

Objector **Name** Muir Homes Ltd
038c

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Company

Policy/site Policy 01

Representation to Deposit Plan

CNPA analysis of objection to Deposit Plan

Response to 1st modifications

The terms of Policy 1 are noted. While this sets out generic guidance this policy fails to give any support to those developments specifically identified within the local plan. The allocation of a site for development within the local plan must provide a sufficient level of assurance that the principle of development on a site will be accepted subject to the specific details being addressed and therefore the surety required by the development industry to invest substantial resources in seeking to deliver beneficial development within the area. While the general ethos underlying this policy is understood there needs to be clear support for development on allocated sites subject to the appropriate mitigation of impacts. There should be no further requirement to justify the principle of the development otherwise the danger here is that the level of development required in order to support/sustain communities will simply not materialise within the required timescales, if at all. The text of the policy and the related explanatory paragraphs require to be amended in order to address the stated concerns.

Indeed, the original wording of Policy 1 as contained within the Cairngorm National Park Deposit Local Plan should be retained in preference to the modified Policy 1. This provided for a better balance between pure conservation and appropriate development within the Park area.

CNPA analysis of response to 1st modifications

The allocation of a site within the proposal maps does not in any way suggest that any form of development will be acceptable upon it. This is not unusual in the planning process, but gives a degree of clarity which developers can then build upon when designing their proposals in line with the policies. Policy 1 ensures that all proposals are considered in light of the aims of the Park and creates a direct link to the National Park (Scotland) Act 2000. The links to the aims of the Park are important in the consideration of all development proposals. No second modifications or amendments are therefore proposed.

response to 2nd modifications

I refer to the letter from Cairngorm National Park Authority dated 5 November, 2008 and the attached "2nd Modifications to the Deposit Local Plan" related to the above. I would confirm at this stage that Muir Homes Limited retains its objections to the plan for those reasons set out within the representation submitted by TMS Planning and Development Services dated July 2008. Muir Homes Limited will wish all of its objections to be considered as part of the Local Plan PLI process and is likely to wish to support some objections in the form of oral evidence at a hearing with the remainder by further written submissions. This position will be clarified in due course.

HEARING

Objector **Name** Jamie Williamson **Agent**
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Company Alvie and Dalraddy Estate

Policy/site Policy 01

Representation to Deposit Plan

If the Cairngorms National Park Authority wants more accommodation provided within the Park the more regulations, restrictions and taxes placed on development the less likely additional houses will be built. Landowners will have their own aims, objectives, plans and aspirations that will not necessarily be the same as those of the Cairngorms National Park. Where the aims, objectives and aspirations of the landowner are different from those of the Cairngorms National Park Authority development is unlikely to take place.

The Authority's policy towards development should be more strategic and less prescriptive.

The Local Plan should take into account local economic and social benefits, not just national benefits. Particularly in isolated communities there may be a serious local problem that is not reflected nationally. For example there could be a serious problem of depopulation or lack of jobs in a particular glen that could be resolved with the introduction of a job opportunity. The survival of the whole community in this glen could depend on this job opportunity even though the depopulation of this glen would be insignificant in a national context.

We already have 5 tiers of legislation⁵ regulating how communities and land within the Cairngorms National Park is managed; inevitably there is a degree of overlap between different tiers of legislation and in some cases conflict between these regulations. Where the National Park (Scotland) act already dictates aims and regulations of the Cairngorms National Park, the Local Plan should refer to this legislation rather than attempt to duplicate Local Authority or National legislation.

If the Cairngorms National Park Authority genuinely wishes to reduce the " ... gap between housing need and supply in the Park to meet community needs" (see page 12 Cairngorms National Park Deposit Local Plan) fundamental changes will need to be made to their policies as proposed.

Proposed Modifications

Development in the Cairngorms National Park will be permitted where it has been demonstrated that

- a) The aims of the Park and overall integrity of the ea would not be compromised; or
- b) Any significant adverse effects on the qualities for which the Park has been designated are clearly outweighed by social or economic benefits of local or national importance and will be mitigated to the satisfaction of the planning authority by the enhancement of qualities or features of equal importance to the National Park.

Development that makes a positive contribution to one or more aims of the Cairngorms National Park will be supported where it will not significant or unreasonably conflict with any of the other aims or have any significant adverse effects on its special qualities.

Development that is likely to conflict with any of the aims of the Park as defined in the National Parks (Scotland) Act 2000 section 1, or lead to adverse effects on the Parks special qualities, will only be permitted where it is considered that these would be outweighed by the developments positive contribution to one or more aims (delete and) or the Park's special qualities, and where appropriate measures are taken to minimise and mitigate the adverse effects of the development

(Delete - Where a development would be likely to lead to conflict between the first aim of the Park - to conserve and enhance the natural and cultural heritage of the area - and any other aim or objective, the decision on the development will give greater weight to securing the first aim than any other aim or objective.)

CNPA analysis of objection to Deposit Plan

Throughout the plan has endeavoured to highlight other legislation, making direct reference to it only where there is a particular need. However in modifications further efforts will be made to ensure this approach is taken. The local plan throughout its policies also tries to take an approach that provides an appropriate level of detail to and guidance for developers, and the Plan is easy to understand and use. The policies of the plan also endeavour to provide a balanced approach to land allocation and services to support this, including creating the correct level of opportunities for employment. Modifications will therefore be proposed which review the tone and clarity of policies, and the proposed wording will be assessed accordingly.

Response to 1st modifications

b) Development that would have any significant adverse effects on the special qualities of the Park will only be permitted if these are clearly outweighed by social or economic benefits OF LOCAL or national importance and will be mitigated to the satisfaction of the planning authority by the enhancement of qualities or features of equal importance to the National Park.

The Local Plan should take into account local economic and social benefits, not just national benefits. Particularly in isolated communities there may be a serious local problem that is not reflected nationally. For example there could be a serious problem of depopulation or lack of jobs in a particular glen that could be resolved with the introduction of a job opportunity. The survival of the whole community in this glen could depend on this job opportunity even though the depopulation of this glen would be insignificant in a national context.

The Local Plan should reflect the views, needs and aspirations of its residents, it should not be a plan imposed by government or national pressure groups that ignores local needs.

CNPA analysis of response to 1st modifications

The policy is intended to give a clear link between the planning process and the aims of the Park. Including the word as suggested would not be in line with this and no modification is therefore proposed.

response to 2nd modifications

WRITTEN

Objector **Name** The Proprietors of Mar Centre
394c

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Company The Proprietors of Mar Centre

Policy/site Policy 01

Representation to Deposit Plan

CNPA analysis of objection to Deposit Plan

Response to 1st modifications

Policy 1 has been substantially re-written since the Deposit Plan and there have been several supplementary sections added to Chapter 1 Introduction. These additions at paragraphs 1.3 and 1.6 try to overcome some of the complication that has arisen out of the juxtaposition between the National Park (Scotland) Act Aims and the Planning (Scotland) Act 2006.

However we note that, unlike most other Local Plans, the context of the Planning Acts is not explained at the beginning of Chapter 1, just the National Park (Scotland) Act. To our knowledge the Planning Act remains the superior (and much longer standing) piece of legislation in Scotland. It is usually the case that Development Plans set out the legislative context of the Planning Acts

at the beginning. We suggest there may be clear benefit for this being done and the logical steps being followed from each legislative context (as opposed to only a one-sided explanation) toward the balancing duty that the CNPA must enact.

Our Client has no argument with the Aims of the Cairngorms National Park. We raise no objection to these at all and recognise that this is a statutory framework, which must be adhered to. It is just that in the construction of Policy 1 it would appear that development will be made even more difficult to achieve than is already the case. We wonder whether a rod is not being built for the National Park Authority's back through the present wording of Policy one.

1. To begin with the Plain English Society would not be inclined to award a Crystal Mark to the present formulation of Policy 1. It succeeds in making what should be easily understood sound very complicated indeed.

2. Secondly, Policy 1 attempts to explain and provide a route-map for the machinations which the CNPA has to go through as planning authority but it does so without first explaining the 'balancing' objectives it has to bear in mind when implementing the Planning Acts. To quote the purposes of the planning system as presently set down, they state: To set the land use framework for promoting sustainable economic development; to encourage and support regeneration; to maintain and enhance the quality of the natural heritage and built environment. (SPP1) In order to fulfil those requirements the CNPA must fulfil its duties as a planning authority as well as a National Park. It is the interplay between those roles that must be explained and set down in simple terms at the beginning of the Local Plan. We would submit that Policy 1 does not do this.

3. The Government's guidance given to Planning Authorities states that because of the importance accorded development plans it is essential that policies: Provide clear guidance to developers and the public on the relevant planning issues affecting their area; are properly justified to explain their intention; are expressed simply and unambiguously; and can easily be monitored, reviewed and kept up to date. (SPP1)

We believe that Policy 1, as presently re-drafted, does not fulfil this litmus test. 4. Policy 1 and its associated text do not explain the ramifications of implementing these two separate but clearly related pieces of legislation. We would suggest that the preamble to Policy 1 has to focus on the interplay between the two sets of objectives provided by the two separate acts. To state both sets of objectives would help. To explain the tension between these objectives would also help. To set down the role of the CNPA as having to make a balanced judgement, taking all these objectives into account should be a relatively simple policy to write, as well as implement. It is only right and proper that Section 9 (6) of the National Parks (Scotland) Act, giving effect to the Sandford Principle, is also explained.

5. In clear difference to the English counterparts, the Scottish National Parks have been given an important role in supporting the sustainable economic and social

development of the area's communities. This ties in well with the first aim of the planning system in Scotland (see above). We would suggest that the presumptions inherent in Policy I should be more clearly written to exemplify this. Presently it does not do this. Moreover, we now know that all development must be sustainable in terms of the 2006 Planning Acts. Policy I succeeds in setting the bar substantially higher, but in our view unnecessarily so. Policy I would be much improved were the presumptions set out positively from the beginning with the caveat of an 'unless' statement to bring forward the Sandford Principle. As presently drafted Policy I (d) is a single sentence of over 75 words that is extremely difficult to understand.

6. We also observe that Policy I is designed to steer the whole plan and all the policies that follow. If this is the case then there has to be guidance within Policy I that covers matters of fact and degree. Comparing single house applications within settlements to windfarms on hill tops or major new settlements makes little sense. Whilst the CNPA would wish to apply Policy I across the board, the plain truth is that if its effect is most frequently used against single houses then the status of that policy will be seriously downgraded and undermined. We would submit that there are clear and justified arguments for giving differing weight to Policy I

CNPA analysis of response to 1st modifications

The comments regarding the role of planning legislation is noted and an additional explanation will be added as a second modification to the plan.

Regarding the wording of the policy the intent is to clarify the role of the aims of the park in the decision making process. The introduction of a tiered approach is not in line with these aims. No further modification is therefore proposed.

response to 2nd modifications

HEARING

Objector 380e	Name Campbell Gerrard Sportscotland Caledonia House South Gyle Edinburgh, EH12 9DQ	Agent
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Company Sportscotland

Policy/site Policy 01

Representation to Deposit Plan

CNPA analysis of objection to Deposit Plan

Response to 1st modifications

We wish also to make a further representation on section (d) of Policy I, on the precautionary principle. Based on national advice on the precautionary principle, sportscotland considers that an addition should be made to the policy which states that the principle is only applicable where the natural heritage under threat is important – i.e. where national and international designations or conservation status apply, or where the risk affects a significant proportion of a more common resource. This advice is taken from guidance produced by SNH and the Scotland and Northern Ireland Forum for Environmental Research.

