
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: RETENTION OF BOUNDARY AND CONTRACTORS 'TEMPORARY' COMPOUND FENCES, AT RESORT LANDS EAST BOUNDARY, AVIEMORE.

REFERENCE: 04/441/CP

APPLICANT: AVIEMORE HIGHLAND RESORT

DATE CALLED-IN: 10 September 2004

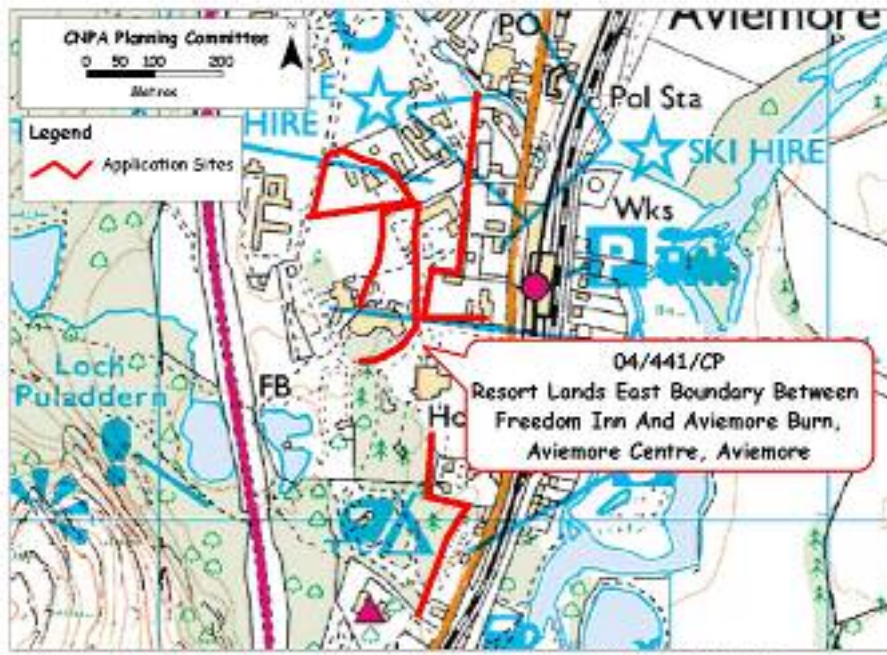


Fig. 1 - Location Plan



Fig 2 Section of fence through pine forest

SITE DESCRIPTION AND PROPOSAL

1. In mid July planning officers at Highland Council received a number of complaints that a stockade fence was being erected along the length of the resort lands eastern boundary between the Scout Hut and the rear of Kyla, as well as other locations, particularly to the rear and rear side boundary of the Cairngorm Hotel. A temporary compound fence within the resort was also erected. The fence essentially restricts movement between the resort lands and the wider village. The fence involves two differing types of vertically boarded fencing and has been painted green. The resort boundary fence has a 'wavy' top edge and the temporary compound fencing has a straight top edge. The fence is approximately 1.8 metres in height.
2. From the south the fence starts by traversing through a pine forest (see fig 2) and has a gap for the woodland lodges site although this is essentially now a gated area with a security hut. The fence then traverses through the forest around the rear of blocks of flats and finishes short of the Four Seasons Hotel.
3. Moving north the line of the fence starts again at the side of the Cairngorm Hotel running along the side boundary of the hotel and plot to the rear, the fence then continues along the rear boundary of Tesco's and past a house which has a gate in the fence as does the Scout Hut further north as both require access through the resort. The northern point of the fence finishes at the Aviemore Burn.

4. A temporary contractors compound fence has also been erected around part of the recently consented retail pavilion area and phase 2 parking area for security reasons.
5. In terms of background an application was submitted to Highland Council for a 3-metre high steel palisade fence from the Aviemore Burn to the southwest corner of the Tesco's store site. This application was the subject of a report by Highland Council planners recommending refusal in November 2003. The application was subsequently withdrawn. The applicants have exchanged letters with Highland Council expressing the view that they have permitted development rights for a fence of up to 2 metres in height. However, Highland Council planners are of the view that a fence of the kind being considered here does in fact require planning permission.

