

**THE HIGHLAND COUNCIL**  
**CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING**  
**APPLICATIONS AND REVIEW COMMITTEE**  
**4 MARCH 2008**

Agenda Item	4
Report No	11/08

**07/00072/FULCA: FORMATION OF ROADS AND SITE SERVICES AND THE CHANGE OF USE OF AGRICULTURAL LAND TO CREATE A NOMINAL 41 PLOT HOUSING DEVELOPMENT ON LAND TO THE NORTH WEST OF THE VILLAGE OF KEISS, CAITHNESS.**

**Report by Area Planning and Building Standards Manager**

Ward Number 4 – Landward Caithness

Applicant: J. W. Sutherland, Property Developer, 4 The Shore, Wick, KW1 4JW.

**1. BACKGROUND**

1.1 The above application was reported to the meeting of the Caithness Sutherland and Easter Ross Planning Applications and Review Committee on 20 November 2007 and the following decision was taken:

“The Committee AGREED that, following further discussions with the applicant, objector and relevant officials on how best to arrange ingress and egress to the property ‘South View’ at the north tip of plot 8, and conclusion of a Section 75 Agreement to secure the provision and future maintenance of an amenity area (but not a children’s play area) on plots seven and eight, planning permission be granted subject to amendments and additional conditions to be drafted by the Area Planning and Building Standards Manager to ensure; (i) no dwellinghouses will be constructed on plots 7 and 8 and that plots 7 and 8 will be an amenity area, but not a play park; (ii) improved ingress and egress to the property ‘South View’ at the north tip of plot 8; (iii) the road running past plots 25 and 26 will terminate 5 metres short of the site boundary; (iv) that the footpath along the U104 is kerbed; and (v) appropriate traffic calming measures will be included as part of the development.”

1.2 This decision was relayed to the applicant and, following a meeting with the applicant at his request, the attached letter was received. Members will note that the applicant does not agree to the deletion of plots 7 and 8 because he considers that their deletion would make the overall development less financially viable. He has not therefore submitted proposals for an amenity landscaping scheme for these plots for approval, nor have any costings for such a scheme been made which could form the basis of a Section 75 Agreement.

- 1.3 In the circumstances where it has been decided that a proposal is going to necessitate a Section 75 Agreement the decision can only be issued after the Agreement has been concluded.
- 1.4 In this instance negotiations regarding the Section 75 Agreement required by the Committee cannot even be opened and I am unable to issue any decision on the application.

