40 should be deleted from the Deposit Local Plan Modifications (1 st and 2 nd) along with Tables 2, 3, and 4. All of this material should be replaced with text and associated tables that explains the assessment of housing land requirements in the National Park and the housing land allocations to particular settlements, in a manner which complies with the requirements of SPP 3: <i>Planning for Homes</i> , with the terms of the CNPP 2007, and which incorporates the most up to date information available to CNPA including the various housing land audits.
Policy 2 Natura 2000 Sites	Subject to addressing our reservations, Policy 2 Natura 2000 Sites as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan, but the associated text should be corrected and augmented as described, to take full account of NPPG 14: <i>Natural Heritage</i> .

Policy 3 National Natural Heritage Designations	Subject to careful consideration of our reservations, the discrepancies which we have identified, and our suggested alternative wordings, Policy 3 National Natural Heritage Designations along with its associated text, largely as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008, should be taken forward into the adopted local plan.
Policy 4 Other Important Natural and Earth Heritage Sites and Interests	Subject to consideration of our reservations and the preparation of supplementary guidance, Policy 4 Other Important Natural and Earth Heritage Sites and Interests and its associated text, largely as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Policy 5 Protected Species	Policy 5 Protected Species as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 and its associated text should be taken forward into the adopted local plan.
Policy 6 Biodiversity	Subject to consideration of our reservations, Policy 6 Biodiversity as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 along with its associated text should be taken forward into the adopted local plan.
Policy 7 Landscape	Policy 7 Landscape as it appears in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be deleted and it could be replaced with wording along the lines set out. We recommend also that a thorough review should be undertaken of the text associated with Policy 7 and, in particular, that which deals with implementation, all before the local plan is progressed to adoption. This review should take account of the discrepancies and areas of clarification that we have identified, the need for supplementary guidance, and the additional subject areas that we have identified, i.e. the treatment of wildness in the montane area and other parts of the Park; the treatment of light pollution in general, but particularly in areas currently characterised by “dark night skies”; and failure to make any specific reference to the impact on the landscape of vehicular access, tracks and bridges notably in montane and other relatively remote areas.

Policy 9 Archaeology	Subject to our reservations that include changes to take new and replacement national policies into account and attention to the protection of military roads, Policy 9 Archaeology as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Policy 11 Conservation Areas	Subject to review of the merits of adopting the model policy, to changes to take new and replacement national policies into account, attention to the protection of planned villages, and our reservations about paragraph 4.64 and paragraph 4.65 of the supporting text, Policy 11 Conservation Areas as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Policy 12 The Local and Wider Cultural Heritage of the Park	Subject to our suggestion about the wording and emphasis of the policy and to the incorporation of a reference to planned villages in paragraph 4.69 of the associated text, Policy 12 The Local and Wider Cultural Heritage of the Park as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Policy 13 Water Resources	Policy 13 Water Resources as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 and its associated text should be redrafted to take account of our reservations and suggestions before it is taken forward into the adopted local plan. This will include consideration of our alternative wording, our recommended text changes, and the preparation of supplementary guidance.
Policy 14 Minerals and Soil/Earth Resources	Policy 14 Minerals and Soil/Earth Resources as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 and its associated text should be redrafted as we have suggested and in line with the requirements of SPP 4: <i>Planning for Minerals</i> .

Policy 16 Energy Generation	Subject to our findings concerning the title of the policy, the detail of its wording and that of the associated text, as well as the need for definition and supplementary guidance, Policy 16 Renewable Energy as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Policy 17 Improvements to Settlements	Policy 17 Improvements to Settlements as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be removed from the adopted local plan. We further recommend that consideration be given to a replacement policy with a more clearly defined and explained purpose, based on meaningful and explicit text, which takes account of all of our comments.
Policy 18 Design Standards for Development	Subject to addressing our comments and reservations, Policy 18 Design Standards for Development, should be taken forward into the adopted local plan broadly as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008.
Policy 19 Reducing Carbon Emissions in New Development	Subject to addressing our reservations, Policy 19 Reducing Carbon Emissions in New Development as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan, subject also to: <ul style="list-style-type: none"> • the introduction of flexibility to allow for the prospect of offsetting where technical constraints are shown to exist that otherwise prevent full compliance; and • the consideration of cross-referencing with the examples in PAN 84: <i>Reducing Carbon Emissions in New Development</i>.
Policy 20 Developer Contributions	Subject to addressing our concerns and reservations, including text changes and reference to the more generic legal agreements as opposed to the narrowly defined Section 75 agreements, Policy 20 Developer Contributions should be taken forward into the adopted local plan broadly as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008.

