
CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Application under Section 42 to vary condition 1 of Planning Permission in Principle (CNPA Ref 09/155/CP) At An Camas Mòr, Inverdrue, Aviemore

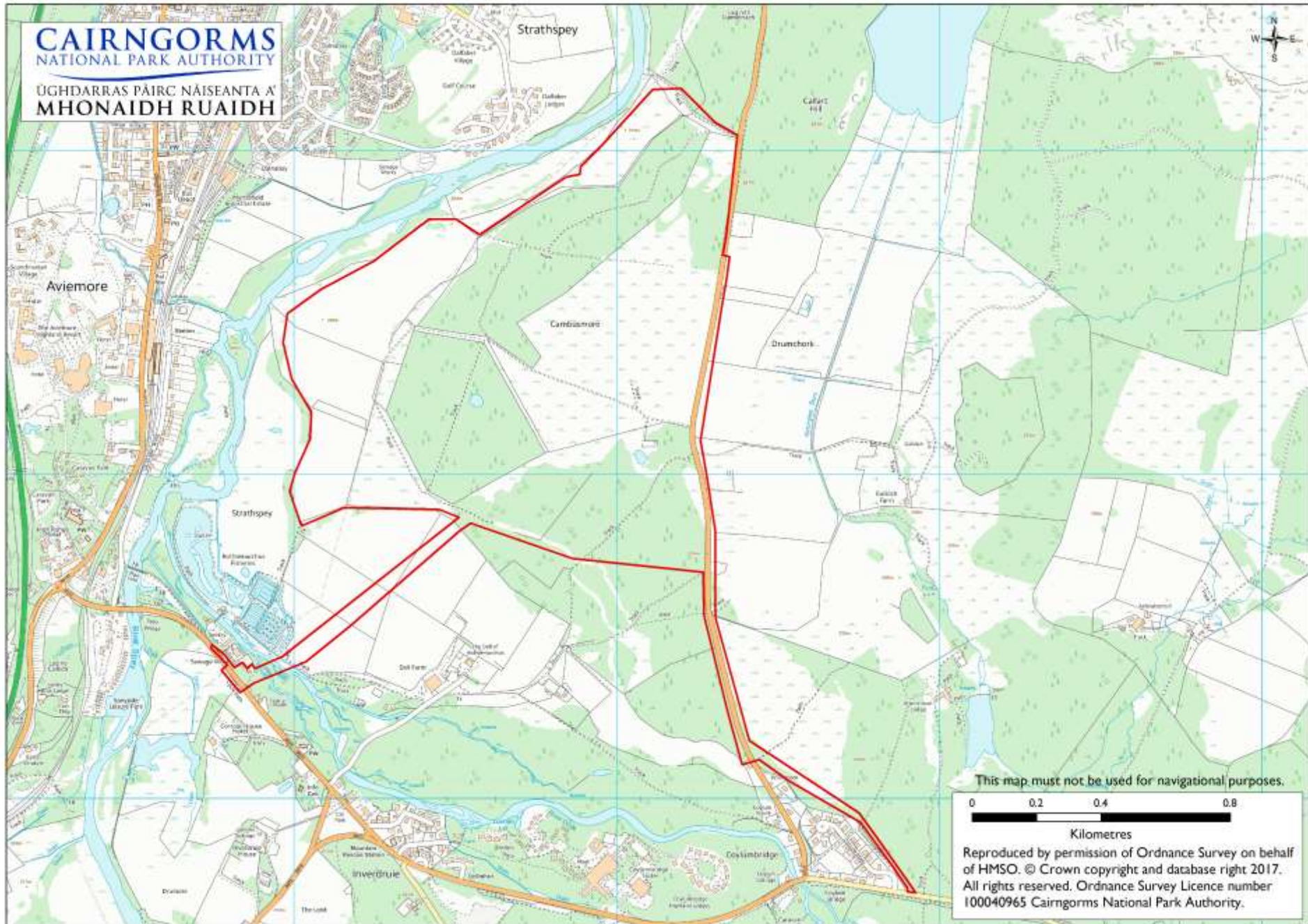
REFERENCE: 2017/0086/DET

APPLICANT: Turnberry Planning Ltd for An Camas Mòr LLP

DATE CALLED-IN: 27 February 2017

RECOMMENDATION: Approve with Conditions

CASE OFFICER: Gavin Miles, Head of Planning and Communities



SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The An Camas Mòr site is located on the eastern side of the River Spey opposite Aviemore and covers approximately 145 ha. The site comprises a combination of farmland, woodland and plantation, heath and grassland, with a few areas of wetland in kettle holes or other depressions. The western boundary runs along the east bank of the River Spey and the eastern edge of the site is bounded by the B970. The southern end of the site is bounded by woodland and farmland while the northern end of the site narrows to an estate track and conifer plantation. The site includes a section of the B970 towards Coylumbridge from the south eastern corner as well as a link to the B970 east of Rothiemurchus Fishery for a new distributor road.
2. The site is located within the Cairngorms Mountains National Scenic Area. The southern part of the distributor road crosses the River Druie which is part of the River Spey Special Area of Conservation (SAC). The site is located adjacent to the River Spey SAC and Site of Special Scientific Interest (SSSI), the Cairngorms SAC, Cairngorms Special Protection Area (SPA) and the North Rothiemurchus SSSI. Part of the southern section of the site is listed on the Ancient Woodland Inventory.

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:

TITLES
Documents associated with Section 42 application 2017/0086/DET
Cover Letter (dated 20 February 2017)
Section 42 Application Form
Site Location Plan
Statement of Environmental Statement Validity
Ecology Report, 2 versions: (1) non-confidential (2) confidential (not publicly available)
Original Environmental Statement and other associated submission documents relating to PPIP 09/155/CP
Planning Application Forms and Cover Letter (18 May 2009) Parts 1 & 2
ACM – Environmental Statement (ES) Contents
ES Volume 1
ES Volume 2 (comprising 139 documents (including Table of Contents, Sections, Appendices – covering methodology, surveys, assessments, assessment periods, and Figures)
ES Volume 3 – Report of the EIA Assessment Consultation
ES Volume 4 – Confidential Badger Report (not publicly available)
ES Volume 5 – Information to Inform Appropriate Assessment
ES Supporting Document (ESSD)- Design and Access Statement
ESSD – Flood Risk Assessment
ESSD – Indicative Land Use Plan Strategies
ESSD – Proposed Masterplan Report Parts 1 – 9
ESSD – Public Consultation Statement

ESSD – Socio-Economic Impact Assessment
ESSD – Sustainability Appraisal
ESSD – Transport Assessment Parts 1 – 4
ESSD – Wastewater Network Development Impact Assessment
ES – Additional Information – First Submission (24 June 2009)
ES – Cover Letter (23 March 2010) – re Second submission
ES – Additional Information – Second Submission (23 March 2010)
Other information submitted with application
Section 75 Parts 1 - 4
Approved Block Plan
Approved Site Location Plan
PPIP Decision Notice 09/155/CP

4. The approved planning permission in principle (ref 09/155/CP) has an approved site location plan and an approved (indicative) block plan. If the Section 42 application 2017/0086/DET is approved, only those two plans would be approved. The other documents listed have been provided to support the application and would not be shown as approved on the decision notice. Given their size/length and the complexity of their content they have not been summarised in this report. They are available for viewing on the CNPA website (link below) and hard copies are available to view within the CNPA offices at Grantown.
<http://www.eplanningcnpa.co.uk/online-applications/#searchApplications>
5. This application seeks to vary condition 1 of Planning Permission in Principle 09/0155 and requests that a new permission provides extended timescales for the submission of future detailed information.
6. Condition 1, as approved, states:
No development beyond 630 residential units shall commence until the developer has undertaken a review of the impact of the development to that stage on landscape and ecology, that review has been completed and submitted to the CNPA acting as planning authority for approval in writing and such approval has been given.
7. The reason for this condition being imposed by the CNPA was:
Based on the conclusions of the Environmental Impact Assessment; the site has been demonstrated to have capacity for 630 residential units without having a prolonged significant adverse impact on the landscape and it is considered that a development of between 630 – 1500 residential units can be achieved without prolonged significant adverse impact on the landscape; however, this is dependent on the successful implementation of landscape measures required by the conditions of this Planning Permission in Principle.
8. The applicant seeks to change this wording to:
 - a) No development shall commence until a Site-wide Phasing Plan (SPP) has been submitted to and approved in writing by the CNPA acting as planning authority. The proposed development shall then be implemented in accordance with the SPP with any amendments to the document to be submitted to and approved in writing by the CNPA.

