
CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:	
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Application for planning permission under Section 42 to vary Condition 22 of permission 2011/0177/DET to allow subdivision of the unit, allow a minimum of 60% trading floor area to be exclusively for the sale of convenience goods and allow up to 40% of the trading floor to include a range of comparison goods with no single comparison good occupying more than 40% of that area at land adjacent to the Winking Owl Grampian Road, Aviemore.	
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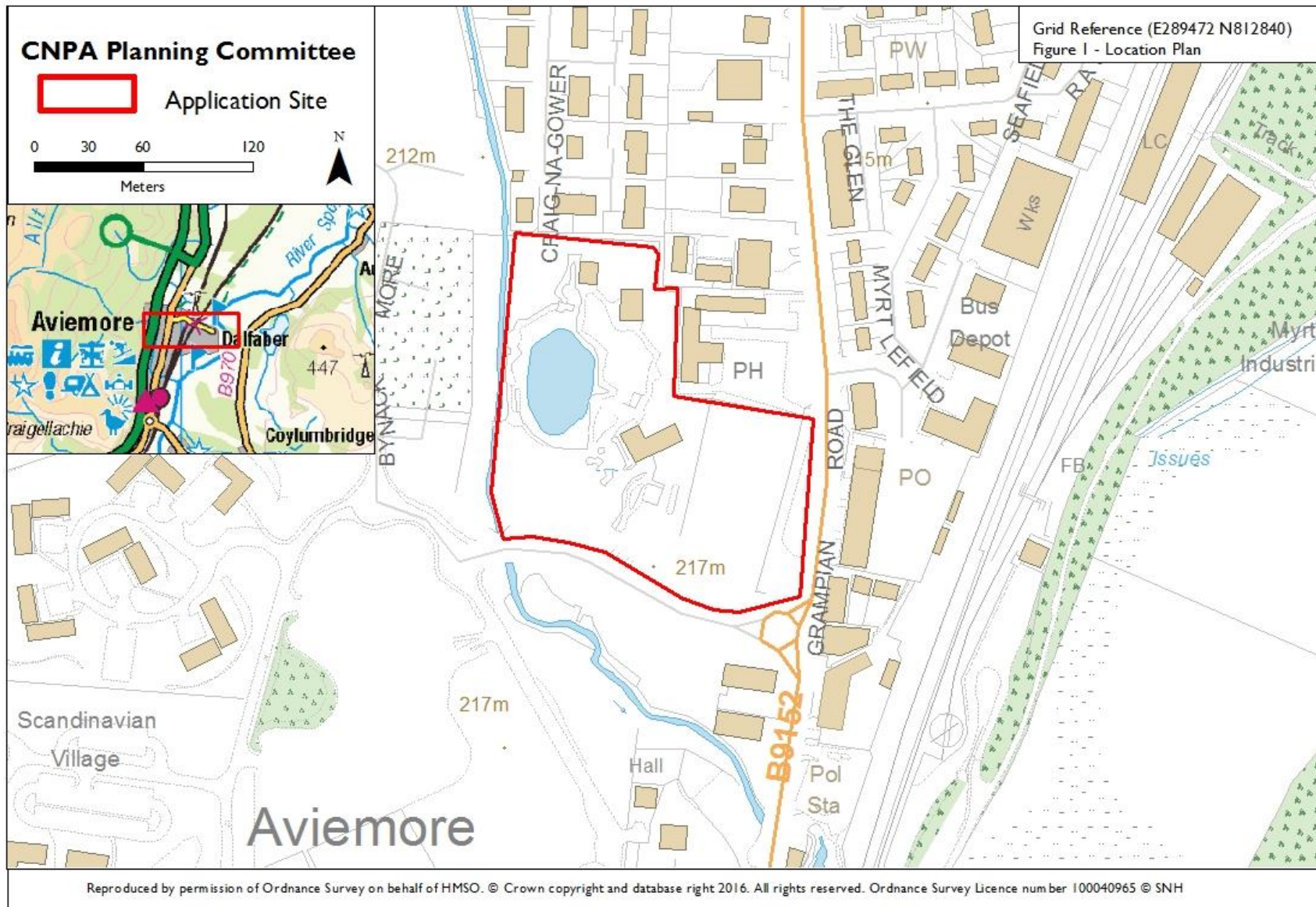
REFERENCE:	2016/0062/DET
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APPLICANT:	SC Aviemore Limited
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DATE CALLED-IN:	8 March 2016
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RECOMMENDATION:	APPROVE WITH CONDITIONS AND LEGAL AGREEMENT
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CASE OFFICER:	Katherine Donnachie, Planning Officer
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SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The application site comprises the former Santa Claus land, located beside Grampian Road, the main road into Aviemore. It has been vacant for some time, with permission granted in January 2014 to Tesco for a new retail store with associated car parking, servicing and landscaping. The site contains the various structures associated with the former Santa Claus land use, vegetation, trees and pond and is enclosed by a screen fence. Trees on the site are protected by a Tree Preservation Order.
2. The site is 2.4 hectares in size and is bounded to the east by Grampian Road with retail units on the other side of Grampian Road; to the south by a roundabout and public road leading westwards to existing housing and the Aviemore Highland Resort; and to the west by the Aviemore burn which leads into the River Spey Special Area of Conservation. There is new housing built to the west of the burn served by the link road mentioned above. To the north of the site lies the Winking Owl Hotel and more housing. The site location plan is contained within **Appendix I**.

