
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

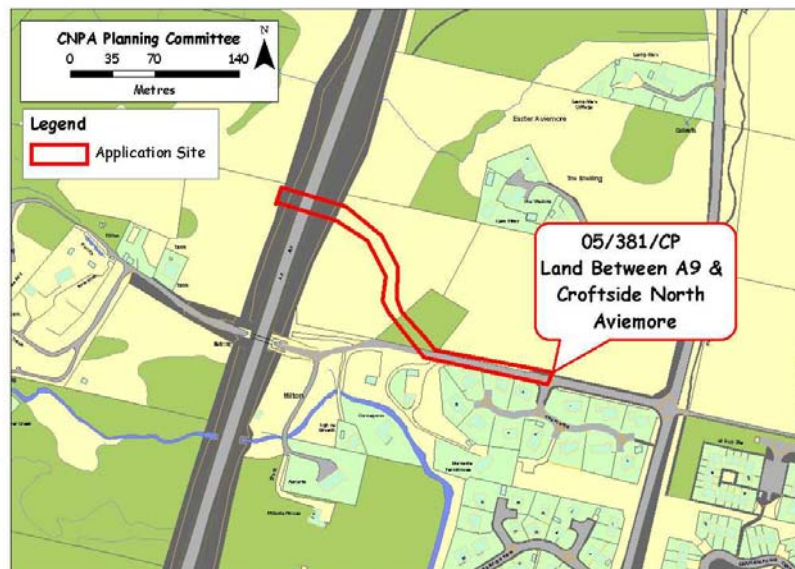
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DEVELOPMENT PROPOSED: AMENDMENT TO CONDITION NO. 9 ATTACHED TO PLANNING REF. 05/178/CP TO ALLOW SATURDAY WORKING TIMES, AT THE DEVELOPMENT OF THE UNDERBRIDGE AT Highburnside, Aviemore.

REFERENCE: 05/381/CP

APPLICANT: AVIEMORE AND HIGHLAND DEVELOPMENTS, MYRTLE HOUSE, GRAMPIAN ROAD, AVIEMORE

DATE CALLED-IN: 9TH SEPTEMBER 2005



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Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Permission is sought for an amendment to condition no. 9 of planning ref. no. 05/178/CP. That application involved the granting of permission for the construction of a new access road in the northern area of the settlement of Aviemore, on land between Edenkillie Road and an area to the west of the A9 trunk road, to serve land that is the subject of a current reserved matters application for 75 house plots. Condition no. 9 of the permission stipulated that "*Working hours shall be confined to the period between 8.00am and 6.00pm, Monday to Friday.*" The condition was imposed largely in response to concerns raised by local residents in relation to the adverse impacts likely to be created outside of those working hours, particularly in relation to noise and dust issues.
2. This current application seeks to amend that condition to allow Saturday working between the hours of 08.00 and 14.00. The work on-going at the subject site at present relates to the construction of the A9 underpass only. Members may recall that a suspensive condition was attached to the original planning permission prohibiting any work, other than the construction of the underpass and associated temporary road diversion on the A9 until the granting of planning permission for a housing development on lands at Highburnside, which the permitted access road and underpass is required to serve. The agreement between the developers and the Scottish Executive originally included a programme of works that would achieve completion of the underpass by the end of November 2005. Information submitted in the course of this application indicates that in light of the start date of the project and having regard to the current working hours, the completion date has been revised to the start of January 2006. A detailed works programme has been submitted with this application and it is indicated on the basis of current working hours that the projected January 2006 completion date is based on the contractor working over the Christmas holiday period (with the exception of Christmas Day and New Years Day). A second schedule of works has also been submitted, factoring in the proposed Saturday working hours, and estimating on that basis that work would be completed during the week commencing 12th December 2005.



Fig. 2 On-going works at underpass

3. The information submitted in support of the proposal refers to the fact that a pre-Christmas completion date would “allow the free flow of traffic on the A9 over the Christmas period” and would be “less disruptive to neighbours close to the new underpass over the Christmas / New Year period.” Reference is also made in the submission documents to the fact that Saturday working has been permitted at other development sites in Aviemore, and the Robertson Group’s site at Aviemore North is cited as an example.

DEVELOPMENT PLAN CONTEXT

4. Due to the nature of the application proposed, which relates only to an amendment of a working hours condition imposed on the original grant of planning permission, there are no policies directly applicable to the situation. The following section therefore details the policies applicable to the development of the access road and underbridge originally permitted.
5. The **Highland Structure Plan 2001** contains few policies directly applicable to the provision of this type of local level infrastructure. However, **Policy H8** deals exclusively with access arrangements for new and existing development. Highland Council’s aim is for access standards to be capable of adoption by the Council, where the standards are set out in Road Guidelines for New Development. The policy requires that the adopted road “should normally serve all of the new development and any existing development.”
6. In addition, there are a number of strategic themes and policies broadly related to a development proposal of this nature. For example, the strategic theme of addressing the need for quality living environments, as detailed in section 1.5.23 of the Structure Plan, recognises that “people are entitled to quality in the physical aspects of their living environment”. It goes on to state that “people should live in settings which add pleasure to their lives and not diminish their experience” and that “we need to find ways of achieving quality living environments in both larger settlements and rural areas” with the long term aim of securing better living conditions for all which should help to “create the climate for investment, for a vibrant economy and where the environment is valued by the community at large.”
7. The majority of the land through which the permitted access road passes is allocated in the **Badenoch and Strathspey Local Plan 1997** as amenity woodland, whilst a small portion of the easternmost section of the road traverses across a parcel of land that is zoned for public buildings.