Policy 21 Contributions to Affordable Housing	<p>Subject to our considerable reservations and necessary further action, Policy 21 Contributions to Affordable Housing as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 and generally as amended by the third set of officer proposed post inquiry modifications (CD 7.28) should be taken forward into the adopted local plan.</p>
Policy 22 Housing Development within Settlement Boundaries	<p>Subject to a substantial redrafting of the policy wording and of the supporting text, which should address in particular:</p> <ul style="list-style-type: none"> • the definition and application of the term sustainable communities and of the settlement hierarchy; • the clarity of what is needed to comply with criterion (b); • the definition to derelict and underused land; • the reference to housing growth; and • the deletion of the unjustified 75% benchmark. <p>Policy 22 Housing Development within Settlement Boundaries should be taken forward from the Deposit Local Plan Modifications (1st and 2nd) October 2008 into the adopted local plan.</p>
Policy 23 Housing Development in Rural Building Groups	<p>Policy 23 Housing Development in Rural Building Groups as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should only be taken forward into the adopted local plan once our findings on matters that include definitions, justifications, and explanations are addressed.</p>
Policy 24 Housing Developments Outside Settlements	<p>Subject to addressing all of our concerns, Policy 24 Housing Developments Outside Settlement as generally set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan. However, we further recommend that particular attention should be paid to:</p> <ul style="list-style-type: none"> • explaining the 10 year threshold; • clarifying Policy 24 and its supporting text, as CNPA now accepts; • addressing the lack of an information base with a local focus that is currently undermining the ability to implement Policy 24; and <p>as with Policy 22, reviewing the definition and use of the phrase brownfield land.</p>

Policy 25 Replacement Houses	<p>Policy 25 Replacement Houses should only be taken forward from the Deposit Local Plan Modifications (1st and 2nd) October 2008 into the adopted local plan if all of our reservations are addressed. In particular, we recommend that particular attention should be paid to:</p> <ul style="list-style-type: none"> • the incorporation of a presumption against replacement houses unless specific criteria are met; • deletion of the second clause of item a) and replace with item b) <i>the existing house has been vacant for at least 10 years</i>; • reversing the order of existing items b) and c) to improve clarity; • relegating all of the rest of the wording to the section of the associated text which deals with implementation; and • a root and branch review of the text in the light of our findings above.
Policy 27 Business Development	<p>Subject to addressing matters which aim to augment Policy 27 Business Development and improve its clarity of expression, Policy 27 should be taken forward into the adopted local plan broadly as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008.</p>
Policy 28 Retail Development	<p>Subject to addressing our reservations in full, Policy 28 Retail Development as generally set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan. Our reservations include:</p> <ul style="list-style-type: none"> • the need for closer compliance with national planning policy in SPP 8: <i>Town Centres and Retailing</i> or justify the divergences; • the lack of town centre strategies and supplementary guidance to support the CNPLP and to enable it to comply more fully with the strategic objectives of the CNPP 2007; and • define the various concepts and terms used in Policy 28, including vitality, town centres, and the settlement hierarchy, consistently with other parts of the CNPLP SPP 8 and the CNPP 2007.
Policy 29 Conversion and Reuse of Existing Traditional and Vernacular Buildings	<p>Policy 29 Conversion and Reuse of Existing and Vernacular Buildings as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008 should be taken forward into the adopted local plan.</p>
Policy 30	<p>Subject to the minor title change and reservations</p>

