

CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Application under Section 42 to amended condition 6 (noise barrier) of (2022/0069/DET) at Land 380M West Of East Croftmore Boat Of Garten

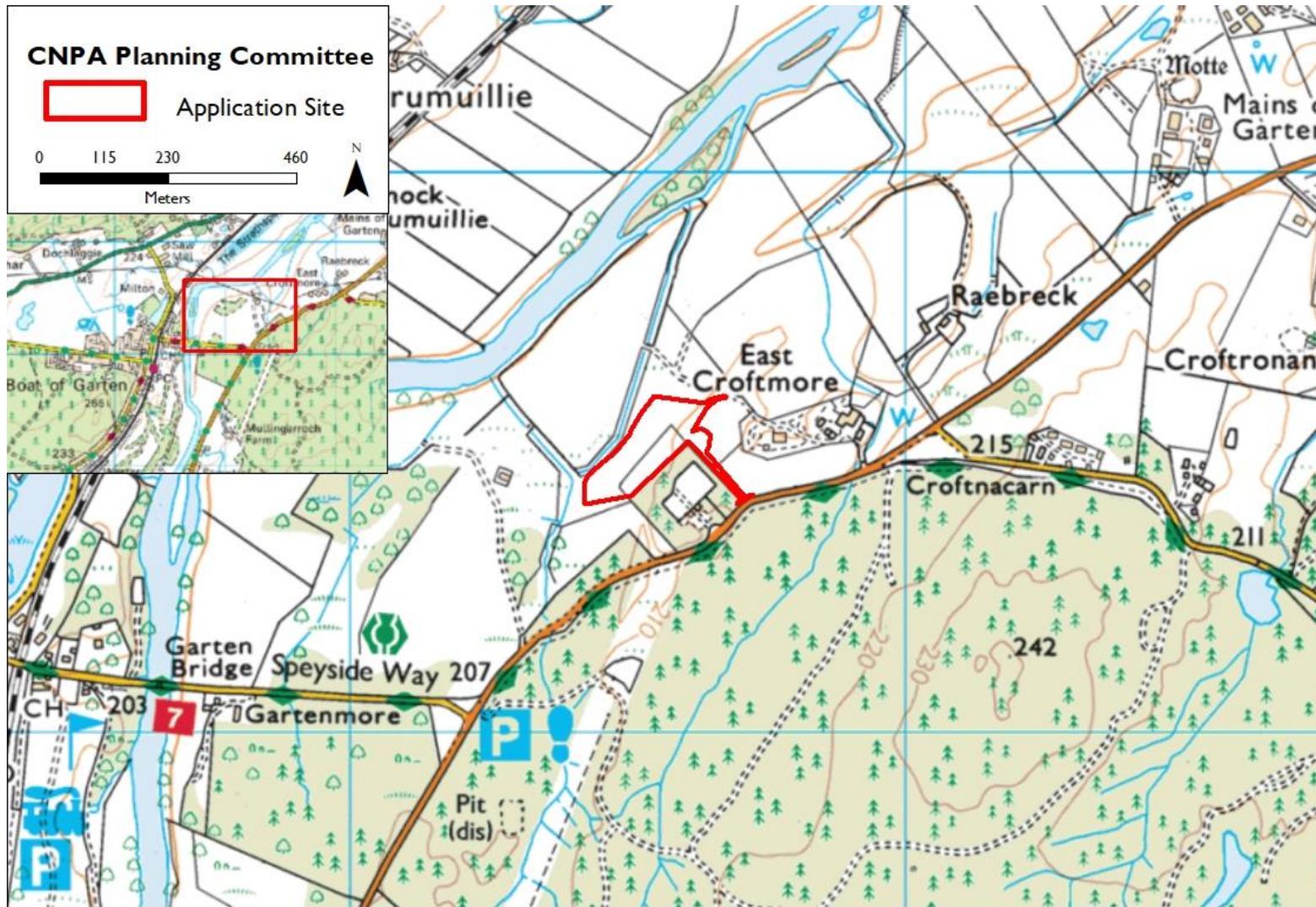
REFERENCE: 2023/0381/DET

APPLICANT: James Perkins

DATE CALLED-IN: 2 October 2023

RECOMMENDATION: Approve subject to conditions

CASE OFFICER: Katherine Crerar, Planning Officer



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SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The proposed development site covers an area of 2.45 hectares and lies within an area of improved grazing land consisting of several large open fields. The site is characterised by an undulating topography, with the ground rising in the south, and descending to the north towards the River Spey.
2. The site is located 300m to the east of East Croftmore Farm and immediately north of the existing Boat of Garten Electricity Sub Station. The B970 road is located to the south of the site, with the village of Boat of Garten approximately 1km away.
3. The site is set on the edge of adjacent conifer woodland, with some semi-natural woodland on the southern bank of the River Spey. There is an existing field drain, which bounds the site to the west, and joins other agricultural drains to flow north for 225m, before meeting the River Spey.

