

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
19 January 2016

Agenda Item	7.2
Report No	PLS 005/16

15/03337/PIP & 15/03349/PIP: Dunachton Estate

Land 40m north of Sealladh Beann, Dunachton Road, Kincaraig and land 30m south-west of Suie Hotel, Kincaraig

Report by Area Planning Manager - South

SUMMARY

Description : Erection of house (x2) with shared access

Recommendation - GRANT

Ward : 21 Badenoch and Strathspey

Development category : Local

Pre-determination hearing : Not required

Reason referred to Committee : Objection by Community Council as statutory consultee.

1. PROPOSED DEVELOPMENT

- 1.1 Erection of two detached houses on two conjoined plots with a shared point of access to the public road on their common boundary. The applications are for permission in principle so apart from the location of the access no details are provided or settled although the plans show illustrative house positions and footprints.
- 1.2 Non mandatory pre-application consultation was undertaken. Issues highlighted in relation to 15/03337/PIP's site were the need to address loss of ancient woodland and adopt access arrangements meeting supplementary guidance requirements, and the need to submit application 15/03349/PIP as the previous permission for its site was about to expire.
- 1.3 Informal vehicle access from the B9152 to the site of 15/03349/PIP has existed for a number of years at its northmost point, associated with use by a neighbour of that corner of the site for cutting up of his firewood. Otherwise the sites are unserved.
- 1.4 No supporting documents submitted.
- 1.5 **Variations:** None.

2. SITE DESCRIPTION

- 2.1 The site of the proposed plots is an undulating area, largely covered in birch trees but with an open area on the site of application 15/03349/PIP, bounded by the Suie Hotel to the north-east and the gardens of houses in Dunachton Road to the south-east and south-west. The opposite side of the B9152 is a grazing field containing a scatter of mature birch trees particularly in the area closest to the road.

3. PLANNING HISTORY

- 3.1 12/02000/PIP - erection of dwelling; PIP granted 31/8/12 on site of application 15/03349/PIP.

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Not required
Representation deadline : 8/10/15
Timeous representations : 1
Late representations : 0
- 4.2 Material considerations raised are summarised as follows:
- Loss of woodland
 - Loss of amenity
 - Road safety
 - Conditions should be repeated/reused if permissions granted
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

- 5.1 **Forestry Officer** : Not supporting.
- 5.2 **Transport Planning Team** : Not objecting subject to conditions.
- 5.3 **Community Council** : Objecting: loss of ancient woodland, safety of access and speed limit/access relationship.
- 5.4 **CNPA** : No call-in, no comment.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the applications

6.1 Cairngorms National Park Local Development Plan 2015

- | | |
|---|-------------------------|
| 1 | New Housing Development |
| 3 | Sustainable Design |

- 4 Natural Heritage
- 5 Landscape
- 11 Developer Contributions
- 35 Community Information - Kincaig

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Not applicable

7.2 Local Development Plan Supplementary Planning Policy Guidance

- 1 - New Housing Development
- 3 - Sustainable Design
- 4 - Natural Heritage
- 5 - Landscape
- 11 - Developer Contributions

7.3 Scottish Government Planning Policy and Guidance

SPP (Scottish Planning Policy)
Control of Woodland Removal Policy

7.4 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments
Trees, Woodlands and Development

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 Development Plan Policy Assessment

CNPLDP Policy 1 supports infill housing development within settlements subject to its reinforcing and enhancing the character of the settlement. The sites are located within the settlement boundary as identified in section 35 of the LDP.

The key tests of CNPLDP Policy 3 in this instance are whether development would protect the amenity enjoyed by neighbours, include appropriate means of access, egress, levels of private amenity ground and space for off street parking, and (in light of Policy 4) create opportunities to further biodiversity and promote ecological

interest.

As the sites are within an area of inventoried ancient and semi-natural woodland they fall to be considered in relation to section 3 of CNPLDP Policy 4. This indicates that development adversely affecting such a site will only be permitted where the objectives of the site and its overall integrity would not be compromised or any significant adverse effects are mitigated by provision of features of commensurate or greater importance.

