
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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

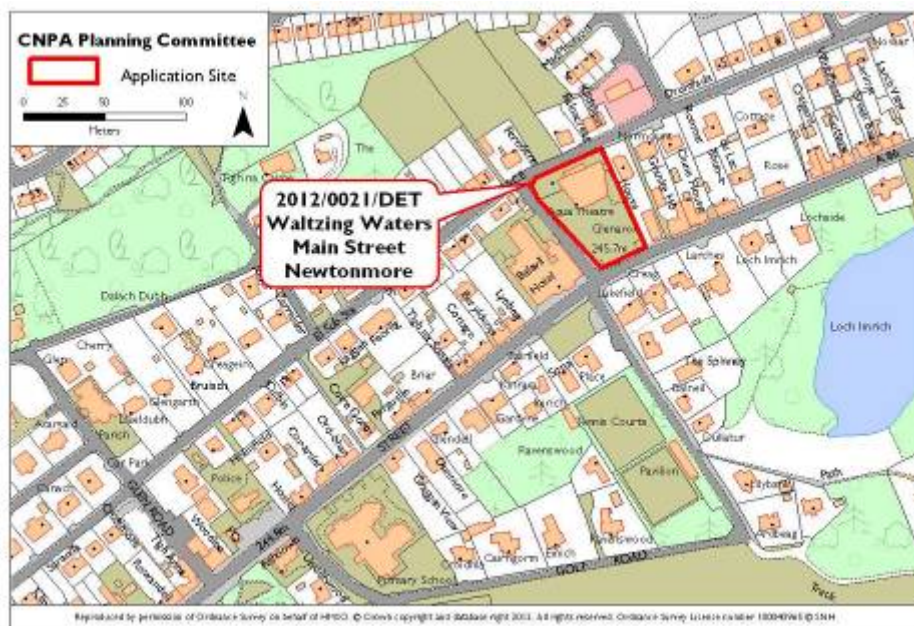
DEVELOPMENT PROPOSED: PLANNING PERMISSION FOR THE INSTALLATION OF EXTERNAL PLANT TO NEW STORE (REVISED PROPOSAL – 2011/0393/DET) AT WALTZING WATERS, MAIN STREET, NEWTONMORE

REFERENCE: 2012/0021/DET

APPLICANT: THE COOPERATIVE GROUP C/O W.D. HARLEY PARTNERSHIP, STIRLING

DATE CALLED-IN: 3 FEBRUARY 2012

RECOMMENDATION: APPROVE WITH CONDITIONS



Grid reference :271797 799382

Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Planning permission is sought in this application for the installation of external plant at the new Co-Operative retail unit on the former Waltzing Waters site in Newtonmore. The CNPA granted planning permission in 2011 for the change of use of the Waltzing Waters tourist facility to a retail and residential development (CNPA planning ref. no. 11/179/CP). Work is currently on-going at the site in connection with the retail facility.
2. Two elements of external plant are proposed in this application. The largest unit, a fan type air cooled condenser unit, is proposed on the western side of the building. The unit would be positioned in the outdoor storage bay, and would be screened from immediate view by new boundary fencing at the front of the loading bay, as well as the existing retaining wall at the rear of this area. The roadside boundary to the west is defined by an existing boundary wall. However, due to the change in ground levels between the public road and the significantly lower ground level within this area of the site, there would be a degree of visibility when viewed from the western boundary. The footprint of the proposed unit is approximately 4.75 x 2.3 metres, with a height of 1.6 metres. The unit would be manufactured from galvanised steel.



Fig. 2: Proposed location of fan type air cooled condenser unit



Fig. 3: Proposed dry cooler unit

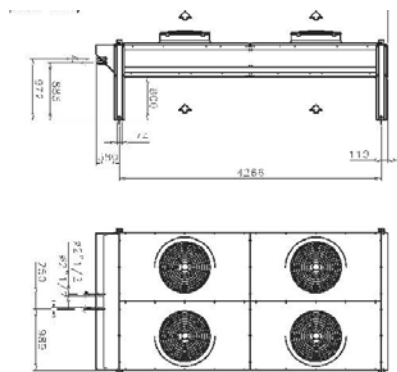


Fig. 4: Proposed 'western' unit

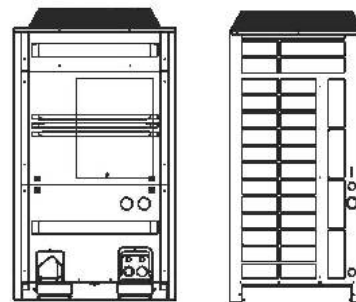


Fig. 5: proposed 'eastern' unit

3. The second element of plant is proposed on the eastern side of the building and is a dry cooler unit. The unit would have a smaller footprint than that proposed on the western side (approximately 1.3 x 1.6 metres) and would be a height of 2.6 metres. The unit would be manufactured in galvanised steel. The site layout plan and the elevation drawings include proposals for the erection of a 1.8 metre high timber fence to surround the unit on the eastern side of the building.

