
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(DEVELOPMENT MANAGEMENT)

DEVELOPMENT PROPOSED: VARIATION TO CONDITION NO 1 OF PLANNING CONSENT 04/120/CP- ERECTION OF SUPERMARKET, AVIEMORE CENTRE, GRAMPIAN ROAD, AVIEMORE

REFERENCE: 11/110/CP

APPLICANT: TESCO STORES/SANTON GROUP c/o PRITCHETT PLANNING, EDINBURGH

DATE CALLED-IN: 15 April 2011

RECOMMENDATION : APPROVE VARIATION

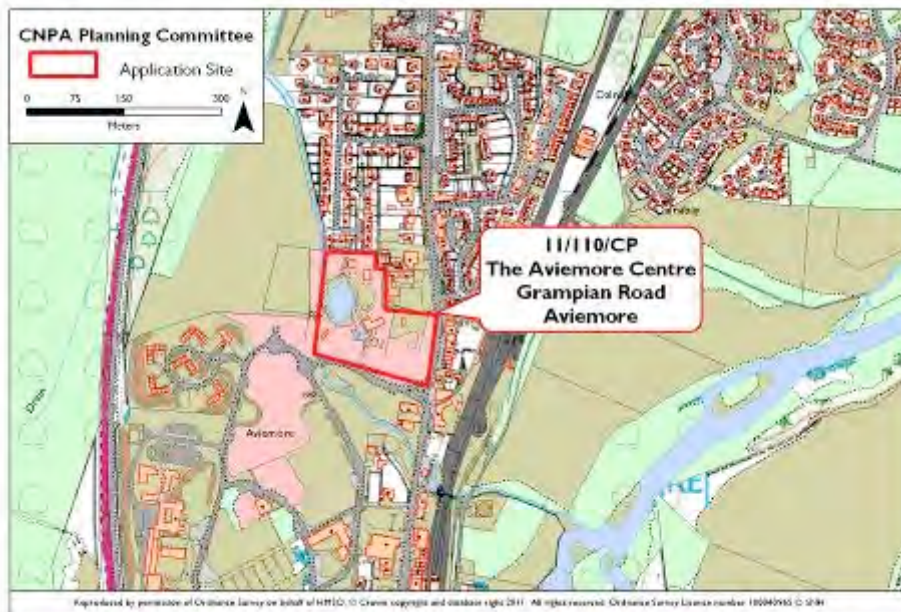


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The site is located at the junction of Grampian Road with the northern link road into the Aviemore Highland Resort site (see fig 1). The western boundary of the site is marked by the Milton (or Aviemore) Burn and the northern boundary is immediately adjacent to residential properties and the Winking Owl pub. The site was formerly host to a visitor attraction known as Santa Claus Land which has long since fallen into disuse, some buildings still remain. There are a number of trees at the site which are subject to the Aviemore Highland Resort Tree Preservation Order as well as a lochan located adjacent to the burn.
2. In April 2008 the CNPA granted outline planning permission for a 45,000 sq ft (4,180 sq m) supermarket (04/120/CP). At this time the site already had an outline planning consent for a 30,000 sq ft supermarket from Highland Council. At the time of granting the outline for an increase in the size of the supermarket the CNPA also granted detailed permission for a 30,000 sq ft store with the store being located to the front of the site and car parking behind.
3. The condition which is the subject of this application is the standard time limit condition which on planning consent 04/120/CP reads as follows *“A formal planning application and detailed plans indicating all matters relating to the siting, design and external appearance of all buildings, existing and proposed site levels, means of access thereto, means of enclosure and landscaping proposals shall be submitted for the prior approval of the Planning Authority within 3 years of the date of this consent and the development must be commenced within 5 years of the date of this permission or within 2 years from the date of final approval of all the foregoing Reserved Matters”*.