DEVELOPMENT PLAN CONTEXT

6. **The Badenoch and Strathspey Local Plan Policy 6.11** considers that the Council will promote improvements in the quality and design of Aviemore's built environment and its relationship with adjoining countryside in accordance with the principles of Gillespies Urban Design Strategy. **Local Plan Policy 6.2.1-** the Council supports major redevelopment of the Aviemore Centre to revitalise the village and reaffirm its status as an international visitor destination. This should be designed to integrate the Centre lands with the wider community, securing a major facelift for the whole village centre. With the exception of the refurbishment work, developments are subject to the agreement of an overall Masterplan, which will be the subject of a consultation with the public and other interests.

CONSULTATIONS

7. **Highland Council** planners under their delegation scheme have provided a thorough response with copies of earlier Committee Reports. The only acceptable parts of the fence are considered to be the fencing around the derelict site, and the contractors compound fences. Even these should only be granted a temporary permission. The remaining sections of the fence, and in particular the section between the Cairngorm Hotel and the burn are considered only marginally less aesthetically offensive alternatives to the steel palisade fence which was the subject of an earlier (withdrawn) application and should be refused with enforcement action taken to remove them at the earliest opportunity thereafter.
8. **Highland Council Area Roads and Community Works Manager** has no objection to the fence provided that no sections will adversely affect visibility at road junctions or forward visibility on the main access roads.
9. **Aviemore Community Council** consider that the fences are straggling what the Community Council believes to be numerous "rights of way" contravening the vision for Aviemore which integrates the centre with the village. The Community Council have also written directly to the **CNPA Access Officer** expressing the

anger of the community regarding the closure of the Aviemore Centre access from Grampian Road via the footpath between Tesco's and Laurel Bank which has been used all day, every day by hundreds of people since 1966. The access was also used by guests staying at the hotel and by staff walking to work. The Community Council claim that the path has been a continuously used right of way for at least 38 years and look to the Local Authority to take immediate action to reinstate it. The **CNPA Access Officer** has responded on this proposal and considers that the applicant's have obstructed an access route and that this is contrary to the Land Reform (Scotland) Act 2003. The Access Officer also points out that this restriction has implications for access to the Craigellachie National Nature Reserve and to the area within the resort, which is supposed to form the future village green. It is considered that the application provides an ideal opportunity to get the Aviemore Orbital Footpath, plus access in and around the resort linking the village with the new development, and links outwards to Craigellachie resolved.

REPRESENTATIONS

10. A letter has been received from the Scandinavian Village, which raises concerns as to whether the northern link road will be developed. This taken together with the blocking off of the pedestrian access lane at the side of Tesco's is having an adverse impact on the Scandinavian Village's interests.
11. A letter has been received from Aviemore Scout Group who object to the fencing and gates installed across their access. These locked gates would be an inconvenience and concern is expressed that they could become permanent in future and prevent access. The Scout Group has been informed that they would receive a key for the gate.
12. Concern is expressed on the basis of health and safety and objections are made to the closure of the pedestrian access from both Laurel Bank Brae and Tesco's being blocked off as this offered a safe pedestrian route for the boys and girls of the group accessing the Scout Hut.
13. Another letter objects to the blocking off of the access at the side of Tesco's. (Representations attached at back of report)

APPRAISAL

14. In the first instance there has been some debate between Highland Council and the applicant's regarding whether the fence is permitted development or not (i.e. not requiring planning permission) because under certain circumstances planning legislation allows the erection of a fence of up to 2 metres in height without the requirement for planning permission.
15. Highland Council have been of the view that the fence does not fall within the parameters of permitted development as sections of it are within 20 metres of a highway (meaning that any fence over 1 metre requires permission) used by the public (the loop road into and around the resort). The remainder of the fence was

considered to require planning permission, as it does not form a means of enclosure such as a fence enclosing a property, but purely forms a physical barrier. Therefore, the proposal is considered to require planning permission, hence this resulting application from Aviemore Highland Resort.

