
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(PLANNING OFFICER,
DEVELOPMENT MANAGEMENT)**

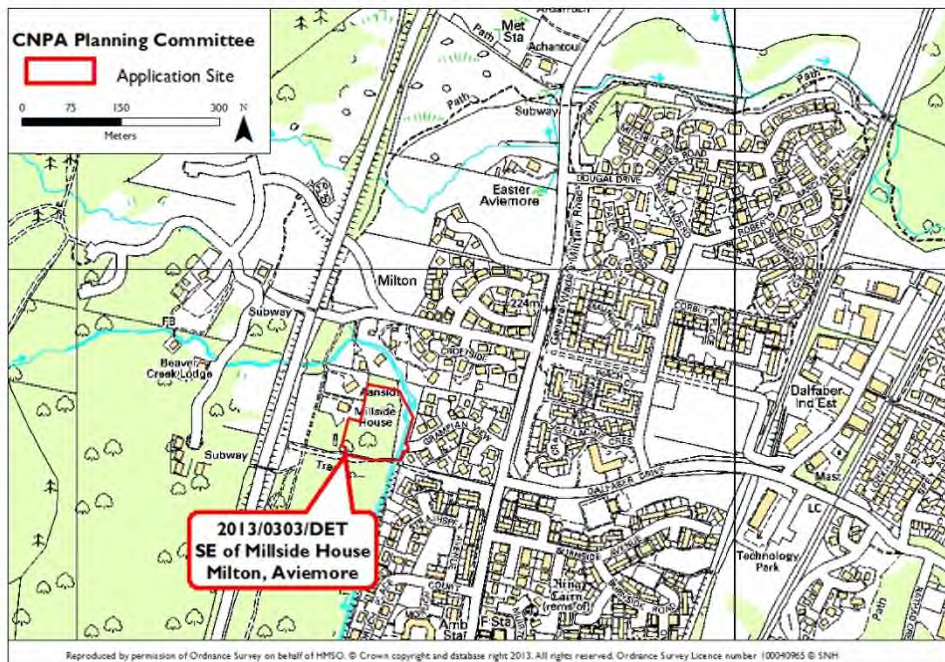
DEVELOPMENT PROPOSED: APPLICATION SUBMITTED UNDER SECTION 42 TO VARY CONDITION 6 OF PLANNING PERMISSION GRANTED ON APPEAL ON LAND SOUTH EAST OF MILLSIDE HOUSE, MILTON AVIEMORE

REFERENCE: 2013/0303/DET

APPLICANT: ALLAN MUNRO CONSTRUCTION LTD

DATE CALLED-IN: 23 SEPTEMBER 2013

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS



Grid reference: 289454 E 813758 N

Fig. I - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The application site is located to the east of the A9 towards the northern end of Aviemore and the area to be developed comprises 0.84 hectares of land. It is bounded to the east by Aviemore Burn (alternatively known as Milton Burn), to the south by the Aviemore orbital path, and to the west by a sloping site containing the remains of a former grain mill and two detached dwellings. The area to the north rises gently towards two further detached dwellings. Access to the site is via Grampian Way through an established residential area and across the Milton Burn.
2. This application seeks to amend Condition 6 of Planning Permission granted on appeal (ref: PPA-001-2003) for the erection of 25 houses and the formation of an access road on land to the south east of Millside House, Aviemore. In this approved scheme twenty four housing units would be accessed via Grampian Way over a new bridge/culvert and a single house to the south of Millside House would be accessed via a private lane from the north of the site. Condition 6 concerns the finished floor levels of the proposed dwelling houses and was imposed by the reporter following advice received from SEPA. The minimum floor level considered acceptable at the northern end of the site was 222.7m AOD and 219.7m AOD at the southern end of the site. The condition states that the finished floor levels should accord with the approved layout Drawing No. L (00)011 revision H prepared by Austin Smith Lord (architects).
3. Following the grant of planning permission at appeal in September 2010 the sloping ground to the west of the development site containing the former mill and the proposed plot for a single detached dwelling house has been sold off. The actual number of houses to be constructed by the current developer will therefore be 24 and access will be via Grampian Way.
4. A supporting statement explains that the levels in the scheme approved at appeal would have been calculated on the basis of limited technical information available at the early design stages of the project. A new design team comprising Bracewell Stirling Consulting (Architects) and Cameron and Ross (Engineers) were appointed to work on detailed design including: roads, drainage, access, retaining structures and flood protection. This process established that the levels approved were not deliverable. The current application therefore seeks to amend the finished floor levels of the dwellings where the minimum at the southern end of the site will be 220.75m AOD and the minimum at the northern end of the site will be 222.70m AOD.
5. An application has therefore been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary the terms of Condition 6. This is a mechanism that allows an application to vary a specific issue controlled by condition. There is no scope to review the principle of the application during this process.



