
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: ERECTION OF HOUSES AND CONSTRUCTION OF ACCESS ROAD, LAND BETWEEN AVIEMORE (MILTON) BURN AND AVIEMORE ORBITAL FOOTPATH, GRAMPIAN VIEW, AVIEMORE

REFERENCE: 07/393/CP

APPLICANT: MILTON BURN DEVELOPMENTS LIMITED

DATE CALLED-IN: 19 OCTOBER 2007

RECOMMENDATION: SITE VISIT

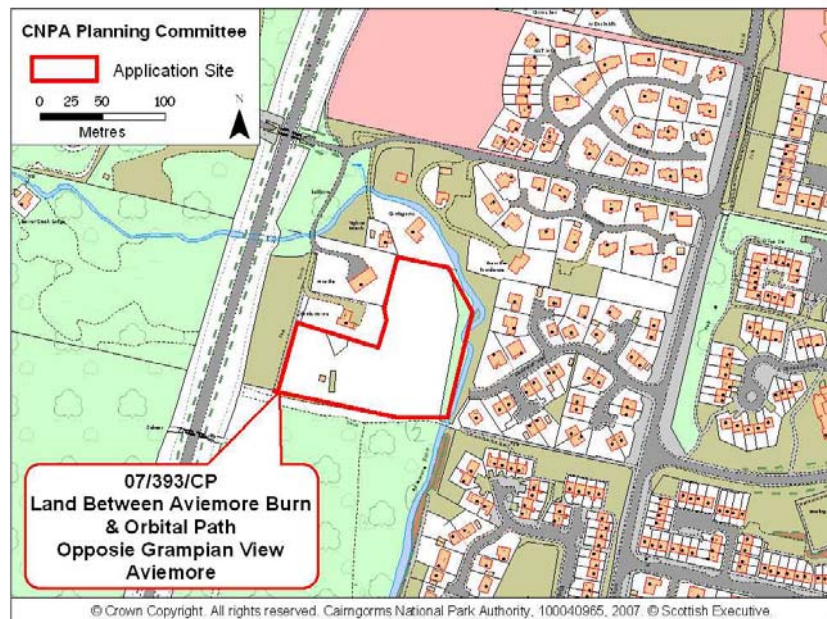


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. This application started life as an outline application for a specific number of dwellings. However, shortly after the application was submitted the description the proposal was amended to outline only for the principle of residential development on the site. A layout plan illustrating how 30 dwellings can be accommodated on the site (see fig 3) accompanies the application but this is now for indicative purposes only.
2. The site lies to the northern end of Aviemore, east of the A9 and would be accessed from the existing residential cul-de-sac of Grampian View. The access would then cross the Aviemore (or Milton) Burn which downstream becomes part of the River Spey Special Area of Conservation. The eastern boundary of the site is formed by the burn itself. The southern boundary is immediately to the north of a footpath which currently links Grampian View with the Aviemore Orbital Footpath. The western boundary is just inside the orbital footpath. The ground gently rises to the northern part of the site which is bordered by the gardens of existing residential property (see location plan fig 1). The site hosts the remains of a Grain Mill that is a feature of the Royal Commission on Ancient and Historical Monuments of Scotland National Monuments Record.
3. As mentioned the application is in outline form and seeks the principle of residential development. This site formed part of a previous application for 25 dwellings taking up this part of the site and woodland to the south that was refused by Highland Council in November 2004. It was not called-in by the CNPA and became a very controversial application. The proposal was in outline form but specifically for 25 houses. An indicative layout plan submitted at the time showed how they could be sited. The houses were arranged generally in line with pockets of development indicated by the Badenoch and Strathspey Local Plan for housing (see figs 4&7).
4. Ultimately, the application was refused for 3 reasons relating to the incursion of development into undisturbed woodland that was also a community recreation asset; that the development would have significant detrimental effects upon habitat, landscape and species; and that the development was premature to the completion of the Cairngorms National Park Local Plan. A copy of that decision notice has been reproduced at the back of this report. The Highland Council Planning Officer's Report at the time mentioned that the northern part of the site may be less problematic and that it may be appropriate to indicate to the developer that a revised application for the area to the north of Milton Wood may receive more favourable consideration. At the time it was considered by Highland Council Planning Committee that the CNPA Local Plan would be the appropriate means of considering the site.



Fig 5 southern boundary of site showing path that links Grampian View with Orbital Footpath.



