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## CAIRNGORMS NATIONAL PARK AUTHORITY

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**Title:** REPORT ON CALLED-IN PLANNING APPLICATION

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

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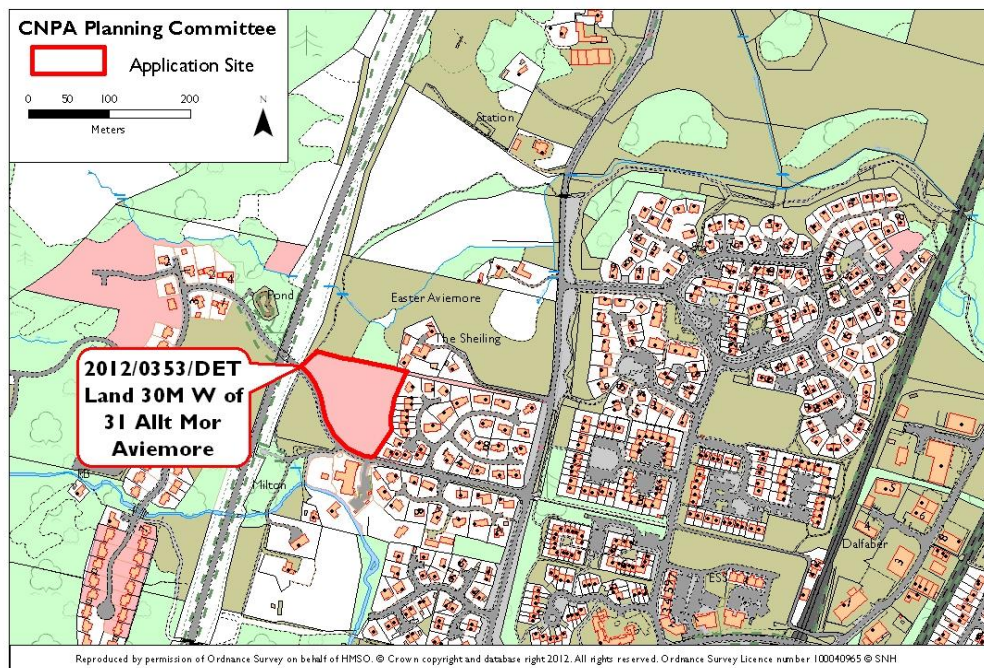
**DEVELOPMENT PROPOSED:** SECTION 42 APPLICATION TO EXTEND THE PERIOD OF TIME ON CONDITION 1 OF THE EXISTING PERMISSION (REF 08/443/CP)

**REFERENCE:** 2012/0353/DET

**APPLICANT:** RATHVEN INVESTMENTS, GRAMPIAN ROAD, AVIEMORE C/O KEPPIE DESIGN

**DATE CALLED-IN:** 9 NOVEMBER 2012

**RECOMMENDATION :** APPROVE WITH CONDITIONS



Grid reference : 289491 914022

**Fig. I - Location Plan**

## SITE DESCRIPTION AND PROPOSAL

1. This application is on land immediately east of the Allt Mhor / Croftside residential development in the northern area of Aviemore. The majority of the identified site area consists of cleared ground and there is also evidence of some building materials temporarily stored on the site. A small area of the site, adjacent to the public road leading to the Highburnside housing development, is also currently in use accommodating a temporary sales office associated with Tulloch Homes on-going development at Highburnside. The application has been made under Section 42 of the Town and Country Planning (Scotland) Act 1997.<sup>1</sup> Permission is sought to vary condition no. 1 of the original outline permission on the subject site (ref. no. 08/443/CP) which was granted for the erection of a 50 bed nursing home. The permission was granted in December 2009 and condition no.1 required that a formal planning application (i.e. an application formerly referred to as 'Approval of Reserved Matters' and more recently titled 'Approval of Matters Specified in Conditions') would be submitted within 3 years of the date of the permission and that development would be commenced within 2 years from the date of the final approval of all the foregoing Reserved Matters.
2. The purpose of the current Section 42 planning application is to vary the terms of condition no. 1 in order to extend the period allowable for the submission of a Reserved Matters / Matters Specified in Conditions application. It is requested that the period for receipt of such an application is extended for a further two years, until December 2014.



Figs. 2 and 3 : Views into the site

### Background to the request to extend the time period

3. The current application is accompanied by a letter from the agent explaining the background to the request to extend the time period. Reference is made in the correspondence to the economic climate which had prevailed since the granting of outline permission in December 2009 describing that it has “not been particularly conducive for development.” The submission states that there continues to be interest in the development, although discussions with an end user have yet to be concluded. It is also confirmed that “the applicant’s wish remains that the site is developed at the earliest possible opportunity for

<sup>1</sup> Section 42 applications refers to the determination of applications to develop land without compliance with conditions previously attached.

the benefit of the community of Aviemore” and therefore does not wish the consent to expire as it may jeopardise or preclude negotiations being concluded.

