
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

**Case Officer: KATHERINE DONNACHIE
(PLANNING OFFICER,
DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED: Application under Section 42 for variation or non-compliance with conditions 4 (Haul Road), 7 (Landscaping) and 8 (Re-seeding of Plots) for Phase I Housing Development of 37 serviced plots and 18 affordable dwellings granted under Planning Permission Ref PPA-001-2013 at land to north and east and west of Dunbarry Terrace and Kerrow Drive Kingussie

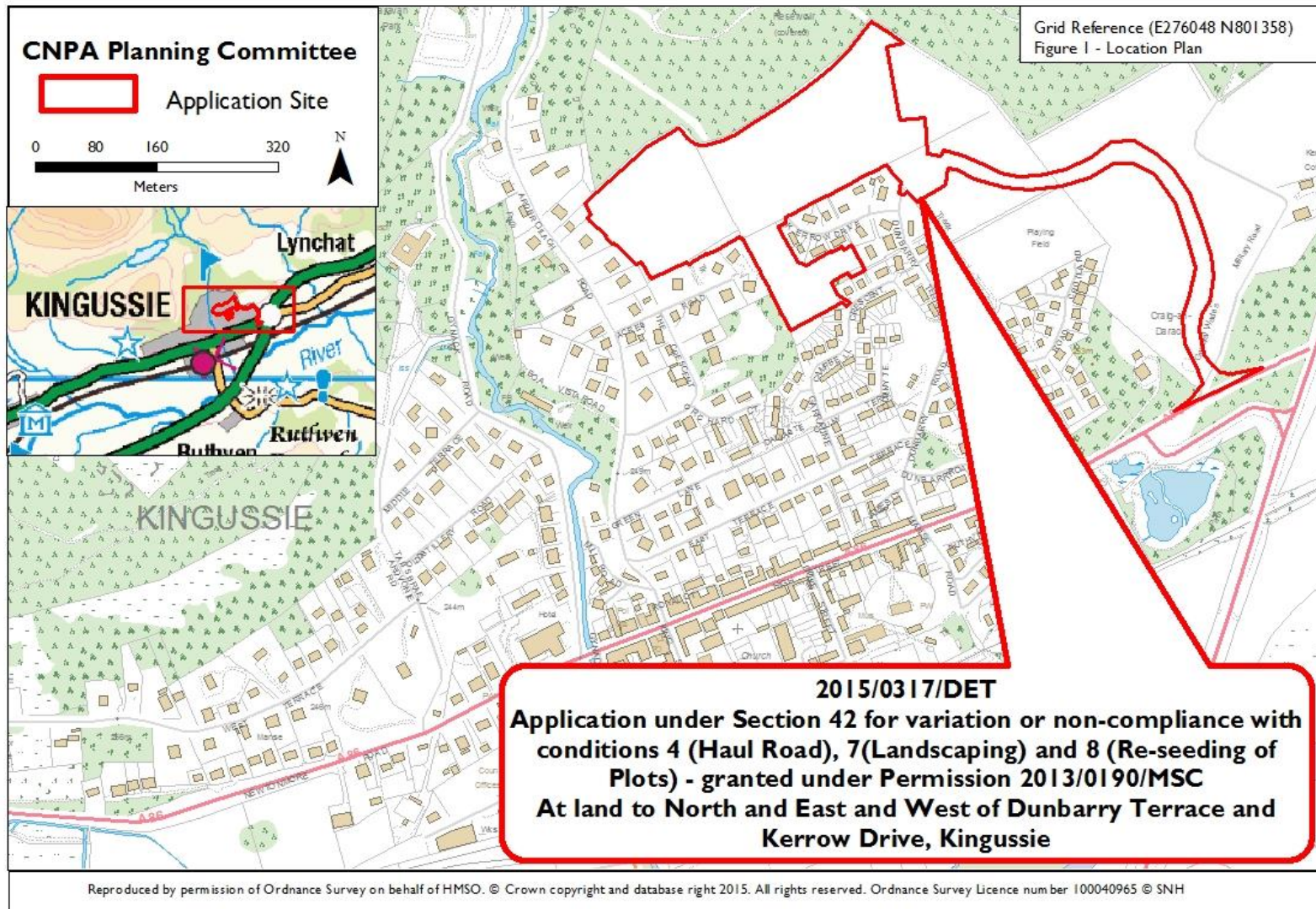
REFERENCE: 2015/0317/DET

APPLICANT: Davall Developments Ltd

DATE CALLED-IN: 28 September 2015

REASON FOR CALL IN: The proposed development is directly related to an application previously determined by the Cairngorm National Park Authority. It raises issues in relation to landscape impact, visual impact within a principle transport corridor, relates to a development with a high level of public interest and is considered to be of significance to the collective aims of the National Park

RECOMMENDATION: **APPROVE** subject to legal agreement, conditions and subject to a Direction in terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 in respect of timescales for submission of information and commencement of development



SITE DESCRIPTION, DEVELOPMENT PROPOSAL AND HISTORY

- I. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority (CNPA) website unless noted otherwise:

<http://www.eplanningcnpa.co.uk/online-applications/#searchApplications>

Title	Drawing Number	Date on Plan
Location Plan	PL001 Rev G	August 13
Site Plan	PL002 Rev G	August 13
Location Plan	PL006 Rev C	November 15
Context Plan	PL007 Rev E	December 15
Landscaping Plan	PI008 Rev D	November 15
Sections	PL009 Rev C	November 12
Temporary Access Junction	PL10 Rev B	November 15
Phasing of re- contouring, construction and interim/temp uses	PL012	September 15
Construction Compound	PI011 Rev C	October 15
Soft Landscaping Implementation	PI013 Rev A	November 15
Planning approved general access	PL014	November 15
Temporary Access Junction Entrance	PL015	November 12
Phase I Soft Landscape Proposals	HLDK192-15-SLO1 Rev C	24 November 15
Construction Method Statement by GH Johnston Building Consultants Ltd		November 2015
Revised Planning Statement by GH Johnston Building Consultants Ltd		November 2015
Home owners soft landscape maintenance and management advice notes	HLD K192.15 Rev C	19 January 16
Proposed Soft Landscape Maintenance and management regime	HLD K192.15 Rev C	24 November 15
Phase I Soft Landscape Proposals	HLD K192.15 SLO2 Revision G	05 February 16
Safety Method Statement and Hazard risk assessment sheets	2110 sheets 01 and 02	24 November 15
Explanatory letter from GH Johnson enclosing additional plans and information		5 November 15
Explanatory letter from GH Johnson enclosing additional plans and information		24 November 15
Summary of response to Representations by GH Johnson	2110	24 November 15

Site Description

2. The application site is located at Kingussie to the north of Dunbarry Road and to the east of the East Terrace/Abroilach Road part of the settlement. To the north of the site lie the Tom Baraidh woods. The site is presently fields, which slope northwards from the village and is readily visible from the other (south) side of the Strath and from Ruthven Barracks. Further east lies Kerrow Farm and Cottage.
3. The site is connected to the north east by the trunk road running through Kingussie, off which construction access will be taken via the new haul road. The overall site is presently crossed by well used pedestrian links leading from the village to the woods. Much of the site has a southerly aspect and it is bounded by a mixture of post and wire fences and natural stone dykes.

Development Proposal

4. By way of background, permission in principle was granted (reference 09/048/CP) for an overall development of housing, economic and community uses at this site in Kingussie on 18 January 2013, following signature of a Section 75 legal agreement and consideration of an ongoing legal challenge to the Local Plan allocations at that time. This was followed by two further applications which were dealt with under the single reference 2013/0190/MSD and effectively within one application. The first part of the application under that reference was an application for approval of a number of the “matters specified in conditions” in planning permission in principle (09/048/CP) including a master plan for the whole site and details of layout and servicing of Phase I, which is located to the rear (north and north east) of Kerrow Drive and comprised a total of 55 residential units - 37 serviced plots and 18 affordable houses.
5. This MSD application included a construction haul road to the far east of Phase I of the overall site, with new junction onto the A86 trunk road and a proposal for residential access (post construction) for Phase I to be taken up Dunbarry Road/Dunbarry Terrace. The CNPA refused this MSD application and the developers appealed to the Scottish Government Directorate for Planning and Environmental Appeals (DPEA) in 2014. The appeal was successful and the DPEA approved the MSD application subject to a number of conditions. A copy of the DPEA decision together with the report on the application to the CNPA Planning Committee is attached, together with a copy of the original planning in principle consent as **Appendix I**. The DPEA’s decision meant that many, but not all, of the MSDs applicable to the planning permission in principle 09/048/CP had been approved.
6. The second part of the application submitted under reference 2013/0190/MSD was an application under Section 42 of the Planning Act for planning permission without compliance with Condition 4 of 09/048/CP in order to permit access from the Dunbarry Terrace/Road and Kerrow Drive network. The CNPA refused that application and the developers appealed to the DPEA. That appeal was also successful and the DPEA issued a further planning permission in principle on 28 April 2014 under reference PPA-001-2013. This included a new

Condition 4 which allowed the 55 houses within Phase 1 to be accessed from the Dunbarry Terrace/Dunbarry Road/Kerrow Drive network, but with access to the remaining phases to be taken via a single main access point onto the A86.

7. A more detailed summary of the planning history is contained in the site history part of this report.
8. This current application now seeks consent under the terms of Section 42 of the Town and Country Planning (Scotland) Act 1997 for “variation or non-compliance” with Conditions 4, 7 and 8 the existing planning permission granted under the DPEA reference PPA-001-2013 for the approved housing and economic land development at Dunbarry Terrace/Kerrow Drive, Kingussie.
9. For clarification, Section 42 of the 1997 Planning Act sets out the process for seeking consent to develop land without complying with conditions previously attached. In other words an application for the same development as previously granted, but with different planning conditions attached. As a result the granting of a Section 42 application results in the issuing of a new stand-alone planning permission. The term “vary” has been used to describe the changes proposed with this application for the sake of simplicity but it is important to appreciate that the overall result of the proposed application if approved will be a new planning permission, not a variation.
10. Allied to this Section 42 application is an accompanying application for a revised temporary haul road (reference 2015/0316/DET) to serve this site. That application is the subject of the Item 6 on this Agenda and both cases are interlinked as it is largely because of the proposal to change the route of the haul road that it is necessary to change some of the planning conditions of the 2013 consent.
11. The proposals contained in the current application to vary conditions are now summarised below.
12. All the plan extracts, Figures 2 – 9(b), within this report are included within **Appendix 2.**

Variation to Condition 4 – Haul Road

13. At the time of the 2013 application a new construction access road for the entire development was shown taking access via a new junction to be formed onto the A86 trunk road to the east of Kingussie. This junction point was close to a private track (General Wade’s road) serving Kerrow Farm. This track is also a designated core path leading to Tombaraidh Woods (LBS73).
14. The approved construction access/haul road followed the route of the final proposed access road which would then serve future phases of this development in due course and would be upgraded to the requisite standards. The first phase (55 houses) would only take access via Dunbarry Road after they were constructed. No construction access was permitted along Dunbarry Road.

15. This approved construction access road cut across the agricultural fields winding its way north west to Phase I of the approved development site. This layout formed the basis of the masterplan which set out how future phases would be developed. A copy of the originally approved masterplan layout showing phasing and access arrangements is shown in **Figure 2**. Areas in green indicated the structural landscaping proposed then and Phase I is indicated in lilac.

