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CAIRNGORMS NATIONAL PARK AUTHORITY

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Title: UPDATE/REVISED RECOMMENDATIONS REPORT  
ON CALLED-IN PLANNING APPLICATIONS

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(DEVELOPMENT MANAGEMENT)

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DEVELOPMENTS PROPOSED: 4 HOUSE PLOTS AT ST VINCENTS, 4 HOUSE  
PLOTS AT WEST TERRACE (BOTH FULLPP)  
AND 18 HOUSES (OUTLINE PP) AT WEST  
TERRACE, KINGUSSIE

REFERENCE: 08/184/CP, 08/183/CP & 06/054/CP

APPLICANT: 08/184-ALLAN MUNRO CONSTRUCTION;  
08/183 & 06/054/CP DAVALL  
DEVELOPMENTS

RECOMMENDATION: 08/184/CP-APPROVAL,  
08/183/CP & 06/054/CP-REFUSAL

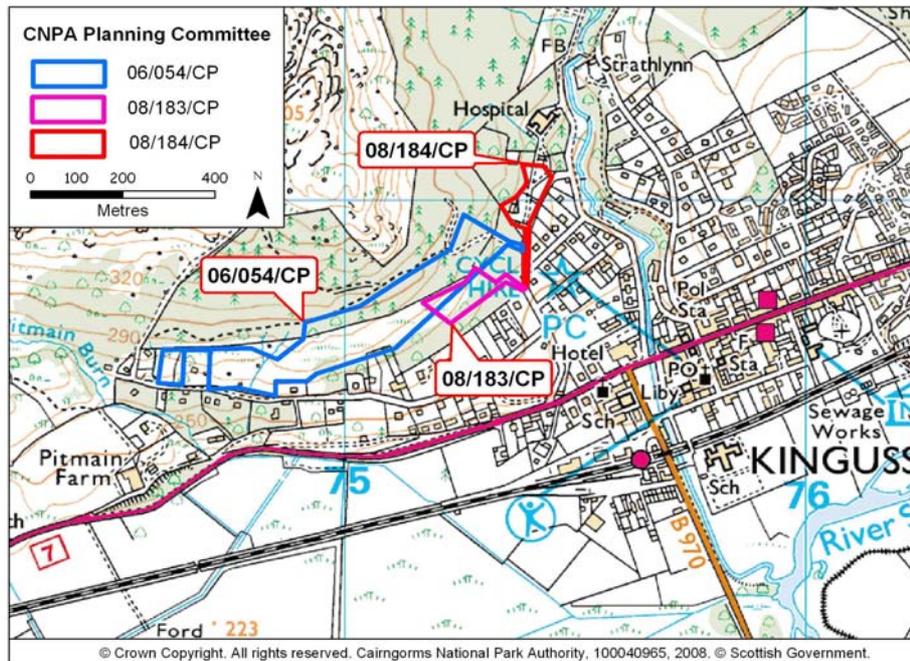


Fig. 1 - Location Plan

## **BACKGROUND**

1. This report is an update report referring back to Papers 1, 2 & 3 from the Planning Committee Agenda on 14 November 2008 in Kingussie and should be read in conjunction with those papers.
2. Members visited all 3 sites prior to the 14 November Planning Committee. All 3 Papers were deferred to ensure that a red squirrel survey be provided before any determination of the applications. A squirrel survey has now been received which covers the sites for Paper 1, formation of access and 4 house plots at St Vincent's and Paper 2, formation of access and 4 house plots at West Terrace.
3. Surveys showing squirrel drey positions on each site are attached at the back of this report.

## **CONSULTATIONS**

4. Heritage and Land Management Group has commented as follows:

### **08/184/CP St Vincent's 4 plots**

5. With 5 dreys within or immediately around it, this site is less significant than the West Terrace site for red squirrels. Nevertheless, one of these, located right on the site boundary, was adjudged by Steve Austin to be category 4. One other drey is located within the development footprint, while the remaining three fall just outside. All five are likely to experience some disturbance during construction. Given the much smaller number of dreys affected, and that the only category 4 drey is not located centrally within a plot, proposals at the St Vincent's site would likely have a lesser impact on red squirrels than the west terrace proposals. Given its peripheral location, the category 4 drey could be retained. As the CNPA Landscape Officer has stated, parts of the NW of the site are identified on the Ancient Woodland Inventory and trees in this area should be conserved. By doing so, both the category 4 and 3 dreys on site would be retained.