Proposal

3. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:

<http://www.eplanningcnpa.co.uk/online-applications/#searchApplications>

Title	Drawing Number	Date on Plan	Date Received
Location Plan	2158(PL) 301 Revision A	10/02/2016	08/03/2016
Supporting Planning and Retail Information Report by Pritchett Planning Consultancy		April 2016	
Letter from Burness Paul LLP to London and Scottish Investments Limited (sensitive – not available on website)		04/02/2016	

Plans approved with original planning permission reference 2011/0177/DET

Title	Drawing Number	Date on Plan	Date Received
Location Plan	I538(PL)301	01/01/11	08/07/13
Existing Site Layout	I538(PL)302	01/01/11	08/07/13
Proposed Site Layout	I538(PL)303 REV H	01/01/11	18/09/13
Proposed Elevations	I538(PL)304 REV D	01/03/11	18/09/13
Proposed Sections	I538(PL)305	01/01/11	08/07/13
Proposed Roof Plan	I538(PL)306 REV B	01/01/11	18/09/13
Proposed Service Yard Plan	I538(PL)307 REV C	01/01/11	18/09/13
Proposed Boundary & Surface Treatments	I538(PL)308 REV D	01/01/11	18/09/13
Proposed ATM	I538(PL)309	01/02/11	08/07/13
Proposed Trolley Bay	I538(PL)310	01/01/11	08/07/13
Proposed Cycle Rack Details	I538(PL)311	01/02/11	08/07/13
Proposed Potential Public Realm Enhancements (Indicative)	I538(PL)312 REV A	01/01/11	29/03/12
Proposed Sections Around Existing Buildings	I538(PL)314 REV B	01/03/11	08/07/13
Context Sections	I538(PL)315 REV B	01/03/11	20/09/13
Demolition Plan	I538(PL)390	01/01/11	08/07/13
Proposed Landscape Layout (Indicative)	I594 NO.L01 REV F	21/09/09	29/03/12
Proposed Landscape Layout with Grampian Road Frontage (Indicative)	I594 NO. L02 REV A	28/03/12	29/03/12
Tree Survey	I594 NO. S01 REV A	25/11/09	05/07/11
Tree Survey Proportion of Native/Non Native Trees	I594 NO. S02	31/08/10	05/07/11
Landscape Design Statement	I594	23/01/12	29/03/12
Recycling Centre Typical Layout	E07.01.01 REV A	01/01/01	05/07/11
External Works Drainage Layout	I1060 REV B	08/10/13	20/09/13
Compensatory Flood Storage Assessment Report - MNV Consulting Version 3	GOOD001/1727V3	06/02/13	20/09/13
Flood Risk Assessment Report - MNV Consulting Version 4	GOOD001/1715	19/12/12	20/09/13
Flood Estimation Record - MNV Consulting Version 2	GOOD001/1670	19/12/12	20/09/13

Plans and documents approved in fulfilment of planning conditions imposed on original permission reference 2011/0177/DET

Title	Drawing Number	Date on Plan	Date Received
Barr Construction Management Plan for the discharge of Planning Condition No. 3		April 2014	30/01/2016
Barr Construction Management Plan for the discharge of Planning Condition No. 4		April 2014	
Site Waste management plan for Tesco Aviemore		02/02/2015	
Barr Construction: Construction Management and Traffic Method Statement		May 2014	09/09/204
Site Set Up Plan Initial Stage	GRA/SSP/001	26/05/2016	09/09/204
Noise Assessment of Proposed Tesco Development by Sharps Redmore	Project No. 1414409	27/08/2014	09/09/2014
Lighting plan	Drawing No. P169-747	01/07/2014	30/01/2015
Aviemore Northern Damselfly Translocation Plan	164019	20/05/2014	
Landscape Scheme	1693/L03 Revision E	30/07/2014	
Tree Management and Protection Plan Revision A	1594 Revision A	22 July 2014	
Draft Text for Interpretation Board Version 2		November 2014	
Environmental Performance Measures Report		July 2014	

4. This application seeks permission under the terms of Section 42 of the Town and Country Planning (Scotland) Act 1997 for variation or non-compliance with Condition 22 of the existing planning permission for full planning permission for a retail store on this site. (Reference 2011/0177/DET) ¹
5. Condition 22 was entitled “Retail Floor space Restriction” and stated as follows:

“The retail development hereby approved is limited to Class 1: Retail under the terms of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The trading

¹By way of clarification, Section 42 of the 1997 Planning Act sets out the process for seeking permission to develop land without complying with conditions previously attached. Effectively this is an application for the same development as previously granted, but with different planning conditions attached. The granting of a Section 42 application results in the issuing of a new stand-alone planning permission. The term “vary” has been used to describe the changes proposed with this application for the sake of simplicity but it is important to appreciate that the overall result of the proposed application if approved will be a new planning permission, not a variation.

floor of the store shall be on a single storey. A minimum of 75% of the trading floor area of the supermarket hereby approved shall be exclusively for the sale of convenience goods. The remaining 25% of the trading floor may in addition to convenience goods sell a range of comparison goods. No single range of comparison goods shall occupy more than 25% of the trading floor devoted to the sale and display of comparison goods and no sub-division of the unit is allowed to form separate retail stores.”

