
CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Application for Planning Permission in Principle for Relocation of Balavil Home Farm (due to the dualling of the A9) & construction of new farm buildings, farmyard, associated utilities/ drainage, landscape & access road to new farm | Land E Of Lynovoan Lynchat Kingussie

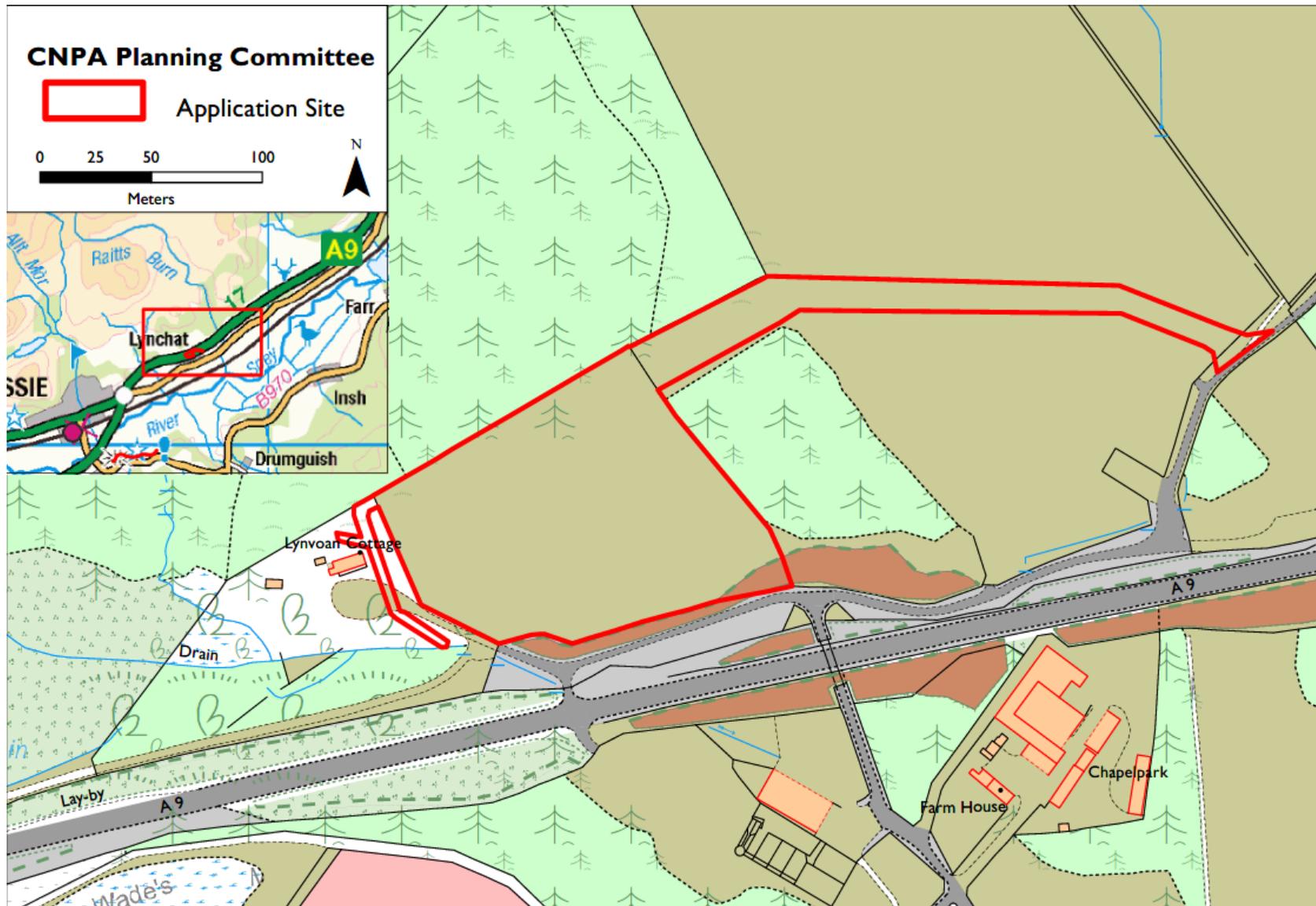
REFERENCE: 2018/0354/PPP

APPLICANT: Balavil Estate Ltd

DATE CALLED-IN: 24 September 2018

RECOMMENDATION: Approve subject to conditions

CASE OFFICER: Gavin Miles
Head of Planning and Communities



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SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The proposed site lies on the western side of the A9 opposite the Lynchat, approximately 3km northeast of Kingussie. A location plan is attached in **Appendix I**.
2. The site sits within a relatively flat terrace above the existing A9 to its east, a wooded knoll to its north, with much of the estate's farmland beyond that, young plantation woodland to its east and grassland and scrub with an estate house to its south. The site is 1.92Ha in size and all adjacent land is owned by Balavil Estate Limited.

Proposal

3. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:
<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P8ELIUSI0CA00>

Title	Drawing Number	Date on Plan*	Date Received
Location Plan	50277/102	05/09/2018	24/09/2018
Indicative Site Layout Plan	50277/101	05/09/2018	24/09/2018
Indicative Drainage Plan	50277/401	05/09/2018	24/09/2018

*Where no specific day of month has been provided on the plan, the system defaults to the 1st of the month.

4. This application is for planning permission in principle for the construction of a new farm unit on the western side of the A9 on Balavil estate. The development will include a range of farm buildings totalling 2792 square metres, a new access track to the side from an existing estate track and associated drainage. An indicative site layout plan is attached in **Appendix I**.
5. The existing farm buildings for Balavil Estate are within a constrained side immediately east of the A9 at Lynchat. The majority of farming activity is currently on the west side of the A9 and it is likely that with any upgrade to the A9, there will be further loss of farmland to the east of the A9.
6. The existing vehicular access to the east is via an underpass beneath the A9, with tight turns leading south and west to the site. The proposed access to the site will come from an existing estate track and cross fields from the north to enter the site at the north. That existing track is likely to exist in future, but its exact route to cross the A9 is not yet known. Transport Scotland have proposed an option which the estate are objecting to whilst proposing a route option they consider more suitable.
7. Notwithstanding the information that has been submitted as part of this application, a condition will be attached should consent be granted requiring the submission of all details in relation to the proposals.

History

8. There is no development history associated to the site.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	Scottish Planning Policy 2014	
