

AGENDA ITEM 6 & 7

APPENDIX I

2015/0316/DET

And

2015/0317/DET

REPORTERS DECISION,

COMMITTEE REPORT

2013/0190/MSC

AND

DECISION NOTICE

09/048/CP

Appeal Decision Notice

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Decision by John H Martin, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-001-2013
- Site address: Land to north and east and west of Dunbarry Terrace and Kerrow Drive, Kingussie
- Appeal by Davall Developments Ltd against the decision by Cairngorms National Park Authority (CNPA)
- Application for planning permission 2013/0190/MSC dated 11 June 2013 refused by notice dated 19 September 2013
- The development proposed: (A) the matters specified in conditions 1, 2, 5, 10, 11, 16, 18, 27 & 29 of planning permission in principle 09/048/CP, dated 18 January 2013, for the erection of 300 houses, economic development uses and community uses; and (B) carrying out the development without complying with condition 4 of that permission

Date of site visit by Reporter: 5 February 2014

Date of appeal decision: 28 April 2014

Decision

(A) I allow the appeal and approve the submitted details of the matters specified in conditions 1, 2, 5, 10, 11, 16, 18, 27 & 29 of planning permission in principle 09/048/CP dated 18 January 2013, subject to the conditions set out at the end of this notice.

(B) I allow this appeal and grant planning permission without complying with condition 4 of planning permission in principle 09/048/CP dated 18 January 2013, but subject to the other conditions imposed by that permission, so far as these are still subsisting and capable of taking effect, and to a new condition 4 as set out below:

“4. With the exception of the 55 houses in Phase 1 of the development, which are to be accessed from the Dunbarry Terrace, Dunbarry Road, Kerrow Drive road network, vehicular access to all remaining houses in the development 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*)



Preliminary Matters

Although contained within one application and appeal, there are two distinct matters before me:

(A) an appeal against the refusal by the planning authority to approve matters specified in conditions 1, 2, 5, 10, 11, 16, 18, 27 & 29 of the planning permission in principle and;

(B) an appeal under section 42 of the Town and Country Planning (Scotland) Act 1997 to carry out the development without compliance with condition 4, which states that:
“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. Vehicle access to the site shall be via a single, main access point onto the A86,” as imposed on the grant of planning permission in principle 09/048/CP dated 18 January 2013.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. Having regard to the provisions of the development plan the main issue in appeal (A) is whether or not the matters specified in conditions 1, 2, 5, 10, 11, 16, 18, 27 & 29 have been met in an acceptable and appropriate manner. The main issue in appeal (B) is whether or not condition 4 of planning permission in principle 09/048/CP was reasonably imposed in accordance with the tests set out in Circular 4/1998, and whether or not circumstances have changed sufficiently to warrant departing from the requirements of that condition.
3. The development plan in this context is the Cairngorms National Park Local Plan 2010 within which the appeal site is specifically designated for housing on the Proposals Map as H1, access to which shall be off the local road network, together with land to the east of the settlement shown for economic development as ED1. The most relevant Local Plan policies are policy 16 - Design Standards for Development and policy 20 - Housing Development within Settlements, that together reflect Scottish Planning Policy on sustainable development. Also relevant in appeal (B) is the Scottish Government publication “Designing Streets” which requires them to be designed to be distinctive, safe and pleasant, easy to move around, welcoming, adaptable, resource efficient and sustainable.
4. The appeal site lies to the north and west of the existing residential areas served by Dunbarry Crescent and Kerrow Drive. It is currently open grassland between the settlement and an area of woodland to which the public have access by a network of footpaths. The proposal, which is the subject of this appeal, forms Phase1 of the development of up to 300 houses on the designated land H1 as shown in the revised Kingussie North East Masterplan, submitted as required by condition 1, which also indicates the proposed phasing of the development. The application for approval of matters

specified in the conditions shows the provision of 37 serviced plots on the higher land with full details of 18 affordable homes to be erected in the L-shaped area of land off Kerrow Drive, a total of 55 new dwellings to be served by the Dunbarry Road network. In addition, a haul road to the Phase 1 site from the A86 Trunk Road, following the line of the eventual principal road, is proposed to ensure that no construction traffic passes through existing residential areas, as imposed by condition 2 on the planning permission in principle.

Appeal (A)

Matters specified in Conditions

5. I have considered whether or not the matters specified in the identified conditions have been met by the further details submitted, and the CNPA's qualified response to each. Having checked all these conditions, I note that the requirements set out in condition 1 are now acceptable, together with details of the Haul Road, in the revised Master Plan to satisfy condition 2. On condition 5, full details of the new affordable houses have been submitted, the design of which conforms with the appellants' revised Master Plan and Design Code, although the proposed boundary enclosures have yet to be agreed with the Highland Council's Housing and Property Service, the intended landlord for the affordable housing. Conditions 10 and 11 relate to the proposed junction of the Haul Road with the A86 and full details have been submitted, with cross sections, and showing the visibility splays required by Transport Scotland who have raised no objections.

6. The requirements of condition 16 are addressed by the revised Master Plan supporting documents on the access, visibility and parking arrangements on each plot, which are considered satisfactory by Highland Council as the roads authority and Transport Scotland. Full details of the Sustainable Urban Drainage System (SUDS) for Phase 1 have been submitted and found to be satisfactory by the Scottish Environment Protection Agency (SEPA) and the Highland Council Flood Team to meet the requirements of condition 18. The Landscape Strategy Framework Plan coupled with the Structural Landscaping Proposals set out in the revised Master Plan address the detailed requirements of condition 27. A Waste Management Strategy has been submitted under the revised Master Plan which SEPA considers to be satisfactory subject to the details being addressed at construction stage.

7. The CNPA has raised no objections to any of the details submitted under the terms of these conditions. I have therefore found no evidence to disagree with the appellant's submissions on these matters, and conclude that the details submitted are acceptable and appropriate in the circumstances. I therefore approve all the matters specified in the conditions identified, subject to the new conditions set out below.

Appeal (B)

Condition 4

8. Planning permission in principle 09/048/CP was granted subject to access to the whole master plan site being limited to a new approved access off the A86, and condition 4 was imposed to ensure that no vehicle access to the development be taken via the Dunbarry Terrace, Dunbarry Road and Kerrow Drive road network. Local Plan policy 16(g)

requires new development to protect the amenity enjoyed by neighbouring properties and all proposals will be designed to help create environments that can be enjoyed by everyone.

9. At the time planning permission in principle was granted in January 2013, and despite Highland Council Roads Manager's suggestion that up to 55 houses could be accessed off Dunbarry Road, the planning officer recommended that a single new access onto the A86 be the sole means of access to site, because of the nature of the existing road, the strength of local feeling in the community and the difficulties of improving the access junction. The Committee accepted the recommendation and imposed condition 4 in the interests of the amenities of existing residents. This was a valid planning reason for imposing the condition in accordance with local plan policy 16(g).

10. To offset these concerns, the appellants submitted a Traffic Assessment (TA) and Road Safety Audit, together with proposals for improvements to the Dunbarry Road/High Street junction, traffic calming and pedestrian safety measures within the existing road network served by Dunbarry Road, including an offer to pay for a 20mph speed limit in some of those areas.

11. The additional morning and evening traffic movements presented by the appellants add up to 69. In addition, as rightly pointed out by the objectors, these figures do not take account of service, delivery and refuse vehicles or other traffic during the day, although I have no detailed information on these. Even so, it is reasonable to assume that there would be about 70 additional vehicle movements during the peak periods which amount to some 12 extra vehicles per hour.

12. Notwithstanding the continued level of objections submitted from local residents and, in particular, the Kingussie and Vicinity Community Council (KVCC), the roads authority found that the proposals represented a considerable improvement in road safety and raised no objections subject to appropriate planning conditions. While I accept that there would inevitably be more vehicles on the road, the proposed changes would result in improvements to road safety by reducing traffic speeds, while the provision of a loop road should enable easier traffic flows around the existing road network. I also note that Transport Scotland have agreed that the junction with High Street can be upgraded, including recently substituting the controversial raised table design in favour of an anti-skid shared surface, although this will now have to be achieved without the benefit of the third party land, agreement for the use of which has now been revoked by the landowner.

13. Following my request for further submissions on this topic, the appellants submitted alternative possibilities for the revised junction assuming no private land would be available. From these it is apparent that the junction would remain somewhat restricted but Transport Scotland is clearly satisfied that a solution can be achieved. To overcome any problems associated with the shared surface and potential traffic/pedestrian conflict at the junction, the appellants have shown their intention to upgrade nearby Jonathan's Brae to provide a safer pedestrian/cycle route from East Terrace to High Street, particularly for children walking or cycling to school.

14. The main objection from the KVCC and other local residents, as set out in their submissions, is that the Dunbarry Road network has already reached its capacity and could not serve the proposed 55 houses without causing adverse impact on their amenities but, following the transport assessment, the roads authority has raised no objections to the use of the existing road and considers that proposed traffic calming measures would enhance highway safety for existing users.

15. In the further submissions, the appellants' agents explain that the CNPA guidelines for a General Access Road with no secondary means of access is that it is capable of serving 200 houses, and that there are currently about 145 houses reliant on Dunbarry Road, Dunbarry Terrace and Kerrow Drive, beyond the junction with Garruline Terrace and East Terrace which are on an, albeit narrow, through route. This resulted in their conclusion that the road could accommodate a further 55 houses and still be within the CNPA guidelines.

16. With its 5.5/5.7 metre width and 2.0 metre footways, as stated in paragraph 2.7 of the appellants' revised Master Plan, Dunbarry Road thereby conforms with those guidelines, although the residents point out it already serves 200 houses if those off East Terrace are taken into account. Even though the roads authority is satisfied that there is sufficient capacity in the network to accommodate the Phase 1 development, the proposed 55 units would result in an increase in the traffic using the existing road which is bound to have some impact on the amenities of local residents.

17. With its winding layout, steep profile and several side roads, the cul-de-sac already encourages motorists to drive slowly, so the residents have come to terms with relatively quiet living conditions on the estate, where they say that children can play on the open spaces in safety. Bearing in mind that the roads and footways are used by children cycling and walking to school, by mothers with pushchairs and by older/disabled residents, the increase in traffic set out in the TA would impinge on their enjoyment of the relative peace and quiet that they currently enjoy.

18. To counter these concerns, the appellants are proposing traffic calming measures on the existing and new roads to ensure that all road users drive more carefully, with improvements to the Dunbarry Road/High Street junction and enhanced pedestrian routes through the site and to the schools. I acknowledge that build-out traffic calming chicanes might at peak times contribute to the loss of amenity the residents would suffer from higher levels of traffic noise but, with an average of only about 12 extra vehicles per hour, this should not unduly disturb them in their houses or back gardens.

19. At the time of the site inspection, the local road network appeared to be serving a quiet neighbourhood with low traffic levels and a safe environment for pedestrians, which the proposals are seeking to preserve, despite there being more vehicles on the road. While these would inevitably impose their presence on the existing estate, the safety measures should ensure that the traffic would be moving more slowly. I am therefore not convinced that the residents' amenity would be disturbed throughout the day sufficiently to justify refusal of planning permission. As a result, I am satisfied that, even at peak hours when any queuing at the junction would be concentrated at the lower, less populated,

section of Dunbarry Road, the amenity enjoyed by neighbouring properties would be sufficiently protected to accord with local plan policy 16(g).

20. Scottish Planning Policy 2010 and local plan policies 16 and 20 encourage more sustainable development by concentrating new housing proposals close to the limits of settlements to reduce travelling distances, improve pedestrian and cycle routes and minimise the use of the car, with which the proposed layout seeks to conform. I therefore find that with the suggested improvements to the junction with High Street and the road safety measures on the existing and new roads, coupled with the enhancement of walking and cycle routes to school, would all combine to enhance the residents' use of the road network without unduly affecting their residential amenities.

Material considerations

21. I have considered at some length the appellants' submissions supporting the discharge of this condition and, in particular, the difficulties arising from phasing the development of the Master Plan using the new access off the A86. I acknowledge that the construction of over 650 metres of access road complete with its infrastructure to service the proposed Phase 1 would prove expensive although, without using Dunbarry Road, the first phase would be more likely sited closer to the new A86 access. However, I also note that it was originally intended to serve the appeal site off Dunbarry Terrace and Kerrow Drive, as the turning heads on site appear to suggest, which would accord with the intention to serve the Phase 1 of the Master Plan development off the existing road network.

22. The conclusions in the committee report on the application for planning permission in principle were primarily motivated by the significant number of objections to using the Dunbarry Road network and the perceived impact on the amenities on the residents, but the appellants have since gone to considerable lengths to overcome these objections and also offer concessions to the community in the provision of communal space, footpath links to the woodlands beyond, and an assurance that Phase 1 would not be linked through to the rest of the Master Plan development.

23. I acknowledge that the existing roads suffer from ice and snow in winter and that they may not be on a high priority for gritting, but this applies to most roads in Kingussie and some local residents have referred to snow ploughs being used to ease the problem. However, the risk of icy conditions did not prevent the present housing developments off Dunbarry Road, nor is it likely to unduly affect future proposals on the allocated land.

24. Although the residents may believe that the proposals are simply motivated by financial considerations, the appellants have set out sound practical reasons why Phase 1 should be logically located next to existing housing development on the edge of the village rather than accessed by an uneconomic long estate road. The proposed haul road would be built before work commences and would ensure that all construction traffic is kept away from the residential roads and, when Phase 1 is completed, the conditions ensure that there will be no further connection between the first phase and the rest of the development. On balance therefore I have found no material considerations of sufficient substance to outweigh my conclusion on this appeal.

25. For these reasons, I conclude that, whilst the original condition 4, restricting access to the whole development from a single access off the A86, was reasonably imposed when planning permission in principle was granted, the current proposals, with associated improvements to highway safety, will ensure that the amenities of existing residents are protected. I therefore grant planning permission for the development to be carried out without complying with the original condition 4, but subject to the other conditions imposed on the permission in principle, so far as these are still subsisting and capable of taking effect, and the revised condition 4 set out above.

New Conditions

26. The national park authority has suggested 30 new conditions should planning permission be granted on appeal (A) but, while the appellants have raised no objection to most, they have disputed the following conditions on which I conclude as follows:

Condition 1 – there is no reasonable requirement to prevent any work on site until the improvements to the Dunbarry Road/High Street junction have been carried out because there will be a separate haul road for construction traffic and, as the new junction would be adopted, its retention would be subject to normal adoption procedures. I shall also modify the wording of this condition to accord with that suggested by Transport Scotland.

