

28 March 2019

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By email only to: [planning@cairngorms.co.uk](mailto:planning@cairngorms.co.uk)

Dear Mr Miles

## CAIRNGORMS NATIONAL PARK LOCAL DEVELOPMENT PLAN 2020: PROPOSED PLAN

Thank you for your consultation email which SEPA received on 25 January 2019 highlighting the publication of your Proposed Plan (hereby referred to as the Plan). We welcome the opportunity to comment on the Plan as part of the ongoing and productive liaison between us.

The attached Appendices provide our detailed advice on the Plan and other supporting documents.

We are pleased to confirm there are no sites within the Plan which we consider should be removed due to environmental constraints such as flooding. However, there are a number of sites where we request minor rewording to the allocation text/developer requirements as set out in Section 5 of Appendix 1, Table 1.

In addition, we request minor rewording to a number of Policies: Policy 3, Policy 7 and Policy 10 as set out in Appendix 1. If this minor rewording cannot be dealt with through minor modifications to the Plan, we **object** to the wording of these policies.

We have also recommended some modifications to policy 3.3a which we would fully support if carried out.

In addition our comments on the Environmental Report have been provided separately via the Scottish Government SEA gateway. Should you wish to discuss this letter please do not hesitate to contact me on [REDACTED]

Yours sincerely

Zoe Griffin  
Senior Planning Officer  
Planning Service

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*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at the planning stage. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. If you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found in [How and when to consult SEPA](#), and on flood risk specifically in the [SEPA-Planning Authority Protocol](#).*

## Appendix 1: SEPA response to the Proposed Plan

To assist you our comments follow the order of the Plan.

### 1. General comments

- 1.1 In general the plan is well laid out and clearly written. We welcome the cross referencing of policies either within each policy or within the 'Applying the policy' text of each policy.

### 2 Policies & Supplementary Guidance

- 2.1 We have found the opportunities for involvement from the early stages of this Plan very productive. We previously provided comments on the existing policies on 1 November 2018 (our reference PCS161669) and are pleased that many of our requests and recommendations have been incorporated into the Plan.
- 2.2 Unfortunately however, there are a small number of Policies where our previous requests for rewording do not appear to have been taken forward and consequently we **object** to the wording of these policies unless these policies are modified before the Plan is finalised. As the requests for modifications do not add, remove or significantly alter any policy we hope we can work with you to resolve these matters as non-notifiable modifications.

#### a) Policy 1: New Housing Development

We can confirm we are now **supportive** of the wording of this policy.

We note Supplementary Guidance (Housing) will be produced to support Policy 1. We welcome this and would welcome the opportunity to provide comment on this as it is developed.

#### b) Policy 2: Supporting Economic Growth

We can confirm we are now **supportive** of the wording of this policy.

#### c) Policy 3: Design and Placemaking

With respect to **3.3 Sustainable Design section a)** we would **strongly recommend** the Cairngorm National Park Authority modifies this policy to require stronger sustainable design in relation to the Scottish Building Standards. We highlight to you that other local authorities, such as Aberdeenshire Council, have/are updating their policies requiring developments to achieve, for example, a Platinum sustainability level in terms carbon dioxide emissions and a Gold Sustainability level for water efficiency rather than the minimum proposed in your Proposed Plan. We would fully support the requirement for new developments within the Cairngorms National park to be designed to higher levels than the minimum standards.

In our response to the MIR we highlighted the need for any new policy wording, or supporting text, to make clear that any future changes to existing building stock would have to be suitable for the site. Therefore, with respect to sub policy **3.5 Converting existing building stock**, it needs to be highlighted that any change of use should comply with SEPAs [Land Use Vulnerability guidance](#), as supported by Scottish Planning Policy (SPP) paragraph 263, i.e. any redevelopment of an existing building, including change of use will only be acceptable if the proposed use is equal to or less vulnerable to flood risk. We therefore **request** *either* the following wording is inserted into this sub policy:

**c) and does not introduce a more vulnerable use in terms of flood risk.**

Or reference is made in the *Applying the Policy* section to SEPA's Land Use Vulnerability guidance;

Or cross reference is made to Policy 10.2 Flooding *if* our requested modifications to this policy in this regard are undertaken as requested below.

We confirm we will **object** to *Policy 3.5 Converting existing building stock* if this modification (or similar agreed wording) is not undertaken.

