
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION – RECONSIDERATION IN LIGHT OF NEW MATERIAL CONSIDERATIONS

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HEAD OF MAJOR PROJECTS AND HOUSING

DEVELOPMENT PROPOSED: DEVELOPMENT OF NEW COMMUNITY (UP TO 1500 RESIDENTIAL UNITS (SUBJECT TO REGULAR REVIEW); ASSOCIATED BUSINESS, COMMUNITY FACILITIES AND PROVISION OF INFRASTRUCTURE) AT AN CAMAS MOR, AVIEMORE

REFERENCE: 09/155/CP

APPLICANT: AN CAMAS MÒR LLP

DATE CALLED-IN: 29 MAY 2009

CONSIDERED: 11 JUNE 2010

RESOLUTION: GRANT PLANNING PERMISSION IN PRINCIPLE SUBJECT TO SECTION 75 LEGAL AGREEMENT AND CONDITIONS

RECOMMENDATION: GRANT PLANNING PERMISSION IN PRINCIPLE SUBJECT TO REGISTRATION OF PLANNING OBLIGATION AND CONDITIONS

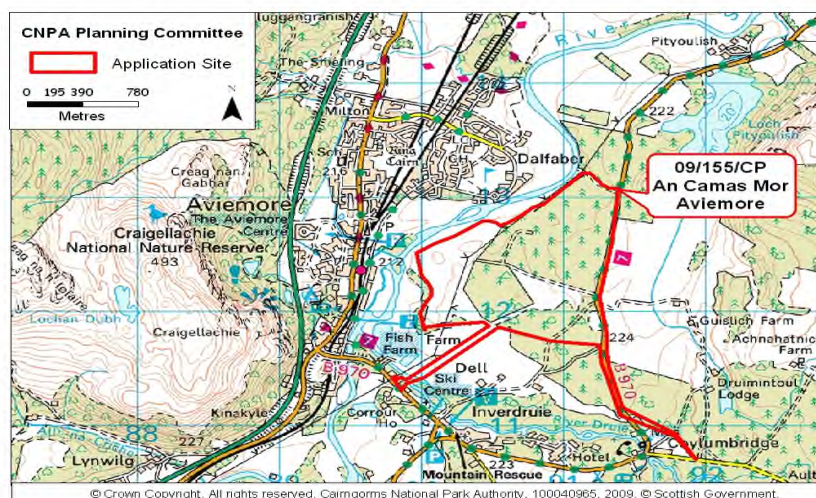


Fig. I - Location Plan

PURPOSE OF REPORT

1. This report has been brought to the Planning Committee so Members can take into account all relevant material planning considerations in the determination of planning application Ref: 09/155/CP.
2. It is accompanied by a fresh Habitat Regulations Assessment. The conditions that will be attached to any grant of planning permission will have to reflect this and the opportunity can also be taken to review conditions and ensure they have the necessary clarity.

BACKGROUND

3. The application for outline planning permission Ref: 09/155/CP was called in on 29 May 2009 and considered by the Planning Committee on 11 June 2010. It was resolved to grant planning permission in principle subject to a Section 75 Legal Agreement and Conditions. The Planning Committee on 25 June 2010 considered the Draft Minutes of the 11 June 2010 Planning Committee and approved them subject to a number of amendments.
4. The Report to the 11 June 2010 Planning Committee describing the proposed development, setting out the range of considerations, assessment and recommendations, along with the Approved Minutes, is attached at **Appendix I**.
5. The decision notice formally granting planning permission in principle has not been issued for a number of reasons:
 - i. The Section 75 negotiations have been complex and protracted involving CNPA, the applicant, Highland Council and NHS. Subject to possible minor detailed amendment, the document is now finalised and able to be signed and registered. It is attached as **Appendix 2**.
 - ii. The Cairngorms National Park Local Plan was adopted on 29 October 2010 and shortly thereafter an Appeal made to the Court of Session against that decision to adopt.
 - iii. The Cairngorms National Park Local Plan's support for a new sustainable community (An Camas Mor) was challenged in the Appeal which was heard in January 2012. Lord Glennie's Opinion was issued on 21 September 2012 and rejected all grounds of challenge.
 - iv. A Reclaiming Motion was made by the Appellants to the Inner House, Court of Session and this was heard in March 2013. The focus of this challenge related to the Appropriate Assessment of a number of sites in the Cairngorms National Park Local Plan, including An Camas Mor.
 - v. The Opinion of the Court delivered by Lady Paton on 3 July 2013 refused the reclaiming motion and adhered to Lord Glennie's Opinion refusing the Appeal.

6. The original resolution to grant planning permission in principle was taken by the Planning Committee over 3 years ago. Subject to possible minor, detailed amendment, the Section 75 Planning Obligation has been finalised and once it is signed by all parties and registered we would be in a position where a decision notice can be issued. A summary of the scope of the Section 75 Planning Obligation is attached as part of **Appendix 2**. Following the outcome of the challenge to the Inner House, the legal advice is that CNPA, provided it has regard to the development plan and to all relevant material considerations, can determine this application. The legal context is set out later in this report.
7. It is against this background that this report has been brought before the Planning Committee with a view to a decision now being taken on planning application Ref: 09/155/CP. The legal context for the determination of planning applications is contained in Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997. Section 37(2) states:
“In dealing with such an application [for planning permission] the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.”
8. This is the context within which the decision was taken in June 2010 and it is the context within which further consideration has to be taken on this occasion. There are 5 significant new considerations to which CNPA is required to have regard:
 - i) The Badenoch & Strathspey Local Plan has now been replaced by the Cairngorms National Park Local Plan.
 - ii) The Appeal against the adoption of the Cairngorms National Park Local Plan.
 - iii) The National Park Partnership Plan 2012-2017 has been approved by Scottish Ministers.
 - iv) The suite of Supplementary Planning Guidance in support of the Cairngorms National Park Local Plan.
 - v) The Cairngorms National Park Proposed Local Development Plan published for consultation April – July 2013.
9. It is therefore necessary to consider the proposal against each of these significant new material considerations in turn, as well as other more minor new material considerations and the relevant considerations in the previous report of 11 June 2010 (**Appendix I**) before making an overall recommendation for the determination of the application.
10. Within this context, there are a number of specific aspects in the report of 11 June 2010 that no longer apply:
 - i) With the Badenoch & Strathspey Local Plan now superseded, paragraphs 192 – 203 of that report are no longer relevant.
 - ii) Paragraphs 204 – 205 of that report relating to Highland Council Development Plan Policy Guidelines 2003 are no longer relevant.
 - iii) The National Park Plan 2007-2012 is now superseded so paragraphs 214 - 220 of that report are no longer relevant.

- iv) The references to the Cairngorms National Park Deposit Local Plan, the Reporters' recommendations following the Local Plan Inquiry, and the subsequent post inquiry modifications in paragraphs 207 - 213 of that report are no longer relevant as all considerations will be picked up in considering the proposal against the policies of the adopted Cairngorms National Park Local Plan.
 - v) Condition 2 in the recommendation on page 92 of the report stated permission was for up to 1100 residential units. This was based on the assessment by the CNPA Heritage & Land Management Group and is reflected in paragraphs 89 (Recommendation 9), 264, 295, 305 and 306 of the report. The Planning Committee took account of this advice and resolved to grant planning permission in principle for up to 1500 residential units on the basis that subsequent applications for the landscape & ecology and full masterplans would be the appropriate mechanism for assessing in greater detail the level of development that can be accommodated in landscape terms. Given the difference between recommendation and resolution it is therefore necessary to consider this issue along with the other material considerations referred to in this report.
 - vi) Two of the Scottish Government Planning Advice Notes (PANs) referred to in the original report were replaced on 31 August 2010. PAN 81 - Community Engagement has been replaced by PAN 3/2010 Community Engagement. PAN 74 – Affordable Housing has been replaced by PAN 2/1010 – Affordable Housing and Housing Land Audits. In addition, 'Creating Places' a new Scottish Government policy statement on architecture and place for Scotland was published in June 2013.
11. A summary of additional material considerations since June 2010, including the text of relevant Cairngorms National Park Local Plan policies and links to other documents, is attached as **Appendix 3**.
12. There has been a review of the Environmental Impact Assessment (EIA) submitted with the application in 2009, with particular regard to its scope and the conclusions in relation to the capacity of the site to accommodate the level of development for which permission is sought. When considered alongside other information, including pre-application work on a proposed masterplan, that has become available since 2010 in terms of ecology and landscape, it is considered that the EIA is still sufficiently current and does not require to be updated. There is sufficient information available to take an informed view on the capacity of the site to accommodate up to 1500 residential units.
13. A further assessment has been carried out under Regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) to ensure that the application is determined in accordance with the European Habitat Directive 92/43/EEC. This process of assessment is known formally as a Habitat Regulations Assessment (HRA) with Appropriate Assessment (AA) as a component part of that process. This is attached as **Appendix 4**.

