
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: APPLICATION UNDER SECTION 42 TO REMOVE CONDITION 10 (LINK FOOTPATH) OF PLANNING PERMISISON 04/593/CP

REFERENCE: 2012/0230/DET

APPLICANT: AW LAING LTD, HIGH STREET, GRANTOWN ON SPEY

DATE CALLED-IN: 20 JULY 2012

RECOMMENDATION: APPROVE

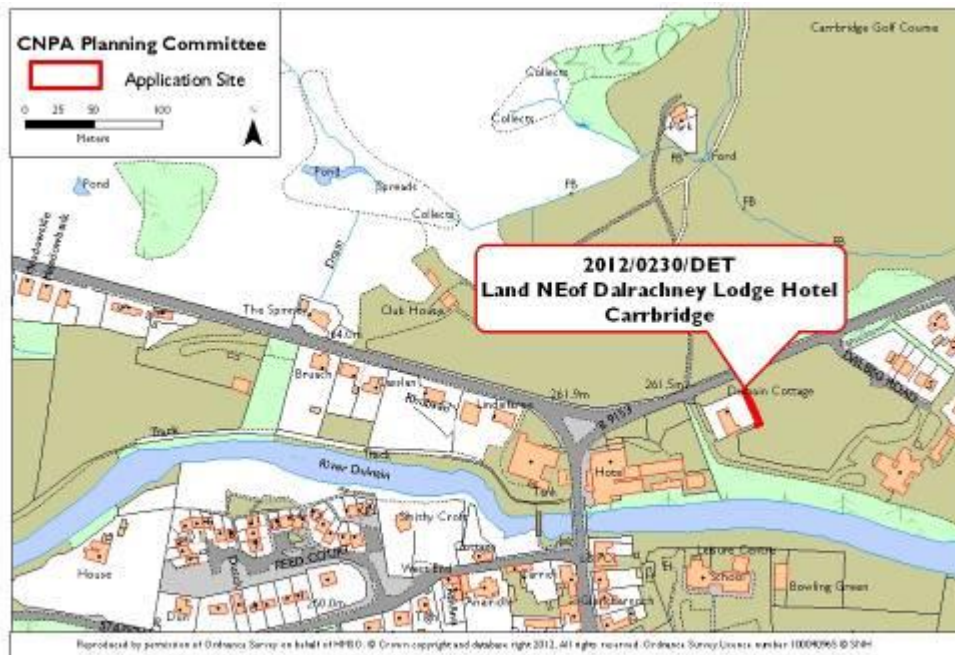


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The site is located at the northern edge of Carrbridge between the Dalrachney Lodge Hotel and a modern development which is accessed from the A938 Carrbridge to Dulnain Bridge road. The site is currently a building site and a number of plots have been formed and 5 affordable houses have been completed at the eastern end of the development.
2. The CNPA approved a plot layout for the site in 2005 under CNPA Planning Permission Reference 04/593/CP. Condition 10 of this application required a path connection between the cul-de-sac and the path running through trees along the northern perimeter of the site. This link is shown on the drawing at figure 2 of this report. Condition No 10 read as follows: *Prior to the commencement of the development hereby approved a scheme for a new footpath connection between the south western cul-de-sac of the access road and the footpath along the northern perimeter of the site shall be submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. The agreed scheme shall be implemented prior to the first occupation of any houses on the approved plots.*

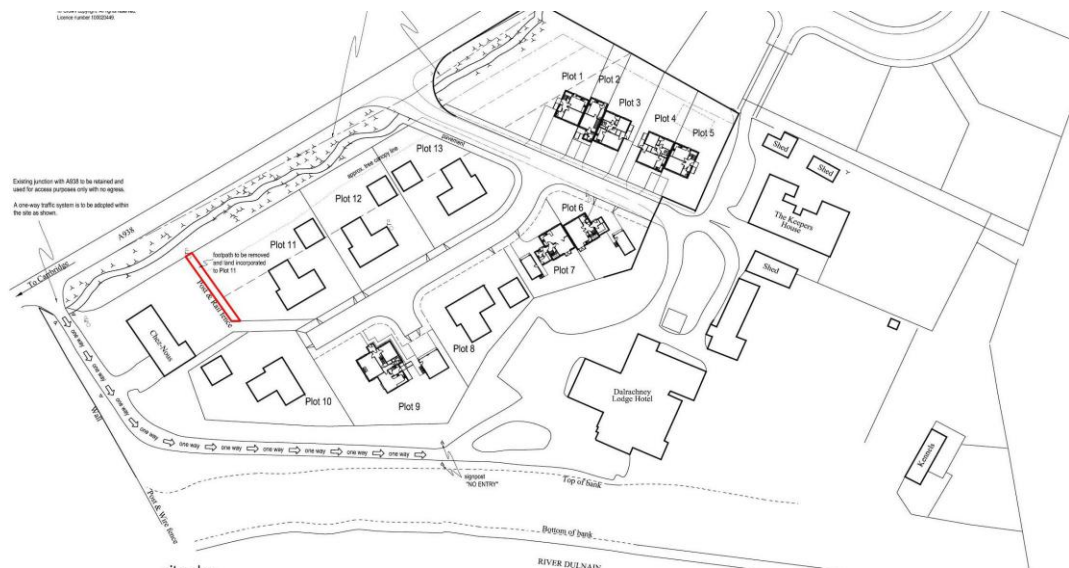


Fig. 2- Layout showing path line to be deleted in red.