Strategic Policy	Cairngorms National Park Partnership Plan 2017 - 2022	
Local Plan Policy	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	X
POLICY 3	SUSTAINABLE DESIGN	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	X
POLICY 11	DEVELOPER CONTRIBUTIONS	

9. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at: <http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

Planning Guidance

10. Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	X
Policy 3	Sustainable Design Non-Statutory Guidance	X
Policy 4	Natural Heritage Supplementary Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X
Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	X
Policy 11	Developer Contributions Supplementary Guidance	

CONSULTATIONS

A summary of the main issues raised by consultees now follows:

11. **Scottish Water** have no objection to the proposed development.
12. **Highland Council Flood Risk Management Team** has no objection to the proposed development however request that a condition is added to ensure the final drainage plan, including percolation tests at the location of any infiltration features, and design calculations provided for 30 year and 200 year return periods plus climate change storm events, is submitted for approval prior to development.
13. **Highland Council Transport Planning Team** has no objection in principle to the proposed development, as any impact on Council roads will be a temporary one from construction traffic.
14. **CNPA Ecology officer** is satisfied that the supporting information and preliminary ecological appraisal provides sound information for decision making and identified a range of measures to be incorporated in conditions.
15. **CNPA Landscape officer** notes that the local landscape and visual impacts as well as adverse impacts on special landscape qualities of the proposed development can be reduced to an insignificant level through sensitive siting, high quality design, mitigation planning and ongoing management. They note that the need for critical mitigation planning between the site and the A9 may constrain the development.
16. **CNPA Outdoor Access officer** notes that although a core path (LBS146) runs south and west from the edge of the proposed development site towards Raitts souterrain and Raitts settlement, this is outside the development site and would only be affected by construction traffic (using the current A9 underpass or potentially a new underpass in future). A condition can be used to ensure safe public access is maintained on the core path.
17. **Transport Scotland** object to the application because it overlaps some areas of land they have identified for compulsory purchase and consider that it impacts on:
 - a) Delivery of the northbound carriageway;
 - b) An access track to Lynvoan Cottage, which also forms part of a new shared Non-Motorised User facility;
 - c) The diversion of an unnamed watercourse lying to the south of Lynvoan Cottage and passing under the existing A9 at this location;
 - d) Environmental mitigation including native woodland planting, mammal fencing and noise mitigation.

