
CAIRNGORMS NATIONAL PARK AUTHORITY

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

Prepared by: DON MCKEE, HEAD PLANNER

DEVELOPMENT PROPOSED: MASTERPLAN FOR PHASED DEVELOPMENT OF 300 HOUSES; ECONOMIC DEVELOPMENT USES; COMMUNITY USES INCLUDING INFRASTRUCTURE, LANDSCAPING ETC - KINGUSSIE

REFERENCE: 09/048/CP

APPLICANT: DAVALL DEVELOPMENTS LTD

CALLED-IN: 6 MARCH 2009

CONSIDERED: 30 APRIL & 6 AUGUST 2010

RESOLUTION: APPROVAL SUBJECT TO SECTION 75 LEGAL AGREEMENT AND CONDITIONS

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

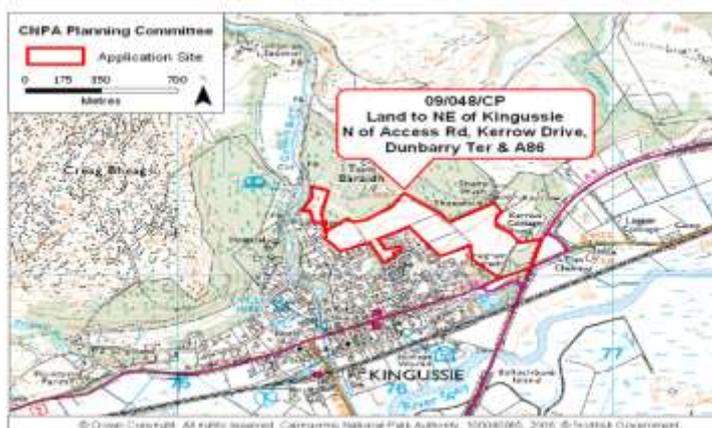


Fig. 1 - Location Plan

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: 09/048/CP.

BACKGROUND

2. The application for outline planning permission Ref: 09/048/ was called-in in March 2009 and considered by the Planning Committee on 30 April 2010. It was resolved to grant outline planning permission subject to a Section 75 Legal Agreement and Conditions. The Planning Committee on 6 August 2010 considered and agreed amendments to 3 of the proposed conditions. The relevant Committee Reports describing the proposed development, setting out the range of considerations, assessment and recommendations, along with the approved minutes, are attached at **Appendix I**.
3. The decision notice formally granting planning permission in principle (outline planning permission as was) has not been issued for the following reasons:
 - i) The Section 75 negotiations took some time before all parties agreed on the content of the document (attached as **Appendix 2**); and
 - ii) By the conclusion of these negotiations the Cairngorms National Park Local Plan had been adopted (29 October 2010) and shortly thereafter an Appeal made to the Court of Session against that decision to adopt; and
 - iii) The allocation of the application site in the Cairngorms National Park Local Plan (allocation KG/H1) was challenged in the Appeal. The Appeal was heard in January 2012. At that time it was expected that the decision would be issued in early course. In the event, Lord Glennie's Opinion was issued on 21 September 2012.
4. Lord Glennie's Opinion rejected all grounds of challenge, but a further Appeal has since been made on 11 October 2012 and that will now be heard on 12 & 13 March 2013. The precise Grounds of Appeal are not known at the time of writing this report, but the appellants' legal advisers have advised CNPA legal advisers and the Court that the Appeal will be concerned with a challenge in respect of the Appropriate Assessment. The Grounds of Appeal must be lodged no later than 6 November 2012 and can be taken into account when this matter is considered on 9 November 2012.
5. We are now in a position where 2½ years have passed since the initial resolution to approve this application. The applicant is seeking a decision and there is an expectation by Scottish Government, as articulated in Scottish Planning Policy, that "*Processes should be responsive, reliable, transparent and efficient.*" The legal advice is that CNPA, provided it has regard to all relevant material considerations, can determine this application.

