

Appeal Decision Notice

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Decision by John H Martin, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-001-2013
- Site address: Land to north and east and west of Dunbarry Terrace and Kerrow Drive, Kingussie
- Appeal by Davall Developments Ltd against the decision by Cairngorms National Park Authority (CNPA)
- Application for planning permission 2013/0190/MSD dated 11 June 2013 refused by notice dated 19 September 2013
- The development proposed: (A) the matters specified in conditions 1, 2, 5, 10, 11, 16, 18, 27 & 29 of planning permission in principle 09/048/CP, dated 18 January 2013, for the erection of 300 houses, economic development uses and community uses; and (B) carrying out the development without complying with condition 4 of that permission

Date of site visit by Reporter: 5 February 2014

Date of appeal decision: 28 April 2014

Decision

(A) I allow the appeal and approve the submitted details of the matters specified in conditions 1, 2, 5, 10, 11, 16, 18, 27 & 29 of planning permission in principle 09/048/CP dated 18 January 2013, subject to the conditions set out at the end of this notice.

(B) I allow this appeal and grant planning permission without complying with condition 4 of planning permission in principle 09/048/CP dated 18 January 2013, but subject to the other conditions imposed by that permission, so far as these are still subsisting and capable of taking effect, and to a new condition 4 as set out below:

“4. With the exception of the 55 houses in Phase 1 of the development, which are to be accessed from the Dunbarry Terrace, Dunbarry Road, Kerrow Drive road network, vehicular access to all remaining houses in the development shall be via a single, main access point onto the A86.” *(Reason: In the interests of the amenity of the residents who access properties off Dunbarry Road)*



Preliminary Matters

Although contained within one application and appeal, there are two distinct matters before me:

(A) an appeal against the refusal by the planning authority to approve matters specified in conditions 1, 2, 5, 10, 11, 16, 18, 27 & 29 of the planning permission in principle and;

(B) an appeal under section 42 of the Town and Country Planning (Scotland) Act 1997 to carry out the development without compliance with condition 4, which states that:
“Notwithstanding the information contained within the application no vehicle (apart from for emergency purposes) access to the site shall be taken from the Dunbarry Terrace, Dunbarry Road, Kerrow Drive Road network. Vehicle access to the site shall be via a single, main access point onto the A86,” as imposed on the grant of planning permission in principle 09/048/CP dated 18 January 2013.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. Having regard to the provisions of the development plan the main issue in appeal (A) is whether or not the matters specified in conditions 1, 2, 5, 10, 11, 16, 18, 27 & 29 have been met in an acceptable and appropriate manner. The main issue in appeal (B) is whether or not condition 4 of planning permission in principle 09/048/CP was reasonably imposed in accordance with the tests set out in Circular 4/1998, and whether or not circumstances have changed sufficiently to warrant departing from the requirements of that condition.
3. The development plan in this context is the Cairngorms National Park Local Plan 2010 within which the appeal site is specifically designated for housing on the Proposals Map as H1, access to which shall be off the local road network, together with land to the east of the settlement shown for economic development as ED1. The most relevant Local Plan policies are policy 16 - Design Standards for Development and policy 20 - Housing Development within Settlements, that together reflect Scottish Planning Policy on sustainable development. Also relevant in appeal (B) is the Scottish Government publication “Designing Streets” which requires them to be designed to be distinctive, safe and pleasant, easy to move around, welcoming, adaptable, resource efficient and sustainable.
4. The appeal site lies to the north and west of the existing residential areas served by Dunbarry Crescent and Kerrow Drive. It is currently open grassland between the settlement and an area of woodland to which the public have access by a network of footpaths. The proposal, which is the subject of this appeal, forms Phase 1 of the development of up to 300 houses on the designated land H1 as shown in the revised Kingussie North East Masterplan, submitted as required by condition 1, which also indicates the proposed phasing of the development. The application for approval of matters

specified in the conditions shows the provision of 37 serviced plots on the higher land with full details of 18 affordable homes to be erected in the L-shaped area of land off Kerrow Drive, a total of 55 new dwellings to be served by the Dunbarry Road network. In addition, a haul road to the Phase 1 site from the A86 Trunk Road, following the line of the eventual principal road, is proposed to ensure that no construction traffic passes through existing residential areas, as imposed by condition 2 on the planning permission in principle.