Fig 2 - Amended layout drawing (ref: 3918/02/003 Rev J)

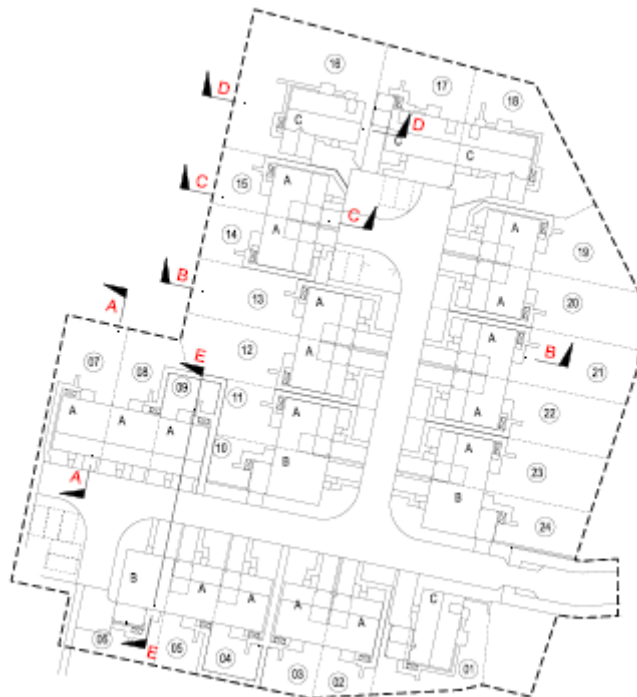
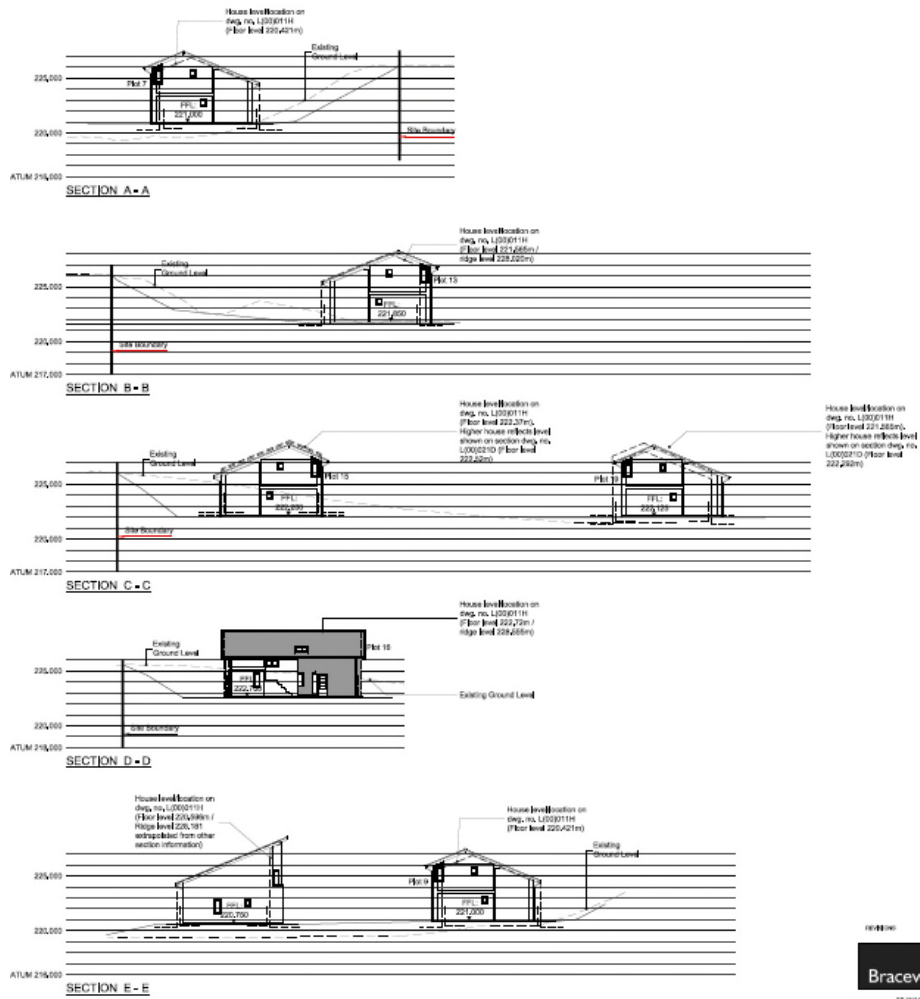


