

## **NEMT reply on LDP Consultation**

### **Policy 1 - Housing**

We accept that CNPA should contribute to the housing needs in its area. We support the proposal to identify a limited number of smaller sites in existing communities. Further work needs to be done to identify solutions to the second home issue.

The Plan should encourage the use and enhancement of vernacular building styles. For alterations and conversions, there is a requirement to “maintain the style and character”. The requirement for new build within existing development (1.1 b2 and 1.2 a) is merely to “reinforce and enhance the character”. No equivalent requirement is stated for Other Housing (1.3). We would like to see the same, higher requirement for all development, with supplementary guidance setting out standards for sustainability and resource efficiency. All development should support landscape and climate change policies as well as investment in natural capital.

We welcome the proposal for a uniform increase in the affordable housing requirement to 45% in four settlements. The threshold to gain exemption from this should remain high.

We agree that, if it goes ahead, An Camus Mòr will meet a significant proportion of the housing requirements for the Highland Council area. Despite the risk that it may not go ahead, we remain unconvinced of the need to release alternative sites for development during the period of this Plan.

We have not commented on the individual proposals as these are best addressed by the local communities concerned.

### **Policy 2 - Supporting Economic Growth**

We support the desire to “support or contribute to a year-round economy” (e.g. 2.2, 2.3), and to encourage low-cost visitor accommodation.

2.1: Retail and high-footfall development.

We welcome the “sequential approach” (though the preference order might be made clearer) for high-footfall developments, which should discourage stand-alone developments which do not offer nearby economic opportunities (such as House of Bruar, just off the A9 but with almost no local community), and are likely to degrade the rural environment.

2.2 Tourist accommodation

It is not clear what is envisaged by “adverse social impacts on the site” (see also 2.3)

4.29: Relationship with the Partnership Plan

In 4.29 c), “broadening ... into sectors such as creative industries, renewable energy and making stronger links with higher and further education” (HFE) seems to place HFE on a weaker basis than the first two sectors. Is no actual HFE development expected in the CNPA area? - this is the only reference to HFE in the entire LDP. Retaining and training young people is an important consideration in economic growth, and a “local” college (perhaps focussed on tourism/recreation, and/or linked to UHI) should be welcomed.

The priority apparently given in Policy 2 first to retail and high-footfall development, and then to tourism and leisure, appears to neglect other sources of economic growth such as adding value to locally produced raw materials, or consultancy-type or household/business services.

#### *4.40: Other tourism and leisure developments*

To protect the landscape, there should be a presumption against new constructed paths in open moorland, while supporting the light-touch maintenance of the existing path network.

### **Policy 4 – Natural Heritage**

We note that the Natural Heritage Policy generally says all the right things, with the presumption against removal of woodland, and the reassuring reference (in the introduction) to the four statutory aims of Scottish NPs and to the CNPA's policy to give greater weight to conservation where conflict between different aims arises (Section 1.5 – introduction). It would be good to reiterate this sentiment under Policy 4.2 "National designations" as it is particularly relevant here. It is hoped that this principle, along with that of the precautionary principle, will go some way to moderating the 'get-out clauses' attached to most policies on the conservation of protected sites and species.

#### Ancient Woodland Sites

There are some contradictory statements regarding the protection of Ancient Woodland Inventory (AWI) sites. Paragraph 4.67 ("Applying the policy") states that, "*Ancient woodlands **have high biodiversity value**, not just for the trees, but for the soil structure and diversity of flora created over time. **Once ancient woodland has been destroyed, it cannot be recreated.**" This conflicts with Policy 4.3 "Woodlands" where it is stated that "*Only in exceptional circumstances will loss of AWI be permitted... where it can be clearly demonstrated that the AWI site has **low ecological value.**" Further, "*Where AWI removal is deemed acceptable, **compensation for such loss will be mandatory.**" Given that ancient woodland habitat is essentially irreplaceable, as the policy acknowledges, the policy of mandatory compensation for loss seems an inappropriate form of mitigation. Clarification is required on: (i) how an AWI site might happen to have low ecological value, for example being degraded beyond restoration; and, (ii) how/what compensation would be required for what is considered an irreplaceable resource.***

Point 4.3 (a) "*Where the developer can clearly demonstrate that the need and justification for the development outweighs...*". We question the onus on the developer to demonstrate this trade-off; surely this is the job for the regulator / planning decision maker?