Condition 2 – the 20mph zones relate to statutory procedures by the roads authority and this element of the condition is therefore unnecessary.

Condition 5 – the condition that seeks to control the phasing of the development is unreasonable because this is determined by the marketing of the development and, in any event, planning permission would be required for Phase 2 in the context of the Masterplan.

Condition 8 – the appellants have lodged a Landscape Plan and accept the recommended condition so there is no need for legally binding agreement because such an obligation is not necessary when a valid condition is in place.

Condition 10 – the appellants have lodged a Drainage Statement and accept the recommended condition so there is no need for legally binding agreement because such an obligation is not necessary when a valid condition is in place.

27. I accept that for the above reasons these conditions do not strictly comply with the tests in Circular 4/1998. I will vary Condition 1 to ensure that no houses are occupied until the junction improvements have been completed and delete Condition 5 as being unnecessary and unreasonable. I will also amend Condition 2 to omit that part relating to the 20mph zones, and Conditions 8, and 10 to remove any references to legally binding agreements. In addition, the CNPA Information Notes suggest that working hours on the site should be restricted which are more appropriately controlled by means of a planning condition that I will also impose. The conditions numbering will be amended to suit and, with those exceptions, I shall impose the suggested new conditions with a number of minor modifications to ensure that they fully accord with the tests in the circular.

28. Before the submitted suggested conditions, CNPA raised two points concerning a requirement for a revised landscaping plan together with a fully detailed management and maintenance plan. Although the appellants have shown willing to submit further details for approval in this regard, they do not appear to have been required to do so. For the sake of clarity, therefore, I shall expand condition 7 (formerly 8) to ensure that these matters are submitted and approved before any work starts on site.

29. The conditions numbering will be amended to suit and, with those exceptions, I shall impose the suggested new conditions.

Conclusions

30. On appeal (A) I hereby approve all the matters specified in the conditions identified, subject to the new conditions set out below.

31. On appeal (B) I conclude that, on the basis of the approved details for Phase 1 of this development, compliance is no longer required with the original condition 4 on the planning permission in principle. I am satisfied that allowing access to the first 55 houses via the Dunbarry Terrace, Dunbarry Road and Kerrow Drive network would not conflict with the relevant provisions of the local plan, and that there are no material considerations that would justify withholding the grant of planning permission.

32. I have considered all the other matters raised, including the submitted petition, which incorrectly suggests that the Dunbarry Road access would serve the whole 300 house Master Plan development, but there are none which would lead me to alter my conclusions.

John H Martin

Reporter

Conditions

1. No house on the site shall be occupied until details of the road improvements to the junction of Dunbarry Road and the A86 Trunk Road/High Street have been submitted to and approved by the planning authority, after consultation with the roads authority, and the works have been implemented in accordance with those approved details.

(Reason: to maintain safety for both the trunk road traffic and the traffic moving to and from the development.)

2. No house on the site shall be occupied until the traffic calming and management proposals outlined in the approved transport assessment (Cameron and Ross Technical addendum A/1274) and drawing no. A/1274/911 have been completed in accordance with those approved details.

(Reason: in the interests of road and pedestrian safety on existing and new roads.)

3. No development shall commence on site until the following details have been submitted to and approved by the planning authority in consultation with the roads authority:

(a) the design, timetable for implementation and treatment of the land at the eastern end of the access road to Phase 1, referred to on the drawing no. HLD 9028.08/SL-04/C as "*future path and landscape strip as emergency access after use of haul road ceases*"

(b) this land shall be planted up and retained in its use thereafter in a manner that prevents vehicle access other than for construction traffic for works to Phase 1 and emergency vehicles;

(c) for the avoidance of doubt, these measures shall include a requirement that no further access to future phases of the development be taken via the Dunbarry Road network. The approved details shall be implemented in accordance with the approved timetable and no work on Phase 2 of the development shall commence until these works are completed. *(Reason: in the interests of pedestrian and highway safety as the application has been assessed in terms of road safety solely on the basis of access to Phase 1 being only from the Dunbarry Road network.)*

4. No development shall commence on the development hereby approved until the new access from the A86 Trunk road and the construction of the haul road have been completed in accordance with the approved plans; and a management plan detailing the measures to be taken to ensure that all construction vehicles access the development via the haul road has been submitted to and approved by the planning authority. Thereafter:

(a) all construction vehicles (including vans) shall only access the Phase 1 site via the new haul road; and

(b) all landscaping shown on drawing no. HLD 9028.08/SL-07 shall be implemented in the first planting season following completion of the new access and thereafter maintained in accordance with the approved maintenance details.

For the avoidance of doubt, a plan for the closure of the existing General Wade's Military road access shall be submitted to and approved in writing by the planning authority, in consultation with the roads authority, before any work commences on the formation of the new access, and shall thereafter be implemented in accordance with the approved details. *(Reason: in the interests of road safety and residential amenity, and to ensure safe access for construction vehicles and pedestrians.)*

5. Planning applications for the proposed houses on the plots on Phase 1 (other than the affordable housing on plots 13-30) shall be submitted to and approved by the planning authority and shall include full details of the design, siting, drainage, waste management arrangements, boundary treatments, site sections and landscaping; all of which shall reflect the conditions of the planning permission in principle, the revised Master Plan and Design Code.

(Reason: to ensure that the development proceeds in a planned manner and complements and enhances the landscape character of Kingussie.)

6. Planning applications shall be submitted for all future phases of the development which shall include:

(a) full details of the proposals and delivery of community and economic development land in the relevant phases; and

(b) details of compensatory planting relating to the loss of trees on the economic development land.

These proposals shall be delivered as part of the phase to which they relate, unless otherwise agreed in writing by the planning authority; and no work shall commence on subsequent phases until the preceding phase is completed, unless otherwise agreed in writing by the planning authority. The detailed applications shall reflect the conditions of the planning permission in principle, the revised Master Plan and Design Code.

(Reason: to ensure that the development proceeds in a planned manner and ensures the delivery of community and economic development land for Kingussie.)

7. No work shall start on site until a revised Landscaping Plan, together with a fully detailed management and maintenance plan, have been submitted to and approved by the planning authority. All landscaping shown on the approved landscaping plans (including advance planting for future phases) shall be implemented in accordance with the approved management plan, and in the first planting season following completion of the new haul road and associated ground works to form access roads and servicing of Phase 1. Landscaping shall thereafter be maintained in accordance with the approved maintenance and management plan and timetable.

(Reason: to ensure that a suitable landscape setting is established and maintained for the new development.)

8. All plots that have not been developed within 6 months of re-contouring works having been carried out shall be seeded in accordance with the approved landscape plan and maintained in a clean and tidy condition until they are developed.

(Reason: to ensure that a suitable landscaping setting is established and maintained.)

9. No work shall start on site until details of the proposed maintenance regime for the sustainable urban drainage solution have been submitted to and approved by the planning authority, in consultation with the appropriate authorities, and shall include written confirmation from those authorities that they will adopt and maintain the proposed arrangements. These details shall reflect the requirement to discharge surface water into the Scottish Water systems. No house shall be occupied until the approved surface water arrangements have been implemented in accordance with the approved plans and maintenance regime and have been certified as being compliant by a suitably qualified professional.

(Reason: to ensure that surface water is dealt with in a manner appropriate to the environment.)

10. No work shall start on site until details of the protection and management of existing field drains to ensure no increase in flood risk within or outwith the site are submitted to and approved by the planning authority, in consultation with Highland Council's Flood

Prevention Team; and the works shall be implemented strictly in accordance with those approved details before any house is occupied.

(Reason: to ensure that surface water is dealt with in a manner appropriate to the environment.)

11. No house on plots 13-30 shall be occupied until the play areas in this part of the site have been provided in accordance with the approved plans and details. Prior to work commencing on any of the other plots on Phase 1 full details of the proposed play area and equipment shall be submitted to and approved by the planning authority and thereafter shall be implemented in accordance with those approved details before any of the houses on these remaining plots are occupied.

(Reason: to ensure the provision of play area facilities for the development.)

12. No house shall be occupied until it is connected to the public water and sewerage network.

(Reason: in the interests of environmental amenity and the provision of services.)

13. No work shall commence on site until a construction management statement detailing a scheme for temporary disposal of surface water, management of field drains (as referred to in condition 10 above), contractor's compound, minimisation of construction waste (including a site waste management plan and re-use of materials) has been submitted to and approved by the planning authority in consultation with SEPA; and the works shall thereafter be carried out in accordance with that approved scheme.

(Reason: to ensure minimal environmental disturbance.)

14. No work shall commence on the construction of any houses until details of final floor levels, which shall be a minimum of 225mm above adjoining ground level, are submitted to and approved by the planning authority; and the houses shall be constructed in accordance with those approved levels.

(Reason: in the interests of landscape amenity and to minimise flood risk.)

15. No work shall commence on any tree felling until:

(a) a pre-construction survey of squirrels, in accordance with recognised guidelines, has been undertaken by a suitably qualified and experienced practitioner, and the results, with any proposals for mitigation of any impacts on red squirrels from any tree work, shall be submitted to and approved by the planning authority;

(b) prior to the felling of the elm tree identified beside the proposed access off the A86, a further bat survey shall be carried out and the results, with any proposals for mitigation of any impacts, shall be submitted to and approved by the planning authority.

(Reason: to minimise environmental disturbance and maintain biodiversity.)

16. No work shall commence on the houses, hereby approved, until details of a scheme for the provision of nesting boxes for bats and swifts have been submitted to and approved by the planning authority; and any house identified for a box shall not be occupied until

provision has been made in accordance with the approved details. *(Reason: to ensure that biodiversity is maintained.)*

17. No works shall commence on site until details of the retention and reuse of stone dykes on the land, which shall include proposals for storage, protection of lichens thereon and methods of re-laying, have been submitted to and approved by the planning authority. These details shall include information on the repair and reuse of the walling alongside Tom Baraidh wood and shall include a timetable for the works, which shall be implemented strictly in accordance with the approved details.

(Reason: to minimise environmental disturbance and maintain biodiversity.)

18. All existing trees to be retained shall be protected during construction works in accordance with the details contained within the approved landscape scheme.

(Reason: to minimise environmental disturbance and maintain biodiversity.)

19. No works shall start on the affordable houses (plots 13-30) hereby approved until full details (by way of samples or brochures) of all external finishes, which shall include the use of timber windows and doors and natural slate or tiles of a profile and size reflective of natural slate, have been submitted to and approved by the planning authority; and the work shall be carried out strictly using only those approved finishes.

(Reason: to ensure that the landscape character of the area is maintained and enhanced.)

20. No works shall commence on the construction of any houses until details of all boundary enclosures have been submitted to and approved by the planning authority, or as detailed on the approved landscape scheme. These details shall reflect the requirement for the front and side enclosures to retain the open, landscaped character of the site (for example, using stone dykes, post & wire fences and/or hedging in native species). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Amendment Order 2011 (or as otherwise amended), the approved enclosures shall thereafter be implemented prior to the occupation of the house to which they relate. Any other boundary enclosures in and around the plot(s) shall require permission from the planning authority.

(Reason: to ensure that the landscape character of the area is maintained and enhanced.)

21. Before construction on any of the houses commences, provision shall be made for flexibility for home working and high speed broadband infrastructure in accordance with details to be submitted and approved by the planning authority.

(Reason: to ensure that the new housing is sustainable.)

22. Unless otherwise agreed with the planning authority, the houses on plots 13-30 shall be retained as affordable housing, and no work shall commence on their erection until details of the contractual arrangements for the provision of the affordable housing, including the timescale, have been submitted to and approved by the planning authority.

(Reason: to ensure compliance with local plan policies on affordable housing.)

23. No work shall commence on the construction of the affordable housing on plots 13-30 until details of the hard and soft landscaping, road finishes, communal parking layout,

existing and proposed boundary treatments, and play areas have been submitted to and approved by the planning authority. The development shall thereafter be implemented in accordance with those approved details before the first house on these plots is occupied, with the exception of the landscaping which shall be implemented in accordance with the approved details during the first planting season following the occupation of any of the houses on this part of the site.

(Reason: to ensure that the landscape character of the area is maintained and enhanced.)

24. Unless otherwise agreed with the planning authority, at least two car parking spaces shall be provided and retained within the curtilage of each serviced plot.

(Reason: in the interests of road safety.)

25. Unless otherwise agreed with the planning authority, no house shall be occupied until all roads and footways/cycle tracks serving it have been completed to at least binder course standard, and until its individual site access has been formed in accordance with the approved plans.

(Reason: in the interests of road safety.)

26. No development shall commence until details of the finishes of all footways, including Jonathan's Brae, and roadways have been submitted to and approved by the planning authority; and the works shall be implemented in accordance with those approved details.

(Reason: in the interests of pedestrian and road safety and the visual appearance of the site.)

27. Before the occupation of any house on the development, details of the proposed residential travel pack to show how sustainable travel measures will be promoted shall be submitted to and approved by the planning authority, in consultation with the roads authority.

(Reason: to support the delivery of sustainable development.)

28. No work shall commence on site until the following information, including plans and a timetable of works, has been submitted to and approved by the planning authority, in consultation with the roads authority:

(a) upgrading of all footway links as identified in the indicative scheme of access to reflect the requirement of all paths (other than pavements) to be of permeable construction in accordance with the advice in SNH guidance on *Lowland Path Construction – a guide to Good Practice*;

(b) details of finishes and, where appropriate, measures to ensure pedestrian safety and priority when crossing any access roads;

(c) a management plan for pedestrian use of the Kerrow Cottage track (Core Path LBS73) during the construction phase; All pathway improvements and provision shall thereafter be delivered in accordance with the approved timetable. *(Reason: in the interests of pedestrian safety and to ensure continued public access.)*

29. Unless otherwise agreed with the planning authority, no construction works, including all deliveries, shall take place outwith the hours of 0800 to 1800 Mondays to Fridays and 0900 to 1300 on Saturdays; and there shall be no work or deliveries on Sundays and Public Holidays.
(Reason: in the interests of residential amenity.)

CNPA Information Notes

(a) This permission must be read in conjunction with planning permission in principle ref. 09/048/CP and its conditions and the terms of the section 75 agreement attached to that permission, dated 18 October 2012, including the time periods for commencement of the development.

(b) It is recommended that bird and squirrel feeders be provided in the domestic gardens to benefit the local bird and squirrel populations and facilitate their movement from adjacent woodland.

(c) The CNPA Ecology Officer noted that an oak tree has succumbed to windthrow which offers an interesting opportunity for biodiversity enhancement if the tree is allowed to develop into a valuable source of deadwood habitat.