6. 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: 09/048/CP. The legal context for the determination of planning applications is contained in Section 37 (2) of the Town and Country Planning (Scotland) Act 1997 which 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.”
7. This is the context within which the decisions were taken in April and August 2010 and it is the context within which further consideration has to be taken on this occasion. There are 4 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.
8. It is therefore necessary to consider the proposal against each of these new material considerations in turn and the relevant considerations in the previous reports of 30 April 2010 and 6 August 2010 (**Appendix I**) before making an overall recommendation for the determination of the application.
9. Within this context, there are a number of specific aspects in the report of 30 April 2010 that no longer apply:
 - i) With the Badenoch & Strathspey Local Plan now superseded, paragraphs 22 – 25 of that report are no longer relevant.
 - ii) The National Park Plan 2007-2012 is now superseded so paragraphs 26-29 of that report are no longer relevant.
 - iii) The references to the Cairngorms National Park Deposit Local Plan (2nd Modifications 2008) and the Reporters’ recommendations following the Local Plan Inquiry in paragraphs 30 – 36 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.

NEW MATERIAL CONSIDERATIONS

Cairngorms National Park Local Plan 2010 & Associated Supplementary Planning Guidance

10. At the time of original consideration on 30 April 2010 the Badenoch & Strathspey Local Plan was the adopted plan for the purposes of decision making. It allocated the application site principally for residential development with a smaller adjoining allocation for business/industry.

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 paras 8–36 in the Planning Committee report in **Appendix I**.

11. The Planning Committee on 30 April 2010 report also highlighted that the site was identified as sites KG/HI and KG/EDI in the Cairngorms National Park Deposit Local (2nd Modifications 2008) 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.
12. 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. The adopted status is a new material consideration.
13. The Highland Structure Plan still applies within the National Park and paragraphs 18 – 21 in the report of 30 April 2010 set out the relevant policies that were taken into account in that appraisal - these are still relevant and are not revisited.
14. The Cairngorms National Park Local Plan carries forward the allocation KG/HI and KG/EDI as set out in the 2nd Modifications without any further change other than highlighting that Kingussie is a strategic settlement within the settlement hierarchy and is identified as a main settlement in the National Park Plan 2007-2012.
15. The proposal has to be carefully assessed against relevant policies within the Cairngorms National Park Local Plan as well as the associated Supplementary Planning Guidance. The relevant Policies and Supplementary Planning Guidance are set out in full in **Appendix 3**.
16. Policy I 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.
17. Scottish Natural Heritage (SNH) were consulted on the application and in their response of 21 April 2009 stated that *"The land is not within or adjacent to any site designated for its natural heritage and it is unlikely that there will be any European Protected Species (bats, otters, wildcats) which would be affected either directly or indirectly from any development at this location."* SNH did not identify potential for significant effect on a Natura 2000 site and the need for an appropriate assessment. CNPA were therefore satisfied when the application was considered on 30 April 2010 that there would be no adverse affect as a result of granting permission and therefore no appropriate assessment was carried out.

18. This position has been reviewed to allow a current evaluation of the proposal in the context of Policy 1. It has been concluded that there is still no requirement for an appropriate assessment and consequently the proposal does not have to be assessed against Policy 1. Condition 19 of the resolution of 30 April 2010 requiring a Construction Method Statement is considered to adequately address the issues identified in the Local Plan Appropriate Assessment.
19. Policy 5 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.
20. The proposal has been reviewed within the context of Policy 5 and it is concluded that there are no issues of significance that would require assessment against this policy. Habitat and other biodiversity benefits will be achieved through the development via the master planning stage.
21. 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.
22. The advice given in 2010 and terms of the resolution of 30 April 2010 have been reviewed and it is confirmed that they accord with this Supplementary Guidance, but there should be specific reference in the conditions to assist any developer at the next stage.
23. Policy 6 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.
24. The Highland Council Landscape Officer and the CNPA Landscape Adviser both made comments on the specific landscape considerations that would have to be incorporated within the development. This was reflected in the resolution of 30 April 2010.
25. The proposal has been reviewed within the context of Policy 6 and it is concluded that the requirements can be achieved via conditions and the masterplanning stage. There should be reference to the non-statutory Landscape Toolkit in the conditions to assist any developer at the next stage.
26. Policy 16 states that design of all development will seek where appropriate to meet a range of 8 criteria and all proposals must be accompanied by a design statement setting out how this will be achieved.
27. The proposal has been reviewed within the context of Policy 16 and the Sustainable Design Guide adopted as Supplementary Planning Guidance in support of it. The submitted masterplan incorporated a general design

statement and the resolution of 30 April 2010 required submission of a revised masterplan including, inter alia, a Design Code.