4. An acoustic assessment of noise has been submitted in support of the proposal. The acoustic assessment includes a number of observations regarding the proposed siting of the plant. It is commented that “there do not appear to be any different locations at this store where the plant could be installed that provide significant acoustic advantages.”

Planning history

5. As referred to in paragraph 1, the CNPA granted planning permission in September 2011 for the change of use of the former Waltzing Waters building to a retail and residential development (CNPA ref. no. 11/179/CP refers). That application did not include proposals for any plant associated with the new retail unit, with the plans specifically indicating that the “location of external plant would come under a separate application.”
6. An application for the external plant was lodged with Highland Council and notified to the CNPA on 1st December 2011. The application was called in by the CNPA on 9th December 2011 (CNPA planning ref. no. 2011/0393/DET refers) as it was considered to be of linked significance to the previous proposal on the site, which was at that time the subject of investigation and monitoring by the CNPA. The application proposed the siting of all external plant to the east of the building. It elicited a number of objections from residents in close proximity and also raised concerns from Highland Council’s Environmental Health Officer in relation to potential noise levels and proximity to residential properties. In light of the issues arising, the applicants chose to amend the proposal to instead site the majority of the equipment on the opposite side of the building. Given the significant change to the proposal and the fact that it could potentially impact on parties not previously notified, it warranted the submission of a new planning application. The initial application for the external plant was withdrawn and the current application was submitted instead.

DEVELOPMENT PLAN CONTEXT

National Policy

7. **Scottish Planning Policy¹ (SPP)** is the statement of the Scottish Government’s policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
 - The constraints and requirements that planning imposes should be necessary and proportionate;
 - The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.

¹ February 2010

8. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should “operate in support of the Government’s central purpose of increasing sustainable economic growth.” Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that “the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places.” Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
9. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the “aim is to achieve the right development in the right place.”
10. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes ‘subject policies’, of which many are applicable to the proposed development. The topic which is of the most relevance to the current proposal is ‘economic development’.
11. Economic development: Planning authorities are encouraged to respond to the diverse needs and locational requirements of different sectors and sizes of businesses and take a flexible approach to ensure that changing circumstances can be accommodated.
12. **Scottish Planning Policy** concludes with a section entitled ‘Outcomes’ in which it is stated that the “planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets.”

Strategic Policies

Cairngorms National Park Plan (2007)

13. 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.
14. 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. Strategic objectives for economy and employment include creating conditions that are conducive to business growth and investment that are consistent with the special qualities of the Park and its strategic location and the promotion of green business opportunities. Section 5.3 of the Plan concerns 'enjoying and understanding the park' noting that the Cairngorms National Park is known for its outstanding environment and outdoor recreation opportunities.

Structure Plan Policy

Highland Council Structure Plan (2001)

15. **Highland Council Structure Plan** is founded on the principles of sustainable development, which are expressed as –
 - Supporting the viability of communities;
 - Developing a prosperous and vibrant local economy; and
 - Safeguarding and enhancing the natural and built environment.A variety of detailed policies emanate from the principles.
16. There are no specific policies pertaining to proposals for external plant although a number of other policies could be considered in relation to a proposal of this nature. The following provides a brief summary of the policies applicable to a development of this nature.
17. Section 2.3 of the Plan concerns Retailing. Shopping is acknowledged as an essential part of life and access to a range of quality shops is considered to make an important contribution to the health of communities. **Policy R2** Everyday Shopping Needs supports development which encourages and enhances the local provision of facilities to meet every day needs. Section 2.4 of the Plan deals with the subject of landscape, stating that "no other attribute of Highland arguably defines more the intrinsic character and nature of the area than its landscape." Similar to national policy guidance, there is a recognition that landscape is not a static feature and that the protection and enhancement of landscape and scenery must be positively addressed. **Policy L4 Landscape Character** states that "the Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals."

Local Plan Policy

Cairngorms National Park Local Plan (2010)

18. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
19. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key

themes of the Park Plan to provide a detailed policy framework for planning decisions:

- Chapter 3 - Conserving and Enhancing the Park;
- Chapter 4 - Living and Working in the Park;
- Chapter 5 - Enjoying and Understanding the Park.

20. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the current development proposal.
21. Policy 6 – Landscape: there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
22. Policy 16 – Design Standards for New Development: this is one of a number of policies which is intended to encourage developers to consider how they can best include the principles of sustainable development in their proposals, and consider the impact on the environment, economy and community. Policy 16 requires that all proposals are accompanied by a design statement which sets out how the requirements of the policy have been met. The design of all development is encouraged to :
- Reflect and reinforce the traditional pattern and character of the surrounding area and reinforce the local vernacular and local distinctiveness, whilst encouraging innovation in design and materials;
 - use materials and landscaping that will complement the setting of the development;
 - demonstrate sustainable use of resources;
 - protect the amenity enjoyed by neighbouring properties, with all proposals designed to help create environments that can be enjoyed by everyone; and
 - be in accordance with the design standards and palette of materials as set out in the Sustainable Design Guide.

CONSULTATIONS

23. Highland Council's **Environmental Health Officer** considered the proposal and the supporting information, including the acoustic assessment. The consultation response sets out a number of noise thresholds which must be complied with and a requirement that the applicant provide an acoustic demonstration that the noise criteria will not be exceeded.

REPRESENTATIONS

24. The application was advertised in the Strathspey and Badenoch Herald on 25th November 2011. One representation has been received from Mr. Brian Hunt of Glenavon House, which is located to the east of the identified site boundary. Reference is made to the refrigeration unit being moved from its previously proposed location. Assurances are sought that the unit which is proposed on the eastern side of the building i.e. nearest the representees property, is a “small silent unit.”

APPRAISAL

25. This application was called in by the CNPA primarily due to its association with the retail development which was permitted on the site by the granting of planning permission in 2011 and the fact that at the time of call in there were a number of unresolved issues relating to the on-going development of the retail facility, which had the potential to impact on aspects of this current application.

Principle

26. Commercial developments routinely require elements of plant as part of their routine functioning. In most instances details of associated elements such as plant would form part of an overall application for a retail development. In the case of the original proposal for the change of use of Waltzing Waters to a retail and residential development, the proposal specifically omitted plant details. It is a situation which appears to have resulted from complex arrangements between the site owner and the intended operators of the new retail facility, with each party bearing responsibility for separate elements of the overall development. Consequently the current application for the external plant has been submitted by the Cooperative Group, as the operators of the new retail premises. Notwithstanding the fragmented approach to seeking permissions for the overall development of the retail facility, the principle of the external plant currently proposed is acceptable.

Location

27. Given that the new retail facility has been created from a re-use of the existing building on the site, the availability of external space in which to locate the required plant has essentially been pre-determined. There is a practical need to position the external plant in close proximity to the retail facility. It is also preferable to position the units as close to the building as possible, in order to minimise the spread of ancillary facilities throughout the rest of the site and minimise the adverse visual impacts often associated with external equipment. Having acknowledged such constraints, the areas in which plant could be placed are limited to either the eastern or western side of the retail building.
28. The earlier application in December 2011 proposed to site all of the external plant on the eastern side of the building. This proved unacceptable and the application was subsequently withdrawn and replaced with the current application. The largest element of the external plant is now proposed on the western side of the building, and offers a greater degree of separation from neighbouring properties. In addition, it is also proposed in a more concealed area, being backed to the rear by an existing retaining wall and substantial rising

ground levels and screened from the front by the new boundary treatment which has been erected as part of the development of the on site storage bay. In proposing the external plant at this location, the operators are presumably content that it will not hinder their original plans for the use of this entire area as a storage bay. The benefits of the increased separation from surrounding properties, a reasonable degree of screening offered by existing boundary treatments on the site, as well as its position at a substantially lower ground level than the nearest residential properties on Church Terrace, all combine to render the proposed location the most appropriate and an infinitely more acceptable solution than the earlier intentions to site all the equipment in the eastern area of the site.

29. Reference was made in paragraph 2 of this report to the potential visibility of the western plant unit from the adjacent road, due to the aforementioned lower ground levels on the site and the relatively low existing boundary wall. This could be addressed by the provision of an element of cladding / boundary treatment around the perimeter of the equipment. In addition to assisting in minimising the visual impact of this industrial type of apparatus, such an addition could also offer the benefit of further reducing potential noise levels.
30. In terms of the proposal on the eastern side of the retail structure, the dry cooler unit is relatively limited in size. The proposal also makes provision for the addition of boundary fencing in this area, to screen the unit. The proposed fencing is the same as that which has been permitted and recently erected at the front of the loading bay on the western side i.e. vertical timber posts.

