

## CAIRNGORMS NATIONAL PARK AUTHORITY

---

### **DEVELOPMENT PROPOSED:**

Conversion of farm buildings to visitor facilities and commercial use, extensions, formation of cafe and parking (renewal of planning permission 2016/0153/DET and of listed building consent 2016/0143/LBC) at Steading Balavil Mains Farmhouse Kingussie

**REFERENCE:** 2020/0236/DET and 2020/0241/LBC

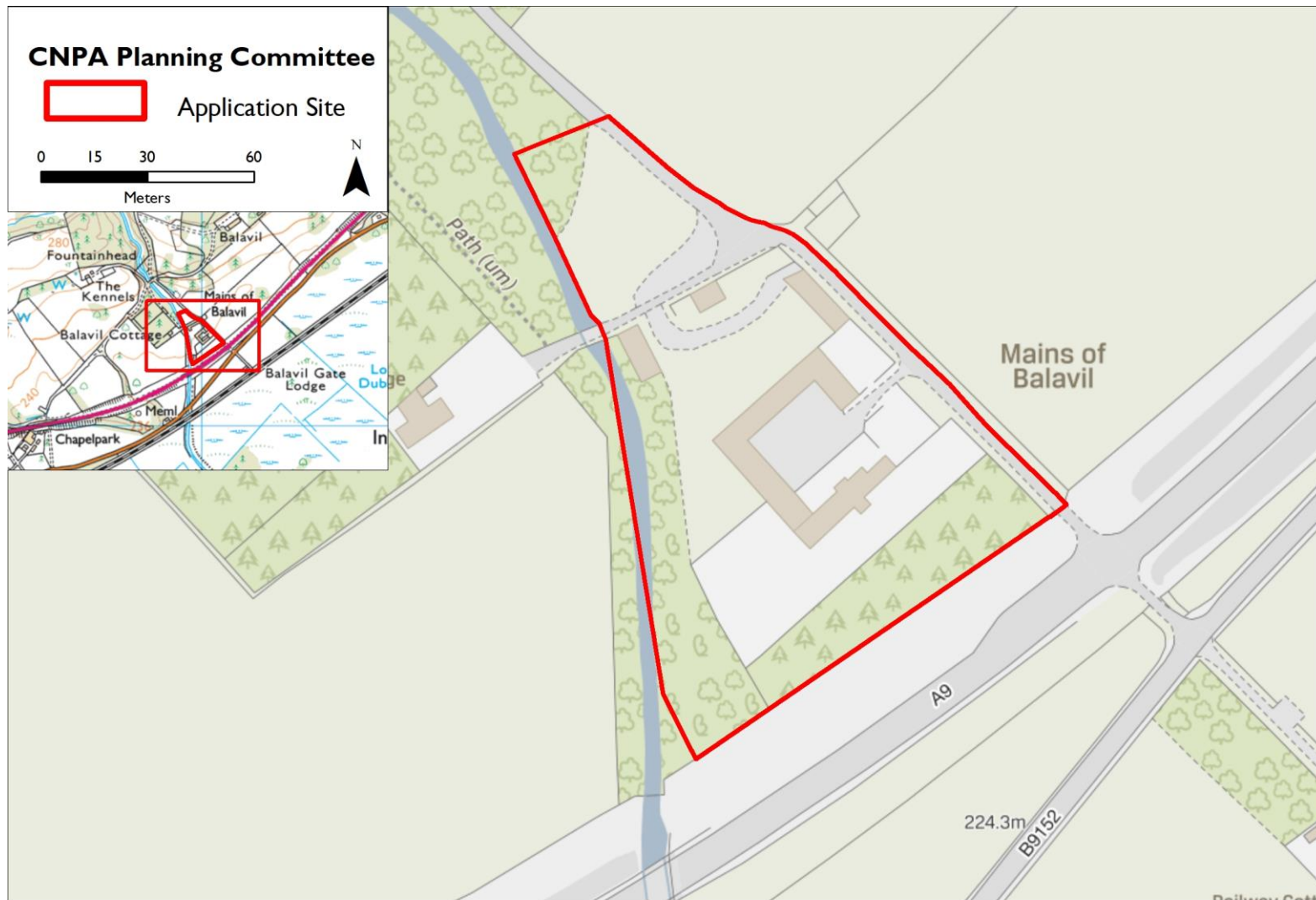
**APPLICANT:** Balavil Estate

**DATE CALLED-IN:** 12 October 2020

**RECOMMENDATION:** Approve, subject to conditions

**CASE OFFICER:** Stephanie Wade, Planning Officer

---



© Crown copyright and database rights 2021. Ordnance Survey Licence number 100040965

## SITE DESCRIPTION, PROPOSAL AND HISTORY

### Site Description

1. The application site is located to the east of Kingussie and Lynchat directly to the north of the A9 Trunk Road, of which access is presently taken via an existing track which leads into the wider Balavil Estate. This track also leads westwards and then under the A9 back to Lynchat.
2. Mains of Balavil is a steading and farmhouse complex located within Balavil Estate. The steading is currently used for storage with the farmhouse understood to have been occupied in recent years. It is a category B listed building of architectural and historic interest comprising roughly U shaped stone and slate steading including stable block and bell tower. This building is attached at the western end to a two storey slate and harl with lime wash finish farmhouse, with pitched roof front porch and 1 ½ and single storey wings. There is also a cart shed building to the rear (north) of the complex, and a cobbled courtyard at the front (south) of the steadings. The buildings are in poor repair. Some ancillary buildings and walls are located in and around the curtilage including derelict mill building. The site is accessed by an existing track on its eastern perimeter which joins onto the A9 to the south.
3. There is a band of trees between the site and the A9, with further trees lining the Raits Burn which runs alongside the western boundary of the site. To the north is grassland with some trees, and to the east farmland of the Balavil Estate. To the northwest is an existing property with walled garden which is part of the wider Balavil Estate.
4. The Raits Burn forms part of the River Spey Special Area of Conservation (SAC) designated for otter, Atlantic salmon, sea lamprey and freshwater pearl mussel interests.

### Proposal

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

<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QHTWPRSI0CH00>

<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QHXIN5SI0CH00>

### Submitted with Renewal

Title	Drawing Number	Date on Plan*	Date Received
<b>Plans</b>			
Location Plan	50579/101	10 September 2020	12 October 2020

<b>Supporting</b>			
Updated Ecology Report	Version 2	08 September 2020	12 October 2020
Updated Bat Survey Report		01 August 2020	15 October 2020
Species Protection Plan		01 September 2020	15 October 2020
Contaminated Land Questionnaire		25 November 2020	26 November 2020

***Submitted with original applications (2016/0153/DET and 2016/0143/LBC)***

<b>Title</b>	<b>Drawing Number</b>	<b>Date on Plan*</b>
South - East Elevations Existing	(EX-E)01-A3	29 April 2016
North-West Elevations Existing	(EX-E)02-A3	29 April 2016
South-West Elevations Existing	(EX-E)03-A3	29 April 2016
North-West Elevations Existing	(EX-E)04-A3	29 April 2016
Elevations Key	(E )00-A3	29 April 2016
Survey	(EX-P)00	30 March 2016
Existing features	(EX-M)00-03	24 October 2016
Ground Floor Plan Architectural Details of Interest	(EX -P) 00-A3	29 April 2016
Ground Floor Plan Existing	(EX-P)00-A3	29 April 2016
Roof Plan/First Floor Plan Existing	(EX-P)02-A3	29 April 2016
Ground Floor Plan DownTaking	(DT-P) 00-A3	29 April 2016
Roof Plan/First Floor Plan Down-Taking	(DT-P) 02-A3	29 April 2016
Site Plan Proposed	(P) L2-A1 Rev D	14 January 2017
Ground Floor Plan Proposed	(P) 00-A3 Rev A	16 August 2017
Roof Plan/First Floor Plan Proposed	(P) 01-A1	29 April 2016
Roof Plan/First Floor Plan proposed	(P) 02-A1	29 April 2016
South-East Elevations Proposed	(E) 01-A3 Rev A	14 September 2017
North-West Elevations Proposed	(E) 02-A3 Rev A	14 September 2017
South-West Elevations Proposed	(E) 03-A3 Rev A	14 September 2017
North-West Elevations Proposed	(E) 04-A3 Rev A	14 September 2017
Windows/Doors Proposed	(E) 05 -A3	02 May 2016
Landscape General Arrangement	6917 LD PLN 001 Rev G	05 December 2017
Tree Constraints Plan		29 September 2016
Tree Protection Plan	Revision F	16 November 2017
Tree Survey Schedule		