6. The reason for this condition was in order to retain an element of control over the non-food goods on sale, and therefore the impact of the supermarket on the vitality and viability of the retail offering in Aviemore and nearby settlements. A copy of the original planning permission is attached as **Appendix 2**.
7. The applicants wish to amend the terms of Condition 22 to allow for sub-division of the unit, allow for a maximum of 60% of the trading floor area to be exclusively for the sale of convenience goods and to allow for up to 40% of the trading floor area to include a range of comparison goods with no single comparison good occupying more than 40% of the that area. No specific wording for the revised condition has been put forward although officers have discussed the potential wording with the agent.
8. A supporting planning and retail statement was submitted in May 2016 to explain the reasons for this proposed change and to outline the impacts this will have on the existing town centre as compared to the original proposal. This supporting statement is attached as **Appendix 3**.
9. This statement explains that the applicants have purchased the site of the previously permitted Tesco store, which is not proceeding. Instead the applicants are seeking the relevant permissions to allow the site to be developed out as three separate retail stores. It explains that the overall footprint, massing, scale etc. will remain the same, as will the overall approach to car parking and site access, explaining that two applications have been lodged to enable this to happen and to allow consideration of the proposals without re-visiting the principle of retail development on the site.
10. This current Section 42 application seeks to vary Condition 22 to allow sub-division of the original unit and to allow for a different proportion of convenience and comparison goods. A second application, which was submitted to the Highland Council on 24 May 2016 seeks full permission for the physical changes to the approved building in order to alter it to three stores incorporating mezzanine floor space and associated infrastructure (Reference 16/02336/FUL) That application, involving relatively minor changes to the originally approved store, is to be determined by the Highland Council.
11. The statement also outlines the lengthy planning history of permissions granted for retail development on this site highlighting that the site lies within the village centre as defined in the 2015 Local Development Plan, whereby it should not be necessary to carry out a retail impact assessment. In particular it notes that the final 2011 application assumed that the existing Tesco store would be vacated and re-let to alternative retailers, whereby the current proposals would achieve the same end in that the existing Tesco store will now remain in operation and the current site will instead accommodate new retailers. Accordingly, Aviemore centre will continue to gain economically.

12. The supporting statement also highlights that the reason for Condition 22 restricting sub-division and type of goods sold was related to retaining an element of control over goods sold. It goes on to explain that the detailed proposal, as included in the second application (Reference 16/02336/FUL), intends to seek flexibility in the form of retail that can be accommodated on the site. As stated, the associated detailed layouts and arrangements are not part of the current application for changes to Condition 22 but are included in the recently submitted application for the minor physical changes.
13. This supporting statement also explains that (based upon the details contained in the accompanying application) although there will be more comparison goods floor space as a result of the change to Condition 22, the turnover of this floor space is likely to be less as it is likely to be operated by a discount general merchandise store with the footfalls and turnovers of such stores significantly less compared to supermarkets. It is highlighted that planning Condition 22 did not specify the amount of retail floor space in the store, simply the split between comparison and convenience goods.
14. It is submitted that allowing for the future sub-division of the store would be beneficial, allowing the site to be developed thus creating jobs and prosperity for Aviemore and helping to maintain spending locally. It further submitted that any impacts from new stores would be no different than had the existing Tesco store been occupied for other retail uses once the new store was built, with there being no restrictions on its future occupation and use.

History

15. An application for full planning permission was submitted for a Class I retail store with associated parking, servicing and landscaping in 2011. (Reference 2011/0177/DET) This application was considered at the April 2012 meeting of the Cairngorms National Park Authority Planning Committee when it was delegated to officers to approve subject to SEPA withdrawing their objection on flooding issues; planning contributions being agreed; and information being provided to SNH regarding prevention of sedimentation of the Aviemore Burn. These matters were concluded in 2013 and planning permission was issued on 22 January 2014. A copy of this decision notice is attached as **Appendix 2** as referred to earlier. This permission remains live.
16. Prior to this decision a number of other planning applications were determined on this site as summarised below:
17. 02/00007/OUTBS - Outline planning permission granted by the Highland Council for erection of supermarket on this site as part of the overall Aviemore Highland Resort development for housing, link road, supermarket, and landscaping.
18. 06/395/CP – Application for “approval of reserved matters” relating to the 2002 application, for the erection of a 2787 square metres supermarket and car park was granted by the CNPA following the Planning Committee meeting of December 2007. This involved the new supermarket building being located to the front of the site nearest to Grampian Road with car parking to rear.

19. 04/120/CP- Outline planning permission was also granted in April 2008 by the CNPA for a larger store of 4,180 square metres floor space following the Planning Committee meeting of December 2007. This application was supported by a retail impact assessment. At this time an application was also pending for retail development expansion at the existing Tesco store site, known as Laurel Grant site, and both sites were considered to be town centre sites.

20. The retail assessment was considered by an independent consultant for the CNPA and in the officer report to Committee it was concluded that taking account of the leakage and the overall volume of convenience expenditure in the catchment there was considered to be justification for a larger food store in Aviemore. Such a store was considered to be more convenient for local residents, reducing the need to travel out with the catchment for main food shopping and this in turn would convey environmental and transportation benefits.

21. It was also noted in the report to Committee that a comparison of expenditure and turnover suggested that as much as $\frac{3}{4}$ of comparison expenditure was being lost to centres out with the catchment, with the extent to which this leakage could be captured would depend on the type of goods being sold at the new development. For example it was considered that speciality/tourist retailing would be likely to have less of an effect in reducing leakage than mainstream retailing focussed on clothing, shoes and household goods.