28. This is considered appropriate for an application for planning permission in principle, but for added clarity there should be reference to the Sustainable Design Guide in the conditions to assist any developer at the next stage.
29. Policy 18 requires development which gives rise to a need to increase or improve public services, facilities or infrastructure, or mitigate adverse effects to make a fair and reasonable contribution towards the cost. This is normally via a Section 75 Planning Obligation. It is supported by Supplementary Planning Guidance on Developer Contributions which sets out the process, the various headings and gives an indication of how contributions are calculated.
30. The terms of the resolution of 30 April 2010 included a Section 75 Planning Obligation to cover a number of headings as set out in **Appendix I** and the finalised version is attached as **Appendix 2**.
31. The negotiation was carried out by Aberdeenshire Council Planning Gain Service under the terms of a Service Level Agreement with CNPA and was done within the framework in the Supplementary Planning Guidance. This process arrived at the package that is in a Section 75 Planning Obligation awaiting registration if it is agreed to grant planning permission in principle on 9 November 2012.
32. It is concluded that this aspect accords with the terms of Policy 18 and the associated Supplementary Planning Guidance.
33. Policy 12 sets out the requirements for Water Resources in terms of Use of Resources, Flooding and Connection to Sewerage. There is associated Supplementary Planning Guidance on Water Resources. At the time of consideration on 30 April 2010, Scottish Water raised no objection and SEPA had no objection subject to conditions. There was a particular issue with capacity of Kingussie Waste Water Treatment Works – CNPA has subsequently granted planning permission for new plant that will have sufficient capacity and is currently under construction. With this provision becoming available and the conditions attached to the resolution of 30 April 2010, it is considered that there is compliance with Policy 12. Reference to the supplementary planning guidance should be made in conditions.
34. Policy 19 requires contributions to affordable housing and seeks a range of 25-40% affordable units depending on level of public subsidy. The accompanying Supplementary Planning Guidance on Affordable Housing sets out the context and how the assessment will be carried out to arrive at the appropriate level.

35. The terms of the resolution of 30 April 2010 make provision for 25% affordable housing as that was the prevailing Highland Council policy at the time and 25% is reflected in the Section 75 Planning Obligation. There is also a requirement in conditions for the revised masterplan to provide for additional local needs housing over and above this figure.
36. The Scottish Government benchmark is 25% and it is widely recognised that in the current climate anything higher than this is unlikely to be achievable. It is therefore concluded that 25%, along with provision for other local needs housing, is still acceptable and meets the terms of Policy 19 as it is still within the stated range. There should be reference to the Supplementary Planning Guidance in the conditions to assist any developer at the next stage.
37. Policy 20 concerns housing development within settlements and supports proposals that occur on allocated sites within settlement boundaries. The application is on an allocated site and consequently the proposal is considered to comply with this policy with the masterplan a requirement of KG/HI iv).
38. Policy 25 supports business development, inter alia, within an allocated site. The application includes land for economic development and is on an allocated site KG/ED1. Consequently the proposal is considered to comply with this policy.
39. Policy 26 supports retail development based on the sequential approach to safeguard the vitality of town and village centres. The draft masterplan in the application refers to a *possible small shop* adjoining the start of the main access road from the A86. This is out with the village centre, but it is only an indicative, potential proposal. Given that the resolution of 30 April 2010 requires submission of a revised masterplan, it is considered that this element and any impact on the existing village centre can be fully addressed against Policy 26 in a subsequent application.
40. Policy 29 requires development proposals to maintain or improve the sustainable transport network within the Cairngorms National Park. The report on 30 April 2010 included comments from Transport Scotland and Highland Council Area Roads Manager. The appraisal and conclusions in the report dealt with the issues in some detail. It is considered that the requirement for the revised masterplan and other conditions in the resolution of 30 April 2010 adequately address the requirements of Policy 29 and further assessment can take place when subsequent applications are submitted.
41. Policy 36 requires the provision of sufficient Open Space and is supported by Supplementary Planning Guidance on Open Space. The conditions in the resolution of 30 April 2010 reflect the need to manage open space and the revised masterplan provides the means of ensuring it is included, but it is considered that there should be specific reference in Condition I to this effect.