Arboricultural Impact Assessment/Method Statement	Revision G	06 December 2017
Mains of Balavil Farm – Pollution Control Measures to be incorporated within Construction Method Statement by Atmos Consulting	Version 1.2	10 October 2016
Ornithological Survey Report		05 October 2016
Ornithological Protection Plan		05 October 2016
Otter Survey Version	1.2	10 October 2016
Otter Species Protection Plan		
Preliminary Bat Roost Assessment	Version 1.2	07 July 2016
Bat Activity Surveys	Version 1.2	06 October 2016
Bat Species Protection Plan	Version 1.4	10 November 2017
Landscape Proposals Design Statement	Version 04	05 December 2017
Flood Risk Assessment	20379	21 October 2016
Original Topographic survey	20379 Plan A	01 September 2017
Additional Co-ordinates and Water Levels	20379 Plan B	01 September 2017
A9 Water Flow Route	20379 Plan C	01 September 2017
Revised Flood Study Calculations		01 September 2017
Drainage Impact Assessment and Design and Appendices	20379	01 September 2017
Flood Risk Assessment Addendum Report	20379	26 January 2017
Indicative Drainage Layout	20379- SK200 Rev B	12 January 2017
Proposed Drainage Details	20379- SK201 Rev A	12 January 2017
Planning Consultant Comments		
Design and Access Statement		
Justification and response to issues raised by Morris Steadman Associates Jan 2017		
Historic Designed Landscapes Project Site Research Report 03 Balavil		01 May 2013
Retail Statement	BALI	01 Sept 2016
Open Day feedback		11 September 2016
Photographs of building		
Transport Statement	20379 Revision B	28 August 2017
Drainage Strategy	20379	12 January 2017
MSA response to consultees	Rev A	
Design and Access Statement Sustainable Design – Policy 3 Revised		12 September 2017
Phase I Site Investigation	1016-001	06 October 2016

---

\*Where no specific day of month has been provided on the plan, the system defaults to the 1<sup>st</sup> of the month.

6. These two applications (planning permission and listed building consent) are submitted for the renewal of a timeous permission and listed building consent referenced 2016/0153/DET and 2016/0143/LBC, which gained consent for the “Conversion of redundant farm buildings to visitor facilities and commercial use, including alterations and extension of existing structures. Construction of new buildings for café, catering and events use, formation of vehicle parking areas” at Balavil Mains Farmhouse, Kingussie. The original applications were approved at the January 2018 CNPA Planning Committee and decision notices issues on approved on 31 January 2018.
7. This report covers both applications with individual recommendations at the end of the report for the two decision notices which will require to be issued. The renewal applications have been submitted to extend the decision period for the development which is required due to the ongoing negotiations the estate has with the A9 Dualling Scheme.
8. The renewal applications propose no changes to the scheme as approved which is outlined below in full, for reference:
  - a) Alterations to and conversion of existing farmhouse to form estate interpretation and office facilities. Existing front porch and dormer features will be removed together with rear extension;
  - b) Alterations and conversion of steading buildings to form farm shop and estate shop facilities- total floorspace 286 square metres. This will involve an extension to the east of the existing steading complex to provide for an additional wing which will house the farm shop provision. It is also proposed to create “pend” type openings in the main northern elevation of the steading building to facilitate pedestrian access through from the car parking area to the main complex;
  - c) A new building is proposed to the north of the existing complex measuring some 33 metres by 6 metres. This will be constructed against an existing stone wall and will be of a pitched roof design with timber elevations. It will house the café and visitor toilet facilities with provision for outdoor seating for 16 tables. The floorspace of the café area is 210 square metres with the plans indicating a total of 18 tables within this space;
  - d) Extension and renovation of the existing, dilapidated mill building in the north-west corner of the site to provide for mill and events spaces of around 200 metres. The existing building will be extended southwards with a pitched roof design. Again, timber elevations are proposed for the new building works;
  - e) Demolition of some building components and walls to the north and east of the site;
  - f) Reuse and renovation of former cart shed in the north east part of the site to house the staff facilities, and bicycle and general storage;
  - g) Formation of parking areas including bus spaces and disabled spaces to the north of the site with some disabled parking provision at the southern end of the site beside the former farmhouse.

9. Plans of the proposals are attached at **Appendix I**.
10. Proposed finishes of building works are natural slate roofs, cast aluminium rain water goods, wooden fenestration, and re-use of existing natural stone for existing and proposed works. It is proposed to use the existing vehicular access from the A9 trunk road- this access point will be upgraded with visibility splays provided and junction upgrades. Pedestrian/cycle access will be provided through the Balavil Estate from Lynchat under the A9.
11. Foul drainage will be disposed of by means of private sewage treatment plant whilst surface water drainage will be dealt with by a system of roadside swales and attenuation. Connection to a private water supply is proposed.
12. As noted earlier the Raits Burn lies to the west of the site and the site lies within an area designated as a flood risk area on SEPA's maps. A Flood Risk Assessment including topographical survey was submitted with the original applications. The survey extended beyond the site upstream and downstream of the site and a hydraulic model produced. This work highlighted that the culvert under the A9 downstream of the site was a major constriction to flow and that compensatory flood storage, initially proposed by lowering the western banks of the burn within the site could help address this existing issue. This was updated following ongoing consultation with relevant consultees and a revised Flood Risk Assessment Addendum provided which sought to demonstrate that there would be no increased risk of flooding at or around the site with existing informal banking alongside the Raits Burn to be retained with no changes to ground levels.
13. The majority of existing trees in and around the site will be retained with Tree Protection Plan provided and Arboricultural Impact Assessment/Method Statement. A landscape scheme has also been provided.
14. Other key documents submitted in support of the original application and carried forward for the renewals are:
  - a) **Retail Statement:** outlining how the proposals impact upon and complement existing facilities in Newtonmore and Kingussie. This concludes that the development represents significant inward economic investment (£5,000,000 of initial investment) creating up to 15 new jobs, and providing a high quality tourist destination and quality visitor facility as part of a planned or impromptu stop along the A9. It also concludes that the proposals will provide a complimentary retail facility to existing provision in the area with no sequentially preferable sites available within any town centre that could accommodate the proposed development.
  - b) **Transport Statement** which includes information on how the site will be accessed by pedestrians and cyclists via an existing track from Lynchat through the Balavil estate to the site. This plan is included in Appendix I.
  - c) **Pollution Control Measures Statement** document setting out how the environmental interests in the area, including the Raits Burn as part of the

River Spey SAC, will be protected. Updated Ecological appraisals and Species Protection Plans have been provided as part of the renewal submission.

- d) **A Phase I Investigation report and Design Statement** were also provided together with a summary of the feedback from visitors to an open day held at Balavil Estate in September 2016 to explain the proposals to the public. This statement lists verbatim comments from visitors to the open day which are largely supportive of the proposals.

### **Request for extension to expiry date**

15. The agent has provided the following justification for the submission of these applications and the requirement for a longer expiry date until implementation of such permissions:
16. *“At the time of submitting the application to renew the permission at the Mains of Balavil, the Estate requested a longer consent period and asked for an expiry date to be set at 7 years from the date of approval. This request is based on the Estate’s understanding of the timetable for the dualling of the A9 following discussions with Galbraith, Brodies and Transport Scotland. The primary aim is to avoid having to renew the permission again prior to starting the development. The estate, want to ensure they have sufficient flexibility in the renewed permission, and its expiry date, to allow the construction of the A9 to proceed as far as possible, if not completed, prior to the Estate starting their works on site.*
17. *As the Estate currently understand the A9 programme, an inquiry would take place in 2021 with a decision later in the year or early 2022 and the overall construction period is likely to be at least 3 years (say 2022- 2025), but this remains indicative. Therefore work at the Mains of Balavil might not be able to start until 2026 at the earliest, hence the request for a longer consent period/expiry date.”*

### **History**

18. There have been various planning applications and listed building applications in the wider Balavil Estate, including works to existing dwellings, prior notifications for track repair and works to Balavil House. An application for planning permission in principle for the relocation of the farm to land adjacent to Lynovoan on the estate was approved by Scottish Ministers in July 2019 (ref: NA-CNP-002). An application for the Matters Specified in Condition which follows that application is currently being considered under application reference: 2020/0077/MS.
19. As previously highlighted, applications for planning permission (2016/0153/DET) and listed building consent (2016/0143/LBC) were submitted in 2016 for the proposal, which is now the subject of these two renewal applications of this report. Permission was granted for 2016/0153/DET and 2016/0143/LBC in January 2018.
20. Since the submission of those original applications, there have been the following permissions relating to the same site:



- a) Planning Application ref: 19/04994/FUL, determined by The Highland Council for the “Erection of Garage and Game Larder”, which gained approval on 30 January 2020;
  - b) Listed Building Consent ref: 19/04055/LBC, determined by The Highland Council for the “Erection of agricultural building within the walls of an existing steading”, which gained consent on 11 November 2019;
  - c) Listed Building Consent ref: 19/03983/LBC, determined by The Highland Council for the “Stabilisation, repair, part-reconstruction and reinstatement of openings to steading building”, which gained consent on 24 December 2019.
21. It is understood that the development granted under (a) and (b) is currently under construction and is sited in the position of the proposed café building which forms part of this renewal application development. The Estate has confirmed that the Game Larder is to be temporarily sited in that position on the site and will be removed in time following the implementation of the renewal development, if subsequently permitted.