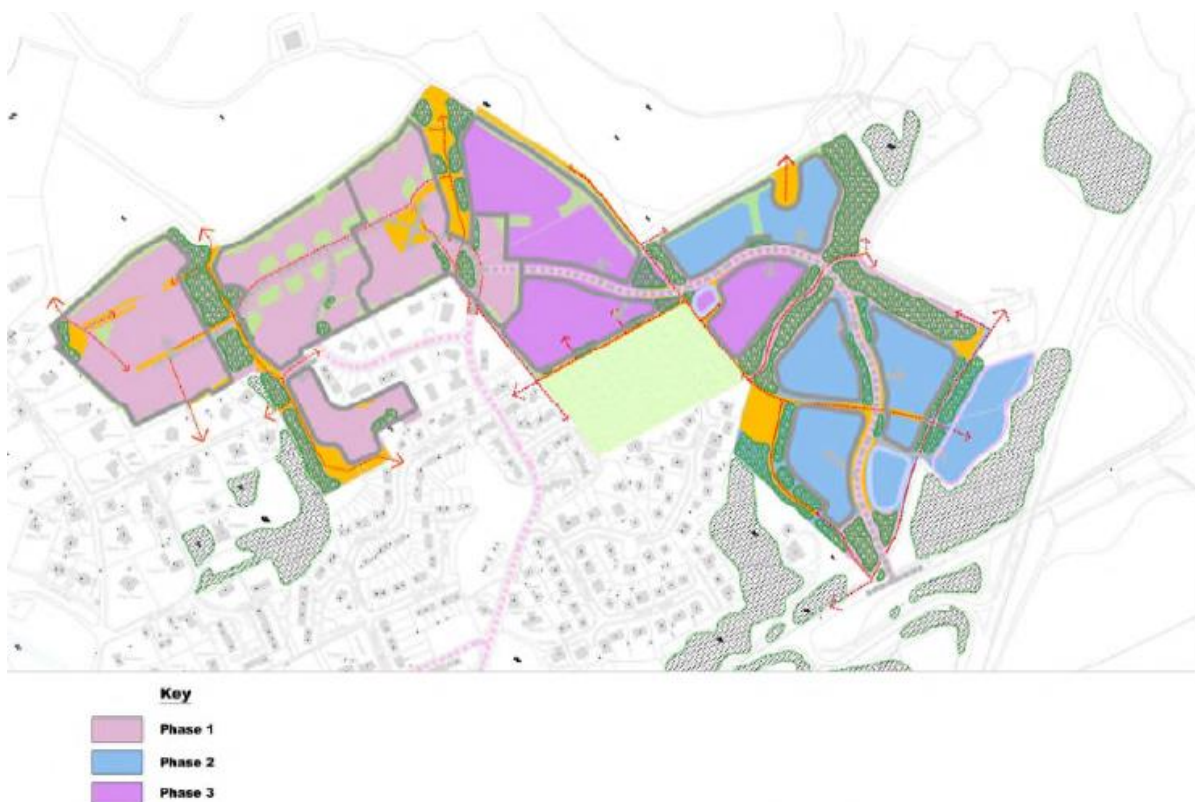


Figure 2: Originally approved master plan layout, phasing and landscape framework

16. At this time access was proposed direct onto the A86 trunk road via a new junction point to the east of the existing junction of the General Wade road onto the A86, with this existing junction closed off in line with details to be agreed. The approved junction arrangements are shown in **Figure 3**.

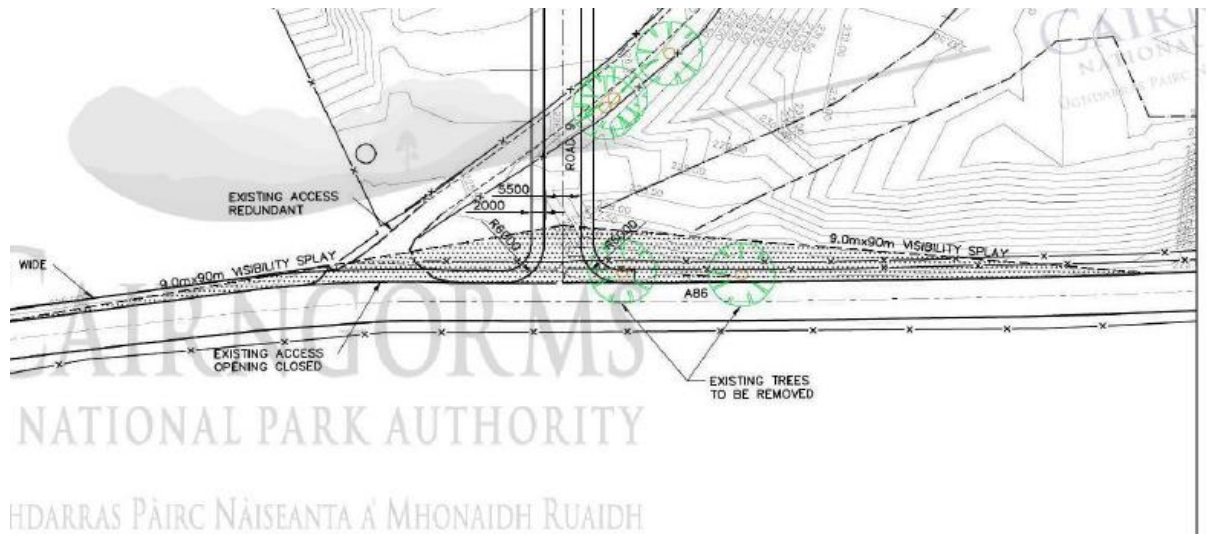


Figure 3: Approved junction arrangements

17. Within application 2015/0316/DET the applicants now wish to amend the line of this construction road as shown in **Figure 4** which illustrates the route of the originally approved road (dashed line) and the currently proposed one (in red) for ease of comparison.

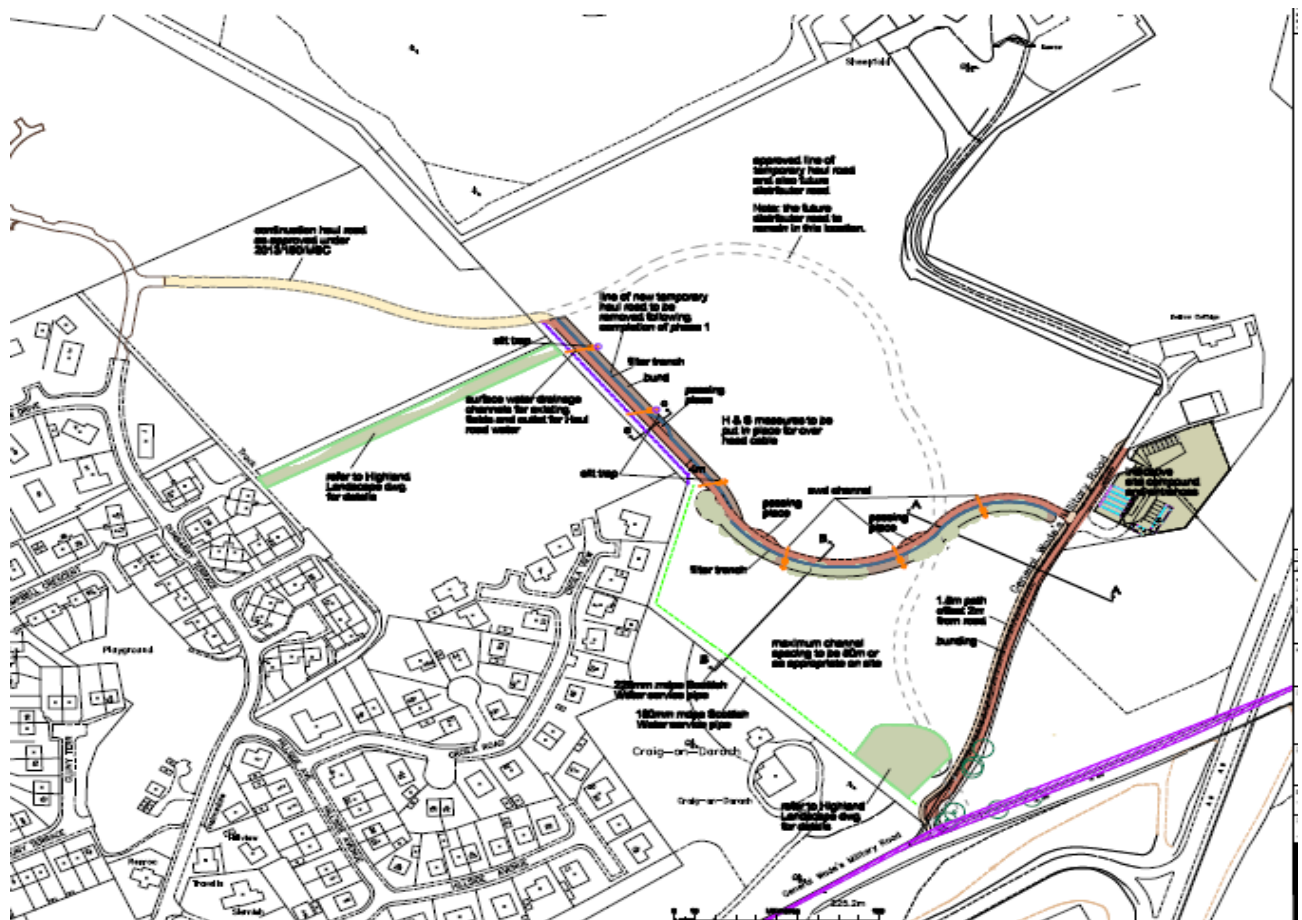


Figure 4: Proposed new route of haul road

18. This new route will use the exiting private track junction onto the A86 Aviemore to Kingussie Trunk Road, using the existing track/core path (General Wade road) which leads to Kerrow Farm and Kerrow Cottage for around 200 metres before heading northwest to join the originally approved route to Phase I. A 1.5 metre wide footpath is proposed beside the existing track to allow for separation of pedestrian and vehicular traffic on this core path and the junction of the access onto the A86 will be upgraded to enable two vehicles to pass, together with some radii improvements and provision of visibility splays. This proposed junction arrangement is shown in **Figure 5**. The dashed line shows the existing route of the General Wade Road

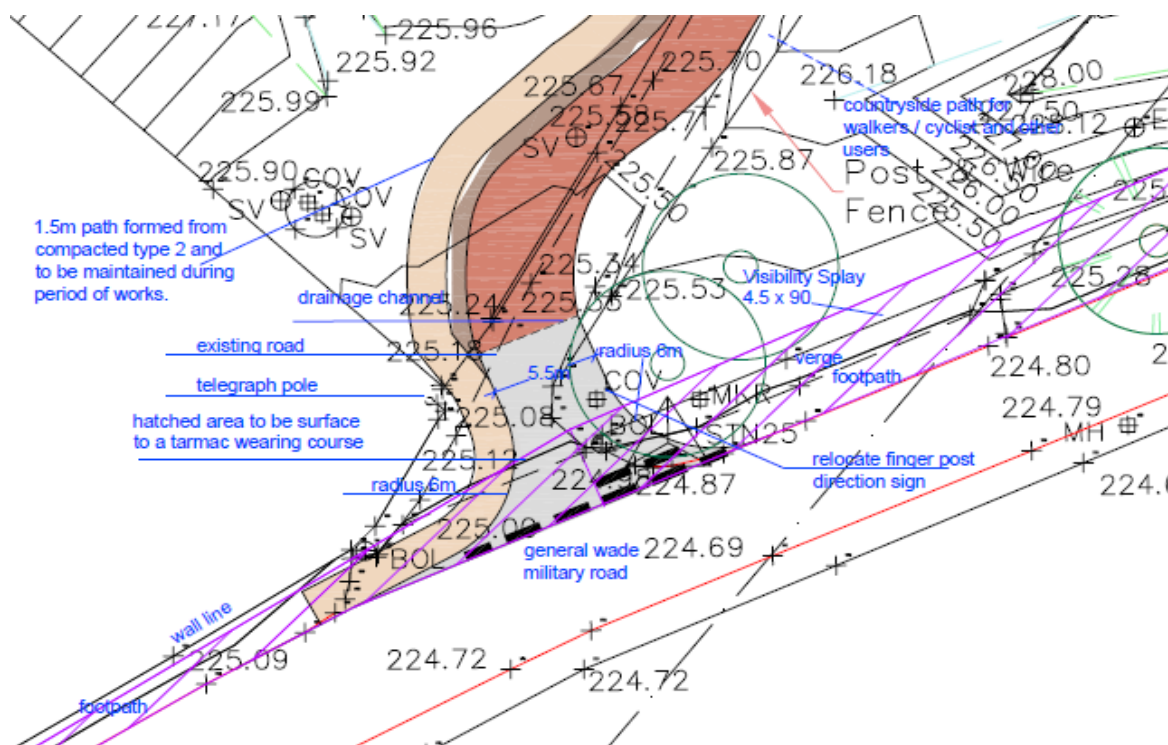


Figure 5: Upgraded junction onto A86

19. The reason for the applicants wishing to change the route of the construction/haul road is set out in detail in their agent's planning statement and this may be summarised as follows:
 - a) Desire to retain agricultural fields in use and avoid splitting the fields by construction access
 - b) Need to reduce visual impact of the haul road thereby removing need for advance planting
 - c) Reduced developer funding for re-contouring and servicing large areas of land
 - d) The need to avoid carrying out advance structural planting which would then require to be removed or may become damaged as future phases progressed
 - e) The pressing need to build the affordable housing component which is essential to the economic well-being of Kingussie, and the accompanying need to ensure all planning conditions and requirements are practical and feasible. This will enable a start to be made on site this year.
20. The agent has also set out the benefits of the revised access route as follows:

- a) The revised temporary route will not require removal of a significant amount of trees at junction onto A86 and the associated compensatory planting
- b) Reduced visual impact
- c) Less new haul road length will need to be formed , and an existing track used which is more practical and cost effective

21. Given this proposal (application reference 2015/0316/DET) for a revised haul road route it becomes necessary to vary the wording of planning Condition 4 of the MSC consent granted by the DPEA (**Appendix I**) which reads as follows:

“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 I 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.”

22. As the current submission for a new haul road route does not involve a new junction onto the A86, this above condition requires to be changed if the new haul road were approved. The agents suggest that this could be changed as follows:

No work shall commence on the development hereby approved until improvements to the existing 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 I site via the new haul road; and
- b) all landscaping shown on drawing no. 2110 – PL008 shall be implemented in the first planting season following the formation of the haul road and thereafter maintained in accordance with the approved maintenance details.