Fig 6 looking north into site from south end

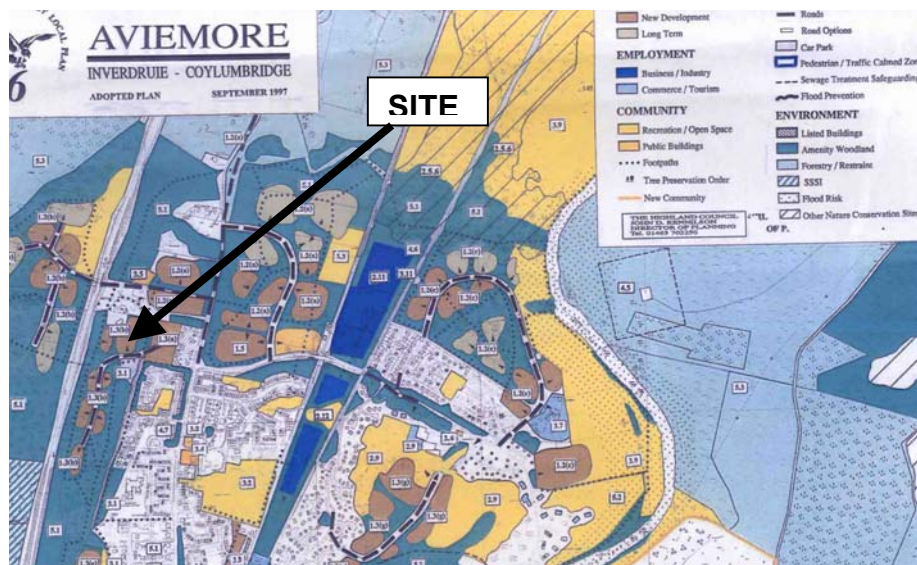


Fig 7 Extract from Badenoch and Strathspey Local Plan 1997

DEVELOPMENT PLAN CONTEXT

National Guidance

5. **Scottish Planning Policy 1 (SPP1) The Planning System** para 46 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. There is an expectation that proposals that are in accordance with the development plan will be granted permission. However, other considerations such as more recent expressions of policy and planning guidance may outweigh the policies of the plan. Likewise similar circumstances may apply where plans are out of date and less relevant to changed circumstances.
6. **Scottish Planning Policy 3 (SPP3) Planning for Housing** notes that new housing should make a positive contribution to the built and rural environment and that new housing should be easily accessible by public transport and well integrated into walking and cycling networks. Para 18 of the guidance notes that new housing development should not be located on open space which contributes to local needs and community enjoyment. Para 38 notes that plans and proposals for residential development, should seek to minimise adverse effects on natural heritage, including landscape character and bio diversity. The guidance notes that meeting housing requirements through extensions to existing towns and villages can help to sustain local schools, shops and services.
7. Other national level advice is contained in **NPPG 14 on Natural Heritage**. It strikes a positive note stating that conservation and development can often be fully compatible, and the potential for conflict can be minimised. In relation to statutory designations, and in particular National Parks, para. 33 states that “while conservation of the natural heritage will be a key objective in any National Park, the Government considers that due weight must also be given to the social and economic interests of local communities.”
8. **NPPG 14** also deals with wider natural heritage issues, outwith statutory designations, and stresses that natural heritage is found throughout the countryside, and that efforts should be made to safeguard and enhance the wider natural heritage beyond the confines of nationally designated areas. Among features listed as being of potential value in the development of habitat networks are woodlands, rivers and burns, and traditional field boundaries such as dykes or hedgerows. Para. 50 emphasises the importance of trees and woodlands, both as wildlife habitats and in terms of their contribution to landscape character and quality. **NPPG 14** highlights the duty of Planning Authorities, in accordance with section 159 of the Town and Country Planning (Scotland) Act 1997, to ensure that wherever

appropriate, planning permissions make adequate provision for the preservation or planting of trees.

9. **PAN 65 – Planning and Open Space** describes open space as a valuable asset which is important for our quality of life. It concedes that the future growth of settlements will have implications for open space, but advises that this should not lead to a loss of amenity and should place a greater emphasis on the need for a “well-distributed, well-connected and accessible quality of open space.” **PAN 65** details the various types of open space including amenity greenspace,¹ public parks and gardens, green corridors and natural / semi natural greenspaces.² Para. 44 of **PAN 65** states that emphasis and importance attached to open space in development plans should be reflected in development control decisions and warns that “the credibility of the planning system can be significantly undermined when policies on the protection and provision of open space are set aside, without sound and clear justification.”

