

CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Vary the cessation date of Condition 1 from previous permission 2020/0080/DET for the formation of bunding, provision of services and laying out of access road, hardstanding, and tarmac area with associated landscape at Land 165M SW Of Hillview, Kincaig.

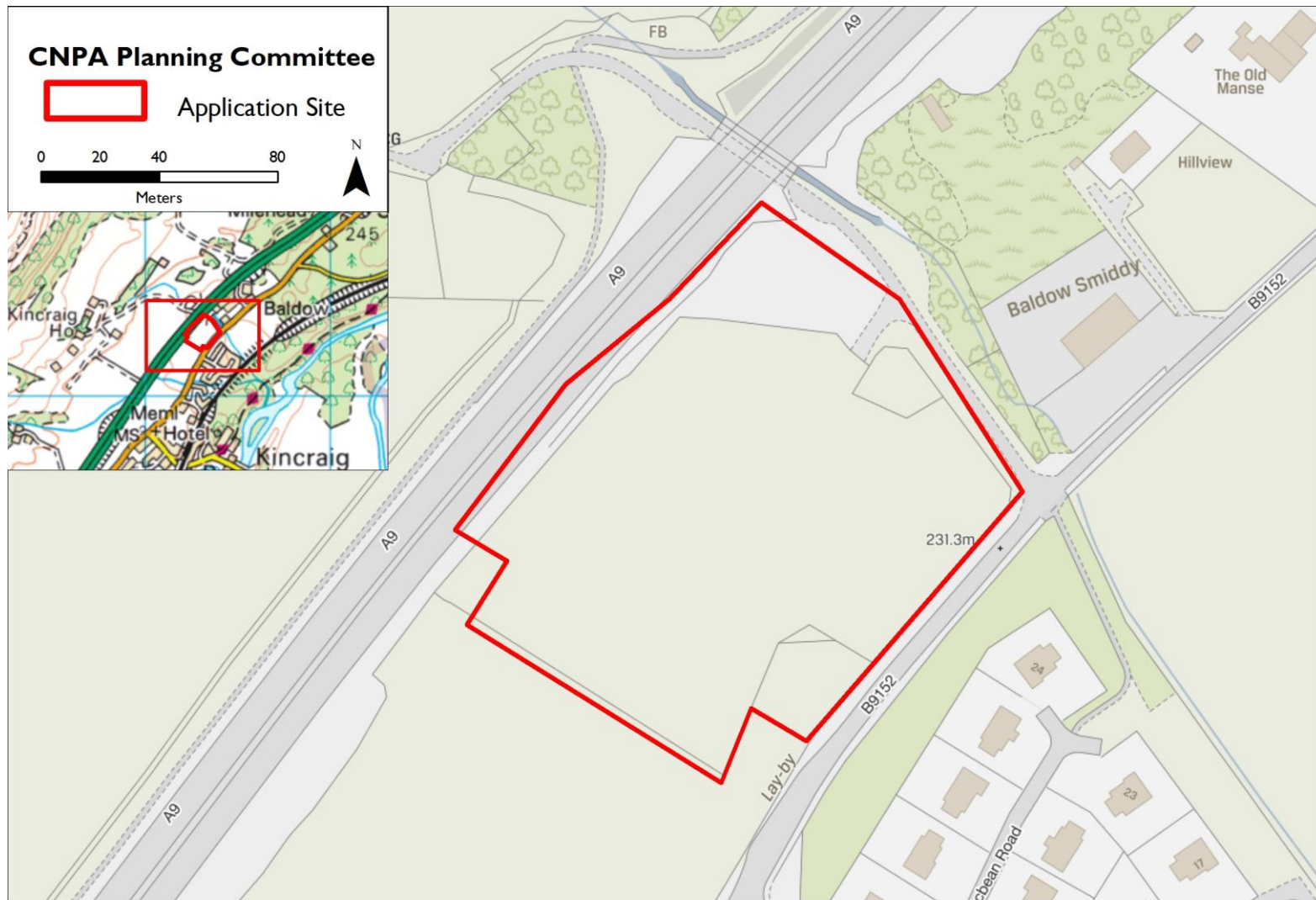
REFERENCE: 2023/0285/DET

APPLICANT: Dunachton Estate

DATE CALLED-IN: 10 July 2023

RECOMMENDATION: Approve Subject to Conditions

CASE OFFICER: Ed Swales Monitoring and Enforcement Officer



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SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The application site lies on the northern edge of the Kincaig settlement, bounded to the southeast by the B9152 and the A9 to the north-west. An existing garage (Ross's Garage) lies to the northeast on land allocated for economic development in the current adopted Local Development Plan. To the south is the residential development of MacBean Road and the more recent housing development site of Baldow Meadows.

2. The application site covers an area of approximately 1.6ha. The site comprises a built-up level area, elevated above the public road, bounded by a fence. Access is currently taken from a private track leading from an unclassified road. A watercourse runs to the north of the application site feeding into the River Spey – Insh Marshes Special Area of Conservation (SAC). There is a further small, culverted watercourse to the south of the site. Prior to use as a compound for the duelling works on the A9 the site was an agricultural field.