23. The agents have also set out in their planning statement in relation to future access proposals for Phases 1 and 2 that the construction of a new access onto the A86 will still be required, and that the previously approved details will form part of any future proposals for these phases which would also cover compensatory planting at the new junction and closure of part of the General Wade road.

Condition 7 – Landscape Plan

24. Again associated with the changes to the haul road configuration the applicants are applying to amend condition 7 as applied by the DPEA as they do not consider advance planting to be required to the same extent and also consider it to be impracticable to carry out advance landscaping in the manner sought. Condition 7 stated as follows:

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 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

25. When this 2013 application was being considered, the applicants submitted a proposal for advance planting which formed the basis of the landscape plan which was to then be provided in fulfilment of Condition 7. **Figure 6** shows the applicants proposed advance planting as proposed at that time- areas outlined in green identified for advance planting. **Figure 2** earlier showed the overall landscape structure.

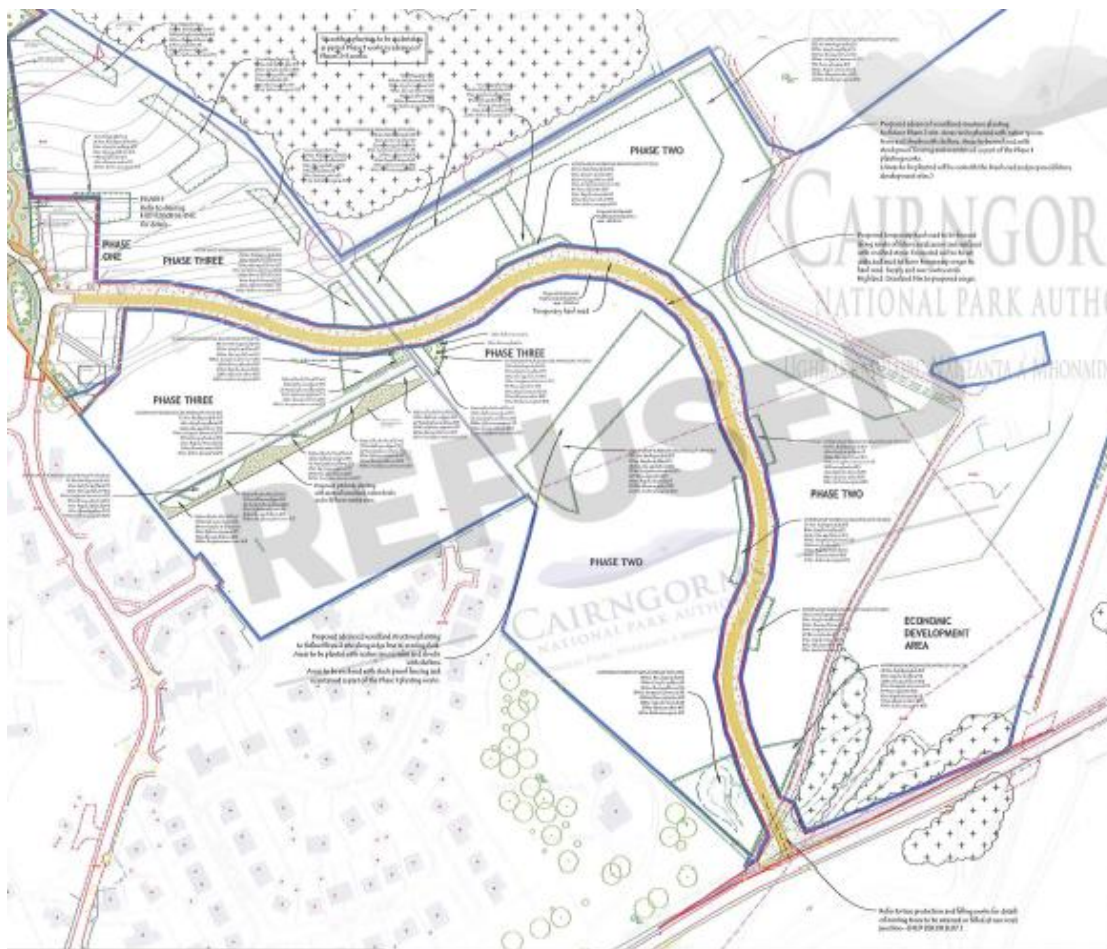


Figure 6: Advance planting as originally proposed

26. The applicants' agents have set out in their supporting statement that there are practical difficulties in undertaking this advance planting and that the breaking down of Phase I into smaller parts will reduce visual impact and allow some of the land to remain in agricultural use until required for development. Accordingly, they have submitted revised landscape plans which they consider to be more practicable to implement together with a phasing plan which splits Phase I into four sub phases.
27. As well as initially removing advanced structural planting these plans also reduce the density and content of vertical planting within Phase I and clarify the proposed changes to the timing of, and responsibility for, horizontal planting along plot frontages within Phase I. These changes in responsibility effectively propose that areas of horizontal planting are provided within plot boundaries, planted by developers of the individual plots in the first planting season following completion of their houses and maintained thereafter in accordance with an approved maintenance scheme. The agents have submitted detail in this regard of planting and maintenance and submit that this will allow the plots to be developed on the ground without effectively introducing advance planting within plots that could become damaged.
28. They also initially explained that it was impractical to carry out all the advanced structural planting before any house building commences in Phase I and have

identified within Phase I areas of advance planting which could be carried out after initial site works to form main access and plot layout are complete.

29. They did not initially consider it is possible or reasonable to provide details of advance planting for future phases until a detailed layout was brought forward for these phase. Any such the layout is to be informed by an engineering assessment to identify the extent of re-contouring works required. They considered the original condition to be ultra vires and set out that future landscape plans will be prepared for future phases at the appropriate time on the basis of the landscape strategy contained in the approved Master Plan.
30. However, following further discussion the applicants have now agreed to carry out advance planting all as outlined in their accompanying application for the haul road and comprising areas alongside the haul road, to the north alongside the track to Kerrow Farm, alongside the boundary to Craig an Darach, and increased planting to the Croila View boundary. This is as shown in **Figure 7**.

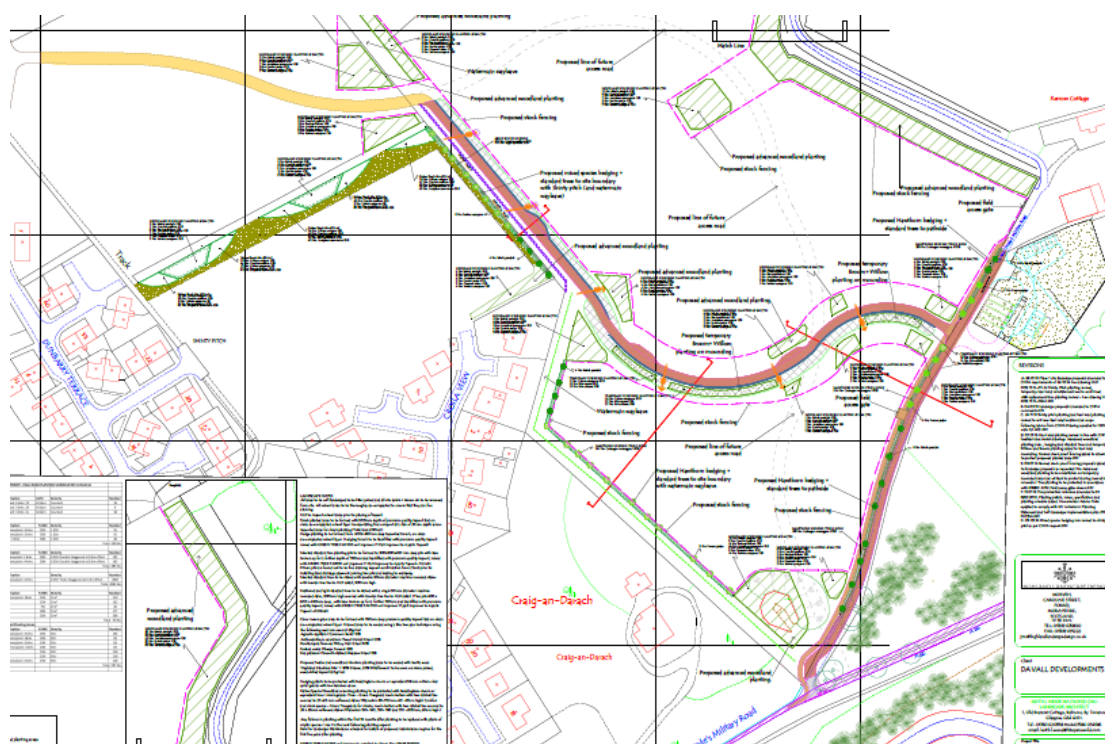


Figure 7 Proposed advance Planting

31. The agents have also set out the proposals for four sub phases within Phase I to allow for flexibility in housing mix, for example; low cost plots for local residents, larger high value plots and affordable housing. This approach will allow the re-contouring earth works in Phase I to be programmed accordingly, with the possibility that some parts of Phase I can remain in agricultural use. As a result it is not considered that planting across all Phase I is required at the trigger point of the condition (which is currently as soon as the haul road and servicing /access roads of Phase I are formed), but rather be timed relative to plot development within the sub phases with areas of advance planting identified and proposed for implementation following re contouring.

32. **Figure 8** shows the planting proposed within Phase I which is largely related to the detail of the landscape layout as opposed to changing the overall structure.

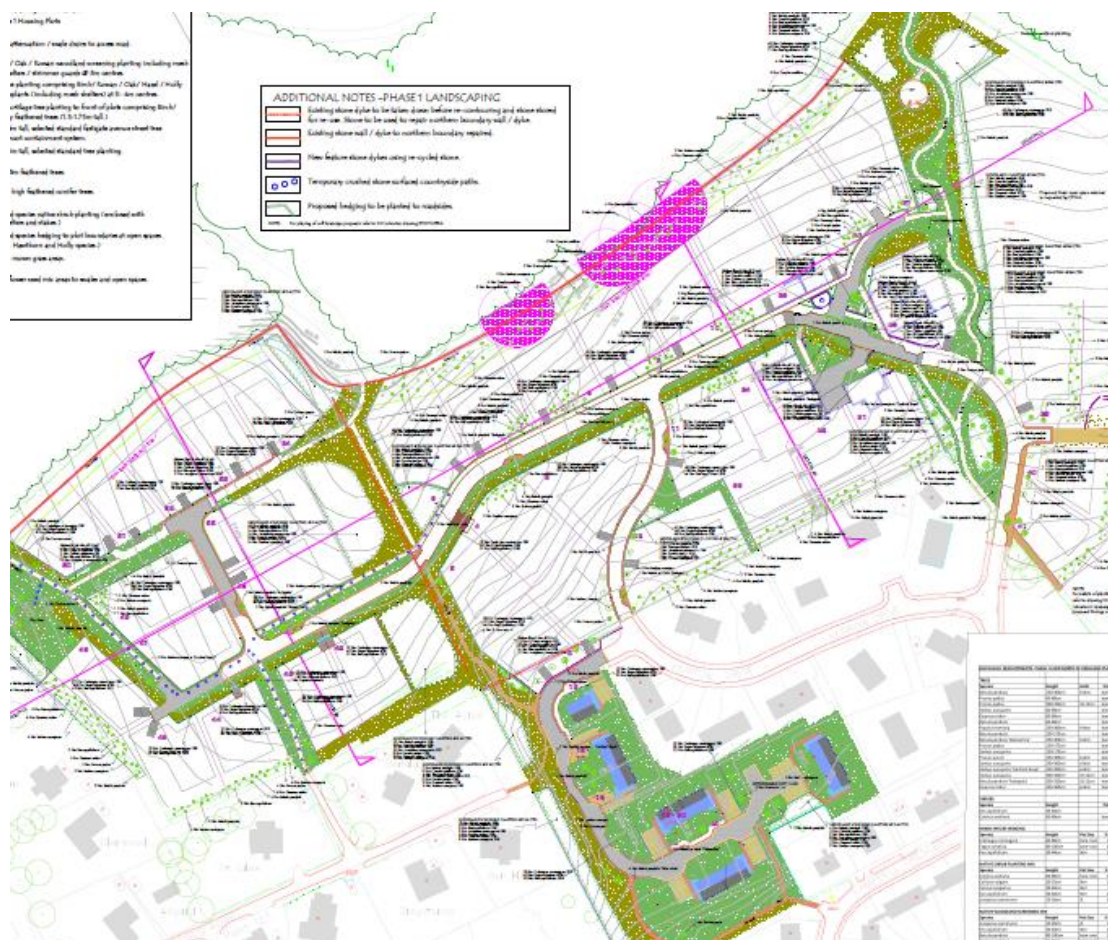


Figure 8: Proposed landscaping layout Phase I

33. **Figure 9 (a)** shows the proposed 4 phases, identifying in cross hatched areas those parts which may be retained as agricultural and identifying in green the areas of advance structure planting to be carried out once ground works are complete. In terms of phasing, Phase A comprises 12 private plots at north of the site, Phase B comprises the 18 affordable houses to west of site, Phase C is 4 private plots to north east of site, closest to future phases and Phase D comprises 14 plots to the far west of the site closest to Acres Road area, with the final 7 plots located at the site entrance from the east where an indicative compound area is shown.