Appeal (A)

Matters specified in Conditions

5. I have considered whether or not the matters specified in the identified conditions have been met by the further details submitted, and the CNPA's qualified response to each. Having checked all these conditions, I note that the requirements set out in condition 1 are now acceptable, together with details of the Haul Road, in the revised Master Plan to satisfy condition 2. On condition 5, full details of the new affordable houses have been submitted, the design of which conforms with the appellants' revised Master Plan and Design Code, although the proposed boundary enclosures have yet to be agreed with the Highland Council's Housing and Property Service, the intended landlord for the affordable housing. Conditions 10 and 11 relate to the proposed junction of the Haul Road with the A86 and full details have been submitted, with cross sections, and showing the visibility splays required by Transport Scotland who have raised no objections.

6. The requirements of condition 16 are addressed by the revised Master Plan supporting documents on the access, visibility and parking arrangements on each plot, which are considered satisfactory by Highland Council as the roads authority and Transport Scotland. Full details of the Sustainable Urban Drainage System (SUDS) for Phase 1 have been submitted and found to be satisfactory by the Scottish Environment Protection Agency (SEPA) and the Highland Council Flood Team to meet the requirements of condition 18. The Landscape Strategy Framework Plan coupled with the Structural Landscaping Proposals set out in the revised Master Plan address the detailed requirements of condition 27. A Waste Management Strategy has been submitted under the revised Master Plan which SEPA considers to be satisfactory subject to the details being addressed at construction stage.

7. The CNPA has raised no objections to any of the details submitted under the terms of these conditions. I have therefore found no evidence to disagree with the appellant's submissions on these matters, and conclude that the details submitted are acceptable and appropriate in the circumstances. I therefore approve all the matters specified in the conditions identified, subject to the new conditions set out below.

Appeal (B)

Condition 4

8. Planning permission in principle 09/048/CP was granted subject to access to the whole master plan site being limited to a new approved access off the A86, and condition 4 was imposed to ensure that no vehicle access to the development be taken via the Dunbarry Terrace, Dunbarry Road and Kerrow Drive road network. Local Plan policy 16(g)

requires new development to protect the amenity enjoyed by neighbouring properties and all proposals will be designed to help create environments that can be enjoyed by everyone.

9. At the time planning permission in principle was granted in January 2013, and despite Highland Council Roads Manager's suggestion that up to 55 houses could be accessed off Dunbarry Road, the planning officer recommended that a single new access onto the A86 be the sole means of access to site, because of the nature of the existing road, the strength of local feeling in the community and the difficulties of improving the access junction. The Committee accepted the recommendation and imposed condition 4 in the interests of the amenities of existing residents. This was a valid planning reason for imposing the condition in accordance with local plan policy 16(g).

10. To offset these concerns, the appellants submitted a Traffic Assessment (TA) and Road Safety Audit, together with proposals for improvements to the Dunbarry Road/High Street junction, traffic calming and pedestrian safety measures within the existing road network served by Dunbarry Road, including an offer to pay for a 20mph speed limit in some of those areas.

11. The additional morning and evening traffic movements presented by the appellants add up to 69. In addition, as rightly pointed out by the objectors, these figures do not take account of service, delivery and refuse vehicles or other traffic during the day, although I have no detailed information on these. Even so, it is reasonable to assume that there would be about 70 additional vehicle movements during the peak periods which amount to some 12 extra vehicles per hour.

12. Notwithstanding the continued level of objections submitted from local residents and, in particular, the Kingussie and Vicinity Community Council (KVCC), the roads authority found that the proposals represented a considerable improvement in road safety and raised no objections subject to appropriate planning conditions. While I accept that there would inevitably be more vehicles on the road, the proposed changes would result in improvements to road safety by reducing traffic speeds, while the provision of a loop road should enable easier traffic flows around the existing road network. I also note that Transport Scotland have agreed that the junction with High Street can be upgraded, including recently substituting the controversial raised table design in favour of an anti-skid shared surface, although this will now have to be achieved without the benefit of the third party land, agreement for the use of which has now been revoked by the landowner.

13. Following my request for further submissions on this topic, the appellants submitted alternative possibilities for the revised junction assuming no private land would be available. From these it is apparent that the junction would remain somewhat restricted but Transport Scotland is clearly satisfied that a solution can be achieved. To overcome any problems associated with the shared surface and potential traffic/pedestrian conflict at the junction, the appellants have shown their intention to upgrade nearby Jonathan's Brae to provide a safer pedestrian/cycle route from East Terrace to High Street, particularly for children walking or cycling to school.