**d) Policy 4: Natural Heritage**

We have no specific comments on this policy as it relates to matters mostly outwith our remit. However, please note our comments below with regard to pages 85-87 of the Plan.

**e) Policy 5: Landscape**

We have no further comments on this policy.

**f) Policy 6: Siting and Design of Digital Communications Equipment**

We have no further comments on this policy.

**g) Policy 7: Renewable Energy**

We note and welcome the amendments we previously requested that have been made to Policy 7.

However, we note the Plan makes no reference to the existing Supplementary Guidance relating to Renewable Energy and the Action Plan states the policy will be delivered 'through the preparation of planning advice where needed'.

We provided detailed information in our MIR response to be included in any revised Supplementary Guidance and would welcome the opportunity to work with you in revising the existing Guidance to help deliver the revised Policy 7.

We **request** Policy 7 cross references the Supplementary Guidance and references the commitment to revise/update the existing guidance in the Finalised Plan.

We confirm we will **object** to *Policy 7* if this modification is not undertaken.

**h) Policy 8: Open Space, Sport and Recreation**

Whilst we support this policy in terms of protecting existing Open Space there does not appear to be a policy guiding the design of new open space/green infrastructure within new developments or as standalone proposals. Whilst we note this is briefly incorporated into the existing supplementary guidance on Policy 3: Design and Placemaking, we **request** the inclusion of a sub policy covering the provision of new open space is considered for inclusion either in Policy 8 or, preferably, in Policy 3: Design and Placemaking in the final Plan.

Suggested wording (taken from the Proposed Moray Local Development Plan 2020):

**"New Open space – new developments must incorporate accessible multifunctional open space of appropriate quantity and quality to meet the needs of development and must provide green infrastructure to connect to wider green/blue networks."**

Reference should then be made to the supplementary guidance on Policy 3 in the *Applying the Policy* section of the Plan. We would welcome the review of this supplementary guidance and the opportunity to work with you in providing revised wording in this regard.

We confirm we will **object** to the Plan if this modification is not undertaken.

**i) Policy 9: Cultural Heritage**

We have no specific comments on this policy as it relates to matters outwith our remit.

j) **Policy 10: Resources**

We note and welcome the amendments we previously requested that have been made to Policy 10. However, we have a small number of minor text modification **requests** as follows:

10.1 Water resources

In relation to 10.1b of this policy, the SuDs manual doesn't relate to foul water and we therefore **request** the following rewording:

*"treat surface water and foul water discharge separately and. **Development is required to treat surface water** in accordance with the current CIRIA SuDS Manual: and..."*

And in the last paragraph in 10.1, we request the following wording:

*"An appropriately sized buffer strip will be required to be retained around all water features **and designed and managed to contribute positively towards placemaking.**"*

As highlighted in our MIR response, we believe sustainable placemaking should be underpinned by a policy framework that includes the protection, enhancement and creation of blue/green infrastructure with blue/green infrastructure providing many benefits as highlighted in the Scottish Governments *Green Infrastructure: Design and placemaking* guidance. As the Plan has no specific blue/green infrastructure policy, rewording of this policy will help deliver sustainable placemaking.

10.2 Flooding

Whilst sub-policy 10.2 is in line with SPP paragraph 263, we repeat our MIR request for reference to be made to the possible increase in vulnerability to flood risk in terms of change of use. Our preference would be for either the following wording to be added to the sub policy:

**"e) not increase vulnerability to flood risk through change of use"**

Or the following paragraph inserted after the reference to water resilient materials:

**"Consideration should also be given to the type of development proposed. For some land uses there may be additional flood risk requirements or constraints, and an assessment of the low to medium risk area may be needed. Development shall only be permitted for uses of equal or less vulnerability in accordance with SEPA's Land Use Vulnerability Guidance."**

Finally, as SuDS is a legal requirement in Scotland for all development except single dwellings, and the CNPAs proposal at the MIR stage to promote a stronger requirement for the incorporation of SUDS, we **request** the following rewording in the last paragraph:

*"Development ~~should~~ **shall** incorporate SuDs in proportion to the scale and nature of the development."*

Applying the policy

In addition to the above requested minor modifications to the Policy text, we request the following modifications to the "Applying the policy" section:

Paragraph 4.137:

Add **"The optimum width of a buffer strip adjacent to a waterbody will be affected by the width of the water course/size of water body, site conditions, topography and additional functions. They should be a minimum of 6m but could be wider than 20m on major rivers or dynamic water courses to allow them to follow their natural course. Where there are opportunities to undertake restoration of straighten or realigned watercourses, a wider buffer may also be required."**

Paragraph 4.138 should be removed and replaced by:

***“Scottish Planning Policy, paragraph 194 states that “the planning system should: ... promote protection and improvement of the water environment including...wetlands... in a sustainable and co-ordinated way. Wetlands are also protected under the Water Framework Directive. Phase 1 Habitat Surveys should be used to identify if wetlands are present on or adjacent to a development site. If present, a more detailed National Vegetation Classification survey will be required to identify if the wetlands are dependent on groundwater or surface water. Wherever possible, all types of wetlands should be avoided by development though the inclusion of an appropriate buffer otherwise further assessment and appropriate mitigation will be required.”***

We note the Proposed Plan makes no reference to the existing Supplementary Guidance relating to Policy 10: Resources and the Action Plan states the policy will be delivered ‘through the preparation of planning advice where needed’.

In our MIR response we provided detailed information for inclusion in any revised Supplementary Guidance relating to this policy and would welcome the opportunity to work with you in revising the existing Guidance to ensure consistency with, and full support for, the revised Policy 10. We **request** Policy 10 cross references the Supplementary Guidance and references the commitment to revise/update the existing guidance in the Finalised Plan.

We confirm we will **object** to *Policy 10* if these modifications are not undertaken.

#### **k) Policy 11 Developer Obligations**

We welcome the supporting text highlights developers may have to undertake other works to facilitate development such as increasing water capacity or waste water provision but we expect Scottish Water to comment on whether any modification to this supporting text is required.

### **3 Community Information – Settlement statements**

- 3.1 We are pleased to see that most of our previous advice on the draft proposed settlement statements (refer our email of 11 October 2018, our reference PCS/160984) has been incorporated. We particularly welcome the removal/none inclusion of the preferred and alternative sites that were significantly at risk of flooding or had potential co-location issues.
- 3.2 However, after reviewing the Proposed Plan text and our previous comments, there are a number of allocations where we **request** a number of modifications to the Plan text as shown in Table 1 below. We confirm these modifications do not change our overall position on each of allocations and trust these can be dealt with as minor modifications to the Proposed Plan.
- 3.3 We also **recommend** that there is more explanatory text included in the Developer Obligations box as it is not clear what constraints there are on development within the settlements with regards to waste water. We suggest each settlement is reviewed in consultation with Scottish Water and then reworded accordingly to make it more transparent to the developer. For example, where the waste water treatment works is at capacity the following wording (or similar) could be used:

**“Waste Water Treatment Works – a growth project is required for the settlement to expand”**

**Table1 – Site Allocation requested text modifications**

<b>Allocation</b>	<b>SEPA requested Minor Amendments</b>	<b>Reason</b>
Aviemore LTH1, LTH2	“A masterplan for the sites will be required. This should include....site. <b>It will also need to take account of existing adjacent regulated activities when zoning land use within the development site.</b> ”	PAN 51 paragraph 64*
Aviemore C2	“ <del>Low</del> <b>Medium</b> to High....a Flood Risk Assessment <b>or other supporting information</b> may be required.”	Full FRA may not be required depending on proposed use/layout
Ballater H1	Request insertion of text at end of main paragraph: “ <b>Open spaces must maintain and, where possible, enhance their existing flood storage and conveyance properties.</b> ”	To ensure no inappropriate uses or land raising are proposed within the flood extent.
Ballater ED1	“Medium to high probability flood risk lies within the site. <del>A Flood Risk Assessment will be required to accompany any future planning applications.</del> <b>Any future development will need to take account of the functional flood plain as defined in the Ballater Flood Study</b> ”	A FRA will not be required due to the undertaking of the flood study.
Ballater T1	“An existing established.....development. <del>Any significant change to the layout or any increase in the number of caravans onsite is unlikely to be supported due to flooding constraints</del> <b>Any future development will be limited to non-residential/non-camping use and should take account of the functional flood plain as defined by the Ballater Study.</b>  <b>FRA requirement to be deleted</b>	A FRA will not be required due to the undertaking of the Ballater flood study.
Grantown on Spey H2	Relabel allocation on page 109: <del>H4</del> <b>H2</b>  “There are small watercourses...a Flood Risk Assessment <b>or other supporting information</b> will be required”.	Typo error  Full FRA may not be required depending on proposed use/layout
Grantown on Spey T1	“Medium to high probability of flood risk...a Flood Risk Assessment <b>or other supporting information</b> may be required...”	Full FRA may not be required depending on proposed use/layout
Kingussie ED2	“Medium to High probability flood risk <del>surrounds the</del> <b>adjacent to</b> the site...”	Consistency of wording through Plan
Newtonmore ED2	“ <del>Low</del> <b>Medium</b> to High Flood risk...”	Typo error in MIR response
Blair Atholl T2	“Any proposals....developable area.” <del>The Flood Risk Assessment should assess the risk from all sources”</del>	DIA will address surface water flooding
Braemar H5	For consistency Flood Risk graphic and text should be above the landscaping text.  “Medium to high probability of flood risk...A Flood Risk Assessment <del>therefore</del> <b>or other supporting information</b> may be required...”	Consistency of layout through Plan  Full FRA may not be required depending on proposed