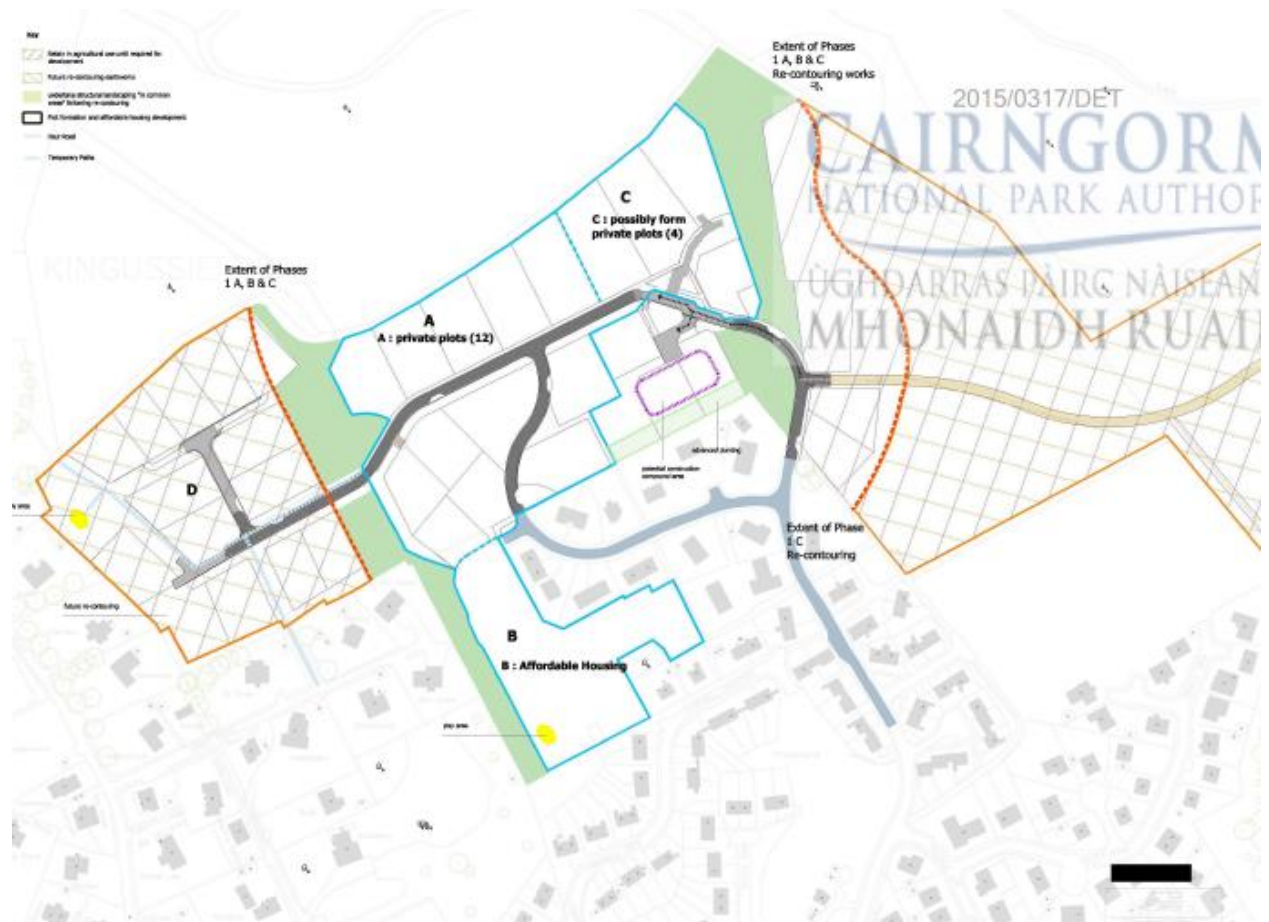


Figure 9(a): Proposed sub phases within Phase I

34. **Figure 9 (b)** shows the proposed landscaping implementation within Phase I where the areas in light green/grey is the advance structure planting, green is householder planting and brown is planting to be carried out following development of common areas.



Figure 9(b): Proposed phased landscaping implementation Phase I

35. Based on this above approach, the applicants' agents are suggesting that the original planning condition be revised to read as follows, this being a further revision to that proposed in their initial submission, in order to cover the split between advance planting and planting in Phase I:

"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 landscape scheme shall be implemented in accordance with the approved implementation and management plans. Advanced structural planting works shall be carried out in the first planting season following completion of the new haul road and associated ground works to form access roads, servicing and plot. All remaining structural planting and other landscaping shall be carried out in the first planting season following associated ground works to form access roads, other servicing and the development of individual house plots and common open spaces areas in each sub phase. Landscaping shall thereafter be maintained in accordance with the maintenance and management plan and timetable."

36. However, since the time of the wording of this suggested condition, proposals for advance structure planting for future phases were submitted.

Condition 8 Seeding of Plots

37. The final condition which the applicants seek to amend in this Section 42 application is Condition 8 which currently reads as follows:

“All plots which have not been developed within 6 months of re-contouring works having being 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 landscape setting is established and maintained”

38. The applicants’ agents have explained in their supporting statement the time and practical difficulties associated with this in relation to the need for sufficient time for overall site servicing, formation of plots, marketing and the subsequent processing of detailed planning and building warrant applications for plots. They also highlight their proposed approach of working in sub phases which would leave less land exposed. Accordingly they consider 18 months to be a more realistic/practical timeframe and suggest the following wording for a revised planning condition. However, in further correspondence they have indicated a willingness to reduce this time period to 12 months on the understanding that the relevant planning and building warrant authorities will process applications within prescribed periods.

“All plots which have not been developed within 18 months of re-contouring, plot formation and relevant in- curtilage structural planting works shall be seeded in accordance with the approved landscape plan and maintained in a clean and tidy condition until they are developed. “

Further Information Submitted

39. Following initial consideration of the application, Officers raised concerns with the agents regarding the limited landscaping proposals for mitigating visual and landscape impacts, along with concerns regarding the impacts of dust and noise on residential properties in the area. They also requested clarification on a number of points including road access and visibility splays, all as detailed in the accompanying application for the haul road (2015/0316/DET)
40. Revised material was submitted which may be summarised as follows:
- a) Revised plans to show the separation of the footpath alongside the General Wade road and clarification that this will be a countryside style footpath constructed of crushed hard core finish.
 - b) Details of the upgrading of the junction onto the A86 , together with clarification on extent of achievable, improved visibility splays
 - c) Safety method statement outlining how dust and noise will be minimised
 - d) Revised advance landscape plan all as shown in **Figure 7**.
 - e) Updated planning statement and revised construction method statement to reflect these changes.

Site History

41. There is a lengthy history associated with this site which has been referred to within the Proposals section of this report. This may be summarised briefly as follows.

Planning in Principle Consent (09/048/CP)

42. An application seeking planning in principle for a masterplan for up to 300 houses, economic development uses, community uses including all infrastructure was originally considered at the CNPA Planning Committee meeting of April 2010. At this meeting it was agreed to approve the development subject to the signature of a Section 75 agreement. A further report was considered at the August 2010 Planning Committee meeting, and proposed revisions to the planning conditions previously agreed at Committee were approved.
43. In November 2012, an update report was made to the Planning Committee to consider the application in the light of new material considerations, these being the legal challenge to the adoption of the Local Plan, and a report reflecting the 2010 Local Plan policies and supplementary guidance was considered. At this time it was agreed to grant planning in principle permission subject to registration of the Section 75 agreement and on 18 January 2013 planning in principle permission was granted subject to a series of conditions. A copy of this decision notice is attached in **Appendix I**.
44. These conditions included the requirement that; (a) a new construction haul road direct from the A86 trunk road be constructed and (b) notwithstanding the details of the application, no vehicle access to the site should be taken from the Dunbarry Terrace, Dunbarry Road, Kerrow Drive network with vehicular access to be via a single main access point onto the A86. There was also a condition attached requiring submission of a detailed landscape plan including extensive peripheral tree planting and proposals to maintain and protect the scenic integrity of the site and provide wildlife corridors.

Matters Specified in Conditions and Section 42 Applications

45. In February 2013, an application (reference 2013/0058/MS) seeking approval for matters specified in these above conditions was submitted and subsequently withdrawn to enable the applicant to address concerns raised by Officers relating to information submitted, including landscape provision.
46. Subsequent to this withdrawal, a further application (reference 2013/0190/MS) seeking approval for matters specified in conditions 1, 2, 5, 10, 11, 16, 18, 27 and 29 was submitted in June 2013. Also submitted at the same time and under the same application reference number, was an application under Section 42 of the Act for planning permission without compliance with Condition 4 of 09/048/CP (planning in principle permission) in order to permit access from the Dunbarry Terrace/Road and Kerrow Drive network.

47. Both these applications (as contained within application reference 2013/0190/MS) were considered at the September 2013 meeting of the CNPA Planning Committee.
48. Officer recommendation at this time was approval subject to the provision of a revised landscape plan to reflect all the matters raised in the CNPA Landscape Officer's comments together with provision of an updated master plan and design code to take account of these amendments. At this time the need to achieve a layout which reflected the character of Kingussie and reduced the impact of the development on the wider landscape, creating a high quality internal structure within which housing could be developed, was highlighted in order to provide a framework for an attractive addition to Kingussie. The importance of creating habitat corridors was also highlighted and the report emphasised the need to secure delivery of the proposed landscaping and structural planting at the earliest opportunity. The importance of avoiding the entire site appearing as a building site for years to come was stressed. A copy of this committee report is attached in **Appendix I**.
49. The Planning Committee refused these applications on the basis of being contrary to Local Plan Policy 16(g) on Design Standards for New Development in that it failed to demonstrate that the use of Dunbarry Road would protect the amenity enjoyed by residents of Dunbarry Road and its associated road network. The applicants appealed against these decisions to the Scottish Government Directorate of Planning and Environmental Appeals (DPEA). On 28 April 2014 the DPEA upheld both appeals. A copy of the DPEA's decision is attached in **Appendix I**.
50. In relation to the MS application appeal, the DPEA approved the MS application subject to various conditions. The DPEA's approval of the MS application meant that many, but not all, of the MSs applicable to planning permission in principle 09/048/CP had been approved. The developer had until 18 January 2016 (3 years from the date of grant of 09/048/CP) to apply for approval of the remaining MSs. As applications for approval of all remaining MSs were not made within that timescale 09/048/CP is no longer capable of being implemented.
51. In relation to the Section 42 Appeal, the DPEA effectively issued a further planning permission in principle on 28 February 2014 under reference PPA-001-2013. This included a new Condition 4 which allowed the 55 houses within Phase I to be accessed from the Dunbarry Terrace/Dunbarry Road/Kerrow Drive road network but with access to the remaining phases to be taken via a single main access point onto the A86. In addition, PPA-001-2013 was granted subject to all of the same conditions as originally applied to 09/048/CP but those MSs which were separately approved by DPEA in relation to 09/048/CP were deemed also to be approved in relation to PPA-001-2013. The remaining MSs in relation to PPA-001-2013 need to be applied for by 28 April 2017 (3 years from the date of grant of PPA-001-2013.) The DPEA decision is currently the only live planning permission for the site.

52. In summary, the DPEA decision relates to a mixture of a Matters Specified in Conditions Application and an application to “vary” the terms of the one of the conditions of the original planning in principle permission. As a result a totally fresh planning permission for the site was issued and this remains in force and capable of implementation.
53. Notable amongst the conditions attached to the DPEA decision is Condition 7 which set out the requirement for a revised landscape plan to be approved. The landscape plan was required to include advance planting for future phases to be undertaken in the first planting season following completion of the new haul road. Condition 4 also set out the requirement for the new road junction onto the A86 trunk road and the haul road to be formed before any development started on site and Condition 8 related to the seeding of undeveloped plots. These being the conditions the current application seeks to change through this current Section 42 application.