14. The main objection from the KVCC and other local residents, as set out in their submissions, is that the Dunbarry Road network has already reached its capacity and could not serve the proposed 55 houses without causing adverse impact on their amenities but, following the transport assessment, the roads authority has raised no objections to the use of the existing road and considers that proposed traffic calming measures would enhance highway safety for existing users.

15. In the further submissions, the appellants' agents explain that the CNPA guidelines for a General Access Road with no secondary means of access is that it is capable of serving 200 houses, and that there are currently about 145 houses reliant on Dunbarry Road, Dunbarry Terrace and Kerrow Drive, beyond the junction with Garruline Terrace and East Terrace which are on an, albeit narrow, through route. This resulted in their conclusion that the road could accommodate a further 55 houses and still be within the CNPA guidelines.

16. With its 5.5/5.7 metre width and 2.0 metre footways, as stated in paragraph 2.7 of the appellants' revised Master Plan, Dunbarry Road thereby conforms with those guidelines, although the residents point out it already serves 200 houses if those off East Terrace are taken into account. Even though the roads authority is satisfied that there is sufficient capacity in the network to accommodate the Phase 1 development, the proposed 55 units would result in an increase in the traffic using the existing road which is bound to have some impact on the amenities of local residents.

17. With its winding layout, steep profile and several side roads, the cul-de-sac already encourages motorists to drive slowly, so the residents have come to terms with relatively quiet living conditions on the estate, where they say that children can play on the open spaces in safety. Bearing in mind that the roads and footways are used by children cycling and walking to school, by mothers with pushchairs and by older/disabled residents, the increase in traffic set out in the TA would impinge on their enjoyment of the relative peace and quiet that they currently enjoy.

18. To counter these concerns, the appellants are proposing traffic calming measures on the existing and new roads to ensure that all road users drive more carefully, with improvements to the Dunbarry Road/High Street junction and enhanced pedestrian routes through the site and to the schools. I acknowledge that build-out traffic calming chicanes might at peak times contribute to the loss of amenity the residents would suffer from higher levels of traffic noise but, with an average of only about 12 extra vehicles per hour, this should not unduly disturb them in their houses or back gardens.

19. At the time of the site inspection, the local road network appeared to be serving a quiet neighbourhood with low traffic levels and a safe environment for pedestrians, which the proposals are seeking to preserve, despite there being more vehicles on the road. While these would inevitably impose their presence on the existing estate, the safety measures should ensure that the traffic would be moving more slowly. I am therefore not convinced that the residents' amenity would be disturbed throughout the day sufficiently to justify refusal of planning permission. As a result, I am satisfied that, even at peak hours when any queuing at the junction would be concentrated at the lower, less populated,

section of Dunbarry Road, the amenity enjoyed by neighbouring properties would be sufficiently protected to accord with local plan policy 16(g).

20. Scottish Planning Policy 2010 and local plan policies 16 and 20 encourage more sustainable development by concentrating new housing proposals close to the limits of settlements to reduce travelling distances, improve pedestrian and cycle routes and minimise the use of the car, with which the proposed layout seeks to conform. I therefore find that with the suggested improvements to the junction with High Street and the road safety measures on the existing and new roads, coupled with the enhancement of walking and cycle routes to school, would all combine to enhance the residents' use of the road network without unduly affecting their residential amenities.

Material considerations

21. I have considered at some length the appellants' submissions supporting the discharge of this condition and, in particular, the difficulties arising from phasing the development of the Master Plan using the new access off the A86. I acknowledge that the construction of over 650 metres of access road complete with its infrastructure to service the proposed Phase 1 would prove expensive although, without using Dunbarry Road, the first phase would be more likely sited closer to the new A86 access. However, I also note that it was originally intended to serve the appeal site off Dunbarry Terrace and Kerrow Drive, as the turning heads on site appear to suggest, which would accord with the intention to serve the Phase 1 of the Master Plan development off the existing road network.

22. The conclusions in the committee report on the application for planning permission in principle were primarily motivated by the significant number of objections to using the Dunbarry Road network and the perceived impact on the amenities on the residents, but the appellants have since gone to considerable lengths to overcome these objections and also offer concessions to the community in the provision of communal space, footpath links to the woodlands beyond, and an assurance that Phase 1 would not be linked through to the rest of the Master Plan development.