Fig 3 - Cross sections through site



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NEW HOUSING
 MILTON BURN, AVIEMORE
 ALLAN MUNRO CONSTRUCTION LTD

SITE SECTIONS

SCALE	1:200	DATE	06/13	BY	BW/SBS
DWG NO	3918 / 01 / 002	REV			

Fig 4 Cross Sections

6. The cross section drawings in Fig 4 illustrate the changes in finished floor levels and the consequent changes in heights of buildings. A table forming part of the drawing compares the changes between the scheme approved at appeal and the amended levels proposed in the current scheme (Fig 5).

Plot no.	Proposed by Cameron and Ross (C and R)	Approved Scheme by Austin Smith Lord (ASL)	Difference between C and M and ASL
1	221.000	220.596	0.404
2	220.950	220.596	0.354
3	220.950	220.596	0.354
4	220.750	220.596	0.154
5	220.750	220.596	0.154
6	220.750	220.596	0.154
7	221.000	220.421	0.579
8	221.000	220.421	0.579
9	221.000	220.421	0.579
10	221.350	220.795	0.555
11	221.350	220.795	0.555
12	221.850	221.565	0.285
13	221.850	221.565	0.285
14	220.200	222.370	-0.170
15	222.200	222.370	-0.170
16	222.700	222.720	-0.020
17	222.700	222.720	-0.020
18	222.700	222.720	-0.020
19	222.125	221.565	0.560
20	222.125	221.565	0.560
21	221.700	221.565	0.135
22	221.700	221.565	0.135
23	221.400	220.795	0.605
24	221.400	220.795	0.605

Fig 5 – Comparison of finished floor levels measured at metres above ordnance datum (AOD) i schemes proposed by Cameron and Ross (engineers for current proposal and Austin Smith Lord (architects for approved scheme)

BACKGROUND

7. Planning permission was granted subject to conditions on 23 September 2010 following an appeal against the refusal of a planning application for the erection of 25 dwellings and the formation of an access road on the site of the current application including an area to the west but not being developed by the applicant. The appeal was upheld on the basis that the land had been identified for housing in the Badenoch and Strathspey Local Plan 1997, that outline planning permission had been granted for housing development and that Cairngorms National Park Authority resolved to grant planning

permission for a similar scheme comprising 22 houses in 2010. The reporter accepted the principle of housing on the site and accepted the increase from 22 units to 25 as it was considered that there were no issues in terms of design, siting or form that would be contrary to development plan policies.