CNPA analysis of response to 1st modifications

Policy I is in line with the obligations placed on CNPA through the 4 aims of the National Park. As the National Park is a Park wide designation in itself, the proposed amendment would not therefore be considered appropriate. No modification is therefore proposed.

response to 2nd modifications

WRITTEN

Objector **Name** Frogmore Estates Scotland Ltd
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Company Frogmore Estates Scotland Ltd

Policy/site Policy 01

Representation to Deposit Plan

In the first instance, objection is made to the removal of General Policies 1 - 3 in the Consultative Draft Plan and the substitution of Policy 1 - Development in the Cairngorms National Park, as set out in the Deposit Plan.

The Consultative Draft Plan set out Policies 1 - 3, which allowed for a considered position to be taken on the control of development in different landscape character areas. This approach would have provided appropriate scrutiny and control over proposed development within the most sensitive landscape character areas to ensure that there would be no adverse impact upon the special qualities of the Park.

The Cairngorms Landscape Assessment, undertaken by Turnbull Jeffrey Partnership in 1996, identified a range of landscape types and proposed measures for their management and protection. In summary, it found that the Cairngorms has a varied landscape character ranging from the uninhabited and physically dominated high mountain plateaux to the settled and farmed landscapes of the Straths, and that varying measures would be appropriate over different parts of the Park to protect special landscape features. Some areas of the Cairngorms were found to be more sensitive to development than others.

The approach set out in the Consultative Draft Local Plan, where a set of policies with varying levels of development being supported in different areas, would be the most appropriate approach to the control of development within the Park. Areas of lower sensitivity in landscape terms, albeit generally more sensitive than average rural areas outwith the National Park, would be afforded an appropriate level of protection, whilst allowing for sensitive development in the right places to ensure a healthy rural economy, being subject to General Policy 1. Those areas which are of different or greater landscape significance, or are subject to national or international environmental designations would be afforded an appropriate level of protection under General Policies 2 and 3.

In light of this, objection is made to the deletion of General Policies 1 - 3 in the Consultative Draft Plan and their replacement with Policy 1 - Development in the Cairngorms National Park in the Deposit Plan. It is respectfully submitted that General Policies 1 - 3 should be reinstated.

CNPA analysis of objection to Deposit Plan

The approach taken has tried to create a clear link between the Park Plan, the aims of the Park and the Local Plan and its delivery. Throughout the remainder of the policies in the Plan, issues such as landscape impact, sensitivity of development and the promotion of a healthy rural economy must all be considered in the determination of any planning application. Whilst the approach taken may not be a definitive, modifications will be made to the Introduction and Context to clarify that all the policies in the Plan must be considered equally, and also to clarify the relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance.

Response to 1st modifications

Maintain objection. Continued objection is made to the removal of general policies 1-3 as included in the Consultative Draft Local Plan and the failures of the First Modifications to reintroduce these policies.

The consultative draft Local Plan set out Policies 1-3 which allowed for a considered position to be taken on the control of development in different landscape character areas. This approach would have provided appropriate scrutiny and control over the proposed development within the most sensitive landscape character areas to ensure that there would be no adverse impact upon the special qualities of the Park.

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The approach set out in the Consultative Draft Local Plan where a set of policies with varying levels of development being supported in different areas, would be the most appropriate approach to the control of development within the Park. Areas of lower sensitivity in landscape terms, albeit generally more sensitive than average rural areas outwith the National Park, would be afforded an appropriate level of protection, whilst allowing for sensitive development in the right places to ensure a healthy rural economy, being subject to General Policy 1. Those areas which are of different or greater landscape significance or are subject to national or international environmental designations would be afforded an appropriate level of protection under General Policies 2 and 3.

The Deposit local plan saw the removal of General Policies 1-3 and their replacement with Policy 1 – Development in the Cairngorms National Park (page 14) which set out a generic approach to development in each of the landscape character areas. Objection was made due to the loss of the area specific approach and the unduly restrictive policy framework which would then apply to those areas of lower landscape quality.

First modifications to the Deposit local plan set out a further revision of Policy 1 Development in the Cairngorms National Park but it does not reinstate the area specific approach previously seen in general policies 1-3 of the Consultative Draft Plan. The essence and effect of the revised policy 1 remains the same as in the Deposit Plan, and objection to the lack of an area specific approach to control over development is sustained for the same reasons as set out in our objections to the Deposit Local plan in August 2007.

CNPA analysis of response to 1st modifications

The previous approach using a variety of landscape character areas was considered by objectors and the CNPA Board to be confusing and a Park wide approach was considered the most appropriate way forward. It is not considered appropriate to change from this again, and therefore no further modification or amendment is suggested.

response to 2nd modifications

With reference to your letter of 5th November 2008 we write to confirm that we wish to maintain our unresolved objections to the Cairngorms National Park Local Plan. The forms which accompanied our representations to the first modifications indicate that we sought to have those objections considered via written submissions. Notwithstanding, the forms which were submitted with our original objections to the Deposit Local Plan indicated our intention to have our objections considered by formal inquiry. We therefore, at this stage intend that our unresolved objections to the Deposit Local Plan be considered by formal inquiry, but reserve the right to change consideration to written submissions at a later date, should we or our client consider it appropriate.

We can confirm that we have no further comments on the most recent modifications to the Plan which were issued in November 2008. We trust that you find this acceptable, however should you wish to discuss the matter further then please do not hesitate to contact either Philip Clarke or the undersigned (Gordon Thomson).

INQUIRY

Objector **Name** The Cairngorms Campaign **Agent**
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Company The Cairngorms Campaign

Policy/site Policy 01

Representation to Deposit Plan

We support the comments on policies 1-6 made by the Mountaineering Council of Scotland, particularly with regard to the need of safeguarding against the incremental accumulation of impacts. A current example is the cumulative impact of proposed housing developments on ancient and semi-ancient woodland, and in species-rich grasslands. Permitting incremental impacts on such habitats that cannot in practice be renewed does not in the end protect them; it simply delays their point of extinction. A particular problem that is increasingly evident is the current inadequacy of data available on such sites on which to base decisions. The plan should explicitly take cognisance of this.

CNPA analysis of objection to Deposit Plan

The limitations of the data sets are noted and the text will be amended to adequately reflect this.

Response to 1st modifications

We strongly support policy 1 and believe this addition and the supporting statements added under Implementation and Monitoring in paras 3.6 to 3.10 and believe that, through these additions, you have significantly strengthened the whole plan. Recent events on sites proposed for housing developments on Speyside have demonstrated that the statement in para 3.10 on improving the evidence base and data collection is particularly relevant.

Regarding other specific paras, we would however say:-

Para 3.1 – Highlighting natural and cultural qualities that give the Park its distinctive identity. This seems to us a potentially useful list, but it needs to be more specific under the headings. Under rivers and lochs for example, some indication of what is distinctive about them in the Cairngorms – the extent of wetlands, the relative unpolluted and wild rivers, etc. In particular, although Wild Land has now been incorporated into the Park Plan as an important element, and it is also discussed in para 4.41 under Conserving and Enhancing the Park, it is excluded from this list in para 3.1. We strongly urge that it is included here in line with the Park Plan and section 4 of this development plan.

CNPA analysis of response to 1st modifications

Para 3.1 reflects wording from the National Park plan and is added for information and context. The local plan and national park plan are strongly linked and the local plan does not aim to go into the level of detail where it is included in the Park Plan. No further modification is therefore proposed.

response to 2nd modifications

WRITTEN

Objector **Name** Mrs Sally Spencer **Agent**
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Company

Policy/site Policy 01

Representation to Deposit Plan

I think people are sick and tired of those who cheat and bend the Planning system to their own advantage. The CNPA needs to ensure that there is fairness for all, which means, sadly, that it needs sharp teeth!

I think that it should be stated clearly and unequivocally in the Local Plan, that retrospective planning permission will not be granted. Such an application drives a coach and horses through the Planning system, but sadly seems often to be successful. It is presumably done because the applicant has a shrewd idea his application would be refused if he went about it in the correct way. This, and the successful outcome, is not lost on the local community, and causes great resentment among the law-abiding, who may face refusal of their own application.

In order to discourage such applications, potential penalties need to be set out clearly, and be well known, and I think should be draconian, for example:

- a fine of (at least) twice the normal Planning Application fee
- the obligation to restore the site to its previous state, regardless of what has been built. Such restoration to include the replacement of any large trees, and to be monitored, to ensure that it is done. (This, one hopes, would be sufficiently expensive to be the real deterrent).
- Only then, (if the applicant still wishes to build) a normal Planning Application may be made, including paying the normal fee, and the whole thing be treated as if it was a first application, no consideration being given to the previous 'gun jumping' attempt.

I imagine there would need to be a caveat to cater for 'extremely rare and exceptional circumstances' but it needs to be very carefully worded so that it is "loophole proof"!

I think that those who apply to build, and subsequently, but while building is still in progress, apply to alter this or that, for example, 'a house with separate garage' subsequently altered by the addition of extra windows, skylights, shower, lavatories etc, should have such an application refused unless they can show very good reason why these additions were not on the original planning application, and that they are not – and will not in future – be using such a 'garage' as extra living accommodation.

I am sure there are examples of such underhand behaviour in all areas covered by the Park.

The loophole that allows this is, I think, that such an application goes to the Local Authority planners, not back to the Park Committee. I don't know how you sort that out, but the loophole needs to be closed!

One reason why I think you need to do something about what are often quite blatant deceptions is that they do cause resentment among the law-abiding, who feel that it is up to the Planning Authority – Park or Council – to be fair to all their applicants/citizens. The other reason, stemming from the first, is that resentment

against the Park is likely to increase if you don't, and that would be a great pity.

CNPA analysis of objection to Deposit Plan

The comment is noted. The regulations regarding the implementation of planning legislation through the development management approach are set out by Scottish Government. The CNPA will continue to work to ensure that these regulations are written in a way which best serves the Park and its communities. No modification considered necessary as a result of this representation.

Response to 1st modifications

response received - need to confirm actual position regarding formality of objection

CNPA analysis of response to 1st modifications

response received - need to confirm actual position regarding formality of objection

response to 2nd modifications

WRITTEN

Objector **Name** Scottish and Southern Energy Plc
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Company Scottish and Southern Energy Plc

Policy/site Policy 01

Representation to Deposit Plan

The Local Plan states that policy I sets out the role of the Park's aims and the special qualities in planning decisions within the CNP and that the policy will be both the "starting point an ending point" for assessing planning applications. It is also stated that policy I does not override other policies within the Plan and that it is not the only policy by which development proposals are determined. However policy I provides the "foundation" for all planning decisions and links the detailed policies back to the aims of the Park. It is stated that:

"This policy also provides a basis of assessment of any proposals that have not been anticipated by other policies of the plan...Developments must comply with all policies in the plan to comply with policy I."

It is notable that parts (a) and (b) of policy I generally replicate the policy tests as set out at paragraph 25 of National Planning Policy Guideline (NPPG) 14 (Natural Heritage), with the exception of the first part of (a) which uses the term "aims of the Park" whereas paragraph 25 of NPPG 14 uses the term "objectives of designation". It is unusual in that there is no cross-reference at all or acknowledgement in the supporting text of the Plan to any link to NPPG 14.

Points (a) and (b) of policy I, as with paragraph 25 of NPPG 14, provide two means by which development may be permitted. However, part (b) of the policy goes further and provides a third element to the test which is not contained within NPPG 14. The policy is therefore over-restrictive and in conflict with the paragraph 25 test in NPPG 14.

This third element can be considered to be within part (b) of the policy where it is stated that development will be permitted where it has been demonstrated that the development "will be mitigated to the satisfaction of the Planning Authority by the enhancement of qualities or features of equal importance to the National Park". This aspect of the policy is not considered to be appropriate. This third criterion against which acceptability purports to be tested provides no clear guidance for developers. The main reason for this is the same reason why this policy should not be given such primacy in planning decisions, that is to say it is predicated upon the significance of adverse effects on special qualities. The identification of 'special qualities' are therefore of crucial importance. Without identification of the special qualities by geographic area how can a developer form a view as to the appropriate location for particular forms of development and how can the CNPA form a view as to whether there can be enhancement of qualities or features of equal importance if they are not identified in the first place?