		use/layout and due to topography of site
Braemar ED2	<b>“Medium to high probability flood risk exists adjacent to the site. A Flood Risk Assessment therefore or other supporting information may be required and used to inform the site layout”</b>	Consistency of layout through Plan  Full FRA may not be required depending on proposed use/layout
Carrbridge ED3	<b>“A small watercourse...A Flood Risk Assessment or other supporting information will may be required....”</b>	Full FRA may not be required depending on proposed use/layout
Carrbridge T1	<b>Remove Flood Risk Assessment requirement paragraph.</b>	Site reassessed – no small watercourse
Dalnain Bridge H2	<b>“Medium to high probability flood risk ... A Flood Risk Assessment or other supporting information will be required and used to inform the site layout”</b>	Full FRA may not be required depending on proposed use/layout
Kincraig H1	<b>“A small watercourse...A Flood Risk Assessment or other supporting information will be required....”</b>	Full FRA may not be required depending on proposed use/layout
Kincraig ED1	<b>“A small culverted watercourse to the south of lies adjacent to the site which may present a increase flood risk. A Flood Risk Assessment or other supporting information may be required...”</b>	Full FRA may not be required depending on proposed use/layout
Kincraig ED2	<b>“A small culverted watercourse to the south of lies adjacent to the site which may present a increase flood risk. A Flood Risk Assessment or other supporting information may be required...”</b>	Full FRA may not be required depending on proposed use/layout
Nethy Bridge H1	<b>“Medium to high probability flood risk exists in the lower half of the site adjacent to site. A Flood Risk Assessment or other supporting information will may be required to determine the developable area”</b>	Error in MIR response. Full FRA may not be required depending on proposed use/layout
Nethy Bridge H2	<b>“Medium to high probability flood risk exists in the lower half of the adjacent to site. A Flood Risk Assessment or other supporting information will be required to determine the developable area”</b>	Error in MIR response – H1 comments should have applied to H2 site and vice versa.
Tomintoul T1	<b>“Owing to...a Flood Risk Assessment or other supporting information will be required....”</b>	Full FRA may not be required depending on proposed use/layout
Dalwhinnie H1	<b>“Medium to high probability flood risk ... A Flood Risk Assessment or other supporting information will be required ...”</b>	Full FRA may not be required depending on proposed use/layout
Dalwhinnie ED1	<b>“Medium to high probability flood risk ... A Flood Risk Assessment or other supporting information will be required ...”</b>	Full FRA may not be required depending on proposed use/layout
Dinnet H1	<b>“Medium to high probability flood risk ... A Flood Risk Assessment or other supporting information will be required ...”</b>	Full FRA may not be required depending on proposed

		use/layout
Dinnet ED1	“Medium to high probability flood risk ... A Flood Risk Assessment <b>or other supporting information</b> will be required ...”	Full FRA may not be required depending on proposed use/layout
Glenmore T2	Medium to high probability flood risk....or other supporting information <del>will</del> <b>may</b> be required...”	Full FRA may not be required depending on proposed use/layout

\*PAN 51 (paragraph 65) states that “New noise or nuisance sensitive developments have to be carefully considered in relation to existing noise or nuisance emitting land uses”. As such we highlighted in our MIR response and spreadsheet where the proposed site allocations were adjacent to activities regulated by SEPA and could introduce new sensitive receptors to these existing activities.