14. Further consideration has also been given to the issue of housing land supply. Paragraph 174 of the report to the Planning Committee in June 2010 drew attention to the statement in the Highland Structure Plan 2001 that “in Badenoch & Strathspey housing land supply beyond 5 years can only be maintained if infrastructure investment has been made to bring forward the Cambusmore site at Aviemore.” The Structure Plan is still current and, along with the Cairngorms National Park Local Plan, is the development plan for this part of the Park.
15. Scottish Government Planning Circular 1/09 requires Local Development Plans to focus on their specific main proposals for the period up to year 10 from adoption and provide a broad indication of the scale and location of growth up to year 20. This is reinforced in paragraph 73 of Scottish Planning Policy 2010 which requires local development plans to maintain a minimum of 5 years ongoing effective land supply at all times and also provide an indication of the possible scale and location of housing land up to year 20. The need for a 5 year ongoing effective land supply is reinforced in Scottish Government PAN 2/2010: Affordable Housing and Housing Land Audits
16. Although An Camas Mor does not contribute to the housing land supply in the current Cairngorms National Park Local Plan, it will contribute 275 units to the effective supply in 0-5 years and 750 units in 5-20 years in the Cairngorms National Park Proposed Local Development Plan. This is in line with the existing Structure Plan and current Scottish Government Policy and Guidance. The nature of the proposed development is such that there is a considerable lead in period so that sites are available on schedule to contribute to the effective land supply when required. A further assessment is made later in this report against Policy 20 of the current Local Plan, but in housing land supply terms, it is concluded that this application can be supported at this point in time.

NEW MATERIAL CONSIDERATIONS

Cairngorms National Park Local Plan 2010 & Associated Supplementary Planning Guidance

17. At the time of original consideration on 11 June 2010 the Badenoch & Strathspey Local Plan was the adopted plan for the purposes of decision making. It supported the development of a new community at Cambusmore [*An Camas Mor*], subject to a formal assessment demonstrating that it would not give rise to unacceptable impacts. Account was also taken of the policies in that local plan as well as the Highland Structure Plan and other relevant policy documents referred to in paragraphs 99 - 220 in the Planning Committee report in **Appendix I**.

18. The Planning Committee report on 11 June 2010 also highlighted that the site was identified as a strategic settlement for a new sustainable community and drew attention to the Reporters' recommendations regarding the site in the Local Plan Inquiry Report. This was on the basis that the Local Plan was proceeding towards adoption.
19. The Cairngorms National Park Local Plan was adopted on 29 October 2010 and replaced the Badenoch & Strathspey Local Plan as constituting, along with the Highland Council Structure Plan, the Development Plan for the purposes of Section 37 (2) of the Act.
20. The Highland Structure Plan still applies within the National Park and paragraphs 172 - 191 in the report of 11 June 2010 set out the relevant policies that were taken into account in that appraisal - these are still relevant and are not revisited.
21. The adopted Cairngorms National Park Local Plan carries forward the proposed new sustainable community at An Camas Mor as set out in the 2nd Modifications with some additions to the text to take account of the Reporters' Recommendations following the Local Plan Inquiry. The principal addition is the inclusion in Appendix 4 (p159) of the Local Plan of the Development Principles for An Camas Mor approved by CNPA in December 2008. These Principles were included in paragraph 206 of the report of 11 June 2010 and an assessment against them within paragraphs 239 – 294 of that report.
22. As has been highlighted in this report, the Planning Committee in 2010 did not fully concur with the officers' assessment of the landscape impact and ability of the proposals to deliver the principle on Landscape Context, as set out in paragraphs 87-89 and 263-264 of the 11 June 2010 report. The officers' assessment and recommendation was based on consideration of the findings of the submitted Environmental Impact Assessment and confidence in the acceptable level of impact for up to 630 residential units and further acceptability with further assessment at various points up to 1100 residential units. The conditions as approved by the Planning Committee in 2010 allow for this process of continuous assessment, but with the upper threshold of 1500 as in the original application.
23. The officer recommendation in 2010 recommended the upper limit of 1100 residential units on the basis of the information available and understanding at that time. There was no definitive means of assessing 1100 as the limit, but it was a reasonable expression of professional judgement at that point. Following pre-application dialogue on the prospective master-plans and consideration of the detailed operation of review conditions attached to a planning permission in principle, officers now have an enhanced understanding and are of the view that the upper limit of 1500 residential units can be supported in terms of impact on landscape and ecology. This is reflected in the assessment against the individual Local Plan policies, particularly with regard to Policy 6. It must

be noted that both 1100 and 1500 are upper limits and in either case further ongoing assessment is required which over time, as the masterplans and subsequent detailed applications are submitted, will determine the eventual capacity of An Camas Mor in landscape and other terms. So, although the Planning Committee in June 2010 took a different view from its officers, it is now possible for officers to support an upper limit of 1500 residential units.

24. The proposal has to be carefully assessed against relevant policies within the adopted Cairngorms National Park Local Plan as well as the associated Supplementary Planning Guidance. This assessment is on the basis of an upper limit of 1500 residential units. The relevant Policies along with a list of Supplementary Planning Guidance are set out in full in **Appendix 3**.
25. Policy 1 of the Cairngorms National Park Local Plan states that development likely to have a significant effect on a Natura 2000 site will be subject to appropriate assessment and then sets out the approach to development proposals following such an assessment.
26. Scottish Natural Heritage (SNH) were consulted on the application and their response is summarised in paragraphs 32 – 37 of the original report in **Appendix I**. The SNH assessment took account of a number of natural heritage designations namely, the River Spey SAC and SSSI, Cairngorms SAC and SSSI, Cairngorms SPA, European Protected Species, and North Rothiemurchus Pinewood SSSI. SNH had no objection subject to a number of conditions in the event of the granting of planning permission.
27. CNPA natural heritage staff carried out an Appropriate Assessment in May 2010 and recommended conditions required to ensure adverse effects are avoided.
28. The application has now been reviewed in the context of Policy 1. Regulation 50 (1) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) requires competent authorities such as CNPA to review previous decisions and to undertake assessment if it is deemed to be necessary. This has resulted in the revised Habitat Regulations Assessment referred to in paragraph 11 above and attached to this report as **Appendix 4**.
29. This assessment based upon the best available scientific evidence and advice offered from SNH and others has shown that, with additional mitigation measures, there is no likely significant effect upon the qualifying features or the conservation objectives for 10 relevant Natura sites. It is therefore concluded that, with the mitigation measures, the proposed development will not adversely affect the integrity of any of these sites.

30. The conclusions of the HRA are reflected in the terms of the recommendation at the end of this report. Within this context it is concluded that the proposals complies with Policy 1.
31. Policy 2 of the Cairngorms National Park Local Plan states that development that would adversely affect National Natural Heritage Designations will only be permitted where the objectives of designation and the overall integrity of the designated area would not be compromised.
32. Relevant designations in the context of this application are the Cairngorms National Park, the Cairngorm Mountains National Scenic Area, Craigellachie/Abernethy/Cairngorms National Nature Reserves and a number of SSSI's. As the SSSI's are also Natura Sites they have already been assessed under Policy 1.
33. The objectives and integrity of all of these designations were taken into account when the application was originally considered in June 2010 and were reflected with regard to the National Park and National Scenic Area in the recommendation of an upper limit of 1100 residential units. The terms of approval in June 2010 reflect the Planning Committee's position on that assessment. The current officer position and acceptance of the appropriateness of an upper limit of 1500 units has been set out earlier in this report. The proposal is therefore considered to comply with Policy 2.
34. Policy 3 of the Cairngorms National Park Local Plan relates to other Important Natural and Earth Heritage Sites and Interests and requires development to demonstrate that the objectives of the site and overall integrity will not be compromised.
35. The relevant designation in the context of this application is the ancient woodland at the southern end of the application site. The indicative masterplan and environmental statement submitted with the application take account of this designation and this is reflected in the assessment and terms of approval in June 2010. The proposal is therefore considered to comply with Policy 3.
36. Policy 4 of the Cairngorms National Park Local Plan relates to adverse effect on European Protected Species and adverse impact on other species listed under the Wildlife & Countryside Act 1981, EC Habitats Directive and EC Birds Directive. The SNH consultation response considered in June 2010 took account of European Protected Species and CNPA natural heritage staff assessed the potential impact on other species.