Proposal

4. 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=RWLSHHSI0CPO0>

Title	Drawing Number	Date on Plan*	Date Received
Plans			
Plan - Location Plan.	EW/08/01C	01/09/21	22/07/22
Plan - Amended General Arrangement Plan.	EW/08/03A	01/09/21	22/07/22
Plan – Amended Site Boundary Fence and Contours	EW/08/02B		22/07/22
Plan - Floor Plan.	EW/08/04	01/09/21	28/02/22
Plan - Section Plan.	EW/08/05	01/09/21	28/02/22
Plan - Section Plan.	EW/08/06	01/09/21	28/02/22
Plan - Section Plan.	EW/08/07	01/09/21	28/02/22
Plan - Section Plan.	EW/08/08	01/09/21	28/02/22

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Plan - Fence, CCTV Mast and Control Room Details.	EW/08/09	01/09/21	28/02/22
Plan - Battery Storage Unit Details.	EW/08/10	01/09/21	28/02/22
Plan - Elevations.	EW/08/11	01/09/21	28/02/22
Plan - Cable Servitude Plan.	LT000184_WAY_004_JM_132KV	01/09/21	28/02/22
Plan - Viewpoint 1 - Visualisations.		21/07/21	28/02/22
Plan - Viewpoint 2 - Visualisations.		21/07/21	28/02/22
Plan - Viewpoint 3 - Visualisations.		21/07/21	28/02/22
Plan - Viewpoint 4 - Visualisations.		21/07/21	28/02/22
Plan - Viewpoint 5 - Visualisations.		21/07/21	28/02/22
Plan - Viewpoint 6 - Visualisations.		21/07/21	28/02/22
Plan - Viewpoint 7 - Visualisations.		21/07/21	28/02/22
Plan - Visibility Splays	C4690 (2) 100	04/02/22	28/02/22
Plan - Hydrological Context Map,	C4690-1244/FIGURE 1	04/02/22	28/02/22
Plan - LVIA Appendix 2 - Figure 1.	C4690-1244/FIGURE 1	04/02/22	28/02/22
Plan - Landscaping Plan.	C4690-1244/FIGURE 2	04/02/22	28/02/22
Plan - LVIA Appendix 3 - Figure 3.	C4690-1244/FIGURE 3	04/02/22	28/02/22
Plan- Soak Away	C4690 (3) 100		22/07/22
Supporting Documentation			
Other - Appendix 3 - Landscape and Visual Impact Assessment.		01/02/22	28/02/22
Other - Appendix 4 - Noise Impact Assessment.		01/02/22	28/02/22
Other - Appendix 5 - Cultural Heritage.		01/02/22	28/02/22

Other - Appendix 5 Figure 1.1 - Impact to Cultural Heritage.		01/02/22	28/02/22
Other - Appendix 5 - Figure 1.2 - Indirect Impact on Cultural Heritage.		01/02/22	28/02/22
Other - Appendix 6 - Hydrology Assessment.		01/02/22	28/02/22
Other - Appendix 6 - Figure 2 - Risk of River Flooding.		01/02/22	28/02/22
Other - Appendix 6 - Figure 3 - Soil Map.		01/02/22	28/02/22
Other - Transport and Access Assessment.		01/02/22	28/02/22
Supporting Statement		01/09/23	24/08/23

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

5. This is an application under Section 42 of the Planning Act, which seeks to vary the terms of an existing planning consent for the construction of a battery energy storage facility (49.9 MW), control building, switch room, battery storage containers, inverter containers, landscaping and associated works (reference 2023/0381/DET). This application was granted consent in September 2022 and was subject to 11 planning conditions, all of which have still to be discharged. At the time of submission of this current Section 42 application the original consent was still extant.
6. This application now seeks to vary the terms of condition 6 which relates to noise immission constraints and is a pre-commencement condition. It currently reads as follows:
7. *'No development shall commence on site until a detailed specification of the proposed noise barrier and an updated Noise Impact Assessment are submitted to and approved in writing by the Cairngorms National Park Authority, acting as Planning Authority, in consultation with the Highland Council's Environmental Health Team.*