CNPLDP Policy 5 generally presumes against development which will not conserve and enhance the landscape character and special qualities of the Park and the development's setting.

8.4 **Material Considerations**

Given the presence of inventoried woodland on the two plots the key policy consideration is judged to be that raised by LDP Policy 4. There can be no doubt that development will result in loss of trees, taking account of the practicalities of placing any buildings on the sites (particularly that of 15/03337/PIP where there are no clearings of any size) and residential amenity considerations (overshadowing, safety, daylight, curtilage use and management). However, these plots represent a residual undeveloped fragment of a much larger area of inventoried woodland whose qualities on this side of the B9152 have already been significantly compromised by the housing development in Dunachton Road and Woodside. Because of this it is considered that the Policy test of "compromised integrity" does not apply to these applications and the test of "significant adverse effect" is not met. Notwithstanding that, and having regard to the requirements of Scottish Government Policy on control of woodland removal, compensatory/mitigation provision can be undertaken on land on the opposite side of the B9152 owned by the applicant. That area is outwith the settlement boundary and contains degraded but undeveloped inventoried woodland, offering the opportunity to offset the loss of a compromised fragment of inventoried woodland with a mix of planting and natural regeneration to consolidate and enhance the degraded woodland. This course of action would give positive ecological, landscape and residential amenity outcomes related to LDP Policies 3, 4 and 5.

The single joint access shown on the supporting plans accords with the principles set out in the Council's SG. Transport Planning have no objection to the development subject to the provision of adequate visibility splays and extension of the 40 mph speed limit to a point south-west of the proposed access position. This would have to be the subject of a Traffic Regulation Order promoted separately under Roads legislation but given the wider road safety benefits of such an extension there is a reasonable probability that such an Order would be confirmed. It is therefore possible to deal with this by a suspensive condition. The applicant has confirmed that he is prepared to meet the costs of promoting and implementing the Order as required by the Transport Planning Team and in line with the principles of LDP Policy 11. In light of these considerations and the fact that the sites are big enough to accommodate any necessary parking and manoeuvring space it is considered that the developments can meet the access and parking tests of Policy 3.

In relation to residential amenity the contributor is simply requesting that the same consideration be given to these two applications' potential effects on properties to the east as was shown in 12/02000/PIP. This is entirely reasonable to meet the relevant test of Policy 3 and is reflected in the conditions recommended below.

8.5 **Other Considerations – not material**

None

8.6 **Matters to be secured by Section 75 Agreement**

Financial contribution towards the costs of promoting and implementing an extension of the 40 mph speed limit zone on the B9152 and a contribution of £1250 towards the provision of affordable housing in the Park in relation to application 15/03337/PIP. These contributions are only levied once in the post-2010 planning history of any site and as a contribution was paid at the time of the granting of permission 12/02000/PIP no contribution is required in relation to application 15/03349/PIP.

9. **CONCLUSION**

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. **RECOMMENDATION**

Action required before decision issued	Yes
Notification to Scottish Ministers	No
Notification to Historic Scotland	No
Conclusion of Section 75 Agreement	Yes
Revocation of previous permission	No

Subject to the above, it is recommended the applications be **Granted** subject to the following conditions and reasons:

1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:
 - i. a detailed layout of the site of the proposed development (including site levels as existing and proposed);
 - ii. the design and external appearance of the proposed development;
 - iii. landscaping proposals for the site of the proposed development including boundary treatments, and existing trees to be retained and those to be felled;
 - iv. details of access and parking arrangements; and

v. details of the proposed water supply and drainage arrangements.

Reason : Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

2. The house to be erected on the site shall be of single storey design only; public rooms shall face towards the B9152; and the house shall be sited as near to the B9152 as is practicable, having regard to its orientation.

Reason : To maximise the distance between the proposed house and the existing house to the rear and minimise the risk of overlooking and/or overshadowing the latter property, in the interests of residential amenity.

3. No development shall commence until such time as full details of an area of compensatory tree regeneration and replanting, equal to the area of the application site, have been submitted to and approved by the Planning Authority and the approved regeneration/replanting scheme implemented. The scheme shall specify the location and extent of the area; the numbers, sizes and species of trees to be planted and how they are to be protected from browsing damage during their establishment and growth; the means of encouragement of natural regeneration; and a monitoring and maintenance programme to ensure the success of the planting and regeneration.

