



## For decision

**Title:** 2023/0406/DET - Erection of warehouse building (Class 6), formation of access track, parking area, and associated works at Land 130 Metres South East of House of Bruar, Pitagowan, Blair Atholl, Pitlochry, PH18 5TW – Proposed Planning Conditions

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### Purpose

This paper recommends a suite of planning conditions to be attached to the above planning application for a warehouse building at the House of Bruar, which the Planning Committee resolved to approve in principle on 25 April 2025. The Planning Committee is asked to approve the recommended conditions and authorise the application to be referred to Scottish Ministers under the terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

### Recommendation

The Committee is asked to:

- a) Approve the conditions set out in this paper to be attached to planning application 2023/0406/DET; and
- b) Authorise the application to be referred to Scottish Ministers under the terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

### Background

1. Planning application 2023/0406/DET was presented to the Planning Committee on 25 April 2025, seeking planning permission for the erection of a warehouse building (Class 6) to support the operations of the House of Bruar retail business along with associated access track, parking area and other associated works (see Committee Report in **Appendix 1**).



2. The application was recommended for refusal due to the development site being at risk from flooding, as demonstrated in the applicant's Flood Risk Assessment. Both SEPA and Perth and Kinross Council's Flood Team objected to the proposed development on the basis that it does not meet any of the exception criteria set out in National Planning Framework 4 (NPF4) Policy 22 a).
3. The Planning Committee considered that whilst the application does not comply fully with the relevant provisions of NPF4 Policy 22, it can when taking account of the proposed mitigation measures. They considered that it is a strong application and complies with a lot of the Local Development Plan policies and other policies contained in NPF4 and that, when assessed overall, the application complies with the development plan as a whole. The Planning Committee therefore agreed to an amendment to approve the application in principle, subject to a full suite of conditions coming forward at the next Planning Committee meeting.
4. The purpose of this paper is to set out a suite of recommended conditions for the Committee's approval prior to the application being referred to Scottish Ministers on account of SEPA's outstanding objection on flood risk grounds.

## **Consultations**

5. Following the Planning Committee meeting on 25 April, SEPA and Perth and Kinross Council's Flood Team were consulted on proposed conditions to address flood risk if the application were to be approved. SEPA stated that "as we have objected in principle, and in regard to our remit as a statutory consultee, we do not consider our objection in principle can be overcome by matters being addressed by planning condition and as such have no suggested conditions". However, they provided the following advice:

"If planning consent is granted and the development built, it is important that the development does not displace floodwater and increase flood risk to other receptors. Given this, we consider the proposal to stilt the development would therefore be the most appropriate option, as long as the underside of the building is at a level of at least 147.7m (flood level + 0.3m freeboard) as recommended by the FRA. In addition to this, we would also recommend that it is ensured that there is dry access and egress from the building to outwith the flood risk area".

6. Perth and Kinross Council proposed three conditions which incorporate the above advice provided by SEPA, and these are included within the suite of recommended conditions set out below (Nos. 2, 3 and 4).
7. Additional conditions are recommended to address other material planning considerations and ensure compliance with other development plan policies. They



have been informed by the relevant consultee responses to this application, as reported to the Planning Committee on 25 April 2025.

## **Proposed conditions**

8. Taking into account the feedback from consultees and the recommended conditions in respect of flooding from Perth and Kinross Council's flood team, the following conditions and informatives are proposed:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

**Reason:** The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. The development hereby approved shall be constructed to be flood resilient. The warehouse should be constructed on stilts or piers and elevated above the flood level with a minimum underside of building level of 147.70m AOD plus a minimum freeboard of 300mm as recommended by the Flood Risk Assessment (FRA dated August 2024). Additional recommendations in the FRA (and technical addendum to the FRA dated February 2025) and Drainage Impact Assessment (DIA) (dated February 2024) should be implemented to ensure that there is dry access and egress from the building to outwith the flood risk area. A new design plan (including elevations) which includes the recommendations should be submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority in consultation with Perth & Kinross Council prior to commencement of development.