The Noise Impact Assessment must demonstrate that:

- a) *cumulative noise arising from the proposed development and existing electricity sub-station does not exceed 30Db at noise sensitive premises and;*
- b) *the Rating Level of the cumulative noise arising from the use of plant, machinery or equipment installed or operated in association with the development and adjacent electricity sub-station, must not exceed the current background noise levels at noise sensitive premises. The Rating*

*Level should be calculated in accordance with British Standards 4142:
'Methods for rating and assessing industrial and commercial sound'.*

8. A Noise Impact Assessment was submitted with the application and demonstrated that the noise levels would comply with the relevant standards. The reason for the condition is to obtain detailed specification of the proposed noise barriers and mitigation and ensure that the noise levels arising from the development and adjacent sub would not exceed 30Db at any noise sensitive premises (the closest neighbouring residential properties).
9. Prior to the application being called in by CNPA, the applicant had been in discussion with the Highland Council's Environmental Health Officer on account of the challenges associated with the proposed cumulative noise limits and that the project should be approved with specific limit values stated in conditions. This was agreed with Environmental Health however due to a clerical error the agreed wording of the noise condition was omitted.
10. In addition, the applicant has also set out in the supporting statement that *'Securing operational immission guarantees for the nearest receptors that are compatible with the proposed 30dB(A) rating level continues to be a challenge'*. As such, the applicant is proposing to increase the noise rating level from 30dB to 33dB. 33dB would be night hours background level plus 5dB or daytime plus 3dB which according to the applicant is an acceptable level of impact in many jurisdictions.
11. Therefore, this s42 application seeks to amend the wording of Condition 6 in line with what was agreed and to increase the noise limit to a maximum of 33dB at the curtilage of any noise sensitive premises (neighbouring properties Easter Croftmore and Aldon Lodge).
12. It is proposed that the wording of condition 6 is amended to read:
 - a) Prior to the development commencing, the applicant shall provide a detailed specification of the proposed noise mitigation measures including details of the noise barrier and an updated noise assessment for the written approval of the Planning authority. The assessment should demonstrate that the barrier in combination with other measures can achieve a minimum reduction of 10dB as calculated at the curtilage of Aldon Lodge and that the following noise limits can be complied with.
 - b) Noise arising from the development, when measured and/or calculated as an Leq, 5min, in the 100Hz one third octave frequency band must not exceed 30 dB, at the curtilage of any noise sensitive premises.
 - c) The Rating Level of noise arising from the use of plant, machinery or equipment installed or operated in association with the development, must

not exceed 33dB LAeq at the curtilage of any noise sensitive premises. The Rating Level should be calculated in accordance with BS 4142: 2014+A1:2019 Methods for rating and assessing industrial and commercial sound.

13. No other alterations to the terms of the planning permission are proposed.
14. Plans of the proposals are attached as **Appendix 1**.

History

15. Pre application advice for the construction of the battery energy storage facility (49.9 MW), control building, switch room, battery storage containers, inverter containers, landscaping and associated works was provided by CNPA who fed into the Highland Council's response. This set out key areas to be addressed in any future submission (reference PRE/2021/0015).
16. CNPA also provided a consultation response to the Proposal of Application Notice (reference PRE/2021/0015) which was reported to CNPA Planning Committee in June 2021.
17. A detailed planning application for the same proposal (2022/0069/DET) was submitted in February 2022. It was called in by CNPA and approved in September 2022.

HABITATS REGULATIONS APPRAISAL

18. A Habitats Regulations Appraisal [HRA] was undertaken for the original application (2022/0069/DET) to consider the potential effects of the development upon the conservation objectives of the Natura sites listed within the HRA document which is attached as **Appendix 2**.
19. The Habitat Regulations Appraisal concluded that the proposed development is unlikely to have any significant effects on habitats supporting the qualifying interest of the Cairngorms SAC and Kinveachy Forest SPA. However, it does have the potential to prevent the conservation objectives of the River Spey SAC being met.
20. This could occur through sediment release into the adjacent watercourse that flows into the River Spey, and pollution from the proposed fire suppressant system and soak away. However, the submitted Construction Environment Management Statement (CEMP), dated 13 August 2022, should address the risk of sediment release through appropriate pollution prevention and control measures, such that the pollution risk could be minimised. Furthermore, it was recommended that a condition is included to ensure that a type of fire

suppressant that is not harmful to aquatic life is used, thus further avoiding the risk of pollution. The HRA concluded that with the appropriate mitigation measures the proposed development will not have significant effect on the site integrity of the River Spey SAC. The full appraisal is attached at **Appendix 2**.