8. Section 6.3.10 of the Plan details the policy on footpath provision, where the need to safeguard the existing network of segregated footpaths throughout the village is highlighted, and where it is also the policy to secure new links between future housing areas at Aviemore North, Dalfaber and Edenkillie.

CONSULTATIONS

9. **Aviemore and Vicinity Community Council** were consulted on the proposed amendment to the working hours and responded positively. The submission however suggests that the Saturday working hours be amended from the proposed hours of 08.00 to 14.00, to 09.00 to 14.00. This suggestion was made by the Community Council on the basis that “the neighbours would appreciate a later start in the morning and workers would still prefer to finish at 14.00 hours.”
10. The proposal has also been examined by the **Environmental Health Officer** of Highland Council, and the consultation response states that there are no objections to the proposed Saturday working hours. The information provided with the response also included information on the noise and vibration levels generally accepted by Local Authorities during operations on trunk roads (copy attached), which are based on British Standard 5228:1997 (Code of Practice for Noise Control on Construction and Demolition Sites). In terms of noise control, the attached document shows that maximum noise levels of 75dB(A) are acceptable between the hours of 07:00 and 19:00, Monday to Saturday.

REPRESENTATIONS

11. A letter of representation has been received from David Taylor, a resident of the adjacent residential development known as Croftside. Mr. Taylor objects to the proposed additional working hours and states that it would be nice to use his garden area with his family “without the intrusion of building at weekends and public holidays” and he suggests that “surely, this is not too much to ask for.” The submission details the difficulties that have been encountered to date with regard to working hours, and the author expresses his concern in particular that the existing working hours condition (condition no. 9 of 05/178/CP) is being breached, stating that work is on-going on site every Saturday between the hours of 07:00 and 14:00 hours, and that Monday to Friday work commences at 07:00 hours, instead of the stipulated time of 08:00 hours. The submission details the sounds of reversing beacons from work vehicles and the movement of heavy vehicles at early hours. Reference is also made to intrusion in the area due to it being “flooded by lights 24 hours a day on the A9.”

12. Nicky Taylor, also a Croftside residence, submitted an objection to the proposed amendments to the working hours. She cites the current working practises at the site, which are outside the terms of the planning conditions applied, and gives the specific example of the constant noise of a steam roller, JCB and dumper truck on Saturday 8th October 2005. Ms. Taylor states in her submission that she finds such activity unacceptable as it “causes noise and dust during what many regard as a day of respite.”
13. The final representation was received from Janet and David Horrocks, residents of 12 Croftside. They object to the potential carrying out of work over “weekend days, public holidays and late into the evenings especially during summer months” and they raise particular concern that extended working hours at the site could eventually become detrimental to their health. Concern is also raised at the prospect that extended working hours may result in the workforce working in excess of a 48 hour week, and they question whether or not this could increase the risk of accidents both to the workers and to others in the vicinity, including residents and walkers and cyclists in the area.

APPRAISAL

14. Although the proposal to amend a condition of the original permission is not necessarily considered to be generally of significance in its own right to the aims of the National Park, the application was called in due to its linked significance to an earlier application determined by the CNPA, with particular regard to the social and economic development of the area. In addition, the CNPA had also received complaints about the working hours condition of the original consent allegedly being breached on several occasions.
15. As had been detailed in earlier sections of this report, a detailed works programme has been submitted in support of the required amendment to the permitted working hours. Indeed this has formed a significant basis for the overall assessment of the proposal. The concerns highlighted by residents is also a key factor. It is essentially a case of striking a balance in order to facilitate the completion of the permitted works in the safest, least obstructive and most convenient manner possible for all parties concerned.



Fig. 3 : southern approach to existing temporary A9 diversion



Fig. 4 : temporary diversion of the A9

16. At the outset of the planning process for the underpass and road and the associated need to create a temporary diversion on the A9, the concerns of the Scottish Executive were highlighted. In the interests of road safety and achieving the minimum level of disruption possible for motorists along the A9, it was intended that the works would be completed prior to the onset of winter and the associated potentially hazardous driving conditions. An anticipated completion date of November 2005 was initially envisaged, but has subsequently been revised to the start of January 2006 to take account of the revised start date following completion of the planning process.
17. The technical advice received from the **Protective Health** section of Highland Council does not indicate that the proposal to work on Saturday mornings would create significantly adverse effects, and indeed it was intimated in the course of a telephone conversation with a Highland Council official that the practice of Saturday work activity is one which has broadly been accepted throughout the area.
18. I am sympathetic to the concerns expressed by residents of nearby properties in relation to the disturbance of their residential amenity and the general amenity of the area in the event that an increase in working hours at the site were to be permitted. In addition, I am extremely concerned at references made in the letters of representation regarding non adherence to the restriction on working hours originally imposed.