### Planning history

4. The CNPA granted outline planning permission (CNPA ref. no. 08/443/CP) in December 2009 for the erection of a 50 bed nursing home. The details submitted with that application indicated that the nursing home would be a two storey design. An indicative site plan was also submitted and identified a U shaped building, with an approximate floor area of 1,233 square metres, in central position on the site, with vehicular access and car parking provision shown to the front (south east) of the building. The remainder of the 0.8 hectare site was identified as landscaped garden grounds.



Fig. 4 : Indicative site plan, submitted in support of the original application

5. Other information submitted in support of the original application indicated that it was the applicants' intention to offer the site to a national nursing home provider. It was envisaged that the facility would provide residential nursing care for the elderly, including the possibility of a dementia unit. Reference was also made to the possibility that the building would be designed and constructed in accordance with Care Commission best practise, and would include measures to minimise energy use and emissions.

### Section 42 planning applications

6. Section 42 of the Town and Country Planning (Scotland) Act 1997, as amended, is a mechanism which allows for the submission of a planning application for the development of land without complying with, or varying conditions pertaining to the previous planning permission. Section 42 of the Act stipulates that in this type of application “the planning authority shall

consider only the question of the conditions subject to which planning permission should be granted.” Therefore in the context of this application, the only matter which is required to be considered is the appropriateness and acceptability of varying condition 1 to extend the period within which a detailed application must be submitted.

## DEVELOPMENT PLAN CONTEXT

### National Policy

7. **Scottish Planning Policy<sup>2</sup> (SPP)** is the statement of the Scottish Government’s policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
  - The constraints and requirements that planning imposes should be necessary and proportionate;
  - The system should .....allow issues of contention and controversy to be identified and tackled quickly and smoothly; and
  - 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.
8. **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.” Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that “the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places.” 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.
9. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the “aim is to achieve the right development in the right place.”
10. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes ‘subject policies’, of which many are applicable to the proposed development. Topics include economic development, rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.

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<sup>2</sup> February 2010

11. Economic development : Planning authorities are required to respond to the diverse needs and locational requirements of different sectors and sizes of businesses. The planning system is expected to support development which will provide new employment opportunities. SPP also recognises, in paragraph 48, that high environmental quality can be an important component in attracting investment into an area which in turn can provide important economic opportunities. Consequently planning authorities are therefore required to ensure that new development safeguards and enhances an area's environmental quality, and should also promote and support opportunities for environmental enhancement and regeneration.
12. Landscape and natural heritage : The **Scottish Planning Policy** document recognises the value and importance of Scotland's landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.
13. **Scottish Planning Policy** concludes with a section entitled 'Outcomes' in which it is stated that the "planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets."

### **Strategic Policies**

#### **Cairngorms National Park Partnership Plan (2012-2017)**

14. 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 terms outcomes have been identified to deliver the vision for the Park, to continue the direction set out in the first National Park Plan and to together deliver the four aims of the National Park. The outcomes are :
  - A sustainable economy supporting thriving businesses and communities;
  - A special place for people and nature with natural and cultural heritage enhanced; and
  - People enjoying the park through outstanding visitor and learning experiences.

## Structure Plan Policy

### Highland Council Structure Plan (2001)

15. **Highland Council Structure Plan** is founded on the principles of sustainable development, which are expressed as –
- Supporting the viability of communities;
  - Developing a prosperous and vibrant local economy; and
  - Safeguarding and enhancing the natural and built environment.
- A variety of detailed policies emanate from the principles.
16. The following provides a brief summary of the policies applicable to a development of this nature.
17. Section 2.4 of the Plan concentrates on the subject of landscape. **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.”
18. **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)

19. The Badenoch and Strathspey Local Plan (1997) was in effect at the time that the outline planning permission was granted for the erection of a nursing home on the site in 2009 and was a material consideration in the determination of that application. That plan was superseded by the Cairngorms National Park Local Plan when it was adopted on 29<sup>th</sup> October 2010. The full text can be found at :  
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265> The following paragraphs refer to the range of policies which are now applicable to the subject site.
20. *Policy 6 – Landscape* : there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.