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=RXA0XQSI0CP00>

Title	Drawing Number	Date on Plan*	Date Received
PLANS			
Plan - Location Plan	453288/P L01 A	01/12/19	05/07/23
Plan - Site Plan & Landscape Mounds	453288/P L02 A	01/12/19	05/07/23
SUPPORTING INFORMATION			
Other - Supporting Statement		20/06/23	05/07/23

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

4. The application is to vary the expiry date of the previous permission 2020/0080/DET which stated that the site should be returned to its previous condition by 26 June 2023. The proposal seeks to extend the permission for a further three years while other options for the site are explored.
5. Plans of the proposals are included within **Appendix 1**.

History

6. In 2020 planning permission (2020/0080/DET) was granted retrospectively for the continued occupation of the existing compound which was created temporarily to facilitate the duelling works of the Kincaig section of the A9. That application sought to regularise the temporary occupation of the site. Proposals included groundwork undertaken to level the site, hardstanding and bunding created adjacent to the public road and site access. This permission was granted for a period of 3 years and has now subsequently expired.
7. Planning permission was granted by Highland Council in 2018 for a retrospective application for the change of use to temporary site compound, installation of site accommodation units, day to day running of the project, storage of material and equipment and reinstatement to existing condition on completion of the work (18/05071/FUL).

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	National Planning Framework 4 (NPF4) Scotland 2045
POLICY 1	Tackling the climate and nature crises
POLICY 2	Climate mitigation and adaptation
POLICY 3	Biodiversity
POLICY 4	Natural places
POLICY 9	Brownfield, vacant and derelict land, and empty buildings
POLICY 14	Design, quality and place
POLICY 18	Infrastructure first
POLICY 20	Blue and green infrastructure
POLICY 29	Rural development

Strategic Policy	Cairngorms National Park Partnership Plan 2022 – 2027	
Local Plan Policy	Cairngorms National Park Local Development Plan (2021) 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	DESIGN AND PLACEMAKING	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DEISGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	OPEN SPACE, SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	X
POLICY 11	DEVELOPER OBLIGATIONS	

8. All new development proposals require to be assessed in relation to policies contained in the adopted Development Plan which comprises National Planning Framework 4 (NPF4) and the Cairngorms National Park Local Development Plan 2021. The full wording of policies can be found at:

<https://www.gov.scot/publications/national-planning-framework-4/documents/>

and at:

<https://cairngorms.co.uk/wp-content/uploads/2021/03/CNPA-LDP-2021-web.pdf>

Planning Guidance

9. 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	Housing Supplementary Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	X
Policy 3	Design and Placemaking Non-Statutory Guidance	X
Policy 4	Natural Heritage Non-Statutory Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X

Policy 7	Renewable Energy Non-Statutory Guidance	
Policy 8	Open Space, Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	X
Policy 11	Developer Obligations Supplementary Guidance	

CONSULTATIONS

Summary of the main issues raised by consultees

10. **Scottish Water** will only accept surface water connections into their combined sewer system in exceptional circumstances and advise the applicants to contact them with strong justification should they wish to make a connection request.
11. **The Highland Councils Transport Planning Team** has no comment to make on this application. Although they note that conditions on the original application required measures to prevent surface water discharging onto the public road.
12. **CNPA Outdoor Access Officer** has no objections to the proposal.
13. **CNPA Ecology Officer** states the bund is existing and there is no current ecological/environmental issues with the bund remaining in situ.
14. **CNPA Landscape Officer** states the planting that was conditioned previously has not been implemented. The site has now naturalised in the 3 years since the last permission was granted and it is considered this is no longer required.
15. **Kincraig Community Council** has made no comment on this proposal.

REPRESENTATIONS

16. One representation has been received relating to the condition of the site in its current position and seeks clarity for its future use.

APPRAISAL

17. The main planning considerations are the principle of retaining the site as a compound for a further three years, environmental issues, impacts on the landscape and access and servicing.

Principle

18. **Policy 9: Brownfield, vacant and derelict land and empty buildings** of NPF4 states development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account. Paragraph **2.4: Other economic development** of **Policy 2: Supporting Economic Growth** of the Cairngorms National Park Local Development Plan 2021 also states proposals which support or extend the economy, or which enhance the range and quality of economic opportunities or facilities, will be considered favourably where they have no adverse environmental or amenity impacts on the site or neighbouring area. Paragraph **3.3 Sustainable Design** of **Policy 3: Design and Placemaking** of the Cairngorms National Park Local Development Plan 2021 states all development proposals must also be designed to make sustainable use of resources, including the minimisation of energy, waste, and water usage, within the future maintenance arrangements, and for any decommissioning which may be necessary.
19. The principle of retaining the site for a further three years allows further investigations for alternative uses that, to date have been hindered during the previous permission period. The site is now considered to be brownfield, due to its previous use as a compound for the A9 duelling works. In the supporting statement submitted as part of the application it is suggested the future use of the application site will be investigated with the view that its reuse is more appropriate than restoring it to its former use as agricultural land. This is supported by **Policy 1: Tackling the climate and nature crises** of NPF4 which states when considering all development proposals significant weight will be given to the global climate and nature crises. As such the continuation of the site for a further three years, while its future use is investigated complies with Policies 1 and 9 of NPF4 and Policy 2 and 3 of the Cairngorms National Park Local Development Plan 2021.

