

AGENDA ITEM 6 & 7

APPENDIX 5

2015/0316/DET
AND
2015/0317/DET

AGENT RESPONSE TO
REPRESENTATIONS

Job No: 2110
Project: DEVELOPMENT TO THE NORTH EAST OF KINGUSSIE
Client: DAVALL DEVELOPMENTS LTD

SUMMARY OF OBJECTIONS/REPRESENTATIONS TO THE APPLICATIONS FOR THE REVISED HAUL ROAD ROUTE AND VARIATION OF CONDITIONS 4, 7 AND 8 OF 2013/0190/MSC PERMISSION

Summary of representations in *italics* with responses from the applicants below each issue.

PLANNING APPLICATION REF: 2015/0316/DET: AMENDED ROUTE OF TEMPORARY HAUL ROAD ETC

1. *Closer proximity of haul road will impact upon nearby properties in terms of the noise, dust, vehicle fumes and visual intrusion.*

As indicated in the supporting statement, this is recognised and measures included in the proposals to mitigate such impacts. The area of earth bunding with tree planting proposed has been increased on the side of the haul road nearest to existing houses in Croila View. In addition, noise and dust will be minimised through requiring vehicles to maintain a low speed and follow good driving practices. All vehicles using the haul road will be required to adhere to this and will be governed by the provisions of a Safety Method Statement. The minimising of gradients and inclusion of passing places for vehicles travelling downhill will also reduce incidences of noise from low gear manoeuvres on steeper sections by vehicles travelling up hill having to stop or slow down significantly.

2. *The access would not be safe for construction vehicles or pedestrians using the track in terms of close proximity to the A9 junction and conflict with other users of the track.*

Close proximity to the A9 junction is a matter for Transport Scotland to advise on. However, both of these junctions exist are almost 90 metres apart.

With regard to conflict with other users of the track, the proposals have since been revised to include a separate temporary 1.5m wide path parallel to and on the field side the track. This will be provided from the outset for walkers and cyclists prior to works to widen the section of the existing track for use as part of the haul road. For the period of construction work at the junction and widening of the track Herras fencing will be erected to separate the temporary path from construction vehicles.

3. *Surface water drainage impacts on adjoining land and the need to account for water that is currently running through the land that can cause flooding on the A86.*

An alternative method of surface water drainage is now proposed and explained in detail in the response to the CNPA dated 5 November. This will include measures to ensure that the existing field drainage system can continue to function and that water collecting on the temporary haul road can also drain via that drainage system to avoid impacting upon adjoining land.

4. *The haul road will inevitably become wider with the running of vehicles over a longer period time and the need to fill this in with hardcore will have a greater impact.*

The running surface of the road will be monitored and improvements carried out as and when required. The use of bunding is designed to reduce the visual impact.

5. *A time limit on the availability of affordable housing funding should not be a reason to commence construction on site as early as possible via the revised haul road.*

This does become crucial to the viability of the overall development if not available beyond 2016/17. The timing and commitment to the provision of the affordable housing will dictate release of development finance from lenders for the servicing of the private house plots.

6. *Dispute that shops and local services in Kingussie have closed due to lack of house building in the settlement in recent years. Businesses have closed for other reasons and most of the shops have either re-opened or are due to open with new thriving businesses.*

Lack of significant house building opportunities in any community can lead to the drop in demand for services and facilities. The most significant impact of the low rate of house building that should be of is of greatest concern to the community is the decrease in the primary school roll by 53% since 2007, with the consequent loss of teachers. In that period the only significant house building was the 22 affordable flats redevelopment of the former hotel on the High Street. In addition, the secondary school roll has also decreased by almost 17% in the last 5 years and is now under 400 pupils for the first time in many years.

Kingussie has lost businesses and shops such as *The Trading Post* have closed in recent years. It is acknowledged that some other closed shops have been re-occupied by other businesses. However, the point being made here is that with further delays to the development of the land, which offers the only opportunity for significant house building, there could be additional detrimental consequences for services and facilities in the community in the future.

7. *The surface water drainage will impact upon the stability of the gravel quarry (borrow pit) and adjoining property.*

Use of the gravel pit is no longer proposed and revised measures are designed to avoid impacting on adjoining land.

8. *The site entrance will impact upon enjoyment of the Glebe ponds.*

We fail to see what the impact would be here given that this existing access and the Glebe ponds are almost 80m apart with intervening major roads.

9. *The road will be a barrier to wildlife movement.*

This was not an issue when the previous route was approved through the same fields. In the long term this land will be permanently developed.

10. *The lack of plans for the revised route beyond the line of the dyke adjacent to the shinty pitch is misleading.*

Revised drawings have been submitted confirming that beyond the shinty pitch the route will continue on the previously approved alignment.

11. *There is no survey of the borrow pit for invertebrates (e.g. mining bees) on mitigation measures proposed.*

This issue was not previously raised in relation to the approved route but use of the borrow pit is no longer proposed for surface water drainage for the revised route.

12. *It is not specified what habitats would be encroached into or trees felled to widen the farm track and a junction with the A86.*

A habitats assessment was carried out in relation to previous applications and the only potential habitat found to be affected by approved road works was an elm tree in poor condition. This was assessed for bats in 2014 before the tree was removed and bat boxes erected on a nearby tree. Only one small tree will be directly affected by the junction widening works. However, it will be necessary to remove some smaller trees close to the A96 road and trim lower branches of others affecting the required visibility splay on the north east side of the access. These works were previously agreed as part of the approved new access road from the A86.