It is not clear what is meant by the term "features of equal importance" and no guidance is provided in the supporting text of the Plan with regard to this phrase. Furthermore, the policy does not allow for a situation where a particular project could have satisfactory mitigation built into it to make it acceptable in planning terms, and, where there may not be a particular 'feature' to enhance.

Planning Advice Note (PAN) 49 (Local Planning) at paragraph 22 makes it clear that policies in Local Plans require to be "consistent with broader national policy and

environmental objectives “. Furthermore paragraph 50 of the PAN states that “it is critical for planning authorities to frame policies so that they are inter alia:

- properly justified to explain their intention;
- provide clear guidance to the public and the developer;
- are expressed in simple, positive and unambiguous terms;
- set out any criteria necessary for their interpretation.

Furthermore, paragraph 5 of PAN 49 makes it clear that Local Plans “should provide a stable and consistent framework within which investment decisions can be made with confidence.”

The paragraph adds that authorities preparing Plans should “take account of national and regional policies. Furthermore, PAN 49 sets various objectives for the preparation of Plans and in my view this policy (and indeed other policies referred to in the bullet points and paragraphs below); do not accord with the Local planning objectives in terms of being:

- “realistic” — references in policies such as policies 4, 3 and 18 do not represent realistic policy objectives as they contain requirements for developers to provide and / or enhance features of equal importance which a developer may not have the power to deliver.
- “practical” - a number of the draft policies have been highlighted which are not particularly practical and which are not easily understood.
- “clear”- national planning advice states that “clarity is essential” and the most effective Local Plans will be those which convey their policies without ambiguity.

CNPA analysis of objection to Deposit Plan

The comment is noted. Modifications within the Introduction and Context sections will endeavour to clarify the relationship of the Local Plan and its relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance. Modifications will also endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. Throughout proposed modifications will endeavour to clarify while providing an appropriate level of guidance for developers and interested parties.

Response to 1st modifications

Paragraph 52 of the PAN adds that: “the intention of the policy should always be clear”. Policy I, as drafted, does not meet the requirements as set out in PAN 49. In the revised policy wording there remains no cross reference or acknowledgement in the modified policy I to NPPG14. The special qualities of the Park are referred to in the Local Plan however they are still not clearly defined. The paragraphs relating to the aims and special qualities of the park have not been amended following our objections made in 2007. Given that these special qualities and ‘features of equal importance’ are still not clearly defined it is considered that sections b) and d) of Policy I do not give sufficient guidance to developers.

The modified Policy I still does not allow for a situation where a particular project could have satisfactory mitigation built into it to make it acceptable in planning terms, and where there may not be a particular ‘feature’ to enhance. The modified Policy I does not accord with Planning Advice Note (PAN) 49 in terms of terms of the policy being ‘realistic’, ‘practical’ and ‘clear’ Policy I has not been adequately revised to address the objections previously made and which are accordingly maintained.

CNPA analysis of response to 1st modifications

The wording of the policy is intended to clarify the link with the 4 aims of the Park. Any change to the wording which would undermine these aims would not be in line with the position of the CNPA. The proposed change would not support the 4 aims of the park and their application to the planning process. No modification is therefore proposed.

response to 2nd modifications

I refer to your letter of 5th November 2008 with regard to the above which enclosed the “second modifications” to the wording of the first modifications to the

Local Plan. I note that the Second modifications generally relate to points of clarification and the correction of errors rather than any substantive changes to policy wording.

As you are aware, Jones Lang LaSalle act on behalf of Scottish and Southern Energy plc and its subsidiary companies (SSE) and representations were submitted to the Cairngorms National Park Local Plan – First Modifications. The objections to the First Modifications maintained those made in response to the original Deposit Local Plan.

SSE has always maintained the position that they support the Cairngorms National Park Authority (CNPA) in delivering an appropriate Local Plan for their administrative area. Within a 'plan-led' system it is important that the Local Plan reflects up to date national planning policy in respect of land use planning objectives and that the Plan provides clear and helpful policy guidance for developers and investors in accordance with planning guidance.

Following a review of the Second Modifications SSE is disappointed that their objections have not been reflected in any changes to policy wording, with the exception of the Modification to Policy with regard to transportation matters. The representations previously submitted are therefore maintained, except those in relation to Policy 30.

You have requested clarification as to how SSE would wish their objections to be dealt with at the forthcoming Public Local Inquiry. As previously stated, my client would wish for evidence to be presented verbally at the Inquiry by way of formal Inquiry process. However if the CNPA intends to seek to resolve objections prior to any Public Inquiry, then SSE would be willing to engage in appropriate discussions.

HEARING

Objector **Name** The Clouds Partnership
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Company The Clouds Partnership

Policy/site Policy 01

Representation to Deposit Plan

The Cairngorms National Park Deposit Local Plan 2007

5.1 The Clouds Partnership supports the removal of the general policies from the Cairngorms National Park Deposit Local Plan, and the revision of the topic policies.

5.2 Policy 1 — Development in the Cairngorms National Park.

As set out in our original submission, The Clouds Partnership would maintain an objection to Policy 1 in that Section B “any significant adverse effects and equalities for which the Park has been designated are clearly outweighed by social and economic benefits of national importance and will be mitigated at the satisfaction of the Planning Authority by the enhancement qualities of features of equal importance to the National Park”.

Comment - The Clouds Partnership would maintain its objection to Policy 1 — Development in the Cairngorms National Park, on the basis that quantification of “significant adverse effects” needs to be quantified. It remains an open ended statement of policy intent which could have an impact on every planning proposal made in the National Park and therefore clarity is required in terms of its application.

Conclusion

7.1 The Clouds Partnership continue to object to the over-reliance of the Cairngorms National Park Deposit Local Plan on An Camas Mor for the provision of housing numbers at Aviemore, and would urge the Cairngorms National Park Authority to allocate land at Kinakyle, Aviemore as an effective housing site in the emerging Local Plan.

CNPA analysis of objection to Deposit Plan

The comments regarding the clarity of the wording are noted and the appropriate changes will be made to ensure policies and supporting text are clear, understandable and are not subjective in their implementation.

Response to 1st modifications

Please find enclosed completed objection forms for the above consultation. From the enclosed you will see that we have maintained our objections to the following:

Policy 1 - development in the Cairngorms National Park

Table 4 - phased land supply

S7 Settlement proposals - Aviemore

S7 Settlement proposals - An Camas Mor

We look forward to hearing from you to discuss these objections in more detail.

CNPA analysis of response to 1st modifications

Policy 1 has been completely redrafted, and creates a clear link between the planning process and the aims of the Park and the National Park (Scotland) Act 2000.

To list what are 'significant adverse effects' would not allow flexibility or assessment of proposals against the aims of the Park. The policy is considered to give clear

advice and guidance, and as such no modifications are proposed.

response to 2nd modifications

WRITTEN

Objector 437a	Name Mrs Jane Angus Darroch Den Hawthorn Place Ballater AB35 5QH	Agent
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Company

Policy/site Policy 01

Representation to Deposit Plan

Policy 1, p 14, 3.4. The extract from the Act gives the Park Authority the right to do anything it wants regardless of the wishes of the inhabitants or the stated aims, if there is over-riding national importance'. As below in discussing 4.9 and 4.18-40, the inherent conflicts are not helpful to harmonious management.

CNPA analysis of objection to Deposit Plan

The comment is noted. Modifications within the Introduction and Context sections will endeavour to clarify the relationship of the Local Plan and its relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance. Modifications will also endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. Throughout proposed modifications will endeavour to clarify while providing an appropriate level of guidance for developers and interested parties.

Response to 1st modifications

response received - need to confirm actual position regarding formality of objection

CNPA analysis of response to 1st modifications

response received - need to confirm actual position regarding formality of objection

response to 2nd modifications

WRITTEN

Objector **Name** Sarah Jane Laing **Agent**
429b SRPBA
 Stuart House
 Eskmills
 Musselburgh, EH21 7PB

Company SRPBA

Policy/site Policy 01

Representation to Deposit Plan

SRPBA object to paragraph b) and suggest the following change to the text:

b) Any significant adverse effects on the qualities for which the park has been designated are clearly outweighed by social or economic benefits of local and/or national importance and will be mitigated to the satisfaction of the planning authority by the enhancement of qualities or features of equal importance to the National Park.

The justification for this is that economic benefits may be local rather than national. Large developments may produce national benefits whereas smaller developments may only provide local economic benefits.

In addition, we would recommend that 'national' should be qualified. Does it relate to Scotland, the UK, Great Britain or even the European Union?

CNPA analysis of objection to Deposit Plan

The comment is noted. Modifications within the Introduction and Context sections will endeavour to clarify the relationship of the Local Plan and its relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance. Modifications will also endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. The proposed wording will be assessed accordingly.

Response to 1st modifications

We are happy to withdraw all but one of our formal objections as believe that majority of them have been addressed by the modifications, or by clarity of issues in supporting text. The only one we would like to continue with is in relation to policy I where we still think that there should be support for projects which provide social or economic benefits of local as well as national importance.

CNPA analysis of response to 1st modifications

The wording of the policy is intended to clarify the link with the 4 aims of the Park and to clarify the role of the 1st aim as established through the National Parks (Scotland) Act 2000. No further modification is therefore proposed.

response to 2nd modifications

Having had a look at the second modifications, I think that we would still have an objection in terms of policy I as detailed in my email. Shall I formally respond by letter? On first reading I don't think that we will have any objections to any of the second modifications – indeed think we would be very supportive of many of them – I will however have a more detailed look and will include any comments in my letter. Would you be happy to receive positive/supportive comments?

In terms of representation to the Reporter, the SRPBA will only make written representation but I think that individual members may take a different approach and may ask us to provide support to them. However, although we would be happy to provide information or comments that they would use to give written or oral evidence the Association would not represent an individual member in the Inquiry. Hopefully see you soon. Staying with Fiona tomorrow night as up for RIHAF conference

WRITTEN

Objector **Name** The Crown Estate
419a

Agent Debbie Mackay
Smiths Gore
12 Bernard Street
Edinburgh
EH6 6PY

Company The Crown Estate

Policy/site Policy 01

Representation to Deposit Plan

Policy 1, criteria (b) requires that development will be permitted where it is demonstrated that;

“b) Any significant adverse effects on the qualities for which the Park has been designated are clearly outweighed by social or economic benefits of national importance...”

This policy should also include social or economic benefits of “local” importance. The aims of National Parks in Scotland under the National Parks (Scotland) Act 2000 include aim 4;

“To promote sustainable, economic and social development of the area’s communities.”

There may be occasions when the economic or social good of the community must be given due recognition, not just economic or social benefits of national importance.

Modifications to resolve this objection - The policy should be altered to read;

“...outweighed by social or economic benefits of local and/or national importance...”

CNPA analysis of objection to Deposit Plan

The comment is noted. Modifications within the Introduction and Context sections will endeavour to clarify the relationship of the Local Plan and its relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance. Modifications will also endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. The proposed wording will be assessed accordingly.

Response to 1st modifications

Objection maintained.

CNPA analysis of response to 1st modifications

Policy 1 has been totally redrafted. No additional comment has been added on the changes. No further modifications are proposed.

response to 2nd modifications

WRITTEN

Objector	Name	Agent
456d	Reidhaven Estate Seafield Estate Office Cullen Buckie Banffshire	Jill Paterson Halliday Fraser Munro 8 Victoria Street Aberdeen AB10 1XB

Company Reidhaven Estate

Policy/site Policy 01

Representation to Deposit Plan

Reidhaven Estates would wish to make representation about para b) of the policy. This in effect states that a proposal will be permitted if “any significant adverse effects on the qualities for which the Park has been designated are clearly outweighed by social or economic benefits of national importance...”

