

DECISION NOTICE



Davall Developments Ltd
c/o G H Johnston Building Consultants Ltd
Willow House
Stoneyfield Business Park
Inverness
IV2 7PA

18 January 2013

Application Reference: 09/048/CP

Type of Application: Housing - Major Application

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997, AS AMENDED BY THE
PLANNING ETC (SCOTLAND) ACT 2006
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2008**

**The Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003
National Parks (Scotland) Act 2000**

CNPA in exercise of its powers under the above mentioned Act and Regulations

GRANTS planning permission in principle for:

Master plan for phased development of 300 houses; economic development uses; community uses including all infrastructure, landscaping etc.

at;

Land to Northeast Of Kingussie - North of Access Road Kerrow Drive, Dunbarry Terrace and A86

and in accordance with the particulars contained in the accompanying application form and the following plans/drawings:

Title	Reference	Date Received
Location Plan/Site Plan	PL 001	06/03/09
Indicative Site Access	S/208602/08 REV A	10/11/09
Area to be surveyed	PL 101	10/11/09

Subject to compliance with the following condition(s):

- 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
- 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.
 - 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 upto 300 houses.
 - 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.

- 5 Any applications for matters specified by conditions submitted simultaneously with condition 1 or after condition 1 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).
- 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.
- 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.
- 8 For the avoidance of doubt no development is permitted in the area to be accessed from Ardbroilach Road indicated for four plots.
- 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.
- 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.
- 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.
- 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.

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

- 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.
- 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.
- 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.
- 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.
- 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.
- 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).
- 27 Any application for the approval of matters specified by conditions under the requirements of the Revised Phasing Masterplan required by condition 1 shall include a detailed landscaping plan. 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.
- 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.

- 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.
- 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.

The National Park Authority's reasons for imposing these conditions are:

- 1 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 In the interests of the amenity of the residents who access properties off Dunbarry Road.
- 3 To ensure that there is adequate space on the site to accommodate landscaping, drainage and open space requirements.
- 4 In the interests of the amenity of the residents who access properties off Dunbarry Road.
- 5 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 To ensure timeous provision of affordable housing in line with current policies.
- 7 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 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 To ensure a coherent approach to layout and design across the site.
- 10 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 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 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 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.
- 15 To ensure good pedestrian access to and from the site.
- 16 In the interests of pedestrian and highway safety and to ensure adequate access and parking.
- 17 To ensure that any archaeological remains at the site are investigated and recorded.
- 18 To ensure that adequate surface water drainage measures are planned and implemented for the site.
- 19 To prevent potential for pollution from construction activities
- 20 To ensure that adequate long term plans are in place for the management of features specified in the condition
- 21 To ensure that adequate long term plans are in place for the management of features specified in the condition
- 22 To ensure adequate street lighting and to allow the CNPA to have an input into the design and location of any lighting.
- 23 In the interests of the first aim of the Park.
- 24 To ensure that any temporary construction compounds are sited so as to protect the amenity of surrounding properties and the local landscape.
- 25 To prevent a proliferation of visible infrastructure at the site
- 26 To ensure that trees are adequately identified and protected on and around the site.
- 27 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 In the interests of visual amenity and to prevent unnecessary exportation of material from the site.
- 29 In the interests of ensuring that adequate waste disposal and recycling provision is made for each phase on the site.
- 30 In the interests of promoting good pedestrian and cycle linkages across the site.

Advice Note:

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

Variations: None

Section 75 Planning Obligation:

An obligation in terms of Section 75 of the 1997 Planning Act relates to this development. The terms of the Section 75 are as follows:

- Affordable Housing Provision; contributions to secondary education, recycling, road safety, community care, transfer of land to local community.

The full Section 75 Obligation can be inspected at the local planning office.


Reason(s) for approval

1. The proposal is considered to accord with the aims of the Cairngorms National Park.
2. The proposal complies with the relevant provisions of the development plan and there are no material considerations that indicate otherwise.

Informatives:

1. Prior to the commencement of development, a notice of the intended date of initiation of development shall be submitted to the CNPA acting as Planning Authority and such notification shall contain the information set out in the 'Notification of Initiation of Development' Notice as appended, pursuant to Section 27A(1) of the Town & Country Planning (Scotland) Act 1997.
2. Following the completion of the development, a notification of the completion shall, as soon as practicable, be submitted to the CNPA acting as Planning Authority and such notification shall contain the information as set out in the 'Notification of Completion of Development' Notice as appended, pursuant to Section 27B(1) of the Town & Country Planning (Scotland) Act 1997.

Dated: 18 January 2013

A handwritten signature in black ink, appearing to read 'D. McKee', with a stylized flourish at the end.

Don McKee - Head Planner

For details of how to appeal to Scottish Ministers regarding any aspect of this Decision Notice please see the attached notes.

**THIS IS A LEGAL DOCUMENT -
PLEASE RETAIN WITH YOUR TITLE DEEDS**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997, AS AMENDED
BY THE PLANNING ETC (SCOTLAND) ACT 2006
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (SCOTLAND) REGULATIONS 2008**

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission in respect of the proposed development, or to grant permission or approval subject to conditions, he may appeal to Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 within three months of the date of this notice. The appeal should be addressed to the Chief Reporter, Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park, Falkirk FK1 1XR.

2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out any development which has been or would be permitted, he may serve on the planning authority a purchase notice requiring the purchase of his interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

NOTES

It should be understood that this permission does not carry with it any necessary consent from the Buildings Authority or Scottish Environment Protection Agency, or approval to the proposed development under other statutory enactments.

It should be understood that this permission does not imply

- that there are no physical restrictions upon development, such as overhead or underground services, diversion or protection of which will be the developer's responsibility, with the prior consent of the appropriate supply authority;

- that the mains water, drainage or other public services are, or will be available: or

- that financial assistance from public funds is available towards the cost of provision of services or any aspect of the development.

Enquiries should be directed to the appropriate supply authorities.

NOTICE OF REQUIREMENT FOR NOTICES

Notification of Initiation of Development

The person who intends to implement the development must inform the CNPA acting as Planning Authority of the date they intend to start work on the development as soon as it is practicable using the enclosed Notice of Initiation of Development. This Notice must be submitted before starting work. Failure to do so would be a breach of planning control under Section 123(1) of the Town & Country Planning Act 1997 and the CNPA acting as Planning Authority may take enforcement action.

The permission may contain pre-conditions that require specific matters to be approved before development can commence. This means that a lawful commencement of the approved development cannot be made until the particular requirements of the condition(s) have been met. The person who intends to start development must ensure that all conditions are properly complied with. If you are in any doubt about the meaning or implications of any of the conditions you should contact the CNPA acting as Planning Authority or seek professional advice. If you do not comply fully with the conditions the CNPA acting as Planning Authority may serve a Breach of Condition Notice on you or take enforcement action and you may be prosecuted or fined. Please note, there is no right of appeal against a Breach of Condition Notice.

Notification of Completion of Development

The person who completes the development must, as soon as practicable after doing so, give notice of completion to the CNPA acting as Planning Authority using the enclosed Notice of Completion.

Please note, the CNPA acting as Planning Authority may take enforcement action where such notice is not given.

**PLEASE NOTE –
THE ABOVE REQUIREMENTS ARE IN ADDITION TO ANY SIMILAR
REQUIREMENTS UNDER THE BUILDING REGULATIONS OR ANY OTHER
LEGISLATION**