8. It was noted that the outline permission was significantly constrained by SEPA flood prevention requirements for finished floor levels and the exclusion for the former grain mill from development. The proposed court yard type development was considered to be an attractive design solution and that Aviemore has a number of similar schemes. The reporter noted that one of the key design features was mono pitch roofs giving two storey street elevations and single storey rear elevations. It was considered that this design feature would minimise the scale and visual impact of the proposed development when viewed from outwith the site. In summary the reporter considered that the design would integrate well into the character and appearance of the surrounding landscape and built environment.
9. The scheme 25 house was granted subject to a number of conditions. The developer submitted a range of material to discharge a number of conditions over a period from June to August 2013. This information included: plans concerning proposed tree removal; a landscaping scheme; a scheme for the maintenance of all green spaces, facilities, communal areas, estate lighting and elements of surface water drainage regimes not maintained by Scottish Water or Highland Council; a report for the evaluation of archaeological features; samples of external materials; road layout and access details (including geometry, sectional profiles, construction and visibility conformity and connection to the orbital footpath); a construction method statement; and, SUDS details for the surface water run-off from buildings and roads. The relevant conditions were discharged on 22 August 2013. Condition 6 required compliance with specific finished floor levels and confirmation of compliance was requested. The developer subsequently explained that it was not possible to comply with this requirement due to drainage and road geometry considerations, and it became necessary to make a formal planning application under Section 42 to vary the terms of the condition.
10. Condition 9 required all proposed in river work to be carried out between 1 June and 30 September. The developer has now completed this work which includes the bridge/culvert over the Milton Burn.

DEVELOPMENT PLAN CONTEXT

National Policy

11. **Scottish Planning Policy (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:

- (a) The constraints and requirements that planning imposes should be necessary and proportionate;
 - (b) The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - (c) There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.
12. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should “operate in support of the Government’s central purpose of increasing sustainable economic growth.” Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth. **SPP** includes ‘subject policies’, which are applicable to the proposed development. These include economic development, rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of relevant subject policies.
13. **Economic Development:** Planning authorities are expected to respond to the diverse needs and locational requirements of different sectors and sizes of businesses. The planning system is encouraged to support economic development in all areas by supporting development that will provide new employment opportunities and enhance local competitiveness, and promote the integration of employment generation opportunities with supporting infrastructure and housing development. Planning authorities are also expected to ensure that new development safeguards and enhances an area’s environmental quality and where possible promotes and supports opportunities for environmental enhancement and regeneration. Authorities are also encouraged to adopt a proactive approach to encouraging the reuse of buildings and previously developed land.
14. **Housing:** The planning system is required to enable the development of well designed, energy efficient, good quality housing in sustainable locations. In terms of the ‘Location and Design of New Development’ it is advised that new housing development should be integrated with public transport and active travel networks rather than encouraging dependence on the car.
15. **SPP** advises that the density of new development should be determined in relation to the character of the place and its relative accessibility. **SPP** also recognises that through good design it is possible to achieve higher density living environments without overcrowding and the loss of amenity.

Strategic Policies

Cairngorms National Park Partnership Plan 2012 – 2017

16. The Cairngorms National Park Partnership Plan 2012 – 2017 is the management plan for the National Park for the next 5 years. It sets out the vision and overarching strategy for managing the Park and provides a strategic context for the Local Development Plan. Three long term outcomes have been identified to deliver the vision for the Par. These are designed to deliver the four aims of National Parks in Scotland and include:

- (a) A sustainable economy supporting thriving businesses and communities;
- (b) A special place for people and nature with natural and cultural heritage enhanced; and
- (c) People enjoying the park through outstanding visitor and learning experiences.

17. Specific policy priorities to help deliver the long term outcomes of the Partnership Plan that are relevant to a new build development within an urban area include:

Policy 1.2 seeks to enable sustainable patterns of settlement growth, infrastructure and communications by (a) consolidating the role of Aviemore, Ballater, Grantown-on-Spey, Kingussie and Newtonmore as well as a new community at An Camas Mor, as the most sustainable places for future growth and the focus of housing supply while maintaining the integrity of designated sites.