**Reason:** To reduce the vulnerability of the development and its risk of flooding in accordance with NPF4 Policy 22: Flood risk and water management and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2021.

3. No development shall commence on site until a Flood Action Plan has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with Perth and Kinross Council's Structures and Flooding Section. This should detail access and egress arrangements during a flooding event (as recommended in the FRA).

**Reason:** To reduce the vulnerability of the development and its risk of flooding in accordance with NPF4 Policy 22: Flood Risk and water management and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2021.



4. No development shall commence on site until a detailed sustainable drainage system (SuDS) has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with Perth and Kinross Council's Structures and Flooding Section and SEPA where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SuDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance and shall incorporate source control. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development. The applicant should note that the Council is likely to reject the siting of any SuDS in a flood risk area.

**Reason:** To ensure that satisfactory arrangements for the disposal of surface water are provided in accordance with NPF4 Policy 22 (part c ii): Flood risk and water management and Policy 3: Design and placemaking and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2021.

5. No development shall commence on site until a detailed site-specific Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with SEPA and Perth and Kinross Council's Structures and Flooding Section. All works carried out during construction shall be undertaken strictly in accordance with the approved CEMP. The CEMP shall include but not be limited to the following information:
  - a) The approach to site preparation, soil management, soil and vegetation restoration and reinstatement.
  - b) Construction of SuDS.
  - c) Reference to pre-construction ecology checks and subsequent species protection plans if required.
  - d) A programme of works.

All construction works on the site shall be carried out in strict accordance with the approved Construction Environmental Management Plan.

**Reason:** In the interests of protecting the biodiversity and the environment in accordance with NPF4 Policy 3: Biodiversity and Policy 4: Natural heritage and Policy 10: Resources of the Cairngorms National Park Local Development Plan 2021.

6. No development shall commence on site until a Pollution Prevention Plan (PPP) to ensure the risk of pollution from sediment or other pollutants that may be released during construction from entering Bruar Water or the River Garry has been submitted and agreed in writing by the Cairngorms National Park Authority acting as Planning



Authority in consultation with Perth & Kinross Council. Development shall not proceed other than in strict accordance with the approved PPP.

**Reason:** To protect the water environment and integrity of the River Tay SAC in accordance with Policy 3: Biodiversity and Policy 4: Natural Places of NPF4 and Policy 4: Natural Heritage of CNP LDP 2021.

7. No development shall commence on site until details of the proposed access alignment and construction specification, generally as illustrated on Hannay McLaren Architects Drawing Nos. 2310.Lo3b and 2310.Lo5j have been submitted to and approved in writing by Cairngorms National Park Authority acting as Planning Authority, in consultation with Transport Scotland. Thereafter, and prior to occupation of any part of the development hereby permitted, the proposed access shall be constructed to the approved details to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority.

**Reason:** In the interests of road and pedestrian safety to ensure there is appropriate safe access to and egress from the site in accordance with NPF4 Policy 13: Sustainable Transport and Policy 3: Design and Placemaking of Cairngorms National Park Local Development Plan 2021.

8. No development shall commence on site until details of the proposed drainage associated with the access road proposals are submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority, in consultation with Transport Scotland. Thereafter, and prior to occupation of any part of the development hereby permitted, the proposed drainage shall be constructed to the agreed details to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority. Note: There shall be no drainage connections to the trunk road drainage system.

**Reason:** To ensure that surface water drainage is satisfactorily managed in the interests of road safety in accordance with policy NPF4 Policy 13: Sustainable transport and Policy 10: Resources of Cairngorms National Park Local Development Plan 2021.

