
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REQUEST FOR AMENDMENTS TO PERMITTED SITE LAYOUTS AND OTHER DESIGN FEATURES, TO BE CONSIDERED AS NON MATERIAL VARIATIONS TO THE ORIGINAL PLANNING PERMISSIONS

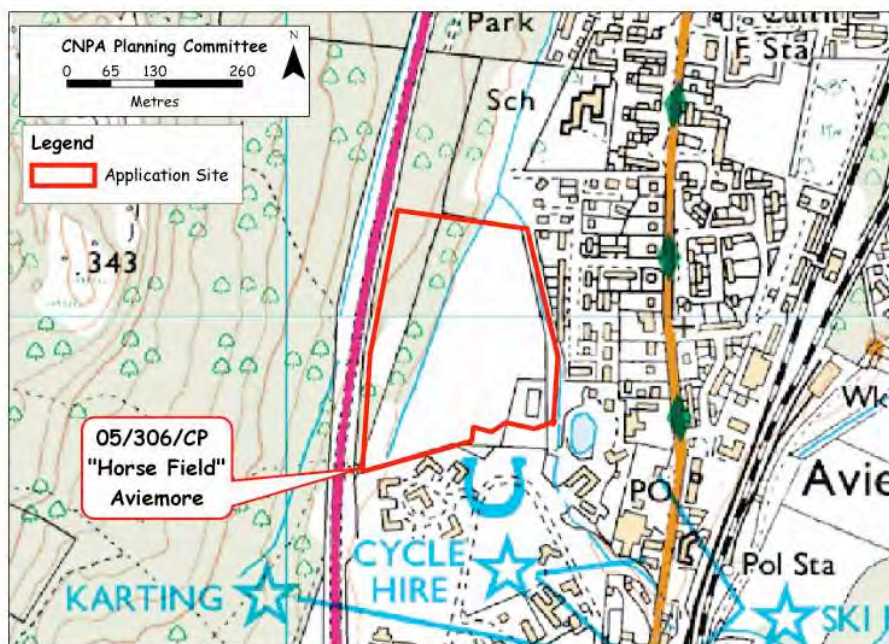
Prepared by: MARY GRIER, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)

REFERENCE: 05/304/CP AND 05/306/CP

APPLICANT: TULLOCH HOMES (AVIEMORE) LTD
C/O BRACEWELL STIRLING CONSULTING, INVERNESS

PLANNING APPLICATION DECISION DATE: 4 MARCH 2008

RECOMMENDATION : APPROVE THE PROPOSED AMENDMENTS AS NON MATERIAL VARIATIONS TO THE ORIGINAL PLANNING PERMISSIONS



This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office© Crown Copyright. Cairngorms National Park Authority, License# 100040965, 2004.

Fig. 1 - Location Plan

BACKGROUND TO THE REPORT

1. The CNPA Planning Committee resolved to grant planning permission for residential development on two adjacent sites within the Aviemore Highland Resort complex at a meeting in December 2007, on land which is known locally as the 'Horsefield' / the 'Ponyfield.' CNPA planning ref. no. 05/304/CP refers to full planning permission for the erection of 21 houses and associated infrastructure and landscaping. CNPA planning ref. no. 05/306/CP refers to the permission for approval of reserved matters for the erection of 140 dwellings, construction of roads and services and landscaping.
2. As shown on the site layout plan at figure 2, the two sites are contiguous and when constructed would essentially read as one overall residential development. Two planning applications were submitted on the land in order to address the fact that the larger portion of the Horsefield already had the benefit of an outline planning permission for 140 dwelling units, while the smaller area adjacent to the site entrance had not been the subject of any previous planning permission for residential development, hence the submission of an application seeking full planning permission on this land area. Tulloch Homes (Aviemore) Ltd. were the applicants in both applications and remain involved in the project at the present time. The applicants and their representatives have been working over several recent months to achieve compliance with a number of suspensive conditions which were applied to both planning permissions.
3. In a recent submission on behalf of the applicants the delay to date in finalising matters has been attributed to the "uncertainties of the current very poor economic climate and by the need to secure a contract for the affordable housing which straddles the two approved applications." It has also been advised that a contract has now been prepared with Cairn Housing Association for the construction of 33 affordable housing units and is about to signed by all parties.¹
4. Arising from the work to purify the conditions, a number of amendments to certain aspects of the developments have now been put forward and details have recently been received from Bracewell Stirling Consulting on behalf of Tulloch Homes (Aviemore) Ltd., outlining the extent of amendments, together with a request that the amendments be considered as a non material variation to the planning permissions granted.