Pre application Discussions

54. Prior to submission of the current application and the accompanying application for the haul road, there has been extensive discussion between officers, the applicants and their agents regarding how to best progress the development. Since May 2014 the applicants have expressed concern regarding the burdens imposed by the planning conditions attached to their MSC consent and in particular their concern regarding the requirement for advance structure planting as well as the level and amount of landscaping provision within the site.
55. Compromises were discussed and the applicants were advised of the level of landscaping considered appropriate in July 2014 and also advised that a “two tranche” approach to advance planting could potentially be considered. This included carrying out some key advance planting with Phase 1 such as planting alongside the haul road, at the site entrance to A86, behind community playing fields, and at rear/north of site(west of Kerrow Farm), as these areas were unlikely to be disturbed by future re-contouring. Allied to this, areas could be identified for advance planting once the re contouring for future phases was undertaken.
56. Following on from these various meetings, landscape plans were prepared and discussed in terms of fulfilling Condition 7. In November 2014 officers advised that the material submitted did not meet the requirements of the condition, with detailed comments from the CNPA Landscape Advisor provided to assist in making a satisfactory submission.
57. During April - July 2015 there was ongoing discussion/meetings with the applicants and their agents to discuss the potential for revising the route of the haul road from the A86 in order to both reduce development costs and landscape impacts. An option of running a new haul road along the western edge of the fields was discussed along with appropriate levels of planting. The need to commit to some advance planting and to explain how future planting would be delivered for Phases 2-3, as soon as re-contouring took place, was also highlighted. The current submissions are a further variation of these discussions.

DEVELOPMENT PLAN CONTEXT

National policy

58. **Scottish Planning Policy** (SPP, revised 2014) sets out national planning policies that reflect Scottish Ministers priorities for the operation of the planning system and for the development and use of land. Under planning law, planning applications must be determined according to the development plan unless material considerations indicate otherwise. The content of SPP is a material consideration in planning decisions that carries significant weight. The SPP promotes consistency in the application of policy across Scotland while allowing sufficient flexibility to reflect local circumstances.
59. The SPP sits alongside four other Scottish Government planning policy documents:
- 1) The National Planning Framework (NPF) which provides the statutory framework for Scotland's long term spatial development. The NPF sets out the Scottish Government's spatial development policies for the next 20 to 30 years;
 - 2) Creating Places, the policy statement on architecture and place, containing the Scottish Government's policies and guidance on the importance of architecture and design;
 - 3) Designing Streets, a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance; and
 - 4) Circulars, which contain policy on the implementation of legislation or procedures.
60. Scottish Planning Policy sets out the need to facilitate sustainable economic growth stressing the vital role of the planning system in delivering high quality places in Scotland demonstrating the six qualities of successful place, these being distinctive, safe and pleasant, welcoming, adaptable and resource efficient. Paragraphs 84- 86 refer to National Parks, highlighting the four aims of the Parks and that if there is any conflict between the first aim (to conserve and enhance the natural and cultural heritage) and any of the others, then the first aim must be given greater weight.
61. In terms of the natural environment SPP sets out the need for the siting and design of new development to take account of local landscape character and to minimise adverse impacts through careful planning and design, considering the services the natural environment is providing and maximising the potential for enhancement. Emphasis is given to improving the quality of our places and spaces through integrated green infrastructure networks which can also attract investment and development. Paragraph 221 highlights that green infrastructure is an integral element of places from the outset of the planning process.

Strategic Policies

Cairngorms National Park Partnership Plan (2012-2017)

62. 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.
63. Three long term outcomes for the Park are set out as follows:
- 1) A sustainable economy supporting thriving businesses and communities;
 - 2) A special place for people and nature with natural and cultural heritage enhanced; and
 - 3) People enjoying the park through outstanding visitor and learning experiences.

These outcomes address the interaction of the three main characteristics of the National Park these being that the Park is an internationally important area for nature conservation; a fragile rural economy, and an internationally known tourism destination. Recognising the relationship of these outcomes is at the heart of the National Park. A series of work programmes to help deliver the outcomes is set out in the Plan.

64. Specific policies of the Plan seek to promote and enhance the special qualities of the Park. Policy 2.3 seeks to conserve and enhance the special landscape qualities of the National Park, with a particular focus on enhancements that also deliver habitat improvements, and enhancing opportunities to enjoy and experience the landscapes of the Park. Policy 2.4 seeks to conserve and enhance habitat quality and connectivity whilst Policy 2.8 seeks to enhance the design and sense of place in new development and existing settlements, specifically setting out the need for road upgrades and improvements to respond to local landscape character.
65. Also relevant is Policy 1.2 which seeks to enable sustainable patterns of settlement growth, infrastructure and communications by amongst other things, consolidating the role of the existing main settlements including Kingussie, whilst Policy 1.1 seeks to grow the economy of the National Park and to provide a housing land supply to meet demand.

Local Plan Policy

Cairngorms National Park Local Development Plan (2015)

66. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at:

<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

67. The application site lies within the settlement boundary of Kingussie as defined in the Local Development Plan. This land is covered by the designation EPI which relates to land supply information, identifying this site as one with planning permission for 300 units. The settlement statement text for Kingussie sets out that this is the oldest settlement in Badenoch, a traditional Highland town, with the need for new development to be undertaken in a way that complements the existing town stressed, with a clear definition between town and country maintained.
68. General design guidance for Kingussie includes the need for all new development to ensure the quality of surrounding woodland and sensitive habitats is not compromised with the need to improve the woodland setting and structure highlighted. A landscape priority is to maintain and enhance the contribution of trees and woodland within the settlement and to maintain and enhance woodland access across the town, managing access corridors for both people and wildlife.
69. Key policies relevant to the proposed development are summarised below:
70. **Policy 1: New Housing Development** sets out support for proposals on identified sites and where the development reinforces and enhances the character of its surroundings. Along with other policies it seeks to ensure that development is well designed.
71. **Policy 2.3: Other Economic Development** supports development which supports or extends the economy providing it meets other policies of the plan, is compatible with existing business activity in the area, and supports the vitality and viability of the local and broader economy of the Park.
72. **Policy 3.1: Sustainable Design** sets out the need for new development amongst other criteria, to be satisfactorily serviced; sympathetic to the traditional pattern and character of the surrounding area; use materials and landscaping that will complement the setting of the development; make sustainable use of resources; promote sustainable transport methods; improve or add to existing public open space; maintain and maximise all opportunities for responsible outdoor access including links into existing path network; protect amenity enjoyed by neighbours including minimisation of disturbance caused by access to the development site; and create opportunities to further biodiversity and promote ecological interest.
73. **Policy 4.2: National Designations** (in respect of the National Park); **Policy 4.5: Other Biodiversity** and **Policy 4.6: All Development** set out how any heritage interests should be considered, protected, mitigated and enhanced with the key objective of ensuring that all development conserves and enhances the outstanding natural heritage of the National Park, protecting against adverse development and enabling enhancement

74. **Policy 5: Landscape** presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park. This policy goes on to explain that development which does not complement and enhance the landscape character will only be permitted where any significant adverse effects are clearly outweighed by social or economic benefits of national importance and all adverse effects have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
75. **Policy 10.1: Water Resources** and **Policy 10.2: Flooding** which set out how new development should ensure the reduction in use of resources, ensure development is free from flood risk or increase the risk of flooding elsewhere, and to ensure there is no deterioration in ecological status or unacceptable impacts on the water environment

Supplementary Guidance

76. The CNPA has prepared a suite of Supplementary Guidance (SG) which is part of the Local Development Plan and provides more detail about how to comply with the policies. There is also non-statutory Planning Guidance to help support the delivery of the Plan.
77. Key topics in this case are guidance on landscape, sustainable design, resources and natural heritage which outline key principles and requirements to help deliver policy as set out earlier. Guidance on Landscape sets out the role of landscaping works in the vicinity of a development to help strengthen/enhance existing landscape features, provide a framework that improves the appearance of the development in its setting or provide some screening to help reduce adverse impacts.

CONSULTATIONS

78. **Transport Scotland** was consulted as the proposal seeks to amend the wording of a planning condition relating to access onto the A86 trunk road. They have no objections to the proposals.
79. **The Highland Council Forestry Officer** has provided no comments to date.
80. **CNPA Landscape Advisor** comments were sought in relation to both this application and the accompanying application for a new temporary haul road (Reference 2015/0317/DET). The two applications are interlinked in landscape terms whereby the view on the acceptability of the new haul road is informed by its landscape impacts, including the amount of landscape planting which is part of the proposals to vary Condition 7. Also the proposal to amend the access point onto the A86 trunk road relates to Condition 4. The final aspect of revised proposals for seeding of plots is also related, being part of the overall phasing and development of the site which the landscape scheme seeks to vary.
81. The Advisor has noted that the proposed change in layout of the new haul road may help to reduce the extent and intensity of landscape and visual impacts.

However, without some advance planting the permitted access road, in the future when constructed, will be as prominent as if it were constructed today. The advisor highlighted the need to for a minimum level of advance planting to be carried out, setting out the level required. To summarise this would involve edge planting (narrow belts of trees/hedges and hedge row trees) and some limited internal copse planting, and planting alongside the shinty pitch. This would complement existing character and provide some landscape context for future development without compromising future preparatory earthworks for future phases.

82. It was further noted that planting along the bunded area to be formed beside the proposed new construction/haul road would be located on the bund of material to be used for eventual reinstatement of this road. Accordingly, any such planting will be lost as part of this process. It was therefore recommended that trees be planted as a series of copses on the south side of the haul road, but off the bund. These should be strategically located for long term retention and to reduce the effected of the temporary haul road upon local amenity. Also in relation to the haul road route the need to undertake appropriate reinstatement works after Phase I is completed was highlighted in order to revert back to the low key nature/character of this historic road with an appropriate specification required for such works.
83. In relation to the access point onto the trunk road it was considered that there was still a need to have some landscaped planting at the site entrance by way of mitigation of the impacts of the upgraded access and haul road. *(Further information was provided later by the applicant was considered to address this particular point.)*
84. Finally, the advisor raised queries about the material submitted in relation to the need for details of how the remaining agricultural land would be managed to clarify that it will be as existing, together with clarification on fence lines/gates.
85. In relation to material submitted for Condition 7 (landscape scheme) regarding the detail of planting within Phase I itself, the Advisor was content with the proposed sequence of sub phases involving parts of the site to be retained in agricultural use and structural planting provided following on from re contouring. The proposed landscaping and maintenance regime was also considered to be acceptable in principle with some modifications required which have now been taken on board by revised submissions from the applicants.
86. In relation to the proposal to vary condition 8 (seeding) the applicants' case is appreciated. The Advisor has highlighted that Officers previously advised that strimming of natural growth on plots was a potential solution given the applicants' concern regarding the difficulties of seeding subsoils on prepared plots. A time period of 12 months is considered reasonable from re contouring and plot formation. The advisor has also highlighted that the applicants' suggested wording refers to 18 months from re contouring, plot formation and "relevant in- curtilage structural planting works". Reference to "in curtilage planting" would effectively mean that the plots would never be seeded as the in curtilage planting is proposed post development of the plots.

87. The Advisor concluded overall that the requirement for advance planting on a site of this scale was key to reducing landscape and visual impacts to a level that Local Development Plan policy on Landscape can be met.
88. The applicants initially submitted further material which still provided limited advance landscaping and this was considered to be inadequate in terms of creating the beginnings of a long term landscape context and reducing the risk of future landscape impact in the National Park. It was also highlighted that the principle of the housing development being “compartmentalised” within advance structure planting was established in the masterplan and subsequent discussions/submissions.
89. A minimum level of advance planting was set out by the Landscape Advisor and this led to the current submission which is considered to provide an adequate level of advance landscaping to meet the original aspirations and requirements, subject to planning conditions being imposed regarding implementation.
90. **Kingussie and Vicinity Community Council** objected to the variation of Condition 4 when responding to the application for the haul road (Reference 2015/0316/DET), highlighting their key concerns as being:
- 1) The originally approved construction road junction was located to ensure that it was a safe distance from the A9 which is even more pertinent now the A9 is to be dualled. (Upgrading the existing access to Kerrow Farm instead is not in the interests of road safety as it is too close to the northbound junction of the A9.)
 - 2) The Kerrow Farm access is a public right of way and it is not clear how access for walkers and horse riders will be preserved whilst the proposed new haul road is being constructed
 - 3) Loss of amenity for householders (from visual noise and dust/dirt impacts) with no proposals now for associated landscaping
 - 4) Concerns regarding whether construction of road will be sufficient in wet weather and if not then further hard core will be required – how will this affect final restoration/reinstatement works for haul road.
 - 5) Plans are insufficiently detailed to consider route of whole road.
 - 6) Applicants’ economic case is not accepted and the Community Council conclude that the application appears to relate more to financial concerns than to creating a quality development with a lack of regard for existing residents’ amenity evident.
91. In relation to the proposal to vary conditions 7 and 8 as contained in this current application they have also objected, noting that the original conditions were attached for very good reasons, and recommend refusal of the proposed variations. Their comments are attached as **Appendix 3** and by way of summary the key concerns are as follows:
- 1) Condition 7 was attached to ensure a suitable landscape setting was established and maintained which would also afford existing properties more protection from ongoing construction activities.