(d) With reference to condition 15, the developer is advised of the requirement to obtain a licence from Scottish Natural Heritage for any disturbance of red squirrels if dreys are found as a result of the pre-construction survey.

(e) With reference to condition 16, detailed information on the required dimensions for swift nest sites and design options can be found on the Concern for Swifts project website at www.concernforswifts.com/Opportunities.asp, while roosting opportunities for pipistrelle and brown long-eared bats can be found on the Bat Conservation Trust website at www.bats.org.uk.

Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended))



CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

**Prepared by: KATHERINE DONNACHIE
(PLANNING OFFICER,
DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED:

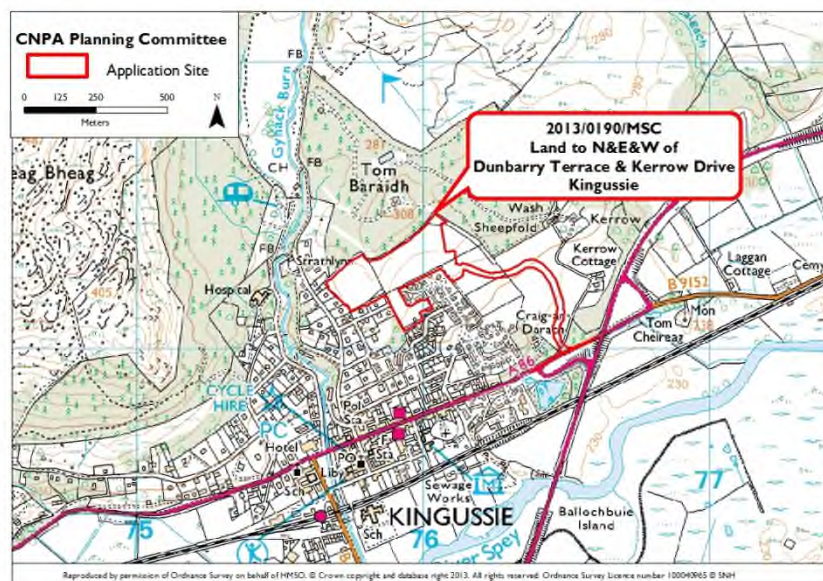
MATTERS SPECIFIED IN CONDITIONS 1, 2, 5, 10, 11, 16, 18, 27 & 29 OF PERMISSION IN PRINCIPLE 09/048/CP RELATING TO SUBMISSION OF REVISED MASTER PLAN, SUPPORTING INFORMATION AND DETAILS OF FORMATION OF CONSTRUCTION HAUL ROAD TO A86 TRUNK ROAD, PHASE I HOUSING LAYOUT FOR 37 SERVICED PRIVATE PLOTS AND 18 AFFORDABLE DWELLINGS, TRUNK ROAD ACCESS, SITE ROADS, DRAINAGE, LANDSCAPING AND WASTE MANAGEMENT; AND VARIATION OF CONDITION 4 TO PERMIT ACCESS FROM DUNBARRY TERRACE/ROAD AND KERROW DRIVE NETWORK AT LAND TO NORTH AND EAST AND WEST OF DUNBARRY TERRACE AND KERROW DRIVE KINGUSSIE

REFERENCE: 2013/0190/MSC

APPLICANT: DAVALL DEVELOPMENTS LTD

DATE CALLED-IN: 17 June 2013

**RECOMMENDATION: APPROVE SUBJECT TO REVISED
LANDSCAPE PLAN AND CONDITIONS**



Grid reference: 275987 E / 801250 N

Fig. I - Location Plan

SITE DESCRIPTION AND PROPOSAL

The Proposed Site

1. The proposed site is located at the eastern end of Kingussie, to the north of Dunbarry Road and to the east of the East Terrace/Arbroilach road part of Kingussie. To the north of the site lie the Tom Baraidh woods. The site is presently fields, which slope northwards from the village and it is readily visible from the other (south) side of the Strath and from Ruthven Barracks. To the east lies Kerrow Farm and Cottage.
2. The site is connected to the north east by the trunk road running through Kingussie, off which construction access will be taken via a new road and junction which will require to cross the General Wade road here. The principle of this crossing has been established at the planning in principle stage. Part of the site at this end is planted with semi mature trees and is identified for economic development in both the Master Plan and the Cairngorms Local Plan.
3. The site is presently crossed by well used pedestrian links leading from the village to the woods. In the northern part of the site there is a natural viewpoint feature looking south, and much of the site has a southerly aspect. An area of land previously included for development at the end of Arbroilach Road has been excluded in accordance with the conditions of the planning in principle consent, as this area was considered to be of considerable ecological interest.
4. The site is bounded by a mixture of post and wire fences and natural stone dykes within and around the site.

The Proposals

5. As members may recall planning in principle consent was granted earlier this year by the Cairngorms National Park Authority (CNPA) for a proposed phased development of up to 300 houses, economic development uses, and community uses including infrastructure, landscaping etc at this designated site at the north eastern end of Kingussie.
6. This consent was granted subject to numerous planning conditions as set out in **Appendix I**, the decision notice. These included the requirement for a revised masterplan to be submitted to cover a variety of details, condition I outlining in detail the type of information which the master plan should cover.
7. In February 2013 an application was submitted seeking consent for matters specified in the conditions of the planning in principle consent. (Ref 2013/0058/MS). This application was withdrawn in May 2013 to enable the applicants to try and address concerns raised by Cairngorms National Park Authority (CNPA) planning officers, principally relating to landscaping, ecology information and access information. This led to the submission of the current application.

8. This application now seeks consent for matters specified in a number of the original condition and includes a masterplan, statement of community consultation, mammal survey and structural landscaping proposals. The application provides details of a first phase layout covering 55 houses, 37 of which are serviced plots, the remaining 18 being affordable houses with detailed designs supplied. A copy of the overall site layout of phase 1 is shown in **Figure 2** below together with a wider layout plan to show the route of the proposed haul road.

Fig 2 a– Proposed Layout Plan

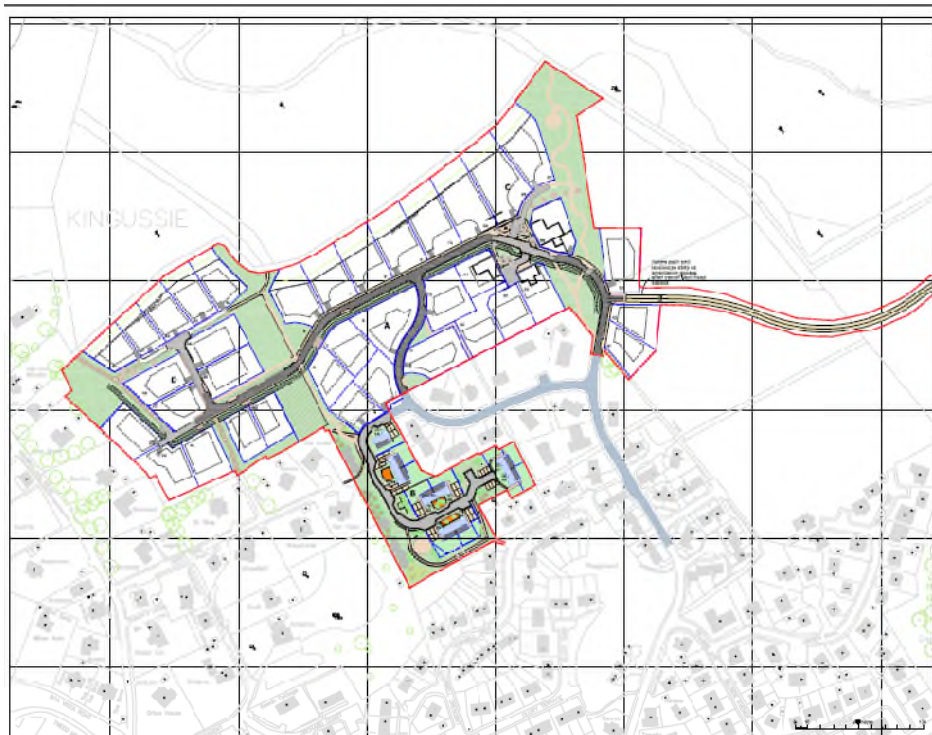
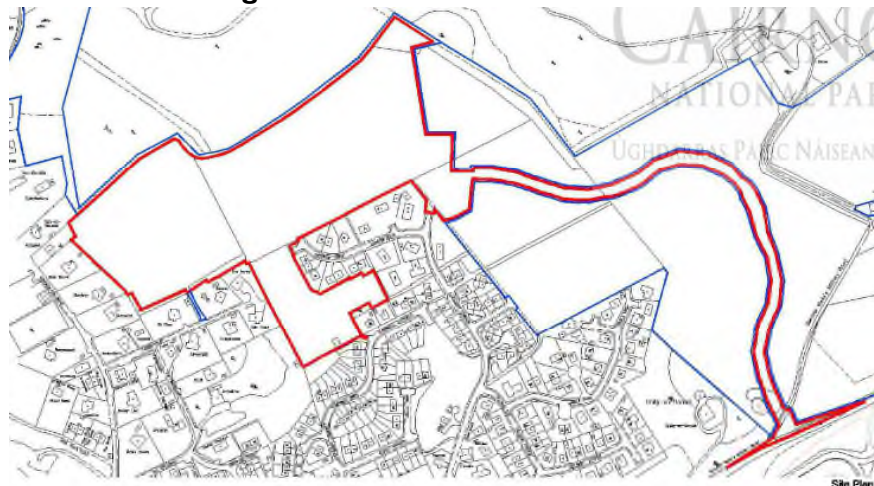


Fig 2 b –Site Plan with Haul Road



9. The application also seeks consent for matters specified in the following conditions:
- Condition 2 – relates to restricting construction traffic to a haul road to be formed direct from the A86 trunk road, and constructed to standard to be agreed. The layout of the road is shown in submitted plans together with its junction point onto the trunk road.
 - Condition 5 – details of design and siting of new buildings, these being the 18 affordable houses. This condition also required submission of sustainable urban drainage details, as well as landscaping details to reflect the need for extensive peripheral tree planting together with proposals to maintain the scenic integrity of the site and provide wildlife corridors, sustainable urban drainage systems and information on fencing and roadways/paths.
 - Condition 10 – details of the access onto the trunk road and relationship to the Wade Road. Details of the junction point reflect previous submissions with the planning in principle consent and illustrate the impact upon trees.
 - Condition 11 – details of visibility splays onto Trunk Road
 - Condition 16 – details of visibility splays and parking arrangements for individual plots.
 - Condition 18 – details of sustainable urban drainage arrangements- these details are provided in a Drainage Impact Assessment and plans.
 - Condition 27 – detailed landscape plan submitted for phase I and for wider development now too.
 - Condition 29- details of waste management strategy submitted.
10. The application also seeks to vary the terms of Condition 4 which prevented any vehicular access being taken via Dunbarry Road. The application now seeks to take vehicular access up the Dunbarry Road network to serve a first phase of 55 houses, with all construction traffic to take access via the new haul road to be formed leading eastwards onto the A86.
11. A supporting transport assessment, including road safety audit, has been submitted outlining why the applicants' engineers consider the Dunbarry network to be suitable for the 55 additional houses proposed. Information has also been submitted to illustrate the measures which the applicants propose in order to improve road safety on this network. This has been the subject of lengthy discussion with both Transport Scotland and the local Roads Authority (Highland Council) with previously proposed measures (as included in the previous application) to introduce traffic lights on the High Street no longer proposed, as it is understood that Transport Scotland did not favour any measures which would slow down the free flow of traffic on the trunk road.

12. The proposed improvements principally take the form of

- anti skid surfacing at junction (replacing a raised table arrangement which was originally proposed when this current application was submitted)
- provision of footway at junction beside 103 High Street with road carriageway width of 5.5 metre provided here. (Garden fence and wall within curtilage of 103 High Street to be re aligned to facilitate these works and as some of these works involved land outwith the applicant's control the agreement of the landowner was sought by the applicants)
- introduction of pedestrian guard rail to re aligned retaining wall
- new footway and carriageway width (both sides) to be defined by bull nose kerbing,
- traffic calming measures, including three additional “build outs” on Dunbarry Road.
- It is also proposed to enhance existing pedestrian and cycle routes to improve connectivity and to complete a pedestrian footway link along Garraline Terrace, replace existing pedestrian steps and provide pedestrian guard railing
- The developers have also agreed to fund the introduction of 20 mph zones (with appropriate signage) at the Garraline Terrace, East Terrace, Campbell Crescent, Cluny Terrace, and lower section of Arbroilach Road networks .

13. **Figure 3 (a) and (b)** below illustrate these proposals.