22. 11/110/CP - Application to vary Condition 1 of the above 2004 outline planning application in order to extend the time period for the submission of a detailed application by a further three years was approved in June 2011.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	Scottish Planning Policy 2014	
	The provisions of Scottish Planning Policy promote the role of town centres setting out that planning for town centres should be flexible and proactive.	
Strategic Policy	Cairngorms National Park Partnership Plan 2012 - 2017	
Local Plan Policy	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	X
POLICY 3	SUSTAINABLE DESIGN	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	

POLICY 7	RENEWABLE ENERGY	
POLICY 8	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	X
POLICY 11	DEVELOPER CONTRIBUTIONS	

23. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at:

<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

24. The application site lies within the settlement boundary of Aviemore as designated in the Local Development Plan, and within the village core. The existing Tesco supermarket site is designated as ED4 - Employment Land with the supporting statement explaining that the current occupier has permission to relocate within Aviemore creating an opportunity to redevelop this key site within the village core. The statement outlines that new developments should create a live frontage to Grampian Road and help improve the choice and quality of retail provision within the village.

Planning Guidance

25. Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	X
Policy 3	Sustainable Design Non-Statutory Guidance	X
Policy 4	Natural Heritage Supplementary Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X
Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	X
Policy 11	Developer Contributions Supplementary Guidance	

CONSULTATIONS

26. A summary of the main issues raised by consultees now follows:
27. **The Highland Council (Transport Planning Team)** advised on the basis of the application as submitted that in this case a Transport Assessment would not be required. However, they wished to have comfort that the car parking requirements of the three stores now proposed are either the same or less onerous than for the supermarket. To consider this they requested information on the gross floor area of each unit, type of shop (food or non-food) and if any restaurants/cafes were proposed.

28. Following consideration of the applicants' supporting Planning and Retail Statement the Team confirmed that they are satisfied with the originally approved parking layout and the number of car parking spaces is adequate for this current application. They have no objections to the application.
29. **The Cairngorms Business Partnership** was consulted for their views on the proposals in relation to their role as representatives of the business community. Comment in relation to the potential impacts on the vitality and viability of the town centre was sought. They were re-consulted following receipt of the Planning and Retail Statement provided by the applicants. The Cairngorms Business Partnership has advised that the business community is supportive of appropriate development on the site.
30. **Aviemore Community Enterprise** was also consulted. No comment has been received to date from Aviemore Community Enterprise.
31. **Aviemore and Vicinity Community Council** advised in March 2016 that they were unable to view all material relating to the application but in terms of the limited information available they wished to support the application at that point in time, considering it would bring more variety and competition to the local market to the benefit of the public. They were re-consulted on the supporting statement provided by the applicants and responded offering the application full support highlighting that the submission clearly documents the economic benefits to Aviemore. They also query the need for this application to be called in, resulting in delays to a much needed development in Aviemore which has great public support. They have also requested to be heard at Committee. Their comments are attached as **Appendix 4**.

REPRESENTATIONS

32. The application has been advertised and no representations have been received.

APPRAISAL

Introduction

33. Section 42 of the 1997 Act provides a mechanism to apply for planning permission to develop land without complying with conditions previously attached. It sets out that the Planning Authority shall consider only the question of the conditions subject to which the planning permission should be granted. If the Authority decides that planning permission should be granted subject to different conditions than those of the previous permission (or that it should be granted unconditionally) then the Authority should grant planning permission accordingly. If the Planning Authority decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted (i.e. no changes) then they should refuse the application. Accordingly, the principle of this development is not being revisited, but rather the wording of the specific planning conditions upon which it was previously granted.
34. With Section 42 applications once the merits of proposed changes to the original planning conditions have been fully considered, and if it is agreed that revised planning

conditions are appropriate, then a new “standalone” planning permission can be issued. As the applicants can still choose to implement the original permission then it is necessary to ensure that all appropriate and necessary planning conditions are attached to the new permission as well as any legal agreements. The current permission remains live until January 2017. Unless an alternative time period was directed by the CNPA, any new permission granted would be subject to the standard three year time period from the date of the permission to make a start on site.

35. In this case the applicants are seeking to change the wording of one condition only; Condition 22. However, since the time of the original decision notice being issued information has been submitted, and approved, to discharge the requirements of numerous of the original planning conditions including information relating to the translocation of damselfly from the pond on site which was an important environmental consideration. It is therefore appropriate to re-visit the wording of all the planning conditions in order to issue an up to date decision notice that reflects the current situation and also reflects current practice in terms of wording of enforceable and effective planning conditions. This will be easier for any developer to implement as it will be clear what matters remain outstanding. It would also result in the need for fewer planning conditions to be attached.

Principle

36. The principle of retail development on this key site as Aviemore is well established by existing permissions and does not require to be revisited. However, consideration must be given to any changes in the Development Plan since the original planning permissions were granted. The original 2011 application was determined in the light of the Cairngorms Local Plan 2010. The adopted 2015 Local Development Plan does not introduce any significant changes to the policy background.
37. The key planning policy for the assessment of this application is Policy 2.1: Retail Development, which supports retail development where it is located using the sequential approach to site selection, with the sequence being (1) sites within identified town/village centres (2) sites within identified settlements and (3) out of settlement sites where the development supports economic vitality and viability of that community. The application site is located within the defined village centre as designated in the Local Development Plan, clearly complying with the principles of this policy.
38. Policy 2.1: Retail Development also sets out that development proposals should have no adverse effect on the vitality and viability of the settlement/centre, nor upon neighbouring properties. The application does not seek to change the approved development which has already been fully assessed in terms of impacts on neighbours and the environment. It simply seeks to enable the future sub division of the approved supermarket and also the proportions of convenience and comparison goods. It is therefore the potential impacts of these specific changes that required to be considered now.