### **08/183/CP-West Terrace 4 plots**

6. This site clearly currently supports, or is in close proximity to, 17 red squirrel dreys, many of which have been judged to have at least a moderate chance of being utilised by squirrels. Indeed, one of the category 4 dreys, judged to be a likely breeding drey, is

located in one of the proposed plots. While the category 4 drey could conceivably be retained within a plot garden, the two category 3 dreys could not be retained as part of the development, due to their location on a proposed access track. As Steve Austin's report says, even those dreys identified outwith the development footprint are likely to experience disturbance from the proposed development, particularly during the construction phase. The red squirrel is a Cairngorms LBAP key priority species.

### **Other Issues**

7. The CNPA Ecologist points out that opportunities for enhancement should be considered by the proposals including potential for swift nesting boxes, bat roosts and planting of aspen.

### **Conclusion**

8. The West Terrace site is characterised by open woodland, much of it of native species, while the St Vincent's site is more open still and less semi-natural in character, having previously been part of the garden for St Vincent's Hospital. Non-native species and more modified vegetation are thus more typical. Given the differing habitat qualities and squirrel drey situations, the impacts of the proposals at West Terrace would be likely to have a significantly greater impact on the first aim of the National Park than the proposals for St Vincent's. By protecting the area of woodland on the AWI, sensitive development of the St Vincent's site could avoid destruction of squirrel dreys and should minimise ecological impacts.

### **REPRESENTATIONS**

9. No additional representations have been received.

### **APPRAISAL- 08/184/CP- 4 HOUSE PLOTS AT ST VINCENT'S**

10. The squirrel survey indicates that red squirrels are present and 5 dreys have been found within the survey area (see attachment at back of report). This number was considered average for the area considering the numbers and types of trees.
11. One drey is located in a birch tree on plot 3. The remainder are outside or at the periphery of the site.

12. The red squirrel dreys represent an important natural heritage factor at this site that must be considered with regard to the first aim of the Park. In planning terms this must be balanced against the fact that the site is located within an area zoned for housing within the Local Plan and negotiations have taken place to satisfy the requirements of the Area Roads Manager, CNPA Landscape Officer and Highland Council Forestry Officer.
13. This is a full application but is, in effect only seeking approval for the access track. The site consists of several open areas and a gardener's cottage and implement shed have been on the site in the past.
14. The view of the CNPA's Ecologist is highlighted in this report. There are a number of dreys on the periphery of the site and one of these is a category 4 rating, one drey is located within the development footprint. The site is of less significance for red squirrels than the West Terrace site although there could potentially be some disturbance during construction. However, it is crucial to stress that this is purely a planning decision based upon a wide number of considerations. This does not exempt the developer from the requirements of any other legislation. (see advice note below).
15. I am not of the view that the presence of the drey on site and others around the site should necessarily rule out development in this case. However, the plot sizes and house locations and sizes would have to take careful account of this issue. Another survey would be required nearer to the time of any works as dreys can be constructed in a very short timescale. This effectively could mean that the development, including the access could have to be redesigned in future to take account of any new dreys or losses of dreys in the intervening time period between consent being granted and building works commencing on site.
16. Given the above the recommendation is for approval but the detail of the scheme (including the access) for all practical purposes must remain flexible to take account of potential changes in squirrel activity at the site.

#### **REVISED RECOMMENDATION**

17. That members of the Planning Committee support a recommendation to **GRANT Full Planning Permission** for the formation of access road and 4 house plots at land 150 metres south of St Vincent's, Gynack Road, Kingussie subject to the following conditions:

1. The development to which this permission relates must be begun within five years from the date of this permission.
2. No works or development shall take place until a scheme for the protection of the retained trees (BS 5837:2005) has been agreed with the CNPA acting as Planning Authority in consultation with Highland Council Forestry Officer. This scheme shall include.
  - Schedule of works for retained trees
  - Detail of positions of tree protection barriers during construction
  - Detail and position of construction exclusion zones
  - Details of working methods to be employed for the installation of access roads and driveways in proximity of trees. This to include detailed cross sections for each site, spoil storage areas and the destination of any material removed from the site.
3. **No development shall commence on site until such time a red squirrel survey has been submitted to and approved by the CNPA including measures to enhance the red squirrel habitat within and around the proposed site. The survey shall include measures to prevent disturbance to dreys and inform any future detailed layout of the access road and individual plots.**
4. In accordance with the submitted drainage assessment drainage measures shall accord with SUDS principles and shall satisfy the respective requirements of Highland Council Area Roads, SEPA and Scottish Water. Drainage measures shall ensure that no properties within the development will be adversely affected by a 1 in 200 years flood event and similarly that there will be no increase in flood risk to any properties upstream or downstream of the development from such an event.
5. The development shall be landscaped and maintained in accordance with a scheme which shall be submitted to and approved by the CNPA acting as Planning Authority before development commences. The scheme shall include indications of all existing trees and landscaped areas on the land, and details of any to be retained, together with measures for their protection in the course of the development and shall indicate the siting, numbers, species and heights (at the time of