37. The effect and impact on species covered by this policy were taken into account when the application was originally considered and were reflected in the recommendation in June 2010 of an upper limit of 1100 residential units. The terms of approval in June 2010 reflect the Planning Committee's position on that assessment. Consideration of an upper limit of 1100 or 1500 residential units was focused principally on landscape impact, but also took account of the ecological perspective. The current officer position and acceptance of the appropriateness of an upper limit of 1500 units has been set out earlier in this report. The proposal is therefore considered to comply with Policy 4.
38. Policy 5 of the Cairngorms National Park Local Plan relates to biodiversity and sets out the exceptional and limited circumstances where development that would have an adverse effect on habitats or species on certain identified lists/plans will be permitted.
39. The effect and impact on habitat or species covered by this policy were taken into account when the application was originally considered and were reflected in the recommendation in June 2010 of an upper limit of 1100 residential units. The terms of approval in June 2010 reflect the Planning Committee's position on that assessment. Consideration of an upper limit of 1100 or 1500 residential units was focused on landscape impact but also took account of the ecological perspective. The current officer position and acceptance of the appropriateness of an upper limit of 1500 units has been set out earlier in this report.. The proposal is therefore considered to comply with Policy 5.
40. Supplementary Planning Guidance on Natural Heritage supports Policies 1–5 and Policy 18 of the Cairngorms National Park Local Plan and sets out the Key Principles and other information on how natural heritage interests will be considered when assessing planning applications.
41. The advice given in 2010 and terms of the resolution of 11 June 2010 have been reviewed and it is confirmed that they accord with this Supplementary Guidance.
42. Policy 6 of the Cairngorms National Park Local Plan relates to landscape and has a presumption against any development that does not complement and enhance the landscape character of the Cairngorms National Park, and in particular the setting of the proposed development.
43. The wording of this policy reflects, in landscape terms, the first aim of the National Park. The recommendation in June 2010 included an assessment against the four aims and took account of the ability of the proposals to *enhance* as well as *conserve*. This was of course based on an upper limit of 1100 residential units and the Planning Committee resolved to approve up to 1500 residential units.

44. The environmental statement and indicative masterplan submitted with the application had a wide-ranging assessment of landscape impact and proposals to address landscape issues in the implementation of the development. This was assessed by the CNPA Landscape Adviser and was reflected in the recommendation to the Planning Committee on 11 June 2010 for up to 1100 residential units and the resolution of the Planning Committee and the terms of approval following that meeting for up to 1500 residential units. As explained earlier in this report, officers have been able to give further consideration to the upper limit and are now able to support up to 1500 residential units. The proposal has since been reviewed within the context of Policy 6 and it is concluded that the requirements can be achieved via conditions relating to the masterplanning stage and in consideration of individual phases. In other words it is considered that the development of An Camas Mor can both complement and enhance the landscape character. This is reflected in the terms of the recommendation at the end of this report with minor revisions to the terms of approval to give further clarity to demonstrate what is required at each future stage and through the life of the development. The proposal is therefore considered to comply with Policy 6.
45. Supplementary Planning Guidance on Wildness supports Policies 2 and 6 of the Cairngorms National Park Local Plan and sets out how wildness will be considered when assessing planning applications. An Camas Mor is located in an area with low wildness qualities, although it has views towards areas of high wildness in the mountains.
46. The advice given in 2010 and terms of the resolution of 11 June 2010 have been reviewed. The terms of approval will ensure that the quality of the development and its landscape context can take account of views towards areas of high wildness and it is confirmed that they accord with this Supplementary Planning Guidance.
47. Policy 8 of the Cairngorms National Park Local Plan relates to Archaeology, has a presumption in favour of preserving scheduled monuments and other identified nationally and regionally important archaeological resources, and where feasible to preserve other archaeology.
48. The Highland Council Archaeologist's consultation response identified several Historic Environment Record (HER) sites within the application site and requested that a condition be attached to any planning permission to allow for evaluation, preservation and recording of any archaeological and historic features affected by the proposed development. This condition was reflected in the terms of approval when the application was considered on 11 June 2010.

49. With the inclusion of this condition the proposal is therefore considered to comply with Policy 8.
50. Policy 11 of the Cairngorms National Park Local Plan relates to non-designated cultural heritage and seeks to protect or conserve and enhance sites, features or use of land of local or wider or cultural historical significance.
51. It is considered that the condition referred to in paragraph 48 above, along with conditions relating to the masterplans and delivery of the Development Principles will ensure compliance with Policy 11.
52. Policy 11 of the Cairngorms National Park Local Plan relates to water resources including minimising use, protecting quality, protection from flooding and sewerage.
53. Consideration of the application in June 2010 took account of consultation responses from SEPA and Scottish Water (both of whom had no objections), and an assessment of the ability to deliver the Development Principles for An Camas Mor which include contributions to addressing climate change, biodiversity and demonstrate an exemplar sustainable development fit for a National Park. This is reflected in the terms of approval, in particular the requirements for the masterplan.
54. With the inclusion of these requirements the proposal is considered to comply with Policy 11.
55. Policy 13 of the Cairngorms National Park Local Plan relates to mineral and soil/earth resources. An Camas Mor does not involve mineral or peat extraction, but the latter part of the policy relating to disturbance of soils, peat and any associated vegetation is relevant to all development proposals.
56. The policy is supported by Supplementary Planning Guidance on Carbon Sinks and Stores which sets out how the impacts of general developments on recognised carbon sinks and stores will be taken into account.
57. Condition 4 of the terms of approval in June 2010 included the submission of a Landscape Method Statement including, inter alia, a survey of existing tree cover and associated vegetation on the site, a soil survey, on site management and reuse of soil during development, and site protection proposals during and after construction. With the inclusion of these requirements the proposal is considered to comply with Policy 13.
58. Policy 16 of the Cairngorms National Park Local Plan relates to design standards for development and seeks to promote sustainable and high quality design in development within the Park. It is supported by Supplementary Planning Guidance in the form of the Cairngorms National Park Sustainable Design Guide.

59. Consideration of the application in June 2010 included an assessment of the ability of the proposals to deliver sustainable design taking account of Scottish Government and development plan policy, the National Park Plan and, in particular, the adopted Principles for An Camas Mor.
60. Condition 3 of the terms of approval in June 2010 requires the full masterplan to include sustainable design guidelines and a variety of other measures related to design and sustainability. The masterplan will be underpinned by a landscape and ecology masterplan (Condition 4) and this will all apply, with regular reviews, through each stage of the development until it is completed. With the inclusion of these requirements the proposal is considered to comply with Policy 16.
61. Policy 18 of the Cairngorms National Park Local Plan requires development which gives rise to a need to increase or improve public services, facilities or infrastructure, or mitigate adverse effects to make a contribution in cash or kind towards the additional costs. It is supported by Supplementary Planning Guidance on Developer Contributions.
62. Following the resolution of June 2010 a Section 75 Planning Obligation has been negotiated to provide for contributions to affordable housing, community facilities, education, health care, funding and provision of land for a foot/cycle bridge, land for a community park, off site road improvements and to provide an onsite distributor road and compensatory habitat areas. This negotiation was initially led by Aberdeenshire Council Planning Gain Service acting for CNPA and latterly by a planning gain consultant contracted by CNPA. This has been a lengthy and complex process and the provisions in the Section 75 Planning Obligation (**Appendix 2**) are considered to demonstrate compliance with Policy 18.
63. Policy 19 of the Cairngorms National Park Local Plan requires developments of 3 or more dwellings to incorporate a minimum of 25% affordable housing. It is supported by Supplementary Planning Guidance on Affordable Housing that sets out expectations in more detail.
64. Consideration of the application in June 2010 included an assessment of the ability of the proposals to deliver affordable housing taking account of Scottish Government and development plan policy, the National Park Plan and, in particular, the adopted Principles for An Camas Mor which expect An Camas Mor to make a significant contribution to affordable housing throughout the development.
65. At that point in time the applicant had been in discussions with Highland Housing Alliance to develop a long term joint venture to deliver a range of affordable housing. The current situation is that the applicant has a prospective developer (Springfield Properties) lined up to prepare the full masterplan and details of the first phase of the development. There have been discussions with Highland Council and Albyn Housing Society and

there is an application with Scottish Government for NHT RSL Variant funding guarantee to deliver affordable housing in that first phase.