21. It is not considered that this s42 application for the amendment to Condition 6 would change the conclusions of the original HRA. Nature Scot have been consulted and have confirmed they agree.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	National Planning Framework 4 (NPF4) Scotland 2045	
POLICY 1	Tackling the Climate and Nature Crises	
POLICY 2	Climate Mitigation and Adaptation	
POLICY 11	Energy	
POLICY 23	Health and Safety	

Strategic Policy	Cairngorms National Park Partnership Plan 2022 – 2027	
Local Plan Policy	Cairngorms National Park Local Development Plan (2021) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	DESIGN AND PLACEMAKING	X
POLICY 4	NATURAL HERITAGE	
POLICY 5	LANDSCAPE	X
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	
POLICY 10	RESOURCES	
POLICY 11	DEVELOPER OBLIGATIONS	

22. All new development proposals require to be assessed in relation to policies contained in the adopted Development Plan which comprises National Planning Framework 4 (NPF4) and the Cairngorms National Park Local Development Plan 2021. The full wording of policies can be found at:

<https://www.gov.scot/publications/national-planning-framework-4/documents/>

and at:

<https://cairngorms.co.uk/wp-content/uploads/2021/03/CNPA-LDP-2021-web.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	Housing Supplementary Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Design and Placemaking Non-Statutory Guidance	X
Policy 4	Natural Heritage Non-Statutory Guidance	
Policy 5	Landscape Non-Statutory Guidance	X
Policy 7	Renewable Energy Non-Statutory Guidance	
Policy 8	Open Space, Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	
Policy 11	Developer Obligations Supplementary Guidance	

CONSULTATIONS

24. A summary of the main issues raised by consultees now follows:

25. **SSEN** have no further comments on this application.

26. **The Highland Council Contaminated Land** has no further comments on this application.
27. **The Highland Council Environmental Health Service** does not object to the proposed changes.
28. They note the slight increase in noise limits at the two nearest noise sensitive locations (East Croftmore and Aldon Lodge) and that as the former is financially involved, so a limit of 5dB above background is reasonable.
29. In respect of Aldon Lodge, the Environmental Health Officer is satisfied that the slightly raised limit will provide a small buffer and in practicality, it is extremely unlikely that the noise levels would ever reach this limit due to the cooling fans which are designed for warm climates. Based on the typical temperatures in northern Scotland, it is unlikely that the fans would ever operate at more than 70% and even less likely this would occur at night. As such, they are comfortable with the amendment.
30. As such they propose the following wording: -
 - a) Prior to the development commencing, the applicant shall provide a detailed specification of the proposed noise barrier and an updated noise assessment for the written approval of the Planning authority. The assessment should demonstrate that the barrier can achieve a minimum reduction of 10dB as calculated at the curtilage of Aldon Lodge and that the following noise limits can be complied with.
 - b) The Rating Level of noise arising from the use of plant, machinery or equipment installed or operated in association with the development, must not exceed 33dB LAeq 15mins at the curtilage of East Croftmore and 32dB LAeq 15 mins at the curtilage of Aldon Lodge. The Rating Level should be calculated in accordance with BS 4142: 2014+A1:2019 Methods for rating and assessing industrial and commercial sound.”
 - c) In the event of any changes to the proposed equipment or mitigation measures which result in an increased noise level, then a revised noise impact assessment shall be submitted to and approved in writing by the Planning Authority, prior to any development commencing.
 - d) Within 4 weeks of the site becoming operational, having been fully tested and commissioned, the operator shall arrange for a competent person to undertake compliance monitoring and to prepare a report. Within 2 weeks of the monitoring exercise being completed, the compliance monitoring report shall be submitted for the written approval of the Planning Authority. If the monitoring identifies that condition 2 is not

being met, the report shall include a proposed scheme of mitigation, including timescales, to ensure compliance can be achieved. Thereafter any mitigation measures shall be implemented in accordance with the approved scheme. Details of the compliance monitoring must be agreed in writing beforehand with the Council's Environmental Health Service.