23. I acknowledge that the existing roads suffer from ice and snow in winter and that they may not be on a high priority for gritting, but this applies to most roads in Kingussie and some local residents have referred to snow ploughs being used to ease the problem. However, the risk of icy conditions did not prevent the present housing developments off Dunbarry Road, nor is it likely to unduly affect future proposals on the allocated land.

24. Although the residents may believe that the proposals are simply motivated by financial considerations, the appellants have set out sound practical reasons why Phase 1 should be logically located next to existing housing development on the edge of the village rather than accessed by an uneconomic long estate road. The proposed haul road would be built before work commences and would ensure that all construction traffic is kept away from the residential roads and, when Phase 1 is completed, the conditions ensure that there will be no further connection between the first phase and the rest of the development. On balance therefore I have found no material considerations of sufficient substance to outweigh my conclusion on this appeal.

25. For these reasons, I conclude that, whilst the original condition 4, restricting access to the whole development from a single access off the A86, was reasonably imposed when planning permission in principle was granted, the current proposals, with associated improvements to highway safety, will ensure that the amenities of existing residents are protected. I therefore grant planning permission for the development to be carried out without complying with the original condition 4, but subject to the other conditions imposed on the permission in principle, so far as these are still subsisting and capable of taking effect, and the revised condition 4 set out above.

New Conditions

26. The national park authority has suggested 30 new conditions should planning permission be granted on appeal (A) but, while the appellants have raised no objection to most, they have disputed the following conditions on which I conclude as follows:

Condition 1 – there is no reasonable requirement to prevent any work on site until the improvements to the Dunbarry Road/High Street junction have been carried out because there will be a separate haul road for construction traffic and, as the new junction would be adopted, its retention would be subject to normal adoption procedures. I shall also modify the wording of this condition to accord with that suggested by Transport Scotland.

Condition 2 – the 20mph zones relate to statutory procedures by the roads authority and this element of the condition is therefore unnecessary.

Condition 5 – the condition that seeks to control the phasing of the development is unreasonable because this is determined by the marketing of the development and, in any event, planning permission would be required for Phase 2 in the context of the Masterplan.

Condition 8 – the appellants have lodged a Landscape Plan and accept the recommended condition so there is no need for legally binding agreement because such an obligation is not necessary when a valid condition is in place.

Condition 10 – the appellants have lodged a Drainage Statement and accept the recommended condition so there is no need for legally binding agreement because such an obligation is not necessary when a valid condition is in place.

27. I accept that for the above reasons these conditions do not strictly comply with the tests in Circular 4/1998. I will vary Condition 1 to ensure that no houses are occupied until the junction improvements have been completed and delete Condition 5 as being unnecessary and unreasonable. I will also amend Condition 2 to omit that part relating to the 20mph zones, and Conditions 8, and 10 to remove any references to legally binding agreements. In addition, the CNPA Information Notes suggest that working hours on the site should be restricted which are more appropriately controlled by means of a planning condition that I will also impose. The conditions numbering will be amended to suit and, with those exceptions, I shall impose the suggested new conditions with a number of minor modifications to ensure that they fully accord with the tests in the circular.

28. Before the submitted suggested conditions, CNPA raised two points concerning a requirement for a revised landscaping plan together with a fully detailed management and maintenance plan. Although the appellants have shown willing to submit further details for approval in this regard, they do not appear to have been required to do so. For the sake of clarity, therefore, I shall expand condition 7 (formerly 8) to ensure that these matters are submitted and approved before any work starts on site.

29. The conditions numbering will be amended to suit and, with those exceptions, I shall impose the suggested new conditions.

Conclusions

30. On appeal (A) I hereby approve all the matters specified in the conditions identified, subject to the new conditions set out below.

31. On appeal (B) I conclude that, on the basis of the approved details for Phase 1 of this development, compliance is no longer required with the original condition 4 on the planning permission in principle. I am satisfied that allowing access to the first 55 houses via the Dunbarry Terrace, Dunbarry Road and Kerrow Drive network would not conflict with the relevant provisions of the local plan, and that there are no material considerations that would justify withholding the grant of planning permission.

32. I have considered all the other matters raised, including the submitted petition, which incorrectly suggests that the Dunbarry Road access would serve the whole 300 house Master Plan development, but there are none which would lead me to alter my conclusions.