- b) The SPP shall include a review of the potential landscape and ecological impacts and associated mitigation strategy in respect of those phases beyond 630 residential units. Details of the Review shall be submitted to and approved in writing by the CNPA.
 - c) Detailed Site Plans (DSPs) shall then be submitted to and approved in writing by the CNPA for each phase or sub-phase and shall define the range and quality of uses proposed to include (but not exclusive to):
 - i. Residential (Class 9)
 - ii. Residential Institutions (Class 8)
 - iii. Retail (Class I – 3)
 - iv. Business (Class 4)
 - v. Hotel (Class 7)
 - vi. Non-Residential Institutions (Class 10; and
 - vii. Leisure (Class 11)
9. In their covering letter, the applicant advises that the intention of the variations requested is to provide a phased approach to the development and extending the timescales that will facilitate the infrastructure design development process, thus enabling the development to be implemented.

History

10. Planning Permission in Principle (ref 09/155/CP) was granted on 12 March 2014 for 'Development of a New Community (Up to 1500 residential units (subject to regular review); associated business, community facilities and provision of infrastructure.' The decision notice for this planning permission is included in **Appendix 3** of this report.
11. The permission was subject to 10 conditions, covering more than 50 requirements/submissions. It was also subject to a Section 75 Agreement that covered:
- a) Arrangements for the delivery of affordable housing;
 - b) Provision of land and financial contributions for education;
 - c) Provision of land and financial contributions for healthcare;
 - d) Provision of a community facility and financial contributions;
 - e) Requirement to provide a lease for land and access for Aviemore Countryside Park;
 - f) Provision of land and financial contributions for a foot/cycle bridge over the River Spey;
 - g) Provision of financial contributions for mitigation measures on Grampian Road, Aviemore and improvement of Dalfaber Drive and Grampian Road, Aviemore;
 - h) Submission and implementation of a Compensatory Habitat Management Scheme;
12. Two plans were approved as part of this permission:
- a) An Camas Mòr Application Site Plan
 - b) Indicative An Camas Mòr Block Plan
13. The application was supported by information, including: an Environmental Statement, Planning Statement, Proposed Masterplan Report, Indicative Land Use Plan Strategies, Design and Access Statement, Flood Risk Assessment, Waste Water Network

Development Impact Assessment, Transport Assessment, Socio-Economic Impact Assessment, Sustainability Appraisal, Public Consultation Document and Notes on Community Bus Service Proposals, Second Homes and Comparison of Demographic Projections.

14. On 28 May 2014, application 2014/0169/MSC was submitted. This included the submission of a Masterplan and associated documents for approval. The application did not include the information needed for determination and was withdrawn by the applicant on 28 July 2014.
15. Prior to submitting the current planning application, the applicant appointed a design team who worked with the CNPA, representatives of Scottish Government and relevant statutory bodies to develop more detailed design of infrastructure, review of the Masterplan and Phase 1 proposals. The design team made significant progress, with multi-agency workshops during summer 2016 adding detail to the proposals. The applicant hopes that a suitably phased approach to development and appropriate timescales for submitting details will allow that work to be completed.
16. A Habitats Regulations Appraisal (HRA) has been carried out by CNPA, with the advice of SNH. This is included in **Appendix 4**.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	Scottish Planning Policy 2014	
Strategic Policy	Cairngorms National Park Partnership Plan 2017 - 2022	
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	X
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	X
POLICY 9	CULTURAL HERITAGE	X
POLICY 10	RESOURCES	X
POLICY 11	DEVELOPER CONTRIBUTIONS	X

17. Chapter 14 of the Cairngorms National Park Authority Local Development Plan 2015 sets out the Development Plan's expectations for An Camas Mòr and the principles that its development must accord to.
18. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies and the principles within Chapter 14 can be found at:
<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

Planning Guidance

19. The Local Development Plan is accompanied by a range of planning guidance that provides more detail 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	X
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	X
Policy 9	Cultural Heritage Non-Statutory Guidance	X
Policy 10	Resources Non-Statutory Guidance	X
Policy 11	Developer Contributions Supplementary Guidance	X

CONSULTATIONS

A summary of the key issues raised by consultees now follows:

20. **Architecture and Design Scotland (ADS)** advise that they have no comments on the proposed wording of the conditions.
21. **SEPA** has no objection to the application. They remain satisfied with Condition 8 of the original permission, which relates to flood risk matters but request a small change in wording for clarity with reference made to the construction of the ‘access road which includes a crossing of the River Druie and the associated flood plain of the River Druie.’ They consider that the access road should be designed and constructed in a way that any impact is minimised and draw attention to the need for up to date and concurrent flood risk information to be taken into account and reflected in the flood risk assessment undertaken to inform the design of the road and crossing to satisfy the original Condition 8.
22. SEPA also make reference to Groundwater dependent terrestrial ecosystems (GWDTE), which are types of wetland specifically protected under the Water Framework Directive. They recommend the route of any access roads, tracks or trenches within 100m, together with any borrow pits or foundations within 250m of a GWDTE should be reconsidered at the detailed design stage and mitigation measures included in the submission of detailed proposals.
23. SEPA also highlight the expectation that Sustainable Drainage Systems (SUDS) should be designed to comply with the most up to date CIRIA Manual when making submissions under Condition 2 (the Masterplan).
24. **SNH** advise that the proposal is likely to have a significant effect on:
- a) The Capercaillie qualifying interest of Cairngorms SPA, Abernethy Forest SPA, Kinveachy Forest SPA, Anagach Woods SPA and Craigmore Wood SPA;

- b) The acidic scree, alpine and subalpine heath, blanket bog, dry heath, wet heath, plants in crevices on acid rocks, and other qualifying interests of Cairngorms SAC; and
 - c) The otter, Atlantic salmon, fresh water pearl mussel, and sea lamprey qualifying interests of River Spey SAC.
25. They also advise that the development could be progressed with the mitigation detailed at Annex I in the Habitats Regulations Appraisal (HRA) undertaken by the CNPA with advice from SNH. However, because the proposals could affect internationally important natural heritage interests, they would object to the proposal unless a consent is conditioned so that the works are done strictly in accordance with the mitigation outlined in the HRA. If the CNPA intends to grant permission against this advice, without the suggested mitigation, the CNPA must notify Scottish Ministers.
26. **Scottish Water** has not responded.
27. **Transport Scotland** raises no objection to the proposals.
28. **The Highland Council (Archaeology)** states that the proposed amendment to the condition would not alter their previous advice that required a programme of archaeological works to evaluate the survival of archaeological remains in order to identify appropriate mitigation.
29. **The Highland Council Flood Risk Management Team** has reviewed the information provided and has no objection to the variation proposed to Condition I of the original permission.
30. **The Highland Council Transport Planning Team** advises that having reviewed the information provided they have no objection to the changes proposed to Condition I. However, they highlight the need for the submission at the next stage of sufficient detailed information to justify that the intended phasing and detailed plans will not have an adverse impact on existing transport networks and that the development will be suitably accessible by both car and non-car modes.
31. **CNPA Heritage Team – Natura.** The CNPA Heritage Team undertook an Habitats Regulations Appraisal (HRA), which is attached as **Appendix 4**. This screened the likely significant effects of the development and also considered any in combination effects between the proposal and other plans or projects.
32. The HRA was undertaken in close consultation with SNH and incorporated an identification of woodlands with potential for significant recreational disturbance to capercaillie from An Camas Mòr as well as mitigation measures to avoid it, based on modelling of the likely recreational activity of An Camas Mòr residents.
33. The HRA and Appropriate Assessment undertaken as part of it show that there is a Likely Significant Effect (LSE) in relation to capercaillie on five SPAs: Abernethy Forest, Anagach Woods, Craigmore Wood, Cairngorms and Kinveachy Forest and a LSE on two SACs: Cairngorms (otter and some qualifying habitats) and River Spey (otter, freshwater pearl mussel, sea lamprey and Atlantic salmon). However, it concludes that there is no adverse effect on site integrity from the proposed development upon any

Natura sites as long as mitigation measures identified within the HRA are implemented.