Policy 2.8 seeks to enhance the design and sense of place in new development and existing settlements by (a) enabling new development which contributes positively to the sense of place, (b) promoting a high standard of sustainable design, energy efficiency, sustainability sourced materials and construction in new development, and (c) supporting the retention and character of local character.

Highland Council Structure Plan (2001)

18. The Highland Council Structure Plan is founded on the principles of sustainable development, which are expressed as:

- (a) Supporting the viability of communities;
- (b) Developing a prosperous and vibrant local economy; and
- (c) Safeguarding and enhancing the natural and built environment.

Section 2.2 focuses on the subject of housing. It recognises that the “availability of quality housing is fundamental to social and individual well being and to creating and maintaining balanced communities.” The Plan also states that adequate provision of housing is a pre-requisite.

Section 2.14 considers landscape and states that: “no other attribute of Highland arguably defines more the intrinsic character and nature of the area

than its landscape.” The plan recognises that landscape is not a static feature and that the protection and enhancement of landscape and scenery must be positively addressed.

19. Specific policies relevant to the current application include:

Policy L4 Landscape Character states that “the Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals.”

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.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

20. All new development proposals require to be assessed in relation to policies contained in the adopted local plan. The full wording of policies relevant to the current application can be found at: <http://cairngorms.co.uk/park-authority/about-us/publications/?publicationID=265>. Relevant policies are summarised below:

Policy 16 – Design Standards for New Development: sets out design standards to be met in new developments and is supported by Supplementary planning guidance in the form of the Sustainable Design Guide.

Policy 6 – Landscape: stipulates that there will be a presumption against development which does not conserve and enhance the landscape character of the National Park unless any significant adverse effects are outweighed by social or economic benefits of national importance and all adverse effects can be mitigated.

Policy 20 – Housing Development within Settlements: supports proposals within settlement areas where the development is compatible with existing and adjacent land uses and comprises infill development, conversion, small scale development, and use of derelict or underused land or the redevelopment of land. Proposals should reinforce and enhance the character of the settlement and accommodate within the site appropriate amenity space parking and access arrangements.

Supplementary Planning Guidance (SPG)

21. **Sustainable Design Guide:** The SPG Sustainable Design Guide requires the submission of a Sustainable Design Statement with planning applications. It is intended that applicants would use the Sustainable Design Statement to demonstrate how standards set out in the Sustainable Design Checklist will be achieved. One of the key sustainable design principles referred to in the document is that “future development in the Park should be sensitively located, reflect existing development pattern and setting, and respect the natural and cultural heritage of the Park.” Developments are also required to reflect traditional materials and workmanship, and take on board innovation, contemporary design and the emergence of modern methods of construction

CONSULTATIONS

22. **Aviemore and Vicinity Community Council** – No objection
23. **Highland Council TEC Services** – No objection and confirmation that the SUDS details submitted by the developer’s agent accord with SUDS principles.
24. **SEPA** – Stated that they have no objection to the application to vary condition number 6 to modify finished floor levels on flood risk grounds. It is noted that the majority of the new finished floor levels are higher than those previously proposed and therefore likely to decrease in overall flood risk at the site. The finished floor levels of plots 14 – 18 will be lower than previously proposed but SEPA are satisfied that the changes are unlikely to have a significant impact on flood risk at these plots. The letter goes on to take the opportunity to highlight that when previously consulted on this development in 2009 SEPA maintained an objection on the grounds of insufficient information as the Flood Risk Assessment for the site did not evaluate the impact of the proposed watercourse crossing. In response to this point the agent submitted calculations prepared by Cameron and Ross (Engineers) and these were passed on to SEPA for information. It should also be noted that in a subsequent application (10/062/CP), SEPA raised no objection.