Cairngorms National Park Partnership Plan 2012-2017

42. 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.
43. 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.
44. 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.
45. 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.
46. Long-term Outcome 1 is *“A sustainable economy supporting thriving businesses and communities.”*
47. 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.”*
48. Policy 1.2 a) identifies Kingussie as a main settlement in the settlement hierarchy and aims to enable sustainable patterns of settlement growth, infrastructure and communications by *“consolidating the role of the existing main settlements of [inter alia].....Kingussie..... as the most sustainable places for future growth and the focus of housing land supply while maintaining the integrity of designated sites.”*
49. It is concluded that the proposal, in terms of location and the provision of housing and employment land makes a positive contribution to this outcome and these policies. This maintains the position of Kingussie in strategic terms as set out in the previous National Park Plan 2007-2012.
50. Long-term Outcome 2 is *“A special place for people and nature with natural and cultural heritage enhanced.”*

51. Policy 2.2 seeks to enhance the resilience of habitats, species and land use to climate change.
52. Policy 2.3 seeks to conserve and enhance the special landscape qualities.
53. Policy 2.4 seeks to conserve and enhance habitat quality and connectivity.
54. Policy 2.5 seeks to conserve and enhance the species from which the Cairngorms National Park is important.
55. 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.
56. 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.*
57. The policies in the Cairngorms National Park Local Plan provide the means for the detailed application of these strategic policies to individual proposals. In general terms, however, the location in a settlement and the predominantly agricultural/grazing character of this site, along with the ability to deliver development in accordance with a masterplan and detailed planning conditions mean that the proposal can make a positive contribution to this outcome and these policies.
58. Although the structure and layout of the Cairngorms National Park Partnership Plan 2012-2017 differ from its predecessor, many of the same considerations are addressed in terms of aspirations for communities, settlement strategy and strategic objectives in relation to natural and cultural heritage. When the proposal is assessed against the current relevant provisions in the preceding paragraphs, it is concluded that the proposal accords with the Cairngorms National Park Partnership Plan 2012-2017.

Local Plan Appeal

59. The Appeal that is continuing includes a challenge to the allocation in Kingussie and the Appeal is a material consideration. If the challenge is successful then the allocation will be quashed and Local Plan support for the application will be significantly reduced. The proposal will potentially not have support of Policy 20 and would potentially be development outside the settlement boundary.

60. While the CNPA has been successful before the Lord Ordinary, there is still potential that the allocation could be quashed on Appeal. The CNPA must have regard to that and consider the following:
 - i) The stage reached in the Appeal and the period of time it is likely to take until the Appeal is finally determined.
 - ii) How central the allocation in the Local Plan is to the determination of this application.
 - iii) The possibility that the allocation could be quashed.
 - iv) The effect if it were quashed.
61. We have legal opinion that the prospects of CNPA being successful with regard to the Appeal are better than 50:50. Members also have to be aware that the likely timescale of any decision on the current Appeal may be June/July 2013. These are both factors that should be taken into account in proceeding with a decision at this point.
62. Account also has to be taken that there is a possibility that the allocation will be quashed, albeit this possibility is assessed at less than 50:50.
63. Consideration therefore has to be given to how central the allocation is in the Local Plan and what the effect will be if the allocation is quashed.
64. The Local Plan makes clear (page 49, para 4.19 onwards) that its role is, in part, to help achieve the long-term vision for the Cairngorms National Park set through the National Park Plan. The National Park Plan recognised the need for communities to be sustainable in social, economic and environmental terms and as part of this, there is a need to ensure greater access to affordable and good quality housing.
65. To establish the amount of housing required, population and household projections for the Cairngorms National Park were produced. These establish a trend towards smaller households which will lead to an increase in the total number of households in the Park of between approximately 750-950. To ensure a flexible approach to this projection, the Local Plan used the higher figure to calculate a total requirement for housing units over the plan period.
66. Scottish Planning Policy goes on to require that the land identified to meet this requirement is effective in planning terms and capable of being developed. The Local Plan must therefore set out an effective land supply (Tables 1-4, page 145 onwards). Having established a need of 950 units these tables clarify the number of units which had been built at the time of adoption (176) which contributed to this figure. The Local Plan must therefore find sufficient effective land to meet the remaining requirement of 774 houses.
67. In finding sites to meet this requirement the Local Plan must take a sustainable approach to community growth and development. A

settlement hierarchy is set out which clarifies the amount of development appropriate for different settlements across the Park. Strategic settlements are those which the Local Plan envisages having the majority of development and provision of facilities. This supports sustainable approaches to site selection and ensures that the key areas of growth are focused in a number of areas where development pressure can be managed appropriately.