66. Following the resolution in June 2010, the negotiations for the Section 75 Planning Obligation and Condition 3 for the full masterplan have included mechanisms for the provision of affordable housing through the life of the development. It is considered that there is compliance with Policy 19 at this stage and the delivery of affordable housing will be assessed on an ongoing basis before individual phases secure planning approval.
67. Policy 20 of the Cairngorms National Park Local Plan sets out the requirements for housing development within settlements. Following consideration of the Local Plan Inquiry Report, CNPA removed An Camas Mor from the effective housing land supply for the Local Plan, but in recognition of its strategic role in the Structure Plan, An Camas Mor is identified in the strategic settlements section of the Local Plan. Paragraph 4.49 of the Local Plan states that Policy 20 provides for the assessment of assessment of housing proposals made within the boundaries of identified settlements. An indicative boundary is shown at page 83 of the Local Plan and the application proposals conform to it. Whilst the Local Plan identifies An Camas Mor as a longer term development land not contributing to the housing land supply in the life of the plan, it clearly sets out what is required for the lead-in period. The current proposals are therefore progressing the development identified in principle in the Local Plan. It has been recognised for many years that the potential for long term development of Aviemore as the economic driver to meet the needs of the area is constrained and that is why An Camas Mor was first proposed over 20 years ago and has featured in successive plans. As has been explained earlier in this report, the nature of An Camas Mor means that there is a long lead-in period to ensure it can contribute to the effective housing land supply when required and allowing it to be brought forward accords with current Scottish Government policy in this regard. Within this context, it is therefore considered that there is compliance with Policy 20.
68. Policy 25 of the Cairngorms National Park Local Plan sets out the context in which business development is supported in a variety of circumstances within the National Park. The terms of approval in June 2010 took account of the Development Principles (particularly “A Place to Work”), and Condition 3 requiring a full masterplan, makes specific reference to the inclusion of mechanisms for providing the amount and types of employment, shops and other services to meet the needs of the community over the period of the development. The contribution to business development in individual phases will be assessed on an ongoing basis before secure planning approval. It is therefore considered that there is compliance with Policy 25.

69. Policy 26 of the Cairngorms National Park Local Plan sets out the context in which retail development is supported in a variety of circumstances within the National Park. It is considered that there is compliance with Policy 26 for the same reasons as Policy 24 business development.
70. Policy 29 of the Cairngorms National Park Local Plan sets out the context in which proposals are supported if they make sufficient contribution to an Integrated Sustainable Transport Network. This is where developments demonstrate by their location, size and nature that car dependency is reduced, sustainable transport modes are promoted, and links made to any existing hierarchy of travel modes based on walking/cycling, core paths and safe routes to schools/workplaces, public transport and finally motorised modes of travel.
71. Consideration of the application in June 2010 included, inter alia, an assessment of the ability of the proposals to deliver the Development Principles for An Camas Mor, including the *Relationship with Aviemore* (and potential link with a foot/cycle bridge to facilities including the railway station) and *Movement* with active discouragement of private car use and provision of public transport and infrastructure for walkers and cyclists. The location close to Aviemore and the opportunity to develop a community with living, working, education and recreation opportunities all within walking/cycling distance fits with the ethos of this policy.
72. The terms of approval in June 2010 ensure a contribution to this policy via the provisions in the Section 75 Planning Obligation and the requirements of Condition 3. The recommendation at the end of this report includes a Green Transport Plan to consolidate the approach needed to integrated sustainable transport in the full masterplan. It is therefore considered that there is compliance with Policy 29.
73. Policy 34 of the Cairngorms National Park Local Plan sets out the context in which proposals are supported if they make sufficient contribution to responsible outdoor access. The terms of approval in June 2010 ensure a contribution to this policy via the provisions in the Section 75 Planning Obligation and the requirements of Condition 3. The recommendation at the end of this report includes an additional requirement in Condition 3 for a Recreational Management Plan to demonstrate that there will be no adverse impact upon capercaillie. It is therefore considered that there is compliance with Policy 34.
74. Policy 35 of the Cairngorms National Park Local Plan sets out the context in which proposals for formal sport and recreation facilities will be supported. The terms of approval in June 2010 ensure a contribution to this policy via the requirements of Condition 3 with specific reference to the need for the full masterplan make provision for a school site, playing fields, community hall and health facility. This will make provision for An Camas Mor, but will also be accessible from Aviemore and the surrounding area. It is therefore considered that there is compliance with Policy 35.

75. Policy 36 of the Cairngorms National Park Local Plan sets out the context in which proposals that improve or add to current levels of public and amenity open space will be supported. The terms of approval in June 2010 ensure a contribution to this policy via the requirements of Condition 3 and the need to provide for private and community spaces in the full masterplan and in Condition 4 with the landscape and ecology masterplan providing for planting/landscaping, openspaces, biotope strips etc. It is therefore considered that there is compliance with Policy 36.
76. The context for the Settlement Proposals is set out in p79 – 81 of the Cairngorms National Park Local Plan. Paragraph 6.2 directs the majority of development and provision of facilities to strategic settlements, and paragraph 6.7 identifies larger sites in the main settlements and An Camas Mor as providing a basis for the medium and longer term land supply. An Camas Mor is identified as a strategic settlement on p82-83 of the Local Plan and the context for its development is set out under I-IX on p82. Specific reference is made to the Development Principles in Appendix 4 p159 of the Local Plan.
77. Paragraph VI on p82 states that development will only be permitted if the planning authority is satisfied that proposals do not adversely affect the integrity of the River Spey SAC. CNPA has carried out a fresh Habitat Regulations Assessment and is satisfied that the integrity will not be adversely affected. There will be further such assessments for each subsequent application.
78. Paragraph VII on p82 seeks to do likewise with regard to the Cairngorms Mountains National Scenic Area. The issues surrounding the original recommended limit of up to 1100 residential units and the Planning Committee resolution of up to 1500 residential units have been dealt with earlier in this report. It is considered that the fact that development can only proceed at each stage following full consideration of landscape impacts, means that the overall integrity of the National Scenic Area is protected.
79. The factors set out in I-IX and the Development Principles in Appendix 4 of the Local Plan were all taken into account in the assessment that led to the terms of approval in June 2010 and the terms of the recommendation in this report will ensure that this continues to be the case throughout the development. .
80. It is therefore concluded that the application complies with the provisions of the adopted Cairngorms National Park Local Plan in terms of being identified in the chapter on Strategic Settlements and when assessed against the individual policies and associated supplementary planning guidance.

Cairngorms National Park Partnership Plan 2012-2017

81. The Cairngorms National Park Partnership Plan 2012-2017 was approved by Stewart Stevenson Minister for the Environment and Climate Change in June 2012 and adopted by CNPA in July 2012. This replaces the National Park Plan 2007-2012 and provides the strategic context for planning decisions in the Park.
82. As it is a new material consideration and the structure and layout are different from the National Park Plan 2007-2012, the proposal has to be carefully assessed against the most relevant long-term outcomes and policies within it.
83. The National Park Partnership Plan 2012-2017:
 - Sets out the vision and overarching strategy for managing the Park;
 - Provides focus and priorities at a time of limited financial resources;
 - Provides a strategic context for the Local Development Plan;
 - Shows how the four aims of the National Park can be achieved together, benefiting people and place
84. This is the context for the content of the Plan, including the long-term outcomes and the specific policies within it. It has been informed by a Strategic Environmental Assessment, Habitats Regulations Appraisal and an Equalities Impact Assessment.
85. Long-term Outcome 1 is *“A sustainable economy supporting thriving businesses and communities.”*
86. Policy 1.1 f) seeks to contribute to growing the economy of the Park and helping to deliver this outcome by *“provision of a housing land supply that meets identified need and demand, supports migration of young people and workers to the Park, and maintains vibrant communities.”*
87. Policy 1.2 a) seeks to enable sustainable patterns of settlement growth, infrastructure and communications by *“consolidating the role of the existing main settlements....., as well as the new community at An Camas Mor, as the most sustainable places for future growth and the focus of housing land supply while maintaining the integrity of designated sites.”*
88. Policy 1.3 supports development of a low carbon economy through, inter alia, c) *“supporting businesses and communities to use less energy, reduce emissions, generate low impact renewable energy and plan for climate change”* and d) *“promoting high standards of sustainable design and efficient use of energy and materials in construction.”*