REPRESENTATIONS:

25. The proposal was advertised in the Strathspey and Badenoch Herald on 26th September 2013. One representation was received in response to neighbour notification/publicity. The reasons for objection can be summarised as follows:
 - (a) Objection to the change in finished floor levels if it results in the final ridge heights being higher than the original planning permission.

- (b) The objector's Garden boundary will be bounded by six properties and 9 – 10 will be within earshot - raising the levels will bring noise levels closer.
- (c) The houses are now defined as two storeys whereas before they were 1.5 storey. Has the house design changed?
- (d) There are no side elevations or cross sections published with this application. It is therefore concluded that the proposed changes will have a major impact on tenants of the objector, his business and his own situation.
- (e) It appears that the hydrobrake system proposed in the Halcrow drawings (*engineers for the scheme granted at appeal*) that controlled the flow of surface water into the burn is no longer being utilised. Is this the reason that the road level is being raised rather than the previous calculations being incorrect?
- (f) One of the previous planning concerns related to allowing surface water to freely flow into the burn without any form of attenuation or control, giving rise to potential flooding downstream.
- (g) Concern is raised about possible flooding of the orbital path to the south of the site and it is doubted whether the culvert under the orbital path will cope.
- (h) Concern is raised about the height of proposed buildings where they border the orbital path.
- (i) Concern is also raised about a process that allows planning permission to be obtained on the basis of false data.

26. A further email from the objector states:

- (a) "Primarily, is the change in FFL only necessary because the previously proposed drainage system is no longer being utilised? The original proposal used a system that collected surface water and dispersed into the burn at a controlled rate, preventing water surges into the burn. This has changed to a standard gravity fed drainage system that allows surface water to flow freely into the burn. If the original FFL is technically achievable with the originally proposed drainage design, then should this not be enforced to satisfy condition 6 of the appeal notice?"

The reasons for objection are taken into account in the following appraisal.

APPRAISAL

Principle

27. The principle of housing development was established by the granting of outline planning permission in 2008 and the inclusion of the site in the Badenoch and Strathspey Local Plan 1997. A planning application for 25 houses (ref: 09/153/CP) was refused in February 2010 but successfully appealed in September 2010 (ref: PPA-001-2003). An application for 22 houses was to be recommended for grant but this application was withdrawn

(10/062/CP). The principle of housing development has been established on this site and it can therefore be considered to be in compliance with the terms of Cairngorms National Park Local Plan Policy 20 – Housing Development within Settlements. The current application seeks to amend Condition 6 of the scheme granted on appeal.

Design and Layout

28. The layout approved at appeal (Austin Smith Lord drawing No. L (00)011 revision H) determined the position of the proposed dwellings and set the finished floor levels. An amended layout drawing (3918/02/003 Rev J) prepared by Bracewell Stirling Consulting (Architects) adjusts the position of some dwellings by a very marginal amount and based on a re-evaluation of the site by engineers Cameron and Ross proposes adjusted finished floor levels. The changes are explained in a supporting drawing illustrating cross sections through the site. A summary table compares the levels of the approved scheme with the levels now proposed. In terms of design and layout the scheme is very close to the original scheme and meets the requirements of a housing development in terms of access road, parking, design and materials etc. With the exception of Condition 6, submissions to discharge conditions were approved by CNPA in a letter dated 23/09/13. The cross sections and comparison table indicate that the largest increase in finished floor levels will be up 605 millimetres higher on two plots and the levels will be reduced by 170 millimetres on two plots. Overall, five plots will have lower finished floor levels but the remaining 19 will all be higher. The impact in terms of design will mean higher ridge levels over most of the site. The ridge levels of nine plots will increase by around half a metre and the remaining increases will range from 135 millimetres to 404 millimetres. Despite the increase in height it should be borne in mind that the site is set against a backdrop which rises up to the A9 where mature trees act as a barrier between the road and Aviemore. The design and layout otherwise remain the same as the approved scheme and it is therefore considered that the visual impact of the increase in heights will be minimal. The CNPA Landscape officer has considered the application and noted that the proposed increase in finished floor levels across the majority of the houses in the development (maximum 600mm) will make little, if any visible difference to the way the grouping of houses reads within the contained landscape setting.