Figure 3 (a) Proposed Junction Improvements

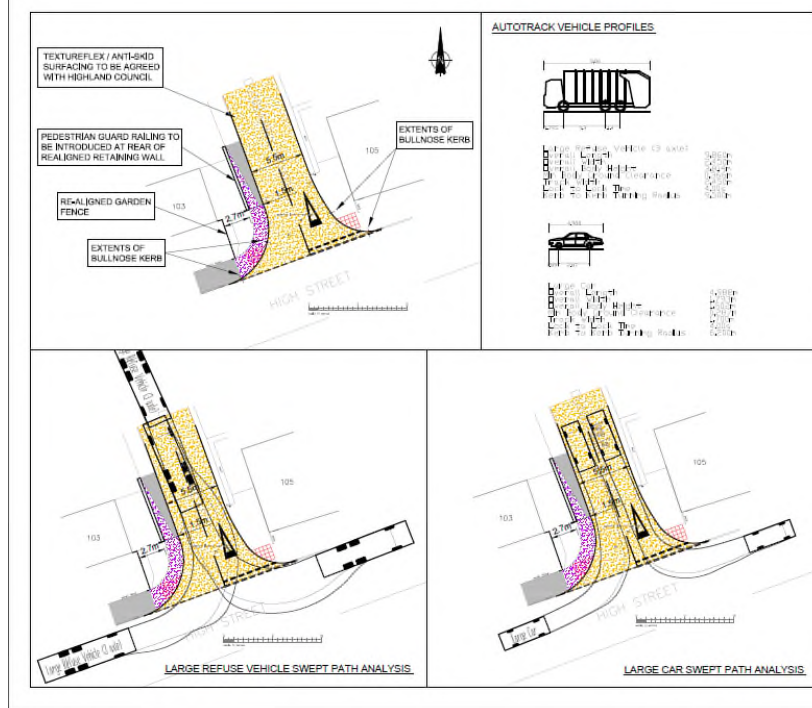
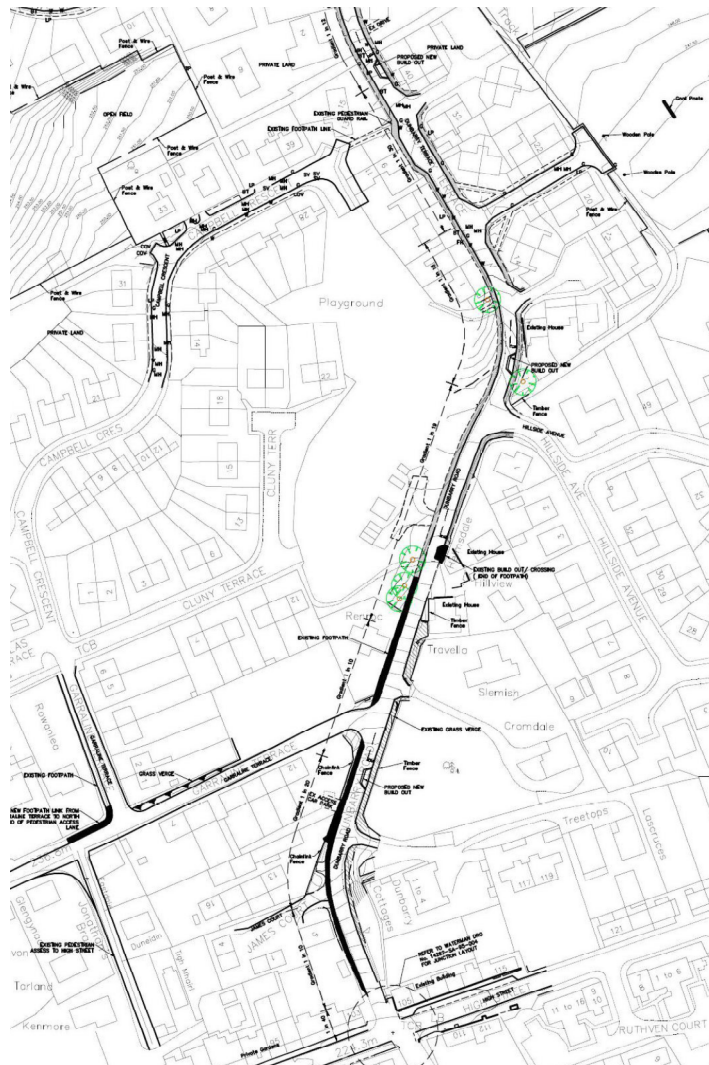
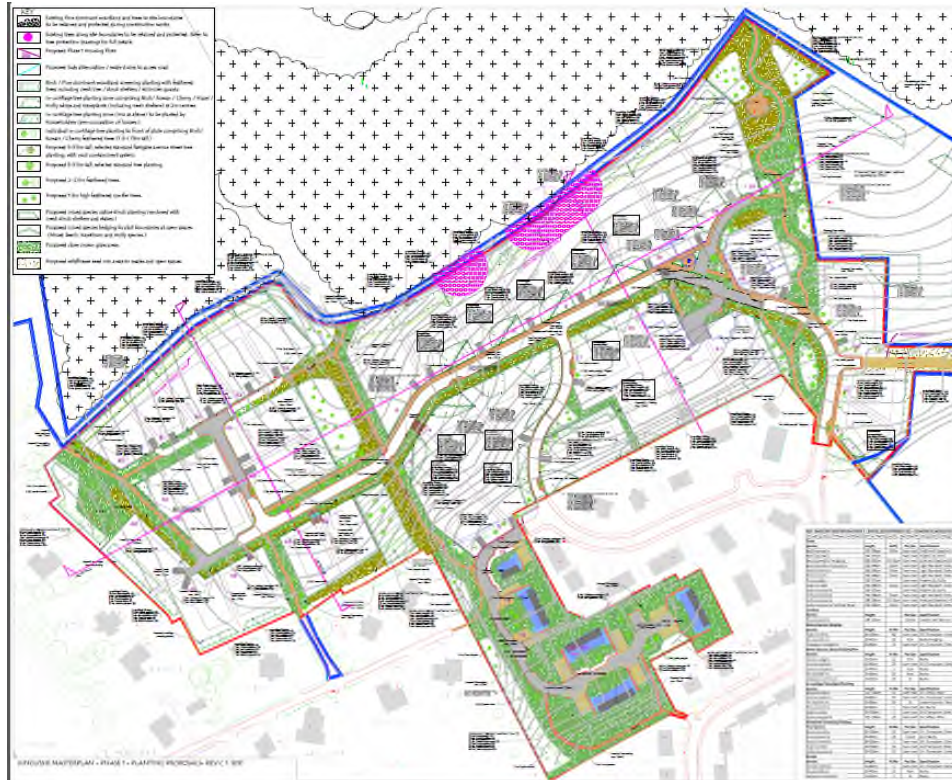


Figure 3(b) Proposed Dunbarry Road Upgrade



14. The general layout for phase I involves re-contouring of the land and provision of blocks of serviced plots with a “square” feature at the eastern end centred around the intersection of roadways. Phase I will be accessed by extending the existing roadways from Kerrow Drive and Dunbarry Terrace with the new haul road leading in from the east to connect onto this network as shown in **Figure 2** earlier. Areas of structural landscaping and open space are shown with footpath networks leading north to the woods beyond together with rationalisation of existing informal footpath links. These landscaped areas are a mixture of in curtilage planting and blocks of structural planting.
15. Some of the in curtilage planting will effectively work as structural planting, but will be maintained by householders following establishment by the developers. This is illustrated in **Figure 4** below.

Figure 4 – Landscape Proposals Phase I



16. Advance structural planting is also proposed for future phases to the east to help establish a setting for future development. This includes swathes of planting across the site in strategic locations, together with planting around the new haul road, designed to mitigate its visual impact. The verges of the haul road will be moulded and seeded. This is shown in **Figure 5 (a) and (b)** below. The applicants have indicated that all this advance and structural planting will be planted as soon as the site servicing and groundworks are complete for phase I.

Figure 5 (a) – Advance Structural Planting Proposals

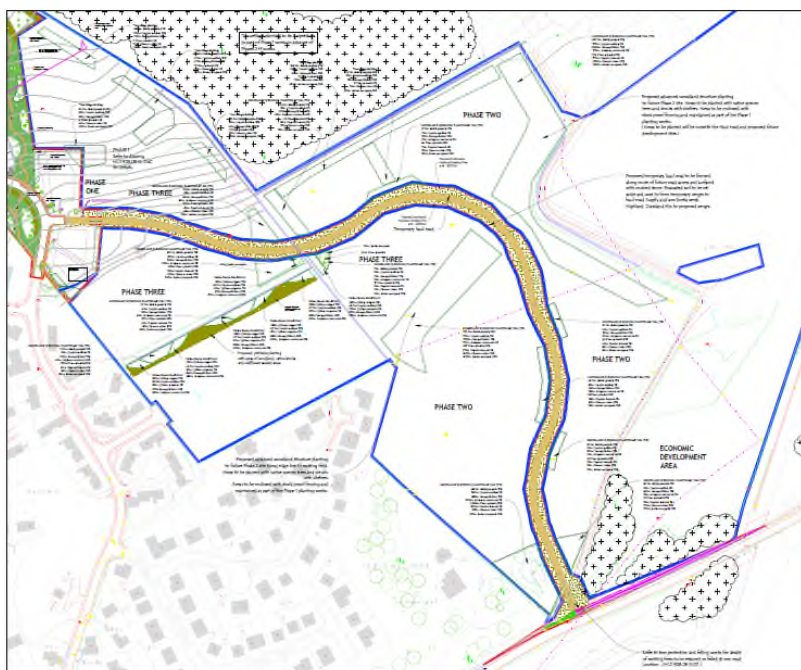
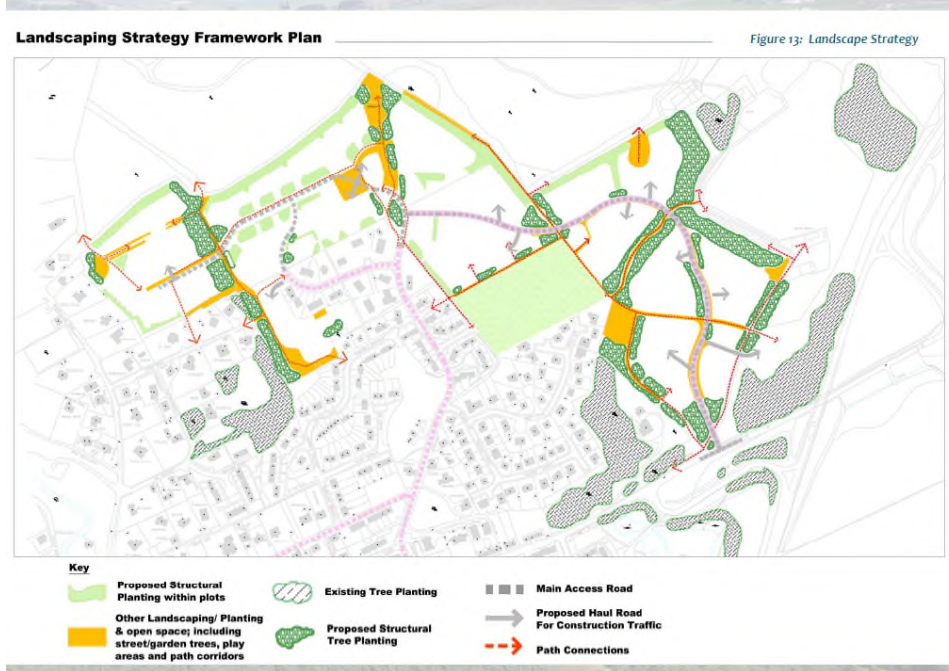


Figure 5(b) Wider Context of Landscaping



17. The wider masterplan submission shows the overall phasing strategy for the site which is basically three 5 year phases of which this current submission is the first phase. This identifies potential areas for community uses and for economic use. The master plan also sets out principles to guide future applications and this is supplemented by a Design Code document. **Figure 6** below shows the suggested layout and sequence of phasing.

Fig. 6 – Overall Phasing Plan



18. The affordable housing proposal is for 18 units, four 4 units blocks and one semi detached 2 unit block, located on an area of “L” shaped sloping land to the rear of Campbell Crescent and Kerrow Drive as shown in **Figure 7** below. An open space area is shown to the west together with a play area.

Fig. 7 – Affordable Housing Layout

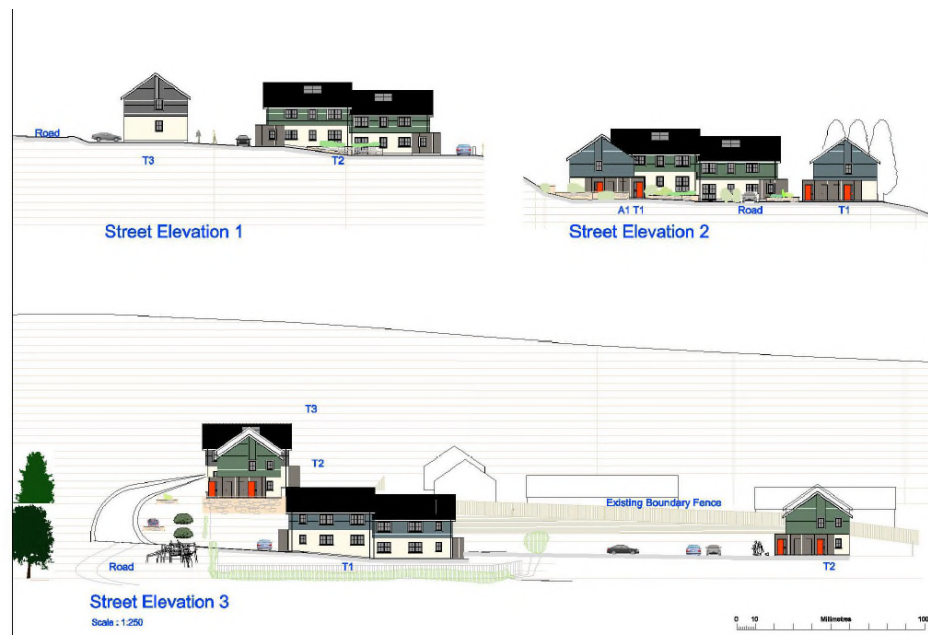


The proposed units are of 2 storey design as shown in **Figure 8** below with a streetscape section provided. These designs have been amended from an earlier submission to take account of concerns raised by the Cairngorms National Park Authority (CNPA) planning officers regarding visual appearance. Proposed finishes are grey tiles, cream wet dash harling and timber walls stained in various colours. UPVC high performance build windows are proposed. They are 2 bedroom units with integral cycle and bin storage provision. A street scene visual representation has been submitted to illustrate how the houses will sit on this sloping site.

Fig 8 - Elevations of Typical House Type

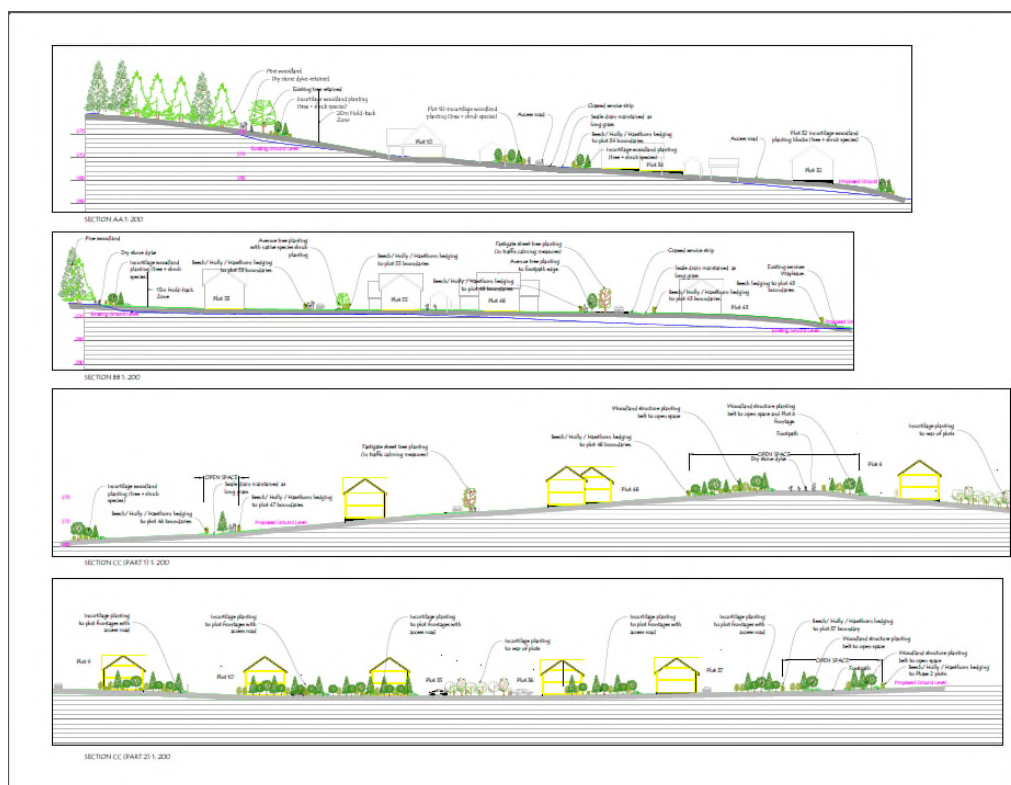


Fig 8– Street scene



19. No details have been provided for house types on the remaining plots and these will require to be the subject of future applications for consideration. The design code sets out the key issues to be considered when designing for new build on these plots and the landscape proposals are intended to enable a setting to be created for future new build. An illustrative section has been submitted to show how development may look and is attached as **Figure 9**.