Proposed Changes to Condition 22

39. At present the approved supermarket development is restricted by Condition 22 to a single unit with the proportion of comparison and convenience goods also controlled and the trading floor restricted to single storey. The proposed change to Condition 22 would remove the current restriction by subdividing the approved supermarket and allow for an increased amount of comparison goods to be sold – a further 15% of the trading floor area floor area taking it up to 40% from 25% - and therefore a corresponding reduction in the convenience goods being sold from 75% to 60%.
40. Whilst this proposed change would not in itself secure planning permission for any of the physical changes required to facilitate the sub-division, it would enable the supermarket to be split internally once built under the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which sets out that planning permission is not required for the subdivision of premises (other than houses) provided that both the existing and proposed uses fall within the same class. An application for the proposed physical changes is with the Highland Council to consider, as noted in the Proposal section of this report. Accordingly, the detail of any future changes to the layout and appearance of the building are not for consideration with this application. It is simply the principle of future sub-division and change to proportion of convenience and comparison goods that is for consideration.
41. A retail and planning statement has been submitted (**Appendix 3**) which explains why it is considered that this proposal will not have any adverse impacts upon the vitality and viability of Aviemore, but instead would be beneficial to the community providing additional services and enabling spend to be retained locally. This stance is borne out by the community and business support for the proposals as evidenced in the Community Council and Cairngorms Business Partnership consultation responses to the application, with no objections being received to the proposals following public advertisement.
42. The current proposal to enable the approved store to be split and a revised proportion of comparison/convenience goods to be permitted would make it easier to attract new retailers to the site and to Aviemore. Scottish Planning Policy makes it clear that planning for town centres should be flexible and proactive, enabling a wider range of uses which bring people into town centres, highlighting that the planning system should apply a town centre first policy when planning for uses which attract significant numbers of people, and this includes retail uses. As the application site is within the village centre of Aviemore it complies with this approach, with the proposed changes to Condition 22 helping to pave the way for more flexible use of the approved supermarket at this site.
43. It is considered that the applicants have made a satisfactory case for the changes (see **Appendix 3**) including highlighting a practical point that had Tesco relocated to the approved superstore this would have left their existing premises vacant for other retailers to move into with no restriction on the type of retailing, proportion of comparison/convenience or future sub-division. Accordingly there may well have been a variety of retail uses in the centre had that proceeded, whereby there is little change with the current proposal whereby Tesco remain in Aviemore and new retailers can move into the approved site. It is therefore considered that the proposed development complies with Local Development Plan Policy 2.1 Retail Development.

44. There are no technical, servicing or environmental issues arising from the proposed change which does not alter the approved supermarket or its layout/servicing. This planning permission would simply allow for the subdivision of the store and for both a greater range of retailers to enter the market and an increase in comparison goods to be sold. Any subsequent or pending applications for physical changes to the originally approved building will consider any technical issues at that time.

CONCLUSION

45. The CNPA through its LDP planning policies remains committed to supporting development of this key site within the designated village core of Aviemore. The retail impact assessment case for a supermarket on this site was successfully made back in 2007, with permission for the currently approved store granted in 2014. However, economic conditions have meant that this has not come to fruition.
46. Overall it is considered that the potential offered by the proposed changes for encouraging new retailers into Aviemore may help retain custom in the village, rather than losing it to the larger towns outwith the Badenoch and Strathspey area. This is likely to benefit the viability and vitality of Aviemore.
47. It is therefore considered that the proposed development accords with both local and national planning policies. Approval is recommended subject to revised planning conditions and a revised legal agreement to reflect the new planning permission that will be issued. As noted earlier the opportunity to update and reword the original 37 planning conditions to reflect information provided to discharge conditions and to allow for a more user friendly document has been taken. This would result in a reduction of planning conditions to 24 and a decision notice that provides more clarity to the future developers. As noted earlier it would also effectively extend the time period for making a start on site giving the developer a further three years to start from the issue of any decision notice. The present permission expires in January 2017 and it is considered entirely reasonable to allow the usual three year time period for this new permission to be implemented. An informative has been added to this effect to clarify the time period.

RECOMMENDATION

That Members of the Committee support a recommendation to: GRANT FULL PLANNING PERMISSION for an application for planning permission under Section 42 to vary Condition 22 of permission 2011/0177/DET to allow subdivision of the unit, allow a minimum of 60% trading floor area to be exclusively for the sale of convenience goods and allow up to 40% of the trading floor to include a range of comparison goods with no single comparison good occupying more than 40% of that area at land adjacent to the Winking Owl Grampian Road, Aviemore subject to the following conditions and also an updated legal agreement being signed by all parties to relate specifically to the current application reference.

48. Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development. Condition 18 relates specifically to the request to amend Condition 22 of the original planning permission 2011/0177/DET.