#### Mitigation / compensation

The policy/definition on mitigation and compensation (Section 4.66) is encouraging in that it "*...applies to developments affecting designated sites, whether or not they are inside or outside of the boundary of the designated area*" – therefore promoting better consideration of potential impacts on mobile species. However, clarification is sought on the remit of the mitigation policy; as currently worded, it could be interpreted as only applying to designated sites and not the other 45% of land which falls within the NP but is not afforded an additional designation. For example, the smaller areas of important connecting habitat, as referred to in 4.62 as "*...important on a local scale and these often provide important links between formally recognised sites.*"

Considering the large proportion of designated sites/features which are not considered to be in favourable conservation status, it would be better to see a net environmental gain/benefit approach

to mitigation/compensation, rather than taking an approach of “equal quality”. It would be nice to see the LDP adopt policies which will encourage proponents of development (who will commercially gain from such development) to make efforts to not only minimise the damage they might do, but also to contribute to the enhancement / recovery of adjacent areas – for example, through habitat restoration activities. This could assist with meeting favourable conservation status targets for Natura 2000 sites.

#### Underlying effects of climate change

It is noted that the term climate change appears throughout the LDP, but not once in the Natural Heritage Policy section. The Natural Heritage Policy aims “*to ensure that the effects of development proposals on protected or priority species, including any **cumulative impacts**, are fully considered by the planning authority.*” If potential cumulative effects are to be effectively assessed and mitigated, then it will be essential to consider the additional pressures which a changing climate is placing on habitats and species within the Park, and, consequently, their reduced resilience to impacts from development. Such issues are pertinent now, and are likely to become more so in the period 2020-2025; it would be good to see such language and acknowledgement within the Natural Heritage Policy.

#### Policy 5 - Landscape

We welcome the recognition of landscape as the prime characteristic of the National Park, and agree that it should be strongly protected. Tight control is required, as it is hard to envisage development (in planning terms) that does not detract, often irreversibly, from large-scale wildness.

With regard to hill tracks, we applauded the ‘presumption against new constructed tracks in open moorland’ in the Park Partnership Plan. However, we think that aspects of the wording in the draft LDP dilute this somewhat, and our suggested changes are aimed at strengthening the ‘presumption’ whilst allowing for exceptional circumstances.

Given the growing problem of damage caused by excessive ATV use and its emerging implications for the Park in planning terms, we think that a general statement regarding addressing this must be included, and we are suggesting possible wording for this.

We propose strengthening 5.2 Private Roads and Ways to read

“The Park Partnership Plan states that there is a presumption against new constructed tracks in open moorland. New private roads and ways in open moorland areas will only be approved in exceptional circumstances and only where they: a) are designed ...”

and

4.74 to read “There are many established vehicle tracks within these areas that are used for multiple estate management objectives as well as by the public. These and their associated “borrow pits” are often the most obvious man-made features within those landscapes and can have a significant detrimental impact on landscape character ...”

and

4.76 “The Plan starts from the position that there should be a presumption against new tracks constructed in open moorland areas. However, it is inevitable that as management of open moorland and hill ground changes for different objectives, there will be exceptional instances where

the existing and extensive network of tracks does not meet the evidence-based need for vehicle access for management. In such rare circumstances, the Plan also provides for the construction of well-designed new tracks where they are part of a programme of works that enhances the special landscape qualities of the National Park; this will normally include the removal of other tracks.”

We urge the addition of:

“The use of ATVs in open moorland over time can cause significant damage to peat and soils and create visually intrusive scarring. This has recently emerged as a justification for constructing new tracks in planning applications. The National Park will work with the relevant statutory bodies, landowners and other interested parties to find solutions to this problem.”

### **Policy 6 – Digital Communications Equipment**

4.87 The plan should include an additional bullet point along the lines of:

- details of new vehicle tracks where these are required. These should include the proposed line, construction methods and plans for restoration, all in line with SNH guidance regarding constructed tracks in the Scottish uplands.

### **Policy 7 – Renewable Energy**

#### General Comments

Most authorities on renewable energy acknowledge that renewable energy alone will not bring about the required reduction in carbon emissions. Demand reduction is an integral part of the equation. This section should contain proposals for, e.g. installing improved insulation, when existing housing, retail and commercial stock is modified.

This policy contains nothing that might persuade people to go for renewable energy. What actions can be taken to encourage more use of renewable energy in proposed developments? How can the CNPA facilitate to increased use of renewable energy?

#### Specific Comments

7.2 Tracks and associated “borrow pits” are often the most visually intrusive aspects of small-scale hydro. To reduce the impacts on landscape, any new tracks required should be of ATV width, and access to intakes close to existing tracks should be via footpaths only.

7.3 NEMT is pleased to note the presumption against large-scale commercial wind farms.

7.4 There’s a typo here. Storage can’t minimise deliveries to site. What is burnt will need to be delivered. Do you mean one large lorry load versus two small lorry loads?

7.5 We question the inclusion of Energy from Waste schemes, which appear to be inappropriate for small widely-dispersed settlements typical of the Park.

4.89 The wording here is confused and needs to be clarified. Resilience to the changing climate will not be improved by using renewable energy. It will be improved by, e.g., improving flood plain management to cope with larger peak flows.