John H Martin

Reporter

Conditions

1. No house on the site shall be occupied until details of the road improvements to the junction of Dunbarry Road and the A86 Trunk Road/High Street have been submitted to and approved by the planning authority, after consultation with the roads authority, and the works have been implemented in accordance with those approved details.

(Reason: to maintain safety for both the trunk road traffic and the traffic moving to and from the development.)

2. No house on the site shall be occupied until the traffic calming and management proposals outlined in the approved transport assessment (Cameron and Ross Technical addendum A/1274) and drawing no. A/1274/911 have been completed in accordance with those approved details.

(Reason: in the interests of road and pedestrian safety on existing and new roads.)

3. No development shall commence on site until the following details have been submitted to and approved by the planning authority in consultation with the roads authority:

(a) the design, timetable for implementation and treatment of the land at the eastern end of the access road to Phase 1, referred to on the drawing no. HLD 9028.08/SL-04/C as "future path and landscape strip as emergency access after use of haul road ceases"

(b) this land shall be planted up and retained in its use thereafter in a manner that prevents vehicle access other than for construction traffic for works to Phase 1 and emergency vehicles;

(c) for the avoidance of doubt, these measures shall include a requirement that no further access to future phases of the development be taken via the Dunbarry Road network. The approved details shall be implemented in accordance with the approved timetable and no work on Phase 2 of the development shall commence until these works are completed. *(Reason: in the interests of pedestrian and highway safety as the application has been assessed in terms of road safety solely on the basis of access to Phase 1 being only from the Dunbarry Road network.)*

4. No development shall commence on the development hereby approved until the new access from the A86 Trunk road and the construction of the haul road have been completed in accordance with the approved plans; and a management plan detailing the measures to be taken to ensure that all construction vehicles access the development via the haul road has been submitted to and approved by the planning authority. Thereafter:

(a) all construction vehicles (including vans) shall only access the Phase 1 site via the new haul road; and

(b) all landscaping shown on drawing no. HLD 9028.08/SL-07 shall be implemented in the first planting season following completion of the new access and thereafter maintained in accordance with the approved maintenance details.

For the avoidance of doubt, a plan for the closure of the existing General Wade's Military road access shall be submitted to and approved in writing by the planning authority, in consultation with the roads authority, before any work commences on the formation of the new access, and shall thereafter be implemented in accordance with the approved details. *(Reason: in the interests of road safety and residential amenity, and to ensure safe access for construction vehicles and pedestrians.)*

5. Planning applications for the proposed houses on the plots on Phase 1 (other than the affordable housing on plots 13-30) shall be submitted to and approved by the planning authority and shall include full details of the design, siting, drainage, waste management arrangements, boundary treatments, site sections and landscaping; all of which shall reflect the conditions of the planning permission in principle, the revised Master Plan and Design Code.

(Reason: to ensure that the development proceeds in a planned manner and complements and enhances the landscape character of Kingussie.)

6. Planning applications shall be submitted for all future phases of the development which shall include:

(a) full details of the proposals and delivery of community and economic development land in the relevant phases; and

(b) details of compensatory planting relating to the loss of trees on the economic development land.

These proposals shall be delivered as part of the phase to which they relate, unless otherwise agreed in writing by the planning authority; and no work shall commence on subsequent phases until the preceding phase is completed, unless otherwise agreed in writing by the planning authority. The detailed applications shall reflect the conditions of the planning permission in principle, the revised Master Plan and Design Code.

(Reason: to ensure that the development proceeds in a planned manner and ensures the delivery of community and economic development land for Kingussie.)

7. No work shall start on site until a revised Landscaping Plan, together with a fully detailed management and maintenance plan, have been submitted to and approved by the planning authority. All landscaping shown on the approved landscaping plans (including advance planting for future phases) shall be implemented in accordance with the approved management plan, and in the first planting season following completion of the new haul road and associated ground works to form access roads and servicing of Phase 1. Landscaping shall thereafter be maintained in accordance with the approved maintenance and management plan and timetable.

(Reason: to ensure that a suitable landscape setting is established and maintained for the new development.)

8. All plots that have not been developed within 6 months of re-contouring works having been carried out shall be seeded in accordance with the approved landscape plan and maintained in a clean and tidy condition until they are developed.

(Reason: to ensure that a suitable landscaping setting is established and maintained.)