REPRESENTATIONS

18. No representations have been received on the application.

APPRAISAL

Principle

19. **Policy 2:** Supporting Economic Growth of the Cairngorms National Park Development Plan 2015 states that proposals which support or extend the economy or enhance the range and quality of economic opportunities or facilities will be considered favourably where it is compatible with the existing business activity in the area and supports the vitality and viability of the local economy and broader economy of the National Park. This application is for a purpose built modern farm to allow the estate farm to function efficiently and maintain its viability. It is considered that the proposal is acceptable in principle and complies with Policy 2: Supporting Economic Growth.

Environmental Issues

20. **Policy 3:** Sustainable Design of the Cairngorms National Park Local Development Plan 2015 requires all new development to be designed in sustainable ways. Much of the policy can only be complied with once the detail of a development is available, but the location of the new farm site has been chosen to fit into the landscape as far as possible, and to minimise impacts on the core path network. It is considered that with appropriate conditions, the proposed development complies with Policy 3: Sustainable Design.
21. **Policy 4:** Natural Heritage of the Cairngorms National Park Development Plan 2015 seeks to restrict development that would have an adverse impact on protected species and protected sites as well as conserve and enhance wider biodiversity. The location of the development will not have a significant effect on any designated sites and the habitats on the site are not of significant ecological value in their own right. It is considered that with simple mitigation and enhancement measures built into the detail of the scheme it will not have an adverse effect on ecology, and that with appropriate conditions, the proposal will Policy 4: Natural Heritage.

Landscape Issues

22. **Policy 5:** Landscape of the Cairngorms National Park Local Development Plan 2015 presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park and in particular the setting of the proposed developments. The location of the proposed farm is generally consistent with other farm units located at the edge or above the flood plain and is located in a pocket of farmland surrounded by woodland. With appropriate mitigation in earthworks that fit the local landscape and tree planting built into detailed proposals the development should not have a significant impact on landscape character or the special landscape qualities of the National Park. Subject to appropriate conditions, the proposal is considered to comply with Policy 5: Landscape.

Flooding and Surface Water Management

23. **Policy 10:** Resources of the Cairngorms National Park Development Plan 2015 seeks to ensure that surface water is dealt with accordingly and that appropriate SUDs is

adopted. It also seeks to ensure that all new development is free from the significant risk of flooding.

24. The Flood Risk Management Team has no concerns regarding flood risk at this site, is satisfied with the approach outlined in the submission, and have provided advice on the level of detail required within future applications. The indicative drainage plan for the site will allow appropriate SUDs to be incorporated in the detailed proposals. Subject to an appropriately worded condition being attached to any consent, it is considered that the proposed development will comply with Policy 10.