31. Further to discussions with the applicant in respect of how they will meet the noise limit at Aldon Lodge, a further amendment (underlined) was proposed to the first part (a) of the condition to read:

'Prior to the development commencing, the applicant shall provide a detailed specification of the proposed noise mitigation measures including details of the noise barrier and an updated noise assessment for the written approval of the Planning authority. The assessment should demonstrate that the barrier in combination with other measures can achieve a minimum reduction of 10dB as calculated at the curtilage of Aldon Lodge and that the following noise limits can be complied with'.

32. THC Environmental Health accepted the amended wording noting that for clarification, the updated noise impact assessment will need to demonstrate that the limits can be met based on full working capacity of the development.
33. **Nature Scot** was consulted on the original Habitats Regulations Appraisal (HRA) for the full proposal (2022/0069/DET). They were re-consulted on this s42 application and have confirmed agreement with its conclusions and have no further comments to make.
34. These comments are attached as **Appendix 3**

REPRESENTATIONS

35. There have been no representations.

APPRAISAL

36. Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended allows applicants to apply to develop land without compliance with conditions previously attached to a planning consent. In determining such an application, the Council, as Planning Authority can only consider the conditions subject to which planning permission should be granted and may:
- a) grant permission unconditionally (i.e. remove the conditions attached to the planning consent);
 - b) grant permission conditionally with differing conditions; or

- c) refuse the application (i.e., keep the conditions attached to the planning consent).
37. In considering a Section 42 application the planning authority can only consider the conditions that are the subject of the application although this does not preclude consideration of the overall effect of granting a new permission. The effect of granting of a Section 42 application is the creation of a new planning permission and therefore all conditions of the previous consent must be reiterated in order to have effect.
38. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. National Planning Framework 4 (NPF) and the adopted Cairngorms National Park Local Development Plan 2021 unless material considerations indicate otherwise.
39. The main planning issues are considered below:

Principle

40. There are a number of NPF4 policies that are relevant to the wider development such as **Policy 1: Tackling the Climate and Nature Crises** and **Policy 2: Climate Change Mitigation and Adaptation** which include giving weight to the climate crisis and facilitating development that minimises emissions and adapts to the impacts of climate change. Whilst the proposal will contribute to these objectives, its acceptability has already been established through the approval of the planning permission (2022/0069/DET) granted in September 2022 and the Committee Report is contained in **Appendix 3**.
41. This application simply seeks to amend Condition 6 in respect of noise arising from the use of plant, machinery or equipment installed or operating as part of the development and to consider whether it remains acceptable with this alteration.
42. **NPF4 Policy 11: Energy** sets out that the “project design and mitigation will demonstrate how the following impacts [including noise] are addressed”. In addition, **Policy 3: Design and Placemaking** of the Cairngorms Local Development Plan 2021 requires proposals to be designed to protect amenity of neighbours and minimise any disturbance. In addition, **Policy 5: Landscape** requires minimising and mitigating any adverse impacts on the setting of the development.
43. This application seeks to simply vary the noise barrier condition as attached to the original planning permission (2022/0069/DET). In brief this will mean that the proposal will be required to meet specific noise limits instead of

cumulative noise limits and demonstrate how a noise barrier in combination with other mitigation measures will achieve a 10dB reduction at the curtilage of Aldon Lodge.

44. In addition, it is proposed that the 30dB noise limit at the curtilage of the noise sensitive properties is increased to 33dB at East Croftmore (which has a financial interest in the project) and 32dB at Aldon Lodge.
45. As set out in the supporting statement and further examined by THC Environmental Health, the noise generated from the development is associated with the cooling system and fan noise which is very unlikely to ever operate at full capacity in the Scottish climate. The predicted hours of peak operation will likely correlate with levels of human activity, generally during the day and evening and unlikely during the night. As such, this amendment will not result in a significant adverse impact that would make the overall proposal unacceptable.
46. It is therefore considered that these amendments are acceptable in terms of NPF4 Policy 11 and will not impact on the amenity of surrounding properties. As such it complies with Policy 3: Design and Placemaking.

CONCLUSION

47. Overall, this proposal presents a relatively minor change to the original proposal that will not result in adverse impacts in respect of noise or wider amenity. It is considered that they comply with all relevant policies of the National Planning Framework 4 and Cairngorms National Park Local Development Plan 2021 and there are no material considerations which would warrant the refusal of planning permission. Approval is therefore recommended subject to appropriate planning conditions.