- 2) Proposed changes would result in minimal landscaping and planting prior to construction which is unacceptable
- 3) If original landscape proposals not implemented prior to construction they are highly unlikely to ever be implemented, which would be detrimental to Kingussie and local residents in adjoining houses
- 4) Re-seeding of plots is reasonable requirement in a National Park and comparisons by applicant to other sites, such as Golspie, are irrelevant. It may be many years before all plots are developed and it is important that the undeveloped land does not become an eyesore.

REPRESENTATIONS

92. The application was advertised and 3 representations were received, all objecting to the application. These representations are attached as **Appendix 4** and one of these parties has requested to be heard at Committee. The key areas of concern are summarised as follows:
- 1) The access point takes the haul road closer to existing housing with loss of amenity
 - 2) Access point is too close to A9 junction and will create larger barrier to wildlife movements as well as a traffic hazard
 - 3) Insufficient consideration of environmental impacts with the revised site entrance bringing development closer to the Glebe Ponds causing disturbance to people enjoying this attraction
 - 4) Proposed changes to Conditions 7 and 8 would have negative, long lasting impacts on landscape and visual amenity in a prominent location – this is not in accordance with the high standards of landscaping appropriate in a National Park
 - 5) Timing of landscaping in first planting season following completion of haul road should remain to ensure establishment of effective landscape screening, wildlife habitat and cover.
 - 6) No landscaping to protect existing properties from noise, dirt and dust whilst building works ongoing
 - 7) Condition 8 was attached to keep plots tidy – it may be years before they are developed so it is important to ensure the site does not become an eyesore
 - 8) Only advantage of the proposals is to reduce developer's costs – if planting is not done now then the development will not look at good as it could to the detriment of Kingussie
 - 9) Proposals are cost cutting measures -original conditions attached were to protect environment and people
 - 10) Existing borrow pit at Craig an Darach will be impacted with no survey for invertebrates such as mining bees evident and no mitigation proposed.
 - 11) Lack of information on tree felling and habitat impacts
 - 12) Environmental impacts will be increased overall as a new junction onto the A86 will still need to be constructed in the future too.
 - 13) Construction compound will be visually intrusive and be constructed on area of establishing wildlife habitat.

93. The applicant's agent has submitted a request to be heard at Committee and has also provided a detailed response to representations made which is attached as **Appendix 5**.

APPRAISAL

Principle - Legal Background

94. By way of legal background Section 42 of the 1997 Act provides a mechanism to apply for planning permission to develop land without complying with conditions previously attached. It sets out that the Planning Authority shall consider only the question of the conditions subject to which the planning permission should be granted. If the Authority decides that planning permission should be granted subject to different conditions than those of the previous permission (or that it should be granted unconditionally) then they should grant planning permission accordingly. If the Planning Authority decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted (i.e. no changes) then they should refuse the application. Accordingly the principle of this development at Kingussie is not being revisited, but rather the wording of specific planning conditions upon which it was previously granted.
95. With Section 42 applications once the merits of proposed changes to the original planning conditions have been fully considered, and if it is agreed that revised planning conditions are appropriate, then a new "standalone" planning permission can be issued. As the applicants can still choose to implement the original permission then it is necessary to ensure that all appropriate and necessary planning conditions are attached to the new permission as well as any legal agreements.
96. In this case, as outlined in the planning history section, there is a particular complication in that, by virtue of the 2013 application (which included a Section 42 application and a Matters Specified in Conditions application) the permission issued by the Directorate of Planning and Environmental Appeals (DPEA) amended one of the conditions of the planning in principle permission and also granted matters specified in conditions permission for various conditions relating to that same permission. As a result any new permission granted with this current Section 42 application will need to ensure it contains all relevant planning conditions from the planning in principle consent as well as those attached to the matters specified in conditions consent, as well as with any legal agreements. It will also provide an opportunity to clarify the conditions for the reader and set out revised timescales for submission of information if considered appropriate.
97. In this regard and of relevance to this consideration is Scottish Government Circular 4/1998 (The Use of Conditions in Planning Permissions), which requires conditions imposed on planning permissions to meet the tests of (1) Necessity, (2) Relevance to Planning, (3) Relevance to the development, (4) Enforceable, (5) Precise, and (6) Reasonable in all other aspects. The imposition of the existing

conditions would have considered these tests during consideration and wording by the DPEA Reporter with the 2013 consent and also when the original 2009 consent was granted by the CNPA.

98. Also relevant is the Scottish Government Circular 2/2013 on Development Management Procedures Revision 1 which sets out the procedure for considering Section 42 applications, explaining that the effect of granting permission for a section 42 application is such that a new and separate permission exists for the development with different conditions attached. The existing permission granted by the DPEA provided this new permission too and as outlined previously, this remains in force. The Circular goes on to explain that the duration of the permission is specified in the Act but that authorities may direct that a longer or shorter time period applies. The need to attach to the new permission any of the conditions from the previous permission which it is intended should still apply is highlighted along with the need to secure any Section 75 agreement.
99. Against this legal background, the main issues to bear in mind are that;
- (a) the principle of development is not being revisited, and,
 - (b) the case to “vary” the planning conditions as sought by the applicants must be considered in the light of meeting the tests as noted above, and,
 - (c) the need to ensure that any permission granted is comprehensive in terms of covering all relevant planning conditions from the original planning in principle consent and from the DPEA decision to provide clarity for all parties on what is required to progress this application. This is an important opportunity offered by this particular application.

Principle - Development Plan Background

100. As well as assessing the merits of the proposed changes to the planning conditions, consideration has to be made in respect of any changes to the Development Plan since the original planning permissions were granted and how the proposed changes fit with the Development Plan policies.
101. The 2013 application was determined in the light of the Cairngorms Local Plan 2010 and its associated supplementary planning guidance, as was the earlier 2009 planning in principle application prior to the granting of that permission. Since this time the 2015 Cairngorms Local Development Plan has been adopted and the application and any changes to the approved conditions as proposed require to be assessed in terms of compliance with this adopted Local Development Plan.
102. In this regard there have been no significant changes between the planning policies of the two Plans, with the current Local Development Plan continuing to emphasise the need to conserve and enhance the landscape character of the National, protect residential amenity and be satisfactorily serviced.

Principle - Planning Merits

- I03. The principle of changing the haul road arrangements to facilitate development of this important housing, and economic development site is understood in terms of the applicants' rationale to try and keep initial set up costs down in order to move towards delivery of much needed affordable housing, and also to try and minimise initial visual intrusion and keep the surrounding land in agricultural use. This aspect has been considered fully in the accompanying application for consent for the new temporary haul road. The principle of the development proposed is considered to satisfy the terms of Local Development Plan Policy I: New Housing Development and Policy 2.3: Other Economic Development.
- I04. It is the relationship and ramifications of this proposed change which fall to be considered in this current application to vary Condition 4 (access) and Condition 7 (landscape plan) of the original MSC consent, along with associated Condition 8 (seeding). In essence, the changed access route will partly cut across areas previously identified for advance planting and landscaping around the originally approved access road and the implications of this have to be considered in relation to the current landscape proposals and changes to conditions.
- I05. The key planning issues are to consider the detailed impacts of the proposal and how it is implemented on the ground, bearing in mind the terms of the existing planning permissions and compliance with Local Development Plan policy. As all items of this application are interlinked the various conditions are now considered individually in terms of compliance with policy.

Condition 4 - Access

- I06. The wording of Condition 4 requiring that a new access onto the A86 be formed prior to development starting requires to be changed if the proposed new haul road arrangements, using the existing junction point, are to proceed.
- I07. If the new haul road were not deemed to be acceptable on landscape and other grounds including biodiversity, surface water drainage and residential impacts, then Condition 4 should not be varied. However, as the new access is considered to be acceptable, as detailed in full within the report on application 2015/0316/DET, then it is reasonable to consider varying Condition 4 to allow the haul road to progress. It is necessary to vary Condition 4 as there is at present only one construction access route approved under the terms of the 2013 MSC consent involving a completely new access point onto the trunk road.
- I08. The replacement wording put forward by the agents is generally considered to be reasonable in that it ties the formation of the revised haul road to the works in Phase I. Any consent granted for the haul road itself can also secure this, together with reinstatement of the temporary haul road. However, the applicants' proposed variation to Condition 4 does not address how future access to Phases 2 and 3 would be provided/controlled nor does it fully address

the timing of removal of the proposed temporary haul road. Achieving these objectives would necessitate additional wording, or indeed conditions. These can be readily worded and on this basis it is considered reasonable in policy terms to vary this particular planning condition subject to the revised condition(s) clearly covering the arrangements for future phases.

Condition 7 – Landscape Plan

109. The existing character of Kingussie is set by houses located within well landscaped mature grounds/setting. This has taken many years to develop and it is essential to seek to reflect this with all future development in this attractive town. Accordingly, it is considered crucial to take steps towards creating such a setting with new development. The development of this large site provides the ideal opportunity to begin creating a setting in advance of new development across the whole site which will inevitably take many years to progress and conclude. Taking steps now to create a landscape setting will provide biodiversity and visual benefits for residents and the area in years to come, whilst landscaping beside Croila View will help ensure that residential amenity is protected as required by Policy 3: Sustainable Design and 4: Natural Heritage.
110. Officers have identified the minimum advance planting required whilst recognising the understandable desire of the applicants to retain the agricultural use of the fields and avoid abortive work and expense in landscaping areas which may then be lost in the future when other phases take place. The applicants own masterplan provided a basis for this approach.
111. Although it was considered that the proposed revised haul road route would have reduced visual impacts, as it will follow an existing track line for some extent, it will continue to cross the agricultural field creating a construction road across the field. Consequently, it remains essential that sufficient mitigation is provided in order to:
- (a) establish sufficient structural landscaping for when future phases come on line;
 - (b) help ameliorate the impacts of the haul road;
 - (c) mitigate any landscape impacts when the temporary haul road is removed and the new approved access road installed in the future; and
 - (d) finally to avoid the field appearing as an open construction site with no advance structure planting established.
- This will ensure that the initial aims of the masterplan, original planning consents and Local Development Plan Policy 5: Landscape and Policy 3: Sustainable Design are met.
112. The reason why advance planting is so important here is that this is a large scale, key housing site within Kingussie which will substantially increase the size of the settlement, and is likely to be ongoing for many years, given current building rates in the National Park.

I 13. It is considered that the planting now being offered by the applicants does achieve these requirements in terms of landscape setting, providing areas of planting which can be retained for the future and which help screen the site from residents, once established, as well as providing a setting across this hillside. Planning conditions have been recommended with the haul road application to ensure the planting is implemented quickly once the road is formed and then it can become established to over time provide a setting for the future development here. It may be many years before development of future phases actually happens at this wider site so it will be to everyone's benefit, not least future and exiting residents, to have some level of structural planting established now. Similarly planning conditions can be attached now to any Section 42 permission to secure delivery of the advance planting.

I 14. With regard to other aspects of the proposed overall landscape approach, it is considered that the proposal to;

- (a) split Phase I into sub phases,
- (b) a two tranche approach to delivery of in curtilage planting, and
- (c) tying the landscaping in Phase I to various key trigger points

is considered to be a reasonable way to deliver a good landscape setting here, whilst recognising the practicalities of working on site.

I 15. In these overall circumstances where the haul road application and its associated advance planting will establish a future setting for development, and the revised landscape plan for Phase I will deliver the required landscape setting, it is considered appropriate to vary the wording of Condition 7 to facilitate this. The wording initially proposed by the applicants has been to a degree overtaken by events in that they are now providing advance landscaping tied to the haul road. Accordingly, revised wording is proposed which will secure the overall objective of Condition 7 and tie the planting to the current landscape scheme which is generally acceptable.

I 16. On this basis it is considered that a variation to Condition 7 may be secured which comply with Policy 5: Landscape and Policy 3: Sustainable Design and associated supplementary guidance on landscape.

Condition 8 – Seeding of Plots

I 17. Allied to the proposed variations to Condition 7 (landscape plan) is the applicants' proposal to extend the time period for seeding undeveloped plots. The case put forward by the applicants in the context of the landscape submission made in relation to varying Condition 7 which sets out the proposal to develop Phase I in sub phases is understandable. Overall, this is considered a reasonable approach and that an extended time period of around 12 months would be appropriate although, as noted by the CNPA Landscape Advisor, the proposal to tie seeding to after in curtilage planting takes place would not work in terms of the proposed landscape plan which seeks to deliver in curtilage planting after houses are built.

- I 18. On this basis the request to vary Condition 8 is considered to comply with Local Development Plan Policy 5: Landscape subject to suitable wording as set out in recommended Condition 12.

Other issues

- I 19. The need for a Habitats Regulations Appraisal (HRA) has been considered. The changed scheme does not raise any new issues for NATURA interests. Therefore, no further assessment is required.
- I 20. Issues raised by objectors have been considered in this report. Remaining issues relating to loss of enjoyment of Glebe ponds are not considered to be significant land use planning considerations.
- I 21. Other matters also objectors and by consultees including drainage/flooding and ecological issues have been fully considered under the corresponding application 2015/0316/DET in relation to the construction of the haul road on this Agenda. Conditions have been recommended as part of this application to ensure compliance with Local Development Plan Policy 4: Natural Heritage and Policy 10: Resources.