## **2. CONSIDERATION**

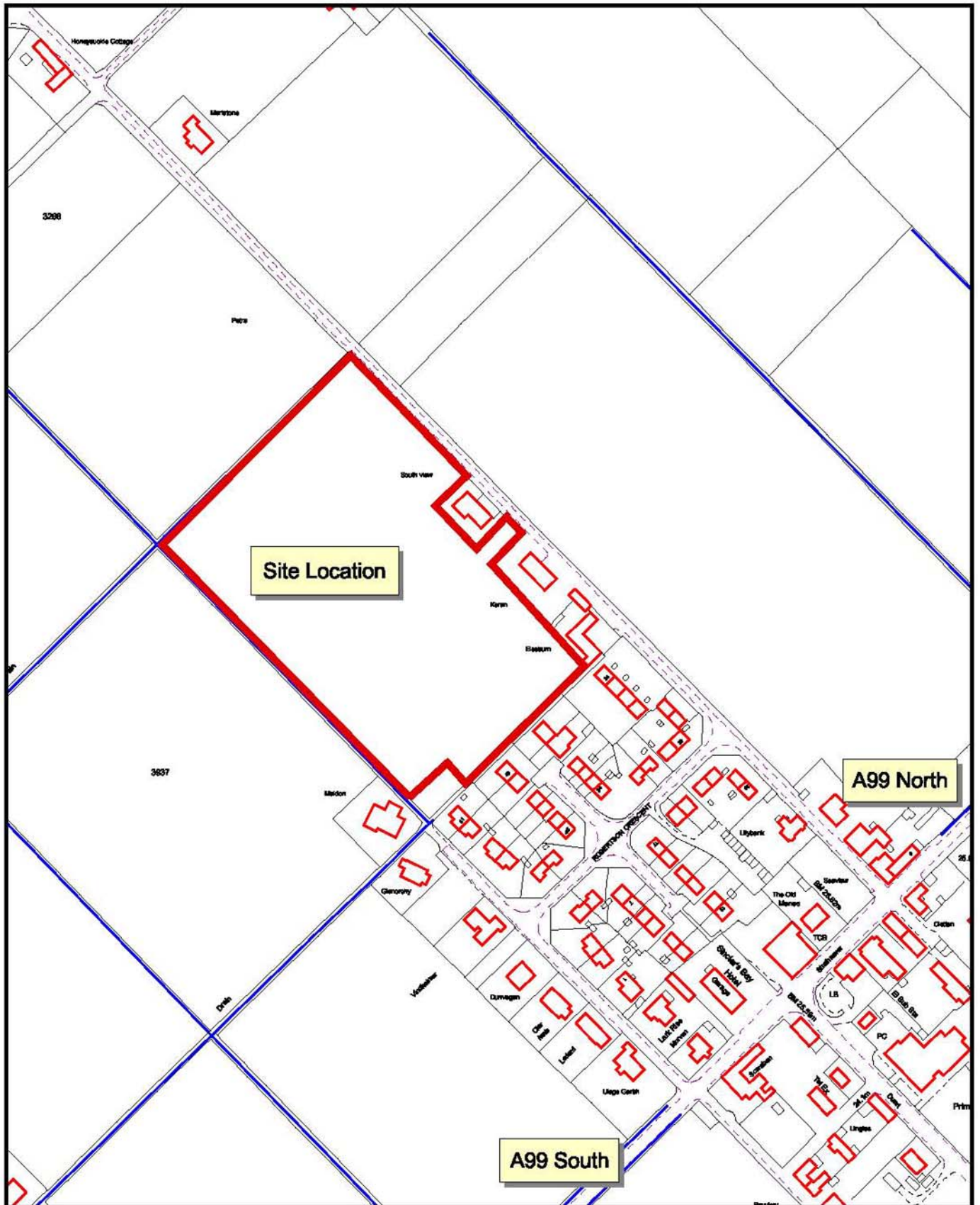
- 2.1 The situation, from my perspective and delegated authority, is at an impasse. The Committee wishes plots 7 and 8 to be deleted from the scheme and for those two plots to be the subject of an amenity landscaping scheme the cost of forming which would, as the Committee decided, have to be the subject of a Section 75 Agreement in case the developer defaulted in carrying it out.
- 2.2 The developer does not agree to the deletion of those two plots as house plots and has not submitted any landscaping scheme for those plots therefore no estimation of finance can be made to open negotiations in order to make a Section 75 Agreement. I cannot issue any planning permission until the Committee's request for the developer to enter into a Section 75 Agreement with the Council has been concluded.
- 2.3 The Committee must therefore decide how it wishes to proceed. Clearly the developer does not want to accede to the Committee's wishes; the application remains un-determined; and I am unable to progress the matter or to issue any decision until I receive the further instructions of the Committee.

Signature: Allan J Todd

Designation: Area Planning & Building Standards Manager

Author: Iain Ewart 01955 607751

Date: 22 February 2008



07/00072/OUTCA  
 Formation of roads and site services for 41 site housing development at Land to North of Keiss Village Keiss, Caithness.