## **DEVELOPMENT PLAN CONTEXT**

### **Policies**

<b>National Policy</b>	Scottish Planning Policy 2014	
<b>Strategic Policy</b>	Cairngorms National Park Partnership Plan 2017 - 2022	
<b>Local Plan Policy</b>	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	<b>X</b>
POLICY 3	SUSTAINABLE DESIGN	<b>X</b>
POLICY 4	NATURAL HERITAGE	<b>X</b>
POLICY 5	LANDSCAPE	<b>X</b>
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	<b>X</b>
POLICY 10	RESOURCES	<b>X</b>
POLICY 11	DEVELOPER CONTRIBUTIONS	

22. 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>

## Planning Guidance

23. Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	<b>X</b>
Policy 3	Sustainable Design Non-Statutory Guidance	<b>X</b>
Policy 4	Natural Heritage Supplementary Guidance	<b>X</b>
Policy 5	Landscape Non-Statutory Guidance	<b>X</b>
Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	<b>X</b>
Policy 10	Resources Non-Statutory Guidance	<b>X</b>
Policy 11	Developer Contributions Supplementary Guidance	

## Cairngorms National Park Local Development Plan 2020

24. The emerging Cairngorms National Park Local Development Plan (“Proposed Plan”) which will cover the period of 2020 – 2025 is currently being progressed. The proposed plan has now undergone examination by the Scottish Ministers and is due to gain consent to adopt within earlier part of this year. As the Proposed Plan examination has concluded and it has been submitted to gain consent to adopt, its contents are therefore a material consideration.

<b>Emerging Local Plan Policy</b>	Cairngorms National Park Local Development Plan (2020) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	<b>X</b>
POLICY 3	DESIGN AND PLACEMAKING	<b>X</b>
POLICY 4	NATURAL HERITAGE	<b>X</b>
POLICY 5	LANDSCAPE	<b>X</b>
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	OPEN SPACE, SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	<b>X</b>
POLICY 10	RESOURCES	<b>X</b>
POLICY 11	DEVELOPER CONTRIBUTIONS	

## Habitats Regulations Appraisal

25. A Habitats Regulations Appraisal [HRA] has been undertaken by the CNPA in consultation with NatureScot. The proposal lies immediately adjacent to the Raitts Burn, which forms part of the River Spey SAC. There is potential that during the clearance of the site, construction of car parking and renovation of buildings, that

pollution and siltation of the Raitts Burn could occur should material from the site run-off into the burn. The HRA states that the mitigation measures proposed as part of the application were adequate to ensure no negative effect on qualifying features of the River Spey SAC, River Spey Insh Marches SPA/SAC apart from on which was disturbance to otter. The following mitigation measure is required to be included in any Otter Species Protection Plan:

- a) 'To avoid any disturbance and therefore reduction in feeding capacity, or accidental harm to otter from construction traffic, works will be limited to daylight hours and will not start until one hour after sunrise and cease one hour before sunset'.
26. The HRA concludes that subject to the mitigation measures identified above being applied to any consent, the proposal will not adversely affect the integrity of any of the stated sites. A full copy of the adopted HRA is attached at **Appendix 2**.

## CONSULTATIONS

### Summary of the main issues raised by consultees for 2020/0236/DET

27. **Transport Scotland** originally had a holding objection due to the requirement for further information. Following this, Transport Scotland confirmed that they do not object to the application subject to the inclusion of two planning conditions relating to the prior agreement of how the site access will tie-in to the A9 Dualling Scheme and the prior agreement of a revised layout plan to show the development layout and the areas within the site to be retained free of development as necessary for the delivery of the A9 Dualling Scheme. Transport Scotland reference two A9 dualling plans within their proposed conditions, copies of which have been provided.
28. **Scottish Environment Protection Agency [SEPA]** states that on the understanding the proposal is identical to the original approval, the Agency require the attachment of conditions to any subsequent decision; including: the submission of a topographical survey, confirmation of no changes to ground levels identified within that survey, and that no alterations are made to the existing informal flood embankments. These are required to ensure that the existing capacity of the functional flood plain is maintained and that the flood regime in the vicinity is not affected. They also request that a condition is attached to remove permitted development rights for the site to ensure that any works such as changes to land levels or construction of structures usually permitted through the legislation, do not lead to an increased flood risk to others. The Agency also reference their original response with regards to highlighting the existing level of flood risk to this site.
29. **NatureScot** understand that the Habitats Regulations Appraisal for the previous planning application for this proposal (2016/0153/DET) is being carried over for this renewed application, as there are no changes to the proposal. NatureScot agree with the conclusion of the HRA that any likely significant effect to the otter designated feature of the River Spey SAC, as result of disturbance to Raitts Burn during the construction works, will be prevented by following the proposed mitigation. This includes:

- a) Limiting construction works to daylight hours, between one hour after sunrise and one hour before sunset;
  - b) Retaining riparian woodland and vegetation along Raitts Burn;
  - c) Adhering to the Species Protection Plan for Otter.
30. The SPP for otter provided with the previous application will need to be updated in light of the renewed otter survey and the proposal should only be undertaken in accordance with the SPP if approved. The Team agree with the mitigation measures proposed as part of the renewed otter survey, including to retain tree number 0287 and to direct all lighting away from the burn. They agree with the conclusion of no likely significant effect to any of the other designated features of the River Spey SAC or the nearby Insh Marshes SAC and PA as a result of the proposal.
31. **The Highland Council Transport Planning Team** confirms that as the proposal seeks to renew the earlier consented application under ref. 2016/0153/DET, the Team has previously provided detailed comment on the earlier application and has no further comment on the current proposal.
32. Within the Team's comments on the original application, the Team confirmed that they did not object to the application providing conditions were attached to cover parking layout, and service delivery together with conditions to ensure that the pedestrian and cyclist route would be fit for purpose.
33. **The Highland Council Contaminated Land Officer** notes that the site has a previous agricultural use and therefore recommends that a contamination assessment is conditioned to be supplied following the grant of any permission. The Officer also requested the applicant's submit their questionnaire. Following the submission of this, the Officer confirms that there is no further comment from the Contaminated Land Service and that a contamination assessment is no longer required.
34. **The Highland Council Environmental Health Officer** identifies that the main concerns for their Service are noise/ odour from the kitchen extract system which could have impacts on any neighbouring residential property and therefore requests a condition is attached for the agreement of the odour mitigation system and to set a noise limit relating to the extraction system. In addition they require details to be submitted by way of condition, to ensure that the water private water supply is wholesome and has sufficient capacity to meet the needs of the development.
35. **The Highland Council Flood Risk Management Officer** requests that the same conditions to that of 2016/0153/DET are carried forward and attached to any subsequent decision notice for this renewal. These conditions are as follows:
- a) The submission and agreement of a detailed flood model to determine flood routing and water depths in the event of overtopping or breach of the informal embankments;
  - b) In agreement with SEPA, a condition is also required to ensure that there is no ground raising within site, including the informal embankments;
  - c) A six metre buffer between the watercourse and any new development;

- d) The submission and approval of a final drainage detailed design, which should include provision for limiting discharge for all storm events up to and including the 1 in 200 plus climate change storm.
36. **The Highland Council Access Officer** does not have any record of any claimed public rights of way.
37. **The Highland Council Forestry Officer** confirms that they have no further comments to those given in response to the consultation on application 2016/0153/DET and recommends that any tree related conditions (8 and 9) are carried forward for this renewal.
38. **CNPA Ecology Officer** has the following comments on the updated information provided with this application:
- a) **Updated bat survey and species protection plan:** The Officer welcomes the report and notes that there is evidence of bats using the site for breeding and non-breeding roosts. It is also considered possible that the building complex could support hibernating bats. The Officer confirms that as long as the works are undertaken in accordance with the SPP and the stated compensation is provided, the proposal should allow the species to be maintained at the site and therefore at a favourable conservation status. The Officer notes that the SPP details mitigation measures to avoid carrying out works at particular times in order to avoid periods when bats will be present which is particularly important with respect to the maternity roost and any potential hibernation roost. Regarding compensation, guidance is that maternity and hibernation roosts should be retained wherever possible or replaced like-for-like to maintain the local population. A planning condition is required to ensure works are undertaken in accordance with the SPP and for an external lighting plan for the site.
  - b) **Updated ecology report:** The Officer notes that the only other protected species of concern on site requiring mitigation is otter and the Officer queries whether tree 0287 is proposed to be retained. The SPP for otter provided with the previous application will be required to be updated by way of planning condition. The Officer also requests that the previous conditions attached to the decision notice are carried forward to this application: conditions 4, 5, 8, 10, 12, 13, 18 and 19.
  - c) **Habitats Regulations Appraisal:** The Officer confirms that the requirements of the previous HRA are unchanged as there are no proposed changes to the scheme and therefore the HRA remains relevant along with its conclusions and recommendations. The mitigation required in the HRA by way of timing of works to avoid otter disturbance will form part of the Species Protection Plan.
39. **CNPA Landscape Officer** confirms that the updated information accompanying the new application does not raise any new landscape issues. The Officer also confirms that there are no landscape or visual issues raised by the current application that would not have been raised for the previous application and the relevant landscape additions are still relevant and should be carried forward to any subsequent decision notice. These relate to condition numbers: 6, 8, 9 and 10.