The meaning as written is clear but Reidhaven believe that the criteria suggested may well in practice be difficult to define and difficult to assess. With the bar being set at ‘national importance’ it is also considered that this may well be used to prevent developments that might be of local importance such as schools, hospitals or even affordable housing. Setting the bar at ‘national importance’ may well be appropriate for much of the designated heartlands of the Cairngorms, but such a policy may mitigate against sensible consolidation, regeneration and development of some of the communities within the National Park area.

The policy should refer to the aims as set out in the National Parks (Scotland) Act 2000 as these are not reflected. Implicitly this policy reads as a protectionist policy but should also allow for controlled growth and sustainable development to form part of the Park aims.

Modifications: It would be perfectly feasible to suggest that Policy 1 have two levels of effect - not dissimilar to the original formulation set out so long ago in the Popular Mountain Areas Report published by the Countryside Commission for Scotland in the mid 80s. This suggested that there should be areas identified within the national Parks which were ‘Community Zones’. The balance of the land (and naturally the majority) would be termed the ‘Conservation Zones’.

In such a formulation Policy 1 would apply to the Conservation Zones. Within the Community Zones a lesser threshold should be applied, but designed to set the emphasis quite rightly on “Local Importance”. This would resonate very well with efforts being made to ensure a strong degree of local influence within the National Park.

It would also be quite possible to clarify Policy 1 in such a way that a) applied to all development; b) applied to Conservation Zones requiring the national importance test; and a new c) could be added which applied to defined Community Zones (at very least all the areas within settlement boundaries shown in the plan) requiring a local importance test.

The policy should also refer to the aims of the national park as defined in the National Parks (Scotland) Act 2000.

CNPA analysis of objection to Deposit Plan

The comment is noted. Modifications within the Introduction and Context sections will endeavour to clarify the relationship of the Local Plan and its relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance. Modifications will also endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. Throughout proposed modifications will endeavour to clarify while providing an appropriate level of guidance for developers and interested parties.

Response to 1st modifications

Maintain objection.

On behalf of Reidhaven Estate we write to maintain our objection to Policy 1: Development in the Cairngorms National Park. We note that this policy has been substantially re-worded, however still have concerns about its implementation. We welcome the additional information provided in the Introduction Section of the Proposed Modifications (Chapter 1) in helping to clarify the relationship between the various acts and plans. In particular we welcome the addition at Paragraph 1.3 in referring to the role of the 4 aims of the National Park in the planning function. This addresses one of the concerns raised in our original representation. We

do however note that, unlike most other Local Plans, the context of the Planning Acts is not explained at the beginning of Chapter 1, just the National Park (Scotland) Act. To our knowledge the Planning Act remains the superior (and much longer standing) piece of legislation in Scotland. We would therefore suggest that there would be clear benefit in setting out the legislative context of the Planning Act as well. We still have concerns about the wording of Policy 1 which we do not feel has taken on board the comments raised in our initial representation, on behalf of Reidhaven Estate. We wish to maintain this objection, however also have some additional points which we wish to raise.

It is our view that the policy should provide further explanation on the 'balancing' objectives it has to bear in mind when implementing the Planning Acts and set out clearly the roles between their duties as a planning authority and National Park.

In clear difference to the English counterparts, the Scottish National Parks have been given a clear role in supporting the sustainable economic and social development of the area's communities. This ties in well with the first aim of the planning system in Scotland. We would suggest that the presumptions inherent in this policy should be more clearly written to exemplify this. Presently it does not do this. We also observe that the policy is designed to steer the whole plan and all the policies that follow. If this is the case, then there has to be guidance within the policy, which covers matters of fact and degree. Comparing single house applications within settlements to windfarms on hill tops or major new settlements makes little sense. Whilst the CNPA would wish to apply this policy across the board, the plain truth is that if its effect is most frequently used against single houses then the status of that policy will be seriously downgraded and undermined. We would submit that there are clear and justified arguments for giving differing weight to this policy depending upon the scale of the impact that any development might have.

This should be easily and readily drafted in line with the new categorisation of planning applications envisaged under the 2006 Planning Act.

As outlined in our initial representation this policy still reads as a protectionist policy, however also needs to recognise and allow for controlled growth. We have some concern about the wording proposed for Part (b) of the policy, in particular the reference to 'and will be mitigated to the satisfaction of the planning authority by the enhancement of qualities or features of equal importance to the National Park' and Part (d) which refers to 'where satisfactory measures are incorporated to minimise, mitigate or compensate the adverse effects of development'. Further guidance is required as to what this means in terms of implementation to ensure that these requirements do not become too onerous and make developments unviable. It is important that any of these requirements are related to the site and justified. As outlined in our initial representation there needs to be some differentiation between community areas and conservation areas (where these may be more stringently applied) to allow for economic and social growth in the Park.

Continuation Sheet - Section B4 and B5

CNPA analysis of response to 1st modifications

The comments regarding the role of planning legislation is noted and an additional explanation will be added as a second modification to the plan.

Regarding the wording of the policy the intent is to clarify the role of the aims of the park in the decision making process. The introduction of a tiered approach is not in line with these aims. The policy wording will not be amended to undermine these aims and no further modification is therefore proposed.

response to 2nd modifications

HEARING

Objector	Name	Agent
056g	James and Evelyn Sunley 12 Lochnagar Way Ballater AB35 5PB	

Company

Policy/site Policy 01

Representation to Deposit Plan

3.4 Under the heading Policy 1(b) this paragraph is a most deliberate obfuscation worthy of Sir Humphrey himself! Its intent is to defeat every other policy regardless; in the name of “social or economic benefits of national importance”. This clause gives the Park the rite to do what it wants regardless of the wishes of people who live in the Park. Such power if only given to democratically elected government under political scrutiny, not to a largely unelected quango. We need more clarification and reassurance on safeguards.

CNPA analysis of objection to Deposit Plan

The comment is noted. Modifications within the Introduction and Context sections will endeavour to clarify the relationship of the Local Plan and its relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance. Modifications will also endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. Throughout proposed modifications will endeavour to clarify while providing an appropriate level of guidance for developers and interested parties.

Response to 1st modifications

The modified Park Plan does not address any of the objections that we made, we therefore continue our objections and ask you to think again.

CNPA analysis of response to 1st modifications

The wording of Policy 1 has been completely altered. The response does not comment on the new wording. No further amendment is therefore proposed.

response to 2nd modifications

Thank you for your letter dated 5th Nov. 2008 with regard to the arrangements for the Local Plan inquiry and the further modifications to the Local Plan. I refer you to the changes indicated in appendix page 8 of your letter and point out that "page 68 , Ballater ..."is in fact page 72, page 68 refers to Kingussie. I further point out that the change to 16.2ha from the original 10.99ha, is a change due to the inclusion by CNPA of areas E2, and E3 areas which did not form part of development land on the Aberdeenshire CC Local Plan. This change should be properly delineated as a change from the ACC Local Plan.

With regard to my intentions with regard to the Reporters enquiry, it is decide on this matter but will probably follow the informal route.

HEARING

Objector 425c	Name Rona Main Scottish Enterprise Grampian 27 Albyn Place Aberdeen AB10 IDB	Agent Steve Crawford Halliday Fraser Munro 8 Victoria Street Aberdeen AB10 IXB
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Company Scottish Enterprise Grampian

Policy/site Policy 01

Representation to Deposit Plan

Aims and Special Qualities of the Park

Policy 1 — Development in the Cairngorms National Park sets out the general provisions that relate to all development within the Park. It ties these back to the “aims of the Park” and indicate that development will generally be permitted where it does not adversely affect the overall integrity of the Park or, where there are significant adverse effects on the qualities, that these effects will be outweighed by social or economic benefits of national importance.

Key issues here are:

- Reference to the “aims of the Park” when the actual Plan does not set these out. The policy should refer to the aims as set out in the National Parks (Scotland) Act 2000. These clearly relate to economic and social development. These are not reflected in the Policy 1. Implicitly this policy reads as a protectionist policy but should also allow for economic development to form part of the Park aims.
- Only allowing “economic benefits of national importance” to outweigh adverse effects on the qualities of the Park. This would seem to be at odds with the aims of the Park as per the 2000 Act which clearly allow for economic and social development of Communities. Those aims do not relate to nationally important economic development but to more local economic development to support the Park, its communities, the tourism industry and existing/new businesses. We understand the need to protect the Park’s qualities but there is a difference between conservation (and sustainable controlled growth) and preservation. This policy should therefore be altered to reflect the aims more closely.

CNPA analysis of objection to Deposit Plan

The comment is noted. Modifications within the Introduction and Context sections will endeavour to clarify the relationship of the Local Plan and its relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance. Modifications will also endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. Throughout proposed modifications will endeavour to clarify while providing an appropriate level of guidance for developers and interested parties.

Response to 1st modifications

We welcome the modifications under Policy 1 to support Development within the Park, however believe the caveats to this statement are too protectionist and favour conservationist approach.

CNPA analysis of response to 1st modifications

Policy 1 has been completely redrafted to create a clear link to the aims of the park. No further modifications are therefore proposed.

response to 2nd modifications

HEARING

Objector **Name** Glenmore Properties Ltd
453a Viewfield Farm
 Craigellachie
 Aberlour
 AB38 9QT

Agent Steve Crawford
Halliday Fraser Munro
8 Victoria Street
Aberdeen
AB10 1XB

Company Glenmore Properties Ltd

Policy/site Policy 01

Representation to Deposit Plan

Reference to the “Aims of the Park” when the actual Plan does not set these out. The policy should refer to the aims as set out in the National Parks (Scotland) Act 2000. These clearly relate to economic and social development. These are not reflected in the Policy 1. Implicitly this policy reads as a protectionist policy but should also allow for controlled growth and sustainable development to form part of the Park aims.

New housing could, for example, allow local services to remain open and available to many other local residents, and help to create a sustainable rural community that reflects the natural pattern of development in the Park that has made it what it is today.

Modifications: Policy altered to reflect the aims of the park in full.

CNPA analysis of objection to Deposit Plan

The comment is noted. Modifications within the Introduction and Context sections will endeavour to clarify the relationship of the Local Plan and its relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance. Throughout proposed modifications will endeavour to clarify while providing an appropriate level of guidance for developers and interested parties.

Response to 1st modifications

Policy 1 has been substantially re-written since the Deposit Plan and there have been several supplementary sections added to Chapter 1 Introduction. These additions at paragraphs 1.3 and 1.6 try to overcome some of the complication that has arisen out of the juxtaposition between the National Park (Scotland) Act Aims and the Planning (Scotland) Act 2006.

However we note that, unlike most other Local Plans, the context of the Planning Acts is not explained at the beginning of Chapter 1, just the National Park (Scotland) Act. To our knowledge the Planning Act remains the superior (and much longer standing) piece of legislation in Scotland. It is usually the case that Development Plans set out the legislative context of the Planning Acts at the beginning. We suggest there may be clear benefit for this being done and the logical steps being followed from each legislative context (as opposed to only a one-sided explanation) toward the balancing duty that the CNPA must enact.

Our client has no argument with the Aims of the Cairngorms National Park. We raise no objection to these at all and recognise that this is a statutory framework, which must be adhered to. It is just that in the construction of Policy 1 it would appear that development restricted further than is already the case.

1. The Plain English Society would not be inclined to award a Crystal Mark to the present formulation of Policy 1. It succeeds in making what should be easily understood sound very complicated indeed.

2. Secondly, Policy 1 attempts to explain and provide a route-map for the machinations which the CNPA has to go through as planning authority but it does so without first explaining the 'balancing' objectives it has to bear in mind when implementing the Planning Acts. To quote the purposes of the planning system as presently set down, they state:

- To set the land use framework for promoting sustainable economic development.
- To encourage and support regeneration

- To maintain and enhance the quality of the natural heritage and built environment. (SPP1)

In order to fulfil those requirements the CNPA must fulfil its duties as a planning authority as well as a National Park. It is the interplay between those roles that must be explained and set down in simple terms at the beginning of the Local Plan. We would submit that Policy I does not do this.