34. The key requirements for mitigation are:
- a) A Recreation Management Plan for capercaillie that delivers the mitigation measures identified within the HRA, including the occupation of no more than 199 dwellings until a footbridge over the River Spey has been delivered, or other measures that deliver the same outcomes. This addresses effects on the Cairngorms, Abernethy Forest, Anagach Woods, Craigmore Wood and Kinveachy Forest SPAs.
 - b) Details of the Compensatory Habitat Management Scheme, including habitat survey and planting plan, within the Cairngorms SAC.
 - c) For the River Spey SAC, an Otter Species Protection Plan (that also addresses effects on the Cairngorms SAC), construction method statements for works, road and footbridge designs and lighting details, details of recreation provision that avoids effects on otter and details of SUDs at masterplan stage and subsequent phases.
35. **CNPA Heritage Team – Other Ecology.** The CNPA Heritage Team have highlighted the main issues and significance of effects on species and habitats, noting that suitable mitigation should be provided with the Landscape and Ecology Masterplan, Site Wide Phasing Plan, and Compensatory Habitat Management Scheme. The loss of 16.7 ha of woodland in the Ancient Woodland Inventory cannot be mitigated but along with other woodland that will be lost, is offset against the long term creation of 78 ha of montane woodland off site. The team have also clarified specific requirements for the Landscape and Ecology Masterplan.
36. **CNPA Heritage Team – Landscape.** The CNPA Heritage Team advises that any assessment of landscape and visual impacts should follow the Landscape Institute's current Guidelines for Landscape and Visual Impact Assessment (GLVIA) and demonstrate that there will be no significant impact as a result of implementation of the whole development.
37. **CNPA Outdoor Access Officer** advises that the Team's response has not changed significantly from their response to the original application in that the success for outdoor access hinges upon early inclusion of a network of paths, the bridge and other links to provide access for all. They seek a recreational management plan that includes a bridge link to Aviemore for cyclists, links to core paths such as the Old Logging Way, the Sluggan Pass, the River Spey and at Inverdrue, together with links/paths in and around the development site. They advise that any proposals coming forward should identify how the existing use of the site will be managed and how any loss of informal paths will be compensated within and around the new development.
38. **Aviemore and Vicinity Community Council** supports the application to create a new sister community to Aviemore at An Camas Mòr and ask that the CNPA approve the application. They state that the need for further housing for people with local jobs in the area will be alleviated by the development. The Community Council support the pedestrian bridge connecting the site to Aviemore, but don't consider it should delay development or be heavily engineered or expensive.

39. The following bodies were consulted but have not responded: The Highland Council – Contaminated Land, Education, Environmental Health, Forestry, Housing and Waste Management Teams.

REPRESENTATIONS

40. All the representations are included in **Appendix 2**.
41. The Cairngorms Business Partnership, Inclusive Cairngorms, RSPB and The Boat of Garten and Vicinity Community Council were consulted and have the following comments to make:
42. **The Cairngorms Business Partnership** advises that An Camas Mòr provides a sustainable solution to many of the pressing problems facing local people, businesses and the economy of the Park. They say that An Camas Mòr would bring a number of socio-economic benefits to the Park and help deliver strategic priorities, including a boost to businesses in the Park, relating to the provision of appropriately located affordable homes for those employed in tourism and local business, fostering a growing population, and providing small office accommodation to allow businesses to establish and expand.
43. **Inclusive Cairngorms** states that as there is no material change to the proposed development, their previous response still stands. Their only comment is that the documents submitted with the application make reference to the outdated Disability Discrimination Act and they suggest that this reference is updated and the wider scope of the legislation in the Equality Act of 2010 is brought to the attention of the developer.
44. **Boat of Garten and Vicinity Community Council** advises that it previously objected to the proposed plans but they are not objecting to the variation to Condition 1 sought. However, they remain concerned about the negative effects from potential increased traffic on the B970. They consider that it is essential that the applicant ensures that there is no adverse impact on the B970 and that the B970 will not be used by construction traffic coming from the north during the whole period of the development of the site. They also request that there should be no vehicular connection at all to the B970 apart from a foot and cycle route with connections into Aviemore and that consideration is given to making the whole length of the B970 from Rothiemurchus to Boat of Garten a 40 mph zone for the safety of cyclists.
45. **The RSPB** object to the proposal unless it can be clearly demonstrated that it will not adversely affect the integrity of nearby Natura sites or underlying Sites of Special Scientific Interest (SSSIs). They also note that they do not oppose new housing in Strathspey in principle.
46. The RSPB response focuses on the likely significant effect of the development on capercaillie. They are critical of the information supplied to support the application and the lack of information on recreation management and impacts on capercaillie included with it.

47. The RSPB are also critical of the Habitats Regulations Appraisal (HRA) prepared by the CNPA in consultation with SNH and disagree with its methodology and conclusions. In effect, they consider that the impacts of An Camas Mòr will be greater than those predicted by the CNPA and that the mitigation identified by the CNPA to avoid a significant effect on the integrity of capercaillie SPAs will not be sufficient.
48. Based on their own assessment of mitigation needed in the Abernethy SPA to reduce risks of disturbance to an acceptable level, they have estimated the capital costs of mitigation across the network SPA and supporting woodland in Badenoch and Strathspey to be in the region of £650k to £900k. They also estimate that a five to six person ranger service would be required in perpetuity to support recreation management. Their detailed comments and justification are outlined in Annexes to their submissions.
49. RSPB have requested the opportunity to address the Planning Committee.
50. Representations from 35 other organisations or individuals were received.
51. Of those 35 representations, 23 raised objections. Of those objecting 16 were from individuals (from Aviemore, Kingussie, Nethy Bridge, Aboyne, Bettyhill, Broughty Ferry, Comrie, Ellon, Dunblane, Glasgow, Inverness, Limekilns in Fife, East Molesey in Surrey, Kendal and Wirral in Merseyside). The remainder were from the North East Mountain Trust, Scottish Wildlife Trust, Scottish Campaign for National Parks, The Cairngorms Campaign, Butterfly Conservation Scotland and the Badenoch and Strathspey Conservation Group.
52. Badenoch and Strathspey Conservation Group and the Cairngorms Campaign have requested the opportunity to address the Planning Committee.
53. Twelve representations support the proposals. Of those supporting, nine were from individuals (eight from Aviemore and one from Pitlochry) and the remainder were from Visit Scotland, Scottish Tourism Alliance and Aviemore Sports Centre.
54. Matters of objection are summarised as:
 - a) Overdevelopment;
 - b) Destroying the environment and valuable habitat;
 - c) Need is for affordable housing and not this larger development of larger houses that is not needed locally;
 - d) Grazing land of environmental benefit to residents and visitors;
 - e) Personal gain and profit over preservation of the countryside;
 - f) The existing model of infill/small developments in existing communities and keeping to the villages has served well;
 - g) Pre-national Park requirements of local materials, one and a half storeys, and building within settlements has been abandoned;
 - h) Legalities regarding determination periods for this application and this application to change timescales;
 - i) The advertisement for the EIA is incorrect and misleading and therefore contrary to statutory requirements for accuracy;
 - j) This application made under Section 42 is invalid as the Planning Permission in Principle has lapsed and no applications have been determined to satisfy the

- conditions before the expiry of the permission. Reference is made to legislation – the Planning Act, Circular 3/2013, and the CNPA’s Planning Advice Note – Applying to change an existing planning permission (May 2014);
- k) This will lead to a new planning permission in principle with possibly different conditions and timescales, and raises a number of complexities;
 - l) The application should be refused because there is no proper planning purpose or merit behind the proposed modification of Condition 1 – reference is made to the CNPA’s committee reports and the committee meetings outlining the importance of the condition and the Member’s involvement. The view is that the real reason for the application is that the applicant has run out of time and this was the only route to get a new permission with new time limits. The only lawful route is through a new planning application;
 - m) Status of the application and process - Time restrictions are in place for a reason. New assessments should now be undertaken and the CNPA should not back this situation to get around this or allow the rules to be bent. It would be contrary to the CNPA’s policies to allow this mechanism to be used. It is underhand and an abuse of process and mis-use of planning legislation;
 - n) Capercaillie - Potential disturbance to the extremely fragile state of the Capercaillie community – increased disturbance, likely if the development proceeds, will seriously threaten their continued survival in the Park and Scotland. There is over reliance on mitigation to address the issues of recreational impacts on capercaillie. Populations are contracted and endangered and this has not been taken into account. The outcome of this application should be consistent with the CNPA’s Capercaillie Framework (2015) policy document, which reflects a significant increase in concern;
 - o) The NVC habitats map is significantly inaccurate and omits a restricted heathland community that is present on the site. The heathland supports specialist species and contributes to the long-term viability of the Strathspey populations. These impacts have not been assessed and no mitigation is proposed;
 - p) Permission should not have been granted in the first place and was a severe mistake;
 - q) Increase in proportion of holiday rental accommodation rather than houses for local residents, which is already much higher than the national average even for tourist destinations;
 - r) Will affect tourism since tourists mainly come to enjoy the natural beauty of the landscape and wildlife, which will be threatened by this development;
 - s) Further housing for skiing employees is no longer needed due to the limitation of the facilities threatened by climate change;
 - t) The aims of the Park – conservation and enhancement of the natural and cultural of the area should be given greater weight - this has so far been ignored. Focus should be on this rather than an inevitably unsustainable building project;
 - u) A review of requirements for affordable housing should be undertaken through a new application;
 - v) A new Local Plan has replaced the one in force in 2014;
 - w) The development is not sustainable – destruction of flora and fauna on a ‘brown’ field site, increase in carbon dioxide from construction, second or commuter homes (from Inverness), increased traffic and vehicular emissions and pollutants, and increased injury and death to wildlife from increased vehicular journeys resulting from this development;