Reason : To compensate for the loss of ancient and semi natural woodland on the site.

4. No development shall commence until the southern extremity of the 40 mph speed limit on the B9152 through Kincaig has been extended to a point to the south of the new access serving this development, including the relocation or replacement as appropriate of all related signage.

Reason : In the interests of road safety.

5. No other development shall commence until the access serving the site and the adjoining development site has been constructed in accordance with the Highland Council's Access to Single Houses and Small Housing Developments guidelines, with:

i. the junction formed to comply with drawing ref. SDB2, incorporating drainage measures which will ensure that no water shall discharge onto the public road and with the first 6 metres from the road edge finished in bituminous macadam surfacing; and

ii. visibility splays of visibility splays of 2.4m x (160m to the south-west and 120m to the north-east) (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

Reason : To ensure that all traffic including construction traffic can enter and leave the site in a safe manner.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i. The expiration of THREE YEARS from the date on this decision notice;
- ii. The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained)., whichever is the later. If development has not commenced within this period, then this planning permission in principle shall lapse.

FOOTNOTE TO APPLICANT

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (para 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Signature: Allan J Todd
Designation: Area Planning Manager - South
Author: Andrew McCracken
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan (15/03337/PIP)
Plan 2 – Location Plan (15/03349/PIP)
Plan 3 – Recorded area of Ancient and Semi-Natural Woodland



Access as agreed on site with Planning Officer (16.06.15) & with consultation with Highland Council Transport. Construction & visibility splay to Highland Council requirements/standards.

Visibility Splay Layout Plan
Scale 1:1000 @ A3

NOTES

Do not scale from this drawing unless for Planning purposes. Figured dimensions only are to be used. All dimensions must be checked on site by the Contractor prior to the commencement of any fabrication or building works. Where applicable, dimensions and details are to be read in conjunction with specialist consultants' drawings; any disparity between drawings is to be brought to the attention of Smiths Gore prior to the commencement of any fabrication or building works. This drawing is the property of Smiths Gore and may not be reproduced without their expressed permission.

REVISIONS

REV	NOTE / DRAWN BY	DATE
-	-	-



PROJECT TITLE
LAND AT KINCRAIG,
DUNACHTON ESTATE (NGR NH 8288 0563)