89. The National Park Partnership Plan 2012-17, approved by Scottish Ministers in 2012, therefore specifically recognises An Camas Mor as a sustainable location for future growth and the aspirations of the policies referred to above are reflected in the Development Principles for An Camas Mor in Appendix 4 to the Cairngorms National Park Local Plan.
90. Long-term Outcome 2 is *“A special place for people and nature with natural and cultural heritage enhanced.”*
91. Policy 2.2 seeks to enhance the resilience of habitats, species and land use to climate change.
92. Policy 2.3 seeks to conserve and enhance the special landscape qualities.
93. Policy 2.4 seeks to conserve and enhance habitat quality and connectivity.
94. Policy 2.5 seeks to conserve and enhance the species from which the Cairngorms National Park is important.
95. Policy 2.7 seeks to conserve and enhance the cultural heritage that helps create the sense of place and identity of communities in within the Park.
96. Policy 2.8 seeks to enhance the design and sense of place in new development and existing settlements in particular:
 - a) *enabling new development which contributes positively to the sense of place;*
 - b) *promoting a high standard of sustainable design, energy efficiency, sustainably sourced materials and construction in new development;*
 - c) *supporting the retention and enhancement of local character;*
 - d) *facilitating the rehabilitation of redundant rural buildings and recycling of resources*
 - e) *ensuring road upgrades and improvements respond to local landscape character.*
97. The detailed assessment of the application and the terms of approval in June 2010, particularly Conditions 3 & 4 requiring full and landscape & ecology masterplans, will ensure delivery of these policies through the development.
98. Long-term Outcome 3 is *“People enjoying the Park through outstanding visitor and learning experiences.”*
99. Policy 3.3 seeks to provide high quality opportunities for access and recreation, with particular focus on, inter alia, a) *“ensuring a high quality functional network of core paths and long distance routes”* and c) *“identifying areas where particular management measures are needed in relation to delivering a high quality visitor experience, safeguarding sensitive environments and maintaining integrity of designated sites.”*

100. The aspirations for An Camas Mor set out in the Development Principles in Appendix 4 of the Cairngorms National Park Local Plan and the terms of approval in June 2010 all reflect the desire to maximise opportunities for cycling and walking and integration with the surrounding path network, including core paths and the National Cycle Route 7. In addition the proposed new Core Paths Plan that was recently (as Supplementary Guidance) part of the wider consultation on the proposed Local Development Plan, includes a proposed new core path LBS147 which will be the proposed foot/cycle bridge over the River Spey that will provide a link to central Aviemore from the proposed expanded countryside park on the east bank of the River Spey and future development at An Camas Mor.
101. Following the most recent Habitat Regulations Assessment (HRA) for this application, the recommendation at the end of this report includes a change to Condition 3 requiring the provision of a Recreational Management Plan to demonstrate that there will be no adverse impact on capercaillie, a qualifying feature for five SPAs in Badenoch & Strathspy.
102. It is therefore considered that An Camas Mor complies with this policy in the National Park Partnership Plan.
103. When the application was initially considered in June 2010 it was assessed as complying with the Cairngorms National Park Plan 2007-2012. The Cairngorms National Park Partnership Plan 2012-2017, approved by Scottish Ministers in 2012, consolidates the principles of its predecessor, but articulates them in the form of specific policies and, importantly, identifies An Camas Mor as a new community and a strategic location for growth in the Park.
104. Having assessed the proposals against the relevant provisions of the National Park Partnership Plan 2012-2017 it is concluded that it complies and is required for the delivery of the settlement strategy in that Plan.

Local Plan Appeal

105. The challenge to the Cairngorms National Park Local Plan in the Court of Session has now been unsuccessful on two occasions. The appeal against the original decision of Lord Glennie, which rejected the challenge on all of the advanced grounds, was refused by the Inner House on 3 July 2013. In delivering the judgment of the Court, Lady Paton concluded that *“It was open to the CNPA to adopt a Local Plan which relied on that [appropriate] assessment.”*
106. On 12 August 2013 the Appellants filed an appeal against the decision of the Inner House of the Court of Session, to the UK Supreme Court. The Park Authority is instructing a defence to the appeal. However, the fact that there is a continuing challenge to the adoption of the Local Plan is a relevant material consideration to which regard must be had in determining this application. There remains a possibility that the parts of the Local Plan which refer to An Camas Mor, and which contain specific support for its

development, may be quashed. If the appeal were to be successful, and the parts of the Local Plan relating to An Camas Mor were quashed, that would remove a key justification supporting the recommendation to conditionally approve the application.

107. The legal opinion on CNPA's prospects of success in resisting the current appeal to the Supreme Court is that those prospects are reasonable, or better than 50:50.
108. The legal advice is that, in accordance with the Supreme Court procedures, a date for the hearing of the appeal by the Supreme Court will not be fixed until around December of this year. The experience of those advising CNPA is that such a hearing date is likely to be towards the end of 2014. Therefore, subject to the current programme for the adoption of the Cairngorms National Park Local Development Plan being achieved, the appeal decision is not likely to be issued until after the adoption of the Local Development Plan.
109. The Appellants have at no stage in the appeal process sought interim suspension of the Local Plan, or any part of the Local Plan. The Local Plan has the support of two unequivocal decisions by the Court of Session and remains in force. Given the length of time that has passed since the application was submitted and considered, the timescale involved in a further appeal to the Supreme Court, the absence of any challenge to the inclusion of An Camas Mor in the approved National Park Partnership Plan, and the recognition of the need for certainty as a fundamental pillar of the current Scottish planning system, it is considered reasonable to now proceed to determine this application on the basis that the Cairngorms National Park Local Plan adopted on 29 October 2010 will remain in force until such time as it is superseded by the proposed Cairngorms National Park Local Development Plan.
110. The CNPA must have regard to the factors detailed in the preceding paragraphs:
 - a. The possibility that the relevant parts of the Local Plan may be quashed in the event that the appeal to the Supreme Court is successful
 - b. How central the support for An Camas Mor in the Local Plan is to the determination of this application
 - c. The effect of the relevant parts of the Local Plan being quashed and the associated removal of a key justification for the development
 - d. The prospects of success for the current appeal;
 - e. The likely timescale for a decision of the Supreme Court in the current appeal;Each of those factors is a material consideration in the determination of the application.

The Cairngorms National Park Proposed Local Development Plan

111. The CNPA published and consulted on a Main Issues Report from 19 September – 9 December 2011. This helped inform the Cairngorms national Park Proposed Local Development Plan which was published and consulted on from 15 April – 5 July 2013.
<http://cairngorms.co.uk/resource/docs/publications/12042013/CNPA.Paper.1880.Proposed%20Local%20Development%20Plan.pdf>
112. Following this consultation, unresolved representations will be passed to Scottish Ministers and will be considered at an Examination conducted by a Reporter appointed by Scottish Government. It is currently hoped to have the Examination early in 2014 and to have an adopted Local Development Plan by late summer in 2014.
113. The Local Development Plan will set out policies and proposals for the development and use of land for the next 5 – 10 years, and will provide the basis for the assessment of all planning applications across the whole Cairngorms National Park.
114. The policies in the Proposed Local Development Plan largely take forward, in a consolidated form, those in the existing Cairngorms National Park Local Plan.
115. An Camas Mor is identified as a new sustainable community forming part of the overall settlement hierarchy and settlement strategy for the Badenoch & Strathspey part of the Park. It will contribute to the effective housing land supply set out in the evidence in support of the Local Development Plan.
116. The Development Principles for An Camas Mor in Appendix 4 of the existing Cairngorms National Park Local Plan are incorporated in the supporting text for An Camas Mor in the Local Development Plan.
117. There are 5 objectives listed for An Camas Mor:
- To promote An Camas Mor as a new settlement which will, on completion hold a strategic role in this part of the National Park;
 - To ensure the new settlement acts as a focus for growth serving the wider Badenoch & Strathspey area.
 - To develop a community of up to 1500 homes developed over time which relieves pressure for new development currently focusing on Aviemore;
 - To demonstrate innovation in design and sustainable construction and living;
 - To encourage opportunities for partnership working in the overall development of the settlement.

118. Although the Proposed Local Development Plan is not a significant material consideration for the purposes of determining the current application, the inclusion of An Camas Mor does demonstrate continuity in the CNPA approach to realising the new community and the role it has to play. The Local Development Plan will provide the context for future decisions in relation to An Camas Mor.
119. It is considered that the proposals and the terms of approval in June 2010 show compliance with the Cairngorms National Park Proposed Local Development Plan.

Scottish Government Policy and Advice

120. “Creating Places – A policy statement on architecture and place in Scotland” was published by Scottish Government in June 2013. It sets out the Scottish Government’s position on architecture and place and the policies in the document are material considerations in determining planning applications and appeals.
<http://www.scotland.gov.uk/Publications/2013/06/9811/downloads>
121. The document provides context under the headings of: what is good design, qualities of successful places, the value of good buildings and places, people and communities, sustainable development, design – economic advantages, health, culture and identity, and landscape.
122. This is followed by a short section on consolidation and ambition that sets out the context of the policy statement within a wider package of policy documents and activity. There is a focus on the role of communities to deliver the ambition.
123. Part 3 of the document contains the strategy and policies which can be summarised as follows:
- The quality of architecture & places is a priority – they are not elements of the planning process, but outcomes the process exists to support.
 - Investment decisions should be informed by place taking account of all impacts, societal, environmental as well as economic and public sector should set an example by ensuring high standards in procurement.
 - All areas of policy and practice should utilise and promote design as a tool to deliver value, sustainable outcomes and high quality.
 - Low carbon design and planning should be a priority.
 - The development of creative places should be encouraged as an effective approach to delivering sustainable high quality environments.
 - Design processes should encourage active participation in the process to deliver places with local integrity and relevance.