RECOMMENDATION

That Members of the Committee support a recommendation to APPROVE the Application under s42 to amended condition 6 (noise barrier) of (2022/0069/DET) at Land 380M West Of East Croftmore Boat Of Garten subject to the following conditions:

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

Conditions

1. The development to which this permission relates must begin not later than the expiration of 3 years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.

Reason: To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. **No development shall commence on site until a finalised Decommissioning and Restoration Plan (including appropriate mitigation measures) covering the removal of all infrastructure has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority.**

Reason: To ensure that decommissioning works are done in an environmentally sensitive manner in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Authority Local Development Plan 2021.

3. **No development shall commence on site until a full Landscape Plan has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. The Landscape Plan shall incorporate the Planting Plan and shall include details of how open areas within the development site, but outwith the extent of the Planting Plan, are to be seeded with a native highland wildflower mix. The approved Landscape Plan shall be implemented in full by the first full growing season following completion of development.**

Reason: To ensure that all of the development site is effectively managed in terms of landscape in accordance with Policy 5: Landscape of the Cairngorms National Park Authority Local Development Plan 2021.

4. **No development shall commence on site until a Landscape Maintenance and Management Plan covering a period of at least five years following construction, including the care of existing and proposed trees and shrubs and open area, has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority.**

Reason: To avoid biodiversity loss and to ensure the establishment, retention and protection of the proposed landscaping in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2021.

5. **No development shall commence on site until full details of the proposed retaining wall have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority.**

Reason: To ensure that the proposed retaining wall is sympathetic to the character of the surrounding area in accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2021.

6. **No development shall commence on site until details of the colour and finish of the battery storage units and associated fencing is submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority.**

Reason: To ensure that the proposed development is sympathetic to the character of the surrounding area in accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2021.

7. **Prior to the development commencing, the applicant shall provide a detailed specification of the proposed noise mitigation measures including details of the noise barrier and an updated noise assessment for the written approval of the Planning authority. The assessment should demonstrate that the barrier in combination with other measures can achieve a minimum reduction of 10dB as calculated at the curtilage of Aldon Lodge and that the following noise limits can be complied with.**

The Rating Level of noise arising from the use of plant, machinery or equipment installed or operated in association with the development, must not exceed 33dB LAeq 15mins at the curtilage of East Croftmore and 32dB LAeq 15 mins at the curtilage of 33dB Aldon Lodge. The Rating Level should be calculated in accordance with BS 4142: 2014+A1:2019 Methods for rating and assessing industrial and commercial sound."

In the event of any changes to the proposed equipment or mitigation measures which result in an increased noise level, then a revised noise impact assessment shall be submitted to and approved in writing by the Planning Authority, prior to any development commencing.

8. **Within 4 weeks of the site becoming operational, having been fully tested and commissioned, the operator shall arrange for a competent person to undertake compliance monitoring and to prepare a report. Within 2 weeks of the monitoring exercise being completed, the compliance monitoring report shall be submitted for the written approval of the Planning Authority. If the monitoring identifies that condition 2 is not being met, the report shall include a proposed scheme of mitigation, including timescales, to ensure compliance**

can be achieved. Thereafter any mitigation measures shall be implemented in accordance with the approved scheme. Details of the compliance monitoring must be agreed in writing beforehand with the Council's Environmental Health Service.

Reason: In the interests of amenity, in accordance with Policy 3: Design and Placemaking and Policy 5: Landscape of the Cairngorms National Park Authority Local Development Plan 2021.

9. **No development shall commence on site until a finalised drainage design, including calculations to demonstrate that storms up to and including the 1 in 200 year plus climate change event will be managed, has been submitted to and approved in writing by the Cairngorms National Park Authority, acting as Planning Authority in consultation with the Highland Council's Flood Risk Management Team.**

Reason: In order to ensure that the proposed development is not at risk of flooding in accordance with Policy 10: Resources of the Cairngorms National Park Authority Local Development Plan 2021.

10. **No development shall commence on site until full details of the proposed site access, including geometry, construction, drainage and traffic management measures are submitted to and approved in writing by the Cairngorms National Park Authority, acting as Planning Authority in consultation with the Highland Council's Transport Planning Team.**

Reason: In the interests of road safety and to ensure an acceptable standard of construction within the public road boundary in accordance with Policy 3: Design and Placemaking of the Cairngorms National Park Local Development Plan 2021.