CLIENT
DUNACHTON ESTATE

DRAWING TITLE
VISIBILITY SPLAY LAYOUT PLAN

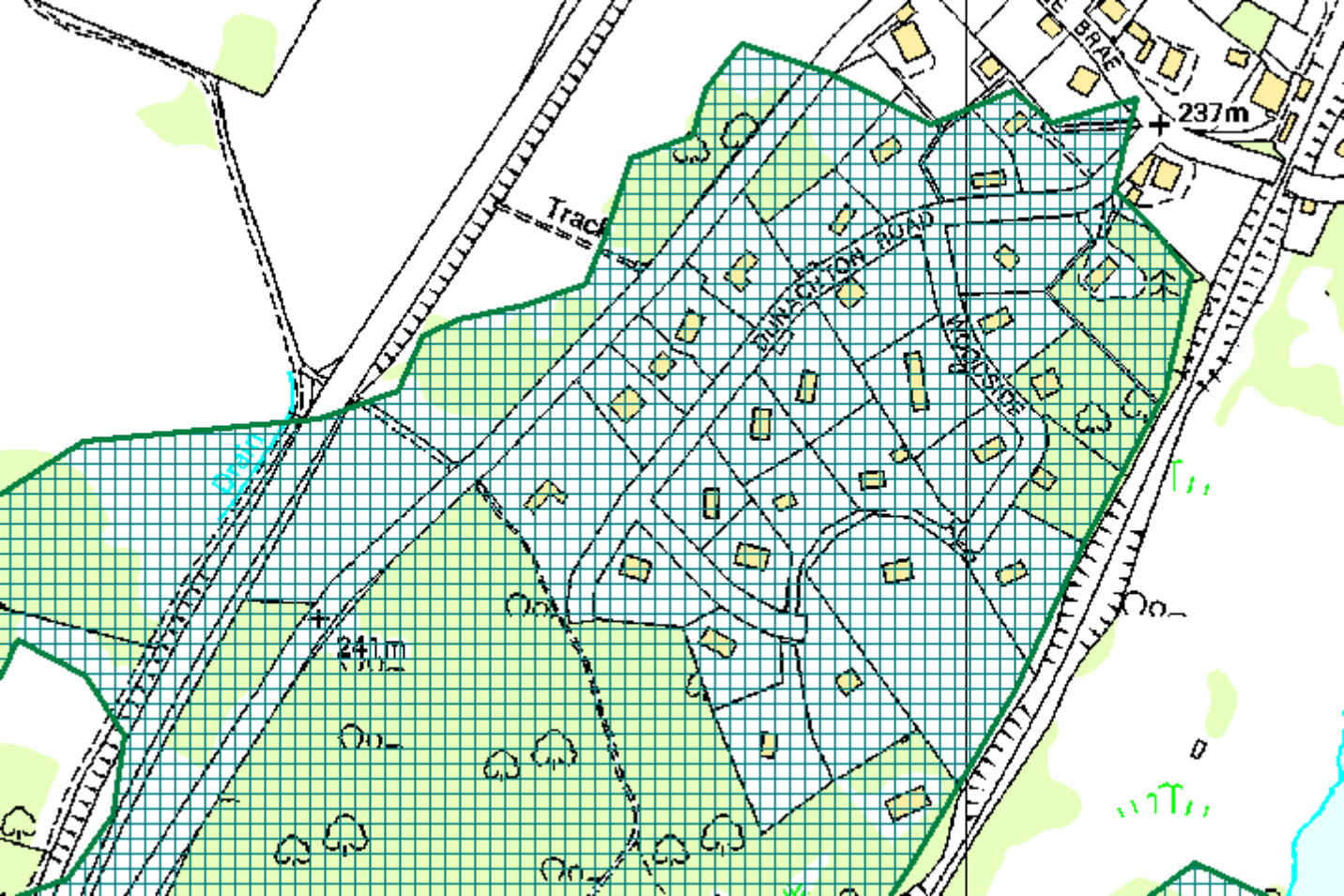
SCALE	PAPER SIZE	DRAWING NUMBER	REVISION
VARIOUS	@A3	1053547/PL02	

DRAWING STATUS

PLANNING	DRAWN BY	CHECKED BY	DATE
	FM	CSW	AUG 15



7 The Square
Fochabers
Moray
IV32 7DG
t: 01343 823000
f: 01343 823030
e: fochabers@savills-smithsgore.co.uk





Access as agreed on site with Planning Officer (16.06.15) & with consultation with Highland Council Transport. Construction & visibility splay to Highland Council requirements/standards.

NOTES

Do not scale from this drawing unless for Planning purposes. Figured dimensions only are to be used. All dimensions must be checked on site by the Contractor prior to the commencement of any fabrication or building works. Where applicable, dimensions and details are to be read in conjunction with specialist consultants' drawings; any disparity between drawings is to be brought to the attention of Smiths Gore prior to the commencement of any fabrication or building works. This drawing is the property of Smiths Gore and may not be reproduced without their expressed permission.

REVISIONS

REV	NOTE / DRAWN BY	DATE
-	-	-



PROJECT TITLE
 LAND AT KINCRAIG,
 DUNACHTON ESTATE (NGR NH 8292 0567)

CLIENT
 DUNACHTON ESTATE

DRAWING TITLE
 VISIBILITY SPLAY LAYOUT PLAN

SCALE	PAPER SIZE	DRAWING NUMBER	REVISION
VARIOUS	@A3	1056340/PL02	

DRAWING STATUS

PLANNING	DRAWN BY	CHECKED BY	DATE
	FM	CSW	SEP 15

Visibility Splay Layout Plan
 Scale 1:1000 @ A3



7 The Square
 Fochabers
 Moray
 IV32 7DG
 t: 01343 823000
 f: 01343 823030
 e: fochabers@savills-smithsgore.co.uk