Gypsies/Travellers and Travelling Show people	about the associated supporting text, Policy 30 Gypsies/Travellers and Travelling Show People as introduced in the 2 nd Modifications to the Deposit Local Plan should be taken forward into the adopted local plan.
Policy 31 Integrated and Sustainable Transport Network	<p>Subject to the consideration of our suggested amendments, Policy 31 Integrated and Sustainable Transport Network should be taken forward into the adopted local plan broadly as set out in the Deposit Local Plan Modifications (1st and 2nd) October 2008. Our recommended changes comprise:</p> <ul style="list-style-type: none"> • substituting <i>Development proposals will be favourably considered where the planning authority is satisfied that adequate consideration has been given to maintaining or improving the sustainable transport network within the Cairngorms National Park though the use of:</i> for the first sentence in the first paragraph of Policy 31; and • adding the sentence <i>Such proposals should make a positive contribution towards the sustainable transport network in the Cairngorms National Park</i> to the end of the second paragraph.
Policy 31 Telecommunications	Policy 31 Telecommunications as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Policy 32 Waste Management	Policy 32 as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 and adjusted by the proposed post inquiry modifications should not be taken forward into the adopted local plan. The policy should be deleted and its content taken forward in a form which takes full account of our suggestions and complies with national planning policy as that is set out in SPP 10: <i>Planning for Waste Management</i> .
Policy 33 Tourism Development	Policy 33 Tourism Development as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should not be taken forward into the adopted local plan. Consideration should be given to its replacement with text which meets our reservations before a policy on tourism related developments is taken forward into the adopted local plan.
Policy 34	Policy 34 Outdoor Access as set out in the Deposit

Outdoor Access	Local Plan Modifications (1 st and 2 nd) October 2008 and its associated text should be taken forward into the adopted local plan.
Policy 35 Sport and Recreation Facilities	Subject to careful consideration of our reservations Policy 35 Sport and Recreation Facilities as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 and its associated text should be taken forward into the adopted local plan.
Policy 36 Other Open Space Provision	Subject to consideration of our reservations Policy 36 Other Open Space Provision as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 and its associated text should be taken forward into the adopted local plan.
Policy omissions	A policy designed to manage the development of access paths, foot bridges, and vehicle tracks especially in remote areas should be incorporated into the CNPLP before it proceeds to adoption. We further recommend that CNPA considers farm and forestry buildings, amenity considerations for advertisement control, and access and parking standards as matters for inclusion within supplementary guidance.
An Camas Mòr	Given the considerable uncertainty, especially about environmental issues including the lack of an appropriate assessment, and about the housing land position, we cannot endorse the proposal for a new settlement at An Camas Mòr. However, given the site history in particular, CNPA may wish to continue to promote this proposal. Under those circumstances, the shortcomings should be addressed and the plan text should be modified to make clear that the local plan support for the proposal is in principle only. Further detailed evaluation is required and CNPA must be completely satisfied regarding all of the potentially negative impacts of the proposal before development can proceed. In addition, if CNPA decides to continue to promote development at An Camas Mòr, we commend the development principles produced to the inquiry (CD 7.25), subject to augmentation and adjustment as described in our findings and conclusions that are set out above.

Aviemore settlement boundary	With the exception of Edenkillie to the west of the A9 trunk road, which should be subtracted, the defined settlement boundary as shown on the proposals map for Aviemore in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Aviemore economic development allocations AV/ED1 & AV/ED2	The economic development allocations shown on the proposals map for Aviemore in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Aviemore environment allocations	The Deposit Local Plan Modifications (1 st and 2 nd) October 2008 ENV allocations on the proposals map for Aviemore should all be reviewed and, as part of that review, other areas including land around Milton Wood, Edenkillie, and east of Dalfaber, should all be evaluated for incorporation as appropriate.
Aviemore housing allocations AV/H2 & AV/H3	AV/H2 and AV/H3 as shown on the proposals map for Aviemore in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008, should be taken forward into the adopted local plan.
Aviemore West incorporating Aviemore Highland Resort	<p>Subject to our comments and while we suggest that:</p> <ul style="list-style-type: none"> • the issue of the delineation of the protected open space at AV/H1 should be addressed; and • reference to the Tree Preservation Order should be added to the supporting plan text, <p>the allocations shown on the proposals map along the west side of Aviemore, including AV/H1 and AV/ED3, should be taken forward into the adopted local plan broadly as described in the Deposit Local Plan Modifications (1st and 2nd) October 2008.</p>
Ballater housing allocation BL/H1	Subject to addressing all of our reservations, allocation BL/H1 as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan. We further recommend that the supporting text should be adjusted to take into account the position of CNPA at the close of the inquiry.