1. **No development shall commence until a revised landscaping plan has been submitted to and approved in writing by the CNPA acting as Planning Authority. This plan shall include details of phasing of landscaping, future maintenance, fencing and walling, including acoustic walling. Thereafter the approved scheme shall be implanted in accordance with the approved details during the planting season immediately following the commencement of the construction of the new store, unless otherwise agreed in writing with the CNPA acting as Planning Authority. The landscaping shall thereafter be maintained in accordance with the approved landscape scheme and any planting which within a period of 5 years from the completion of the development, in the opinion of the CNPA acting as Planning Authority, is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of a similar size and species to those originally required to be planted.**

Reason: To ensure that a good landscape setting is provided and maintained for the approved development in accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

2. **No development shall commence on site until details of the proposals for the area between the car park and Grampian Road, including specifications and costings for the works, have been submitted to and approved in writing by the CNPA acting as Planning Authority in consultation with Highland Council Roads Services. The scheme shall ensure that a safe and direct route for pedestrians and cyclists will be available between Grampian Road and the main entrance to the store, and that the layout does not prejudice the ability of the Cairngorms Farmers Market to use the public open space fronting Grampian Road. The agreed plan shall be implemented within 12 months of the first use of the development as a store unless otherwise agreed in writing with the CNPA acting as Planning Authority.**

Reason: To ensure that an enhanced landscape and public amenity open space setting is provided for the development and surrounding area, which also makes provision for links to the store and the ongoing operation of the Farmer's Market, in accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

3. **No development shall commence until details of the proposals for compensatory habitat for the loss of the existing pond on site have been submitted to and approved in writing by the CNPA acting as Planning Authority. These details to include provision of a pond on site with information on how material from the existing pond may be reused in the new pond provided. The agreed works shall be implemented in accordance with the approved plans/scheme before the development hereby approved is brought into operation. Details of the monitoring of the translocation of the**

invertebrate species from the existing pond (as per the approved Aviemore Northern Damselfly Translocation Plan dated May 2014) shall also be submitted to the CNPA as Planning Authority in accordance with the timetable and programme detailed in this approved plan and thereafter implemented in accordance with those approved details.

Reason: To ensure that adequate mitigation and monitoring information is provided for loss of existing pond which is of biodiversity interest in accordance with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

- 4. No development shall commence until a detailed site specific construction environmental management plan (CEMP) has been submitted to and approved in writing by the CNPA acting as Planning Authority in consultation with SEPA and SNH. This plan shall include details of the working practices to be followed to ensure there is no sedimentation of the watercourse. Construction work shall thereafter be carried out in accordance with the approved plan.**

Reason: To ensure that there is no pollution of watercourses of adverse impacts on the environment in accordance with Policy 4: Natural Heritage and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

- 5. No development shall commence until the following information is submitted to and approved by the CNPA acting as Planning Authority in consultation with the Highland Council Roads Service:**

**(a) details of the proposals for pedestrian access to the site including pedestrian crossings on Grampian Road and the northern link road;
(b) dimensioned car park layout, including finishes and surfacing;
Unless otherwise agreed in writing with the CNPA acting as Planning Authority The approved access, parking and turning details shall be implemented in accordance with the approved details prior to the first use of the development as a store and the approved parking/turning areas shall be retained for this use throughout the lifetime of the development.**

Reason: To ensure that adequate and safe parking, turning and pedestrian access arrangements are provided and maintained for the development in accordance with with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

- 6. No development shall commence on site until report detailing an assessment of the site for potential land contamination in accordance with British Standard BS 10175:2011+A1:2013 on the "Investigation of Potentially Contaminated Sites" (or any British Standard amending or replacing that British Standard), has been submitted to and approved in writing by the CNPA acting as Planning Authority in consultation with Highland Council Contaminated Land Team. Any remediation measures shall be carried out in accordance with the approved details before any construction work commences.**

Reason: To ensure that any potential impacts are identified contaminated material is dealt with appropriately in accordance with Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

7. No development shall commence on the construction of the store until a lighting plan for the entire site has been submitted to and approved in writing by the CNPA acting as Planning Authority in consultation with the Highland Council Roads and Environmental Health Services. This plan shall include details of design and height of lighting columns/bollards and equipment. The lighting shall thereafter be installed in accordance with the approved details prior to the first use of the development as a store, unless otherwise agreed in writing with the CNPA acting as Planning Authority.

Reason: To ensure that lighting from the development does not have any adverse impacts on residents of traffic users in the area from spillage of light, light pollution and dazzling in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

8. No development shall commence on the construction of the new store until samples/details of all proposed external materials, including trolley parks, bus stop and any passive air vents, have been submitted to and approved in writing by the CNPA acting as Planning Authority. The development shall thereafter be implemented in accordance with the approved details, unless otherwise agreed in writing with the CNPA acting as Planning Authority.

Reason: To ensure that the new development fits into the local area in terms of visual and landscape impact in accordance with Policy 3:Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

9. No development shall commence on the construction of the new store until details of the siting and design of a bus stop and real time enabled shelter to serve northbound bus services have been submitted to and approved in writing by the CNPA acting as Planning Authority in consultation with the Highland Council Roads Services. This provision to be implemented in accordance with the approved scheme prior to the first use of the development as a store.

Reason: To ensure that sustainable transport methods to the site are promoted and facilitated in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

10. Prior to the first use of the development as a store, all works to provide compensatory flood storage shall be completed in accordance with the approved scheme. Specifically, unless otherwise agreed in writing with the CNPA acting as Planning Authority in consultation with SEPA;

(a) the development shall proceed as per the layout shown in drawing number 1538(PL)303 Rev H 'proposed site layout' to ensure that the compensatory storage arrangements required can be implemented;

(b) the compensatory storage arrangements outlined in the report 'Compensatory Flood Storage Assessment' version 3 by MNV Consulting Ltd dated February 2013 shall

be implemented in full. This will include landscaping of areas shown shaded on drawing number 11060/500/Rev B by Goodson Associates entitled External Works Drainage Layout and;

(c) the areas of compensatory storage shall be created prior to landraising of areas within the functional floodplain to ensure there is no short-term loss of floodplain capacity during the construction phase.