Figure. 3- Line of path between house and development site

3. The applicant's justification for not providing the path link is because there is difficulty in marketing plots 8-12. Potential purchasers have commented that they would prefer the path omitted for privacy reasons. In addition the existing occupiers of a house at the entrance to the Hotel have said they would prefer the path to be omitted because of privacy reasons for their garden. Consultation with the Roads Engineer leads the applicant to believe that there would be no objection from a roads viewpoint. In addition the case is made that the deletion of the path would result in only minimal inconvenience for the occupants of the development. The area of the path would be incorporated into the garden of plot 11.

Section 42 Applications

1. Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with conditions subject to which a previous planning permission was granted. Section 42 of the Act stipulates that in this type of application "the planning authority shall consider only the question of the conditions subject to which planning permission should be granted." Therefore, in the context of this application, the only matter which is required to be considered is the appropriateness and acceptability of deleting condition 10 of the original planning consent.

DEVELOPMENT PLAN CONTEXT

National Policy

2. **Scottish Planning Policy (2010)** provides the core principles for decision making and sets out the key priorities for the planning system. The primary objectives are; to set the land use framework for promoting sustainable economic growth; to encourage and facilitate development while protecting natural heritage and the built environment. The SPP also it refers to the use of conditions and planning agreements in allowing development to proceed effectively.
3. Scottish Government planning **Circular 4/1998 - The use of conditions in planning permissions** states that conditions can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The guidance establishes that conditions should meet the following six tests, requiring that they be: necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other respects.

Structure Plan

Highland Structure Plan (2001)

4. **Policy G2 (Design for Sustainability)** states that developments will be assessed on the extent to which they, amongst other things; are accessible by public transport, cycling and walking as well as by car; maximise energy efficiency in terms of location, layout and design; make use of brownfield sites; demonstrate sensitive siting and high quality design; promote varied, lively and well-used environments; and contribute to the economic and social development of the community.

Local Plan Policy

Cairngorms National Park Local Plan

5. **Policy 16 Design Standards for Development** requires that all development minimises the effects of climate change, reflects the local vernacular and uses materials and landscaping that compliments its setting. The policy also requires that development protects the amenity enjoyed by neighbouring property and creates an environment that can be enjoyed by everyone.
6. **Policy 20 Housing Development within Settlements** considers that housing development within within settlement boundaries will be favourably considered where it occurs within an allocated site and is compatible with existing and adjacent land uses. Proposals should reinforce and enhance the character of the settlement, and accommodate within the development site appropriate amenity space, and parking and access arrangements (the site is located within the village development boundary).

CONSULTATIONS

7. **Carrbridge Community Council:** has made no comments.
8. **Highland Council Area Roads:** from a Roads perspective there is no objection in principle, however, the footpath would appear an obvious desire line for pedestrians accessing the village.
9. **CNPA Access Officer:** There does not appear to be a history of access across the site, currently there is no evidence of short cuts or beaten paths from the development connecting to the path parallel to the road. Given the relatively small scale of the site- three and four plots to the north and south of the access road- there is no significant extra distance involved for residents in gaining the path alongside the A938. The impact of not having this path link is only likely to have an effect on the residents of the plots but the distances to gain the roadside path are only minimally extra given the small scale of this development.

REPRESENTATIONS

10. No representations have been received.

APPRAISAL

11. In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. Crucially, as this is an application made under Section 42 of the Town and Country Planning (Scotland) Act 1997 the matter on which the Planning Committee are being asked to decide is very specific, concerning only the deletion of the path required by the original planning permission (CNPA Ref. no. 04/593/CP).
12. In this case, the development is underway and the developer is experiencing difficulty in marketing plots at the site because of the existence of the footpath requirement by planning condition.
13. The requirement for the path should not be removed purely on the justification that plots adjacent to it are difficult to market. In certain instances such a path link could be crucial in helping a development function and to encourage non-motorised access to shops and services. However, in this case the extra distance that residents of the plots would have to walk is so limited that it would be unreasonable to insist on the path being provided. It is also understood that potential purchasers of plots 11-13 are considering putting gates in their back gardens to gain direct access to the path alongside the A938.
14. While it may be preferable to keep the path link its deletion raises no significant issues given the scale of the development. The Roads Engineer has no objection and the CNPA Access Officer raises no concerns about the

removal of the path requirement and the proposed deletion of the condition is not considered to offend Policy 16 Design Standards for Development of the CNP Local Plan. Consequently, the request to remove the condition is recommended for approval.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

15. The proposal raises no issues with regard to this aim.

Promote Sustainable Use of Natural Resources

16. The proposal raises no significant issues with regard to this aim. The minimal extra distance to the village is unlikely to influence whether occupants of the plots access services on foot.

Promote Understanding and Enjoyment of the Area

17. The proposal raises no significant issues with regard to this aim.

Promote Sustainable Economic and Social Development of the Area

18. The deletion of the condition would enable the developer to market the plots more effectively.

RECOMMENDATION

19. That Members of the Committee support a recommendation to **APPROVE** the removal of Condition No 10 of planning permission 05/493/CP for the provision of a new footpath connection between the south western cul-de-sac of the access road and the footpath along the northern perimeter of the site at Dalrachney, Carrbridge subject to the following:

ADVICE NOTE

1. Please note that this planning permission does not vary any of the other requirements of Planning Permission 04/593/CP.

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25 August 2012

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.