Fig. 1- From Grampian Road



Fig. 2- Link road showing access

Section 42 Applications

4. Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with conditions subject to which a previous planning permission was granted. Section 42 of the Act stipulates

that in this type of application “the planning authority shall consider only the question of the conditions subject to which planning permission should be granted.” Therefore, in the context of this application, the only matter which is required to be considered is the appropriateness and acceptability of varying condition I- extending the period over which development can commence.



Fig. 4- Internal view of site



Fig. 5 Grampian Road Frontage

Applicant’s Justification

5. In this case, the applicant is seeking to extend the time limit for submitting a further application and wants to keep the planning consent ‘live’. The applicant has carried out a formal pre-application, public consultation exercise on this application as required by new planning regulations, the information submitted is considered satisfactory in the context of seeking to keep the outline permission ‘live’. This consultation exercise also addressed the intention to submit a detailed application for a 45, 000 sq ft supermarket and the content of the consultation will be assessed against any future detailed application. Just as this report was being finalised the CNPA has been notified that Tesco have submitted a detailed application to Highland Council. This application appears on the call-in list for 24 June.



Fig. 6 Applicant's Site Plan

DEVELOPMENT PLAN CONTEXT

National Policy

6. **Scottish Planning Policy (2010)** provides the core principles for decision making and sets out the key priorities for the planning system. The primary objectives are; to set the land use framework for promoting sustainable economic growth; to encourage and facilitate development while protecting natural heritage and the built environment. The SPP also refers to the use of conditions and planning agreements in allowing development to proceed effectively.
7. Scottish Government planning **Circular 4/1998 - The use of conditions in planning permissions** states that conditions can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The guidance establishes that conditions should meet the following six tests, requiring that they be: necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other respects.
8. The Circular also deals with the 'Renewal of permissions before expiry of time-limits' in para. 52. This states that developers who delay the start of development are likely to want their permission renewed, as the time-limit for implementation approaches. Under Article 5 of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992 applications for such renewals may be made simply, referring to the existing planning permission, although the planning authority have power subsequently to require further information, if needed. As a general rule, such applications should be refused only where:

- a. there has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant road considerations or the issue by the Government of a new planning policy which is material to the renewal application);
- b. there is likely to be continued failure to begin the development and this will contribute unacceptably to uncertainty about the future pattern of development in the area; or
- c. the application is premature because the permission still has a reasonable time to run.

Strategic Policy

Cairngorms National Park Plan (2007)

9. The Cairngorms National Park Plan sets out the vision for the park for the next 25 years. The plan sets out the strategic aims that provide the long term framework for managing the National Park and working towards the 25 year vision. Under the heading of 'conserving and enhancing the special qualities' strategic objectives for landscape, built and historic environment include maintaining and enhancing the distinctive landscapes across the Park, ensuring that development complements and enhances the landscape character of the Park, and ensuring that new development in settlements and surrounding areas and the management of public spaces complements and enhances the character, pattern and local identity of the built and historic environment.
10. Under the heading of 'Living and Working in the Park' the Plan advises that sustainable development means that the resources and special qualities of the national park are used and enjoyed by current generations in such a way that future generations can continue to use and enjoy them. Section 5.2. of the plan includes strategic objectives which seek to a) create conditions conducive to business growth and investment that are consistent with the special qualities of the Park, c) promote 'green business' opportunities, d) promote opportunities for economic diversification, e) address barriers to employment uptake.

Structure Plan

Highland Structure Plan (2001)

11. **Policy G2 (Design for Sustainability)** states that developments will be assessed on the extent to which they, amongst other things; are accessible by public transport, cycling and walking as well as by car; maximise energy efficiency in terms of location, layout and design; make use of brown-field sites; demonstrate sensitive siting and high quality design; promote varied,

lively and well-used environments; and contribute to the economic and social development of the community.