3. The Government's guidance given to Planning Authorities states that because of the importance accorded development plans it is essential that policies:

- Provide clear guidance to developers and the public on the relevant planning issues affecting their area;

- Are properly justified to explain their intention; **CNPA analysis of response to 1st modifications**

- Are expressed simply and unambiguously; and The comments regarding the role of planning legislation is noted and an additional explanation will be added as a second modification to the plan.

- Can easily be monitored, reviewed and kept up to date. (SPP1) Regarding the wording of the policy the intent is to clarify the role of the aims of the park in the decision making process. The introduction of a tiered approach is

We believe that Policy I, as presently re-drafted, does not fulfil this litmus test. not in line with these aims. The policy wording will not be amended to undermine these aims and no further modification is therefore proposed.

4. Policy I and its associated text do not explain the ramifications of implementing these two separate but clearly related pieces of legislation. We would suggest that the preamble to Policy I has to focus on the interplay between the two sets of objectives provided by the two separate acts. To state both sets of objectives would **response to 2nd modifications**

help. To explain the tension between these objectives would also help. To the set down the role of the CNPA as having to make a balanced judgement, taking all In respect of our previous correspondence we would wish to maintain our objections as previously detailed to

these objectives into account should be a relatively simple policy to write, as well as implement. It is only right and proper that Section 9 (6) of the National Parks Policy I

(Scotland) Act, giving effect to the Sandford Principle, is also explained.

5. In clear difference to the English counterparts, the Scottish National Parks have been given an important role in supporting the sustainable economic and social development of the area's communities. This ties in well with the first aim of the planning system in Scotland (see above). We would suggest that the presumptions inherent in Policy I should be more clearly written to exemplify this. Presently it does not do this. Moreover, we now know that all development must be sustainable in terms of the 2006 Planning Acts. Policy I succeeds in setting the bar substantially higher, but in our view unnecessarily so. Policy I would be much improved were the presumptions set out positively from the beginning with the caveat of an 'unless' statement to bring forward the Sandford Principle. As presently drafted Policy I (d) is a single sentence of over 75 words that is extremely difficult to understand.

6. We also observe that Policy I is designed to steer the whole plan and all the policies that follow. If this is the case then there has to be guidance within Policy I that covers matters of fact and degree. Comparing single house applications within settlements to windfarms on hill tops or major new settlements makes little sense. Whilst the CNPA would wish to apply Policy I across the board, the plain truth is that if its effect is most frequently used against single houses then the status of that policy will be seriously downgraded and undermined.

We would submit that there are clear and justified arguments for giving differing weight to Policy I depending upon the scale of the impact that any development might have. This should be easily and readily drafted in line with the new categorisation of planning applications envisaged under the 2006 Planning Act.

HEARING

Objector	Name	Agent
020c	Dr A Watson Clachnaben Crathes, Banchory Kincardineshire AB31 5JE	

Company

Policy/site Policy 01

Representation to Deposit Plan

Para 3.1 lower set of bullets includes Straths and Farmland, but the Straths include many other habitats besides farmland

Page 14, right column, 2nd last paragraph in 3.4, should add that alternative sites have been investigated and found to be more damaging

In the same para, the term “outweighed” is used, and again in Policy 6 and later , e.g. Policy 7. But there is nothing on how the outweighing is to be assessed, and it is subjective and of little worth unless such definition or assessment method is specified.

CNPA analysis of objection to Deposit Plan

The comments regarding the clarity of the wording are noted and the appropriate changes will be made to ensure policies and supporting text are clear, understandable and are not subjective in their implementation.

Response to 1st modifications

Objection maintained.

CNPA analysis of response to 1st modifications

para 3.1 - the reference is a direct link to a list produced in the Park Plan and is included for information only. Policy 1 has also been completely redrafted. No further modification is therefore proposed.

response to 2nd modifications

Thank you for your letter of 5 November. I am content for the written representations that I made earlier to be used for the public inquiry.

WRITTEN

Objector **Name** John Forbes-Leith Esq
418a Dunachton Estate

Agent Debbie Mackay
Smiths Gore
12 Bernard Street
Edinburgh
EH6 6PY

Company Dunachton Estate

Policy/site Policy 01

Representation to Deposit Plan

Policy 1, criteria (b) requires that development will be permitted where it is demonstrated that;

“b) Any significant adverse effects on the qualities for which the Park has been designated are clearly outweighed by social or economic benefits of national importance...”

This policy should also include social or economic benefits of “local” importance. The aims of National Parks in Scotland under the National Parks (Scotland) Act 2000 include aim 4;

“To promote sustainable, economic and social development of the area’s communities.”

There may be occasions when the economic or social good of the community must be given due recognition, not just economic or social benefits of national importance.

Modifications to resolve this objection: The policy should be altered to read; “...outweighed by social or economic benefits of local and/or national importance...”

CNPA analysis of objection to Deposit Plan

The comment is noted. Modifications within the Introduction and Context sections will endeavour to clarify the relationship of the Local Plan and its relationship with other documents including the aims of the Park, and the Park Plan, and also national planning guidance. Modifications will also endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. The proposed wording will be assessed accordingly.

Response to 1st modifications

Objection maintained.

CNPA analysis of response to 1st modifications

Policy 1 has been totally redrafted. No additional comment has been added on the changes. No further modifications are proposed.

response to 2nd modifications

WRITTEN

Objector 017a	Name Mrs Sally Spencer Pitagowan House Newtonmore Inverness-shire PH20 IBS	Agent
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Company

Policy/site Policy 01

Representation to Deposit Plan

While I agree with the policy as laid out on Page 14 of the Deposit Local Plan, and in particular with the Park's first aim, I think that, really as part of the latter, special consideration should be given to individual applicants with strong family connections sometimes going back generations, to the village/area where they wish to build. Many of them are unlikely to be able to afford expensive sites or houses, so are currently at a considerable disadvantage.

Where a local landowner is prepared to offer such an applicant a particular site, or one below market price, because he is a 'local', I think the assumption should be that permission will be granted unless there are extremely good reasons for refusal. Such consideration should apply only to individual applicants with a genuine current as well as ancestral, workaday connection to the locality concerned, not to developers who would undoubtedly use one local potential purchaser to provide them with an excuse to apply for special consideration for an estate!

It will be quite impossible to "conserve and enhance the cultural heritage of the area" if those who have inherited its customs and traditions have to move away because they cannot afford to stay. Many of them are young, with children, and are the very people we need to carry into the future those traditions and customs that make up the local way of life of the various parts of the Park.

CNPA analysis of objection to Deposit Plan

The approach taken has tried to create a clear link between the Park Plan, the aims of the Park and the Local Plan and its delivery. Throughout the remainder of the policies in the Plan, issues such as landscape impact, sensitivity of development and the promotion of a healthy rural economy must all be considered in the determination of any planning application. The proposal regarding local connection is not one favoured by CNPA as it precludes many sectors of society. However the important point raised regarding providing appropriate development opportunities to those wishing to add to sustainable rural communities across the point will be reinforced throughout the Plan .

Response to 1st modifications

response received - need to confirm actual position regarding formality of objection

CNPA analysis of response to 1st modifications

response received - need to confirm actual position regarding formality of objection

response to 2nd modifications

WRITTEN

Objector	Name	North East Mountain Trust	Agent
443b		Burnhead Farmhouse	
		Raemoir	
		Banchory	
		AB31 4EB	

Company North East Mountain Trust

Policy/site Policy 01-06

Representation to Deposit Plan

We support the comments on policies 1-6 made by the Mountaineering Council of Scotland, particularly with regard to the need of safeguarding against the incremental accumulation of impacts. A current example is the cumulative impact of proposed housing developments on ancient and semi- ancient woodland, and in species-rich grasslands. Permitting incremental impacts on such habitats that cannot in practice be renewed does not in the end protect them. It simply delays their point of extinction. A particular problem that is increasingly evident is the current inadequacy of data available on such sites on which to base decisions. The plan should explicitly take cognisance of this.

CNPA analysis of objection to Deposit Plan

The limitations of the data sets are noted and the text will be amended to adequately reflect this.

Response to 1st modifications

CNPA analysis of response to 1st modifications

response to 2nd modifications

WRITTEN

Objector **Name** Rona Main
425y Scottish Enterprise Grampian
 27 Albyn Place
 Aberdeen
 AB10 IDB

Agent Steve Crawford
Halliday Fraser Munro
8 Victoria Street
Aberdeen
AB10 IXB

Company Scottish Enterprise Grampian

Policy/site Policy 02

Representation to Deposit Plan

CNPA analysis of objection to Deposit Plan

Response to 1st modifications

Policy 2 reference Natura sites under Section 2 Conservation acknowledges the need for conservation unless public interest or matters of a social/economic nature over-ride. This balanced approach is welcomed. We would make the same comment of Policy 3 regarding National Heritage Destinations.

CNPA analysis of response to 1st modifications

The support is noted. No further action required.

response to 2nd modifications

HEARING

Objector **Name** Jamie Williamson **Agent**
439d Alvie and Dalraddy Estate
 Alvie Estate Office
 Kincaig, Kingussie
 PH21 1NE

Company Alvie and Dalraddy Estate

Policy/site Policy 02

Representation to Deposit Plan

Natura 2000 sites have normally been designated due to one or more specific features of interest, There will be situations where a development will impact on the integrity of the site but not on the feature of interest. In some cases the reason for designation should be questioned. Some sites have been designated because the UK were perceived to have insufficient sites and not because a particular feature of interest was so important, rare, the best example or endangered. We require a more pragmatic approach UK'S interpretation of EU regulations in regard to Natura sites are already sufficiently draconian as to raise concern that where we have a habitat influenced and modified by man, removing the contribution man has had in creating the habitat, may be detrimental to the feature for which the site was designated

Gold plating" the 1994 regulations by refusing to consider development in balance with other interests is both unnecessary and could be counter productive to the aims of the Park.

Proposed Modifications -

Any development likely to have a significant effect on a Natura 2000 site will be subject to an appropriate assessment Development will only be permitted where:

- a) The appropriate assessment concludes that the development will not adversely affect the feature of interest for which the site has been designated (delete integrity of the site); or, (delete exceptionally)
- b) There are no alternative solutions; (delete and/or)
- c) There are imperative reasons of overriding public interest

CNPA analysis of objection to Deposit Plan

The wording has been selected to reflect accurately the legislation regarding Natura 2000 sites. However in light of the comments, the policy wording will be reviewed to ensure it is accurate, clear and precise, whilst providing an appropriate level of guidance for developers.

Response to 1st modifications

Development likely to have a significant effect on a Natura 2000 site will be subject ... Where an assessment is unable to ascertain that a development will not adversely affect the (integrity of the site) the feature of interest for which the site has been designated the development will only be permitted where:

- a) There are no alternative solutions; (and) or

Natura 2000 sites have normally been designated to protect one or more specific features of interest. There will be situations where a development will impact on the integrity of the site but not on the feature of interest. In some cases the reason for designation should be questioned. Some sites have been designated because the UK were perceived to have insufficient sites and not because a particular feature of interest was so important, rare, the best example or endangered. There should be a more pragmatic approach to take account of Natura Sites.

UK's interpretation of EU regulations in regard to Natura sites are already sufficiently draconian as to raise concern that where we have a habitat influenced and modified by man, removing the contribution man has had in creating the habitat, may be detrimental to the feature for which the site was designated.

'Gold plating' the 1994 regulations by refusing to consider development in balance with other interests is both unnecessary and could be counter productive to the

aims of the Park.

We are concerned that the last sentence in paragraph 4.9 will discriminate against small scale local developers with limited resources and should therefore be deleted.