11. **No development shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Cairngorms National Park Authority, acting as Planning Authority, in consultation with the Highland Council's Transport Planning Team. This plan shall include but not be limited to details of the following:**

Identification of the routes to the site for general construction traffic and details of the number and type of vehicle movements anticipated on these routes during the construction period;

- a) **A detailed protocol for the delivery of any Abnormal Indivisible Loads, prepared in consultation and agreement with interested parties, including the Council, Police, Transport Scotland and, as required, community representatives;**

- b) Proposed traffic management measures on the routes to the site for construction traffic. Measures such as temporary speed limits, suitable temporary signage, road markings and the use of speed activated signs should be considered;
- c) Proposed measures to mitigate the impact of general construction traffic on the routes to the site following detailed assessment of the relevant roads;
- d) A procedure for the regular monitoring of road conditions and the implementation of any remedial works required during the construction period;
- e) Measures to ensure that all affected public roads are kept free of mud and debris arising from the development;
- f) Measures to take account of cyclists using the B970 promoted cycle route and cyclists, pedestrians and other users traveling between Boat of Garten and other promotes paths and routes;
- g) As deemed necessary by the Roads Operations Manager, a concluded agreement in accordance with Section 96 of the Roads (Scotland) Act under which the developer will be responsible for the repair of any damage to the local road network attributable to construction related traffic. Should an agreement be required, pre-start and post-construction road condition surveys shall be carried out by the developer to the satisfaction of the roads authority. The submission of an appropriate financial bond acceptable to the Council may also be necessary.

Thereafter the construction of the development shall be implemented in accordance with those approved details, unless otherwise approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Roads Authority.

- 12. **Reason:** To ensure there are no adverse impacts on the roads network in relation to road safety and that construction traffic associated with the development causes minimum disturbance within the public road boundary in accordance with Policy 3: Design and Placemaking of the Cairngorms National Park Local Development Plan 2021.
- 13. **No development shall commence on site until proposals for an archaeological watching brief to be carried out during site clearance and excavation works is submitted to and approved in writing by the Cairngorms National Park Authority, acting as Planning Authority, in consultation with Highland Council's Archaeology Officer. Thereafter the development shall proceed in strict accordance with the approved archaeological watching brief.**

Reason: In order to protect the archaeological and historic interests of the site, in accordance with Policy 9: Cultural Heritage of the Cairngorms National Park Authority, Local Development Plan 2021.

14. For the avoidance of doubt, the proposed fire suppression system should use nontoxic, inert gas, as detailed in the application Supporting Statement, 6 February 2022;

Reason: To ensure that no pollution will enter the site drainage system, and to avoid an adverse effect on the integrity of the River Spey SAC, in accordance with Policy 4: Natural Heritage of the Cairngorms National Park Authority Local Development Plan 2021.

15. The development hereby approved must commence within 3 years of the date of this decision notice. If development has not commenced within this period, then this planning permission will lapse.

Informatives

1. The person undertaking the development is required to give the Planning Authority prior written notification of the date 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 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. It is advised that the approval of the Highland Council Roads Authority is required for any works affecting the public road and for any road construction consent or any other requirements under the Roads legislation.
4. Construction work (including the loading/unloading of delivery vehicles, plant or other machinery) should not take place out with the hours of 0800 hours to 1900 hours Mondays to Fridays, 0800 hours to 1300 hours on Saturdays or at any time on Bank Holidays to minimise disturbance to residents in the area.
5. In order for Scottish Water to conduct a full appraisal of the proposals, the applicant should complete a Pre- Development Enquiry (PDE) Form, and submit to Scottish Water via the customer portal, or contact Development Services.
6. The development must comply with General Binding Rule 10 under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (As Amended) (CAR), which requires that all reasonable steps are taken to ensure that discharge of surface water from a construction site does not result in the pollution of the water environment. Good practice guidelines regarding construction and pollution prevention can be found at the Guidance for Pollution Prevention (GPP) webpage.

7. Given the presence of underground cables owned by Scottish and Southern Electricity Networks (SSEN), the applicant should consult with SSEN, and seek SSEN's approval for method statements for any proposed construction works, access, landscaping and tree planting.

8. The development must comply with General Binding Rule 10 under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (As Amended) (CAR), which requires that all reasonable steps are taken to ensure that discharge of surface water from a construction site does not result in the pollution of the water environment.

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