### 3.3 Environmental considerations - Pages 85-87

We have concerns over the wording on pages 85-87 of the Community Information section and the use of the ‘pollution & siltation’ and the ‘water quality icon’ icon on the settlement allocations.

Whilst we appreciate that pollution and siltation may have a detrimental impact on a site designated as being of European importance, any development should not have detrimental impact on the water environment regardless of the presence of a European site. As such Policy 10 will apply to all sites and there may be a requirement for the developer to submit a Construction Method Statement (CMS) on sites that have not been identified with the ‘pollution & siltation’ icon in the settlement statements. By placing this icon on only some allocation sites implies a CMS will not be required for all other sites, which is not the case. For example ED2 in Carrbridge is likely to require a CMS due to its proximity to the River Dulnain.

Likewise the inclusion of the ‘water quality’ icon on some but not all allocations implies the developer requirement detailed in Table 4 regarding water supply and waste water treatment does not apply to all other developments in the Park. For example, all sites in Aviemore should have the requirement to connect to the public sewer being in the Spey SAC but the icon does not appear on these sites and similarly the Spey SAC requires a CMS in Nethy Bridge but doesn’t have a requirement to connection to the public sewer when in fact there would be a requirement to do so. These are just two examples but there are similar inconsistencies throughout the settlements which if not changed will lead to confusion and possibly dispute over what is and isn’t required.

We therefore **object** to this part of the Plan unless it is modified. After discussion with Scottish Natural Heritage we request the following rewording on page 85:

5.17 The site allocations in this section of the Plan identify where development may have an effect on a ~~Natura~~ **Natura European** site and specify the mitigation measures from Table 4 that will be required to ensure there is no adverse effect on the integrity of the ~~Natura~~ **Natura European** site. Please note that not all the mitigation measures in Table 4 will apply to all developments; only those that are specified in the site allocation details will be required **for the purposes of Habitats Regulations Appraisal. (This does not however override the requirements of Policy 10, which apply to all development.)**

And in Table 4 (water quality):

[retain first paragraph]....All waste water from developments must **comply with Policy 10.3, as well as demonstrate that there will not be an adverse effect on the integrity of river SACs through nutrient enrichment. Please note that this requirement may be more stringent than would otherwise be required by the policy alone.** ~~be treated at waste water treatment works to remove harmful levels of pollutants and nutrients. Development may not commence until it has-~~

~~been demonstrated to the planning authority that there is sufficient capacity in local waste water treatment works in terms of capacity and ability to remove pollutants to recommended **relevant** standards. Where connection to public waste water treatment plants via mains sewerage is not possible, private water treatment solutions must demonstrate that they will not have an adverse effect on the integrity of river SACs through nutrient enrichment.~~

- 3.4 As a general note, we recommend the labels for each allocation are more accurately placed on the settlement maps. Some are 'floating' e.g. In Aviemore H2 is pointing to an open space area and LTH2 is pointing to a site on the opposite side of the railway which has a similar colour on the base map.

## **Appendix 2 Assessments and Other Supporting Documents**

### Proposed Action Programme

4.1 We are **supportive** of the Action Programme in relation to our interests.

### Strategic Flood Risk Assessment (SFRA)

4.2 We previously commented on a draft version of the SFRA in our letter of 13 March 2017 (our reference PCS/151458) and on individual site assessments in our responses to the MIR and draft settlement statements. We welcome the inclusion of the assessment of the sites carried forward into the Plan and the inclusion of our comments within the SFRA. We are generally **supportive** of SFRA as we have no objections in relation to flood risk and the inclusion of an allocation within the Plan.

However, we request the following minor modifications:

- a) Section 5.3 changed to "...might also increase the risk ~~downstream~~ **elsewhere** due to the loss of floodplain storage **and conveyance** capacity".
- b) Section 8.3 change to "A minimum freeboard allowance of ~~500mm~~ to 600mm freeboard is currently recommended by SEPA. This will bring the document into line with our updated *Technical Flood Risk Guidance for Stakeholders* document (v10 July 2018).

### Strategic Environmental Assessment

4.3 Our comments on the SEA will be provided by separate cover (PCS/163519).

### Habitat Regulation Appraisal

4.4 We have no comments on this supporting document.