Transport Planning Issues

25. The Highland Council Transport Planning Team are satisfied that the proposal will not have a significant impact on Council roads so have no objection to the proposal. Transport Scotland have recommended the application is refused because of potential conflict with proposals to dual the A9 and specifically because of impacts on:
- Delivery of the northbound carriageway;
 - An access track to Lynvoan Cottage, which also forms part of a new shared Non-Motorised User facility;
 - The diversion of an unnamed watercourse lying to the south of Lynvoan Cottage and passing under the existing A9 at this location;
 - Environmental mitigation including native woodland planting, mammal fencing and noise mitigation.
26. Transport Scotland do not propose any conditions that could make the development acceptable. However, it is not clear at this stage, without any detail yet to be submitted for approval, whether these impacts are real or need be real. Balavil Estate have explained to the CNPA that they have previously explained their plans to Transport Scotland but have had no feedback and that they:
- have objected to Transport Scotland's current proposals and consider they have better options to support the delivery of the A9;
 - are willing to work on the detail of the proposals in ways that address Transport Scotland's concerns and avoid conflict with the A9; and
 - that they are willing to provide alternative land for mitigation if required.
 - Do not consider that Transport Scotland's comments on impacts are accurate and that in fact the only impact on the A9 proposals comes from a reduction in the area that Transport Scotland have identified for mitigation planting, to which the estate have already suggested better alternative to Transport Scotland.
27. It is clear that the eastern boundary of the site could share a boundary with activities for both projects, though in practical terms it is likely that both projects would ultimately want to see tree planting in that area as screening between the A9 and planning application site. It is unclear why the farm proposal need affect the northbound carriageway as it is located beyond Transport Scotland's proposed NMU route beside it and should not affect the current access track to Lynvoan Cottage. It is also not clear how the application is proposing to divert the drainage ditch mentioned in Transport Scotland's response as the indicative plans show drainage outflow to existing ditches and drains. Finally, although the estate propose access through an area

Transport Scotland have identified for mitigation planting, they are will to provide alternative ground and in general would like to discuss the detail of the proposal with Transport Scotland in order to reach a positive solution for both developments.

28. In considering Transport Scotland's response, the CNPA need to bear in mind that whilst the A9 dualling proposals have been published for consultation, they are not yet a fixed and detailed scheme. Parties have objected to the A9 dualling proposals and there is likely to be a period of negotiation on the detail as well as potential challenge before the scheme is fixed. Even then, at various points on the route, there may be changes to the scheme prior to or during construction.
29. The planning application being considered is for Planning Permission in Principle, with the detail of the scheme still be decided. It would not be appropriate to refuse in principle a scheme that might be able to overcome potential conflict with the A9 dualling project through the refinement of the detail. It is the Estate's right to look for a solution. If planning permission is granted in principle, they have the opportunity to try to find a solution for that consent but does not guarantee they will find one.
30. Officers consider that in these circumstances it would be unreasonable to refuse planning permission on the grounds advised by Transport Scotland because there is the opportunity for detail of the proposal to avoid or mitigate those impacts through the applications to discharge conditions. However, Transport Scotland's objection triggers Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 which means that if minded to grant planning permission, the CNPA must notify Scottish Ministers of their intention to do so and reasons why. The Scottish Ministers then have a 28-day period (which they can extend) to consider the application and can call the application in for determination themselves, or clear it back to the CNPA to determine.

CONCLUSION

31. The proposed development is considered to comply fully with the policies of the Cairngorms National Park Local Development Plan 2015 with appropriate conditions attached. It is not clear from Transport Scotland's objection that the detail of the proposed scheme cannot resolve their concerns, nor that further dialogue between the applicant and Transport Scotland might also find acceptable solutions to both parties. On that basis officers recommend approval of the application subject to conditions and notification of the application to Scottish Ministers.

RECOMMENDATION

That Members of the Committee support a recommendation for the Relocation of Balavil Home Farm (due to the dualling of the A9) & construction of new farm buildings, farmyard, associated utilities/ drainage, landscape & access road to new farm | Land E Of Lynovoan Lynchat Kingussie, subject to the following conditions and notification to Scottish Ministers:

Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.

Conditions

- I. **No development shall commence on site until the following details are submitted to and approved in writing by the Cairngorms National Park Authority, acting as Planning Authority, in consultation with the Highland Council and Transport Scotland where appropriate; irrespective of the approved proposed site plan, the submission shall be in the form of a fully detailed layout and shall include detailed plans, sections and elevations of the building and all other structures.**

Approval of matters:

- a) **Design, siting and external appearance of buildings, open space and any other structures;**
- b) **Detailed plan of the proposed layout of buildings and all ancillary development (including drainage provision and SUDs) on a contour base plan to demonstrate a good fit with landform and local hydrology;**
- c) **Detailed plan of the proposed layout of buildings and all ancillary development (including drainage provision and SUDs) on a contour base plan to demonstrate alignment with Transport Scotland's A9 upgrade proposals;**
- d) **Existing and finished ground levels in relation to Ordnance Datum;**
- e) **A minimum of 6 detailed sections through the site north/south and east/west, extending beyond the red line boundary to demonstrate a good fit with landform.**
- f) **Detailed plan and sections (several along the length of the track) of the proposed access track showing all associated cut/fill, earth strengthening and/or retaining structures in order to demonstrate a good fit with landform.**
- g) **A detailed specification of all external materials – note: samples may be required;**
- h) **Detailed landscaping plan with full specification for on-site and any off-site planting. All species should be native, typical of the area, and of local provenance. New planting should screen/filter views from the A9, include planting within the building cluster to enhance the immediate environment and reflect existing tree and woodland features in the landscape. The Landscape Plan shall be implemented in full during the first planting season following commencement of development.**
- i) **Long term landscape maintenance schedule and management plan for all planting areas;**
- j) **Tree survey, arboricultural impact assessment and tree protection plan for the site, the tree-covered knoll north-east of the site and along the route of the access in order to demonstrate that the key woodland and tree characteristics of this landscape will be conserved and enhanced.**
- k) **Boundary treatments including heights and materials;**
- l) **Access arrangements, including surface treatments;**
- m) **Design and siting of farm and visitor vehicle parking;**

- n) **Drainage Impact Assessment;**
- o) **Final Drainage Plan including SUDS scheme and SUDS maintenance plan, percolation tests at the location of any infiltration features, and design calculations provided for 30 year and 200 year return periods plus climate change storm events;**
- p) **Lighting plan to minimise light spillage and light pollution;**
- q) **Bird and bat box plan;**
- r) **Construction method statement that incorporates the mitigation identified in the Preliminary Ecological Appraisal;**
- s) **Waste management and recycling facilities;**

The development shall be implemented in accordance with those approved details unless otherwise approved in writing by the Cairngorms National Park Authority and retained and maintained for the lifetime of the development hereby approved.

Reason: To ensure the proposed development is in compliance with Policies 1, 2, 3, 4, 5, 10 and 11 of the Cairngorms National Park Local Development Plan 2015 of the Cairngorms National Park Local Development Plan 2015.

Planning Permission for the development has been granted in principle only and subsequent approval is required for these matters before the development described in this condition begins in accordance with the timescales and other requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997 as outlined in Informative I of this permission.

Informatives

I. Timescales and Procedures for Applying for Requisite Approvals

For the avoidance of doubt, conditions requiring requisite approval (applications for approval of matters specified in conditions) are all those referenced with Section 59 of the Act in the reason for the condition and must be made before whichever is the latest of the following:

- a) The expiration of 3 years from the date of the grant of the permission;
- b) The expiration of 6 months from the date on which an earlier application for the requisite approval was refused; and
- c) The expiration of 6 months from the date on which an appeal against such refusal was dismissed.

Only one application may be made by virtue of (b) and (c) above after the expiration of the 3 year period mentioned at (a) above.

An application for requisite approval may be made for different matters and different parts of the development at different times. Each application shall be in writing and must:

- a) Identify the planning permission to which it relates;
- b) Contain a description of the matter in respect of which the application is made
- c) State the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent; and
- d) Be accompanied by plans and drawings describing the matter in respect of which the application is made and any fee required under the Fees Regulations.

2. Lapsing of Permission:

- a) If you fail to comply with the time periods set out in Section 59 of the Act as detailed in Informative 1 with regard to the submission of the requisite approvals then this permission will lapse.
- b) If you have made submissions for requisite approvals within the timescales set out above under Section 59 of the Act, as detailed in Informative 1 and these have been approved by the Cairngorms National Park Authority then you must commence the development within 2 years of the date of the last requisite approval or this permission will lapse.

3. The person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. Attached to this decision notice is a Notice of Initiation of Development for completion and submission. Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more costly to rectify. Failure to give notice would constitute a breach of planning control which may result in enforcement action being taken.

4. Following completion of the development, a notification of the completion shall, as soon as practicable, be given to the Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.

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.