Highland Council Structure Plan

10. **The Highland Structure Plan 2001** highlights a number of salient points as well as setting out a number of broad policies applicable to developments of the nature proposed. In relation to housing, section 2.2.1 of the Plan states that “the availability of quality housing is fundamental to social and individual well being and to creating and maintaining balanced communities” and further states that “adequate provision of housing is also a pre-requisite of economic growth” whilst at the same time recognising that “it must be provided in a way which minimises the impact on the environment.”
11. **Policy G2 (Design for Sustainability)** states that developments will be assessed on the extent to which they, amongst other things; make use of brownfield sites, existing buildings and recycled materials; are accessible by public transport, cycling and walking as well as car; are compatible with service provision; demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environments; and contribute to the economic and social development of the community.
12. **Policy H5 Affordable Housing** notes that where there is a demonstrable need for affordable housing. Section 75 and other mechanisms will be used to secure developer contribution where justified.

¹ Greenspace refers to landscaped areas providing visual amenity or separating different buildings or land uses for environmental, visual or safety reasons i.e. road verges or greenspaces in business parks, and used for a variety of informal and social activities.

² Natural / semi natural greenspaces are defined as area of undeveloped or previously developed land with residual natural habitats or which have been planted or colonised by vegetation and wildlife, including woodland and wetland.

13. **Highland Council Development Plan Policy Guidelines 2003** provide more detail on the issue of affordable housing and consider that an objective target of 25% affordable housing should normally be expected of all future developments comprising 10 or more new or converted homes.

Badenoch and Strathspey Local Plan 1997

14. Under the Aviemore section of the Plan the main priorities for Aviemore include to establish an agreed framework for major expansion and environmental enhancement of the Aviemore area; to ensure sufficient choice of building land to meet housing opportunities for all needs; to strengthen the village as a major shopping and service centre; to open up major new recreational corridors based on the river Spey and Aviemore Burn and encourage proper management and provision for public access; to transform the image and texture of Aviemore, “green up” the village and restore links with its wider setting.
15. The site is part of a larger allocated site shown on the proposals map of the Badenoch and Strathspey Local Plan shown as 6.1.3 (b) site to west of burn for 20-25 houses with approximately 13 plots in the birchwoods. Surrounding land is shown as amenity woodland (see fig 7). Set back from A9 and tree safeguards are a requirement of the allocation. Under the ‘Community’ section of the plan for Aviemore reference is made to land adjoining the Aviemore Burn and running through to the Spey margins as being allocated for open space/recreational use forming a village park and possibly incorporating a range of features and on this particular site the possible restoration of the former Meal Mill and a small car park.

Cairngorms National Park Plan 2007

16. The **Cairngorms National Park Plan** sets out the strategic objectives for the Park under three headings, all of which are of relevance to the development proposal – (i) conserving and enhancing the Park; (ii) living and working in the Park; and (iii) enjoying and understanding the Park. In relation to conserving and enhancing the Park the objectives set out in the Plan include maintaining and enhancing the distinctive landscapes across the Park and ensuring that development complements and enhances the landscape character of the Park. The Plan also requires that new development in settlements and in surrounding areas should complement and enhance the character, pattern and local identity of the built and historic environment. In elaborating on this particular objective it is advised that new development should enhance the local identity, quality of public space and surrounding environment and that high quality design should be a feature of all new developments.

17. Under the heading of **Living and Working in the Park**, the Park Plan includes a specific section on Housing. Objectives include increasing the accessibility of rented and owned housing to meet the needs of communities throughout the Park and ensuring that there is effective land and investment for market and affordable housing to meet the economic and social needs of communities throughout the Park.
18. In relation to **Enjoying and Understanding** the Park the Plan recognises that enjoyment of the park area is not only relevant to those people travelling to the Park, but is part of the everyday experience of those living in and around the area. The experience of residents and visitors alike should be of the highest quality. The Plan contains a number of strategic objectives for outdoor access and recreation, which include encouraging people of all ages and abilities to enjoy and experience the outdoor environment.