Reason: To ensure that a suitable compensatory flood scheme is implemented on site to minimise any loss of flood plain storage as a result of the development in accordance with Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

11. Prior to the first use of the development as a store, a Travel Plan shall be submitted to and approved in writing by the CNPA acting as Planning Authority in consultation with the Highland Council Roads Service.

The Travel Plan shall accord with the requirements of the Travel Plan Framework contained within the Transportation Assessment dated May 2011 submitted with application 2011/0177/DET, including the appointment of a suitable Travel Plan Coordinator and the introduction of measures to ensure effective monitoring, review and marketing of the plan. All measures and proposals shall be implemented in accordance with the approved Travel Plan within 12 months of the first use of the development as a store, and monitored thereafter in accordance with the approved Plan, unless otherwise agreed in writing with the CNPA acting as Planning Authority.

Reason: To ensure that sustainable transport methods to the site are promoted and facilitated in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

12. Full details of the siting of 12-15 bird boxes and 2 bat boxes on site shall be submitted to and approved in writing by the CNPA acting as Planning Authority and the approved boxes shall thereafter be implemented in accordance with the approved scheme prior to the first use of the development as a store.

Reason: To ensure that the effects of the development on biodiversity are adequately mitigated in accordance with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

13. Full details of a scheme detailing the arrangements for segregation, storage and collection and management of business and commercial waste from this use shall be submitted to and approved in writing by the CNPA acting as Planning Authority. These waste management arrangements shall thereafter be implemented in accordance with the approved scheme prior to the first use of the development as a store.

Reason: To ensure that waste is managed in a sustainable manner in accordance with Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

14. Prior to the first use of the development as a store, visibility splays shall be provided and maintained on each side of each road junction. These splays are the triangles of ground bounded by the first x metres along the centreline of the minor road (the x dimension) and the nearside edge of the main road (the y dimension) measured in either direction from the intersection with the access road. The visibility splays are as follows (a) at the junction of the main access road and the Aviemore Highland Resort North Link road, visibility splays of 4.5 metres x 70 metres shall be provided and maintained (b) at internal road junctions, visibility splays of metres 4.5 metres x 30 metres shall be provided and maintained.

Within the visibility splays nothing shall obscure visibility between a driver's eye height of 1.05 metres positioned at the x dimension and an object height of 0.6 metres anywhere along the y dimension and these splays shall be maintained throughout the lifetime of the development.

Reason: To ensure that adequate and safe access arrangements are provided, with adequate visibility maintained for the development in accordance with with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

15. Prior to the first use of the development as a store a parking management plan shall be submitted to and approved by the CNPA acting as Planning Authority in consultation with the Highland Council Roads Service. The parking management plan shall thereafter be implemented in accordance with the approved details during the operation of the development.

Reason: To ensure that adequate and safe parking arrangements are provided and maintained for the development in accordance with with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

16. All drainage measures shall accord with SUDS principles and shall be completed, with appropriate design and check certification to demonstrate compliance with the requirements of SEPA, Scottish Water and the Highland Council submitted to and approved by the CNPA acting as Planning Authority in consultation with Highland Council Roads and Flood Prevention Teams prior to the first use of the development as a store.

Reason: to ensure that arrangements for disposal of surface water are completed to a satisfactory standard in accordance with sustainable urban drainage systems principles and Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

17. Prior to the first use of the development as a store, a sales floor plan showing the split between comparison and convenience goods shall be submitted to and approved in writing by the CNPA acting as Planning Authority. Unless otherwise agreed in writing by the CNPA acting as Planning Authority this split shall reflect the requirements of Condition 18 and the development shall be implemented in accordance with the approved plan.

Reason: In order to retain an element of control over the non-food goods on sale and minimise the impact of the development upon the vitality and viability of the retail offering in Aviemore and nearby settlement in accordance with Policy 2: Supporting Economic Growth of the Cairngorms National Park Local Development Plan 2015

18. The retail development hereby approved is limited to Class 1: Retail under the terms of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any Order revoking or re-enacting that Order). Unless otherwise agreed in writing with the CNPA acting as Planning Authority the trading floor of the store shall be on a single storey. A minimum of 60 % of the trading floor area of the supermarket hereby approved shall be exclusively for the sale of convenience goods. The remaining 40 % of the trading floor may, in addition to convenience goods, sell a range of comparison goods. Unless otherwise agreed in writing by the CNPA acting as Planning Authority no single range of comparison goods shall occupy more than 40% of the trading floor devoted to the sale and display of comparison goods.

Reason: In order to retain an element of control over the non-food goods on sale and minimise the impact of the development upon the vitality and viability of the retail offering in Aviemore and nearby settlement in accordance with Policy 2: Supporting Economic Growth of the Cairngorms National Park Local Development Plan 2015.

19. Trees shown for retention on the approved Tree Management and Protection Plan Revision A dated 22 July 2014 shall be retained and protected in accordance with the details outlined in the approved plan throughout the lifetime of the development unless otherwise agreed in writing with the CNPA acting as Planning Authority. Trees shown for retention on the approved plan shall be protected by chestnut paling fencing erected around the extremities of the crowns of these trees to the satisfaction of the CNPA acting as Planning Authority and in accordance with British Standard BS5837: Trees in Relation to Construction (or any British Standard amending or replacing that British Standard). No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas unless otherwise agreed in writing with the CNPA acting as Planning Authority and no fires shall be started in a position where flames could extend within 5 metres of foliage, branches or trunks.