Figure 9 – Illustrative Street scene for wider site.



20. In terms of servicing as noted earlier the proposal is to take access up the Dunbarry Road network with the main haul road coming in from the A86 and this will be upgraded to serve future phases. Connection to public sewers and water supplies are proposed.
21. The proposed arrangement for surface water disposal is a largely engineered solution involving on site attenuation via tanks in each plot with discharge to surface water sewer and use of roadside swales (with bridges across to access plots) to attenuate roads surface water. It is proposed that this scheme will be adopted by Scottish Water and the Roads Authorities.
22. A waste management strategy has been submitted which outlines general concepts and requirements for the management, storage, and segregation of waste.

Supporting Information

23. The applicant's agent has submitted a statement which is attached as **Appendix 2** which sets out how they consider they have met the terms of the planning decision notice through this current submission. This provides the case for relaxing condition 4 to use the Dunbarry Road network. The applicant's agents have also requested to be **heard**.
24. The following information has also been submitted in support of the application:
 - Mammal Survey
 - Bat Survey
 - Tree Appraisal and Arboricultural Implications Assessment Report
 - Drainage Impact Assessment
 - Transport Impact Assessment
 - Waste Management Strategy
 - Statement of Community Consultation
 - Master Plan and Design Code

Planning History

25. The application seeking planning in principle consent for development was originally considered by the CNPA Planning Committee at their meeting of 30 April 2010 when it was delegated to officers to approve subject to signature of a Section 75 agreement covering affordable housing, education, roads and recycling provision contributions plus some land transfer. Some of the land transfer has taken place (community land to the Kingussie Development Trust) whilst transfer of other portions of land has stalled as at this point in time, as it is understood that the community are not in a position to take on the management and maintenance of the land which includes land known as the "shinty pitch."
26. At the time of this application it was highlighted that the initially submitted supporting master plan should re consider the level of housing in order to ensure adequate landscaping of the site. Accordingly the description was changed to "up to 300 houses" to cover this situation.
27. A further report was agreed by Committee on 6 August 2010 which sought members' agreement to some revisions to the suggested planning conditions in relation to detailed wording.
28. On 9 November 2012 an update report was made to the Planning Committee in order to consider the application in the light of new material considerations, these being the legal challenge to the adoption of the Local Plan and the issuing of Lord Glennie's opinion on this challenge. The planning report was also updated to reflect all material considerations at that time, including current approved Local Plan policies and supplementary guidance as well as the National Park Partnership Plan. It was agreed to grant planning permission subject to registration of the Section 75 agreement. In January 2013 consent for planning in principle was issued (See **Appendix I** detailing the terms of the decision notice)

29. As noted in paragraph 7 earlier an application seeking consent for matters specified in conditions was submitted in February 2013 (reference 2013/0058/MSC) which was subsequently *withdrawn* in order that the applicants could consider concerns raised and submit a revised application. This application gave rise to considerable local objection and included provision for traffic lights on High Street and limited structural landscaping within the site. Ecology surveys were incomplete together with other deficiencies.

DEVELOPMENT PLAN CONTEXT

National policy

30. **Scottish Planning Policy (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It sets out that planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth and has the basic aim "to achieve the right development in the right place."
31. SPP sets out the Scottish Government's objectives of creating successful places and achieving quality residential environments which should guide the whole process of delivering new housing. It highlights that the siting and design of new housing is required to take account of its setting to create places with a distinct character and identity.
32. Also relevant are the Scottish Government publications "Designing Streets" and "Designing Places" which emphasise the need to create communities with a strong sense of place. Designing Streets expressly sets out that street design must consider place before movement explaining that street design should meet the six qualities of successful places (as set out in Designing Places) these being : distinctive, safe and pleasant; easy to move around, welcoming, adaptable, and resource efficient and sustainable.
33. The need to create inclusive environments is stressed and the fundamental importance of designing development to make the most of its setting in the landscape and so avoid today's common failing of looking and feeling as if the development could be anywhere.
34. Finally the Scottish Government's Planning Advice Note on Master Planning sets out the key issues to be addressed when preparing a master plan with checklists provided of matters to consider.

Strategic Policies

Cairngorms National Park Partnership Plan 2012-2017

35. The Cairngorms National Park Plan sets out the vision and overarching strategy for managing the Park and provides focus and priorities at a time of limited financial resources. The Plan also provides a strategic context for the Local Development Plan and shows how the four aims of the National Park can be achieved together. It sets out the strategic direction and priorities for the Park. Three long term outcomes for the Park are set out as follows:
- A sustainable economy supporting thriving businesses and communities;
 - A special place for people and nature with natural and cultural heritage enhanced; and
 - People enjoying the park through outstanding visitor and learning experiences.
36. Kingussie is highlighted as a main settlement in this Plan and policy 1.2 applies which seeks to enable sustainable patterns of settlement growth, infrastructure and communications by consolidating the role of main settlements. Policy 2.8 of the Plan is also of particular relevance and this seeks to enhance the design and sense of place in new development; ensure new development contributes positively to the sense of place, promoting a high standard of sustainable design, supporting the retention and enhancement of local character and ensuring that road upgrades and improvements respond to local landscape character.

Highland Structure Plan (2001)

37. This set outs broad policies applicable to this type of development and highlights the importance of availability of quality housing to social and economic well being , with various policies (policies G2 and L4) setting out the importance of sustainable design, maintaining and enhancing landscape character

Local Plan Policy

Cairngorms National Park Local Plan (2010)

38. The site is specifically designated for development in the Local Plan (H1) with the settlement statement noting that it provides land for short and longer term housing supply in Kingussie. It also highlights that phasing will need to take into account access provision to the site, and the capacity of the existing road network. The settlement statement further notes that access should be taken from the local road network, and a traffic impact assessment will be required to ensure development of this site and others in Newtonmore do not create an unacceptable cumulative impact on the A86 or A9. The settlement statement also highlights that the CNPA in partnership with partners will produce a masterplan for the site. Part of the site is designated under ED I for economic development.

39. As members are aware new development requires to be assessed in relation to all policies contained in the Local Plan. A summary of the relevant policies is provided in **Appendix 3** together with the full text of the settlement statement. Key policies in this case are as follows :
40. Policy 16: Design Standards for Development which sets out the design standards to be met with new development and is supported by supplementary planning guidance in the form of the sustainable design guide
41. Policy 6; Landscape which sets out that there will be a presumption against development which does not conserve and enhance the landscape character of the National Park unless any significant adverse effects are outweighed by social or economic benefits of national importance and all adverse effects can be mitigated.
42. Policies 4 : Protected Species and 5 :Biodiversity which again presumes against any development which would have an adverse effect on habitat or species identified in the Cairngorms Local Biodiversity Plan or upon European Protected Species.
43. Policy 20: Housing Development within Settlements which supports proposals on allocated sites providing the proposals reinforce and enhance the character of the settlement and accommodate within the site appropriate amenity space parking and access arrangements.

CONSULTATIONS

44. **The CNPA Landscape Officer** has been involved with Planning Officers in ongoing discussions with the applicants and their agents. These discussions have sought to ensure that there is sufficient structural landscaping proposed in order to meet the requirements of the original outline consent and the landscape objectives set out in a landscape capacity study carried out for the CNPA in 2005, all of which set out to ensure that new development reflects the character of Kingussie. Specifically to ensure that a layout is achieved which reduces the impact of the development on the wider landscape; creates a high quality internal structure within which housing can be developed; and provides a framework for an attractive addition to Kingussie.
45. The Officer is now generally satisfied that the overall layout and identified structural planting and landscaping areas will help to achieve these objectives, and will mitigate the impacts of construction of the new haul road and the re-contouring works proposed to deliver phase I.
46. The Landscape Officer originally sought that all planting be outside of plot curtilages in order to ensure that the planting was delivered and maintained in a coherent manner. A practical alternative has now been proposed which is considered to be acceptable, that being the applicants plant all identified landscaping areas in the first planting season following the provision of roadways and ground contouring for phase I and thereafter maintain these areas. Some areas as shown on the landscape plan will be in curtilage and will be maintained by

the developer, until such time as the individual plots are developed whereupon the householder will take on responsibility.

47. The Landscape Officer, whilst generally content with the overall approach has identified the level of further detail required in terms of finer detail, as well as provision of management and maintenance plan, which will be required to ensure delivery of the wider objectives. The officer's detailed comments provide a clear basis for the applicant's to develop this information. This will also require drafting updates to both the master plan and design code.
48. **The CNPA Ecology Officer** advised with the previous application that a more detailed survey of places of rest and/or breeding sites for protected mammals be carried out, with any survey for wildcat extending to at least 200 metres from the development boundary to the north, with other protected mammals surveyed for at the same time. A bat survey was also required in the area where trees are to be removed (new access onto A86) with full details of tree loss here to be provided. The officer also recommended that habitat corridors be created through and around the development.
49. The revised submission has addressed these points and the Ecology Officer is generally satisfied with the proposals highlighting that in the event of the application being supported there are a number of matters which would require to be addressed and implemented including:
 - Care being taken when altering/moving drystone dykes to ensure that impacts to the lichen which they support are minimised
 - Provision made to enhance biodiversity through provision of bat and bird nesting and roosting opportunities.
 - Pre construction red squirrel survey being carried out and further bat survey if tree felling proposed beyond time scale of current survey.
50. The officer has also considered the representation received regarding potential for impacts upon invertebrates and concluded that the current habitat on the site is unlikely to support the type of invertebrates cited by the writer. (Finally, the need for future details being provided of compensatory planting in relation to loss of trees on economic development land in later phases of development was highlighted previously by the Ecology Officer)
51. **The CNPA Access Officer** concludes that whilst the development will have a significant impact upon access and recreation currently enjoyed on the site, this will be mitigated by the network of paths which will continue to provide access, including an existing core path from Acres Road into the woods (Core Path LBS143). Recommendations are made for upgrading of informal access points (specifically between St Giles and Benula, end of Acres Road, and from Campbell Crescent) presumption of pedestrian priority at road crossings and construction of paths to lowland path construction standards, and finally the management of pedestrians and traffic during construction phase. These issues could be covered by appropriate planning conditions in the event of the application being supported.

52. **Highland Council's Forestry Officer** has considered the Arboricultural Implications Assessment, and notes that trees will require to be removed to facilitate access onto the A86, and that this tree loss should be compensated by planting elsewhere. A tree constraints plan will be required to ensure protection of existing trees. The officer has no objection to the landscape plan in general, but notes that some of the planting areas are very narrow and will lack visual impact, raises concern regarding the future management of in curtilage planting and finally suggests further consideration be given to use of oak where it may grow large and cause future issues for residents. *(Note: Revised landscape plans received following discussion with the CNPA Landscape Officer have largely addressed these concerns).*
53. **Inclusive Cairngorms** were consulted and this included feedback from the Badenoch and Strathspey Access Panel. They advise that Dunbarry Road should not be used as a thoroughfare, and consider that the traffic calming measures will not reduce traffic, simply slow it down and could increase congestion resulting in more problems for children, the elderly and persons with prams as there are no pavements. They seek assurance that the housing is 100% compliant with the requirements of the Equality Act. Finally concern is raised regarding the ability of existing services to cope with this proposal including medical services and schooling.
54. **The CNPA Economic Development Manager** highlights that there are inherent benefits to the economy arising out of any sizeable housing development in relation to benefits to local contractors during construction stage; benefits to employers through provision of affordable housing (given that the lack of this type of housing has been identified as a significant barrier to attracting and retaining staff); and benefits to local businesses as a result in increased demand for their services.
55. In this case the provision of 18 affordable housing units will help address a recognised failure in the local labour market. The statements in the master plan setting out that housing will have built in flexibility for home working with infrastructure for high speed broadband connection provided. However this is not reflected in the submitted details.
56. The Economic Development Manager has considered the plans for phase 2 which includes the designated economic development land and welcomes the statements made relating to making starter unit provision to meet short to medium term priorities, as identified by the Cairngorms Business Partnership (CBP) and the Cairngorms Economic Forum (CEF), in order to attract younger people engaged in digital media type businesses together with identification of scope for larger office and /or light industrial workshop premises with ancillary retail use. It is noted that as phase 2 will not be developed until around 2019 at the earliest it is difficult to ask for more detail just now, however the linkages established with the CBP and CEF appear to be positive and if continued should help to ensure a wide knowledge of business needs when phase 2 is being developed.