CONSULTATIONS

19. **Scottish Natural Heritage** does not object to the proposal. However, it is considered that there is likely to be a significant effect on one of the interests of the River Spey SAC, but make recommendations on how these effects can be overcome and also recommendations in relation to otter as a European Protected Species.
20. The site lies close to the Aviemore (Milton) Burn. Approximately 1.3 km downstream, the burn is designated as part of the River Spey Special Area of Conservation (SAC). The River Spey SAC is designated for its populations of Atlantic salmon, otter, freshwater pearl mussel and sea lamprey. The Aviemore Burn is likely to be used by salmon and otter, but freshwater pearl mussel and sea lamprey are unlikely to be present.
21. It is important that salmon can migrate up and down the burn. SNH would advise the CNPA that on the basis of the appraisal carried out to date, if the proposal is amended or conditions applied to address the following then the significant effects can be avoided. Any bridge design should be constructed to a standard agreed with the Spey Fisheries Board. There should be no barriers to the free passage of fish. The burn should not be culverted, channelized, piped or diverted (apart from where the road crosses the burn). To reduce the risk of sediment run-off into the burn no vegetation should be removed and no building should take place within 5 metres of the burn. Arrangements for managing surface water (during and after construction) should be approved by SEPA and no surface water should be discharged into the burn without SEPA's approval. Addressing these issues would illustrate good practice and avoid unnecessary impacts on salmon. Should these not be addressed then the CNPA would be required to undertake an appropriate assessment of the implications of the

proposal for the site in view of the site's conservation objectives for its qualifying interests.

22. The otter is a European Protected Species and the Aviemore Burn may provide resting sites and/or breeding sites for otter. There is currently insufficient information to enable SNH to provide advice on the impact of the proposal on this species. We therefore recommend that a survey of otter be undertaken at the earliest opportunity and appropriate action identified prior to determining whether planning permission should be given.
23. **CNPA Natural Heritage: Landscape** response notes that the access will require bridging the burn which is a highly natural feature and will involve some tree removal. The bridge to be provided should impact on the burn side as little as possible with a span long enough to avoid breaking the banks. Additional planting along the burn will be required to mitigate that to be lost. Some concern is raised about the western side of the site which would require significant alteration to banks. Limiting the development to the eastern side of the area with planting to the west would help to reinforce the character of this part of the site. Any plots on the southern part of the site would have to relate well to the public realm. The character of the area would clearly change; however, good design can offer a suitable substitute. Details of tree planting, road layout, garden boundaries and house design could combine to make a positive end result. In conclusion the principle of some housing on this site is acceptable. However, there are some significant features and limitations to it. Following some of the principles set out above should ensure that there are no significant conflicts with the aims of the park.
24. **CNPA Natural Heritage Ecology:** The riparian zone of the Burn is important as a habitat in its own right and as a green corridor, allowing species to freely and safely move within Aviemore. In order that the value of this resource is not eroded, development should be restricted so as to maintain as wide a green corridor as possible. For the access the burn should be bridged as opposed to culverted. The conditions put forward by SNH in relation to the ecology of the burn are supported.
25. A range of suggestions are put forward that could enhance the ecological values of any eventual built development on the site by providing bat roosts and swift nesting sites within the design of any buildings.
26. **CNPA Visitor Services and Recreation Group** has visited the site and particular focus is upon the existing Aviemore Orbital Footpath and a link path from the end of Grampian View. It would appear from the plans that both these paths would not be affected physically by the development of the site but users enjoyment might be impacted on, to that end we would recommend that adequate screening with planting and landscaping is put in place. There is concern that those who would

reside in the development would only be able to access the network over the proposed road bridge. This would not be acceptable and provision should be made to access the orbital path on the south side of the development, any provision should cater for all users. The Outdoor Access Team also question whether the informal path between Grampian View and the Aviemore Orbital could be upgraded to a 1.2 metre wide surfaced path with dropped kerbs onto Grampian View and that the access to the existing pedestrian footbridge over the burn be improved.