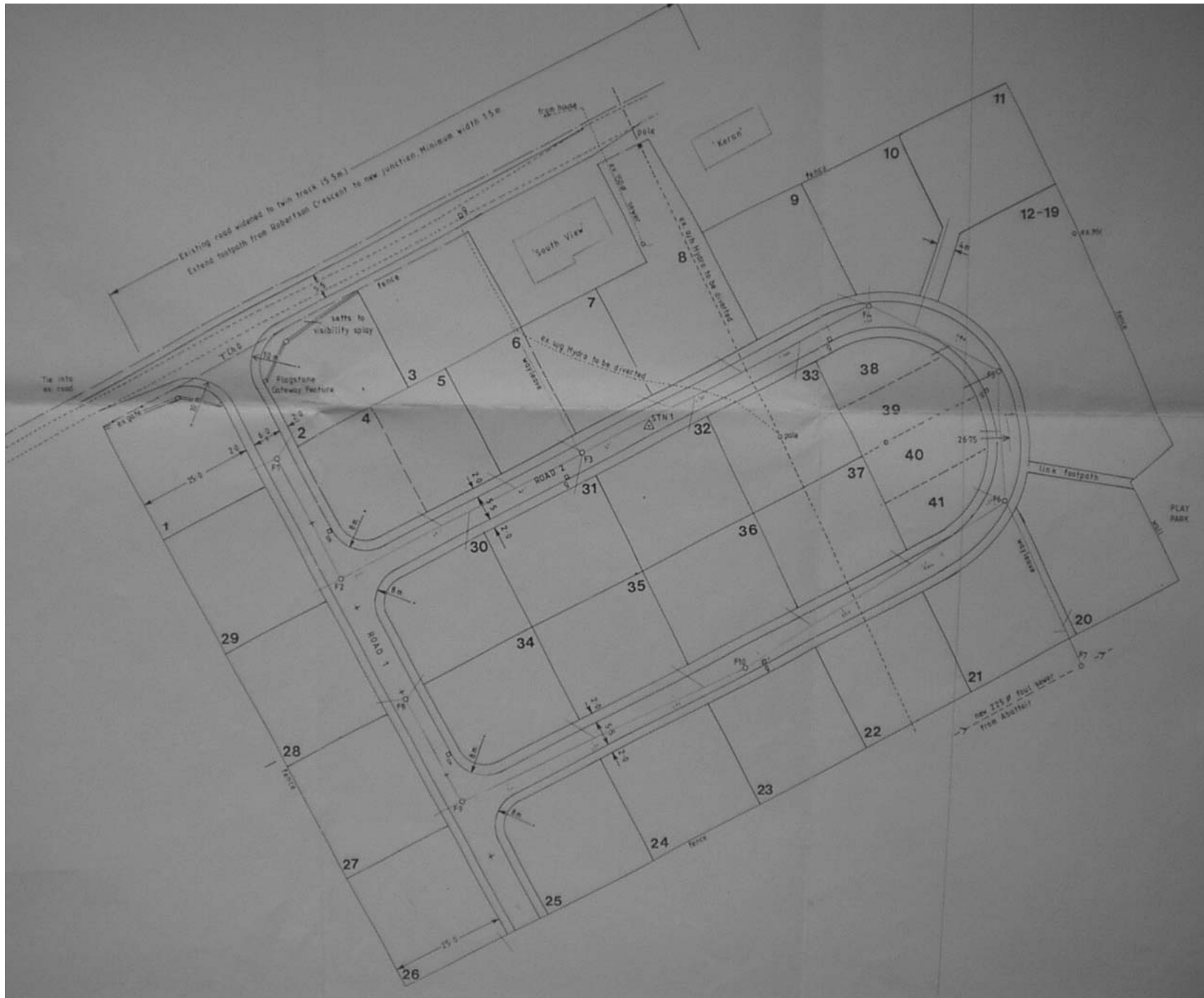
J W Sutherland Property Developer  
 4 The Shore  
 Wick  
 Caithness

Date: 22 February 2008

SUPPLIED BY THE HIGHLAND COUNCIL



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J. W. Sutherland  
Property Developments  
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Wick,  
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KW14 4JW

01955 605472

Mr Iain Ewart  
Highland Council  
Planning Dept.  
Market Square  
Wick

25<sup>th</sup> January 2008

Dear Sir,

**Proposed Housing Development  
Keiss**

Your ref: IE/SHS 07/00072/FULCA

I refer to your letter of 9<sup>th</sup> January 2008 regarding the above Application and our subsequent discussions.

The landscaping mentioned in the minutes would require 2 building plots to be sacrificed. I believe this to be unreasonable and would make the development less financially viable as a whole.

I would like to offer the enclosed drawing which details my response to the Committee's requirements regarding a Section 75 Agreement.

I would like to retain the option of providing affordable housing in my development. Namely, a semi detached pair of houses sited in Plots 7 & 8.

This house block would be of the size indicated and positioned in such a way to meet your Planning Guidelines regarding the siting of individual houses in relation to neighbouring properties.

The proposed houses would also be restricted to single story construction. With the adjacent property 'Southview' occupying an elevated position on a sloping site, I believe disruption to the view would be minimal.  
Sited to the south end of the plot and with parking provision to each side, I am of the opinion that this would be a reasonable and cost effective solution.