12. **Policy R1 (Shopping Hierarchy)** states that development proposals that consolidate the shopping hierarchy and enhance the role of individual settlements as shopping centres will be supported.
13. **Policy R5 (Town Centre Shopping)** advises that retail development in town centres will generally be encouraged. Development proposals which are judged to undermine the vitality and viability of existing town centres will be resisted.

Local Plan Policy

Cairngorms National Park Local Plan

14. **Policy 16 Design Standards for Development** requires that all development minimises the effects of climate change, reflects the local vernacular and uses materials and landscaping that compliments its setting.
15. **Policy 25 Business Development** considers that proposals will be considered favourably where compatible with existing business uses and where they are located in identified settlements.
16. **Policy 26 Retail Development** promotes favourable consideration of proposals which support local economic development where such a proposal consolidates or compliments the traditional high street and its viability and vitality.

CONSULTATIONS

17. **Aviemore and Vicinity Community Council** comments that Aviemore urgently needs a larger Tesco's. Therefore AVCC fully supports this application.

REPRESENTATIONS

18. No representations have been received.

APPRAISAL

19. In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with

the plan unless material considerations indicate otherwise. Crucially, as this is an application made under Section 42 of the Town and Country Planning (Scotland) Act 1997 the matter on which the Planning Committee are being asked to decide is very specific, concerning only the time limit stipulated in condition no. 1 of the original planning permission (CNPA Ref. no. 04/120/CP) and whether or not to allow the time period in which development can commence to be extended by a further period of 3 years.

20. In this case, the applicant is seeking to keep the outline consent alive. There can sometimes be a concern that repeated time extensions to a planning approval are not appropriate when physical circumstances around a site have changed or the policy regime has changed to an extent that would warrant a fuller review of the earlier permission.
21. There has been a long history of the site being intended for a supermarket and it is subject to several permissions for supermarket development. Physical circumstances around the site have changed little since the approval of permission in 2008, although work has recently started on a housing project to the west of this site that received permission from the CNPA at the same time as the supermarket. If anything the start of the housing development adds to the urgency for the supermarket development to be moved forward as a footpath connection between the two is a condition of both developments.
22. In terms of policy a significant change is the adoption of the CNP Local Plan. However, while the site does not have a specific allocation in the plan for supermarket development it is shown as white land within the settlement. This opens the site to a range of potential development opportunity, including retail. In addition to the fact that there is little change in circumstance the applicant is clearly intending to take the project forward as evidenced by the fact that a detailed application has just been submitted. This application may be of a different nature than the anticipated by the outline. However, the intention to move the project forward is clearly evident. The application meets the guidelines contained in the relevant Scottish Government Circular on the use of planning conditions and on this basis it is appropriate to extend the timing of the condition for a further 3 years in line with the applicant's request.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

23. The substantive issues have been considered by the outline approved in 2008. The detailed natural and cultural heritage issues will be considered in the assessment of the just submitted detailed application.

Promote Sustainable Use of Natural Resources

24. The substantive principle issues have been considered by the outline approved in 2008. Details of layout and design will be considered in the assessment of the detailed application.

Promote Understanding and Enjoyment of the Area

25. The substantive issues have been considered by the outline approved in 2008.

Promote Sustainable Economic and Social Development of the Area

26. The substantive issues have been considered by the outline approved in 2008.

RECOMMENDATION

27. **That Members of the Committee support a recommendation to GRANT PLANNING PERMISSION** to vary condition No 1 of planning permission 04/120/CP for the Erection of Supermarket, Aviemore Centre, Grampian Road, Aviemore, subject to the following condition:
- I. A formal planning application and detailed plans indicating all matters relating to the siting, design and external appearance of all buildings, existing and proposed site levels, means of access thereto, means of enclosure and landscaping proposals shall be submitted for the prior approval of the Planning Authority within 3 years of the date of this consent and the development must be commenced within 5 years of the date of this permission or within 2 years from the date of final approval of all the foregoing detailed matters.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act, 1997

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15 June 2011

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