Noise

31. The proposed location of the dry cooler unit in the east of the site is closer to residential properties than the proposed refrigerator unit is on the western side of site. The representation received has requested assurances that the unit in this location would be 'silent'. The noise levels associated with the dry cooler unit are negligible by comparison to the condenser unit on the opposite side of the building and should not adversely impact on the residential amenity of properties in the vicinity.
32. The noise assessment submitted in support of the proposal has been considered by Highland Council's Environmental Health Officer. The consultation response, as detailed in paragraph 23, stipulates a number of noise criteria which must be adhered to. The criteria stipulated is consistent with levels set for developments of this nature elsewhere, and adequately takes account of the need for lower decibel levels during quieter times in the late evening and at night.

Conclusion

33. The location of the proposed elements of plant is acceptable. The units would be positioned in locations that minimise the visual impact and take account of the need to achieve a reasonable separation distance from surrounding residential properties. The smaller and quieter dry cooler unit is an appropriate solution in the eastern area of the site, where it would have less impact in noise terms on nearby properties. The proposed siting of the larger

refrigerated unit to the west of the building is in an area in which there will be a more intense level of activity during daytime hours, due to it sharing the same space as the storage bay. In the context of noise generated by daytime activities in this area of the site, as well as activities off site in the vicinity, such as deliveries to the hotel on the opposite side of the public road, the noise likely to be omitted from the unit would be acceptable. The proposal can be considered to accord with CNP Local Plan Policy 16 – Design Standards for Development.

34. The proposed position of the units would assist in protecting the amenity of neighbouring residential properties and would not hinder the general public's enjoyment of the general environment. Having regard to foregoing comments in this report regarding existing boundary treatments, together with the provision of additional new boundary treatment, it can also be concluded that adequate provision can be made to minimise the visual impact of the development. As such it can be considered to comply with Highland Council Structure Plan Policy L4 – Landscape Character and also with CNP Local Plan Policy 6 on Landscape, both of which generally require development proposals to minimise adverse effects and maintain or enhance landscape character.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

35. The proposed development does not make any contribution towards conserving or enhancing the natural or cultural heritage of the area.

Promote Sustainable Use of Natural Resources

36. The necessary components of the proposed external plant render it difficult to use materials which would promote the sustainable use of natural resources.

Promote Understanding and Enjoyment of the Area

37. The proposal for external plant is a necessary element of the overall operation of the retail facility, with the plant being essential for refrigeration purposes. While the introduction of the plant in itself cannot be considered to promote the understanding and enjoyment of the area, it will contribute to the daily operation of the new retail facility. The new supermarket could be considered to be of benefit to the general public and provide a facility which would add to their enjoyment of the area.

Promote Sustainable Economic and Social Development of the Area

38. The proposed development is a necessary component in the overall operation of the new retail facility on the site. As such it could be considered to indirectly contribute towards promoting the economic and social development of the area.

RECOMMENDATION

That Members of the Committee support a recommendation to GRANT planning permission for the installation of external plant to the new store at Waltzing Waters, Main Street, Newtonmore, subject to the following conditions :

1. The development to which this permission relates must be begun within three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 or amended by the Planning etc. Scotland Act 2006.

2. The plant must at all times be operated to comply with the following noise criteria :

- (a) The design, installation and operation of any plant, machinery or equipment related to the external plant hereby permitted shall be such that any noise generated from any such plant, machinery or equipment, when measured within any nearby dwelling or noise sensitive premises (with windows open for ventilation), shall comply with the requirements of the Environmental Protection Act 1990, or its subsequent replacement, and, in particular, shall not exceed the noise equivalent of Noise Rating Curve NR30, between the hours of 0700 hrs and 1900 hrs, and Noise Rating Curve NR25, at all other times. If there is a distinguishable tone the NR curves shall be reduced to 25 and 20 respectively;
- (b) Between 1900hrs and 0700 hrs the free field noise level at the noise sensitive receptors shall not exceed 42dB LAeqT (T=15 min);
- (c) Between 0700hrs and 1900hrs the free field noise level at the noise sensitive receptors shall not exceed 45dB LAFqT (T=1 hr).

Reason: In the interests of the general amenity of the area.

3. The operators of the plant must, when requested by the Cairngorms National Park Authority acting as Planning Authority or the Environmental Health department of Highland Council, be able to provide an acoustic demonstration that the plant is being operated in accordance with the noise criteria set out in condition no. 2 of this permission. For the avoidance of doubt and prior to the commencement of development, the noise sensitive premises from which measurements shall be taken, shall be identified in writing and submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority.

Reason: in the interests of the general amenity of the area.

4. Prior to the commencement of development detailed specifications shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority, for the erection of boundary screening to immediately surround the external plant on the western side of the building.

The screening shall be erected thereafter in accordance with the agreed specifications.

Reason: In the interests of minimising the visual impact and in order to further assist in minimising external noise from the apparatus.

Mary Grier

planning@cairngorms.co.uk

21 March 2012

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.