124. It is considered that this policy is reflected in the National Park Partnership Plan 2012-2017 and the Cairngorms National Park Local Plan and associated Supplementary Planning Guidance. The Development Principles for An Camas Mor in Appendix 4 to the Local Plan and the terms of approval for the application in June 2010 all seek to translate the aspirations of Creating Places into a Cairngorms context for the new community.
125. PAN 2/2010 was published by Scottish Government on 31 August 2010, replacing PAN 74, and provides advice and information on how the planning system can support the Government's commitment to increase the supply of affordable housing.
126. The document explains the variety of approaches and types of affordable housing which are available and focuses on how the planning system can facilitate the development of affordable homes by house builders and other developers. It is stated that the advice in the PAN has to be applied constructively and with flexibility in response to financial and market conditions.
127. One of the Development Principles for An Camas Mor in Appendix 4 of the Cairngorms National Park Local Plan relates specifically to the delivery of affordable housing. The terms of approval in June 2010 include Condition 3 which requires the full masterplan to include, inter alia, mechanisms for providing a number and mix of housing types and tenures including the full range of affordable housing to meet local needs over the period of the development. The draft Section 75 Planning Obligation contains detailed measures for managing and funding affordable housing provision for An Camas Mor.
128. The assessment in June 2010 took account of the provisions of PAN 74. It is considered that the proposals and terms of approval comply with PAN 2/2010.
129. PAN 3/2010 was published by Scottish Government on 31 August 2010, replacing PAN 81, and provides advice to communities, planning authorities and developers on ways of effectively engaging with communities on planning matters.
130. The principle of An Camas Mor has been the subject of considerable consultation and community engagement for more than 20 years via the Badenoch & Strathspey and Cairngorms National Park Local Plans. There was extensive community engagement and consultation with a variety of interest groups in the lead up to the submission of the planning application. Both Aviemore & Vicinity Community Council and Rothiemurchus & Glenmore Community Association had no objections to the application – the revisions to the B970 Colyumbidge junction in the terms of approval in June 2010 addressing the sole point of concern of the latter. The terms of approval require further community engagement prior to submission of the full masterplan.

131. The assessment in June 2010 took account of the provisions of PAN 81. It is considered that the proposals and terms of approval comply with PAN 3/2010.

Habitat Regulations Assessment

132. The CNPA Ecologist carried out a full assessment of the submissions and her report was attached to the paper to the Planning Committee in June 2010. In addition an Appropriate Assessment was carried out in respect of the River Spey SAC and Tributary River Druie. The terms of approval, particularly conditions requiring a Landscape & Ecology Masterplan, Construction Method Statement and specific requirements for the bridge over the River Druie, took account of the conclusions of these assessments and advice from SNH and SEPA.
133. Since June 2010 further relevant information has become available through Habitat Regulations Assessment (HRA) work on other proposals and on the Proposed Local Development Plan. Regulation 50 (1) of the habitat regulations requires competent authorities (which includes CNPA) to review previous decisions and to undertake assessment if it is deemed to be necessary. This is attached as **Appendix 4**.
134. The 10 stages of assessment are set out on p4 of the HRA and follow a tightly defined sequence leading to a conclusion on the Integrity Test i.e. are there any significant effects from the proposed development upon the qualifying features or the conservation objectives for the identified Natura sites that would adversely affect the integrity of any site.
135. The HRA concludes that, with additional mitigation measures, the proposed development will **not adversely affect** the integrity of any of the sites.
136. The proposed conditions in the recommendation at the end of this report have been revised from those agreed in June 2010 to reflect the additional mitigation measures.

SUMMARY

137. This application was considered by the Planning Committee on 11 June 2010 when it was resolved to grant planning permission in principle subject to a Section 75 Legal Agreement and Conditions. The Planning Committee on 25 June 2010 considered the Draft Minutes of the 11 June 2010 Planning Committee and approved them subject to a number of amendments.
138. Protracted negotiations on the legal agreement (now concluded) and the lengthy appeals to the Court of Session on the Cairngorms National Park Local Plan, with An Camas Mor central to those appeals, mean that no decision notice has been issued and planning permission in principle is not yet in place.

139. Following the Opinions from the Court of Session, the decision on 29 October 2010 to adopt the Cairngorms National Park Local Plan stands and, along with the Highland Structure Plan, it still forms the development plan for the purpose of Section 37 (2) of the Planning Act.
140. As there have been a number of material changes in the policy context since the Planning Committee last considered this application in June 2010, it has been necessary to identify those new material considerations and assess the application against them so that they are fully reflected in the decision.
141. The Cairngorms National Park Local Plan was adopted in October 2010 following the resolution in June 2010 and, along with associated Supplementary Planning Guidance, is a new material consideration. Account also has to be taken of the fact that the recommendation in June 2010 was for up to 1100 residential units and the Planning Committee resolution was for up to 1500 residential units. The reasons why officers are now able to support up to 1500 residential units have been set out in this report. Paragraphs 17–80 of this report assess the application against the Local Plan and conclude that, with a few revisions to the proposed conditions, there is compliance.
142. The appeal against the Cairngorms National Park Local Plan is a new material consideration in its own right. The failure of the appeal in the Court of Session and the legal advice following notice of the further appeal to the UK Supreme Court, all as set out in paragraphs 105-110 of this report, now enable a decision to be taken on this application.
143. The Cairngorms National Park Partnership Plan 2012-2017, which includes An Camas Mor in its settlement strategy, was approved by Scottish Ministers in June 2012 and adopted by CNPA in July 2012. It replaces the National Park Plan 2007-2012 which was taken into account in the determination in June 2010. Paragraphs 81-104 of this report assess the application against the National Park Partnership Plan and conclude that, with a few revisions to the proposed conditions, there is compliance.
144. An Camas Mor is identified as a settlement and contributor to the effective housing land supply in the Cairngorms National Park Proposed Local Development Plan. The Local Development Plan has just completed its consultation stage and is not a significant material consideration, but it is considered that the proposed development and terms of approval in June 2010 accord with its provisions.
145. Scottish Government PAN 2/2010 Affordable Housing and PAN 3/2010 Community Engagement and the policy statement 'Creating Places' have been published since June 2010. They have been taken in account and the application is considered to comply with them.

146. A fresh Habitat Regulations Assessment has been carried out to take account of a range of new circumstances since the previous consideration in June 2010. This has been a complex and comprehensive piece of work involving close liaison with SNH, RSPB and Forestry Commission Scotland. The HRA concluded that, with additional mitigation measures the proposed development will not adversely affect the integrity of any of the 10 Natura sites screened for significant affects. This is reflected in a number of proposed revisions to the terms of approval.

CONCLUSION

147. The application has been assessed against all of the identified new material considerations and a number of relatively minor revisions have been made to the terms of the Planning Committee approval in June 2010 to take account where necessary, particularly with regard to Habitat Regulations.
148. Following the outcome of the appeals to the Court of Session, the Cairngorms National Park Local Plan, including An Camas Mor, remains the adopted Local Plan for the purpose of Section 37 (2) of the Planning Act. As set out earlier in this report, although notice has been given of a further appeal to the UK Supreme Court, by the time there is a decision on any such appeal, it is anticipated that the new Cairngorms National Park Local Development Plan will be in place and the Local Plan which is subject of the appeal will have been superseded. Consequently, if Members of the Planning Committee accept the recommendation in this report, it is then possible, upon completion of the Section 75 Planning Obligation, to proceed to issue planning permission in principle.
149. Once planning permission in principle is in place, it will be possible for applications to come forward for the full/landscape & ecology masterplan(s) and subsequent detailed phases of development. The applicant, An Camas Mor LLP, is currently working with Springfield Properties to this end.
150. The inclusion of An Camas Mor in the Cairngorms National Park Local Plan and determination of this application, called in over 4 years ago, has been a long and considered process. In adopting the Development Principles for An Camas Mor in December 2008 (now Appendix 4 in the Local Plan), the Planning Committee clearly articulated the vision and context for An Camas Mor in ambitious and aspirational terms as befits the only new community to be proposed in a UK National Park.
151. This development will take 20-30 years to complete and, in setting the bar high, the challenge is for CNPA to ensure that the Principles are delivered at each stage of the development throughout this period.
152. If planning permission in principle is granted, the next application to be submitted will be for the full/landscape & ecology masterplan(s) covering all of the individual aspects of the development that will then have to be demonstrated in detail at each subsequent application for individual phases. At each phase the development will be assessed to ensure it is delivering a

new high quality designed and sustainable community (including provision for employment and community facilities) and not just another housing development.