Ballater other land uses	Subject to dealing with our reservations, the proposals map and associated text as set out in the proposed post inquiry modifications to Deposit Local Plan Modifications (1 st and 2 nd) October 2008 be taken forward into the adopted local plan.
Grantown-on-Spey economic development allocation GS/ED2	The proposals map for Grantown-on-Spey should be amended as described in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 as it moves forward into the adopted local plan.
Grantown-on-Spey environment allocations	The Deposit Local Plan Modifications (1 st and 2 nd) October 2008 ENV allocations on the proposals map for Grantown-on-Spey should all be reviewed, but in the meantime, the GS/ENV sites around the defined settlement boundary should be kept in the Deposit Local Plan Modifications (1 st and 2 nd) as it moves forward into the adopted local plan.
Grantown-on-Spey housing allocations GS/H1 & GS/H2	GS/H1 should be deleted from the proposals map and that none of the suggested additional housing sites should be added. We further recommend that subject to addressing the our suggestions and reservations that include matters such as the: <ul style="list-style-type: none"> • extent of the site; • amount of affordable housing that CNPA expects from it; and • preferred vehicular access route, housing allocation GS/H2 on the proposals map for Grantown-on-Spey in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Kingussie economic development allocation KG/ED1	KG/ED1 as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be deleted from the adopted local plan.
Kingussie housing allocation KG/H1	KG/H1 as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be amended to a size which can deliver 55 houses within the life of the adopted local plan; and continuing consideration should be given to the subsequent phased release of the remainder of the site.

Newtonmore housing allocations NM/H1 & NM/H2 & road issues	Subject to addressing all of our comments and reservations, allocations NM/H1 and NM/H2 should be taken forward into the adopted local plan broadly as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008.
Boat of Garten housing allocation BG/H1	BG/H1 should be deleted from the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 as it proceeds to adoption. We further recommend that the additional site suggested by the objector, which is also in Boat of Garten wood, should not be allocated for housing development.
Boat of Garten other allocations	The ENV and ED designations should be reviewed and amended. We further recommend that in the meantime, Milton Loch should be included as BG/ENV and the Boat of Garten Hotel should be incorporated as BG/ED3, as the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 proceeds to adoption.
Braemar economic development allocations	The allocation of land for economic development as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Braemar housing allocations	Subject to addressing our reservations, the allocation of land for housing development as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 and as subsequently altered in the proposed post inquiry modifications should be taken forward into the adopted local plan.
Carr-Bridge housing allocation C/H1 & environment allocations	With the exception of the Boys Brigade Field opposite Carr Place, housing allocation C/H1 should be deleted from the Carr-Bridge proposals map in the local plan. Only the Boys Brigade Field, broadly as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan. We further recommend that the ENV designations around Carr-Bridge should be reviewed towards the possible inclusion of some or all of the rest of C/H1.

Cromdale housing allocations CD/H1 and CD/H2	CD/H1 should be deleted from the Cromdale proposals map as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008. We further recommend that adopted local plan allocations 6.1(c) and (d) should be taken account of in calculating the amount of housing land to be allocated in Cromdale and, if more land is required, these sites should be allocated with CD/H2 in the CNPLP as one development to be undertaken in 2 phases.
Dalnain Bridge housing land allocations	No change to the housing allocations for Dalnain Bridge as these appear on the proposals map and associated text set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008.
Kincraig housing allocation KC/H1 & economic development allocation KC/ED1	Subject to our comments, KC/H1 and KC/ED1 as shown on the proposals map in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Nethy Bridge community land allocation NB/C1	The amendments to the supporting text for site NB/C1 as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.
Nethy Bridge environment allocations	A new policy should be introduced to the emerging local plan to underpin the identification of the areas labelled ENV in the proposals map of the Deposit Local Plan Modifications (1 st and 2 nd) October 2008. Subject to that and the proviso set out above concerning the settlement boundary, the areas labelled ENV in the proposals map for Nethy Bridge should be taken forward into the adopted local plan.
Nethy Bridge housing allocations, including NB/H1 & NB/H2 & economic development allocation NB/ED1	There should be a moratorium for the lifetime of the local plan on all housing and economic developments in Nethy Bridge, other than on windfall sites that already have detailed planning permission.
Nethy Bridge other development	Subject to our related findings, no change to the Deposit Local Plan Modifications (1 st and 2 nd) October 2008.
Nethy Bridge tourism development	No change to the Deposit Local Plan Modifications (1 st and 2 nd) October 2008.

Dinnet	Dinnet should be identified as a Rural Settlement in the adopted local plan, as described in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008.
Settlement omissions	Subject to addressing our reservations, the Rural Settlements and their associated text as set out in the Deposit Local Plan Modifications (1 st and 2 nd) October 2008 should be taken forward into the adopted local plan.