57. **Highland Council Traffic and Transport Planning Team** when considering the previously submitted MSC application (2013/0058/MSC) noted that they had previously accepted limited additional development could be served by Dunbarry Road, subject to further traffic calming measures along the road and substantive improvements at its junction with High Street. (These improvements being required primarily to improve pedestrian safety)
58. They have now considered the Transport Assessment (TA) information and junction proposals as submitted with this current application and initially concluded that the proposed junction improvements did not provide sufficient road safety improvement at the Dunbarry Road/High Street junction. They set out what would be required to significantly improve the layout and performance of the junction, setting out minimum standards as follows:
- 5.5 metre carriageway between kerbs
 - 1.2 metre wide footway on west side of road
 - 6 metre edge radii at bellmouth
 - Appropriate road markings and surface colour.
59. The Team highlighted that the developer would need to demonstrate that these standards could be met and noted that it appeared to involve a small piece of land outwith the applicants' control.
60. In relation to other road safety aspects of the application they sought further information on a number of aspects including details of wider traffic calming measures and visibility splays within the development.
61. In response to these comments the applicants provided revised information including a revised plan of the proposed junction improvements which sought to reflect the requirements set out by the Team. The Team advised that they were generally satisfied with the revised proposals subject to a condition being imposed requiring the works to be completed before work starts on site. They also noted that it was their intention to meet with the affected landowner and the developers to discuss the proposed junction improvement and how best to progress this.
62. They further advised that the detailed design of traffic calming measures for the Dunbarry Road/Terrace area could be agreed through the road construction consent process. They also accepted that introduction of suitable traffic calming measures on the Garraline Terrace and East Terrace network may be difficult, so in order to discourage through traffic and to enhance the safety of all users they recommended that 20mph restrictions are introduced on these routes along with the Campbell Crescent, Cluny Terrace and lower section of Arbrogilach road, and Mill Road areas. (The applicant to meet all costs of these works.)
63. Other matters were considered to be satisfactory subject to imposition of various planning conditions

64. Following on from these ongoing discussions, (which included a meeting between the developers, roads officers and the landowner) and in response to a formal consultation from this Service, the Team advised they were generally satisfied with the revised junction arrangement proposed and considered that these works, together with the additional traffic calming measures, Safer Routes to Schools measures and speed restrictions proposed, will represent a significant improvement in general road safety. They also recommended that a condition be imposed regarding provision of car parking for the affordable housing.
65. **Transport Scotland** was consulted given that the development will be accessed off a trunk road. They had no objections to the application subject to a planning condition being imposed requiring that details of the junction arrangements be agreed with them prior to development commencing. They were consulted again on receipt of the revised junction plans and similarly have no objections subject to the works being implemented.
66. **Scottish Environment Protection Agency (SEPA)** has reviewed the Drainage Impact and Hydrology Assessment and other SUDS construction details and is satisfied that their interests have been adequately addressed. They initially raised concerns regarding the discharge of condition 29 (waste management strategy) on the basis that this should address construction waste and the movement of waste around the site. Following receipt of further information from the applicants SEPA now advise they have no objection subject to a revised Construction Management Statement being agreed once a contractor is appointed – this should include the site waste management plan and details of re-use of materials.
67. **Scottish Water** has been consulted, and was asked to confirm whether the surface water drainage arrangements are acceptable in terms of connecting to their systems. They have confirmed that they have no objection to the application. They note that Aviemore water treatment works may have capacity to serve the development, whilst Kingussie Waste Water Treatment works at present has limited capacity to serve this new demand. In both cases the developer requires to discuss this directly with Scottish Water as in some cases it may be necessary to fund works on existing infrastructure to enable their development to connect. Surface water requires to be discharged to a suitable outlet with sustainable urban drainage systems required if adoption by Scottish Water is proposed.
68. **Highland Council Flood Team** initially reviewed the Drainage Impact and Hydrology Assessment and noted the proposal for road run off to ultimately drain into the new surface water network, via SUDS. They sought confirmation that Scottish Water has agreed to accept this road run off into the adopted sewers as they are not obliged to do so. They also sought clarification of impacts on existing field drains and any downstream properties plus incorporation of 20% allowance into storage design for climate change. (They also highlighted that further discussion would be required between the applicants and the TECS department of Highland Council regarding adoption of road drains, filter drains and swales.)

69. On receipt of further information the Team have now confirmed that they are now generally satisfied with the proposals. They also highlight that Scottish Water generally advise that road drainage is the developer's responsibility, and consequently further discussion is required between the developer and the Roads Authority regarding adoption as the Flood Team understand that the proposed geocellular attenuation road drainage system would not be adopted by the Council.
70. In conclusion they confirm they have no objection to the proposals subject to imposition of conditions regarding further details of the design being agreed particularly in relation to details of existing field drains to ensure no increase in flood risk within or outwith the site. Also a condition relating to final floor levels being imposed.
71. **Highland Council Waste Management Service** has been consulted on the proposed waste management strategy and their comments remain outstanding at the time of writing. Reminders have been sent but no response has been received to date.
72. **Highland Council Education Service** has been consulted on the masterplan's identification of possible future community use sites, and their comments are awaited at the time of writing. Reminders have been sent but no response has been received to date.
73. **Highland Council Housing Service** has been consulted on the proposed affordable housing component and whether this has been identified by the Council as a "shovel ready" project, and any comments on the nature and delivery of affordable housing which require to be agreed for each phase. They have confirmed that there is a need for affordable housing in Kingussie, and the nature of the proposed housing is suitable. They are not currently in a position to commit to funding this housing, but advise that this can be reviewed at a later date as per the terms of the existing Section 75 agreement covering this site. They have previously advised verbally that the proposed provision will provide for all abilities use, whilst the location itself is also considered appropriate being located within the community with good links to the local facilities.
74. **The National Health Service** has been consulted on the master plan's identification of possible future community use sites and their comments remain outstanding at the time of writing. Reminders have been sent but no response has been received to date.
75. **Kingussie and Vicinity Community Council** has objected to the application and their detailed comments are attached as **Appendix 4**. The Community Council have also requested to be **heard**. They have welcomed the reduction in numbers of houses on the site to 130 and are generally happy with the proposed Design Code other than the lack of clarity on boundary enclosures and height/density of development. They also accept the principle of development of the site, but believe it should be of the highest quality and not be detrimental to the rest of Kingussie. (*Note – the application does not state there will be only 130 houses, the only definitive number is 55 for the first phase, with the master plan*

suggesting numbers of around 85 to 130 houses in phase 2, and 60 to 115 in phase 3, giving a notional total of between 200 and 300 houses for the entire site)

76. Against this background the Community Council remain concerned regarding a number of key areas which are summarised as follows:

- Design code alludes to high density housing which is not appropriate to Kingussie nor is two storey housing on this site
- Concerns regarding boundary finishes and plot ratios as covered in Design Code
- Need to provide buffer planning around perimeter of site before any development takes place in order to protect amenity of existing houses particularly given long time scale of the proposed development.
- Welcome provision of affordable housing and improved design, but consider it would be better located beside the new access road where residents could access the town by a flat walk as opposed to hillside.
- Inadequate mammal survey in relation to surveying for wildcat
- Concerns regarding loss of trees
- Lack of clarity on total number of houses proposed
- Concerns regarding adequacy of drainage impact assessment.
- Serious concern regarding use of Dunbarry Road network with no justification to relax the planning condition imposed on the original consent. The following key points are made.
- Road network is not suitable to cope with extra traffic, and this was recognised in 2002 when development at Croila View was restricted and traffic calming measures required.
- There is a culverted burn directly under Dunbarry Road whereby the Community Council is not convinced as to its ability to cope with extra traffic without major strengthening works taking place.
- Allowing access off Dunbarry Road will set a precedent for further phases to take access this way
- Applicants' submission underestimates the level of increased traffic and the amount of traffic to be generated by the new development
- Timing of Road Safety Audit and traffic surveys did not reflect normal conditions
- Statements made in transport assessment relating to ability of site to be served by public transport are misleading, as residents will be largely dependent on cars.
- Question whether new road onto A86 will ever be built if relaxation of condition 4 is permitted and note that developer has always been aware of the requirement to access the site from a new access onto the A86 – request condition be attached requiring installation of wheel wash at site entrance here to ensure no mud and debris is dragged onto the road.
- The works proposed to Dunbarry network serve to emphasise the unsuitability of the network for further traffic.
- Proposed raised table will be inherently unsafe, particularly in wintry conditions, whilst position of traffic calming build outs is also unsafe, obscuring visibility and impeding safe progress on the road
- Extra traffic will conflict with safety of children using playpark on Campbell Crescent.

- Conclude that whilst Dunbarry Road is in need of improvement the Community Council consider that improvements made to enable a significant amount of extra traffic are not improvements to the situation at all. Also costs of implementing these improvements could be offset by simply constructing and using the new access onto the A86
 - Foul sewers inadequate to serve further development
77. Finally, the Community Council were asked to comment on the potential uses of community land as identified in the applicants' master plan. They advise that it is difficult at this time to identify a use for this land and suggest it be planted up and kept available to the community should a need be identified in the future.

REPRESENTATIONS

78. The application was advertised in the local press (Badenoch and Strathspey Herald) when received by Highland Council and a total of 52 letters of objection, plus petitions opposing the removal of condition 4, have been submitted which are attached as **Appendix 5**. (The petitions take the form of a handwritten petition signed by 89 parties and on line petitions with 128 names.)
79. The majority of objections focus upon the use of Dunbarry Road and some writers highlight that they are not opposed to development on the site, only to the means of access. Concerns can be summarised as follows:
- Dunbarry Road network is unsuitable for increased traffic and already serves 200 houses. Junction is unsafe, with no suitable footpath or drainage. Roads are too narrow causing vehicular and pedestrian safety issues particularly in relation to children using and accessing play park/sledging in area as well as walking to school.
 - Traffic calming measures proposed on Dunbarry road network will cause problems for drivers and there are insufficient measures to improve safety on East Terrace and other roads
 - Increased traffic will cause disturbance for residents including air quality issues together with safety issues for autistic children.
 - Proposed traffic lights as junction of Dunbarry Road onto High Street will cause chaos, loss of valuable on street parking and create a short cut along East Terrace for drivers wishing to avoid traffic lights, to detriment of pedestrian safety. (*Note: This current application does not propose traffic lights*)
 - Proposed raised table at junction is unsafe on sloping road and in wintry conditions (*Note the raised table has been removed in favour of a shared surface and footpath layout now*)
 - Proposed new footpath along Garraline Terrace is not practical as road is not wide enough.
 - Applicant's case for using Dunbarry Road network is based upon profitability issues which are not land use planning considerations.
 - There is no sound basis to relax previously agreed planning condition to prevent access via Dunbarry Road network and it would be inconsistent to do so. If this condition is relaxed further development on this site will take access via Dunbarry Road too.
 - Community feedback has been ignored, for example, community concerns regarding use of Dunbarry Road.

- If development proceeds it will be difficult to prevent construction traffic using Dunbarry Road network with further loss of amenity for householders
- Affordable housing would be better located beside new access point onto trunk road with current proposal being unsuitable for persons with disabilities due to steepness of site.
- Landscape buffer zone between proposed housing and existing housing in Kerrow and Croila areas is required.
- Drainage impact assessment inadequate and was carried out in unrepresentative weather conditions.
- Affordable housing layout is too “crammed” in.
- Application is contrary to Local Plan which identifies that a new access is required to service this land. (*Note: The Local Plan designation for this site states that “access should be taken from the local road network” and that “phasing of the site will need to take into account access provision to the site and the capacity of the existing road network.”*)
- Given scale of development an Environmental Impact Assessment should have been carried out. (*Note: the original planning application was “screened” by Highland Council as the Authority to whom the application was to be submitted and it was determined that an EIA was not required. The current application seeks approval of matters specified in conditions relating to that consent and does not raise any new issues, but rather points of detail with environmental information submitted to support the proposal.*)
- Quality of Mammal Survey is queried as there is evidence of badgers, red squirrel and pine martin in woodlands and on site.
- Impacts on designated sites in wider area.
- Inadequate consideration of invertebrates– *Note the terms of the original planning in principle consent required submission of a mammal survey only based upon consideration of the site at that time. However the CNPA Ecology Advisor has considered this point and this is covered in the officer’s response.*
- Long time scale of development means community will have to live with adverse amenity impacts for up to 20 years
- Property devaluation in an area where there are already other houses for sale (*Note: this is not a material planning consideration*)
- Existing services such as schools, water and drainage cannot cope with additional development

APPRAISAL

Principle

80. The principle of development on this site is established by the earlier grant of planning in principle consent and also by the Local Plan designation. As such it is only the detail of the submission which is under consideration to determine whether or not it complies with the terms of the original consent, and also whether it complies with national and local planning policies which seek to ensure high standards of design and layout with new development. This is of particular importance in the National Park in order to fully comply with the aims of the Park. In this regard the application raises the following key planning issues.

Key Issues – Road Access

81. When the previous application for planning in principle was approved on this site the Planning Committee agreed with officer recommendation that access should not be taken up Dunbarry road, in view of the nature of the road and the level of concern raised by the wider public. The current application now seeks to relax planning condition 4 of the original consent and permit access up Dunbarry Road to serve phase I of the wider development -55 houses. This access arrangement is fundamental to the consideration of the current application as it will serve this first phase of development and if it is not accepted the layout would require to be re-designed. It is therefore a key component to be considered first and foremost with this application.
82. The applicants have sought to substantiate their case to relax the condition through submission of a traffic assessment and safety audit seeking to demonstrate that their proposals will not adversely affect road safety. They have set out the improvements they would undertake to the junction of Dunbarry Road and High Street, additional traffic calming measures on Dunbarry road and further traffic calming/pedestrian safety measures on the road network which feeds into Dunbarry Road including paying for introduction of 20 mph zones in these areas.
83. The Roads Authorities have considered this case and agree that the proposals represent a significant improvement in road safety and raise no objections subject to imposition of appropriate planning conditions. Part of the land required to deliver the junction improvements lies under the control of another party, who has agreed to the principle of these works. Accordingly as there is a reasonable prospect of delivery of the works it would be appropriate, in the event of the application being supported, to attach a planning condition requiring the junction improvements to be carried out before work started on site.
84. As outlined earlier in this report a considerable volume of objection has been received to the application, much of it relating to the proposal to use the Dunbarry Road network. This opposition includes objection from the local Community Council. These concerns are fully appreciated and understood. However the improvements proposed by the applicants with this application are considered to overcome this Service's initial concerns regarding access being taken up Dunbarry Road, in view of the Roads Authority, as noted earlier, advising these works constitute a significant improvement in road safety.
85. It would therefore be difficult in land use planning terms to conclude that the proposal was unacceptable. These improvements represent a material change as compared to the original planning in principle application which did not offer any significant improvements to the road network

86. The community have also raised concern that relaxing this planning condition would result in it being difficult to resist any future proposals to access other phases via Dunbarry Road and that the new haul road would never be brought up to standard and used for the other phases. It should be stressed that any support from the Planning Authority for taking access from Dunbarry Road is on the basis of the limited (55 houses) scale of development and the improvements proposed. Any proposal to access future phases this way would require consent.
87. However in order to provide some comfort to the community on this point the applicants have offered to hand over to the community, the piece of land which connects phase I of the site to the haul road in order that the community can be assured that it may not be used for access in the future. This would provide some assurance on this subject and appropriate planning conditions can be imposed regarding the treatment and use of this piece of land in the event of the application being supported.