- x) Cannot accept deletion of a key condition originally put in place by the CNPA; there is no rational basis for this. Nothing has changed since it was decided to impose this restriction. A review at 630 houses is still necessary and without this would be risky as the CNPA would lose power and control over the development with consequential threats to environment, wildlife and landscape. It removes an environmental safeguard;
 - y) Impact upon landscape and ecology are potentially serious;
 - z) Use of taxpayer's money to pay for infrastructure development for this site;
 - aa) Freshwater Pearl Mussel - impacts on designated sites – surveys have demonstrated significant loss in freshwater pearl mussels and they are 'unfavourable declining'. Water quality is likely to be contributing to this decline. Given the proximity of the development there is obvious risk during construction stage as well as current plans to treat sewage to simply connect to existing system in Aviemore, the discharge from which is affecting water quality. Reference is made to the James Hutton Institute report of 2014. Diffuse pollution has not been modelled or quantified;
 - bb) Survey Information - Lack of environmental information supplied particularly given the designations in Park and SSSI and SAC. The surveys do not cover the whole area. The survey information is out of date (some dating back to 2009), fails to comply with the CNPA SPG, inaccurate (and has not been corrected) and incomplete and should be updated to reflect changes in environmental condition, species, habitats etc since this time. The surveys provide an unacceptable baseline of information. The CNPA as the competent authority must have sufficient and accurate environmental information to determine the application, including some covering a buffer zone beyond the red line boundary;
 - cc) The site accommodates a number of notable butterfly species as indicated by the survey information. However, what is significant is the scarce and threatened species that haven't been recorded by the applicant, e.g. the Small Dark Yellow Underwing *Coranarta cordigera*, a UKBAP Priority species that is also included on the Scottish Biodiversity List. This species is becoming increasingly rare. Due to its rarity the development should avoid areas of Arctostaphylos heath, which is bearberry-rich, as its sole larval foodplant. Improved targeted surveys need to be undertaken to ascertain the extent and size of its population as well as determine the presence of other key species, e.g. Kentish Glory *Endromis versicolor*;
 - dd) Alternative ways of providing affordable housing and business opportunities in the area should be considered, which are more sustainable and less intrusive.
55. Matters of support raised are summarised as follows:
- a) The importance of the proposed development for continued growth of the local tourism economy and the wider economy of Scotland;
 - b) The future sustainability of our tourism sector is dependent upon recruitment of and availability of a skilled, talented and professional workforce;
 - c) The availability of affordable housing needs investment and is key to the sustainability of the tourism industry particularly in this key destination area of Aviemore and the Cairngorms;
 - d) Provides opportunity to provide an inclusive sustainable community owned sports facility of national significance, which will; increase economic sustainability and support for local rural businesses, support strong community pride and empowerment, employment opportunities, long-term environmental sustainability through building design, green energy and limiting impact of distance

- from service in remote and rural locations, and provide better life choices supporting community health and wellbeing;
- e) A river crossing with a link to the east instead of continual ribbon development to the north makes sense. It would make the River Spey an integral part of Aviemore;
 - f) The vision for An Camas Mòr is modern and forward thinking that meets national and local aims and requirements supporting the nature and the people within the Park. It also helps solve some of the challenges faced including the shortage of affordable housing. This has been achieved with the help of local consultation in the community. All too often the voice of local people living and working in the communities is not heard but this project takes that voice into account;
 - g) Great opportunity for many people and chance to have a home within an affordable price;
 - h) Moves away from the associated negative effects of piecemeal and developer-led planning on the community of Aviemore;
 - i) Is a unique project addressing the issues of affordability, sustainability and community in an innovative and sensitive way;
 - j) There are no other locations that Aviemore can expand with restricted development to the west and limited development to the north.
56. Other issues raised that neither raise objections or support were:
- a) It is important that any proposed housing is designed sympathetically to the environment and respectful to the natural surroundings.
57. The following were consulted but have not responded:
- a) Aviemore Fire Brigade
 - b) Badenoch and Strathspey Disability Panel
 - c) BT
 - d) Highlands and Islands Enterprise (HIE)
 - e) NHS
 - f) Nethy Bridge Community Council
 - g) Police Scotland
 - h) Spey Fisheries Board
 - i) SSE

APPRAISAL

Legal Background

58. Section 42 of the 1997 Planning Act provides a mechanism for seeking permission to develop land without complying with conditions previously imposed. The Scottish Government Circular 3/2013 on Development Management Procedures sets out the procedure for considering applications made under Section 42 of the Act.
59. The effect of granting a planning permission for a section 42 application is that a new permission for the development but with different conditions is created. The Circular advises that *'in determining a Section 42 application, authorities may consider only the issue of the conditions to be attached to any resulting permission. However, in some cases this does*

not preclude the consideration of the overall effect of granting a new planning permission, primarily where the previous permission has lapsed or is incapable of being implemented'. This was clearly indicated within the consultation papers, including within the advertisements published.

60. If a planning authority approves a Section 42 application, it can also consider the effect of other conditions on the consent, if needed, changing them to reflect changes in circumstances or necessary clarification, as long as they don't materially change the development. Any necessary planning obligations should also be concluded before a decision notice is issued.
61. The Circular also points out that *'where a new permission is granted, the new duration will be as specified in Section 58 or 59 of the Act. However, it would be possible for the planning authority to direct that an alternative time period applies'*. The duration of the permission can be directed to be a shorter or longer time period.
62. The applicant has specifically requested that a Direction be imposed to vary the original default timescale of 3 years to implement the planning permission and this therefore must also be considered under this application.
63. In Summary, the CNPA must consider:
 - a) The merits of the changes to Condition I;
 - b) The effect of granting a new planning permission;
 - c) The duration of planning permission.
64. Because the original planning permission has expired it is also appropriate to undertake an assessment of the merits of the principle of the application. That assessment must give weight to the recently expired original permission, unless there have been any significant changes to local plan policy or the situation on the ground since 2014, when that permission was issued by the CNPA.

Legal Issues

65. Three areas of concern have been identified in the representations and consultation responses which questioned the legality of the process relating to this application and these are addressed here.

That Planning Permission in Principle has lapsed, the Section 42 application is invalid or unlawful, that approval creates a new permission, that there is no proper planning purpose for changing the conditions or that the Section 42 application is being misused.

66. To be valid, an application under Section 42 of the Act must be submitted before the expiry of the associated planning permission. This application gives a legitimate planning reason for requesting the amendment to Condition I and was received by the Highland Council on 20 February 2017 and validated on 22 February 2017. The Planning Permission in Principle (ref 009/155/CP) expired on 11 March 2017. The Section 42 application is a valid one and the CNPA, acting as planning authority must determine the planning application.

67. Approval of a section 42 application creates a new planning permission and accords with the requirements of planning legislation. If the CNPA approve the application, a new planning permission in principle will be issued.

That consultation and determination timescales were inadequate.

68. Planning Circular 4 2009 Development Management Procedures, require that a minimum of 21 days for the receipt of comments on a planning application is given.
69. The application was called in by the CNPA on 27 February 2017, after the consultation process was initiated by the Highland Council as part of the registration process. This involved the placing of an advertisement in the local paper together with targeted consultations of relevant bodies. From the point of call-in by the CNPA, the period for representations is automatically extended to 28 days from that date which would have been 26 March 2017.
70. In addition, Environmental Impact Assessment (EIA) advertisements were placed in two papers and an advertisement solely relating to the application made under Section 42 of the Act was published in the Strathspey and Badenoch Herald on Thursday 16th March, giving 28 days (4 weeks) for the receipt of any comments from that date. The deadline for responses was therefore 13 April 2017, which was 46 days from the date of call in.
71. Once the consultation periods have expired the CNPA can lawfully determine the application. The time periods provided by the CNPA for representations complied with or exceeded statutory requirements.

That advertisement for EIA was incorrect, misleading and contrary to statutory requirements for accuracy.

72. The publicity for EIA applications at the point at which the section 42 application was called in during February 2017, was controlled by Planning Circular 3 2011: The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. Those Regulations have since been superseded by Planning Circular 1 2017: Environmental Impact Assessment Regulations 2017, which came into force on 16 May 2017, and did not apply to the publicity requirements for this application. Under the 2011 Regulations, the notice must be published in the local press and the Edinburgh Gazette. The legislation only requires that specific information is included. The requirements are listed as:
- a) State that a copy of the Environmental Statement (ES) is available for inspection by the public, giving an address (and where available a website address) where the documents can be inspected free of charge
 - b) Give an address in the locality where copies of the statement may be obtained, while stocks last, and the amount of any charge to be made for supplying a copy
 - c) State the date by which any written representations about the application should be made to the planning authority. This date must be at least 4 weeks after the date on which the notice was published; and
 - d) Note that the possible decisions relating to a planning application are to:
 - i. Grant planning permission without conditions
 - ii. Grant planning permission with conditions

iii. Refuse permission

73. The regulations also state that the application is not to be determined before the end of the 4 week period for written representations to be made. These requirements do not prevent the CNPA altering the wording of the notice to reflect the terms of the application and for these adverts, the CNPA varied the note on the possible decisions that could be made to accurately reflect the nature of this application made under Section 42 of the Act.
74. The advertisements were placed in the Strathspey and Badenoch Herald (on Thursday 16th March) and in the Edinburgh Gazette (online on Tuesday 14th March and in paper on Wednesday 15th March). All advertisements were published to include all the necessary information required by the Regulations. A period of 28 days (4 weeks) from the date of publication was given for the receipt of any comments.
75. The advertisements therefore met the EIA legislative requirements.