27. **CNPA Housing Policy Officer.** In relation to housing Aviemore is the 3rd most pressured settlement with 8.5 applicants competing for each let over the last three years. It ranks 24th in Highland. In relation to all other large towns in Highland, Aviemore has the greatest relative pressure. Combined with overall demand for Aviemore, this demonstrates the continuing need for social rented housing in this community. If there was to be a 25% affordable allocation on the site the CNPA would need to check there is a housing association on board. The need to cross the burn results in the cost of a bridge that would have to be factored into the cost of the housing, there are also concerns over flooding. Affordable housing is recommended in principle subject to the above concerns.
28. **Highland Council Area Roads Manager** originally had some concerns about the ability of Grampian View to serve the scale of the development proposed and the impact of the additional traffic upon the Grampian View/B9152 junction. Because of this, a traffic impact assessment was requested prior to the application being determined. However, in the meantime the reference to 30 dwellings had been withdrawn and the Area Roads Manager is happy that the need for a traffic impact assessment could be dealt with through a detailed application should the principle of some residential development at the site be accepted. A range of conditions are recommended to be attached to any permission including: roads constructed and designed to Highland Council Guidelines; simple traffic calming measures to be applied along Grampian View to junction with B9152 public road. Surface water measures shall accord with SUDS principles. All properties to be free from 1 in 200 years flood event. A range of technical recommendations are made in relation to access gradients, visibility splays and that parking manoeuvring space is provided for on each plot. It is also recommended that suitable pedestrian/cycle links are provided to the existing Aviemore path network.
29. **Highland Council Archaeology** note that the remains of a mill complex lie within the application area and would be impacted by the proposed development. The original mill complex was part of a grain mill township extending over a much wider area along the Aviemore Burn. The mill dam and associated lades were considered worthy of protection within the High Burnside development to the west of the A9 as they represent an important element of the historic environment.

The planning application does not note any of the buildings on the site. The remains of the main mill structure survives as a fairly stable roofless shell to a maximum height of c1.5m. The remains are overgrown and scrub vegetation obscures both visibility and access. The wheel pit is presumed to survive, although could not be identified due to vegetation cover. Traces of mill-lades, sluices and external structures are still visible. At least one remnant of wooden mill fitting lies on the site. It is hoped at the least to see the remains of the mill stabilised, protected and interpreted with any housing development on this piece of land. It must be feasible to maintain the main mill structure as it is, to expose any surviving wheel pit and to consolidate these remains. Although much of the context of the mill remains would then be lost, this option could still provide a good local amenity resource illustrating the more recent history of the area. However, if the Planning Committee decree that the mill is not a consideration in progressing development; the Archaeology Unit would request that a detailed building survey and photographic record be made under a planning condition.

REPRESENTATIONS

30. **Aviemore Community Council** has been consulted upon the application and makes a range of observations as follows.
31. Although this area of land was zoned for housing in the 1995 Local Plan, it has not been designated in the CNPA Deposit Plan as a result of consultations with the local community.
32. The Orbital Footpath runs along the boundary of the proposed development and is used extensively by dog owners, mountain bikers, residents and visitors looking for rare moths, butterflies and plants native to Milton Wood.
33. The necessity to build a bridge will adversely affect the drainage pattern and the Milton Burn, a breeding ground for salmon, sea/brown trout and brook lampreys.
34. Flooding in this area has always been an issue and is one of the reasons for moving the primary school building which has always been subject to subsidence. The playing field is often flooded and not available for play times and field sports for children. We believe that any future build in this area will further exacerbate the risk of flooding at the school, the houses in Milton Park and Craig-na-Gower Avenue.
35. This proposed development is contrary to the aims of the core paths policy, does not comply with affordable housing requirements, will increase the problem of light pollution and out local carbon footprint.

36. A large number of individual representations have been made on this proposal as was the case with the previous application dealt with by Highland Council for the larger site including this one.
37. The vast majority of the representations are from properties close to the site and raise concerns as follows (please note that representations are attached at the back of this report).
- Last remaining amenity areas in Aviemore.
 - Located directly on Aviemore Orbital footpath.
 - Aviemore defaced and over developed.
 - Infrastructure unable to support level of development, particularly water supply.
 - Affordable housing not being provided.
 - Feasibility of building affordable housing when the site will be so costly to develop.
 - No need for expensive housing in Aviemore.
 - Scant regard for ecological impacts of existing developments and this development would create its own ecological impacts, including loss of wildlife and possible erosion and water pollution.
 - The area is seen by many as a stunning spot of natural beauty.
 - Possible restricted access to properties while access construction is underway.
 - Need reassurance that the development will not affect the potential for flooding of the existing Milton Burn.
 - Building work this close to Milton Burn will pose a huge flood risk.
 - A large number of trees would have to be cut down which may affect the drainage of the existing primary school.
 - Density of housing is too high for such a small site.
 - To develop this site with so many houses would be out of proportion to the surrounding houses and would detract from the semi-rural feel and attraction to the area.
 - The previous application was refused.
 - The strength of public feeling regarding this area is well recorded.
 - The development would destroy the Old Mill (one of Aviemore's oldest buildings).
 - The area should be preserved along with the old mill in line with the first aim of the Park; currently the proposal is contrary to all the aims of the Park.
 - This area should be given the same level of protection that Milton Wood has been given.
 - Little space for the children of Grampian View to play currently and the proposed development would pose additional road safety issues.
 - Development seems to be going through prior to the CNPA Local Plan being adopted.
 - The current local plan is long out of date, and no longer relevant.