Non Material Variation procedure
5. Section 65 of the Town and Country Planning (Scotland) Act 1997 makes provision for minor departures or variations from the approved plans to be treated as 'non material.' A decision as to whether a change is material is entirely that of the planning authority and there is no right of appeal against such a decision. Acceptance of amendments as non material variations is a matter normally dealt with at planning officer level. Where any proposed

¹ Information up to date as of 15 November 2010.

changes are deemed to be material, it would become necessary for the applicant to submit a new planning application in order to allow a comprehensive assessment of the proposed changes.

PROPOSED NON MATERIAL CHANGES

6. Repositioning of dwelling units : At the time of the granting of planning permissions in respect of CNPA planning ref. no. 05/304/CP and 05/306/CP, a number of conditions were included to ensure that the development remained free from the effects of any flooding events. A condition was included in each permission stipulating that “all finished floor levels shall be set no lower than 215.2 above Ordnance Datum (Newlyn).”² A further condition included in each permission stipulated that “all built development shall be situated outside the 1:200 year (plus climate change) flood event boundary.”³ Limited areas of the structures identified on the proposed site layout on the larger site (CNPA ref. no. 05/306/CP) demonstrated some encroachment into the 1: 200 year flood event boundary, and that permission consequently included a further stipulation that “prior to the commencement of development a revised site layout plan shall be submitted for the agreement of the Cairngorms National Park Authority acting as Planning Authority to demonstrate this” i.e. that all properties would be outside the floor event boundary.
7. An amended site layout plan (combined to show the residential development on the two contiguous sites) has now been submitted showing the flood event boundary, contours and all finished floor levels. Compliance with the conditions of both permissions has necessitated some alteration to the layout.
 - Two dwelling units have been deleted from the larger site area, as well as some repositioning of the remaining units in the eastern area of the site (CNPA planning ref. no. 05/306/CP); and
 - Two dwelling units have been added at the entrance area of the smaller adjacent site (CNPA planning ref. no. 05/304/CP).
8. Retaining wall : Details have been provided on the need to provide a retaining wall to the rear of some of the housing units that would be positioned to the west of the burn. The wall would be created as a feature, and is required in practical terms in order to retain ground levels and achieve the finished floor levels required by the conditions of planning permission 05/306/CP. Information submitted on behalf of the applicants stresses that the wall design has been kept to a minimum, and would be approximately one metre in height. It would be constructed of facing block to match the house construction. In addition, it has also been clarified that the intervening space between the retaining wall and the burn to the east would be landscaped with a mixture of native shrubs and trees.

² 05/304/CP – condition no. 6; 05/306/CP – condition no. 7

³ 05/304/CP – condition no. 4; 05/306/CP – condition no. 3.



9. **Fig. 2 : Currently proposed site layout** (____ identifies the area of the site affected by current proposals)
10. **Design amendments** : Some minor amendments have also been put forward in relation to the porch detail on the terraced units within the development sites. The submitted details indicate that this has been occasioned by Building Warrant regulations. The porches were originally designed as timber clad features. The timber clad feature has now been replaced with a proposal that they be finished in facing stone on the basis that it is a non combustible material. The stonework would be “in the same material as the base course.” Elevation drawings have been submitted to demonstrate the nature of the proposed design amendments.