40. **CNPA Outdoor Access Officer** finds there to be no observed changes to the previously consented scheme concerning the aspects of public access, access rights and pedestrian movements. Based on this, the Officer confirms they have no further comments and require the previous relevant conditions to be carried forward, with particular regard to Condition number 6.
41. **Kincraig & Vicinity Community Council** were consulted on both applications and have provided no formal comments on either application.

### **Summary of the main issues raised by consultees for 2020/0241/LBC**

42. **Historic Environment Scotland [HES]** have no specific comments to make on the proposal.
43. **The Highland Council Historic Environment Officer** has no additional comments to make on the scheme and the original comments and conditions shall be carried forward to any subsequent decision notice. The conditions include: a photographic record of the buildings; condition survey of building elements and the submission of building material samples for prior agreement.

### **REPRESENTATIONS**

44. The application has been advertised and one letter of public representation has been received in response to the application. The respondent notes their objection to the proposal on the basis of a risk of economic displacement. The respondent references the effect of other businesses displacing economic benefits from villages such as, Newtonmore and Blair Atholl. A copy of this response can be found at **Appendix 3**.

### **APPRAISAL**

45. The following is a joint report for the renewal applications for planning permission (2020/0236/DET) and listed building consent (2020/0241/LBC).

#### **Principle**

46. Since the last permissions were granted in 2018, the Cairngorms National Park Local Development Plan 2015 remains in force. The principle of converting existing building stock to a new use is well established by **Policy 3: Sustainable Design**, whilst **Policy 9: Cultural Heritage** supports the conservation and enhancement of listed buildings. The principle of the commercial use of the proposal must comply with **Policy 2: Supporting Economic Growth**.
47. The development is a mixture of retail, café, play space, events, mill and office space. As such, **Policy 2.1: Retail Development** applies. The policy supports retail development where it uses a sequential approach to site selection focussing on town/village centre sites first, then sites within settlements, then out of settlement sites where the development supports economic vitality and viability of the community. The policy also outlines that developments should have no adverse impacts on

neighbouring properties and no detrimental impact upon the vitality and viability of the settlement/centre. The policy allows for exceptions to this where there is a social or community need for the proposal.

48. In this case, the applicants have detailed in their supporting retail statement the case for development. They have explained why they consider it will not adversely affect the local communities of Kingussie and Newtonmore, but rather it will complement them by providing an attraction to tourists along the busy A9 route; create local employment as well as supporting local crafts and the Balavil Estate itself. They have set out how there are no suitable sites within the local communities to accommodate the scale of the proposed development and have sought to highlight that the development is a bespoke one, providing a new offering based on Balavil Estate.
49. One letter of public representation has been received objecting to the renewal of this proposal, raising concern that it will cause economic displacement from Kingussie and Newtonmore. No comments have been received from the Community Council. Whilst the views of the public respondent are noted and are reflective of concern raised during the consideration of the original application, the consideration of this has not considered to change from the conclusions previously reached. On balance, no evidence has been presented that a development of this scale – under 400 square metres of retail space as opposed to a larger scale supermarket type development - is likely to have significant effect on the communities. Although there is inevitably a degree of competition between new uses and existing uses, there may also be opportunities for the development to complement communities through providing an outlet for local produce. Additionally, there may be opportunities for the communities to work with the developer to promote the attractions of their communities.
50. The benefits arising from the re-use of a redundant building must also be considered. Using a brownfield site in this way, is considered to be beneficial overall, particularly as it will secure the long term future of a category B listed building of architectural and historic importance. There will also be economic benefits arising from the works to the building in terms of an initial investment together with the associated employment opportunities, in addition to the applicant's estimation of the creation of 15 new jobs during operation.
51. Also of relevance is **Policy 3.2: Tourism and Leisure Development**, which offers support for developments which enhance the tourism and leisure based business activities and attractions where they have no adverse impacts on the site or neighbouring area, making a positive contribution to the experience of visitors and adds to or extends the tourism season. The proposed development has the potential to deliver on these objectives by providing a useful addition to the tourism offering in the National Park.
52. The supporting text to **Policy 2: Supporting Economic Growth** explains that this policy will be used for the delivery of appropriate economic development which ensures sustainable growth and supports our communities. It is intended to protect communities from inappropriate development and loss of existing facilities and help them keep vibrant and sustainable. It goes on to say that whilst it is expected that much development will be within existing settlements, some will require a more rural setting and applicants will be asked for evidence to support specific locational

requirements. It also explains that the policy supports appropriate development undertaken in harmony with the location and where it extends the tourist season and the availability of the facilities to communities and is designed to the highest standards. The application is considered to support these objectives. Furthermore, it is not considered that there is a presumption, as such, against out of village/town commercial reuse of existing property, as proposed here, nor is there a specific policy presuming against development alongside the A9.

53. Overall, it is considered that there is a satisfactory case as to why the development may not adversely affect the vitality and viability of the local communities but instead has the potential to provide an enhancement to the wider offering of the area. There are no changes proposed to the scheme under consideration from that which currently benefits from consent, with the use, siting, access and servicing all remaining as previously granted. As such, the principle of development is considered to be acceptable for these applications, in compliance with **Policy 2: Supporting Economic Growth** subject to the consideration of the updated environmental material which will now be considered.

### **Ecological and Designated Area Issues**

54. **Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015** seeks to ensure that there is no adverse impact on the integrity of designated sites, nor upon protected species or biodiversity.
55. Due to there being no changes to the scheme, the previously adopted Habitats Regulations Appraisal (**Appendix 2**) is still relevant and carried forward for these applications. The conclusions of the HRA confirm that there will be no likely significant effects on the River Spey SAC arising from the proposal if the appropriate mitigation of the restricted timings of work to be included within an otter species protection plan and adhered to during construction. NatureScot agree with the conclusions of the HRA.
56. In relation to the European Protected Species, and since the previous 2018 granted permission, updated ecological surveys have been undertaken and submitted in support of the renewal applications for consideration. An updated bat survey and species protection plan together with an updated ecology report have been provided. The CNPA Ecology Officer agrees with the conclusions of these reports subject to the carrying forward the original ecological related planning conditions attached to the current decision notice and subject to the addition of planning conditions for an external lighting plan and the provision of an updated species protection plan for otter which reflects the HRA requirements. It has been confirmed by the agent that tree 0287 is proposed to be retained within the scheme. The updated documents provide no new areas of concern relating to the ecological interests of the site to that previously considered under the original permission and the proposal is considered to be acceptable and in accordance with **Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015**.



## Access and Sustainable Transport Issues

57. **Policy 3:** Sustainable Design of the Cairngorms National Park Local Development Plan 2015 sets out that new development should be designed to maintain and maximise all opportunities for responsible outdoor access including links into the existing path network and to promote sustainable transport methods including making provision for the storage of bicycles and reducing the overall need to travel.
58. The application site is located around 4km from the nearest sizeable settlement at Kingussie. Whilst it is likely that much of the trade for the site will be from passing motorists, it is also important to consider how the accessibility of the development by non-motorised users. The proposal looks to utilise the existing estate tracks from Lynchat to the application site, which would allow persons coming by bus to walk from the bus stop at Lynchat along the track to the site or for cyclists to use this same route. The condition attached to the original permission regarding the agreement of the details to ensure the surface of the route is suitably upgraded for its use where required, shall be carried forward to any subsequent decision notice as recommended by the CNPA Outdoor Access Team and the Highland Council Transport Planning Team. In these circumstances, it is considered that the proposed development, subject to the inclusion of the appropriate planning conditions, complies with **Policy 3:** Sustainable Design in relation to sustainable travel.
59. With regard to the proposed vehicular access arrangements, the application seeks to use an existing access point onto the A9, which will require to be upgraded to meet the standards and requirements of Transport Scotland as this is a trunk road. The applicant has been in discussion with Transport Scotland to confirm they have no objection to the scheme subject to the inclusion of two planning conditions on any subsequent decision notice to confirm the final agreement of the details of the access in relation to the A9 dualling and to confirm the land that will remain free from development to be compatible with the A9 dualling programme. The Highland Council Transport Planning Team has no new comments from those made for the original application and requests that the transport related conditions are carried forward to any subsequent decision notice. These conditions relate to the parking layout and service delivery. Subject to the inclusion of the requested conditions, the proposal is considered to accord with **Policy 3:** Sustainable Design in relation to vehicular access arrangements, parking provision and vehicle egression.