68. Kingussie is identified as a strategic settlement within the Local Plan's settlement hierarchy. The housing allocation HI is a strategic site for development, and plays a key role within the delivery of the effective housing land supply. Table 4 (page 152) clarifies that not all the site is considered to be effective within the life of the plan. 75 units are effective, which forms approximately 10% of the total land supply. This site, one of a total of 27, therefore plays a pivotal role in the provision of an effectively supply of housing land within the plan period.
69. The recently approved National Park Partnership Plan 2012-2017 maintains the strategic settlement approach to providing for and managing development in the National Park. Kingussie remains one of the identified settlements in this hierarchy. It is therefore critical for the longer term delivery of the National Park Partnership Plan 2012-2017 and more immediate delivery of the Cairngorms National Park Local Plan and forthcoming Local Development Plan, that provision is made in Kingussie.
70. Within the context set out in preceding paragraphs, this application site offers the only realistic prospect for providing the required level of housing for Kingussie.

CONCLUSION

71. The Planning Committee originally resolved to grant outline planning permission for this application on 30 April 2010 subject to completion of a Planning Obligation under Section 75 and to a number of conditions. The Planning Committee on 6 August 2010 resolved to revise the terms of 3 of the proposed conditions
72. The Planning Obligation took some months to negotiate and for the parties to agree on the final content. At that point it would normally be signed, registered and the planning decision notice issued. However, the appeal against the adoption of the Cairngorms National Park Local Plan had been lodged before the conclusion of that process and, as it included the application site, the Planning Obligation was not signed by CNPA and no decision notice has been issued.
73. The length of this hiatus means the CNPA has to take account of any new material considerations that have arisen since the matter was last considered and to revisit previous material considerations to the extent necessary.

74. The assessment in the preceding section of this report of the development proposal against the Cairngorms National Park Local Plan, Supplementary Planning Guidance, the National Park Partnership Plan 2012-2017, and the Local Plan Appeal as new material considerations has concluded that the application is still supported. In order to fully reflect these considerations, as well as changes in terminology in respect of Planning Obligations and Planning Permission Principle, a number of minor changes to conditions will be required and these are highlighted in the recommendation below.
75. The CNPA, along with all other planning authorities, is required by Scottish Government to maintain an effective 5 year housing land supply at all times. The adopted Cairngorms National Park Local Plan 2010 seeks to do this by allocating sites in accordance with the settlement strategy in the National Park Plan 2007-2012, recently restated in the National Park Partnership Plan 2012-2017.
76. Kingussie is an identified main settlement under successive settlement strategies and KG/HI, the application site, is the identified location for the provision of 95% of the allocation for Kingussie. It has now been identified in successive Local Plans to provide for the ongoing housing needs of Kingussie and the surrounding housing market area. To not grant planning permission in principle on this application is rendering the site ineffective and will have implications for meeting our obligations regarding the provision of an effective land supply as set out in the previous section of this report.
77. In summary:
- This application 09/048/CP was the subject of full and thorough consideration in 2010 when the Planning Committee resolved to grant outline planning permission (**Appendix 1**).
 - The issuing of the decision has been held in abeyance pending the outcome of the appeal against the adoption of the Cairngorms National Park Local Plan 2010.
 - New material considerations have all been taken into account.
 - There is sound justification in terms of provision of an effective housing land supply for granting planning permission in principle at this meeting.
 - The application is recommended for approval and the recommendation in para 78 below takes account of the final agreed form of the Section 75 Planning Obligation (**Appendix 2**), the revisions to Conditions approved in August 2010, substitutes Planning Permission in Principle in lieu of Outline Planning Permission in recognition of current terminology and includes reference in conditions to relevant Supplementary Planning Guidance. [post 2010 revisions highlighted in yellow]

RECOMMENDATION

78. That Members of the Planning Committee resolve to **GRANT Planning Permission in Principle** for phased development of up to 300 houses; economic development uses; community uses including infrastructure and landscaping subject to the following:

A. Registration of the Section 75 Planning Obligation

B. The following planning conditions:

I. Plans and particulars of the matters listed below 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.

Either a) Prior to the submission of any detailed application/applications for this site; or b) simultaneously with any first detailed planning applications for the site. A revised Masterplan shall be submitted for the approval of the CNPA acting as planning authority. The Masterplan shall be the subject of public consultation with the local community of a type to be agreed with the CNPA prior to any consultation being carried out. The Plan shall include the following:

- Statement of Community Consultation
- Proposals for local needs housing
- Outline of proposal for Community Site
- Hydrological Survey
- Structural Landscaping Proposals with reference to the CNPA Landscape Toolkit
- Street Hierarchy Proposal to accord with the principles of Scottish Government Policy contained in Designing Streets 2010
- A Design Statement and Design Code for the overall site (including building heights) with reference to the Sustainable Design Guide
- Revised phasing provision of housing/economic development and supporting infrastructure based upon 5 year blocks from 2011 and single access from the A86
- Landscaping plans for implementation prior to development with reference to the CNPA Landscape Toolkit
- Full mammal survey of the site with reference to Supplementary Planning Guidance on Natural Heritage
- Proposals for pedestrian/cyclists/horse rider access onto Dunbarry Terrace and Kerrow Drive.
- A strategy for provision and maintenance of open space with reference to the Supplementary Guidance on Open Space
- A strategy for the provision of sewerage and surface water drainage with reference to the Supplementary Guidance on Water Resources

Reason: In accordance 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 important site.

2. No construction traffic shall access the site from the Dunbarry Terrace, Dunbarry Road, Kerrow Drive Road Network. A construction haul road direct from the A86 shall be constructed to a standard to be agreed by the CNPA in consultation with Highland Council Area Roads.

Reason: In the interests of the amenity of the residents who access properties off Dunbarry Road.

3. Notwithstanding the information contained within the application and for the avoidance of doubt this approval is not for the specified (300) No. of houses and is an in principle permission for up to 300 houses.

Reason: To ensure that there is adequate space on the site to accommodate landscaping, drainage and open space requirements.

4. Notwithstanding the information contained within the application no vehicle (apart from for emergency purposes) access to the site shall be taken from the Dunbarry Terrace, Dunbarry Road, Kerrow Drive Road network. Vehicular access to the site shall be via a single, main access point onto the A86.

Reason: In the interests of the amenity of the residents who access properties off Dunbarry Road.

5. Any applications for matters specified by conditions submitted simultaneously with condition I or after condition I has been met shall include full details of:

- The siting, design and external appearance of all buildings and other structures including fencing;
- The location and specification of all vehicular roadways and of paths for the separate or combined use of pedestrians, cyclists, horse riders and aids for the off road movement of persons with physical disabilities.
- A detailed landscaping plan, including extensive peripheral tree planting, and proposals to protect and maintain the scenic integrity of the site and provide wildlife corridors
- Surface drainage of the site in accordance with Sustainable Urban Drainage Systems principles (SUDS).

Reason: To ensure that matters referred to are given full consideration and accord with section 59 of the Town and Country (Planning) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

6. The nature and delivery of affordable housing for each phase shall have regard to Supplementary Planning Guidance on Affordable Housing, be agreed before the commencement of that particular phase and be delivered in accordance with that agreement unless otherwise agreed in writing by the CNPA acting as planning authority.

Reason: To ensure timeous provision of affordable housing in line with current policies.

7. The development shall be carried out in phases to be agreed under condition No 1. No phase shall be commenced until the previous phase (including landscaping) has been completed to an extent acceptable to the CNPA acting as Planning Authority, unless otherwise agreed where the previous phase is in separate ownership, and has not been completed for reasons outwith the control of the party seeking to commence the next phase.

Reason: To ensure that each phase of development is landscaped to a satisfactory standard while allowing flexibility for small/self builds and affordable housing providers to develop parts of the site.

8. For the avoidance of doubt no development is permitted in the area to be accessed from Ardbroilach Road indicated for four plots.

Reason: In the interests of conserving the natural and cultural heritage of this part of the site and to prevent further additional development being served from Ardbroilach Road.