planting) of all trees, shrubs and hedges to be planted and to the extent of any areas of earthmounding, and shall ensure:-

- (a) Completion of the scheme during the planting season next following the completion of the development, or such other date as may be agreed in writing with the CNPA acting as Planning Authority.
  - (b) The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the CNPA acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.
6. Parking and manoeuvring for at least two cars shall be provided within the curtilage of each property such that vehicles can enter and leave each site independently.
  7. Visibility splays of 2.5 metres by 30 metres shall be provided at the point of each access to each plot.
  8. Individual plot applications shall include details of the driveway gradient
  9. Prior to the commencement of any development at the site full engineering drawings shall be submitted to and approved the CNPA showing details of the junction of the development access road with Ardvonie Road. Drawings shall also indicate any road improvements/traffic calming and visibility splays to the satisfaction of the CNPA in consultation with Highland Council Area Roads Manager. All roads requirements to be in place prior to construction works starting on the first plot unless otherwise agreed.
  10. The general access road shall be set at a minimum width of 3.3 metres with 2 passing places apart from the first 6 metres which shall be 5 metres;  
construction consisting of a minimum of 40mm thick close graded Wearing Course on a 60mm dense base course on a minimum thickness of 350mm Type 1 sub base all on a sound formation.

11. Any lighting scheme proposed shall be submitted to the CNPA for approval in consultation with Highland Council Area Roads Manager. Any lighting scheme shall be developed in accordance with the approved scheme.
12. All services to the plots shall be routed underground along the access road unless otherwise agreed.
13. Any subsequent detailed proposals for plots shall be of a high quality design and include a design statement setting out how any proposal responds to the existing contours of the site and in particular the character of the surrounding woodland environment. Proposals shall set out how they contribute to biodiversity at the site. The design statements shall also set out the sustainability credentials of proposals in line with Planning Advice Note 84 Reducing Carbon Emissions in New development.
14. A plan/method statement shall be submitted to and approved by the CNPA indicating how footpath routes around the site will be kept open and signed during any construction. In line with the application this shall include a footpath through the site connecting the site access with Gynack Road. The development shall proceed in accordance with the agreed statement.

#### **ADVICE NOTES**

You are advised that all red squirrel dreys are protected under the Schedule 5 of the Wildlife and Countryside Act 1981. The Nature Conservation Act 2004 allows no licensing provision for the disturbance or intentional destruction of red squirrel dreys.

The advice of the CNPA Ecologist is attached to this decision notice.

#### **APPRAISAL- 08/183/CP- 4 HOUSE PLOTS AT WEST TERRACE**

18. The red squirrel survey for this site (see attached) notes that red squirrels are present and have numerous dreys within the survey area and either lie within the proposed works area, or just outside.
19. A total of 17 dreys were found within the survey area. The number is higher than average for the survey area (especially for birch) and may equate to a population of 2 squirrels as part of a population within a much larger area.

20. The response of the CNPA Ecologist is highlighted in this report and the West Terrace site is described as being characterised by open woodland and native species. Given the differing situations at West Terrace and St Vincent's it is considered that the impacts of the West Terrace proposal on the squirrel habitat and the first aim of the Park would be more significant.
21. From the attached information it is noted that only one squirrel drey is identified within the plot area (plot 1). However, there are three dreys indicated on the access layout as proposed. The applicant's have offered to amend the line of the access. However, of more importance is the fact that the site for the plots is located between two areas that appear to be well used by red squirrels. Because of this and as considered by the CNPA Ecologist the site is important as a red squirrel habitat and it is difficult to see on this site how significant disturbance to this habitat could be avoided.
22. The original recommendation for this scheme was one of approval. It was recognised that there would be landscape impacts. However, the fact that the site formed part of a wider allocation in the Local Plan was considered to carry greater weight. These additional concerns with regard to the red squirrel habitat at the site in the context of the first aim of the Park must carry significant weight. I am of the view that the balance between the allocation in the Local Plan is now outweighed by the material factor regarding the quality of the habitat. Consequently, the recommendation on this particular proposal is revised to one of refusal as set out below.