21. Policy 16 – Design Standards for New Development : this is one of a number of policies which is intended to encourage developers to consider how they can best include the principles of sustainable development in their proposals, and consider the impact on the environment, economy and community. Policy 16 requires that all proposals are accompanied by a design statement which sets out how the requirements of the policy have been met. The design of all development is encouraged to :
- Reflect and reinforce the traditional pattern and character of the surrounding area and reinforce the local vernacular and local distinctiveness, whilst encouraging innovation in design and materials;
  - use materials and landscaping that will complement the setting of the development;
  - demonstrate sustainable use of resources; and
  - be in accordance with the design standards and palette of materials as set out in the Sustainable Design Guide.
22. Policy 25 – Business Development : proposals which support economic development will be considered favourably where the proposal is compatible with existing business uses in the area and supports or extends an existing business. Part A of the policy sets out the criteria for business development in identified settlements. Business development would be considered favourably if it :
- (1) Is located within an existing settlement boundary; and
  - (2) Supports the economic vitality and viability of that centre.
23. The subject site is located within the settlement area of Aviemore, as identified in the Settlement Proposals section of the Local Plan. The site is on white land, which does not have a specific land use allocation. A variety of uses could therefore be considered, subject to compatibility with surrounding land uses.

## CONSULTATIONS

24. Aviemore and Vicinity Community Council : The consultation response states that the Community Council has no objection to the application.

## REPRESENTATIONS

25. The application was advertised in the Strathspey and Badenoch Herald on 8<sup>th</sup> November 2012. No representations have been received.

## APPRAISAL

26. In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. Crucially as this is an application made under Section 42 of the Town and Country Planning (Scotland) Act 1997, as amended, the matter on which the Planning Committee are being asked to decide is very specific, concerning only a variation to condition no. 1 of the original consent, to extend the period of time within which an

application for the Approval of Matters Specified in Conditions (essentially the detail of the proposal) would have to be submitted. As detailed in paragraph 2, an extension of the time period until December 2014 is being sought.

27. The principle of a nursing home on the site remains acceptable. There was a recognition when determining the original application that facilities such as a nursing home are increasingly required to serve an ageing population. Although no details were provided at that time regarding the current or future precise demand for nursing home beds in the general area, the case made by the applicant, which alluded to there being a shortage of beds and the distance of the nearest similar facilities,<sup>3</sup> was recognised and accepted. Although the original application was determined under the Badenoch and Strathspey Local Plan (1997), the proposal for a nursing home on the subject site would also accord with current Local Plan policies which are now applicable under the Cairngorms National Park Local Plan (2010) including Policy 6 – Landscape and Policy 25 – Business Development.
28. In conclusion, the proposal does not raise any significant implications in terms of planning policy or have any other technical constraints. Given the case advanced in respect of the request for a time extension, which alludes to the economic difficulties of recent years, as well as providing confirmation that discussions are on-going with potential end users, it is considered reasonable to agree to the requested variation to condition no. 1 of the original consent.

## **IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK**

### **Conserve and Enhance the Natural and Cultural Heritage of the Area**

29. The site has been the subject of ground clearance in the past. The future development of the site to accommodate a nursing home would provide an opportunity to enhance it from its current state, and could provide an opportunity to achieve substantial elements of strategic landscaping in this location on the periphery of Aviemore.

### **Promote Sustainable Use of Natural Resources**

30. As the original planning application was for outline planning permission, no details were provided of the nature of the construction or materials. The opportunities to promote the sustainable use of natural resources would be encouraged further at the time of a detailed design proposal coming forward.

### **Promote Understanding and Enjoyment of the Area**

31. The development of a nursing home on the subject site could provide a facility that would enable the needs of elderly people in the local population to be catered for within their locality and would enable them to continue to enjoy familiar local surroundings.

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<sup>3</sup> Kingussie and Grantown on Spey.



**Promote Sustainable Economic and Social Development of the Area**

32. The development of a nursing home on the site would provide a facility that would benefit the elderly population of the area, and may enable elderly people to remain in closer proximity to their families. As such it has the potential to contribute significantly to the social development of the area. The nursing home would also assist the economic development of the area, both in terms of potential employment generation at the construction stage, and would also offer new employment opportunities at the operational stage.

**RECOMMENDATION**

**That Members of the Committee support a recommendation to vary condition no. 1 of CNPA planning ref. no. 2012/0353/DET to extend the period of time on Condition no. 1 of the existing permission (CNPA ref. no. 08/443/CP) subject to the following condition :**

- I. This approval relates solely to the variation of condition 1 of CNPA planning ref. no. 08/443/CP, and permits an extension of the period of time within which a formal planning application and detailed plans must be lodged, to 10 December 2014. Nothing contained in this consent shall be deemed to affect or vary any other aspects of Condition no. 1 and all other conditions imposed on the extant planning permission CNPA planning ref. no. 08/443/CP.

**Reason:** To ensure the conditions imposed by the previous consent remain applicable.

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**19 December 2012**

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.