Reason: To ensure that trees which will help to create a good landscape setting for the new development, as well as support biodiversity are retained and protected in accordance with Policy 3: Sustainable Design, Policy 5 :Landscape and Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

20. Unless otherwise approved in writing by the Cairngorms National Park Authority acting as Planning Authority construction works shall be undertaken in accordance with the details contained within the approved Construction Management Plans entitled "Barr Construction Management Plan for the discharge of Planning Condition No. 3" dated April 2014; "Barr Construction Management Plan for the discharge of Planning Condition No. 4" dated April 2014 and accompanying site waste management plan; and "Barr Construction: Construction Management and Traffic Method Statement" and accompanying plan entitled "Site Set Up Plan Initial Stage" drawing no. GRA/SSP/001

dated May 2014. All vehicles relating to the construction works and construction workers shall be parked within the application site.

Reason: To ensure that impacts upon residents in area (including from noise, dust and traffic movements) are minimised, and that the construction works do not cause environmental harm from surface water run-off and management of waste streams, in accordance with Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

21. Unless otherwise approved in writing by the Cairngorms National Park Authority acting as Planning Authority, the development shall be operated in accordance with the measures contained within the approved report entitled "Noise Assessment of Proposed Tesco Development" by Sharps Redmore dated 27 August 2014,. In addition the design and installation of any plant, machinery or equipment shall be such that any associated noise complies with Noise Rating Curve 25 when measured and/or calculated within any nearby noise sensitive dwelling, and that no structure borne vibration is perceptible within any nearby noise sensitive dwelling.

Reason: To ensure that impacts upon residents in the area arising from noise from the operation of the premises is minimised in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

22. Unless otherwise agreed in writing with the CNPA acting as Planning Authority, within 6 months of the first use of the development as a store, environmental interpretation information shall be provided on site in accordance with the approved details entitled Draft Text for Interpretation Board Version 2 dated November 2014 to Mike Coleman.

Reason: To provide information to the public on the mitigation achieved for loss of habitats in accordance with Policy 4: Natural Heritage and Policy 9: Cultural Heritage of the Cairngorms National Park Local Development Plan 2015.

23. Unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority the development shall be constructed in accordance with the approved Environmental Performance Measures Report dated July 2014.

Reason: To ensure that the development is sustainably designed to minimise the effect on climate change in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

24. Unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority there shall be no vehicle deliveries to the store outside the hours of 0700 hours to 2200 hours on any day and the opening hours of the store shall be restricted to 0700 hours to 23:00 hours Monday to Saturday and 0900 hours to 2100 hours on Sundays.

Reason: To ensure that impacts upon residents in the area from disturbance caused by vehicles and customers is minimised in accordance in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015

Informatives:

1. In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of three years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
2. In accordance with the Wildlife and Countryside Act 1981 as modified by the Nature Conservation (Scotland) Act 2004, you are advised that pre-construction checks for red squirrel should be carried out before work commences on site. Under the same provisions pre-construction checks for breeding birds should be carried out if work is to commence during the breeding bird season and these should cover vegetation, trees and any buildings/structures on site.
3. You are advised that it is the developers' responsibility to meet the costs of the introduction of any formal parking restriction that may be deemed necessary to maintain the safety and free flow of traffic on the public roads surrounding the application site.
4. Construction work (including the loading/unloading of delivery vehicles, plant or other machinery) should not take place outwith the hours of 0700 hours to 1800 hours Mondays to Fridays, 0800 hours to 1300 hours on Saturdays or at any time on Sundays or Bank Holidays in order to minimise disturbance to residents in the area.
5. In relation to Condition 1 (landscape scheme) you are advised that the previously prepared landscape scheme drawing no. 1693/L03 Revision E dated 30 July 2014 is considered to be generally satisfactory subject to provision of additional material on the design of fencing, boundaries and acoustic fencing.
6. In relation to Condition 10 (lighting plan) you are advised that material provided in the lighting plan Drawing No. P169-747 is considered to be generally satisfactory subject to provision of additional material on the design and height of proposed lighting bollards and columns.
7. In relation to Condition 11 (samples) you are advised that material provided with Phil Pritchett Planning e mail of 30 January 2015 is considered to be generally satisfactory subject to provision of information on roof vents, bus stop and trolley park.
8. In relation to Condition 20 (construction management plans) you are advised to inform all neighboring residents who are likely to be affected by the construction works of the proposed timescales of works and the intended site operations and to contact SEPA's regulatory team regarding the need to attend any visits to review de-watering proposals. SEPA's contact number is 01343 547663.
9. You are advised that full details of any works within or alongside any adopted public roads must be agreed with The Highland Council, as local roads authority. All such works will require the prior permission of the roads authority in the form of Road Construction Consent or Road Opening Permit.

10. Prior to the commencement of development, a notice of the intended date of initiation of development shall be submitted to the CNPA acting as Planning Authority and such notification shall contain the information set out in the 'Notification of Initiation of Development Notice as appended, pursuant to Section 27A(1) of the Town and Country Planning (Scotland) Act 1997.
11. Following the completion of the development, a notification of the completion shall, as soon as practicable, be submitted to the CNPA acting as Planning Authority and such notification shall contain the information as set out in the 'Notification of Completion of Development' Notice as appended, pursuant to Section 27B(1) of the Town and Country Planning (Scotland) Act 1997.

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.