Fig. 3 : proposed amendments to the porch design on terraced properties

IMPACTS OF THE PROPOSED VARIATIONS

11. The effect of the repositioning of two units from the larger site to the smaller site does not affect the affordable housing provision, which would remain at a total of 33 units across the two site areas. It does however give rise to some technical / procedural anomalies. Firstly, the planning permission decision notices issued in respect of each of the two sites included specific reference to the number of housing units on each site – 21 units on CNPA planning ref. no. 05/304/CP and 140 units on CNPA planning ref. no. 05/306/CP. The currently proposed amendments to the site layouts would result in an increase to 23 units on the smaller site, and a reduction in unit numbers to 138 on the larger site area. The physical number of units within each site boundary would therefore differ from the number specified on the decision notice.
12. The second technical difference would arise in relation to specific conditions included in each planning permission, stipulating the precise number of units to be provided as affordable housing, and also identifying the exact units. Condition no. 2 of 05/304/CP stated that “unit no’s 6-11 on the site layout plan Drwg. No. 2452-P02 shall be provided and retained as affordable housing units in perpetuity.” Condition no. 5 of 05/306/CP expressed the same sentiment, but included a caveat to allow for changes occurring within the site boundaries in response to the aforementioned requirements that the layout would take account of flooding concerns. Condition no. 5 of that permission stated that “the affordable housing units indicated on the site layout plan Drwg. No. 2452-P01 (unit no’s 50-76) or such other revised site layout plan as may be submitted in compliance with condition no. 3 of this permission and including the provision of 27 affordable housing units, shall be provided and retained as affordable in perpetuity.” The currently proposed arrangement across both sites would therefore result in changes in the numbers of affordable units provided on each distinct site, and would also alter the actual house identification numbers that would be used as affordable housing.
13. The two development sites are in the control of the same applicant and a contract has been negotiated with Cairn Housing Association for the delivery of 33 affordable housing units across the two sites. As such the intentions of the CNPA Planning Committee in applying the aforementioned conditions, to ensure the delivery of affordable housing, would continue to be achieved through the currently proposed amendments to the layouts of each site.
14. Points advanced by Bracewell Stirling Consulting Ltd. (agents) in support of the currently proposed amendments highlight the continued provision of a total of 33 units as affordable housing. Acceptable space standards between the new properties and existing properties on Craig na Gower Avenue would also be achieved.
15. Despite the technical inconsistency with the ‘development description’ on the relevant decision notices, and a deviation from the conditions regarding the specific units to be assigned as affordable housing, the two developments should be read as one overall development site. As detailed in earlier sections of this report, the need to submit two separate planning applications arose purely due to the planning history of the lands, where an outline permission

existed only on the larger land area. In the context of considering the applications as one coherent residential development, the amendments are considered to be sufficiently minor to facilitate the request that they be considered as a non-material variation.

16. The other two aspects to consider relate to the extent of retaining wall required, and the design changes that have been put forward on the terraced units. In terms of the retaining wall, there had been an understanding from the previously submitted site layout plan for CNPA planning ref. no. 05/306/CP that an element of retaining works would be required in this area. It has become apparent in addressing the flooding issues at the site and undertaking the layout changes to comply with finished floor level stipulations, that a solid retaining wall is required, as opposed to softer treatment with bunding etc.. The reasons for the provision of this retaining wall are practical and necessary and it is considered to constitute a minor change, which can be treated as a non material variation. The extent of the wall is to be limited as far as possible, and extensive landscaping would also be provided in the vicinity, which would minimise any perceived visual impact.

17. On the subject of the design changes to the porches of the terraced units, the case has been put forward on the basis of compliance with Building Warrant regulations. The material which is proposed would be the same as that already accepted for use on the base course of the properties. While it may have been preferable to retain the timber clad porch feature on the dwellings, as a reflection of traditional design features commonly found in the area, the currently proposed porch features would nonetheless assimilate with the overall development concept and are generally acceptable. The current design changes are relatively minor and again can be considered to constitute a non material variation.

RECOMMENDATION

**That Members of the Committee, support a recommendation to :
Agree to APPROVE**

- (a) The repositioning of dwelling units;**
- (b) The provision of a retaining wall; and**
- (c) Design amendments on terraced properties**

as Non Material Variations to CNPA Planning Ref. No's 05/304/CP and 05/306/CP for residential development on lands known as the Horsefield, at Aviemore Highland Resort, Aviemore.

Mary Grier

planning@cairngorms.co.uk

2 December 2010

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.