Key Issues –Landscape Setting and Layout

Landscape Setting

88. This is a sloping site which is prominent as viewed from the Ruthven Barracks viewpoint and from the Kincaig to Kingussie back road. The site forms an important visual backdrop to the village and is the major development site in Kingussie. It is a key site in the village and its development will set the character of the village for years to come. It is therefore essential that the site layout complements and enhances the landscape character of Kingussie in accordance with Local Plan policies, and indeed in accordance with the aims of the original planning consent here (see **Appendix I**).
89. Kingussie is an attractive town, the character of which is set by a combination of the following factors:
- the traditional houses on the high street
 - houses in the south western part of the village set in well landscaped gardens
 - the backdrop of Tom Baraidh hill to the north
 - the organic growth of the existing new housing at the eastern end of the village
 - the topography of the area
90. It is therefore important that this character is reinforced by any new development in accordance with local plan policies.
91. In this regard members may recall that the previous master plan (as submitted with the original planning in principle consent) was not considered to provide sufficient direction for future developments to follow. The current masterplan provides considerable information on national and local policy aspirations and refers to previous landscape capacity studies at this site in order to inform the framework for development here, together with the accompanying design code. It includes plans setting out future phasing arrangements and landscape/footway network frameworks.

92. The detail of the submission showing re-contouring of the entire phase one site which, together with the provision of the new haul road from the A86 , will change the character of the hillside. These impacts will be mitigated by advance structural planting as shown in earlier figures, earlier, with a landscape framework now proposed which will create both buffering between the site and existing housing, and stronger vertical and horizontal landscaping throughout the site than was proposed with the earlier MSC application (reference 2013/0058/MSC).
93. It is considered that this overall layout, together with in curtilage planting, will help to ensure over time that the development reflects the character of the older part of Kingussie which, as noted earlier is set by housing set in well landscape, mature gardens creating a very attractive quality to the town.
94. Overall, in general terms, it is considered that this level of planting is sufficiently significant and effective to enable the overall layout to meet the requirements of national and local planning policies, which stress the importance of ensuring that new development complements and enhances the landscape and reinforces the character of the settlement. It will enable the new development to sit well in the landscape and the CNPA's Landscape Advisor has concluded that this framework is appropriate subject to suitable details of future management and maintenance being secured and also subject to further details being included in the landscape scheme.
95. It is however essential that further thought is given to ensuring this level of landscaping and structural planting is actually implemented and delivered at the earliest possible opportunity since, as noted by objectors, it may be many years before the entire site is developed and it would be detrimental to the amenity of residents of Kingussie and indeed the new development if the site appeared as a building site for many years
96. Following ongoing discussions the applicants have confirmed agreement to implementing the identified planting as soon as the groundworks and site servicing is complete, in order to begin creating an effective landscape setting. Thereafter they will maintain the landscaping in accordance with a detailed landscape management and maintenance plan which will require to be agreed.
97. Areas identified for in curtilage planting will be implemented by the developer at the outset and handed over to plot owners as and when they build their own houses. The applicants originally expressed concern regarding this approach, in terms of the potential for planting to be damaged when individual houses were being built. However, this has been addressed by adopting a "two phase" approach to advance planting of roadside in curtilage areas by planting an initial area at the outset to provide the basic setting, and expanding this once the individual houses are built.

98. This approach will require great care in terms of securing a very clear management regime and landscape plan which can be followed and enforced. This Service is however confident this could be achieved with further work by the applicants. However at this stage it is considered important to establish first whether the overall layout, taking access from Dunbarry Road, is acceptable before committing the applicants to the additional costs involved at this stage in preparing further detailed landscape information.

Layout

99. Also in relation to site layout the issue of the configuration of plots and roads requires to be considered. The overall layout is largely dictated by the formation of access to the site from the haul road leading eastwards from the A86 to serve the development, with roads formed off this to service the site, along with the proposal to take access off the existing Kerrow Drive/Dunbarry Road network for phase I.
100. This approach has resulted in a layout of frontage plots on the eastern part of phase I and cul de sacs on the western part, and finally the affordable housing on an L shaped access road.
101. This is considered to be broadly reflective of development in Kingussie and a pragmatic approach to developing a large site. Of considerable merit with the layout are the proposals to integrate and improve existing pedestrian routes into the site from the surrounding housing areas and also into the woodland beyond which is welcomed.
102. As noted above the landscaping proposals have been considerably enhanced since previous submissions and will over time enable this development to sit well in the landscape. Also of note is the proposal, developed following discussion with the CNPA Landscape Advisor, to see the edges of the haul road and also any undeveloped plots in phase I seeded, which will avoid the appearance of a building site. This, together with the advance planting, hopefully also help to make the site more attractive to prospective purchasers.

Key Issues – Design

103. A design brief is contained in the Master Plan document which largely covers generic issues and principles which in general terms accord with national and local policy aspirations. It is accompanied by a design code document and these both seek to set out general principles for new development to follow. These principles are generally satisfactory although further detail on boundary enclosures is required as this together with landscaping is crucial to the success of any new development as it will help create a good setting for new houses to fit into.
104. In these circumstances it is essential that the design of the first housing built on this key site is of an appropriate standard. In this case consent is sought for plot layouts, as covered earlier in the report, together with the details of the affordable housing.

- 105. In respect of the affordable housing, the proposed location, although a sloping site, offers an opportunity to take advantage of the south facing aspect, capitalise on solar gain, use innovate materials/energy efficiency solutions and to work positively with its slopes and topography. The proposed housing is functional in design, and does incorporate some sustainability measures.
- 106. Overall it is considered that this proposed layout and design fits in appropriately with the surrounding housing and location which is almost an infill site at the end of Kerrow Drive, well screened from housing to the west by existing vegetation and visually forming an appropriate addition to the existing housing to the east. Sufficient levels of amenity and privacy have been achieved with the layout, and in the event of the application being supported conditions can be attached to secure a high quality of finish, detailing and landscaping to help the new development to fit in well.
- 107. In this regard, as this is the first new build on the site it is very important to secure good quality sustainable finishes and in this respect UPVC windows, albeit high performance, are not considered to meet this objective, nor indeed the stated objectives and guidance of the applicants' own Design Code. Accordingly it is recommended that in this matter be given further thought and covered by conditions in the event of the application being supported.

Other Planning Issues

- 108. Aside from these key planning issues there are other matters which require to be considered with this case as set below.
- 109. Ecology – the information submitted has demonstrated that there will not be any significant adverse ecological impacts, with any impacts capable of being adequately mitigated through use of appropriate planning conditions. For example, careful removal and reuse of stone dykes to preserve ecological interest, enhancing biodiversity through implementing landscape corridors etc.
- 110. Surface Water and Flooding – it has generally been established to the satisfaction of the appropriate authorities that the proposed arrangements for surface water disposal are acceptable in environmental terms, in relation to both flooding issues and run-off, subject to ensuring that the proposed systems can be adopted by the appropriate authorities.
- 111. Open Space Provision – overall it is considered that adequate open space provision has been made within the site and securing delivery could be covered by appropriate planning conditions.
- 112. Economic and Community Land Proposals – Areas for these uses have been identified in the masterplan. It is fully appreciated that it is difficult to set out definitive proposals at this stage, as noted by the CNPA Economic Development Manager. However the general themes set out by the applicants are considered to be appropriate at this stage with the Community Council also noting that at this point in time they cannot identify a community use for the land. To date the Education and Health Authorities have not come back with any suggestions either,

so it is considered appropriate to cover this matter through planning conditions requiring the details to be provided when future phases come in as planning applications.

- I 13. This would allow these matters to be considered in the light of economic conditions at that point in the future. It is however important to ensure this is adequately covered by planning conditions if the application were supported, in order to ensure delivery otherwise the wider site will simply become a housing site and not realise the wider vision here.
- I 14. Waste Management Arrangements – the general proposals are considered satisfactory subject to comments made by SEPA relating to waste management at the construction stage being addressed.
- I 15. Provision of Affordable Housing - the provision of eighteen affordable houses in this scheme is welcomed. At almost 33 %, this is in excess of the minimum 25% policy requirement and will help address housing needs in Kingussie. Other house types throughout the site should also help address housing needs in the area and support the ongoing growth of the town, as well as supporting local services and facilities. (In addition the applicants have noted that within phase I there is an opportunity for off market sale of some smaller low cost plots to local residents. This is not however expressly covered by the Section 75 agreement nor indeed required in relation to affordable housing provision)
- I 16. The concerns of objectors and the Community Council with regard to the location of the affordable housing land are noted. However the Housing Service are satisfied that this location is suitable for all ability use and similarly I consider it forms part of the existing fabric of the town, located directly beside existing housing with good pedestrian links to the town. As such it is considered to be an acceptable location. Matters raised regarding compliance with Equalities legislation may more properly be considered at the building warrant stage
- I 17. With regard to delivery of the affordable housing this is covered by the section 75 legal agreement which accompanied the original planning in principle consent, and which remains in force. This agreement covers the delivery and what happens if a user does not come forward. Condition 6 of the original consent also sets out that the nature and delivery of affordable housing for each phase requires to be agreed before development starts on that particular phase.
- I 18. In this case the applicants' intention is that the land be developed by a registered social landlord and they remain involved in discussions with Highland Council's Housing Service to this end. Meantime I am satisfied that an appropriate planning condition requiring these houses to be retained as affordable housing is appropriate here.
- I 19. Other points raised by objectors – the majority of points raised by objectors have been covered in this report and it must be stressed that concerns regarding the ability of existing services to cope with the new development have been considered at both the Local Plan and the planning in principle stages.

120. The detail of servicing however does remain a valid consideration with this application and has been fully considered.

Conclusion

121. In these overall circumstances it is considered that the proposed development complies with national and local planning policies and a case has been made to justify departing from the terms of the original planning in principle consent in relation to permitting access via the Dunbarry Road network for the first phase of development. This view is subject to the delivery of the identified improvements, and to ensuring measures are put in place to prevent access to future phases being taken via Dunbarry Road. It is also subject to ensuring that all construction vehicles access the site via the new haul road. I am comfortable that this can be achieved through the use of appropriate planning conditions.
122. It is essential that an appropriate standard of design and layout is achieved for this key site in Kingussie to comply with the aims of the National Park and that sufficient direction is provided to direct any future developers and thus ensure an appropriate high standard of design and layout with any future phases. I am satisfied that subject to suitable planning conditions and provision of further detailed landscaping information this can be achieved and importantly that the proposed layout and landscape framework will establish a good setting within which new housing can sit well. Other servicing issues can also be addressed by conditions.
123. Whilst appreciating the weight of community concerns regarding these proposals, particularly in relation to the proposed access arrangements via Dunbarry Road, I do not consider these to constitute a valid planning reason to refuse the application given that the Roads Authorities, as expert advisors, are satisfied that a significant improvement in road safety is being achieved.
124. In conclusion, it is considered that previous concerns of this Service and our consultees regarding this development have been addressed in the current submission which is now considered to comply with planning policies. Accordingly approval is recommended subject to appropriate planning conditions as set out in at the end of this report.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

125. The proposal is considered, overall, to help to reinforce and complement the character of Kingussie and suitable planning conditions can ensure that other aspects of natural heritage are conserved and enhanced. The development is considered to be suitably designed and laid out, is located within the settlement boundary of Kingussie, and offers the opportunity to secure the implementation of a level of landscaping which should help to enhance the setting of the town and help to create biodiversity corridors. This should then help to support this aim.

Promote Sustainable Use of Natural Resources

126. The proposed development has the potential to support this aim if local materials were used for construction and if measures such as energy efficiency and solar gain are incorporated in the designs. Construction of houses also offers the opportunity to use locally sourced construction materials and energy efficient practises/construction. Some woodland will be lost to accommodate the development, and this requires to be off-set by suitable planting within the site and management of woodland around the site in order to ensure this aim is met. This can be controlled by planning conditions.

Promote Understanding and Enjoyment of the Area

127. The proposal is considered to support this aim in that it offers the opportunity to direct walkers and residents in a more structured way into and through the site to the woodlands beyond, and also to improve and enhance the existing footway network.

Promote Sustainable Economic and Social Development of the Area

128. The proposed development will help support the social and economic development of the area as a result of the construction jobs associated with the ongoing site works; potential for construction materials and work to be locally sourced thus supporting economic development; and the potential to provide affordable housing to attract and retain people in the area. This all has potential to support local services and businesses during both the construction and occupation stage. It also offers the opportunity with future phases to help deliver community and economic development land for the town.

RECOMMENDATION

That Members of the Committee support a recommendation to grant consent for Matters specified in Conditions 1, 2, 5, 10, 11, 16, 18, 27 & 29 of Permission In Principle 09/048/CP relating to submission of revised Master Plan, supporting information and details of formation of Construction Haul Road to A86 Trunk Road, Phase I Housing layout for 37 Serviced Private Plots and 18 Affordable Dwellings, Trunk Road access, site roads, drainage, landscaping and waste management; and Variation of Condition 4 to permit access from Dunbarry Terrace/Road and Kerrow Drive network subject to:

- 1. Provision of a revised landscape plan to accurately reflect all the matters outlined in the CNPA Landscape Officer's advice of 28 August 2013 ; fully detailed management and maintenance plan to detail how the landscaping will be implemented, managed and maintained throughout the lifetime of this consent, including the seeding of undeveloped plots and the protection of existing trees including those trees at the new access point onto the A86. This landscape information shall include a**

detailed note of how householders will require to maintain landscaping throughout the lifetime of the consent and will also include details of the boundary enclosure choice for all plots to reflect the requirements to establish and maintain a high quality setting for housing to sit within together with details of all hard landscaping including features at the viewpoint and square. Information on the timetable for implementation to be included (Any conditions required in order to ensure implementation and control of the landscaping to be added)

- 2. Provision of revised Master Plan and Design Code which takes account of revised information provided for point 1 above and the comments of the CNPA Landscape Officer.**
- 3. The following planning conditions:**

Road Improvement Conditions

1. No work shall start on site until the road improvements at the Dunbarry Road/High Street junction have been completed and operational in accordance with the approved plan number CIV14262/SA/95/008 A03, and to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority in consultation with the respective Roads Authorities. The junction as improved shall thereafter be retained as constructed throughout the lifetime of this development.

Reason: To ensure a significant improvement in road safety is achieved in the interests of road and pedestrian safety, and in accordance with Local Plan policies.

2. No house on the site shall be occupied until:
 - the traffic calming and traffic management proposals outlined in the approved transport assessment, Cameron and Ross technical addendum A/1274 and drawings (Cameron and Ross Drawing A/1274/911) have been completed in accordance with the approved details
 - 20 mph zones covering the Garraline Terrace and East Terrace Campbell Crescent, Cluny Terrace, Mill Road and the lower section of Arbrogilach road areas, including all signage and associated works, have been completed.