9. No work shall start on site until details of the proposed maintenance regime for the sustainable urban drainage solution have been submitted to and approved by the planning authority, in consultation with the appropriate authorities, and shall include written confirmation from those authorities that they will adopt and maintain the proposed arrangements. These details shall reflect the requirement to discharge surface water into the Scottish Water systems. No house shall be occupied until the approved surface water arrangements have been implemented in accordance with the approved plans and maintenance regime and have been certified as being compliant by a suitably qualified professional.

(Reason: to ensure that surface water is dealt with in a manner appropriate to the environment.)

10. No work shall start on site until details of the protection and management of existing field drains to ensure no increase in flood risk within or outwith the site are submitted to and approved by the planning authority, in consultation with Highland Council's Flood

Prevention Team; and the works shall be implemented strictly in accordance with those approved details before any house is occupied.

(Reason: to ensure that surface water is dealt with in a manner appropriate to the environment.)

11. No house on plots 13-30 shall be occupied until the play areas in this part of the site have been provided in accordance with the approved plans and details. Prior to work commencing on any of the other plots on Phase 1 full details of the proposed play area and equipment shall be submitted to and approved by the planning authority and thereafter shall be implemented in accordance with those approved details before any of the houses on these remaining plots are occupied.

(Reason: to ensure the provision of play area facilities for the development.)

12. No house shall be occupied until it is connected to the public water and sewerage network.

(Reason: in the interests of environmental amenity and the provision of services.)

13. No work shall commence on site until a construction management statement detailing a scheme for temporary disposal of surface water, management of field drains (as referred to in condition 10 above), contractor's compound, minimisation of construction waste (including a site waste management plan and re-use of materials) has been submitted to and approved by the planning authority in consultation with SEPA; and the works shall thereafter be carried out in accordance with that approved scheme.

(Reason: to ensure minimal environmental disturbance.)

14. No work shall commence on the construction of any houses until details of final floor levels, which shall be a minimum of 225mm above adjoining ground level, are submitted to and approved by the planning authority; and the houses shall be constructed in accordance with those approved levels.

(Reason: in the interests of landscape amenity and to minimise flood risk.)

15. No work shall commence on any tree felling until:

(a) a pre-construction survey of squirrels, in accordance with recognised guidelines, has been undertaken by a suitably qualified and experienced practitioner, and the results, with any proposals for mitigation of any impacts on red squirrels from any tree work, shall be submitted to and approved by the planning authority;

(b) prior to the felling of the elm tree identified beside the proposed access off the A86, a further bat survey shall be carried out and the results, with any proposals for mitigation of any impacts, shall be submitted to and approved by the planning authority.

(Reason: to minimise environmental disturbance and maintain biodiversity.)

16. No work shall commence on the houses, hereby approved, until details of a scheme for the provision of nesting boxes for bats and swifts have been submitted to and approved by the planning authority; and any house identified for a box shall not be occupied until

provision has been made in accordance with the approved details. (*Reason: to ensure that biodiversity is maintained.*)

17. No works shall commence on site until details of the retention and reuse of stone dykes on the land, which shall include proposals for storage, protection of lichens thereon and methods of re-laying, have been submitted to and approved by the planning authority. These details shall include information on the repair and reuse of the walling alongside Tom Baraidh wood and shall include a timetable for the works, which shall be implemented strictly in accordance with the approved details.

(*Reason: to minimise environmental disturbance and maintain biodiversity.*)

18. All existing trees to be retained shall be protected during construction works in accordance with the details contained within the approved landscape scheme.

(*Reason: to minimise environmental disturbance and maintain biodiversity.*)

19. No works shall start on the affordable houses (plots 13-30) hereby approved until full details (by way of samples or brochures) of all external finishes, which shall include the use of timber windows and doors and natural slate or tiles of a profile and size reflective of natural slate, have been submitted to and approved by the planning authority; and the work shall be carried out strictly using only those approved finishes.

(*Reason: to ensure that the landscape character of the area is maintained and enhanced.*)

20. No works shall commence on the construction of any houses until details of all boundary enclosures have been submitted to and approved by the planning authority, or as detailed on the approved landscape scheme. These details shall reflect the requirement for the front and side enclosures to retain the open, landscaped character of the site (for example, using stone dykes, post & wire fences and/or hedging in native species). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Amendment Order 2011 (or as otherwise amended), the approved enclosures shall thereafter be implemented prior to the occupation of the house to which they relate. Any other boundary enclosures in and around the plot(s) shall require permission from the planning authority.