Amendment to Condition I

76. There are three elements to the proposed Condition requested by the applicant:
- a) Site-wide Phasing Plans (SPP);
 - b) The review of potential landscape and ecological impacts and associated mitigation strategy relating to those phases beyond 630 residential units;
 - c) Detailed Site Plans (DSP) by phase relating to the range and quality of uses (listed by use and referenced to use classes within the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended).
77. A Site-wide Phasing Plan is intended to be a phasing plan for the whole site, previously required under Condition 2c of the original permission, which required it as part of the Masterplan submission:
- 'Detailed phasing plan and a mechanism for regular review and update of that phasing plan (such phasing plan and the mechanism for review and update to take into account the need, prior to each phase of development, for the developer to undertake a review of the impact of the development to that stage on landscape and ecology, which review will be submitted to the CNPA and used in consideration of the application for each phase'*
78. The proposed review of impacts is also a combination of the former Condition I and 2c, including the same trigger of 630 houses that is linked to findings of the EIA.
79. The introduction of Detailed Site Plans is a new element tying into the Site-wide Phasing Plan. The intention would be that prior to each phase of development, a DSP for the phase would be submitted for approval of details relating to the land use elements within that phase. The list provided covers the uses proposed within the previously described planning permission of houses, business, community and infrastructure.
80. In simple terms, the concept of a site wide phasing plan together with subsequently submitted detailed site plans for approval is acceptable since it goes beyond the terms of the original less precise condition and ties it into the phasing of the development. It

is also an established way of providing structured information for long term developments where the details can change over time. However, it is recommended that the new condition is linked to the requirements of the Masterplan with the relevant aspects included in this overall phasing plan. It is also recommended that the Site-wide phasing plan is defined as a SWPP to avoid confusion with the established abbreviations of Scottish Planning Policy and Species Protection Plans.

81. The original condition provided little clarity about what was expected from the review of impacts or on what grounds the CNPA could refuse details. The proposed condition clearly links the review to an associated mitigation strategy to address impacts. It is considered that as long as the condition also reflects the need to demonstrate that there will be no significant impact as a result of implementation of the whole development, it is acceptable and appropriate. It would also make the condition more precise and enforceable.
82. The introduction of Detailed Site Plans (DSPs) for each stage provides the CNPA with greater control over each phase. However, we consider that the requested wording of 'relating to the range and quality' is too vague and that the DSPs should be clearly linked to the other details to be approved so that a DSP provides consistent information for each phase. We also recommend that rather than being a part of Condition 1, the DSPs should be contained in their own condition that specifies the details required with each the DSP for each Phase. This does not change the principle or purpose of the DSPs, but simply gives greater clarity and enforceability.
83. The original permission deliberately avoids a restrictive or tightly defined range of uses over the site to ensure that the development, that will evolve over a long period of time, can adapt to different needs or circumstances. We do not consider the range of uses that are proposed and caveated by the applicant to be necessary, nor likely to be enforceable. We consider that proposed uses on the site should come forward on their own planning merits in the context of the phase and the overall site so recommend that the list of uses is not carried forward to a condition.
84. We recommend that new Conditions 1 and 2 are created to deliver the Site-wide Phasing Plan, a review of potential landscape and ecological impacts and associated mitigation strategy and Detailed Site Plans requested by the applicant.

Request for a Direction

85. The request for an amendment to the timescales for implementation of this planning permission in principle is a reasonable one. Development proposals of this scale would often be given more than three years to collate and submit for approval the necessary detail to allow development to happen. However, this proposal has already had planning permission in principle for the three years to March 2017, as well as knowledge of the Planning Committee resolutions to approve the application prior to that. The applicant has undertaken work over that time with a view to making applications for the matters specified in conditions, but was unable to complete those applications within the three-year period.
86. Our recommendation is that the default period of three years is appropriate for the submission of information required to discharge conditions that apply to the whole

development with the capacity for a further year following the last such approval to apply for the first phase of development through a Detailed Site Plan (DSP). We recommend that the first phase of development has a two-year period to commence following its approval. We consider this approach gives both a reasonable and appropriate time period to provide essential detail on the proposals and to demonstrate that necessary mitigation can be put in place, as well as maintaining a sense of urgency to move the proposals forward.

87. For later phases of development following phase one, we recommend a combination of directions under Section 59 to establish the duration of planning permission and a condition to manage the starting points for applications and commencement of phases. We recommend that applications must be made no earlier than commencement of the previous phase and no later than two years following completion of the previous phase. Commencement of development of subsequent phases should start no earlier than at completion of 75% of the previous phase and no later than three years following either the completion of the previous phase or three years from approval, whichever is later. This would allow the pace of development to vary over time, while guaranteeing an orderly progression.

Principle of Development

88. The Section 42 application is a valid application made prior to the expiry of the original planning application. The original planning application expired on 11 March 2017. It is a very recent planning permission and must be given significant weight as a material planning matter. The fact that the Cairngorms Local Development Plan 2015 has not significantly changed planning policy since the original application was approved and continues to identify An Camas Mòr as a new sustainable community gives further weight to the principle unless there have been material changes.
89. The relevant issues raised through representation that relate to the principle of the development are:
- a) The principle of the change of use and development of this land to provide a mixed-use development - including loss of grazing land and habitat, and impact upon landscape and ecological matters;
 - b) Overdevelopment;
 - c) The need for this development should be reviewed;
 - d) The need for alternative forms of developments needs reviewed, e.g. Affordable housing;
 - e) There are alternative ways and locations to provide affordable housing and business opportunities;
 - f) Previous permission a mistake;
 - g) Increase in holiday homes;
 - h) Impact upon tourism;
 - i) Natural and cultural importance should be given more weight this time;
 - j) Development not sustainable;
 - k) Impact from traffic – pollution and wildlife death and injury.
90. Those issues raised were considered as part of the original application. That application was fully assessed against local plan policies. The relevant policies within the local development plan remain unchanged and the site is still identified as a new

sustainable community. Most of the same issues were also considered as part of the Local Development Plan process leading to adoption.

91. There have been no changes to the proposed development and none are sought through this application. It remains an application for a new community of up to 1500 residential units, associated business, community facilities and provision of infrastructure. If approved and a decision notice issued, it would lead to a new Planning Permission in Principle, with the detail and approval of development being determined under subsequent applications.
92. The applicant has submitted a statement of validity for the Environmental Statement (ES) submitted with the original planning application to demonstrate that the ES remains a robust evidence base on which to make decisions. The records of species present on the site have been added to as the applicant's team and local recorders have undertaken further survey work. There has been no significant change to the An Camas Mòr site itself since the previous planning consent was issued and as the application is for the same development proposal, there is no more detail to the proposals that can be assessed. The predicted impacts on Landscape Character remain unchanged.
93. The single issue that has changed substantially since the original decision was made is our understanding of impacts of recreation on capercaillie. Badenoch and Strathspey is the UK's stronghold for the species with 83% of the total population and a network of Special Protection Areas (SPAs) and associated woodland habitat. There is evidence that capercaillie avoid using woodland that is used by people, potentially reducing the habitat available to them.
94. The CNPA has undertaken an Habitats Regulations Appraisal of the proposal as the competent authority, in consultation with SNH, in order to consider the effect of An Camas Mòr on Natura sites, including the network of SPAs used by capercaillie. That assessment concludes that with mitigation, there will be no significant effect on the site integrity of any Natura sites from the proposed development. The mitigation and the detail of its delivery would need to be provided alongside the further applications that must be approved before development could commence and the requirement for the mitigation is incorporated in the conditions we recommend. Although the RSPB are critical of the HRA undertaken by the CNPA and SNH, we are satisfied that it is a robust HRA for decision making.
95. The principle of this proposed development, when assessed against the current Local Development Plan, taking into account the current objections, would remain acceptable and comply with the CNPA policies on planning land use matters.

Assessment of Other Conditions

96. Officers have undertaken a review of the conditions attached to the original planning permission as part of the processing of the S42 application. Our aim is to ensure that any newly varied conditions are consistent with the existing conditions, that the requirements for mitigation via the HRA are built into the conditions and that all conditions comply with Scottish Government Circular 4/1998 which requires conditions to meet the following tests:
- 1) Necessity,
 - 2) Relevance to planning,
 - 3) Relevance to the development,
 - 4) Enforceable,
 - 5) Precise, and
 - 6) Reasonable in all other respects.
97. This has resulted in some redrafting of conditions, both to ensure they pass those tests and make sure that the CNPA has appropriate control to manage development as it progresses. The recommended conditions are listed in full at the end of this report.