## Landscape and Arboricultural Impacts

60. **Policy 5:** Landscape of the Cairngorms National Park Local Development Plan 2015 presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park and in particular the setting of the proposed development. Furthermore, it is noted that although the landscape at Balavil is not included in Historic Scotland's inventory of designated landscapes and gardens, it does form part of a research project by the CNPA which describes the qualities of various historic designed landscapes throughout the Park, including Balavil, recognising the quality of the landscape here.

61. In this case, the proposed renovations as well as the new build elements are considered to enhance the landscape by sympathetically renovating buildings which are important in the landscape. Furthermore the proposals offer the opportunity to enhance both the setting of the buildings and the wider landscape if a good quality landscape setting is achieved through the proposal's design and maintained. This is readily available through retention of trees alongside the Raits Burn as well as woodland between the development and the A9 and other key trees on site complemented by additional tree planting and careful attention to the formation of the new car parking areas. The submitted landscape information in support of the original application was subject to a planning condition to ensure that there is complete clarity of trees to be removed and to seek refinements to the landscaping scheme as suggested by consultees on the original application. Similarly it is important to ensure that hard landscaping and boundary enclosures are of a good standard in keeping with the quality of the landscape here and the listed buildings. Again this can be readily achieved and delivered through a detailed landscape scheme.
62. The CNPA Landscape Officer has reviewed the new application and its updated information and confirms that it does not raise any new landscape issues. The Officer confirms that all previous landscape related conditions are still relevant and should therefore be carried forward to any subsequent decision notice for this renewal. The Highland Council Forestry Officer confirms that they have no further comments above those given in response to the original application and request that the tree related conditions are carried forward to this renewal. In these overall circumstances, the proposed development is considered to comply with **Policy 5: Landscape** of the Cairngorms National Park Local Development Plan 2015.

## Design and Cultural Heritage

63. The proposal must be considered under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 due to the works affecting a listed building. In particular, under section 59 the Local Planning Authority has a statutory duty to have special regard to the desirability of preserving the listed building or its settings or any features or special architectural interest which it possess.
64. The Scottish Planning Policy Framework (SPP) offers guidance regarding the determination of development proposals affecting heritage assets within Paragraph 141 whereby changes to listed buildings should be managed to protect their special interest whilst enabling them to remain in active use and emphasis is also placed on the statutory duty identified within Section 14(2) of the Listed Building Act. Paragraph 141 of the SPP also identifies that the layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting.
65. The Historic Environment Scotland Policy Statement (June 2016) is also a material consideration with paragraph 3.45 being of particular relevance stating "where a proposal protects or enhances the special interest of the building, for example through the like-for-like replacement of a window or door which is beyond repair or the reinstatement of important detailing, consent should normally be granted." These

national recommendations are also reflected within **Policy 9: Cultural Heritage** of the National Park's own Local Development Plan.

66. The proposed works involves a sympathetic renovation of a category B Listed Building of architectural and historic importance which is falling into disrepair. This in itself is an inherently sustainable approach. The removal of components of the existing farmhouse, such as more recent dormers and rear extension, has been fully justified, as has the removal of the front porch. Similarly the alterations to the steading complex and renovations/extension to the former mill building are considered to be entirely in character. The design simplicity of the new elements are considered to complement the original buildings in a subservient manner. The works look to retain most features and structures of historic interest and restoring some original elements.
67. Historic Environment Scotland and the Highland Council Conservation Officer provided comments on the original scheme, welcoming the works and noting the positivity of bringing the buildings back into use in a general sympathetic way. The consultees have no additional comments to make to those originally provided, subject to the inclusion of the same conditions. These conditions include the submission of sample of materials to be used for the works.
68. The setting of the building can be conserved and enhanced by the retention of existing trees and provision of new landscaping, together with care over hard landscaping and boundary treatments as outlined in the landscape section earlier.
69. Overall, it is considered that the works aid the retention of an important cultural asset in a wholly sympathetic manner, entirely in character with its listing and location. In these circumstances, the design of the proposals is considered to fully comply with **Policy 9: Cultural Heritage** and **Policy 3: Sustainable Design** of the Cairngorms National Park Local Development Plan 2015.

### General Servicing Issues

70. **Policy 3: Sustainable Design** and **Policy 10: Resources** of the Cairngorms National Park Local Development Plan 2015 set out the need for new development to be satisfactorily serviced and without harm to resources or the environment.
71. In this case it is proposed to service the site by means of private water supply and a private drainage plant. Although these matters will also be controlled under building regulations, it is appropriate to secure approval of final details of the arrangements via planning conditions. Similarly there is sufficient space within the site to make arrangements for waste management provision and this too may be conditioned in terms of the final detail.
72. The Highland Council Environmental Health Officer recommends the inclusion of a post determination condition to ensure that the private water supply is wholesome and has sufficient capacity to meet the needs of the development.
73. Regarding the proposed surface water drainage system, the Highland Council Flood Risk Management Team has no objection to the basis of the system subject to the final

details being agreed by way of planning condition. This will also offers an opportunity to try and integrate SUDS proposals with landscape proposals to improve biodiversity. In these circumstances the application is considered to comply with **Policies 3:** Sustainable Design and **10:** Resources of the Cairngorms National Park Local Development Plan 2015.

### Contamination and Environmental Issues

74. **Policy 10:** Resources of the Cairngorms National Park Local Development Plan 2015 seeks to ensure that the land uses- existing and proposed- do not give rise to any contamination issues or other environmental impacts. The site has a previous agricultural use and further information was sought to inform whether a contamination assessment would be required or not. Following the submission of the this information, the Highland Council Contaminated Land Officer has no objection to the proposal and confirms that the proposal does not require any remedial action taking into account its former use.
75. **Policy 3:** Sustainable Design seeks to ensure that new development protects the amenity currently enjoyed by residential neighbouring properties and to ensure that land uses are compatible without causing an environmental nuisance. The Highland Council Environmental Health Officer requests the inclusion of planning conditions to control noise levels arising from the operation of the extraction system relating to the café and for the agreement of the odour management system to ensure that these elements do not adversely impact amenity. Subject to the inclusion of these conditions, the proposal is considered to accord with **Policy 3:** Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

### Flooding Issues

76. **Policy 10:** Resources of the Cairngorms National Park Local Development Plan 2015 seeks to ensure that all development is free from a significant risk of flooding, does not increase the risk of flooding elsewhere nor add to the area of land that requires flood prevention measure or affect the ability of the functional flood plain to store or move flood waters.
77. The site lies within a flood risk area as identified on SEPA's flood map and therefore the potential risks from flooding to both the site and other receptors must be fully considered. The original documentation submitted, demonstrates that the proposals will not increase flood risk elsewhere subject to no changes being made to the existing embankments alongside the Raits Burn nor any changes to ground levels to the site. Both SEPA and the Highland Council Transport Planning Team require the original flood related conditions to be carried forward to any subsequent decision notice to ensure that any flood impact arising from the proposal remains at an acceptable level. On this basis the proposal is considered to comply with policy subject to the appropriate planning conditions being imposed.

## Duration of Consent

78. Unless a planning authority directs or applies an alternative time period for the duration of planning permission, it is automatically for a period of 3 years. The applicants have requested an extended duration for planning permission is granted by the CNPA. As stated earlier in the report, this is due to the due the delivery of the adjacent A9 Dualling Scheme and its implications on the estate, with particular regard to access arrangements, and compulsory purchase land. The applicant states that they would like to ensure they have sufficient flexibility in the renewed permission and its expiry date to allow for the construction of the A9 to proceed as far as possible, prior to the Estate commencing their works on site. The applicants have therefore requested that the length of the renewal consents, if permitted, are for a 7 year period, which is based on their understanding of the timetable for the dualling of the A9 following discussions with Transport Scotland.
79. Transport Scotland have requested the inclusion of two prior to commencement conditions to be attached to the decision notice relating to the prior agreement of how the site access will tie-in to the A9 Dulling Scheme and the prior agreement of a revised layout plan to show the areas within the site to be retained free from development as necessary for the delivery of the A9 Dualling Scheme. Although the estate may not wish to implement the development prior to the A9 dualling works due to economic reasons, these conditions (agreed by both Transport Scotland and the applicant) create the flexibility to allow the applicants to proceed with their access at an earlier stage if either: the project does not go ahead or if the applicants (despite their current intentions) want to construct head of the A9 dualling works. In that event, the access design would require to be signed off by the CNPA in consultation with Transport Scotland.
80. Taking this flexible approach into account, as well as Transport Scotland's requirement for certainty of control of delivery of the A9 dualling, officers' opinion is that an extended duration for planning permission is appropriate in these cases and recommend appropriate provision within any approvals to extend the duration of planning permission to 7 years from the date of decision notice.