9. In the event that any plots within the development area proposed to be developed on an individual basis they shall be submitted with an accompanying design statement to illustrate how they comply with the requirements of the revised masterplan required under condition 1.

Reason: To ensure a coherent approach to layout and design across the site.

10. The proposed means of access to the trunk road shall be constructed to a layout and type generally indicated on Waterham Boreham drawing S/208602/08 Rev A dated 26 May 2009 to be approved by the CNPA acting as planning authority after consultation with Transport Scotland, A plan for the closure of the existing General Wade's Military Road access with the A86 (T) shall be submitted to and approved in writing by the CNPA and the access closed off before any housing development is commenced in this phase of the site.

Reason: To ensure that the standard of access layout complies with current standards and that the safety of the traffic on the trunk road is not diminished.

- 11.** Unless otherwise agreed splays shall be provided on each side of the new access with the A86 to the development to the satisfaction of the CNPA acting as local planning authority in Transport Scotland. These splays are the triangles of ground bounded on 2 sides by the first 4.5 metres of the centreline of the access driveway (the set back dimension) and the nearside trunk road carriageway measured 160 metres to the east and 215 metres to the west (the y dimension) from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a drivers eye height of between 1.05 metres and 2.00 metres positioned at the set back dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension.

Reason: To ensure that the standard of access layout complies with current standards and that the safety of the traffic on the trunk road is not diminished.

- 12.** Prior to the commencement of any development, details of the frontage treatment along the trunk road boundary shall be submitted for the approval of the CNPA acting as planning authority after consultation with Transport Scotland. The frontage treatment shall be implemented to the satisfaction of the CNPA prior to the commencement of housing or other development on the site and maintained thereafter.

Reason: To ensure that the movement of traffic and pedestrians is confined to the permitted means of access thereby lessening the danger to and interference with the free flow of traffic on the trunk road

- 13.** There shall be no drainage connections to the trunk roads system

Reason: To ensure that the efficiency of the existing drainage network is not affected and that the standard of construction is commensurate with that required within the road boundary.

- 14.** Prior to the commencement of development, details of lighting (including street lighting) and advertising within the site shall be submitted for the approval of the CNPA acting as planning authority in consultation with Transport Scotland.

Reason: To ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

- 15.** A scheme of pedestrian/cycle routes/works for the Kerrow Drive, Dunbarry Road/ Terrace, Campbell Crescent and Acres Road pedestrian areas shall be agreed by the CNPA in consultation with Highland Council Area Roads, in writing prior to the commencement of any development in connection with this approval. The required measures shall be in place prior to the first occupation of any phase immediately adjoining those areas.

Reason: To ensure good pedestrian access to and from the site.

16. A site layout plan submitted in conjunction with any application for the approval of matters specified by conditions shall provide details of visibility splays at each internal road and at each plot access parking, parking arrangements for each plot and communal parking where required, driveway surfacing arrangements and service strips along carriageways to be agreed by the CNPA acting as planning authority in consultation with Highland Council Area Roads Manager.

Reason: In the interests of pedestrian and highway safety and to ensure adequate access and parking.

17. Prior to the commencement of development, a programme of archaeological work for the preservation and recording of any archaeological features affected by the proposed development, including a timetable for investigation, all in accordance with the attached, shall be submitted to and agreed in writing with the CNPA acting as planning authority, in conjunction with the Archaeology Section of Highland Council. All arrangements thereby approved shall be implemented by the developers at their expense in accordance with the approved timetable for investigation.

Reason: To ensure that any archaeological remains at the site are investigated and recorded.

18. Any application for the approval of matters specified by conditions shall include detailed proposals for SUDS whether for any entire phase or single dwelling. SUDS proposals for any phase of development must be implemented and operational prior to the occupation of any property within that phase of the development.

Reason: To ensure that adequate surface water drainage measures are planned and implemented for the site.

19. A detailed site specific construction method statement must be agreed in writing with the CNPA acting as Planning Authority prior to the commencement of any works on the site, and must be implemented in full during works on the site. The method statement must address the temporary measures proposed to deal with surface water run-off during construction and prior to the operation of the final SUDS.

Reason: To prevent potential for pollution from construction activities.