4.91 Again, the wording is confused and needs to be clarified. Using renewable energy won't reduce fuel poverty. The renewable energy schemes that we are aware of sell the energy at market rates, returning profits to the community. The community benefits but the scheme doesn't reduce fuel poverty.

### **Policy 9 - Cultural Heritage**

4.116 says "*a way which ... takes every opportunity to enhance [a cultural heritage asset] for the future*", while 4.117 says "*Enhancement may not always be appropriate, and where this is the case, specialist advice must be sought to ensure appropriate development is achieved in all cases.*" This seems confusing.

### **Policy 10 - Resources**

This policy provides good guidance on the use of resources as well as approaches to safeguard them in the National Park. However, aspects of this policy could be strengthened by some re-phrasing, clarification of statements, and some inclusions on natural flood management (NFM). These are detailed below. Although 10.1f indicates that developers should address cumulative impacts, this principle is not clearly elucidated or repeated in this policy section on Resources and is of such potential significance that further consideration should be given to it. An example statement might be: "neither individual developments nor the cumulative effects of multiple developments should have negative impacts on water quality".

There does not appear to be any acknowledgement of the principle of integrated catchment management of land and water resources, which is Scottish Government policy and a principle strongly encouraged by SEPA, SNH and the various catchment management initiatives (SEPA Natural Flood Management Handbook 2015). Many resources, particularly water resources, are best managed at the catchment scale rather than at the scale of the proposed development. Encouraging collaboration between parties (including developers) to better manage land and water resources, would be more cost-efficient and effective than dealing with single issues as they arise.

### **10.2 Flooding**

Policy 10 does not mention Natural Flood Management except once in 4.131 referring to the relationship of Policy 10 to Policy 1.2 in the Partnership Plan: "to enhance resilience for habitats and species... with a focus on ...natural flood management...". The sustainable management of land and water resources in the Park must surely include policies to encourage natural flood management. On the other hand, Policy 5 Landscape (4.73) refers to open moorland and hills being a public interest priority including for NFM. A reference to the principles of NFM in the Natural Flood Management Handbook (SEPA, 2015) would strengthen Policy 10 in relation to this priority and to the sustainability of resources.

It would be worthwhile referring to the valuable ecosystem service of flood prevention which can be provided if the land is carefully managed at the catchment level. The economic value of this ecosystem service can be considerable in avoided costs of flood defence works and makes the point very strongly.

There are several good opportunities to encourage NFM in Policy 10. Section 10.2 correctly indicates that developers should “not add to areas of land that requires flood protection measures” and “not affect the ability of the flood plain to store and move flood waters”. 4.135 may require developers to carry out a flood risk assessment. 4.136 may require the submission of constructed Sustainable Urban Drainage plans. 4.137 requires assessment and possible measures to meet Water Framework Objectives including the potential for watercourse restoration, including straightened sections, removal of redundant structures and other feasible measures. These are all elements that could be grouped under NFM assessments and measures.

The Flood Risk Plan for Speyside (2016) requires “SEPA and Planning Authorities to engage early in the development plan process to identify opportunities for restoration of natural features to manage flood risk. Areas of land that may contribute to flood management should be identified and protected”. Policy 10 does not appear to reflect this agreement.

Although the requirement for Flood Risk Assessments appears in many of the Settlement Plans, there is no requirement to assess the feasibility of NFM options. The Cairngorms LDP should be requiring such assessments. For example, the Flood Protection Study for Kingussie (Gynack Burn) 2016-2019 explicitly indicates that the Study will “...include investigation of the benefits of including Natural Flood Management techniques ...” Why is this not reflected in Policy 10?

The availability of SRDP and Water Environment Funding for restoration and NFM begs the question of why so little of it is taken up with new restoration initiatives in the CNP.

#### Areas where re-phrasing or clarification are required

Some aspects of Policy 10 set out good guidelines but have opt-out clauses which compromises the protection which the policy is meant to offer. For example:

“All development should:

1. Be free from medium to high risk of flooding from all sources taking into account predicted impacts of climate change....”

Shortly followed by “In exceptional cases where development is permitted in a medium to high risk area....”

There are other parts which use the terms “appropriate” or “significant” without expanding on the exact meaning, perhaps to be intentionally vague. It is understood that this is a statement of policy and that precise conditions cannot be described. However, it would be useful for all stakeholders if reference could be made to relevant standards, guidance or best practice.

10.6 concludes by saying “proposals will be supported that enable a higher proportion of secondary aggregate/recycled materials to substitute for the consumption of primary aggregates, including facilities for storing, processing and recycling construction demolition and excavation materials”

This is fine, but it should be made clear that proposals will not be supported if they are likely to have adverse effects on the ecology and landscape of the Park.