9. No development shall commence on site until details of the proposed signage, Non-Motorised User arrangements, plus any stock fencing and gates, associated with the proposed access road proposals (where it overlaps with the access track from the B8079 to the underbridge on the A9 which is part of the A9 Dualling programme), have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority, in consultation with Transport Scotland. Thereafter, and prior to occupation of any part of the development hereby permitted,



the proposed access shall be constructed to the approved details to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority.

**Reason:** In the interests of motorised, non-motorised and pedestrian safety to ensure there is appropriate safe access and egress and to ensure there are no adverse impacts on the road network (specifically the A9 dualling programme) in relation to road safety in accordance with NPF4 Policy 13: Sustainable transport and Policy 3: Design and placemaking of the Cairngorms National Park Local Development Plan 2021.

10. Prior to the occupation of any part of the development, a detailed design for the proposed secure covered cycle parking facility for a minimum of 5 cycles shall be submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Roads Authority. The cycle parking shall be implemented strictly in accordance with the approved details to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority prior to the development being brought into use.

**Reason:** To encourage active travel and meet advice within NPF4 Policy 13: Sustainable Transport and Policy 3: Design and Placemaking of the Cairngorms National Park Local Development Plan 2021.

11. No development shall commence on site until a biodiversity enhancement plan is submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. This shall include but not be limited to the following information:
  - a) Mitigation measures compensating for loss of semi-improved grassland;
  - b) All measures to enhance biodiversity;
  - c) A timeline for implementation of those measures identified;
  - d) A monitoring and maintenance plan of those measures implemented.

The measures shall be implemented in advance of the development being occupied and maintained/monitored throughout the lifetime of the development, strictly in accordance with the approved details.

**Reason:** In the interests of protecting the biodiversity and the environment in accordance with NPF4 Policy 3: Biodiversity and Policy 4: Natural heritage of the Cairngorms National Park Local Development Plan 2021.

12. No development shall commence on site until an updated landscaping plan comprising a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority. Details of the scheme shall include, but not be limited to:





- a) Existing landscape features and vegetation to be retained;
- b) Protection measures for the landscape features to be retained;
- c) A schedule of screen planting comprising species, plant sizes and proposed numbers, density and locations;
- d) The location, design and materials of all hard and soft landscaping works;
- e) Details of any lighting;
- f) A programme for the implementation, completion and subsequent management of the proposed landscaping.

All development shall be completed in accordance with the approved scheme of hard and soft landscaping and management programme before the end of the first full planting season following substantial completion of the development. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

**Reason:** To ensure the implementation and management of a satisfactory scheme of landscaping in accordance with NPF4 Policy 3: Biodiversity; Policy 6: Forestry, woodlands and trees; Policy 14: Design, quality and place; Policy 20: Blue and green infrastructure and Policy 3: Design and placemaking; Policy 4: Natural heritage; Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2021.

13. No development shall commence on site until an updated Tree Survey, Tree Protection Plan and Tree Impact Assessment has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. Development must proceed in strict accordance with the stated plans and ensure that the protective barriers are installed prior to any works commencing on site.

**Reason:** To minimise loss of and damage to trees in accordance with NPF4 Policy 6: Forestry, woodland and trees and Policy 4: Natural heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2021.

## **Informatives**

1. 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.



2. 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.
3. The applicants should submit a formal connection application to Scottish Water following the granting of planning permission for review of the availability of capacity. They will also require to contact Scottish Water's Assets Impact Team with regard to any Scottish Water infrastructure on the application site.
4. The applicant is advised to refer to Perth & Kinross Council's Supplementary guidance on Flood Risk and Flood Risk Assessments 2021 as it contains advice relevant to your development.

## **Next steps**

1. In accordance with the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009, the Park Authority is required to notify Scottish Ministers if it proposes to grant planning permission for a development which is subject to an outstanding objection from SEPA on flood risk grounds. Subject to the Planning Committee agreeing the conditions set out above, this planning application will therefore be referred to Scottish Ministers who may decide to call-in the application for their own determination. The Committee will be updated of the outcome in due course.

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