- With so many other more accessible sites currently being considered, why develop such a small, uneconomical site that has so much public opposition.
- A potential to decrease rental income from adjacent properties.
- Potential for increasing vandalism in Aviemore to get worse.

APPRAISAL

38. The first point to note is that this is an outline planning application for the principle of development on the site. The proposal had started life as an outline for specifically 30 dwellings but is now before the Committee seeking agreement to the principle of some residential development on the site. The plan showing 30 dwellings at fig 3 in this report is purely indicative of a possible layout.
39. As noted there has been a previous application on the site which also included a stretch of birch woodland to the south of this site where a number of plots were to be sited. This application was very controversial gathering a large number of objections. The application was refused and the developer did not appeal that decision. It is important to draw the distinction that the site being considered by this proposal does not include the birch woodland to the south. There are small areas of the site that are wooded particularly towards the south western side close to the Aviemore Orbital footpath. Trees would also need to be removed at the point of the site access, but otherwise the site on which the application is based is largely open grassland which rises towards its northern perimeter. It is also important to note that a further constraint on the site is the presence of a former mill as mentioned at the beginning of the report and in the response from Highland Council's Archaeology Unit.
40. A key issue is the fact that the site is part of a housing allocation in the Badenoch and Strathspey Local Plan (see figure 7). Many objections refer to the site being taken out of the CNPA Deposit Local Plan allocation for Aviemore and indeed it is the case that the site has not been specifically allocated for housing in the plan. However, it is shown as white land within the confines of the settlement boundary which could in theory allow for some form of development, whereas the woodland to the south is shown as protected open space. However, it is important to note that the CNPA Deposit Plan carries little material weight in current decision making on planning applications.
41. Given the above, I am required by the Town and Country Planning (Scotland) Act 1997 to make recommendations in line with the Badenoch and Strathspey Local Plan unless material considerations indicate otherwise. The plan leads me towards a recommendation, in principle, for housing development on the site. However, a number of 'other' relevant material considerations, including the aims of the Park have been introduced and expressed strongly by both local residents

and Aviemore Community Council. These concerns clearly warrant the fullest consideration.

42. The considerations brought by objectors relate to the value of the area for wildlife and also as an amenity area that is used for recreation by both residents and visitors alike. Concern is also raised regarding tree loss, potential loss of archaeological which is recorded as part of the National Monuments Record. The crossing of the burn/flooding and how the development relates to footpaths that are already on the ground, access to the site and the ability of Grampian road to take more traffic are also concerns.
43. As mentioned this application has resulted in a large number of objections when taken with the relative scale of the proposal by comparison with many housing development sites (including others in Aviemore itself). I am also mindful that when the earlier application was assessed it was considered under Highland Council's hearing procedure which included a visit for members of that Committee to acquaint themselves with the site and surroundings. In the light of this, I am taking the step of recommending that the CNPA Planning Committee make a formal visit to the site prior to determining the application. This will enable members of the Committee to have a clear understanding of the concerns raised by objectors.
44. The applicants have asked if the application can be dealt with as quickly as possible. There are some outstanding consultation responses on issues relating to flooding/drainage (SEPA), water supply/drainage (Scottish Water) and in relation to otters surveys (SNH) all of which are crucial to any final decision. I had initially intended to arrange a site visit prior to the application being brought before Committee today. However, under the CNPA standing orders the only way in which a site visit can be carried out is if it is decided to do so by the Planning Committee. Consequently, I am asking the Committee to agree to this to move the proposal forward. In the meantime officers will continue to consider the proposal and gain the outstanding consultation responses. Waiting until all these have been received and then recommending a site visit would incur more time delays for the applicants and drag out the time for the matter to be resolved for the considerable number of objectors. The intention would be to carry out the site visit within a short time of the committee date and bring the proposal before the planning meeting in early March.

RECOMMENDATION

That members of the Planning Committee resolve to carry out a SITE VISIT in order to:

Assist member's consideration of concerns raised by a high number of objections specifically in relation to:

- relationship between this and previous application
- path/access issues
- topography natural features/tree cover on/around the site
- look at position and extent of archaeological remains

Following this a final report will be brought to the next Planning Committee to determine the application.

Andrew Tait

Date 30 January 2008

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The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.