Delete: To assist in this assessment work, developers will be expected to provide the necessary information to allow the assessment to be undertaken by the competent authority.

CNPA analysis of response to 1st modifications

The wording of this policy is in line with national guidance on the subject. The proposed changes would not therefore be appropriate. No modifications are therefore proposed.

response to 2nd modifications

WRITTEN

Objector	Name	Agent
434c	Robert Maund Scottish Council for National Parks The Barony 2 Glebe Road Kilbirnie, Ayrshire	

Company Scottish Council for National Parks

Policy/site Policy 02

Representation to Deposit Plan

In general, the policies outlined are not rigorous enough to protect the natural heritage interest. As an example, Policy 2 is provided to protect Natura 2000 sites. If the Water Authority progresses its idea of using ground water and the River Spey, but does it in an 'insignificant', piecemeal, way, will this policy suffice. It is not clear.

The need is to increase the water holding capacity within Badenoch and Strathspey. Investigation of a new source of reservoir water, perhaps in the Monadhliath, should be a prerequisite for any major increase in development.

CNPA analysis of objection to Deposit Plan

The wording has been selected to reflect accurately the legislation regarding Natura 2000 sites. However in light of the comments, the policy wording will be reviewed to ensure it is accurate, clear and precise, whilst providing an appropriate level of guidance for developers.

Response to 1st modifications

Objection maintained as in 434a.

CNPA analysis of response to 1st modifications

The policies regarding natural heritage have been redrafted to clarify the role of the aims of the Park and to reinforce national guidance. No further modifications are therefore proposed.

response to 2nd modifications

HEARING

Objector 448h	Name The Cairngorms Campaign PO Box 10037 Alford AB33 BWZ	Agent
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Company

Policy/site Policy 02

Representation to Deposit Plan

CNPA analysis of objection to Deposit Plan

Response to 1st modifications

We strongly support Policy 2, based as it is on the Park's remit, and the realities on and national and EU law. We do not, however, understand why this condition applies only to Natura 2000 sites. SSSIs are designated on the UK basis and reflect the national interest, and the caveat on protecting the national interest, as specified in para 3.3 must logically apply.

We also support the addition on para 4.9 which specifies that developments outwith a Natura 2000 site that impact on it must assess these impacts, as required under EU law. The addition to para 4.20 on Ancient woodland recognising the need for site visits and specialist advice when assessing developments is timely and welcomes.

CNPA analysis of response to 1st modifications

The wording of this policy has been drawn up in line with national guidance on the issue and no modification is therefore proposed.

response to 2nd modifications

WRITTEN

Objector 437b	Name Mrs Jane Angus Darroch Den Hawthorn Place Ballater AB35 5QH	Agent
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Company

Policy/site Policy 02

Representation to Deposit Plan

Policy 2 p.17, Natura 2000 sites 2.b does not include a complete restoration.

in 4.9. p.18 implementation: From the published information already described as the background to the First Draft of the Park Plan I should not like to confine applying for advice on Biodiversity, Geo-diversity and Cultural Heritage to SNH and Historic Scotland but also look to the British Geological Survey, Macaulay Institute, R.C.A.& H.M.S, the Biological Records and Recorders, and River Boards as well as other locally knowledgeable consultants and local knowledge. Only National Interests are to be permitted to override the Policies which protect species and sites of higher protection status, or of lower status. of social and economic benefits to the CNP and mitigation and replacement ... so significant harm or disturbance is to be 'avoided, minimized, mitigated or replaced'. Developer is to survey, but there is no discussion on the quality of the results — see also 3.4, and below - and the legal positions.

CNPA analysis of objection to Deposit Plan

The wording has been selected to reflect accurately the legislation regarding Natura 2000 sites. However in light of the comments, the policy wording will be reviewed to ensure it is accurate, clear and precise, whilst providing an appropriate level of guidance for developers.

Response to 1st modifications

response received - need to confirm actual position regarding formality of objection

CNPA analysis of response to 1st modifications

response received - need to confirm actual position regarding formality of objection

response to 2nd modifications

WRITTEN

Objector **Name** The Proprietors of Mar Centre
394d

Agent Steve Crawford
Halliday Fraser Munro
8 Victoria Street
Aberdeen
AB10 1XB

Company The Proprietors of Mar Centre

Policy/site Policy 03

Representation to Deposit Plan

CNPA analysis of objection to Deposit Plan

Response to 1st modifications

Policy 3 sets out to protect nationally important designations. This is a laudable aim and one that is generally supported by The Mar Estate. Policy 3, however, could be interpreted in such a manner as to exclude development in and around existing settlements. Braemar is a case in point as it is affected by many of the protected designations but maintains an economic and social need to consolidate existing development opportunities and find means to expand to protect existing and encourage new community support facilities. We support the policy wording in section b) of the policy but point out that the Implementation and Monitoring section (4.16) is at odds with that. 4.16 only allows development that may have an adverse impact if the social or economic benefits are of national importance. The National Park must also operate at a local level and we suggest that where development is located close to an existing settlement then local economic or social needs are just as important, if not more so, than national benefits. Indeed this policy in its current form, taking the policy wording and the associated text together, suggests only largescale developments could fall into the acceptable category. None of the identified blanket designations are an argument against development but do require appropriately designed and located development.

Changes Required to Resolve the Objection

We suggest that the policy implementation section is altered to allow for developments of local economic or social benefit within national natural heritage designations.

CNPA analysis of response to 1st modifications

The policy aims to protect national natural heritage designations in line with national guidance on the issue. It does not in any way imply a blanket approach against development. No modification is therefore proposed.

response to 2nd modifications

HEARING

Objector	Name	Agent
400f(c)	Dr A M Jones Badenoch and Strathspey Fiodhag Nethybridge PH25 3DJ	

Company Badenoch and Strathspey Conservation Group

Policy/site Policy 03

Representation to Deposit Plan

Object to “will only be permitted”. Recommend change to ‘may’ only be permitted.

Object to “significant” and “clearly”. Suggest substitute with “possible” and “certainly”.

Objection - We object to the lack of inclusion of adequate reference to additional aspects of the Nature Conservation (Scotland) Act 2004.

In particular we consider it would be helpful if the DLP included an outline of the responsibilities of officials in the planning authority with respect to biodiversity (the biodiversity duty of the NCA). The scope of the Act in relation to habitats and species should also be outlined.

The DLP should include a list of SBL species, species of conservation concern, and habitats relevant to the Act, that are known to occur or likely to occur within the area covered by the DLP.

CNPA analysis of objection to Deposit Plan

The policy wording endeavours to link the requirements of national legislation regarding natural heritage designations and the responsibilities placed on CNPA with the aims of the park, and to provide an appropriate level of guidance to developers in line with SPPI. In light of the comments made, the wording will be reviewed to ensure that these intentions are achieved, and that the policy is clear, precise and accurate. Any additional information will be added to both policy and supporting text accordingly.

Response to 1st modifications

We object because of the inclusion in b) of the word ‘significant’

CNPA analysis of response to 1st modifications

The wording used is in line with national guidance on this topic. No modification is therefore proposed.

response to 2nd modifications

We object because of the inclusion in b) of the word ‘significant’.

4.14 3rd para. Object. The legislation that was referred to in the 1st modifications is likely to become effective during the lifetime of this Local Plan, and therefore it is helpful for the LP to refer to this forthcoming legislation, in an accurate manner.

HEARING

Objector **Name** Jamie Williamson **Agent**
439e Alvie and Dalraddy Estate
 Alvie Estate Office
 Kincaig, Kingussie
 PH21 1NE

Company Alvie and Dalraddy Estate

Policy/site Policy 03

Representation to Deposit Plan

Natural heritage designations are imposed to regulate and control areas where there is a landscape, flora or fauna of interest. However conservation and enhancement of our cultural heritage is as important as conserving and enhancing our natural heritage. This is enshrined in the first aim of the National Park as dictated by the National Parks (Scotland) Act 2000. The social and economic impact of such designations should also be considered. Consideration of any development that is likely to impact on a natural heritage designation should also take into account of its beneficial impact on the local economy, community and culture.

Proposed Modifications –

Development that affects a Site of Special Scientific Interest, Natural Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that

- a) The objectives of the designated areas and overall integrity of the area would not be unreasonably 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 or local importance and are mitigated by enhancement of qualities of equal importance to the National Paths natural heritage.

CNPA analysis of objection to Deposit Plan

Modifications will endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. The wording used within policies throughout will be clarified to ensure the appropriate level of guidance is available for developers, and the Plan is easy to understand and use.

Response to 1st modifications

Development that adversely affects the National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that:

- a) The interests of the designated areas and overall integrity of the area would not be unreasonably compromised; (and in the absence of an alternative solution) 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 local or national importance and are mitigated by enhancement of qualities of equal importance to the natural heritage designation.

Natural heritage designations are imposed to regulate and control areas where there is a landscape, flora or fauna of interest. However conservation and enhancement of our cultural heritage is as important as conserving and enhancing our natural heritage. This is enshrined in the first aim of the National Park as dictated by the National Parks (Scotland) Act 2000. The social and economic impact of such designations should also be considered. Consideration of any development that is likely to impact on a natural heritage designation should also take into account its beneficial impact on the local economy, community and culture.

The Local Plan should take into account local economic and social benefits, not just national benefits. The needs and aspirations of the local community should not

be ignored.

CNPA analysis of response to 1st modifications

The wording used is in line with national guidance on this topic. No modification is therefore proposed.

response to 2nd modifications

WRITTEN

Objector Name Scottish and Southern Energy Plc
447b

Agent Jones Lang Lasalle
7 Exchange Crescent
Conference Square
Edinburgh
EH3 8LL

Company Scottish and Southern Energy Plc

Policy/site Policy 03

Representation to Deposit Plan

Policy 3 states:

“Development that affects a Site of Special Scientific interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that:

- a) The objectives of the designated areas and overall integrity of the 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 are mitigated by enhancement of qualities of equal importance to the National Park’s natural heritage.”

The policy does not require part (b) to be satisfied if part (a) is met. However, once again, the balancing consideration of exceptional circumstances that is required by part (b) of the policy is vague due to the lack of definition of special qualities by reference to particular geographical areas and particular features. The policy refers to the need for mitigation by enhancement of “qualities of equal importance” to the National Park’s natural heritage which is an additional requirement which is not envisaged by NPPG 14. It is also unclear as to how developers might in practical terms, comply with this policy and there is no specific guidance on the matter in the supporting text to the policy.

CNPA analysis of objection to Deposit Plan

The policy wording endeavours to link the requirements of national legislation regarding natural heritage designations and the responsibilities placed on CNPA with the aims of the park, and to provide an appropriate level of guidance to developers in line with SPP1. In light of the comments made, the wording will be reviewed to ensure that these intentions are achieved, and that the policy is clear, precise and accurate. Any additional information will be added to both policy and supporting text accordingly. Reference will also be included as to the links between the local plan policy and national planning guidance.

Response to 1st modifications

‘Qualities of equal importance’ are still not defined in the Local Plan. Part b) of the policy remains vague and unclear to developers in terms of mitigation actions and how these could be practically planned for. No appropriate guidance has been provided in the supporting text to the policy. The additional requirement (to those set out in NPPG14) is still included in the policy, therefore, the policy remains more restrictive than national planning policy.

CNPA analysis of response to 1st modifications

The wording of policy 3 has been developed in line with government guidance on the issue. No further amendments are therefore proposed.

response to 2nd modifications

I refer to your letter of 5th November 2008 with regard to the above which enclosed the “second modifications” to the wording of the first modifications to the Local Plan. I note that the Second modifications generally relate to points of clarification and the correction of errors rather than any substantive changes to policy wording.