All works to be completed to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority in consultation with the Roads Authority

Reason: To ensure a significant improvement in road safety is achieved in the interests of road and pedestrian safety and in accordance with Local Plan policies.

3. No development shall commence on site until the following information has been submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority and in consultation with the Roads Authority:
- Details of the design, timetable for implementation, and treatment of the land at the eastern end of the access road to phase I which shall illustrate that this land will be planted up or handed over to the community and retained in this use thereafter in a manner to ensure that vehicular access cannot be taken through this land other than construction traffic related to the works at phase I and emergency vehicles. For the avoidance of doubt these measures shall illustrate the requirement that no further access to future phases be taken via the Dunbarry road network other than for phase I

The approved details shall thereafter be implemented in accordance with the approved timetable. No work shall commence on phase 2 of the development hereby approved until these works are completed.

Note the piece of land referred to is as highlighted on drawing number HLD 928.08/SL-04 Revision C and entitled "future path and landscape strip as emergency access after use of haul road ceases".

Reason: In the interest of pedestrian and road safety as the application has been assessed in terms of road safety solely on the basis of access to phase I only being via Dunbarry Road.

4. No work shall commence on the development hereby approved until the new access point onto the A86 Trunk road has been completed in accordance with the approved plans. Thereafter all construction vehicles (including vans) shall access the site via the new haul road. All landscaping as shown on Drawing no HLD 928.08.SL-07 shall be implemented in the first planting season following completion of the access point and thereafter maintained in accordance with the approved maintenance details throughout the lifetime of the development. For the avoidance of doubt a plan for the closure of the existing General Wade's Military road access will require to be submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority (in consultation with the respective Roads Authorities) before any work starts on the formation of the new access and thereafter implemented in accordance with the approved details and timetable.

Reason: In the interests of road safety, to ensure that safe access is provided for construction vehicles and pedestrians, and in accordance with the terms of the planning in principle consent.

Phasing and Delivery

5. Unless otherwise agreed in writing with the Cairngorms National Park acting as Planning Authority, no work shall commence on phase 2 until such time as phase 1 is completed.

Reason: To ensure the development proceeds in a planned manner and to ensure it complements and enhances the landscape character of Kingussie in accordance with local plan policies.

6. Planning applications for the proposed houses on the plots on phase 1 (other than the affordable housing on plots 13 to 30) shall require to be submitted to the Local Authority. These applications shall provide full details of design, siting, drainage, waste management arrangements, boundary treatments, site sections and landscaping all of which shall reflect the principles established in this planning permission, accompanying master plan and design code, and also the conditions of the planning in principle consent.

Reason: To ensure the development proceeds in a planned manner and to ensure it complements and enhances the landscape character of Kingussie in accordance with local plan policies.

7. Planning applications shall require to be submitted for all future phases and these shall include full details of the proposals and delivery of community land and economic land proposals in the relevant phases. Any applications shall also include details of compensatory planting relating to the loss of trees on the economic development land. These proposals shall be delivered as part of the phase to which it relates (unless otherwise agreed in writing with the Cairngorms National Park acting as Planning Authority) and no work shall commence on subsequent phases until the preceding phase is completed unless otherwise agreed with the Planning Authority. The detailed applications shall reflect the principles established in this planning permission, accompanying master plan and design code, and also the conditions of the planning in principle consent

Reason: To ensure the development proceeds in a planned manner, and to ensure delivery of community and economic development land for Kingussie, in accordance with local plan policies.

Landscape Conditions

8. All landscaping shown on the approved landscape plans (including advance planting for future phases) shall be implemented in accordance with the approved management plan, and in the first planting season following completion of the new haul road and associated ground works to form access roads and servicing in phase 1. Landscaping shall thereafter be maintained in accordance with the approved maintenance and management plan, and timetable throughout the lifetime of the development.

Reason: To ensure that a suitable landscaping setting is established and maintained for the new development in accordance with Local Plan policies.

9. All plots which have not been developed within 6 months of re contouring works having been carried out shall be seeded in accordance with the approved landscape plan and maintained in a tidy condition until they are developed.

Reason: To ensure that a suitable landscaping setting is established and maintained for the new development in accordance with Local Plan policies.

Servicing and Infrastructure

10. No work shall start on site until details of the proposed maintenance regime for the sustainable urban drainage solution have been submitted to, and approved by, the Cairngorms National Park Authority acting as Planning Authority in consultation with the appropriate authorities, and shall include written confirmation from the appropriate authorities (Scottish Water and Highland Council) that they will adopt and thereafter maintain the proposed arrangements. These details shall reflect the requirement for surface water to be discharged to the Scottish Water systems. Thereafter no house shall be occupied until the surface water arrangements are implemented in accordance with the approved plans and maintenance regime with certification from an appropriately qualified professional provided to demonstrate compliance.

Reason: To ensure that surface water is dealt with in a manner appropriate to the environment in accordance with Local Plan policies.

11. No work shall start on site until details of the protection and management of existing field drains to ensure no increase in flood risk within or outwith the site are submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority in consultation with Highland Council's Flood Prevention Team. The works shall thereafter be implemented in accordance with the approved details before any house is occupied.

Reason: To ensure that surface water is dealt with in a manner appropriate to the environment in accordance with Local Plan policies.

12. No house on plots 13-30 shall be occupied until the play areas in this part of the site has been provided in accordance with the approved plans and details. Prior to work commencing on any of the other plots on phase I full details of the proposed play area and equipment shall be submitted to and approved by the National Park Authority acting as Planning Authority and thereafter implemented in accordance with the approved details before any of the houses on these remaining plots are occupied.

Reason: To ensure provision of facilities for the development in accordance with local plan policies.

13. No house shall be occupied until it is connected to the public water and sewerage network.

Reason: In the interests of environmental amenity and provision of services in accordance with Local Plan policies.

14. No work shall commence on site until a construction management statement detailing arrangements for temporary disposal of surface water, management of field drains (as referred to in earlier condition 10) contractor's compound and minimisation of construction waste has been submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority in consultation with SEPA. This plan shall include a site waste management plan and details of re-use of materials. Work shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure that there is minimal environmental disturbance in accordance with Local Plan policies.

15. No work shall commence on the construction of any houses until details of the final floor levels are submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority. The house shall thereafter be constructed in accordance with the approved details and shall reflect the requirement for minimum finished floor levels of 225 mm above surrounding ground level.

Reason: In the interests of landscape amenity and to ensure there are no flooding issues in accordance with local plan policies.

Ecological Conditions

16. No work shall commence on any tree felling until a pre construction survey for squirrels has been undertaken by a suitably qualified and experienced practitioner and the results, together with any proposals for mitigation of any impacts submitted to, and approved by, the Cairngorms National Park Authority acting as Planning Authority. This survey shall be undertaken in accordance with recognised guidelines and will consider the impacts upon red squirrels as a result of any tree work (The developer is advised of the requirement to obtain a license from SNH for any disturbance of this species if dreys are found) Similarly prior to felling the elm tree identified beside the proposed access onto the A86 a further bat survey will be required with the results of the survey and any mitigation submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority.

Reason: To minimise environmental disturbance and maintain biodiversity, in accordance with Local and National Park Partnership Plan policies.

17. No work shall commence on the construction of the houses hereby approved until details of a scheme for the provision of nesting boxes for bats and swifts is submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority. Any house identified for provision shall not be occupied until such time as provision has been made in accordance with the approved details (*Please see information at end of consent for further advice*)

Reason: To ensure that biodiversity is maintained in accordance with Local Plan policies.

18. No work shall start on site until details of the retention and reuse of stone dykes on the site have been submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority. These details shall reflect the requirement that care be taken when altering/moving drystone dykes to ensure that impacts to the lichen which they support are minimised (For example, stones should be stored and relaid so that lichens are not physically damaged and are relaid so as to continue to face outwards) These details shall include information on the repair and reuse of the walling alongside Tom Baraidh wood and shall include a timetable for any works. Thereafter the works shall be implemented in accordance with the approved details and timetable.

Reason: To minimise environmental disturbance and maintain biodiversity, in accordance with Local and National Park Partnership Plan policies.

19. All existing trees shall be protected during construction works in accordance with the protection details contained within the approved landscape scheme.

Reason: To minimise environmental disturbance and maintain biodiversity, in accordance with Local and National Park Partnership Plan policies.

Finishes and Detailing

20. No work shall start on the construction of the affordable houses (plots 13-30) hereby approved until details by way of sample or brochure of all external finishes have been submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority. These details shall reflect the requirement for the use of timber windows and doors and for roof finishes of either slate or a tile of profile and size that is reflective of natural slate. The development shall thereafter be completed in accordance with the approved details.

Reason: To ensure that the landscape character of the area is maintained and enhanced in accordance with Local Plan policies.

21. No work shall commence on the construction of any houses until such time as details of all boundary enclosures are submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority or as detailed in the approved landscape scheme. These details to reflect the requirement for front and side boundary enclosures to retain open, landscaped feel of the site for example, stone dykes, post and wire fencing and/or hedging of native species. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland Act) 2011 (or as otherwise amended) the enclosures shall thereafter be implemented in accordance with the approved plans prior to occupation of the house to which it relates and retained as approved throughout the lifetime of the development hereby approved with any other boundary enclosures in or around the plot(s) requiring the express consent of the Planning Authority.

Reason: To ensure that the landscape character of the area is maintained and enhanced in accordance with Local Plan policies.

22. All new housing should make provision for built in flexibility for home working and infrastructure for high speed broadband connection with details submitted to and approved by the Cairngorms National Park Authority before work starts on construction of any of the houses.

Reason: To ensure that new housing is sustainable in accordance with Local Plan policies.

Affordable Housing

23. Unless otherwise agreed with the Cairngorms National Park Authority acting as Planning Authority, the housing on plots 13- 30 shall be retained as affordable housing. Furthermore no work shall commence on the erection of these houses until details of the contractual arrangements for the provision of the affordable housing, including timescale, have been submitted to and accepted by Cairngorms National Park Authority acting as Planning Authority.

Reason: To ensure compliance with Local Plan policies on affordable housing

24. No work shall start on the construction of the affordable housing (plots 13- 30) until details of the hard and soft landscaping, road finishes, communal parking layout, boundary treatments (existing and proposed) and play areas have been submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority. The development shall thereafter be implemented in accordance with the approved details before occupation of the first house on this part of the development apart from landscaping which shall be implemented in accordance with the approved details in the first planting season following occupation of any of the houses on this part of the site, unless otherwise agreed with the Cairngorms National Park Authority acting as Planning Authority.

Reason: To ensure that the landscape character of the area is maintained and enhanced in accordance with Local Plan policies.

Access and servicing issues

25. Unless otherwise agreed with the Cairngorms National Park acting as Planning Authority, least two car parking spaces shall be provided and retained within the curtilage of each serviced plot.

Reason: In the interests of road safety in accordance with Local Plan policies

26. Unless otherwise agreed with the Cairngorms National Park Authority acting as Planning Authority, no house shall be occupied until the construction of the roads, footways/cycle tracks serving it have been completed to at least binder course standard to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority (in consultation with the Roads Authority), and until its individual site access has been formed in accordance with the approved plans.

Reason: In the interests of road safety in accordance with Local Plan policies

27. No development shall commence on site until details of the finishes and surfacing of all footways and roadways is submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority and the development shall thereafter be completed in accordance with the approved details.

Reason: In the interest of pedestrian and road safety and the visual appearance of the site, to ensure compliance with Local Plan policies

28. Before occupation of any house on the development details of the proposed residential travel pack shall be submitted to and approved by the Cairngorms National Park Authority acting a Planning Authority in consultation with the Roads Authority. This pack to detail how sustainable travel measures will be promoted

Reason: To support delivery of sustainable development, in accordance with Local Plan policies.

29. No work shall start on site until the following information, including plans and timetable of works, has been submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Roads Authority :

- Upgrading of all footway links as identified in the indicative scheme of access to reflect the requirement for paths (other than pavements) to be of permeable construction in keeping with the rural nature of Kingussie. *(Further advice available in SNH guidance on Lowland Path Construction- a guide to Good Practise)*

- Details of finishes and where appropriate measures to ensure safety of pedestrians when crossing any access roads to ensure a presumption of pedestrian priority
- Management plan for pedestrian use of the Kerrow Cottage track (core Path LBS73) during construction phase
- All pathway improvements and provision shall thereafter be delivered in accordance with the approved timetable.

Reason: In the interest of pedestrian safety and to ensure continued provision of public access in accordance with Local Plan policies.

INFORMATION NOTE

1. Please note that this is a permission for matters specified in condition and must be read in conjunction with the planning in principle permission (reference 09/048/CP) and the conditions and section 75 agreement attached to that permission must also be adhered to in full including time periods for commencement of development.
2. It is recommended that all construction works (including deliveries of materials) shall take place within the hours of 0800 to 1800 Mondays to Fridays and 0900 to 1300 on Saturdays, there shall be no work or deliveries of materials on Sundays and Public Holidays.
3. It is recommended that bird and squirrel feeders be provided in domestic gardens to benefit local red squirrel and bird populations and to facilitate their movement from adjacent woodland.
4. It was noted during the site visit of the CNPA Ecology Officer that one oak tree has recently succumbed to windthrow. This offers an interesting opportunity for biodiversity enhancement and consideration could be given to this tree being allowed to develop into a valuable source of deadwood habitat for fungi, invertebrates, birds etc. at the woodland edge.
5. With reference to condition 16, there is a range of methods of incorporating nesting cavities for swifts into new building design, which can utilise purpose-designed cavities in brick work, in boxed soffets or neatly fitted triangular boxes under the eaves at the apex of a gable end. Ideally a swift nest site should be located 3 m above the ground on north and east-facing walls and should be unobstructed below to allow swifts to fly straight to the nest hole (they cannot walk or hop into nest holes). Detailed information on the required dimensions of swift nest sites, the range of design options, and photographic examples where such nests have been incorporated into buildings, can be found on the Concern for Swifts project website at www.concernforswifts.com/Opportunities.asp. Advice for the incorporation of roosting opportunities for pipistrelle and brown long-eared bats is available from the Bat Conservation Trust at www.bats.org.uk

planning@cairngorms.co.uk

2 September 2013

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.

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.

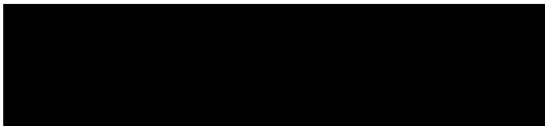
Reason(s) for approval

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



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**