Planning Obligations

98. The development of An Camas Mòr will have impacts on a range of services and facilities and we consider that some planning obligations will continue to be required in order to grant approval. The original S75 agreement was first drafted prior to adoption of the Cairngorms National Park Local Plan 2010. There have been changes in service delivery, in the pressures on services and in the requirements for evidenced and justified planning obligations since then. Officers have held discussions with Highland Council on education impacts, NHS Highland on healthcare impacts and considered the likely costs for other necessary infrastructure and on requirements for mitigation in more detail.
99. Some elements of the original package of obligations will change: affordable housing can be dealt with by planning condition; education infrastructure costs will be higher, changes already planned for healthcare provision appear to have reduced the need for a payment; and there is a need to provide funds to pay for some capercaillie mitigation work off-site. We expect the Heads of Terms of an agreement on obligations to cover:
- a) Provision of land and financial contributions for education;
 - b) Provision of land but reduced financial contributions for community facilities;
 - c) Requirement to provide a lease for land and access for Aviemore Countryside Park;
 - d) Provision of land and increased financial contributions for a foot/cycle bridge over the River Spey;
 - e) Submission and implementation of a Compensatory Habitat Management Scheme;
 - f) A financial contribution for off-site mitigation works; and
 - g) Provision for an annual household service charge for ongoing recreation management.

100. No decision notice would be issued until a legal agreement had been concluded.

Other Issues Raised in Consultations and Representations

101. A number of other issues have been raised through objections:

- a) The pre-national Park requirements of local materials, one and a half storeys, and building within settlements has been abandoned. A further comment was made that it is important that any proposed housing is designed sympathetically to the environment and respectful to the natural surroundings.
- b) There is a requirement to provide sufficient housing (including affordable housing) for future populations' needs.
- c) Use of taxpayer's money to pay for infrastructure has been raised as an objection to the proposals
- d) Accuracy of surveys, lack of survey information, out of date survey information, NVC habitats map inaccurate, impact upon freshwater pearl mussels, capercaillie, and butterflies

102. The responses to those issues raised above are:

- a) The site is identified in the Local Development Plan which includes a range of sites for development within existing settlements as well as identifies An Camas Mòr as a new settlement. The previous consent required sustainable design guidance for the development and the proposed conditions continue to do so.
- b) The Local Development Plan allocates a range of sites for housing and has policies to deliver affordable housing that will be applied.
- c) The financial arrangements behind a development are not part of the consideration of the planning application.
- d) The CNPA are satisfied that the information available allows assessment of the impacts of development and in addition, has undertaken an Habitats Regulations Appraisal of the proposal.

CONCLUSION

103. This application under Section 42 of the 1997 Town and Country Planning (Scotland) Act seeks to vary condition I of the previously approved planning permission in principle. It also requests a Direction under Section 59 of the Act to allow reasonable timescales to be given for the overall phased delivery of this development.

104. Section 42 of the Act allows such a submission under defined circumstances and the associated Circular provides detail on the terms of such an application, which both the applicant and the CNPA have complied with.

105. The Circular requires consideration to be given to the merits of the proposals sought and, in the case where the original permission has expired prior to the determination of an application, the merits of the principle of the development. This must be set in the context of:

- a) The significant material planning consideration that the original planning permission provides;

- b) There being no significant changes to the CNPA planning policies since the original planning permission was issued and that the site remains a site identified as a new settlement in the adopted local development plan;
 - c) There continuing to be no significant impact on landscape or ecology that cannot be addressed through the submission of further applications.
106. Set in this context and having appraised the application, the proposed development is acceptable and complies with Local Development Plan policies. The changes sought through the application, together with further recommended changes to the conditions and a revised packed of planning obligations would result in an improved Planning Permission in Principle, giving the CNPA greater control over the terms and details of the development at the same time as allowing the developer the flexibility to manage the progression of the development with more certainty.
107. A Habitats Regulations Appraisal was undertaken as part of the process of assessing this application. It concludes that with specific mitigation, the proposed development will not have an adverse effect on the site integrity of any Natura sites. Evidence that this mitigation, or other measures that achieve the same outcome, will be delivered, must be submitted for approval before development can commence. The additional clarity on mitigation needed for capercaillie, combined with capital funding for works and long-term funding for recreation management through the annual household service charge and the planning obligations also strengthen the proposals.

RECOMMENDATION

That Members of the Committee support a recommendation to: GRANT planning permission for this application under Section 42 to vary condition 1 of planning permission in principle (the Cairngorms National Park Authority reference 09/0155/CP) for Development of new community (up to 1500 residential units) (subject to regular review); associated business, community facilities and provision of infrastructure at An Camas Mòr, Aviemore, subject to:

1. A new legal agreement being signed by all parties (to cover the Heads of Terms, outlined in this report)
2. A Direction to be attached regarding duration of planning permission in principle
3. Planning conditions (as listed below)

PROPOSED DIRECTION

In terms of Section 59 (5) of the Town and Country Planning (Scotland) Act 1997 ("the Act"), the Cairngorms National Park Authority directs that:

1. In respect of conditions 1, 3, 4, 5, 9 and 11, for the purposes of Section 59(2)(a)(i) of the Act, the period for submitting applications for requisite approval remains at 3 years;
2. In respect of condition 2, for the purposes of Section 59(2)(a)(i), the period for submitting applications for requisite approval shall be as follows: (a) in respect of the

first phase of the development, 1 year from the date on which the last of conditions 1,3, 4, 5, 9 and 11 as they relate to the development site as a whole have been approved; (b) in respect of the second and subsequent phases of the development, no later than 2 years from the date on which the last house in the previous phase was been completed;

3. In respect of condition 10, for the purposes of Section 59(2)(a)(i) the period for submitting applications for requisite approval in respect of each phase shall be at any time prior to commencement of any material operations on that phase beyond site investigation works in relation to archaeological and historic features;
4. For the purposes of Section 59(4) of the Act, the planning permission will lapse as follows: (a) in respect of the first phase of the development, on the expiration of 2 years from the date of approval of the last of requisite approvals required under conditions 1,3, 4, 5, 9 and 11 as they relate to the development site as a whole and conditions 2 and 10 as they relate to phase 1; (b) in respect of the second and subsequent phases of the development, on the later of (i) 3 years from the date of approval of the last of the requisite approvals required under conditions 2 and 10 as they relate to the phase in question and (ii) 2 years following completion of the last house in the previous phase.

Reason(s): In order to enable the phased delivery of a new sustainable community in accordance with Policy 1: New Housing Development, Policy 2: Supporting Economic Growth, Policy 3: Sustainable Development, Policy 4: Natural Heritage, Policy 5: Landscape, Policy 8: Sport and Recreation, Policy 9: Cultural Heritage, Policy 10: Resources, and the aims and objectives set out in Community Information on An Camas Mòr (Chapter 14), all of the Cairngorms National Park Local Development Plan 2015.

Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.

- I. **No development shall commence on site until a Site-Wide Phasing Plan (SWPP) has been submitted to and approved in writing by the Cairngorms National Park Authority, acting as planning authority. The SWPP shall include:**
 - a) **An assessment of landscape and visual impacts using the Landscape Institute's current Guidelines for Landscape and Visual Impact Assessment and ecological impacts using Chartered Institute of Ecology and Environmental Management's ecological impact assessment methodology, together with mitigation strategies, in respect of those phases beyond 630 residential units to demonstrate that there will be no significant impact as a result of implementation of the whole development;**

And phasing details for the provision and/or delivery of:

 - b) **All infrastructure and resources development, including those within the approved Green Transport Plan (including a direct foot/cycle path link to a bridge over the River Spey) and Services and Drainage Plans;**
 - c) **Housing in accordance with the approved Housing Delivery Plan;**
 - d) **On-site measures in accordance with the Recreation Management Plan.**

The development shall then be implemented in accordance with the approved SWPP.

Reason: To ensure the ordered and phased delivery of and provision of these matters to achieve a new sustainable community in accordance with Policy 1: New Housing Development, Policy 2: Supporting Economic Growth, Policy 3, Policy 4: Natural Heritage, Policy 5: Landscape, Policy 8: Sport and Recreation, Policy 10: Resources, and the aims and objectives set out in Community Information on An Camas Mòr (Chapter 14) of the Cairngorms National Park Authority Local Development Plan 2015.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative 1 of this permission/the Direction.