As you are aware, Jones Lang LaSalle act on behalf of Scottish and Southern Energy plc and its subsidiary companies (SSE) and representations were submitted to the

Cairngorms National Park Local Plan – First Modifications. The objections to the First Modifications maintained those made in response to the original Deposit Local Plan.

SSE has always maintained the position that they support the Cairngorms National Park Authority (CNPA) in delivering an appropriate Local Plan for their administrative area. Within a 'plan-led' system it is important that the Local Plan reflects up to date national planning policy in respect of land use planning objectives and that the Plan provides clear and helpful policy guidance for developers and investors in accordance with planning guidance.

Following a review of the Second Modifications SSE is disappointed that their objections have not been reflected in any changes to policy wording, with the exception of the Modification to Policy with regard to transportation matters. The representations previously submitted are therefore maintained, except those in relation to Policy 30.

You have requested clarification as to how SSE would wish their objections to be dealt with at the forthcoming Public Local Inquiry. As previously stated, my client would wish for evidence to be presented verbally at the Inquiry by way of formal Inquiry process. However if the CNPA intends to seek to resolve objections prior to any Public Inquiry, then SSE would be willing to engage in appropriate discussions.

HEARING

Objector **Name** Ian Francis **Agent**
424f RSPB Scotland
 East Regional Office
 10 Albyn Terrace
 Aberdeen, AB10 1YP

Company RSPB Scotland

Policy/site Policy 04

Representation to Deposit Plan

It should be clarified whether the “other locally important site(s) recognised by the planning authority includes the Sites of Interest to Natural Science designated by Moray and Aberdeenshire Councils, as referred to in passing in paragraph 4.22.

CNPA analysis of objection to Deposit Plan

The comment is noted and the policy will be reworded to clarify the sites referred to. The wording will also be reviewed in light of the comments to ensure it is reasonable, and does not place onerous demands on developers.

Response to 1st modifications

Its should still be clarified whether the ‘other locally important site(s) recognised by the planning authority includes the Sites of interest to Natural Science designated by Moray and Aberdeenshire Councils are referred to in passing in paragraph 4.22.

CNPA analysis of response to 1st modifications

4.22 clarifies but does not limit the additional sites which may be included. No further modification is therefore proposed.

response to 2nd modifications

WRITTEN

Objector **Name** Muir Homes Ltd
038d

Agent Malcolm Smith
TMS Planning and Development Services
Balclune, 32 Clune Road
Gowkhall, Fife
KY12 9NZ

Company

Policy/site Policy 04

Representation to Deposit Plan

CNPA analysis of objection to Deposit Plan

Response to 1st modifications

This policy fails to specify what would comprise a “locally important site recognised by the planning authority”. It is therefore vague and unhelpful and raises questions of certainty particularly where related to allocated development sites where it could reasonably be assumed that the principle of development has already been established. For these reasons the requirement in part b) of the policy that “any significant adverse effects on the qualities for which the area or site has been identified are mitigated by the provision of features of commensurate or greater importance to those that are lost” should not apply to allocated development sites, these sites being identified as those required to deliver beneficial development within the Park area. It is accepted that such protection should apply to sites with international/national designations and it is considered that development in such areas is unlikely to be proposed by the local plan in any event and therefore such constraints are largely assessment tools for “unexpected” planning applications unrelated to specific development allocations/proposals. The application of Policy 4 requires to be clarified; it should not be used to prevent beneficial development merely on the basis that it may impact on an undefined “locally important site recognised by the planning authority” where the provision of replacement features/habitats cannot be secured, even was it reasonable to require mitigation in such cases. A development plan by its very definition will allow development which will clearly impact to some degree on the natural environment. The challenge is to do this in such a manner in order to mitigate impact while protecting sensitive designated areas from inappropriate development. The significant majority of the land area within the Park will be protected from/not affected by development and therefore, implicitly, the intrinsic qualities of the designated area will be conserved. Carefully crafted development taking cognisance of the environment should be an accepted part of the evolution of the Park going forward with development avoiding sensitive parts within sites. Based on this assessment it is suggested that the terms of part b) of the policy is flawed and the requirement to mitigate by the provision of features of commensurate or greater importance to those that are lost should not apply.

Indeed, where required, (which is questioned) the original wording of Policy 4 as contained within the Cairngorm National Park Deposit Local Plan should be retained in preference to the modified Policy 4. This provided for a better balance between conservation and appropriate development within the Park area. The practicality of delivering such a requirement in terms of the land required and other resources has not been reasonably considered by the Cairngorm National Park Authority. What is the recourse if a habitat fails, is the development removed and the site reinstated?

CNPA analysis of response to 1st modifications

The policy is intended to support the 1st aim of the Park and ensure that all new development does not have an adverse impact on the natural heritage of the area. It is therefore worded to allow for sites of natural heritage importance, which are not nationally or internationally recognised, but which, none the less add to the natural heritage quality of the area, are offered appropriate protection. The policy is not however intended to hamper appropriate development, and this is the reasoning for paragraphs a and b of the policy. No second modifications or amendments are therefore proposed.

response to 2nd modifications

I refer to the letter from Cairngorm National Park Authority dated 5 November, 2008 and the attached “2nd Modifications to the Deposit Local Plan” related to the above. I would confirm at this stage that Muir Homes Limited retains its objections to the plan for those reasons set out within the representation submitted by

TMS Planning and Development Services dated July 2008. Muir Homes Limited will wish all of its objections to be considered as part of the Local Plan PLI process and is likely to wish to support some objections in the form of oral evidence at a hearing with the remainder by further written submissions. This position will be clarified in due course.

HEARING

Objector **Name** Dr A M Jones **Agent**
400f(d) Badenoch and Strathspey
 Fiodhag
 Nethybridge
 PH25 3DJ

Company Badenoch and Strathspey Conservation Group

Policy/site Policy 04

Representation to Deposit Plan

Object to “Development will only be permitted”. Suggest this be revised to “may” only be permitted, on grounds that this may be interpreted as pre-judging the planning process.

Arguably too much is being sought to be covered under too few policies here. It is debatable whether Geological conservation review sites are best safeguarded by the same policy as eg native woodlands or second tier sites identified for different interest (eg for high biodiversity value).

Object to “planning authority” in singular. We understand there is not one (competent) planning authority.

Object further to the principle and suggest a statement along the lines “recognised by standards accepted by those with relevant knowledge and competence in the appropriate field such as SNH, JNCC or relevant eNGO’s” would be more appropriate. BSCG is keen to assist the CNPA or others in the identification of second tier sites in B & S and we consider as a matter of environmental justice and good practice second tier sites need to be extended across the park as a matter of urgency and certainly within the lifetime of the DLP.

As further good practise it is desirable to involve eNGO’s. For example we would consider the WT has access to information on high quality woodland sites including the AWI, the BMS has expertise on identifying PERL fungi.

Object to “providing features of equal importance” as in many cases this is impossible (e.g. for ancient and semi-natural ancient woodland sites, and landscapes that bear witness to the activities of our forebears). The wording on this policy does not accord with important and longstanding government post-Rio policies on protecting and enhancing native woodlands. It is appropriate and in line with the first aim of the NP to address the delivery deficit on woodland protection promises. Delivery is not achieved by destroying/ diminishing the resource. Indeed seeming failure to recognize that diminishing the resource “has adverse effects on the qualities for which the area has been identified” reflects weak analysis and it cannot be considered intelligent planning to offer to do the impossible.

Propose inclusion of a sentence along the lines of: “In all circumstances there will be a strong presumption against development that affects an ancient woodland site ...or locally important site”.

We object to a) on grounds it reflects what can be considered to be lack of ecological understanding and affords inadequate respect for the precautionary principle. There is a need for more precision and clarity. Who for example does the identifying and ranking of the qualities “for which the site or area has been identified” is completely unspecified.

Overall integrity is not defined and no reference to what natural/ ecological communities are being considered is stated. It should not be prejudged whether current knowledge and ecological understanding is sufficient to fairly assess whether the “overall integrity of the identified area would not be compromised”. As an example of the lack of relevant knowledge even on sites that have been looked at by CNPA NHG staff on present showing the CNPA have for example failed to correctly identify as even of local significance sites that can be shown on published criteria to have at least national significance for certain communities of high conservation

interest.

We object to b). As worded we consider b) conflicts with the 1st and overriding aim of the NP. We suggest delete “significant” and replace with “possible”. We suggest insert overriding before importance. We urge clarity and consistency with policy.

We object to emphasis on mitigation. Mitigation measures may have knock on effects that may be impossible or impractical to properly evaluate (e.g. due to timescale, seasonality or resource issues).

4.23 - Object to “many of these identified areas” as possibly being inaccurate. Suggest change to “some of these”.

We are concerned that the DLP makes no reference to using specialist professional advice to inform the decision-making process, although this is stated in 4.37, an equivalent paragraph on landscape.

4.24 - Object on grounds of incompleteness and inconsistency. This paragraph makes no reference to cumulative impacts, which should be included. We note that 4.40 (an equivalent paragraph for landscape) does state that cumulative effects will be assessed

CNPA analysis of objection to Deposit Plan

Modifications will endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. The wording used within this policy will be clarified to ensure the appropriate level of guidance is available for developers, and the Plan is easy to understand and use together with ensuring the appropriate level of protection and compliance with national and international obligations placed on the CNPA.

Response to 1st modifications

This policy should make it clear that built development in ancient woodland sites is unacceptable. At present it is ambiguous. We strongly recommend that the CNPA should take on board SINS and that SINS should be referred to in this Policy.

CNPA analysis of response to 1st modifications

SINS are referred to in the supporting text along with other types of sites. The reference to ancient woodland ensures that development will only be acceptable where paras a) and b) can be met. If this is not the case then the proposal would not comply with the policy. It is considered to give adequate protection as a result.

No modifications are therefore proposed.

response to 2nd modifications

Policy 4 Object. This policy should make it clear that built development in ancient woodland sites is unacceptable. At present it is ambiguous.

We strongly recommend that the CNPA should take on board SINS and that SINS should be referred to in this Policy.

HEARING

Objector **Name** Scottish and Southern Energy Plc
447c

Agent Jones Lang Lasalle
7 Exchange Crescent
Conference Square
Edinburgh
EH3 8LL

Company Scottish and Southern Energy Plc

Policy/site Policy 04

Representation to Deposit Plan

Policy 4 refers to ancient and semi-natural ancient woodland sites and states that development which could affect those sites would only be permitted when:

“a) the objectives of the identified site and overall integrity of the identified area would not be compromised; or

b) any significant adverse effects on the qualities for which the area or site has been identified are outweighed by social or economic benefits of importance to the aims of the Cairngorms National Park and are mitigated by the developer providing features of equal importance to those that are lost”

The policy provides that development will only be permitted where it meets one of two tests. The first test is that the objectives of the identified site and the “overall integrity of the identified area would not be compromised”.

Part (b) of the policy allows for the significant adverse effects to be outweighed by social or economic benefits of importance to the aims of the National Park. Again, this point has already been referred to in terms of there being an inconsistency with policy 1. Part (b) also requires mitigation by the developer in terms of providing “features of equal importance” to those that are lost. This aspect of the policy does not provide clear guidance to developers as to how they might practically provide features of equal importance (contrary to PAN 49) and the supporting text of the Plan is of no help in terms of either definitions or explaining how the policy might work in practice.

CNPA analysis of objection to Deposit Plan

Throughout the plan further cross referencing will be made to ensure that policies are consistent within themselves and when compared to others. The wording used within policies throughout will be clarified to ensure the appropriate level of guidance is available for developers, and the Plan is easy to understand and use. The wording will also be reviewed to ensure that it is in line with national guidance on the topic, as well as striking an appropriate balance between development opportunities and protecting the special qualities of the area as identified as a National Park. Any amendments will be made as appropriate to ensure the underlying aim of the policy is achieved.