CONCLUSION

- I 22. Officers remain committed to supporting delivery of housing development in Kingussie and there is a live planning permission granted by the DPEA which is capable of being implemented to this end. It is the terms of this previous application which this current submission seeks to vary leading, as outlined earlier, to a new stand-alone planning permission being granted for this site if supported. Thereafter, the applicant may choose which consent to implement.
- I 23. The proposed variations to Conditions 4, 7 and 8 are based upon a new temporary haul road being constructed with revised landscape proposals submitted around this. The haul road proposal is considered to be acceptable in land use planning terms, whereby it is considered to be entirely appropriate to support this application to vary the associated planning conditions. This is subject not only to appropriate wording for the planning conditions to be varied, but because this Section 42 application will lead to a totally new planning permission being issued it is important to ensure this new permission encompasses all necessary planning conditions from previous permissions.
- I 24. This current application offers the opportunity to set out all relevant conditions in a logical manner, starting with those applying to future “matters specified in conditions “applications, then those which must be complied with before any work can commence on site, followed by those applying to the development approved in Phase I and, finally ending with general conditions applying to the whole site. It is considered that this will be a more user friendly approach which clearly sets out in a single decision notice what is expected of the developer.

125. It is also necessary to consider the matter of the duration (or timescale) of the new planning permission to be granted. At present the permission granted by the DPEA effectively gave a 3 year period until 28 April 2017 for all suspensive condition and matters specified in conditions to be approved with development to start on site thereafter. This would have effectively meant that details of all future phases required to be submitted by next April which is somewhat onerous and impractical.
126. Under the terms of Scottish Government Circular 3/2013 (as updated in September 2015) it has been made clear that the duration of Section 42 applications will be as specified in Section 59 of the Planning Act. However, it goes on to say that it would be possible for the planning authority to direct that an alternative time period should apply with information on how to do this contained in Annex H.
127. This application is considered to present an ideal opportunity to properly consider how best to secure a realistic timetable for delivery of housing on this site allowing practical time periods for submission of information which will allow all parties to properly prepare and then assess submissions to address the numerous suspensive planning conditions on this site. Accordingly, it is recommended that a Direction be attached to set out timescales for submission of information related to the development of Phase I given that only part of the Phase I has been approved in detail, and then for future phases too in order to encourage progress of development and delivery on this key site. It is also considered appropriate to allow a longer period for the submission of matters specified in conditions applications for future phases and wording to achieve this is suggested in order to clarify this point since the current DPEA permission PPA – 001 - 2013 is considered to be slightly unclear on how future phases may be controlled in respect of tying back to the terms of the initial planning in principle consent.
128. For clarification, specifically in response to the proposed changes to Conditions 4, 7 and 8 sought under this Section 42 application, are the recommended conditions as follows:

Previous Condition	New Conditions
4	6 and 7
7	8 and 20
8	21

129. Finally, the original section 75 agreement will need to be updated to tie it to the current application reference. This agreement was entered into by the CNPA, Highland Council and the applicant and related to the following matters:
- a) provision of affordable housing
 - b) developer contributions towards of recycling facilities, secondary school accommodation, improved bus shelters, school road safety scheme, path and safety improvements on Garraline Terrace, and dog fouling bins
 - c) community care contribution

- d) transfer of community woodland
- e) use of Gynack Burn land to assist local community to establish a hydropower generation scheme
- f) playing field to be reserved for recreational use
- g) future ownership and maintenance of public open space

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

- I30. The proposed development supports this aim as appropriate levels of landscaping means that the development will over time conserve and enhance natural heritage in terms of landscape impacts and provision of biodiversity corridors.

Promote Sustainable Use of Natural Resources

- I31. The development generally supports this aim at present since although the proposed Section 42 variations are related to a proposal which involves construction of tracking and paths which are required to be removed and then restored in the longer term. In the shorter term it will enable use of an existing track and access, which is inherently more sustainable than constructing a new track.

Promote Understanding and Enjoyment of the Area

- I32. The proposal associated with the accompanying application for a haul road involves provision of a separate path beside the General Wade Road and this will help ensure that enjoyment of the area by walkers will be maintained. In addition if the development is satisfactorily landscaped then it should not reduce the enjoyment of the area in terms of the special landscape qualities of the National Park.

Promote Sustainable Economic and Social Development of the Area

- I33. The proposed overall development supports this aim as it is understood to provide an economic option for the developers to reduce upfront development costs and help deliver housing and economic development land in Kingussie to the benefit of the community.

RECOMMENDATION

That Members of the Committee support a recommendation to GRANT planning permission for this application under Section 42 for variation or non-compliance with conditions 4 (Haul Road), 7 (Landscaping) and 8 (Re-seeding of Plots) for Phase I Housing Development of 37 serviced plots and 18 affordable dwellings granted under Planning Permission PPA-001-

2013 at land to north and east and west of Dunbarry Terrace and Kerrow Drive Kingussie subject to:

- 1. An updated section 75 legal agreement being signed by all parties to ensure it is related specifically to the current application reference**
- 2. A Direction to be attached regarding duration of planning permission**
- 3. Planning conditions**

PROPOSED DIRECTION

The Cairngorms National Park Authority direct in terms of Section 59 (5) of the Town and Country Planning (Scotland) Act 1997 that sub section 2 (a) (i) of Section 59 applies as respects 2015/0317 with the substitution of the period of 3 years from the date of the grant of this planning permission in principle (2015/0317/DET) referred to in each of those subsections, with the periods of:

- (a) In respect of Phase 1 - 2 years from the date of grant of this planning permission in principle
- (b) In respect of Phase 2 - the earlier of 3 years from the date of the completion of Phase 1 or 10 years from the date of grant of this planning permission in principle
- (c) In respect of Phase 3 - the earlier of 3 years from the date of the completion of Phase 2 or 15 years from the date of grant of this planning permission in principle

Reason: In order to enable the phased delivery of a good quality housing development that meets the needs of the community and supports economic and community development in accordance with Policy I: New Housing Development of the Cairngorms National Park Development Plan 2015.

PROPOSED PLANNING CONDITIONS

Planning permission in principle and key conditions

- I. That no development in connection with Phase I Sub phases A, C and D (in terms of plots 1-12 and 31 – 55) shall commence until full plans and particulars of the siting, design and external appearance of each house have been submitted to and approved in writing by the Planning Authority. Note that matters specified in conditions approval has been granted for sub phase B affordable housing. The applications shall include:
 - a) The development method, i.e. single entirety or on an individual plot by plot basis or a hybrid of both
 - b) Design, siting and finishes (including, but not exclusively, walls, roofs, windows, garage doors, boundary treatments, parking/path surfaces)

- c) Boundary treatments to reflect the requirement for front and side boundary enclosures to retain the open, landscaped character of the site (for example using stone dykes, post & wire fences and/or hedging in native species)
- d) Landscaping and future maintenance within individual plots
- e) Sectional drawings to detail the exact levels and context with the surrounding ground/landscape including existing and proposed ground levels
- f) Details of final floor levels, which shall be a minimum of 225mm above adjoining ground level,
- g) Details of provision for flexibility for home working and high speed broadband infrastructure
- h) Details of the provision of storage of waste and recyclable material facilities
- i) Details of off-street parking provision (including any garaging) to be provided within each plot
- j) Details of surface water drainage arrangements by means of sustainable urban drainage solutions including details of maintenance
- k) In the event that any plots are to be developed on an individual basis they shall be accompanied by a design statement detailing compliance with the masterplan.
- l) full details of the provision of storage of waste and recyclable material facilities.

These details must reflect the revised Master Plan , Design Code and plot layout as approved with planning application 2013/0190/MSC (PPA – 001 -2013) and the landscape strategy and plans approved with this current application reference 2015/0317/DET.

The development shall thereafter be carried out in accordance with the approved details.

Reason: Planning permission for this part of Phase I has been granted in principle only and subsequent approval is required in accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). To ensure that the development is of a high quality sustainable design in accordance with Policy 3: Sustainable Design, Policy 4: Natural Heritage, Policy 5: Landscape, and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

- 2. That no development in connection with Phases 2 or 3 shall commence until full plans and particulars of the siting, design, layout and external appearance of all buildings and other structures for the relevant phase have been submitted to and approved in writing by the Planning Authority. The applications shall include:
 - a) The development method, i.e. single entirety or on an individual plot by plot basis

- b) Design, siting and finishes (including, but not exclusively, walls, roofs, windows, garage doors, parking/path surfaces)
- c) Boundary treatments to reflect the requirement for front and side boundary enclosures to retain the open, landscaped character of the site (for example using stone dykes, post & wire fences and/or hedging in native species)
- d) Details of final floor levels
- e) Details of provision for flexibility for home working and high speed broadband infrastructure
- f) Road layout including full details and surfacing of paths and roads, including separate or combined provision for use by pedestrians, cyclists horse riders and persons with physical disabilities.
- g) Landscape plans including play provision and structural landscaping, management future maintenance
- h) Affordable housing provision including delivery
- i) Details of the proposals and delivery of community land and economic land
- j) Details of compensatory planting relating to any loss of trees
- k) Sectional drawings to detail the exact levels and context with the surrounding ground/landscape including existing and proposed ground levels
- m) Waste management strategy including full details of the provision of storage of waste and recyclable material facilities
- n) Details of off-street parking provision (including any garaging) to be provided
- o) Details of surface water drainage arrangements by means of sustainable urban drainage solutions including details of maintenance
- p) In the event that any plots are to be developed on an individual basis they shall be accompanied by a design statement detailing compliance with the masterplan

These details must reflect the revised Master Plan and Design Code as approved with planning application 2013/0190/MSC (PPA – 001 – 2013).

The development shall be carried out in accordance with the approved details, and these proposals shall be delivered as part of the phase to which they relate, unless otherwise agreed in writing with the Cairngorms National Park acting as Planning Authority.

Reason: Planning permission for Phases 2 and 3 has been granted in principle only and subsequent approval is required in accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). To ensure that the development is of a high quality sustainable design in accordance with Policy 3: Sustainable Design, Policy 4: Natural Heritage, Policy 5: Landscape, and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015 and to ensure the development proceeds in a planned manner and ensures delivery of community and economic development land for Kingussie, in accordance with Policy 5: Landscape and Policy 2: Supporting Economic Growth of the Cairngorms National Park Local Development Plan 2015.

3. No work shall commence on subsequent phases until the preceding phase is substantially complete (not less than 90% of the development) unless otherwise agreed in writing with the Planning Authority.

Reason: in the interests of effective planning control and in order to enable the phased delivery of a good quality housing development in accordance with Policy 1: New Housing Development and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

4. With the exception of the 55 houses in Phase I of the development, which are to be accessed from the Dunbarry Terrace, Dunbarry Road, Kerrow Drive 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 of Dunbarry Road and in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

5. No construction traffic shall access the site from the Dunbarry Terrace, Dunbarry Road, Kerrow Drive Road Network. All construction traffic shall use a new construction haul road direct from the A86.

Reason: In the interests of the amenity of the residents who access properties off Dunbarry Road and in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

Further suspensive conditions

6. No development shall commence on Phase I until:
 - a) Improvements to the existing access from the A86 Trunk road and the construction of the revised haul road have been completed in accordance with the plans approved under the terms of planning consent reference 2015/0316/DET and
 - b) 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 Cairngorms National Park Authority acting as Planning Authority.

Thereafter:

- a) All construction vehicles (including vans) shall only access the Phase I site via the new haul road and in accordance with the approved management plan and
- (b) All landscaping shown on drawing no. HLD K192.15. SLO2 Revision G shall be implemented in the first planting season following the formation of the haul road and thereafter maintained in accordance with the approved maintenance details.

Reason: In the interests of road safety and residential amenity, and to ensure safe access for construction vehicles and pedestrians in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

7. Unless otherwise agreed otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority, no work shall commence in Phases 2 and 3 until:
- a) The new access onto the A86 Trunk Road and the construction of its associated haul road have been constructed in accordance with the plans (Drawing numbers A/12474-910-REV 1, A/1274-910-2-REV1 and A/12474-914) approved with application 2013/0190/MSC (PPA – 001 – 2013) with visibility splays provided on each side of the access point (unless otherwise agreed in writing with the Cairngorms National Park Authority acting as planning authority in consultation with Transport Scotland, where the splays comprise triangles of ground bounded on 2 sides by the first 4.5 metres of the centreline of the access road (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.
 - b) The haul road approved under the terms of planning consent 2015/0316/DET has been removed and reinstated in accordance with the terms and conditions of that consent
 - c) 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 in writing by the Cairngorms National Park Authority acting as Planning Authority. Thereafter all construction vehicles (including vans) shall only access the site via the new haul road and in accordance with the approved management plan
 - d) In addition, and for the avoidance of doubt, no work shall commence on the formation of the new access point until a plan for the closure of the existing General Wade's military road access has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Roads authority. This plan shall thereafter be implemented in accordance with the approved details and timetable.

