

Issue:	Policy I Development in the Cairngorms National Park		
Objector(s):	Scottish and Southern Energy	Objection ref(s):	447a
	The Proprietors of Mar Centre		394c

Reporter	Mrs. Jill Moody and Mr. Hugh Begg
Procedure:	Informal hearing

Rebuttal

- 1.1 **(394c) Objection:** Section 2.1 p1, 2nd paragraph. The objector considers that the Planning Act is superior to the National Parks Act.
- 1.2 **CNPA Rebuttal:** Both Acts are primary legislation; neither is superior to the other. They are different, although the Schedule to the National Parks Act does amend the Planning Act in respect of regard for the National Park Plan.
- 1.3 **(394c) Objection:** Section 3 p3. The objector considers that Policy I does not have a presumption in favour of “well designed, sustainable development” and uses examples to explain difficulties in interpretation of the Policy.
- 1.4 **CNPA Rebuttal:** Policy I has to be read as a whole and a proposed development assessed against each part of it. The first sentence in Policy one starts with “Development will be supported.....” This is a positive statement and offers a presumption in favour of development that complies with the elements that follow. The point of the examples set out in the objection is unclear. There will be differences in the provisions of local plans for adjoining areas and this may well lead to different outcomes for a particular proposal dependent on its location. This Local Plan has been prepared with regard to what is expected of development in the Cairngorms National Park. The CNPA has looked carefully at Policy I in light of this and other objections and it is proposed to make one small post inquiry modification to clarify the policy and aid interpretation. In part a) of Policy I it is proposed to replace “or” with “and” so that it will now read “....co-ordinated way **and** where the objectives....”
- 1.5 **(447a) Objection:** Para. 2.3.1 p6 states that ‘ Policy I is particularly unclear in terms of whether one or all of the policy criteria have to be complied with for development proposals to be found to be in accordance with the policy as a whole.’ It is also concerned at conflict between (b) and (d) with regard to treatment of adverse effects on “special qualities”.
- 1.6 **CNPA Rebuttal:** Policy I has to be read as a whole and a proposed development assessed against each part of it, there is no “or” between each of a) – e). There is no conflict between b) and d). The former is referring to *significant* adverse effects on the special qualities (i.e. the qualities that contributed to the designation of the Park) and thus would require a national justification for a development to proceed. The latter is a part of the policy relating to aims 2-4 and refers to *adverse* effects on special qualities where, as part of its duty of collective achievement of the aims, the CNPA would take account of the positive contribution that a development would make to other aims and special qualities before taking a balanced decision. The CNPA has looked carefully at Policy I in light of this and other objections and it is proposed to make one small post inquiry modification to clarify the policy and aid interpretation. In part a) of Policy I it is proposed to replace “or” with “and” so that it will now read “....co-ordinated way **and** where the objectives....”

- 1.7 **(447a) Objection:** Para. 2.3.2 – 2.3.3 p6/7 state that part b) of Policy I is inconsistent with para. 25 of NPPG 14.
- 1.8 **CNPA Rebuttal:** Policy I has regard for the requirements of the National Parks (Scotland) Act 2000 (CD1.3), the Cairngorms National Park Designation Order 2003 (CD1.18) and the adopted National Park Plan (CD7.1). It is considered that it has sufficient regard for NPPG 14 (CD3.2) and other Scottish Government Guidance within this context and there is no inconsistency.
- 1.9 **(447a) Objection:** Para. 2.3.8 p8 and paras 2.3.37-2.3.42 p14/15 set out the objector’s view that the CNPA should have a ‘proper analysis and mapping’ of the special qualities in order to guide developers on locations for their proposals. The CNPA ‘approach to definition and understanding of special qualities’ is considered to be deficient. The objector considers that the Loch Lomond and Trossachs approach is preferable.
- 1.10 **CNPA Rebuttal:** Reference to Loch Lomond NP is not relevant as each NPA has taken an approach to special qualities that is considered appropriate for their area. The CNPA has set out its approach to special qualities in the adopted National Park Plan (CD7.1) and Topic Paper 2 (CD7.19).
- 1.11 **(447a) Objection:** Para. 2.3.21 p11 refers to evidence given by Dr. Band of SNH at the Beaulieu-Denny inquiry in 2007. The objection points out that Dr. Band was of the view that there was a need for spatial differentiation and zoning in the Park.
- 1.12 **CNPA Rebuttal:** This has to be put into context. It relates to an inquiry into a specific proposal, to landscape in particular and specifically to discussion on the status and operation of NSAs in National Park context. The recommendation of Reporters and decision by Scottish Ministers has yet to be forthcoming and consequently we do not know what weight has been given to the views of Dr. Band, SSE or any of the other parties. In the interests of balance, however, reference is also made to other closing submissions available on www.beauliedenny.co.uk Para. 4.8 of the SNH closing submission clarifies the SNH position of support for a zoning position, but then goes on to say that ‘*this should not be taken as agreement by SNH that the Applicants [SSE] have necessarily applied the correct differential approach to as diminishing the significance of the impact of the Proposal as viewed by SNH.*’ Paras. 10.1-10.6 of the CNPA closing submission sets out the CNPA position as advanced by Dr. Bale, the CNPA Head of Natural Heritage at the time, in which he makes it clear that whilst the quality of [in this case] landscapes vary in the Park, they all contribute to its outstanding national importance, and they are all subject to the duty to conserve and enhance. The objectors approach, both at Beaulieu-Denny and in the LPI, highlights the pitfalls of a zonal approach in National Park when looking to safeguard the overall integrity and *conserve and enhance* the whole Park.

2.0 Conclusion

- 2.1 Both objections raise issues of clarity in Policy I. The CNPA statement of case and rebuttal demonstrate that Policy I, if read as a whole, is clear in its intent to underpin all development that is proposed within the National Park. **447a** has a specific objection relating to the extent and manner in which special qualities are analysed and defined. They have done this in part by reference to the Beaulieu-Denny inquiry. The CNPA has clearly set out its approach and considers it to be clear, rational and justified. It is accepted that some further clarification of Policy I is required in paragraph a) and that is addressed in the proposed small post inquiry modification.

3.0 CNPA Commendation to Reporter

- 3.1 It is commended to the Reporter that the objections to Policy I as listed above are rejected. No issues are raised that could lead the Cairngorms National Park Authority to consider the approach deficient. The CNPA does, however, suggest that in post inquiry modifications part a) of Policy I should replace “or” with “and” so that it will now read “....co-ordinated way **and** where the objectives....”