## Other Issues Raised

81. As mentioned earlier, there have been a number of planning and listed building consent applications, subsequent to the granting of permission for the original applications for the proposal (2016/0153/DET and 2016/0143/LBC). Although most of those approved do not have any impacts on the proposal, the permission for the construction of a garage and game larder would impact on the delivery of the proposal currently being considered, due to the garage and game larder being erected, at present, on the site where the proposed café is to be erected. It is not uncommon for other permissions to be granted in between the time difference between the submission of renewal applications and their original permissions and most typically do not impinge on the delivery of subsequent schemes. However in this case, as the game larder does cause an impact on the delivery, a post determination condition is recommended to secure the game larder's removal prior to the first operation of the proposal to ensure that the proposal is fully implemented in accordance with the approved plans. The

applicants have been made aware of this and confirm that the garage and larder are only temporarily located on this position within the site and have indicated their acceptance of such a condition.

## CONCLUSION

82. The proposed development involves the change of use of underused agricultural buildings and associated farmhouse to a mixed use which will provide an addition to the tourism offering in the National Park. It will sensitively bring Listed Buildings of architectural and historic importance back into a productive use securing their long term viability and maintenance which is greatly welcomed. The additional new building works are of a good design complementing the existing listed buildings and a good landscape setting can be secured whereby the proposal will conserve and enhance the landscape and special qualities of the National Park. There are no adverse environmental impacts subject to appropriate mitigation being implemented and the site can be accessed and serviced to the satisfaction of the appropriate authorities.
83. The works are not considered to cause serious detriment to the character of the listed buildings and their designation qualities. The works proposed are in the interest of the public benefit helping to preserve the buildings in the longer term and by providing a use appropriate to their scale. The historic character and architectural interest of the listed building is considered to be safeguarded and the proposed works are considered to comply with the statutory duty set out under Section 59 of the Planning (Listed Buildings and Conservations Areas) (Scotland) Act 1997 (as amended) together with the considerations of paragraph 141 of the SPP and Policies 3: Sustainable Design and 9: Cultural Heritage of the adopted Local Development Plan 2015.
84. The development will also provide the opportunity to secure improved pedestrian and cycle access through the Balavil Estate to the development.
85. Due to the application site's cross-connection with the A9 dualling programme, an extension to the consent period for the any decision notice is considered justified on this occasion, subject to the expiry from the date of any decision notice being set for a five year period.
86. In these overall circumstances the development is considered to comply with all relevant policies of the Cairngorms National Park Local Development Plan 2015 and the collective aims of the National Park. There are no other material considerations which would warrant the refusal of planning permission. Approval is therefore recommended for both applications, subject to appropriate planning conditions.

## RECOMMENDATION

That Members of the Committee support a recommendation to Approve the following applications:

**2020/0236/DET “planning permission for the Conversion of farm buildings to visitor facilities and commercial use, extensions, formation of cafe and parking” at Steading Balavil Mains Farmhouse Kingussie,**

**Subject to conditions and a direction extending the duration of planning permission from three to seven years.**

**And**

**2020/0241/LBC “listed building consent for the Conversion of farm buildings to visitor facilities and commercial use, extensions, formation of cafe and parking”**

**Subject to conditions including one that extends the duration of planning permission from three to seven years.**

### **Direction and Conditions relating to Planning Permission Application Reference 2020/0236/DET**

#### **DIRECTION**

**The Cairngorms National Park Authority directs that section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) shall not apply and in terms of Section 58 (2) of the Town and Country Planning (Scotland) Act 1997, that unless the development hereby permitted has already begun, this permission (2020/0236/DET) will lapse after a period of 7 years beginning with the date of this permission.**

**Reason: In order to allow a phased and ordered delivery of this consent alongside the A9 Dualling Project and provide appropriate vehicle access in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Development Plan 2015.**

#### **CONDITIONS**

Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.

- I. (a) No development shall commence until detailed plans showing how the site access will tie-in to the A9 Dualling Scheme (Crubenmore to Kincaig section) as it is shown on:**

- (i) the reference design (A9 Dualling - Crubenmore to Kincaig Environmental Statement, Volume 3, Proposed scheme plan, Drawing 5.11, chainage 53200 to 54600 : A9P09-CFJ-EGN-M\_ML532\_ZZ-DR-EN-0003 as docketed to this planning permission); or
- (ii) the Scottish Ministers' appointed contractors' detailed design;

have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with Transport Scotland. Thereafter the site access shall be constructed as the first phase of development and prior to the commencement of the other works, in accordance with the approved plans and maintained all to the satisfaction of the Planning Authority in consultation with Transport Scotland, All unless the prior written approval for any revision if required under part (b) of this condition has been obtained.

- (b) For the avoidance of doubt, separate written approval for a revision to the approved plans to provide a detailed design and specification for the proposed access onto the A9 will be required to be submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority in consultation with Transport Scotland prior to the commencement of development in either of the following circumstances:
- a) if the A9 Dualling Scheme (Crubenmore to Kincaig section) does not proceed, or
  - b) the development hereby approved is to be commenced prior to the commencement of construction of the A9 Dualling Scheme (Crubenmore to Kincaig section).

Thereafter the approved revised access arrangements shall be constructed as the first phase of development and prior to the commencement of the other works, and maintained all to the satisfaction of the Planning Authority in consultation with Transport Scotland.

**Reason:** To ensure that the standard of access layout complies with the current roads standards and that the safety of the traffic on the trunk road is not diminished. To ensure that the future improvement of the trunk road is not prejudiced. All in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

2. **Prior to the commencement of development, a revised layout plan shall be submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority, in consultation with Transport Scotland, showing –**
- a) the position of the proposed converted and new buildings together with all ancillary development including vehicle parking areas, drainage design, and new landscape planting;
  - b) the areas within the site to be retained free of development as necessary for the delivery of the A9 Dualling Scheme (Crubenmore



to Kincaig section), which shall be identified in accordance with the **A9 AND A86 TRUNK ROADS (CRUBENMORE TO KINCRAIG) COMPULSORY PURCHASE ORDER 201[ ]**, sheet 8 of 10 Draft CPO plan, sheet 8, as published on 4 September 2018 and docketed to this planning permission.

Thereafter the development shall be carried out in accordance with the approved layout plan and the areas reserved for the delivery of the **A9 Dualling Scheme (Crubenmore to Kincaig section)** shall be retained free of development unless and until it is otherwise confirmed in writing by the Planning Authority, in consultation with Transport Scotland, that these areas are no longer required for that purpose, or that the provision of temporary access arrangements onto the **A9** if required under Condition **I(b)** is approved.

**Reason:** To ensure that the future improvement of the trunk road is not prejudiced by the development in accordance with Scottish Planning Policy 2014.

- 3. No development shall commence until a detailed topographical survey showing the existing ground levels for the entire site, including the informal flood embankments, has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with SEPA and the Highland Council Flood Risk Management Team. Thereafter throughout the lifetime of the development there shall be no changes to the existing ground levels shown in the approved topographical survey and specifically there shall be no alterations made to raise (above existing levels) strengthen or lengthen/extend the existing informal flood embankments as shown on the approved topographical survey.**

**Reason:** To ensure that the existing capacity of the functional flood plain is maintained and that the flood regime in the vicinity of the site is not affected, in accordance with Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

- 4. No development shall commence until detailed flood modelling has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Flood Risk Management Team to determine flood routing and water depths in the event of overtopping or breach of the informal flood embankments. This modelling shall be used to determine the design of flood resilience measures, layout and emergency evacuation routes and these details shall be included in the submission of information. Thereafter any measures required shall be implemented in accordance with the approved details before any part of the development is brought into use and maintained and retained thereafter in accordance with the approved details.**

**Reason:** To ensure that any implications from flooding are fully considered in the design of the development in order to minimise any impact upon users in

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

5. **No development shall commence until a site plan showing a 6 metres buffer zone from the Raits Burn to be kept free of new development has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Flood Risk Management Team. The development, hereby approved, shall thereafter proceed in accordance with the approved plan.**

**Reason:** To ensure that any implications from flooding are fully considered during the construction of the development in accordance with Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

6. **No development shall commence until a detailed design for the disposal of surface water and the associated elements of a SUDS scheme and details of the disposal of foul sewage has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Flood Risk Management Team. This scheme shall reflect the following requirements:**

- a) **The final drainage design to limit discharge for all storm events up to and including the 1 in 200 year plus climate change storm event together with associated calculations and confirmation that the discharge will be limited to pre development rates for all return periods.**
- b) **Provision of percolation test results at appropriate locations to demonstrate that appropriate site specific infiltration rates have been used in the design.**
- c) **Consideration of replacement of attenuation tank with SUDS basin and integration of SUDS components within courtyard area in formal bio-retention areas and proprietary tree SUDS.**
- d) **Details of the ongoing maintenance of the scheme.**