Further to receipt of complaints earlier in the summer regarding breaches of the working hours (in that instance, complaints were confined to work exceeding the hours stipulated between Monday and Friday), a letter was issued to representatives of the applicants highlighting the requirements of the working hours condition and advising that enforcement action could ensue in the event of continued breaches. It was my understanding that this current application was subsequently submitted in an effort to gain permission for Saturday working in addition to adhering to the stipulated hours between Monday and Friday, in order to achieve the completion of the underpass and the associated restoration of the A9 within the timescales set down by the Scottish Executive.

19. It is my view that the granting of permission for an amendment to the working hours condition stipulated in planning ref. no. 05/178/CP to allow for Saturday working hours should be considered on its merits and the assessment should take into account the specific background to the need for the increased working hours. Consideration of the proposed amendment to the condition should not be clouded by allegations of past breaches of the working hours condition, although I would suggest that in the event that such breaches of planning permission are found to persist, even after the determination of this current application, that the CNPA pursue immediate enforcement action on the matter. On the basis of the information submitted in the form of the detailed programme of proposed works (copies attached), it is apparent that there is a genuine need for increased working hours in order to complete the underpass and restore the route of the A9 in accordance with the requirements of the traffic order and speed restrictions issued by the Scottish Executive. On the basis of the facts submitted, it is my view that the carrying out of Saturday work at the site over a limited period i.e. between the current time and the projected completion date of the project prior to Christmas, would be the most beneficial approach to take, both in terms of alleviating disturbance to residents in the area likely to result from work undertaken over the Christmas and New Year holiday period, and also in the interests of traffic safety and the public safety of road users of the A9 due to the lifting of the temporary diversion prior to the busy holiday period which could also coincide with potentially adverse winter weather and driving conditions. I am therefore recommending that permission be granted amending condition no. 9 of the original working hours, **but only to allow for Saturday working between the hours of 08:00 to 14:00 hours for a limited period to facilitate the completion of the underpass and the restoration of the route of the A9.**
20. As detailed in para. 1 and 2 of this report, a suspensive condition was imposed, restricting the carrying out of work on the proposed access road to serve the Highburnside proposal, until the determination of the associated reserved matters planning application for a 75 house development. As the road works that remain to be carried out in the

future would be in quite close proximity to existing residential properties, I agree with the sentiments expressed in letters of representations regarding the potential for significant disturbance to the residential amenity of the area at weekends, and consequently feel that the original condition restricting working hours between the hours of 08:00 and 18:00, Monday to Friday, should remain applicable for all other works permitted under planning ref. no. 05/178/CP. Given that this is being brought to the attention of the applicants at this early stage, it would allow ample opportunity to prepare a realistic programme of works, based on the stipulated working hours. I consider that the amendment to the working hours condition is specific to the situation of building an underpass, and any granting of planning permission for extended working hours in order to facilitate the completion of that specific action should not be viewed as a precedent for working hours associated with further development in the area.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

21. The proposed change in the working hours is not considered to have a direct impact on the natural or cultural heritage of the area.

Promote Sustainable Use of Natural Resources

22. There are no implications in respect of this aim.

Promote Understanding and Enjoyment of the Area

23. The proposed Saturday morning activity could be considered to negatively impact on the general public's enjoyment of the area, and in particular could interfere with the residential amenity of residents of neighbouring properties, although in both instances the interference with the enjoyment of the area on a Saturday morning would be for a limited period and would be expected to cease at the end of the proposed programme of works.

Promote Sustainable Economic and Social Development of the Area

24. The proposed additional working hours are required in order to complete the A9 underpass, which is part of the infrastructural works associated with the potential future development of a large area of land at Highburnside for new housing. The timely completion of the work would therefore be of indirect benefit to the further social and economic development of the area.

RECOMMENDATION

That Members of the Committee support a recommendation to:

Grant permission for an amendment to condition no. 9 attached to planning ref. 05/178/CP to allow Saturday working times at the development of the underbridge at Highburnside, Aviemore, subject to the conditions listed hereunder –

1. This permission refers only to an amendment to condition no. 9 of planning ref. no. 05/178/CP to allow Saturday working times between the hours of 08:00 to 14:00 only, where such working hours shall only be permitted to facilitate the completion of the underbridge at Highburnside and the restoration of the route of the A9 and associated landscaping. The final date on which Saturday working time is permitted under this permission is Saturday, December 17th 2005. Other than the Saturday working times permitted for the period to December 17th 2005, all other works associated with the permitted development of the access road at Highburnside shall be confined to the working times stipulated in the original condition i.e. Monday to Friday only, between the hours of 08:00 to 18:00.

Mary Grier
13 October 2005

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