2. No development shall commence on site of any of the phases (defined in the approved SWPP), until the respective Detailed Site Plans (DSPs) for that phase have been submitted to and approved in writing by the Cairngorms National Park Authority, acting as planning authority.
 - a) The DSPs shall include:
 - i. Details and specifications and the programme for the delivery of the on-site mitigation works as outlined in the HRA and included in the approved Recreation Management Plan;
 - ii. Details of delivery of the Green Transport Plan;
 - iii. Details of the provision of affordable housing in accordance with the approved Affordable Housing Delivery Plan including (a) type, (b) delivery mechanism, (c) retention mechanism, and (d) delivery timescales;
 - iv. Details of site allocation for all employment and community uses;
 - v. Management Proposals for the specific short and long term management and maintenance of access (roads and footpaths), open space, and SUDs;
 - vi. Details of Street Lighting and other external lighting in accordance with the approved Street Lighting and External Lighting Strategy;
 - vii. Details of the provision of services and drainage in accordance with the approved Services and Drainage Strategy;
 - viii. Details of the implementation of the sustainability measures in accordance with the approved Sustainability Statement;
 - ix. Details of the provision of sites reserved for the school and community facilities;
 - x. Details of siting, site levels/sections (FFLs), design, external appearance and external finishes of all buildings together with details of boundary treatment, hard/soft landscaping, vehicular and pedestrian access, vehicular and cycle parking provision, all

in accordance with the approved Sustainable Design Guidelines, the approved Waste Storage and Management Plan, and the approved Parking Provision Plan;

- xi. Habitat protection and management plans in accordance with approved Landscape and Ecology Masterplan;
- xii. Details of compound areas, including location, size and enclosure in accordance with the approved Compound Plan;
- xiii. Details of storage and management of waste in accordance with the approved Waste Storage and Management Plan;

The development shall then be implemented in accordance with the approved DSPs.

- b) In respect of the second and subsequent phases of the development, the application for approval of the DSP for each phase shall not be submitted before the date on which a material operation (excluding site investigation works in relation to archaeological and historic features) has commenced on the previous phase.
- c) In respect of the second and subsequent phases, no development shall commence (except for site investigation works) until at least 75% of the houses permitted on the previous phase have been completed or such other measure of progress of development in the previous phase as the Planning Authority imposes as a condition of approval of the DSP for each phase.

Reason: To ensure to provision and delivery of these matters in accordance with the approved SWPP, MP and LEMP and consistent with the requirements of the HRA to achieve a new sustainable community; all in accordance with Policy 1: New Housing Development, Policy 2: Supporting Economic Development, Policy 3: Sustainable Design, Policy 4: Natural Heritage, Policy 5: Landscape, Policy 8: Sport and Recreation, Policy 10: Resources and the aims and objectives set out in the Community Information on An Camas Mòr (Chapter 14) of the Cairngorms National Park Authority Local Development Plan 2015.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative 1 of this permission/the Direction

- 3. No development shall commence on site until a Masterplan has been submitted to and approved in writing by the Cairngorms National Park Authority, acting as Planning Authority. The Masterplan shall include:
 - a) Sustainable Design Guidance for the development, including; mix of uses of buildings and spaces; mix of housing types; siting and orientation of buildings; building designs and external appearances; materials to be used for buildings, surfaces and boundary treatments, and waste storage and management

- b) **Housing Delivery Plan including:**
 - i. **Proposals for the provision of a minimum of 25% of all residential units approved on site as affordable housing.**
 - ii. **Proposals for the provision of a mix of housing tenures, including opportunities for individuals/self-build and local small scale builders to be included in details for each phase in the DSPs.**
 - iii. **Proposals for the management of the level of holiday home ownership and use within the development.**
- c) **Proposals for opportunities/provision of further and higher education;**
- d) **Access Statement;**
- e) **Provision of land for a school and community facilities;**
- f) **Details of road layout, designed to accord with the principles of Designing Streets 2010, or such other Scottish Government Policy, which supersedes it;**
- g) **Street and External Lighting Strategy, designed to accord with the requirements within the Habitat Regulations Assessment that no direct light shall fall onto water surfaces and to minimise impact upon the night sky and conserve energy;**
- h) **Services and Drainage Plan, including;**
 - i. **Either the provision for treatment and disposal of sewage on site or details of connection to the public sewerage system;**
 - ii. **Provision for waste water treatment;**
 - iii. **Provision of a SUDS scheme, which prevents flooding and particulate discharge into the River Spey and complies with the most up to date CIRIA Manual;**
 - iv. **Provision of water and electricity supplies to all premises;**
 - v. **Provision of a water storage system for commercial premises;**
 - vi. **Arrangements for storage, segregation and collection of waste (including location, access, maintenance and screening arrangements);**
 - vii. **Provision of broadband connections to all properties and premises.**

The Services and Drainage Strategy shall be to the satisfaction of SEPA, Scottish Water and SNH and once approved shall be implemented in full prior to the occupation of any building or commencement of any use.

- i) **A Contamination Assessment Report detailing the suitability of the land for its proposed use.**

The assessment shall be consistent with the approach to land contamination contained in Planning Advice Note 33 and the British Standard (BS) 1017: 2011+A1: 2013 Investigation of Potentially Contaminated Sites – Code of Practice.

In the event that contamination is found, details of the measures required to treat/remove contamination (a remedial strategy) to ensure that the site is fit for the uses proposed shall also be submitted to and approved in writing by the Cairngorms National Park Authority, acting as planning authority.

Thereafter, the approved remedial strategy (if required) shall be implemented and completed in its entirety prior the commencement of the development and certification from Highland Council Contaminated Land Team shall be provided to the Cairngorms National Park Authority to demonstrate implementation and completion of the measures.

- j) **Sustainability Statement** relating to the whole development both during and after construction that maximises:
 - i. **Carbon reduction**
 - ii. **Energy conservation**
 - iii. **Generation of renewable energy (including a district heating system)**
 - iv. **Water conservation**
 - v. **Waste recycling**
 - vi. **Local sourcing of materials and labour for the construction of the development**
- k) **Green Transport Plan** including details of links to public transport provision and accessible year-round bus service on the site on occupation;
- l) **Parking Provision plan**, including on and off-street vehicular and cycle parking for all non-residential uses and off-street car parking for residential uses;
- m) **Levels and Site Sections** showing existing and proposed ground levels. The sections shall be accompanied by a contoured site plan. The details shall include any earthworks and details for the redistribution and/or removal of any resultant materials;
- n) **Compound Plan**, including details of site facilities and storage for equipment and materials on site;
- o) **Waste Storage and Management Plan** for all uses on the site;

The development shall thereafter be implemented in accordance with the approved Masterplan.

Reason: To ensure the provision and delivery of these matters in accordance with the approved SWPP, MP and LEMP and consistent with the requirements of the HRA to achieve a new sustainable community; all in accordance with Policy 1: New Housing Development, Policy 2: Supporting Economic Development, Policy 3: Sustainable Design, Policy 4: Natural Heritage, Policy 5: Landscape, Policy 8: Sport and Recreation, Policy 10: Resources and the aims and objectives set out in the Community Information on An Camas Mòr (Chapter 14) of the Cairngorms National Park Authority Local Development Plan 2015.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative 1 of this permission/the Direction.

4. **No development shall commence until a Landscape and Ecology Masterplan (LEMP) has been submitted to and approved in writing by the Cairngorms National Park Authority, acting as planning authority. The LEMP shall take full account of the Environmental Statement and include the following:**
- a) **Details of the retention of woodland, new planting, street trees and open space, footpath network and the integration with proposals for surface water drainage and lighting**
 - b) **An Landscape Method Statement which underpins the Landscape and Ecology Masterplan and includes:**
 - i. **A survey of tree cover and associated vegetation existing on the site before commencement of development;**
 - ii. **A soil survey and details of on-site management, retention, storage or reuse of soil during development;**
 - iii. **Proposals for site protection during and after construction;**
 - iv. **Proposals for planting (specifying the species and ground preparation);**
 - v. **Proposals for maintenance during the period of establishment and a long term management plan.**
 - c) **Details for areas of all permanently retained habitats on site that includes kettle holes, the woodland corridors on the eastern and western edges of the site and the wetland area in fields to the west of the site with details of:**
 - i. **Protection during and after construction;**
 - ii. **Long term management post development;**
 - d) **Mitigation proposals for any roads, tracks or trenches with 100m of the Groundwater terrestrial ecosystem (GWDTE) associated with the kettle hole in the south west part of the site and for any borrow pits or foundations within 250m of the kettle hole;**
 - e) **Details for areas of all temporarily retained habitats and their protection and management prior to development;**
 - f) **Details of areas of new woodland planting to create two north-south and one east-west woodland corridors through the site with details of:**
 - i. **Planting methods**
 - ii. **Maintenance methods**
 - iii. **Protection during and after construction**
 - iv. **Long term management post development**
 - g) **Details of all off-site compensatory habitat creation and management through a Compensatory Habitat Management Scheme for the eight areas identified in the planning obligation, that includes:**
 - i. **Methods of creation;**
 - ii. **Long term management.**
 - h) **Species Protection Plans including details of pre-construction surveys and any post development monitoring for:**
 - i. **All protected species on site including badger, pine marten, bats, otter, red squirrel, reptiles and amphibians;**
 - ii. **Woodants;**
 - i) **Details of a residents' awareness raising initiative to promote**

Wildcat conservation through management of domestic cats.