16. The principal starting point is an assessment of the fence as a barrier against the planning policy context of Aviemore and the centre lands. From a planning policy point of view and from the Gillespie's Urban Design Strategy it is clear that the overall intention is that the centre lands should be integrated with the wider village both in functional terms, and in terms of aesthetics. This is the basis of the approved masterplan for the centre, which pays particular attention to promoting pedestrian access. This approach is even more crucial when Government guidance on planning policy emphasises walking and cycling as a means of movement.
17. In terms of these policy aspirations it is contended that the application fails on all counts in terms of integration and encouragement of pedestrian movement between the centre-lands and the wider village. The lane that formerly gave pedestrian access into the resort at the side of Tesco's is crucial to this integration and must be opened up. Even while the resort is not fully operational there are two clear examples where this restriction of access causes problems. Firstly, in the case of the Scout Hut, children may now have to walk south through the village and enter the site through the main entrance at the side of the Cairngorm Hotel and then head northwards along the loop road where pedestrian provision is currently poor. A second example relates to staff that may reside in the new accommodation blocks that could use the lane to cut through to Grampian Road for shopping and other services. They would now have to walk south to the main vehicle entrance and then north to the shopping core around Tesco's. Both of these examples show specific restrictions of access that neither integrate the resort with the village or encourage permeability between the areas, failing to promote walking as a means of movement. Conversely, it is considered that the fence does result in segregation and may well encourage car use. These examples are issues raised by the erection of the fence now, even aside from the general restriction of the ability of local people to move between the two sites and use facilities in each area when the resort is fully operational.
18. One other section of the fence in particular raises access concerns and this is at the southern point of the boundary where new holiday lodges are under construction where the fence restricts access along this section of the site along the line of an old stob and wire fence. A gate now controls access into this section of the site. This is regarded as providing an important link onto Grampian Road where the site access emerges opposite an underpass through the railway embankment, which leads onto various popular walking and cycling routes around Aviemore.
19. In terms of design, some sections of the fence may prove acceptable particularly a small section at the rear of Tesco's delivery/car park area. However, the design of the fence is of a rather suburban nature and would not look out of place in a modern housing estate. This indeed illustrates that while the southern section of the fence is partly screened by trees, on closer acquaintance it is entirely at odds with the pine forest through which it runs (see fig 2).

20. There is no particular objection to the temporary compound fencing. However, given the unacceptable nature of important sections of the permanent fence this application must be recommended for refusal in its entirety given the issues raised. The applicant could consider submitting a revised application for the retention of some limited sections of fencing.
21. Given that large sections of this fencing are considered to be clearly contrary to the aims of planning policy and the overall masterplan for Aviemore a second recommendation suggests that enforcement action is authorised against the unacceptable sections of the fence. Officers will seek a negotiated solution in the first instance but would recommend that the Committee approve the use of enforcement action so that this formal planning tool can be used if the situation requires it. If resort to formal action is required a full enforcement report will be submitted to the Committee setting down exactly which sections of the fence should be the subject of any action.

IMPLICATIONS FOR THE AIMS OF THE PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

22. While the proposed fence is not running through any designated wildlife area, in landscape terms the design of the fence is considered to be an alien element given the context of the pine forest through which its southern section runs.

Promote Sustainable Use of Natural Resources

23. There is nothing in the application to indicate that the materials used for the fence are locally sourced. The division between the resort and the wider village may encourage increased car use, which cannot be considered to be sustainable.

Promote Understanding and Enjoyment of the Area

24. The resulting access restriction from the fence does not foster the use of wider interpretive and educational facilities such as the tourist information centre and local footpath routes that give access into the wider countryside such as Rothiemerchus. The response from the Access Officer points out that the application restricts access to Craigellachie National Nature Reserve. This has negative implications for both understanding and enjoyment.

Promote Sustainable Economic and Social Development of the Area

25. The fence is considered divisive in both economic and social terms. The resulting access restriction does not promote interaction between visitors to the site and the local population and consequently, is less likely to reinforce visitor spend within the wider village and between the two sites, than if access between the areas was open.

RECOMMENDATION

A. That Members of the Committee support a recommendation to: REFUSE planning permission for the retention of a boundary fence and contractor's temporary compound fence at the Aviemore Highland Resort.

- (i) The fence creates a functional and visual barrier between the Aviemore Centre Lands and the remainder of the village centre. Accordingly the fence is contrary to the provisions of the Badenoch and Strathspey Local Plan, and non-statutory guidance arising there from, which indicate that the redevelopment of Aviemore Centre should be designed to integrate the Centre Lands with the wider community. The proposal is also contrary to the aims of the Cairngorms National Park.
- (ii) Sections of the fence at the height and of the materials evident would be harmful to visual amenity and are of an inappropriate character for their location and, consequently, contrary to the aims of the Cairngorms National Park.

B. That members of the Committee support a recommendation to pursue formal enforcement action against the fence should it be required. A full enforcement report will follow if recourse to formal action is required.

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Date 18 October 2004

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