Response to 1st modifications

This policy has not been modified to address its inconsistency with Policy 1. The policy modification has to a limited extent addressed clarification on the need for provision of features of equal importance. Para 4.24 states ‘for clarity commensurate will be taken to mean a replacement habitat which has the capacity to support the genetic integrity and size of population, have the same level of connectivity and the same level of complexity’ (page 20). However the policy still does not provide a clear explanation of how it may work in practice and there is still no definition, in the Plan, of the ‘special qualities and ‘qualities of equal importance’ therefore guidance remains vague. The word ‘significantly’ should also, in our view, be inserted before ‘adversely’ in the first line of the policy.

CNPA analysis of response to 1st modifications

The policy is not considered to be in conflict with Policy 1 and the reference to social and economic benefit has been removed. The amendments made are considered to make the policy more clear. No further modifications are considered necessary.

response to 2nd modifications

I refer to your letter of 5th November 2008 with regard to the above which enclosed the “second modifications” to the wording of the first modifications to the

Local Plan. I note that the Second modifications generally relate to points of clarification and the correction of errors rather than any substantive changes to policy wording.

As you are aware, Jones Lang LaSalle act on behalf of Scottish and Southern Energy plc and its subsidiary companies (SSE) and representations were submitted to the Cairngorms National Park Local Plan – First Modifications. The objections to the First Modifications maintained those made in response to the original Deposit Local Plan.

SSE has always maintained the position that they support the Cairngorms National Park Authority (CNPA) in delivering an appropriate Local Plan for their administrative area. Within a 'plan-led' system it is important that the Local Plan reflects up to date national planning policy in respect of land use planning objectives and that the Plan provides clear and helpful policy guidance for developers and investors in accordance with planning guidance.

Following a review of the Second Modifications SSE is disappointed that their objections have not been reflected in any changes to policy wording, with the exception of the Modification to Policy with regard to transportation matters. The representations previously submitted are therefore maintained, except those in relation to Policy 30.

You have requested clarification as to how SSE would wish their objections to be dealt with at the forthcoming Public Local Inquiry. As previously stated, my client would wish for evidence to be presented verbally at the Inquiry by way of formal Inquiry process. However if the CNPA intends to seek to resolve objections prior to any Public Inquiry, then SSE would be willing to engage in appropriate discussions.

HEARING

The comments regarding the datasets are noted and work will continue between the CNPA and its partners to ensure that this is addressed to allow the best information to be available to inform the development process. Within the terms of the policy the wording will be reviewed to ensure it is reasonable, clear, and delivers the intentions of the policy. The wording proposed will be assessed as part of this review.

Response to 1st modifications

Development that would adversely affect an ancient woodland site, semi-natural ancient woodland site, Geological Conservation Review site, or other nationally, regionally or locally important site recognised by the planning authority will only be permitted where it has been demonstrated that:

- a) The objectives of the (identified site and overall integrity of the identified area) designation would not be compromised; or
- b) Any significant adverse effects on the qualities for which the area or site has been identified are mitigated (by the provision of features of commensurate or greater importance to those that are lost.)

The policy as stated is unreasonably restrictive and will not achieve an equitable balance between social, economic, cultural and environmental objectives.

Some ancient woodland sites and semi-natural ancient woodland sites have no remnant of ancient woodlands or features of the previous woodland remaining. Such woodlands have been designated because the area appears as woodland in the 1750's Roy maps and again on the first Ordnance Survey maps surveyed in the 1860s and 1870s. According to the Statistical Accounts of the Parishes in Badenoch and Strathspey the area was largely devoid of trees between the 1780s and 1830s. Many areas shown as woodland in the 1750 Roy maps contained only scattered remnants of birch, rowan and pine. Between 1830 and 1900 many parts of Badenoch & Strathspey were fenced and planted to Scots pine, European larch and Norway spruce. Most of these conifer plantations were felled during the first and second world wars and replanted again after 1945.

For example:

In the Kinveachy woodland, designated as an SAC because of its native Caledonian pinewood, analysis of the oldest trees has shown that there are no trees older than 180 years which is about the time the area was first fenced and planted. Most of these conifers that were planted were felled for the war effort between 1940 and 1945 and much of the area replanted between 1946 and 1988.

North east of Kinraig the area designated semi natural ancient woodland appears to have been scattered trees when surveyed around 1750. The area was fenced and planted to conifers for timber production in 1866 and 1867. There may be no trees or descendents of the vegetation left from the time prior to the area being planted as a conifer plantation for timber production. This area was felled and replanted to Scots pine prior to 1960. It is therefore a second generation conifer plantation established and managed for timber production.

The ancient and semi-natural ancient woodland designations do not mean that there are ancient or semi-natural ancient woodlands or associated flora still present on these sites. If there are no ancient or semi natural ancient woodlands left on sites so designated, why should these areas be sterilised from development for purposes other than woodland? Development should take account of features of interest on designated sites but that should not preclude or curtail development just because the site has been designated.

Developers are unlikely to be in a position to provide designated features such as ancient woodland sites or geological conservation review sites. Paragraph 4.24 should be deleted.

CNPA analysis of response to 1st modifications

The wording reflects the nature of the sites that would be affected. The limitations of some of the datasets is recognised in para 4.20. The wording is not therefore considered to be overly restrictive and no modifications are therefore proposed.

response to 2nd modifications

WRITTEN

Objector **Name** Rona Main
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 Aberdeen
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Policy/site Policy 04

Representation to Deposit Plan

Although we have no significant objections to this policy, it does set out how these sites may accept development where its local economic impact outweighs any adverse impact on the qualities of the Park. This is to be welcomed. It is difficult, however, to determine from the Plan what the “economic benefits of importance to the Cairngorms National Park” are. It would be useful to explore these with the CNPA in more detail.

CNPA analysis of objection to Deposit Plan

The comment is noted and additional information will be included to clarify this position.

Response to 1st modifications

Objection maintained.

CNPA analysis of response to 1st modifications

The policy relates to natural and earth heritage sites. It is not considered necessary to highlight particular benefits of any one policy as all policies seek to secure the aims of the Park and ensure future development is for the benefit of the Park. No further modification is therefore proposed.

response to 2nd modifications

HEARING

CNPA analysis of response to 1st modifications

The reference to ancient woodland ensures that development will only be acceptable where paras a) and b) can be met. If this is not the case then the proposal would not comply with the policy. It is considered to give adequate protection as a result. No modifications are therefore proposed.

response to 2nd modifications

WRITTEN

Objector	Name	Agent
390d	Roy Turnbull Torniscar Nethy Bridge Inverness-shire PH25 3ED	

Company

Policy/site Policy 04

Representation to Deposit Plan

Whilst I strongly support the policy of not compromising the integrity of these sites, in the case of ancient woodlands or geological sites it is not possible to provide features of equal importance. These sites are finite and irreplaceable and it is impossible to provide further examples. The policy is therefore illogical.

Since these sites are irreplaceable, and since significant adverse effects on these sites would inescapably be in conflict with the first aim of the Park, a far stronger policy for protection than that here offered is required. Nor should the planning authority be the body responsible for determining which sites are nationally or locally important: this should be determined by appropriate governmental and non-governmental organisations.

It is not just the integrity of the sites that should be protected. Integrity of a site is difficult to define and recognise. Moreover, whilst consideration of integrity is important (as a means to resisting fragmentation of sites, for example), it is also important to recognise that every square metre of such sites is precious and should be protected. This is the case even where the destruction of part of the site is not considered to threaten the integrity of the whole site. There should be no further loss of ancient woodland in the Cairngorms National Park.

The Woodland Trust published a report, (Why the UK's Ancient Woodland Is Still Under Threat) on the threats to ancient woodlands in 2000. The following is taken from the foreword, by Chief Executive, Mike Townsend:

“Ancient woodland is one of our richest habitats for wildlife. Ancient woods are places of inordinate beauty, reservoirs of archaeology and economic history, and a source of inspiration for local culture and folklore. In some cases, they form a direct link back to the original wildwood which was established after the last Ice Age. However, as we enter a new century, our rich heritage of ancient woodland continues to be under threat from destruction, isolation and overgrazing. During the last hundred years, many of our ancient and native woods have been damaged or destroyed, largely by conversion to conifer plantation or by clearance for agriculture. Today, only two per cent of Britain is covered by ancient woodland. Increasingly, there is a much greater awareness of the value of ancient woods: as a finite resource they can never be replaced and what little remains is very precious. Not only do they contribute to the existence of life on our planet, these few remaining islands of ancient woodland contain a wealth of wildlife, dependent on the continuity of this unique habitat. Despite a growing understanding of the importance of ancient woodland and a number of new policies and programmes for its protection and enhancement, ancient woods continue to be threatened and destroyed. We must take action now to fulfil the policy promises and to plug the gaps. The Trust is calling on government, opinion formers and decision makers to increase protection for ancient woodland and to act on the solutions outlined in this report. Urgent action is needed if we are to turn the tide of destruction of ancient woodland. Ancient woods are irreplaceable, uplifting places, linking us with our past, but their future survival is dependent on our action now.”

Further, the Scottish Executive signed the UK Forest Partnership for Action at the World Summit on Sustainable Development in Johannesburg in 2002. This stated, “The Partnership is committed to the restoration, protection and expansion of native woodlands in the UK”

This Johannesburg commitment is entirely consistent with “Biodiversity, The UK Action Plan” (1994). HMSO, London, which states,

p. 100, 6.48. “Action. Continue to protect ancient semi-natural woodlands and encourage forms of management which conserve their special characteristics. Encourage the extension and creation of native woodlands. Support the creation of community woodlands near population centres”

p. 163, 10.15. “Policies and programmes have as their objective to maintain the present area of ancient and semi-natural woodlands; to expand the area of native woodland of a natural character;....”. [my emphasis]

Since it is impossible to create more ancient woodlands, there is only one way to “maintain the present area of ancient and semi-natural woodlands” and that is to stop destroying them.

It is therefore a requirement of “Biodiversity, The UK Action Plan (1994)” to establish a policy in the Cairngorms National Park that ensures that no further loss of areas of ancient and semi-natural woodlands occurs. That is what I urge the CNPA to do.

CNPA analysis of objection to Deposit Plan

Modifications will endeavour to ensure a more appropriate balance is struck between development opportunities and the protection of the special qualities of the area as identified as a National Park. The wording used within this policy will be clarified to ensure the appropriate level of guidance is available for developers, and the Plan is easy to understand and use together with ensuring the appropriate level of protection and compliance with national and international obligations placed on the CNPA.

Response to 1st modifications

Objection maintained.

CNPA analysis of response to 1st modifications

The policy is relating to sites which are not designated as of national or international importance. The provision of commensurate or greater importance would apply where appropriate. However if this were not possible the development would be unable to comply with the policy. No modification is therefore proposed.

response to 2nd modifications

HEARING

on the CNPA. Confirm that we must act within the limitations of the designations, and policy 4 is intended to offer a degree of protection to those sites not considered of appropriate quality to be formally designated and so considered under policies 2 and 3. The CNPA duty to further biodiversity is also enshrined in policy 6 to add a further level of protection. However it would be unreasonable to offer the level of protection proposed to sites which are not designated nationally or internationally. We will of course work with partners to ensure the most appropriate level of designation is provided to sites within the NP.

Response to 1st modifications

While we understand that there are competing need of conservation and development within the Park, we still feel that the Park must practise the strictest adherence to policies protecting, restoring and enhancing for the future, our natural heritage and the important habitats that they are entrusted with. It cannot be emphasised enough that ancient and semi-natural woodland cannot be replaced and needs stronger protection.

The WTS urges Cairngorms National Park Authority to give ancient and semi-natural woodland absolute protection from development in the Cairngorms National Park Deposit Local Plan and to ensure that its own Local Biodiversity Plan is properly consulted in all of the Park's planning developments.

CNPA analysis of response to 1st modifications

See response on 393c. No further action required.

response to 2nd modifications

WRITTEN