The development shall thereafter be implemented in accordance with the **Landscape and Ecology Masterplan**

Reason: To ensure the delivery of these matters in accordance with **Policy 4: Natural Heritage and Policy 5: Landscape** and the aims and objectives set out in the **Community Information on An Camas Mòr (Chapter 14)** of the **Cairngorms National Park Authority Local Development Plan 2015**.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of **Section 59** of the **Town and Country Planning (Scotland) Act 1997**, as outlined in **Informative I** of this permission/the **Direction**

5. **No development shall commence until a Construction and Environmental Management Plan (CEMP) that takes account of the Environmental Statement and demonstrates procedures will ensure that there is no adverse impact upon the integrity of the Natura sites and/or the European Protected Species has been submitted to and approved in writing by the CNPA acting as planning authority. The CEMP shall include:**
- a) **A construction method statement for all site clearance, infrastructure and construction works;**
 - b) **A construction procedures handbook for delivery of the Landscape and Ecology Masterplan;**
 - c) **Evidence that that the Landscape and Ecology Masterplan, the Landscape Method Statement and the Recreational Management Plan form part of a contractual obligation with developers on site and shall be included in the title conditions;**
 - d) **Details of necessary legal structures and agreements for ongoing site management, including ongoing management and maintenance of all non-private, public and communal spaces.**
 - e) **Details of the appointment, roles and responsibilities of an appropriately qualified Ecological Clerk of Works (ECoW) to supervise each phase;**
 - f) **Details of the appointment, roles and responsibilities of an appropriately qualified Landscape Clerk of Works (LCoW) to supervise each phase;**
 - g) **Details of the appointment, roles and responsibilities of an appropriately qualified Environmental Clerk of Works to supervise each phase;**

Thereafter the development shall be implemented in accordance with the approved **CEMP**

Reason: To ensure the delivery of these matters in accordance with **Policy 4: Natural Heritage, Policy 5: Landscape, Policy 10: Resources and**

the aims and objectives set out in the Community Information on An Camas Mòr (Chapter 14) of the Cairngorms National Park Authority Local Development Plan 2015.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative I of this permission/the Direction

6. No residential unit in An Camas Mòr shall be occupied before either:
- a) Upgrade of the existing Coylumbridge junction and the B970 leading to the main development site to the satisfaction of the CNPA acting as planning authority in consultation with the Highland Council. Thereafter the upgraded road and junction can be used as the means of access for no more than 200 residential units. Notwithstanding that it is shown in the approved plans for application 09/155/CP, no approval is given for the realignment of the B970 Coylumbridge junction.

or,

 - b) A new distributor road from the substation site to the east of Rothiemurchus Fisheries has been provided in accordance with details to be submitted to and approved in writing by the CNPA acting as planning authority in consultation with the Highland Council.

Reason: To ensure the provision of safe access to the site in accordance with Policy 3: Sustainable Design, avoid impacts on habitats and species in accordance with Policy 4: Natural Heritage and the aims and objectives set out in the Community Information on An Camas Mòr (Chapter 14) of the Cairngorms National Park Authority Local Development Plan 2015.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative I of this permission/the Direction.

7. No development beyond 200 residential units shall commence until a new distributor road from the substation site to the east of Rothiemurchus Fisheries has been provided in accordance with details to be submitted to and approved in writing by the CNPA acting as planning authority in consultation with the Highland Council, SEPA and SNH.

Reason: To ensure the provision of safe access to the site in accordance with Policy 3: Sustainable Design, avoid impacts on habitats and species in accordance with Policy 4: Natural Heritage and the aims and objectives set out in the Community Information on An Camas Mòr (Chapter 14) of the Cairngorms National Park Authority Local Development Plan 2015.

Planning permission for the development has been granted in principle only and

subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative I of this permission/the Direction.

8. **No development (other than the construction road) shall commence until the construction road into the site on the line of the proposed distributor road leading from the substation site to the east of Rothiemurchus Fisheries has been completed in accordance with the Construction Method Statement and details to be submitted to and approved in writing by the CNPA acting as planning authority in consultation with the Highland Council Highland Council, SEPA and SNH.**

Reason: To ensure the provision of safe access to the site in accordance with Policy 3: Sustainable Design, avoid impacts on habitats and species in accordance with Policy 4: Natural Heritage and the aims and objectives set out in the Community Information on An Camas Mòr (Chapter 14) of the Cairngorms National Park Authority Local Development Plan 2015.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative I of this permission/the Direction.

9. **No development shall commence until the following details are submitted to and approved in writing by the Cairngorms National Park Authority, acting as planning authority, in consultation with SNH and SEPA:**
- a) Detailed design and construction method statements for the access road which includes a crossing of the River Druie and its flood plain, including bridge and culverts for backwater channels;**
 - b) Flood risk analysis;**
 - c) Compensatory storage scheme;**
 - d) Pre-construction surveys for European Protected Species;**
 - e) Species Protection Plans (including details of all required measures for the protection of European Protected Species during and after construction;**
 - f) Arrangements for an Ecological Clerk of Works;**
 - g) Constructions Environmental Management Plan, including the management of run-off from construction in accordance with SEPA's most up to date pollution prevention guidelines(PPG's);**
 - h) Timescales for construction activity.**

The access road and associated infrastructure shall then completed in accordance with all the above approved documents, listed (a) to (h) within this condition.

Reason: To ensure the provision and delivery of these matters in accordance with Policy 3: Sustainable Design, Policy 4: Natural Heritage, Policy 10: Resources and the aims and objectives set out in the Community Information on An Camas Mòr (Chapter 14) of the Cairngorms National Park Authority Local Development Plan 2015.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative 1 of this permission/the Direction.

- 10. No other development, with the exception of these site investigation works, shall commence on each phase of the development until a programme of works for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development, with provision of an Archaeological Clerk of Works (ACoW), including a timetable for investigation, all in accordance with the submitted specification, has been submitted to and approved in writing by the Cairngorms National Park Authority, acting as planning authority.**

The agreed works shall be implemented in accordance the approved programme and timetable

Reason: To ensure the delivery of these matters in accordance with Policy 9: Cultural Heritage of the Cairngorms National Park Local Development Plan 2015.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative 1 of this permission/the Direction.

- 11. No development shall commence on site (other than site investigation works) until a Recreational Management Plan (RMP) that delivers the outcomes within the Habitat Regulations Appraisal that accompanies this decision and demonstrates that there will be no adverse effect on site integrity of any Natura sites, has been submitted to and approved in writing by the CNPA acting as planning authority.**

The Recreational Management Plan must include:

- a) The provision and management of recreational infrastructure and mitigation measures within the development site;**
- b) The provision and management of recreational infrastructure and mitigation measures off the development site;**
- c) The mechanisms and timetable for delivery, monitoring and review.**

Thereafter, the development shall be implemented in accordance with the approved Recreation Management Plan.

Reason: To ensure appropriate access provision in accordance with Policy 3: Sustainable Design and to ensure the development has no significant effect on the integrity of Natura sites in accordance with Policy 4: Natural Heritage, the aims and objectives set out in the Community Information on An Camas Mòr (Chapter 14) of the Cairngorms National Park Authority Local Development Plan 2015 and the Habitats Regulations.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative I of this permission/the Direction.

12. The Site-Wide Phasing Plan (referred to in Condition 1), Masterplan (referred to in Condition 3) and the Landscape and Ecology Masterplan (referred to in Condition 4) shall all be mutually consistent, include reference to the delivery of all the relevant mitigation required by the Habitats Regulations Appraisal that accompanies this decision and must be submitted on the same date for the consideration and approval of the Cairngorms National Park Authority, acting as planning authority.

Reason: To ensure the delivery of a new sustainable community in accordance with Policy 1: New Housing Development, Policy 2: Supporting Economic Growth, Policy 3: Sustainable Design, Policy 4: Natural Heritage, Policy 5: Landscape, Policy 8: Sport and Recreation and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

Planning permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as outlined in Informative I of this permission/the Direction.

Informatives

- I. Times and Procedures for Applying for Requisite Approvals

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997, application(s) for requisite approval (for the avoidance of doubt, conditions requiring requisite approval are all those with reference to Section 59 in the reason for the conditions) must be made before whichever is the latest of the following:

- a) The expiration of the time periods set out in the Direction of the grant of the permission;

- b) The expiration of 6 months from the date on which an earlier application for the requisite approval was refused; and
- c) The expiration of 6 months from the date on which an appeal against such refusal was dismissed.

Only one application may be made by virtue of (b) and (c) above after the expiration of the 3 year period mentioned at (a) above.

An application for requisite approval may be made for different matters and different parts of the development at different times. Each application shall be in writing and must:

- a) Identify the planning permission to which it relates;
- b) Contain a description of the matter in respect of which the application is made;
- c) State the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent; and
- d) Be accompanied by plans and drawings describing the matter in respect of which the application is made and any fee required under the Fees Regulations.

2. Lapsing of Permission

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997, this permission lapses unless you commence the development within 2 years from the date of the last requisite approval.

3. Notice of Initiation of Development

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.

4. Notification of Completion of Development

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.