### **REVISED RECOMMENDATION**

23. That members of the Planning Committee support a recommendation to **REFUSE Full Planning Permission** for the formation of access road and 4 house plots at woodland north of West Terrace for the following reasons:
  1. **The proposal involves the removal of a number of trees and works that would result in unacceptable levels of disturbance to red squirrel habitats. This is contrary to Policy G2 Design for Sustainability of the Highland Structure Plan. The proposal is also contrary to the National Park Plan 2007 Strategic Objectives for Bio-diversity which seeks to a) conserve and**

enhance the condition and diversity of habitats and species present throughout the Park and; e) ensure that populations of species given special protection under the Wildlife and Countryside Act are stable or increasing.

#### ADVICE NOTE

You are advised that all red squirrels are protected under the Schedule 5 of the Wildlife and Countryside Act 1981. The Nature Conservation Act 2004 allows no licensing provision for the disturbance or intentional destruction of red squirrel dreys.

#### APPRAISAL 06/054/CP 18 HOUSES WEST TERRACE (OUTLINE PP)

24. There are no changes to make in terms of the appraisal of this proposal. The squirrel surveys submitted do not cover the remaining area of this 18 house site, just the area covered by the four plots discussed above under 08/183/CP. The recommendation for this proposal remains clearly one of refusal. However, the red squirrel survey that relates to the first four plots of this development results in the addition of the same reason for refusal as set out above under 08/183/CP.

#### REVISED RECOMMENDATION

25. That members of the Planning Committee support a recommendation to **REFUSE Outline Planning Permission** for the construction of access road and development of 18 house plots at woodland north of West Terrace, Kingussie for the following reasons:
1. Despite the allocation in the Local Plan, the work required to construct the development would involve significant excavations, tree and vegetation removal. The proposal fails to protect the setting of the village as set out in the principle objectives for Kingussie of the Badenoch and Strathspey Local Plan which actively seek to protect and enhance the town's setting including open ground and woodland within and beyond its limits. Consequently, the proposal is contrary to Policy G2 of the Highland Structure Plan as it fails to demonstrate sensitive siting in relation to the scenery and landscape of the area.
  2. **The proposal involves the removal of a number of trees and works that would result in unacceptable levels of disturbance to**

red squirrel habitats. This is contrary to Policy G2 Design for Sustainability of the Highland Structure Plan. The proposal is also contrary to the National Park Plan 2007 Strategic Objectives for Bio-diversity which seeks to a) conserve and enhance the condition and diversity of habitats and species present throughout the Park and; e) ensure that populations of species given special protection under the Wildlife and Countryside Act are stable or increasing.

3. The proposal is contrary Policy L4 Landscape Character of the Highland Structure Plan as the extent of works including excavations, tree and vegetation removal would fail to maintain and enhance the existing landscape character of the area.
4. The development of the proposal would fail to conserve or enhance the natural and cultural heritage of this part of the National Park. The proposal is contrary to the Strategic Objectives of the National Park Plan 2007 which seek to ensure that development complements and enhances the landscape character of the Park and; that new development in settlements and surrounding areas and the management of public spaces should complement and enhance the character, pattern and local identity of the built and historic environment.
5. The proposal fails to set out adequate arrangements for the disposal of foul and surface water drainage contrary to the advice of SEPA.
6. The existing road at West Terrace is of a generally poor standard both in terms of its geometry and its construction. There is no dedicated pedestrian provision and road drainage facilities are extremely limited. The road is therefore considered unsuitable to serve the additional 3 development plots proposed for it.
7. The proposal would significantly reduce the value of the site as a recreational resource for residents and visitors alike.

#### **ADVICE NOTE**

You are advised that red squirrels are protected under the Schedule 5 of the Wildlife and Countryside Act 1981. The Nature Conservation Act 2004 allows no licensing provision for the disturbance or intentional destruction of red squirrel dreys.

Andrew Tait

*Date 24 November 2008*

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