Environmental Issues

20. **Policy 3: Biodiversity** of NPF4 states proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development. Paragraph **4.6 All development** of **Policy 4: Natural Heritage** states where there is evidence to indicate that a protected or priority habitat or species may be present on, or adjacent to, a site, or could be

adversely affected by the development, the developer will be required to undertake a focused survey of the area's natural environment to assess the effect of the development on it.

21. In terms of the biodiversity of the site, the CNPA ecology advisor has confirmed there is no current ecological/environmental issues with the bund remaining in situ, therefore the proposal to extend the permission for a further three years complies with Policy 3 of NPF4 and Policy 4 of the Cairngorms National Park Local Development Plan.

Landscape Issues

22. **Policy 4: Natural places** of NPF4 states that development proposals that affect a National Park will only be supported where the objectives of designation and the overall integrity of the areas will not be compromised or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance. As well as paragraph **5.1 Special Landscape Qualities** of **Policy 5: Landscape** of the Cairngorms National Park Local Development Plan 2021 states there will be a presumption against any development that does not conserve or enhance the landscape character and special landscape qualities of the Cairngorms National Park including wildness and the setting of the proposed development. Similarly, **Policy 3: Design and Placemaking** seeks to ensure that development is suitably designed.
23. The Landscape officer has suggested the required landscape mitigation that was due to be undertaken during the previous consent period should be required as part of this permission. However, the site is currently much closer to its condition prior to the A9 works, with the land used for livestock grazing. It is considered that the mitigation now required would be to remove the fence, which would return the site to its condition prior to the works to convert it into the A9 compound. This would be in line with the condition that the site be returned to its former state prior to those works being undertaken. Considering the suggested future proposals and subject to an appropriate planning condition limiting the period of use and requiring full reinstatement of the site at its end, the proposal is considered to comply with Policy 4 of NPF4 and Policy 5 of the Cairngorms National Park Local Development Plan 2021.

Access and Servicing

24. **Policy 29: Rural development** of NPF4 states development proposals in rural areas should be suitably scaled, sited and designed to be in

keeping with the character of the area. They should also consider how the development will contribute towards local living and take into account the transport needs of the development as appropriate for the rural location. **Policy 3: Design and placemaking** and **Policy 10: Resources** of the Cairngorms National Park Local Development Plan 2021 require new development to be satisfactorily serviced and without harm to resources or the environment.

25. The Highland Council Transport Team commented regarding the initial proposal in 2020 requesting that no surface water would flow onto the public road, and that measures to ensure this would be undertaken after any approval on the site. This condition will be repeated should this application be approved.
26. Subject to the appropriate condition, the proposed temporary development is considered to comply with Policies 3 and 10 of the Cairngorms National Park Local Development Plan 2021.

Other Issues Raised in Representations

27. One representation noted concern regarding the future use of the site, and the condition of the site as it currently is. The future use of the site is not a material consideration of this application, however as the last three years have been subject to a number of restrictions due to Covid allowing a further three years allows the applicant an opportunity to investigate alternative uses. The current condition of the site is also considered to be acceptable as these investigations take place over the next three years.

CONCLUSION

28. The proposal for allowing a further three years on the site while investigations are ongoing to determine the future use of the site is acceptable subject to conditions requiring that should an application not be forthcoming at that time then the site be returned to the condition it was prior to the A9 construction and so is recommended for approval.

RECOMMENDATION

That Members of the Committee support a recommendation to approve the Varying of the cessation date of Condition 1 from the previous permission 2020/0080/DET for the formation of bunding, provision of services and laying out of access road, hardstanding, and tarmac area with associated landscape at Land 165M SW Of Hillview Kincaig subject to the following conditions:

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

Conditions

1. Planning permission is hereby granted for a temporary period only and shall cease to have effect on 10 November 2026 (the 'cessation date'). Prior to the cessation date, the application site shall be cleared of all development approved under the terms of this permission, including all fencing, bunding, hardstanding and access tracks, and the ground reinstated to grassland.

Reason: In recognition of the temporary nature of the proposed development, to enable the Cairngorms National Park Authority as acting Planning Authority to reassess the impact of the development after a given period of time. In accordance with Policy 1: Tackling the climate and nature crises, Policy 9: Brownfield, vacant and derelict land and empty buildings of NPF4 and Policy 2: Supporting Economic Growth, Policy 3: Design and Placemaking, Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2021.

2. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the adopted road. Such provision shall be installed within one month from the date of this decision notice and shall thereafter be maintained for the approved temporary period of this development.

Reason: To ensure that surface water drainage is satisfactorily managed in the interest of road safety in accordance with Policy 3: Design and Placemaking and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2021.

Informatives

1. 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.