Thereafter all landscaping shown on drawing HLD 9028.08/SL-07 as approved with application reference 2013/0190/MSC (PPA – 001- 2013) shall be implemented in the first planting season following completion of the new access and thereafter maintained in accordance with the approved maintenance details.

Reason: In the interests of road safety, residential amenity and to ensure safe access for construction vehicles and that landscape impacts are minimised in

accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

8. No development shall commence in Phase I until revised Home Owners and Developers Soft Landscape Maintenance and Management Regime documents reflecting the correct landscape drawing numbers have been submitted to and approved in writing by the Cairngorms National Park Authority. Thereafter:
- a) All landscaping shown on the approved landscape scheme shall be implemented in accordance with the approved scheme and timetable (Drawing Numbers PL013 Revision A and HLD K192.15.SL01 Revision C)
 - b) Advanced structural planting as shown on Drawing No HLD K192.15. SLO2 Revision G shall be carried out in the first planting season following completion of the new haul road.
 - c) All landscaping shall thereafter be maintained and managed in accordance with the approved Home Owners and Developers Soft Landscape Maintenance and Management Regime documents

Reason: to ensure that a suitable landscape setting is established and maintained for the new development in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

9. No development shall commence until the following details have been submitted to and approved by the Cairngorms National Park Authority acting as planning authority in consultation with the roads authority:
- a) The design, timetable for implementation and treatment of land at the eastern end of the access road to Phase I referred to on the drawing no. HLD 9028.08/CL-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 I 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 any future phases 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 I only being from the Dunbarry Road network in accordance with Policy 3: Sustainable Development of the Cairngorms National Park Local Development Plan 2015.

10. No development shall commence on site until details of the proposed maintenance regime for the sustainable urban drainage solution have been

submitted to, and approved in writing by, the Cairngorms National Park Authority acting as Planning Authority in consultation with the appropriate authorities. The sustainable urban drainage solution shall include written confirmation from those authorities they will adopt and maintain the proposed arrangements. These details shall reflect the requirement to discharge 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 in accordance with Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

11. No development shall commence 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 in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with Highland Council's Flood Prevention Team: and the works shall be implemented 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 in accordance with Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

12. No development 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 in writing by the Cairngorms National Park Authority acting as 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 in accordance with the approved details.

Reason: To minimise environmental disturbance and maintain biodiversity, in accordance with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

13. No development shall commence on site until a site specific construction management statement detailing a scheme for temporary disposal of surface water, management of field drains (as referred to in condition 11 above) contractor's compound, minimisation of construction waste (including a site waste management plan and re-use of materials) and any temporary measures to deal with surface water run-off during construction prior to the operation of the final Sustainable Urban Drainage Scheme (SUDS), has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with SEPA.

The works shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure that there is minimal environmental disturbance and in accordance with Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

14. No development shall commence until the following information has been submitted to approved in writing by the Cairngorms National Park Authority acting as Planning Authority:
- a) details of the finishes of all footways, including Jonathan's Brae,
 - b) A scheme of pedestrian/cycle routes/works for the Kerrow Drive, Dunbarry Road/ Terrace, Campbell Crescent and Acres Road pedestrian areas
 - c) plan of public access across the site showing existing paths, tracks and rights of way: any areas currently outwith or excluded from statutory access rights; any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage in relation to proposed buildings or structures; all paths and tracks proposed for construction, for use by walkers, riders, cyclists, all abilities use and the diversions of paths (temporary or permanent) proposed for the purposes of the development.

The works to be implemented in accordance with those approved details before occupation of the first house unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority.

Reason: In the interest of pedestrian and road safety and the visual appearance of the site, in accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

15. No development shall commence on site until the following information, including plans and a timetable of works, has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Roads Authority:
- a) Details of upgrading and future management and maintenance of all footway links as identified in the indicative scheme of access (accompanying application reference 2013/0190/MS - PPA – 001 - 2013) to reflect the requirement of all paths (other than pavements) to be of permeable construction in accordance with the advice contained 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 and maintained in accordance with the approved details and timetable.

Reason: In the interest of pedestrian safety and to ensure continued public access in accordance with Policy 3 Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

16. No development shall commence until a management and maintenance agreement has been submitted to and approved by the CNPA acting as planning authority. The information shall cover play areas, hard or soft landscaped areas, roads, footpaths/cycle links (which are not to be adopted by Highland Council) and shall include details as to how open space will be retained and managed into the future allowing for public access and pathways through the site.

Reason: To ensure that adequate long term management plans are in place in the interests of residential amenity and in accordance with Policy 3: Sustainable Development of the Cairngorms National Park Local Development Plan 2015.

17. No development shall commence until an Arboricultural Implications Assessment has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with Highland Council Forestry Officer. The scope of the assessment to be agreed. The Assessment shall identify and evaluate the extent of any impact upon trees through constructing and implementing the development, as well as the potential impact of the trees on the proposed development, in accordance with the appropriate British Standard, with any recommendations for protection to be implemented in accordance with the approved details.

Reason: To ensure that trees are adequately identified and protected on and around the site in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

18. No development shall commence until a programme of archaeological work for the preservation and recording of any archaeological features affected by the proposed development, including a timetable for investigation has been submitted to and approved in writing with the CNPA acting as planning authority, in consultation with the Highland Council Historic Environment Team. The programme shall thereafter be implemented in accordance with the approved details.

Reason: To protect and record any archaeological and historic interest of the site in accordance with Policy 9: Cultural Heritage of the Cairngorms National Park Local Development Plan 2015.

19. No development shall commence until details of lighting (including street lighting) have been submitted to and approved by the Cairngorms National Park Authority in consultation with the roads authorities. The lighting shall be implemented in accordance with the approved details.

Reason: In the interests of amenity and road safety in accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

Phase I Conditions

20. Unless otherwise agreed in writing with the Cairngorms National Park Authority as planning authority, phasing of Phase I shall process in accordance with the approved phasing plans (Drawing No. PL012)

Reason: To ensure that a suitable landscape setting is established and maintained for the new development in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

21. All plots within Phase I which have not been developed within 12 months of re-contouring and plot formation shall be seeded as necessary to the satisfaction of the Cairngorms National Park Authority in accordance with the approved landscape plan (Drawing No. HLD K192.15.SL01 Revision C) and maintained in a clean and tidy condition until they are developed.

Reason: To ensure that a suitable landscape setting is established and maintained in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

22. No work shall start on the construction of the affordable houses in Phase I (plots 13-30) hereby approved until details (by way of sample or brochure) 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 in writing by the Cairngorms National Park Authority acting as Planning Authority, and the work shall be carried out using only these approved finishes.

Reason: To ensure that the design and landscape character of the area is maintained and enhanced in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

23. No house on Phase I 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 Cairngorms National Park Authority acting as planning authority after consultation with the roads authority, and the works have been implemented in accordance with those approved details

Reason: In the interests of road and pedestrian safety on existing and new roads in accordance with Policy 3: Sustainable Development of the Cairngorms National Park Local Development Plan 2015.

24. No house on Phase I 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 (as contained within planning application reference 2013/0190/MSC/PPA – 001 – 2013) have been completed in accordance with those approved details.

Reason: In the interests of road and pedestrian safety on existing and new roads in accordance with Policy 3 Sustainable Development of the Cairngorms National Park Local Development Plan 2015.

25. No house on plots 13-30 (Phase I) shall be occupied until the play areas in this part of the site has been provided in accordance with the approved plans and details (as attached to the planning application reference 2013/0190/MSC/PPA – 001 – 2013). Prior to work commencing on any of the other plots on Phase I full details of the proposed play area, equipment and future maintenance shall be submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority and thereafter shall be implemented in accordance with the approved details before any of the houses on these remaining plots are occupied, unless otherwise agreed in writing by the Cairngorms National Park Authority acting as Planning Authority.

Reason: To ensure provision of play area facilities for the development and in accordance with Policy 3: Sustainable Development of the Cairngorms National Park Local Development Plan 2015.

26. No development shall commence on the construction of the houses hereby approved in Phase I until details of a scheme for the provision of nesting boxes for bats and swifts have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority; and any house identified for a box shall not be occupied until such time as provision has been made in accordance with the approved details.

Reason: To ensure that biodiversity is maintained in accordance with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

27. No development shall commence on the construction of any of the houses in Phase I until details of the provision to be made for flexibility for home working and high speed broadband infrastructure has been submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority.

Reason: To ensure that the new housing is sustainable in accordance with Policy 3 Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

28. Unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority, the houses on plots 13- 30 (Phase I) shall be retained as affordable housing. 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 in writing by Cairngorms National Park Authority acting as Planning Authority.

Reason: To ensure compliance with Policy 1:5: Affordable housing developments of the Cairngorms National Park Local Development Plan 2015.

29. No work shall commence on the construction of the affordable housing on plots 13-30 (Phase I) 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 in writing by the Cairngorms National Park Authority acting as 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 in accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

30. No house on Phase I shall be occupied until details of the proposed residential travel pack to show how sustainable travel measures will be promoted have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Roads Authority.

Reason: To support the delivery of sustainable development, in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

31. 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 in writing by, the Cairngorms National Park Authority acting as Planning Authority.
- b) The felling the elm tree identified beside the proposed access onto the A86, a further bat survey shall be carried out and the results, with any proposals for mitigation have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority.

All mitigation works to thereafter be carried out in accordance with the approved details

Reason: To minimise environmental disturbance and maintain biodiversity, in accordance with Policy 4 Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

32. No work shall commence on the construction of any houses in Phase I until details of all boundary enclosures have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority or as detailed on the approved landscape scheme. These details shall reflect the requirement for front and side boundary 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 occupation of the house to which they relate. Any other boundary enclosures in or around the plot(s) shall require planning permission from the Planning Authority.

Reason: To ensure that the landscape character of the area is maintained and enhanced in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

33. No work shall commence on the construction of any houses in Phase I until details of the final floor levels, which shall be a minimum of 225mm above adjoining ground level, are submitted to and approved in writing by the Cairngorms National Park Authority acting as 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, in accordance with Policy 5: Landscape, Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Development Plan 2015.

Other conditions relating to all Phases

34. 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 and in accordance with Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

35. Unless otherwise agreed in writing with the Cairngorms National Park acting as 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 in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

36. Unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority, no house shall be occupied 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 in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

37. Temporary car parking accommodation shall be provided on the site for the use of employees engaged in construction work on the development in a position to

be agreed in writing with the Cairngorms National Park Authority acting as Planning Authority before the temporary provision is provided.

Reason: To ensure that any temporary construction compounds are sited so as to protect the amenity of surrounding properties and the local landscape in accordance with Policy 3: Sustainable Development and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

38. All top soil stripped in the course of development shall be stored in mounds not exceeding 2 metres in height and unless otherwise agreed in writing with the Cairngorms National Park acting as Planning Authority 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 with the appropriate British Standards.

Reason: In the interests of visual amenity and to prevent unnecessary exportation of material from the site in accordance with Policy 5: Landscape and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

39. 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.

Reason To prevent a proliferation of visible infrastructure at the site and conserve and enhance the landscape character in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

40. Unless otherwise agreed with the Cairngorms National Park Authority acting as Planning Authority in consultation with Transport Scotland there shall be no drainage connections to the trunk roads system.

Reason: To ensure that the efficiency of the existing drainage and roads network is not affected and in accordance with Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

41. No construction works, including all deliveries, shall take place outwith the hours of 0800 to 1800 Mondays to Fridays and 0900 to 1300 hours on Saturdays; and there shall be no work or deliveries on Sundays and public holidays.

Reason: In order to protect residential amenities in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

INFORMATIVES

1. You are advised that this is a permission in principle for a phased development of up to 300 houses; economic development uses; community uses; including all infrastructure and landscaping. The three phasing stages referenced in the conditions are those detailed on the Overall Building Development Phasing Plan approved under the Masterplan.
2. You are advised that the plans listed on this decision notice (2015/0317/DET) remain relevant for this planning permission.
3. It is recommended that details of the name of the housing development reflects the character, tradition and natural and cultural heritage of the area and that any directional house number/name plaques are made from a durable, sustainable material and placed at each road junction within the development.
4. 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.
5. The CNPA Ecology Officer noted that one 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.
6. With reference to Condition 31, the developer is advised of the requirement to obtain a license from Scottish Natural Heritage for any disturbance of red squirrel if dreys are found as a result of the pre-construction survey.
7. With reference to Condition 26, detailed information on the required dimensions for swift nest sites and options can be found on the Concern for Swifts project website at www.concernforswifts.com/Opportunities.asp. whilst roosting opportunities for pipistrelle and brown long-eared bats can be found on the Bat Conservation Trust website at www.bats.org.uk
8. 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 and Country Planning (Scotland) Act 1997
9. 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 and Country Planning (Scotland) Act 1997.

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.