153. Although a planning permission in principle would be for up to 1500 residential units, the final level of development that can be successfully delivered on the site is dependent on it being demonstrated at each phase that it will complement and enhance the landscape character, there is no adverse effect on the integrity of Natura sites, European Species are protected, and the wider ecology is conserved and enhanced. There will be a review of the impact of the development on landscape and ecology, including a Habitat Regulations Assessment, at each stage and prior to each individual phase being approved.
154. Importantly, there will be a full review of the impact of the development on landscape upon completion of 630 residential units, as this was identified as a critical point in the environmental impact assessment.
155. The purpose of these reviews is to ensure that An Camas Mor evolves not simply in terms of the quality of built development and public realm – which have to be exemplary – but that landscape and ecology are firmly integrated in the new community and progress as required. If progress does not match requirements then CNPA will not grant approval for further phases until all landscape and ecology issues have been addressed
156. This process of robust and ongoing assessment will be critical to the successful delivery of An Camas Mor and a demonstration of the long term commitment of CNPA to the realisation of the Development Principles for An Camas Mor agreed in 2008 and carried through the Cairngorms National Park Local Plan and the decision on this application.
157. To conclude, having taken account of new material considerations that have arisen since the application was last considered in June 2010, along with the new Habitat Regulations Assessment, it is recommended that planning permission in principle is granted subject to registration of the Section 75 Planning Obligation and to conditions as set out in the recommendation below.

RECOMMENDATION

158. That Members of the Planning Committee **note and accept** the Habitat Regulations Assessment attached as **Appendix 4** to this report.

159. That Members of the Planning Committee resolve to **GRANT** Planning Permission in Principle for a new community at An Camas Mor subject to the following:

A. Registration of the Section 75 Planning Obligation covering the following:

- Affordable housing provision
- Community facilities
- Education provision
- Health Care provision
- Contribution to paths and the funding for a bridge on the foot/cycle path link to Aviemore via River Spey
- Provision of distributor road before 201 residential units to satisfaction of Highland Council TEC Services including any off site works
- A contribution to improvements to Grampian Road to the satisfaction of the Highland Council TEC Services
- Off-site compensatory habitats in accordance with an approved Compensatory Habitat Management Scheme

B. The following planning conditions:

1. Plans and particulars of the matters listed in Conditions 2, 3, 4, 5, 6, 9, 10, 11, 12 shall be submitted for the consideration of the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No works shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval.

Reason: In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. Notwithstanding the description on the application as submitted, this permission is for **up to 1500** residential units only. There will be a review of the impact of the development on landscape and ecology, including a Habitat Regulations Assessment, prior to each individual phase of development receiving approval. All reviews will be undertaken against the site baseline of nil development. In addition there will be a full review of the impact of the development on the landscape upon the completion of 630 residential units. After each review further development will only take place with the approval of the CNPA acting as planning authority.

- Reason:** In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), and because:
- a) 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 (which forms part of the special qualities of the National Park) and on the integrity of the Cairngorms National Scenic Area;
 - b) it is considered that development between 630 – 1500 residential units can be achieved without prolonged significant adverse impact on the landscape, but this is dependent on the successful implementation of the range of landscape measures required by the conditions of this planning permission in principle to ensure that development complements and enhances the landscape character of the National Park in accordance with Policy 6 of the Cairngorms National Park Local Plan;
 - c) to ensure there is no adverse effect upon the integrity of any Natura Sites identified within the Habitat Regulations Assessment for the Planning Permission in Principle and ensure protection of European Protected Species (which form part of the special qualities of the National Park).
3. Prior to the submission of any detailed application for this site a Masterplan shall be submitted for the approval of the CNPA acting as planning authority. The Masterplan shall be based on the principles established in the Landscape and Ecology Masterplan required under Condition 4, and the mitigation for impacts on Natura sites as identified within the Habitat Regulations Assessment for the Planning Permission in Principle, shall be the subject of wide community consultation of a type to be agreed with the CNPA prior to any consultation being carried out. The Plan shall include the following:
- a. Statement of Community Consultation.
 - b. Sustainable Design Guidelines for the overall site covering layout, residential/business/community uses, building forms and proportions, densities, building heights, orientation, materials and colour, private and community spaces, surface and boundary treatments.
 - c. Detailed phasing proposals and provisions for regular review, with options to pursue actions should they be required, in terms of the timing, status and impact of development and progress on the measures undertaken at the off-site compensatory habitat areas.
 - d. Mechanisms for ongoing delivery and long term management of the An Camas Mòr project.
 - e. The contribution of An Camas Mòr in terms of both finance and active involvement in the community led partnership to facilitate delivery of a direct foot/cycle path link to central Aviemore via a bridge over the River Spey in tandem with the initial phase of development.
 - f. Mechanisms, including regular review, for providing the number and mix of housing types and tenures including the full range of

- affordable housing to meet local needs over the period of development.
- g. Mechanisms for ensuring that the development has provision for individuals and local small builders.
 - h. Mechanisms for controlling level of second and holiday home use.
 - i. Mechanisms, including regular review, for providing the amount and types of employment, shops and other services to meet the needs of the community over the period of development.
 - j. Surveys to monitor the impact of the development on services, retailing and employment in surrounding settlements.
 - k. Opportunities for provision for further and higher education
 - l. Proposals to make the development accessible to all abilities, including design of buildings, road and path surfaces and edges, lighting, audio and visual information at bus stops, employment and facilities for young and older people in consultation with a qualified Access Consultant.
 - m. Provision for a school site, playing fields, community hall and health facility.
 - n. Street Hierarchy Proposals to accord with, as a minimum, the principles of Scottish Government Policy contained in Designing Streets 2010.
 - o. A strategy and measures to minimise light pollution, including that on water courses to avoid impacts upon qualifying species of the River Spey SAC.
 - p. Provision for treatment and disposal of sewage on site or details of means of connection to the public sewerage system to satisfaction of SEPA, Scottish Water and SNH (regarding impacts upon the River Spey SAC) to include provision for waste water treatment to agreed standards at each phase of development.
 - q. An assessment of the presence of contaminated land and measures to deal with any identified.
 - r. Provision for a SuDS Scheme to the satisfaction of SEPA and that demonstrates no adverse effect upon the River Spey SAC.
 - s. Provision for water and electricity supplies to meet the needs of the community, including a water storage system for commercial premises.
 - t. An Environmental Management Plan with arrangements for storage, segregation and collection of waste including location, access, maintenance arrangements and screening to satisfaction of SEPA.
 - u. A Recreational Management Plan that conforms to all the criteria within the Habitat Regulations Appraisal to demonstrate that there will be no adverse effect upon capercaillie, a qualifying feature for five SPAs in Badenoch and Strathspey. This must include mechanisms and provisions for monitoring of capercaillie populations and levels and pattern of recreation through the development period and beyond..
 - v. A Sustainability Statement including measures for carbon reduction, energy conservation, generation of renewable energy (including a district heating system), water conservation, waste recycling and disposal, local sourcing of materials and labour.

- w. Provisions for a high specification of telecommunications technology connections to all properties and premises.
- x. A Green Transport Strategy including provision for applications for each phase to include details of all infrastructure involved, provision of an accessible year round bus service and arrangements for funding.
- y. Mechanisms for directing and managing the impact of construction traffic on the surrounding road network throughout the life of the development.

Reason: In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and to ensure that a clear framework is identified for the future development of this new community within a National Park and Cairngorms National Scenic Area and to protect the integrity of the Natura Sites identified within the Habitat Regulations Appraisal and European Protected Species.