Flooding and Surface Water Drainage

29. SEPA and Highland Council TEC Services were consulted on the proposed revision to the finished floor levels.
30. SEPA confirmed that they have no objection to the amended levels. It was noted that the majority of new finished floor levels are higher than previously approved but that the levels for 5 units are slightly lower. They confirmed that the changes are unlikely to have a significant impact on flood risk at these plots.

31. SEPA raised concern during consultation on an earlier application (ref: I0/062/CP) with regard to the proposed SUDS system. It was agreed that run off from buildings would be into plot soakaways and that surface water from roads would be to soakaways and then to a swale which would eventually discharge into the Milton Burn, providing two levels of treatment. An objector to the current application raised concern about the current application and questioned the change to the proposed SUDS system.
32. In response to this objection Cameron and Ross engineers prepared a statement which explains the reasoning for the amended drainage scheme. This statement explains that the proposed system varies from the previous scheme designed by Halcrow and that Cameron + Ross altered the road levels and Finished Floor Levels as part of their engineering review to meet the requirements of the Flood Risk Assessment, Highland Council's road guidelines and in order to provide an effective drainage system.
33. The report explains that the surface water drainage solution is required to provide one level of treatment to all storm water. To do this, Halcrow's drainage design indicated a small section of swale beside the new culvert; but due to the steep drop in ground levels between the road and the burn, this would have resulted in the swale being located on steep ground and the storm water would not be sufficiently retained and therefore an adequate level of treatment would not have been delivered. Cameron + Ross revised Halcrow's design and opted for a more suitable and effective design.
34. It is explained that Cameron + Ross' drainage design uses roadside filter trenches which provide a much better level of treatment than the previously proposed swale and these filter trenches are designed to store storm water to prevent flooding as well as controlling the discharge into the burn which is now controlled via a series of orifice plates rather than hydrobrakes to deliver the required greenfield run-off rate. The report concludes the proposed surface water design prepared Cameron + Ross' will provide the level of treatment and run-off required by the regulatory bodies. The previous solution prepared by Halcrow would not have done this effectively.
35. The developer's agent has also confirmed that Scottish Water 'Technical Approval' is in place for the foul and surface water drainage and that a Roads Construction Consent which covers drainage has also been granted.
36. Highland Council TEC Services has confirmed that the SUDS details submitted by the developer's agent accord with SUDS principles.

CONCLUSION

37. It is considered that the proposed changes in finished floor levels for the housing development at Milton Burn, Aviemore are acceptable. The specific levels are indicated on drawing 3918/02/003 rev J by Bracewell Stirling Consulting.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

38. The land on which it is proposed to develop housing is currently under construction. The development area now excludes the former grain mill and as such, it does not have any features of significance in terms of natural or cultural heritage.

Promote Sustainable Use of Natural Resources

39. The details provided in support of the development proposal do not indicate that the development would make a particular contribution to this aim.

Promote Understanding and Enjoyment of the Area

40. The development provides a link to the Aviemore Orbital Path which would be of benefit to residents of the new housing in providing easier access and improved recreation opportunities.

Promote Sustainable Economic and Social Development of the Area

41. The range of residential units within the overall development would make a positive contribution to the social development of the area.

RECOMMENDATION

That Members of the Committee support a recommendation to GRANT planning permission UNDER SECTION 42 TO VARY CONDITION 6 OF PLANNING PERMISSION GRANTED ON APPEAL ON LAND SOUTH EAST OF MILLSIDE HOUSE, MILTON AVIEMORE subject to the following conditions:

- I. **Finished Floor Levels:** The finished floor levels of the proposed dwellings shall accord with Site Layout drawing 3918/02/003 Rev J.

Reason: To ensure compliance with the approved development and to prevent site flooding.

Jack McGowan

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30 October 2013

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.