(*Reason: to ensure that the landscape character of the area is maintained and enhanced.*)

21. Before construction on any of the houses commences, provision shall be made for flexibility for home working and high speed broadband infrastructure in accordance with details to be submitted and approved by the planning authority.

(*Reason: to ensure that the new housing is sustainable.*)

22. Unless otherwise agreed with the planning authority, the houses on plots 13-30 shall be retained as affordable housing, and no work shall commence on their erection until details of the contractual arrangements for the provision of the affordable housing, including the timescale, have been submitted to and approved by the planning authority.

(*Reason: to ensure compliance with local plan policies on affordable housing.*)

23. No work shall commence on the construction of the affordable housing on plots 13-30 until details of the hard and soft landscaping, road finishes, communal parking layout,

existing and proposed boundary treatments, and play areas have been submitted to and approved by the planning authority. The development shall thereafter be implemented in accordance with those approved details before the first house on these plots is occupied, with the exception of the landscaping which shall be implemented in accordance with the approved details during the first planting season following the occupation of any of the houses on this part of the site.

(Reason: to ensure that the landscape character of the area is maintained and enhanced.)

24. Unless otherwise agreed with the planning authority, at least two car parking spaces shall be provided and retained within the curtilage of each serviced plot.

(Reason: in the interests of road safety.)

25. Unless otherwise agreed with the planning authority, no house shall be occupied until all roads and footways/cycle tracks serving it have been completed to at least binder course standard, and until its individual site access has been formed in accordance with the approved plans.

(Reason: in the interests of road safety.)

26. No development shall commence until details of the finishes of all footways, including Jonathan's Brae, and roadways have been submitted to and approved by the planning authority; and the works shall be implemented in accordance with those approved details.

(Reason: in the interests of pedestrian and road safety and the visual appearance of the site.)

27. Before the occupation of any house on the development, details of the proposed residential travel pack to show how sustainable travel measures will be promoted shall be submitted to and approved by the planning authority, in consultation with the roads authority.

(Reason: to support the delivery of sustainable development.)

28. No work shall commence on site until the following information, including plans and a timetable of works, has been submitted to and approved by the planning authority, in consultation with the roads authority:

(a) upgrading of all footway links as identified in the indicative scheme of access to reflect the requirement of all paths (other than pavements) to be of permeable construction in accordance with the advice in SNH guidance on *Lowland Path Construction – a guide to Good Practice*;

(b) details of finishes and, where appropriate, measures to ensure pedestrian safety and priority when crossing any access roads;

(c) a management plan for pedestrian use of the Kerrow Cottage track (Core Path LBS73) during the construction phase; All pathway improvements and provision shall thereafter be delivered in accordance with the approved timetable. *(Reason: in the interests of pedestrian safety and to ensure continued public access.)*

29. Unless otherwise agreed with the planning authority, no construction works, including all deliveries, shall take place outwith the hours of 0800 to 1800 Mondays to Fridays and 0900 to 1300 on Saturdays; and there shall be no work or deliveries on Sundays and Public Holidays.

(Reason: in the interests of residential amenity.)

CNPA Information Notes

(a) This permission must be read in conjunction with planning permission in principle ref. 09/048/CP and its conditions and the terms of the section 75 agreement attached to that permission, dated 18 October 2012, including the time periods for commencement of the development.

(b) It is recommended that bird and squirrel feeders be provided in the domestic gardens to benefit the local bird and squirrel populations and facilitate their movement from adjacent woodland.

(c) The CNPA Ecology Officer noted that an oak tree has succumbed to windthrow which offers an interesting opportunity for biodiversity enhancement if the tree is allowed to develop into a valuable source of deadwood habitat.

(d) With reference to condition 15, the developer is advised of the requirement to obtain a licence from Scottish Natural Heritage for any disturbance of red squirrels if dreys are found as a result of the pre-construction survey.

(e) With reference to condition 16, detailed information on the required dimensions for swift nest sites and design options can be found on the Concern for Swifts project website at www.concernforswifts.com/Opportunities.asp, while roosting opportunities for pipistrelle and brown long-eared bats can be found on the Bat Conservation Trust website at www.bats.org.uk.

Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended))

Richborough Estates