- 4. Prior to or as part of the submission of the full Masterplan for the development referred to in Condition 3. a Landscape and Ecology Masterplan shall be submitted for the approval of the CNPA acting as planning authority. This Plan shall have a primary aim of ensuring that development complements and enhances the landscape character of the National Park and reduces landscape and visual impacts to 'not significant' by 20 years of commencement, and to ensure that there will be no adverse effect upon the integrity of any Natura Sites or European Protected Species. It must include the following:
 - a. Woodland retention, new planting, street trees and open space, formal and informal footpaths, potential desire lines, links into potential and actual routes accessible from An Camas Mòr, integration with proposals for surface water drainage and lighting.
 - b. An evidence-based and objective driven Landscape Method Statement which underpins and accompanies the Landscape and Ecology Masterplan and includes, a survey of existing tree cover and associated vegetation on the site, a soil survey, on site management and reuse of soil during development, site protection proposals during and after construction, planting proposals (species, ground preparation), maintenance during establishment, a long term management plan.
 - c. Adhere to the concepts and principles of biotope strips, peripheral planting and management of existing woodlands, green crossings and back garden nature reserves as described in the application.
 - d. Strategies for each phase of development to mitigate the potential impacts upon local habitats from the development and increased human disturbance.
 - e. Details of the survey and monitoring regime for habitats and species with provision for ongoing monitoring and specific surveys to be carried out before and after each phase of development all against the site baseline of zero development.
 - f. The monitoring regime shall include assessment of progress and effectiveness of the off-site compensatory habitat in accordance

with the Compensatory Habitat Management Scheme required by the Section 75 Planning Obligation.

- g. Surveys to be undertaken during the optimum survey period, by specialists in the particular species field and to take account of protected species and UKBAP and Cairngorms LBAP.
- h. Specific surveys to include detailed habitat and botanical (including lichen), invertebrates), mammals, birds (breeding and winter), fungi reptiles and amphibians and Freshwater Pearl Mussel. Surveys to be undertaken is accordance with methodologies as agreed with CNPA.
- i. Retention and new planting on and around the west side of the site to create an area of woodland linking plantations to the north of the site to the ancient and semi-natural woodland in the south, and including the semi-mature plantation in the south west corner, to ensure both acceptable landscape screening and a robust woodland network providing for recreational needs, ecological connectivity, species dispersal and resistance to fragmentation.
- j. Retention of the area of lowland heath in the south west corner of the site and augmentation of the habitat with measures to encourage expansion to the west.
- k. Retention of kettle holes as water bodies with as much peripheral vegetation as necessary to provide a resilient habitat.
- l. Retention and new planting on and around the site to create a woodland corridor adjacent to the B970 linking woodland to the north and south of the site to ensure both acceptable landscape screening and a robust woodland network providing for recreational needs, ecological connectivity, species dispersal and resistance to fragmentation.
- m. Retention and new planting of woodland on and around the site to create two north-south woodland corridors and one east-west woodland corridor that dissect the site and link areas of open green space to ensure both acceptable landscape screening and a robust woodland network providing for recreational needs, ecological connectivity, species dispersal and resistance to fragmentation.
- n. Creation of a wetland area of habitat in the marsh area within the fields to the west of the development area.

Reason: In accordance section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and to ensure that a clear landscape and ecology framework is identified to provide a basis for the masterplan for the future development of this new community within the National Park and Cairngorms National Scenic Area and to protect the integrity of the Natura Sites identified in the Habitat Regulations Assessment and ensure protection for European Protected Species.

5. Detailed matters specified by conditions applications for all aspects of the individual phases of development shall be submitted for the consideration of the planning authority. There shall be community consultation prior to each submission in accordance with details to be agreed beforehand with CNPA acting as Planning Authority. No works shall begin until the written approval of the authority has been given and the development shall be carried out in accordance with such approval and the terms of the planning permission in principle.

Reason: In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

6. Prior to any development commencing on site the following shall be submitted for the approval of the CNPA acting as planning authority:
 - a. A construction procedures handbook for delivery of the method statement and management plan to which all parties and subsequent developers are signed up. This must include a Construction Method Statement (CMS) that demonstrates procedures to ensure there will be no adverse effect upon the integrity of any Natura Site.
 - b. Evidence that the Landscape and Ecology Masterplan and Landscape Method Statement form part of a contractual obligation with developers on site.
 - c. Evidence that all necessary legal structures and agreements are in place for ongoing site management, including ongoing management and maintenance of all non-private, public and communal spaces.
 - d. Evidence that measures are in place to ensure appropriate site restoration by the CNPA should the proposals be abandoned or delayed for a protracted period.
 - e. Evidence that appropriately qualified and experienced landscape and ecology professionals have been and will continue to be retained for the duration of the development to ensure implementation and compliance with the Landscape and Ecology Masterplan, the Landscape Method Statement, the construction procedures handbook and all other conditions of any planning permission.
 - f. Details of measures during construction and the life of the development to ensure that invasive non-native species are not introduced to the site either in their own right or within contaminated topsoil.

Reason: In accordance section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and to ensure that all necessary structures and measures are in place to underpin development of this new community within the National Park and Cairngorms National Scenic Area and to protect the integrity of the Natura Sites identified in the Habitat Regulations Assessment and ensure protection for European Protected Species..

7. Notwithstanding that it is shown in the submitted application, no approval is given for the realignment of the B970 Coylumbridge junction. Before the first residential units in An Camas Mor are occupied the existing Coylumbridge junction and the B970 from there to the main development site shall be upgraded in keeping with the established character of the road to the satisfaction of the CNPA in consultation with the Highland Council TEC Services. Thereafter the upgraded road and junction can be used to access the development of up to 200 residential units.

Reason: In accordance section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and because the works to provide a realigned junction would potentially damage valuable habitat and protected species within the National Park. In addition it is possible to service the new community by other means.

8. The new distributor road from the substation site to the east of Rothiemurchus Fisheries shall be provided before development can proceed beyond 200 residential units in accordance with details to be submitted to and approved by the CNPA acting as planning authority in consultation with the Highland Council TEC Services. In addition, a review of all site access and road arrangements, including impact on the existing surrounding road network, shall be undertaken once the development level of 200 residential units has been reached, and prior to the approval of each subsequent phase of development thereafter, and the review shall be submitted for the consideration of the CNPA acting as planning authority in consultation with the Highland Council TEC Services.

Reason: In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and because the early introduction of the new distributor road will benefit the new community and minimise disturbance to residents at Coylumbridge.

9. Before development commences a construction road into the site shall be formed on the line of the new distributor road from the substation site to the east of Rothiemurchus Fisheries in accordance with the Construction Method Statement and the details to be submitted to and approved by the CNPA acting as planning authority in consultation with the Highland Council TEC Services. When development commences all construction traffic shall thereafter use this road.

Reason: In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and because the introduction of this construction road from the outset will minimise disturbance to residents at Coylumbridge and Inverdrue.

10. Detailed design and construction methods for the bridge (including culverts for backwater channels) over the River Druie, along with a flood risk analysis, compensatory storage scheme, pre-construction surveys for European Protected Species, measures for protection of European Protected Species during and after construction, arrangements for an ecological Clerk of Works, Construction Environmental Management Plan (including management of runoff from construction in accordance with SEPA pollution prevention guidelines PPG's 05-06)), timescales for construction activity shall all be submitted for the approval of the CNPA acting as planning authority in consultation with Scottish Natural Heritage and SEPA before any works take place.

Reason: In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and to protect the integrity of the River Spey Special Area of Conservation and European Protected Species within it.

11. Prior to the commencement of development, a programme of works for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development, including a timetable for investigation, all in accordance with the submitted specification, shall be submitted to and agreed in writing with the CNPA acting as planning authority. The agreed proposals shall be implemented in accordance with the agreed timetable for investigation.

Reason: In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and to safeguard any archaeological and historic interest on the site in accordance with the first aim of the National Park.

12. Once approved, the Recreational Management Plan referred to in Condition 3u shall remain in force in perpetuity and shall be the subject of review by the CNPA acting as planning authority as part of the consideration of applications for each phase of development and following completion of development at 5 yearly intervals. Following review of the Recreational Management Plan any changes identified as necessary by the CNPA shall be incorporated into the document and implemented thereafter.

Reason: In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and to protect the integrity of the Natura Sites identified in the Habitat Regulations Assessment and ensure protection for European Protected Species.

Advice Notes:

1. Emergency overflow from any pumping station requires authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and an application for a water license must be submitted to SEPA.
2. Road Construction Consent will be required in respect of all areas intended for adoption by Highland Council, as roads authority; only roads serving more than 4 dwellings, designed and constructed in compliance with the requirements of Council Guidelines will be considered for adoption; also only strategic pedestrian/cycle links satisfying Council Guidelines will be considered for adoption.
3. Planning permission does not guarantee a connection to the service – application and appropriate details must be made to Scottish Water for this and should include a Development Impact Assessment.
4. The developer is advised to discuss deviation and undergrounding options with SSE in relation to existing plant in and around the area.
5. Upon receipt of detailed plans BT will issue proposals to the developer where the developer would be required to lay all boxes/duct etc. within the site.
6. Scottish Natural Heritage is to be consulted on any proposals for the construction of a bridge over the River Spey or other adjacent works. In addition, SNH is to be consulted regarding the provisions within the Recreational Management Plan required by Condition 3.

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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.