20. A suitable management and maintenance agreement shall be submitted to and approved the CNPA acting as planning authority prior to the commencement of development. The agreement shall be in respect of any play areas, hard or soft landscaped areas, roads, footpaths / cycle links that are not adopted by Highland Council. Details shall be included as to how open space will be retained and managed into the future allowing for

public access and pathways through the site. The surface of all pathways through the site, other than those intended for adoption by Highland Council, shall be a permeable material.

Reason: To ensure that adequate long term plans are in place for the management of features specified in the condition

21. A suitable management and maintenance agreement shall be established in respect of any drainage measures that are not to be adopted by Highland Council or Scottish Water. Details of and evidence of the maintenance agreement shall be submitted to and agreed by the CNPA acting as planning authority.

Reason: To ensure that adequate long term plans are in place for the management of features specified in the condition

22. Street lighting shall be provided for the development, as required by the Cairngorms National Park Authority acting as Planning Authority in consultation with Highland Council's Lighting Engineer.

Reason: To ensure adequate street lighting and to allow the CNPA to have an input into the design and location of any lighting.

23. The name of the housing development shall reflect the character, tradition and natural and cultural heritage of the area and shall be agreed in writing with the CNPA acting as Planning Authority prior to the commencement of development. Directional house number / name plaques in a durable, sustainable material shall be placed at each road junction within the development.

Reason: In the interests of the first aim of the Park.

24. Adequate temporary car parking accommodation shall be provided on the site for the use of employees engaged in construction work on the site in a position to be agreed by the CNPA acting as Planning Authority.

Reason: To ensure that any temporary construction compounds are sited so as to protect the amenity of surrounding properties and the local landscape.

25. All public services for the development, including electrical, cable television and telephone cables, shall be located underground throughout the site. All such work shall be carried out prior to road surfacing and junction boxes shall be provided by the developer.

Reason: To prevent a proliferation of visible infrastructure at the site

26. Prior to the commencement of any development on the site an Arboricultural Implications Assessment shall be submitted to and approved by the CNPA in consultation with Highland Council's Forestry Officer. The scope of the assessment shall be agreed by the CNPA in

consultation with Highland Council's Forestry Officer. The Assessment shall identify and evaluate the extent of any impact upon trees through implementing the development, as well as the potential impact of the trees on the proposed development, as per BS5837:2005 (Trees in Relation to Construction).

Reason: To ensure that trees are adequately identified and protected on and around the site.

27. Any application for the approval of matters specified by conditions under the requirements of the Revised Phasing Masterplan required by condition I shall include a detailed landscaping plan in. The landscaping plan shall include comprehensive details of all species (which should be of indigenous origin), planting location and numbers to be planted, as well as details of height and girth at time of planting and projected growth rates. The landscaping of all communal areas within each phase of the proposed development shall be completed within one year of the completion of works in that phase unless otherwise agreed. Any trees or shrubs that die or become seriously damaged or diseased within a period of five years from the time of planting shall be replaced with others of a similar size and species, suited to the climate of the area, within the next planting season.

Reason: To ensure that appropriate landscaping is provided prior to and as an ongoing element of each phase of the development on this prominent site.

28. All top soil stripped in the course of development shall be stored in mounds not exceeding 2 metres in height and unless otherwise agreed shall be retained for subsequent landscaping reinstatement of the proposed development site. All top soil shall be stripped, handled, stored and re-spread in accordance to B.S. 3882:1994 Annex N.

Reason: In the interests of visual amenity and to prevent unnecessary exportation of material from the site.

29. An application for the approval of matters specified by conditions shall include a waste management strategy for each phase of the development applied for.

Reason: In the interests of ensuring that adequate waste disposal and recycling provision is made for each phase on the site.

30. Any application for approval of matters specified by conditions shall include a detailed plan of public access across the site (including existing, during construction and upon completion). The plan shall show –
- i. all existing paths, tracks and rights of way and any areas currently outwith or excluded from statutory access rights;

- ii. any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures;
- iii. all paths and tracks proposed for construction, for use by walkers, riders, cyclists, all abilities users etc.;
- iv. any diversions of paths – temporary or permanent – proposed for the purposes of the development.

Reason: In the interests of promoting good pedestrian and cycle linkages across the site.

Advice Note:

- I. Road Construction Consent is required in respect of all roads related works intended for adoption by Highland Council, Roads Authority.

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