**The surface water drainage arrangements shall thereafter be implemented in accordance with the approved plans with certification from an appropriately qualified professional confirming compliance submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Flood Risk Management Team before any part of the development is brought into use. The scheme shall thereafter be maintained in accordance with the approved details throughout the lifetime of the development hereby approved.**

**Reason:** To ensure that satisfactory arrangements for the disposal of surface water and foul drainage are provided in accordance with Policy 3: Sustainable Design, Policy 4: Natural Heritage and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

7. **No development shall commence until the detailed route assessment in relation to the proposed pedestrian and cyclist access to the site from Lynchat has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Transport Planning Team. This assessment will be required to demonstrate that the route is fit and safe for purpose and shall include the following information:**
- a) **Written and photographic description of the route including widths and availability of verges.**
  - b) **Location of uneven surfaces that may cause trip hazards and areas of ponding or flooding.**
  - c) **Location of any gates or cattle grids.**
  - d) **Approximate number and type of vehicles on existing tracks that will be shared by cyclists and pedestrians.**
  - e) **Assessment of any road crossings.**
  - f) **Assessment of any tunnel including height, width and lighting.**
  - g) **Details of any improvements or repairs necessary.**
  - h) **Signing strategy from Lynchat to the development.**
  - i) **Details of future maintenance programme.**

**The route shall thereafter be implemented in accordance with the approved plans before any part of the development is brought into use and maintained thereafter in accordance with the approved scheme throughout the lifetime of the development hereby approved.**

**Reason:** To ensure that the development can be accessed by cyclists and pedestrians in order to promote sustainable transport methods in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

8. **No development shall commence until an updated Landscape Plan and Maintenance Programme have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. The details shall include:**
- a) **Detailed landscape scheme showing all trees to be retained and trees/shrubs to be planted. Full details of species, number, location, sizes and planting distances to be provided. Hard landscaping to be included covering surfacing, boundary enclosures, finishes of the courtyard and former garden areas, reflecting the requirement to retain/re-use existing cobbles in the courtyard area. The scheme to reflect the provision of a natural stone wall to wrap round the south east corner of the car park and for rondels of trees to be provided;**
  - b) **North-south sections through the car park to show bunding and ground works to be included;**
  - c) **Maintenance schedule and long term objective based management plan for all landscape areas.**

**The Landscape Plan shall be implemented in full, by a suitably qualified landscape consultant, during the first planting season following the commencement of development or as otherwise agreed in writing by the Cairngorms National Park Authority acting as Planning Authority. All landscaping shall be maintained thereafter in accordance with the approved details throughout the lifetime of the development hereby approved.**

**Reason:** To ensure that trees are adequately protected, a suitable landscape setting established and that the development conserves and enhances the landscape character and special qualities of the National Park in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

9. **No development shall commence on site until a revised Arboricultural Impact Assessment and revised Tree Protection Plan have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Forestry Officer. These documents shall be undertaken by a suitably qualified Arboricultural Consultant and shall include the following details:**
- a) **Confirmation of the paths over root protection areas to be constructed using a cellular containment system;**
  - b) **Confirmation that any track widening, swales and SUDs/ Drainage provision will cause no damage to tree roots;**
  - c) **On site tree protection measures and confirmation of their installation prior to the commencement of any development;**
  - d) **The retention of the existing riparian planting alongside the Raits Burn as far as practicable with coppicing to be considered where trees may affect existing buildings.**
  - e) **Any resultant requirements for bat surveys of trees to be removed or coppiced to be detailed and undertaken for example tree number 197.**
  - f) **Details of the trees to be retained including the retention of the wych elm in the south west of the site.**
  - g) **A timetable of the stages of construction supervision and the subsequent submission of certificates of compliance for each stage.**

**The development shall thereafter be implemented and maintained in accordance with the approved details throughout the lifetime of the development hereby approved.**

**Reason:** To ensure that trees on and around the site which contribute to the landscape character and biodiversity of the area are appropriately protected during construction works in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

10. **No development shall commence until a Lighting Plan has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. This plan shall include:**

- a) **Detail of all lighting proposed including position and intensity reflecting the need to minimise light spillage and to avoid illuminating the woodland corridor of the Raits Burn.**
- b) **A night time visualisation (taken from the A9 heading south) and shall reflect the requirement for the design to be informed by the bat worker to ensure that the location of bat roosts/foraging areas is fully considered in the design.**

**All lighting shall thereafter be implemented and maintained in accordance with the approved details.**

**Reason:** To ensure that lighting at the site conserves and enhances the landscape character and special qualities of the National Park and does not adversely affect European Protected Species in the area in accordance with Policy 4: Natural Resources and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

11. **No development shall commence until details of the arrangements for the siting and collection of waste and recycling containers have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Transport Planning Team. This provision shall thereafter be made in accordance with the approved plans before any part of the development is brought into use and maintained thereafter in accordance with the approved scheme throughout the lifetime of the development hereby approved.**

**Reason:** To ensure that satisfactory arrangements are made for the collection, storage and recycling of waste in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

12. **No development shall commence until pre-construction surveys for otter, ospreys and a winter survey for bats as outlined in the approved Bat Species Protection Plan have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. Any mitigation identified in the surveys to be implemented in accordance with the approved details and timing.**

**Reason:** To ensure that the development does not adversely affect wildlife interests and European Protected Species in the area in accordance with Policy 4: Natural Resources of National Park Local Development Plan 2015.

13. **No development shall commence until an updated Otter Species Protection Plan has been submitted to and agreed in writing by the Cairngorms National Park Authority acting as Planning Authority. Thereafter, all mitigation set out the approved Otter Species Protection Plan, including timing of works, shall be implemented in accordance the details contained in the Plan. Weekly reports detailing compliance and any further mitigation required to be provided by the retained Environmental Clerk of Works shall be submitted to and approved in writing by the**

**Cairngorms National Park Authority acting as Planning Authority during the construction phase adjacent to the watercourse and at a regular frequency to be agreed with the Planning Authority during other construction.**

**Reason:** To ensure that the development does not adversely affect European Protected Species in the area in accordance with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

14. **No development shall commence until details and plans of the proposals for compensatory bird nesting sites for swallow, mistle thrush, house martin and tawny owl have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. These details shall be based upon the approved Ornithological Protection Plan. The provision shall be provided in accordance with the approved details and the provisions of the approved Ornithological Protection Plan (with regard to timing and pre construction checks) before any part of the development is brought into use and retained thereafter throughout the lifetime of the development hereby approved.**

**Reason:** To mitigate any impacts upon affect birdlife in the area in accordance with Policy 4: Natural Resources of the Cairngorms National Park Local Development Plan 2015.

15. **No development shall commence until a photographic record of the all buildings and/or other features affected by the development/work has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Historic Environment Team. This record shall be undertaken in accordance with the attached specification from the Highland Council Historic Environment Team. Thereafter within 6 months of completion of the development hereby approved Following the completion of development, a photographic record shall be made of all changes, alterations and completed works undertaken to the building or structure, in accordance with the attached specification and submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Historic Environment Team.**

**Reason:** In order to record the archaeological and historic interest of the site in accordance with Policy 9: Cultural Heritage of the Cairngorms National Park Local Development Plan 2015.

16. **No development shall commence until a details of the proposed water supply including its location have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Environmental Health Team. The details shall include:**

- a) **A completed private water supply questionnaire (Form PWS I)**

- b) **A plan of the development and the water supply**
- c) **A written report from a competent person to demonstrate that there will be a sufficient piped supply of wholesome water to meet the demands of all properties on the supply**
- d) **Details of any water treatment systems.**

**The development shall not be brought into use until a wholesome water supply has been provided in accordance with the approved details, together with the submission and approval of the water test results to determine the water quality.**

**Reason:** To ensure that a satisfactory water supply is provided in accordance with Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

17. **No development shall commence, until details of an odour mitigation system designed to protect neighbouring properties from catering odour arising from the development has been submitted to and agreed in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with The Highland Council Environmental Health Officer. This system must be designed and installed by a competent person with specialist knowledge of ventilation and filtration systems and the details shall include:**
- a) **A description of the catering operation including adequate site and layout plans/ drawings;**
  - b) **Details of the proposed filtration/ventilation plant and equipment with a reasoning for the choice;**
  - c) **Proposed maintenance arrangements;**

**The development shall thereafter proceed and be maintained in accordance with the approved details.**

**Reason:** To ensure that the development, during its operation does not adversely impact the amenity of occupiers of neighbouring land uses in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

18. **Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and the Town and Country Planning Use Classes (Scotland) Order 1997 (or any order amending these)**
- a) **any alterations or extensions to the development hereby approved or any ground works including the formation of parking areas, bunding and erection of walls or other means of enclosures shall require the express consent of the Planning Authority.**
  - b) **the floor spaces of the proposed uses as identified on the approved plans for each of the respective individual uses of this mixed use development shall not be materially altered or increased unless approved in writing with the Planning Authority.**

**Reason:** To ensure that there is no increase in flood risk to other receptors in the area through changes to ground levels, construction of informal defences or other development structures and to ensure that the proposal has no detrimental impact upon the vitality and viability of other settlements in accordance with Policy 2: Supporting Economic Growth and Policy 3: Sustainable Design and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2015.