13. *The negative landscape impact of widening the access and the farm track over and above future new permanent access proposed nearby.*

The works will be screened from outwith the development area by existing woodland.

14. *The site offices and compound would be visually intrusive and located in an area of establishing wildlife habitat.*

The compound will be screened from most sides except the Phase 2 development area by existing woodland. This is also a significantly less prominent location for siting the compound than in the open fields and is less visually intrusive when viewed from the A9 or further afield. The land in question is also earmarked for future employment related uses having been approved as part of the overall master plan. The matter of this affecting an “establishing wildlife habitat” was not raised previously or found to be the case in the habitats assessment carried out at that time.

15. *The decision by the Reporter was marginally offset by conditions to protect residents from noise and visual scarring. Current proposals will have a negative impact upon the amenity of residents all to save the developer money.*

The conditions were originally attached to the Planning Authority’s report to Committee in recommending approval and these issues were not reasons for the subsequent CNPA refusal or the decision by the Reporter. It is also not a case of saving the developer money as already a substantial sum of money has been spent to get to this stage with no return whatsoever from this investment so far. It should also be remembered that it was the applicants that originally offered to form a haul road to avoid significant disturbance to existing residents of Dunbarry Road, Dunbarry Terrace and Kerrow Drive during the construction phase. In effect this is an additional cost over and above the normal costs of servicing and developing a housing site, which a developer has to justify to its lending institution.

PLANNING APPLICATION REF: 2015/0317/DET: SECTION 42 APPLICATION TO VARY OR NOT COMPLY WITH CONDITIONS 4 (HAUL ROAD), 7 (LANDSCAPING) AND 8 (RESEEDING OF PLOTS) ETC.

1. *Removal of re-seeding and landscaping requirements are cost cutting measures that go against sensible conditions to protect the local environment and the neighbourhood from unnecessary disfiguration over an indefinite period, which should stand.*

As explained in the supporting statement, this approach is what the applicant with considerable experience of developing housing sites has consistently sought to vary (not remove) for practical reasons. The current proposals still maintain a substantial element of advanced structural planting to a density that has been accepted by CNPA landscape and planning officials across the same areas of Phase 1. These revised proposals will not remove the obligations from developers but seek to vary the timing of implementation. It would also be extremely wasteful of development costs to plant up some areas in advance only for such planting to be damaged and removed in future by earthworks. The cost of doing this would not be supported by lending institutions in funding the wider development of the area and therefore this would have a bearing on whether the development will go ahead.

2. *Correct implementation of condition 7 will afford existing properties more separation from construction activities, noise and dust.*

The extent of areas to be planted up are not affected if this condition is varied, just the timing of its implementation for practical reasons. As also explained in the supporting statement, it is not practical and, consequently, not cost-effective for the wider development of the area to undertake the advanced planting over Phase 2 and 3 land in advance of major earthworks to re-contour these areas. In addition, the majority of such earthworks are not covered by the detailed planning permission (2013/0190/MSC). Interim planting measures are therefore proposed between the houses closest to the revised haul road route.

3. *Minimal landscaping before construction commences would be completely unacceptable.*

See responses at 1 and 2 above. The planting would still be quite substantial, not “minimal”.

4. *Question if landscaping plan will ever be fully implemented to the detriment of adjacent residents.*

As indicated above, the variation of the conditions will not remove the obligation on developers to landscape the site in a phased manner and in keeping with the scale of development as it progresses. The main reason given by the CNPA for the extensive advance structural planting was to mitigate the impact on the wider landscape when the site is viewed at distance from the surrounding area. The provision of landscape buffers to some adjacent residential areas still forms part of the proposals.

5. *Re-seeding of plots is a higher expectation in the CNPA area compared with other locations (e.g. Golspie) that is supported to maintain in a tidy condition until developed. No wish to see the plots being overgrown with ragwort and other noxious weeds.*

The Golspie example is relevant in terms of this being a similar prominent sloping site visible from distance. However, there are no planning conditions requiring its re-seeding, never mind within 6 months of the site servicing. As indicated under the photograph, it was taken approximately 12 months after the formation of the plots and the visual impact of their condition at that time was minimal. Regardless of whether a site is within the National Park or not expectations should be no less. Once again the reason to vary this condition is not to the

remove the obligation from the developers to maintain serviced plots in a tidy condition, but to seek acknowledgement that 6 months after their formation is too soon for re-seeding to be carried out.

6. *No change in circumstances to warrant varying the conditions.*

The need to split the development and landscaping into smaller phases is a change in circumstances. The applicant has also consistently maintained that the conditions are unworkable in advance of phased site preparation and servicing works.

7. *The original conditions to undertake all landscaping planting in the first planting season after completion of the haul road should remain to establish effective screening and wildlife habitat cover.*

Condition 7 does not require the developers to undertake all landscaping planting in the first planting season after completion of the haul road, only advanced structural planting. We have explained the practical reasons for not implementing all structural planting across all three phases at once. This includes the concerns about having to then remove the advanced planting on Phases 2 and 3 land to allow re-contouring, servicing and plot development of those areas. In varying the conditions the need to undertake significant advance structural planting within and around the margins of Phase 1 will still remain. This will allow the establishment of substantial effective screening and wildlife habitat cover in that area.