19. No part of the development, hereby permitted, shall be brought into use, until the development as approved under Highland Council planning and listed building consent references: 19/04994/FUL and 19/04055/LBC has been removed, in full from the site.

**Reason:** To ensure that any development permitted under interim permissions does not impact on the delivery of the scheme hereby approved.

20. No part of the development shall be brought into use until the cycle parking, car parking, delivery and turning arrangements have been formed in accordance with the approved plans, and retained thereafter in accordance with the approved plans throughout the lifetime of the development hereby approved.

**Reason:** In the interests of road and pedestrian safety to ensure that there is satisfactory parking and turning provision made on site in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

21. All mitigation set out the approved Bat Species Protection Plan, shall be implemented in accordance the details contained in the Plan. Reports by a suitably qualified bat worker shall be submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority at each stage of the development as set out in the approved Species Protection Plan. Any compensatory features to be retained throughout the lifetime of the development hereby approved. Monitoring of the bat roosts and installed compensatory features shall be undertaken for two years post construction. At the end of this monitoring period a report shall be submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority detailing the results of monitoring and a timetable for the implementation of any remediation works required. Any remediation will require to be completed in accordance with the approved details and timetable.

**Reason:** To ensure that the development does not adversely affect European Protected Species in the area in accordance with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

22. All plant, machinery and equipment associated with ventilation, air-conditioning, heating and refrigeration services or similar and including fans, ducting and external openings for the development hereby permitted, shall be so installed, maintained and operated such that any associated noise does not exceed NR 20 when measured or calculated within any noise-sensitive property with windows open for ventilation purposes. If the above standards cannot be met, then prior to the operation of the development, a noise assessment shall be submitted to and agreed in writing by the Cairngorms National Park Authority in consultation with the Highland Council



Environmental Health Officer. The assessment shall accord with BS 4142:2014 Methods for rating and assessing industrial and commercial sound and should demonstrate that noise will not have an adverse impact on noise sensitive properties and any subsequent mitigation measures as recommended by that report and implemented and maintained thereafter in accordance with the approved details.

**Reason:** To ensure that the development is compatible with the surrounding land uses to ensure the amenity of its occupiers is not adversely impacted by the neighbouring land uses in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

23. All construction work shall be carried out in accordance with the approved pollution prevention plan including fencing of the site before development starts and timing of works.

**Reason:** To ensure that the development does not adversely affect the environment or designated sites in the area in accordance with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

### **Informatives**

1. The development hereby approved must commence within 7 years of the date of this decision notice. If development has not commenced within this period then this planning permission will lapse.
2. The person undertaking the development should note that coaches should only reverse into and out of coach parking bays when a banksman is in attendance to assist with reversing movements to ensure that there are no conflicts between coaches and cyclists/pedestrians.
3. The person undertaking the development should note that authorisation from SEPA will be required for the private drainage arrangements and you should contact the Agency in this regard. Similarly private water supply abstraction will require SEPA authorisation
4. The person undertaking the development should note the comments of SEPA dated 2 June 2017 and formulate a flood plan for the site as the Raits Burn has a relatively small catchment and responds quickly to heavy localised rainfall events with no flood warning provided for the site nor likely to be in the future.
5. The person undertaking the development should note that the granting of planning consent does not carry with it the right to carry out works within the trunk round boundary and that permission must be granted by Transport Scotland Trunk Road and Bus Operations. Trunk road modification works shall, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation. Trunk road modifications shall be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation. The road works which are required as a result

of condition 1 will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges. Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement. Any additional works required to mitigate the impact on the trunk road will necessitate a Legal Agreement with the Trunk Roads Authority prior to commencement.

6. The person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. Attached to this decision notice is a Notice of Initiation of Development for completion and submission. Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more costly to rectify. Failure to give notice would constitute a breach of planning control which may result in enforcement action being taken.
7. Following completion of the development, a notification of the completion shall, as soon as practicable, be given to the Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.
8. The applicant should be informed that as the premises is to be used for a commercial purpose then, under the requirements of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017, The Highland Council must add it to the register of private water supplies, to risk assess the supply and to sample it on an annual basis to ensure the water provided meets the regulatory standard. The applicant should be informed that there is a charge for this statutory function. The applicant should inform the environmental health team of The Highland Council when the development comes into commercial use.
9. The development must comply with the Food Safety (Scotland) Regulations 2006 and the Health and Safety at Work etc. Act 1976. For further advice on this please contact the Environmental Health Service email: [envhealth@highland.gov.uk](mailto:envhealth@highland.gov.uk)

## Conditions relating to Listed Building Consent Application Reference 2020/0241/LBC

- I. **No development shall commence until the following information has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Historic Environment Team:**
  - a) **Condition survey of existing slate roofing.**
  - b) **Details of proposals for re-slatting which shall reflect the requirement to salvage and re-use as much existing traditional scots slate as possible and for any new slate to match existing as closely as possible in terms of sizing, thickness and colour. Samples to be approved on site.**
  - c) **Condition survey of existing internal historic features such as fireplaces and stalls and details of the proposals to retain and re-use existing internal features where possible.**
  - d) **Condition survey of existing windows and doors and details of the proposals for their repair and re-use.**

**The development shall thereafter proceed in accordance with the approved details.**

**Reason:** To ensure that the work conserves and enhances the listed building of architectural and historic interest and enhances its character and the contribution it makes to cultural heritage in accordance with Policy 9: Cultural Heritage the Cairngorms National Park Local Development Plan 2015.

2. **No development shall commence until a photographic record of the all buildings and/or other features affected by the development/work has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Historic Environment Team. This record shall be undertaken in accordance with the attached specification from the Highland Council Historic Environment Team. Thereafter within 6 months of completion of the development hereby approved, a photographic record shall be made of all changes, alterations and completed works undertaken to the building or structure, in accordance with the attached specification and submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Historic Environment Team.**

**Reason:** In order to record the archaeological and historic interest of the site and the listed building in accordance with Policy 9: Cultural Heritage of the National Park Local Development Plan 2015.

3. **This consent lapses on the expiration of 7 years from the date of this consent unless the development hereby approved has already begun.**

**Reason:** In order to allow a phased and ordered delivery of this consent alongside the A9 Dualling Project and provide appropriate vehicle access in accordance with Policy 3: Sustainable Design of the Cairngorms National Park Development Plan 2015.

4. Prior to their installation, for the works hereby permitted, samples of all the materials to be used for the repair work to the existing structures, together with the materials to be used for any alteration to the structures of the works, shall be submitted to and agreed in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Historic Environment Team. The works shall thereafter proceed and be retained in accordance with the approved details.

**Reason:** To ensure that the works conserve and enhance the listed building of architectural and historic interest and enhance its character and the contribution it makes to cultural heritage and the area in accordance with Policy 9: Cultural Heritage of the Cairngorms National Park Local Development Plan 2015.

5. Prior to their installation for the works hereby permitted, details of all new windows and doors including sectional drawings shall be submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council Historic Environment Team. The works shall thereafter proceed in accordance with the approved window and door details and be retained as such thereafter.

**Reason:** To ensure that the works conserve and enhance the listed building of architectural and historic interest and enhance its character and the contribution it makes to cultural heritage and the area in accordance with Policy 9: Cultural Heritage of the Cairngorms National Park Local Development Plan 2015.

5. No part of the works, hereby permitted, shall be brought into use, until the development as approved under Highland Council planning and listed building consent references: 19/04994/FUL and 19/04055/LBC has been removed, in full from the site.

**Reason:** To ensure that any development permitted under interim permissions does not impact on the delivery of the scheme hereby approved.

6. The works, hereby permitted, shall be completed in accordance with the approved plans and design and conservation statements.

**Reason:** To ensure that the work conserves and enhances the listed building of architectural and historic interest and enhances its character and the contribution it makes to cultural heritage in accordance with Policy 9: Cultural Heritage the Cairngorms National Park Local Development Plan 2015.

## Informatives

1. The development hereby approved must commence within 7 years of the date of this decision notice. If development has not commenced within this period then this planning permission will lapse.
2. The person undertaking the work is required to give the Planning Authority prior written notification of the date on which it is intended to commence the works. Attached to this decision notice is a Notice of Initiation of Development for completion and submission. Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more costly to rectify. Failure to give notice would constitute a breach of planning control which may result in enforcement action being taken.
3. Following completion of the works, a notification of the completion shall, as soon as practicable, be given to the Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.

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.