Furthermore, if the owners of 'Southview' feel that their access from the Public Road is in anyway compromised by the Development I am willing to offer some ground immediately to the East of the property as a means of improving this. I would also be willing to accept the cost of diverting the existing sewer in this area.

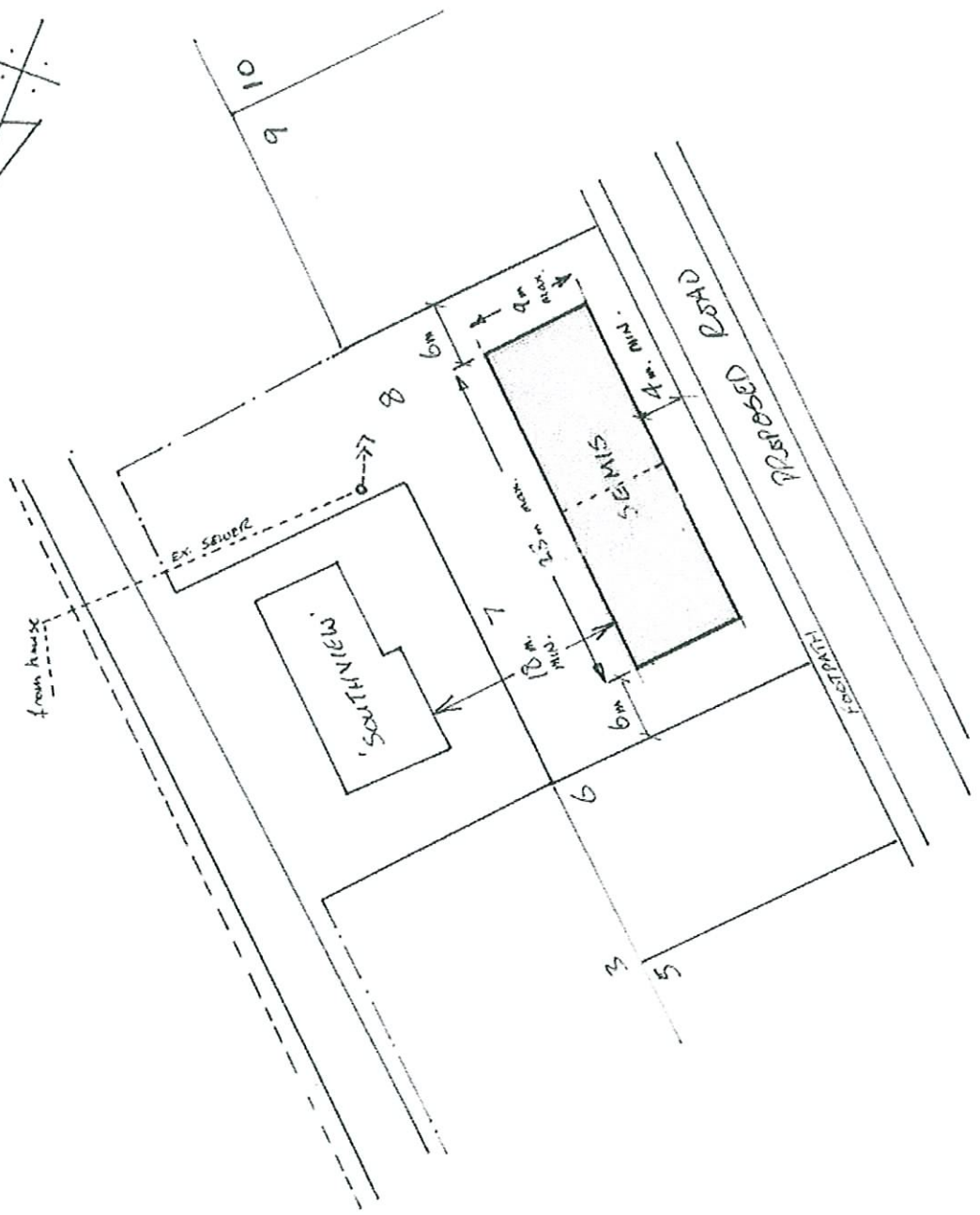
I trust the above meets with the approval of the Committee and the residents.

Please contact me if you wish to discuss further any of the above.



KEISS HOUSING DEVELOPMENT

JWS 25<sup>th</sup> JAN. '08



RE-CIRCULATED

THE HIGHLAND COUNCIL

CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING  
APPLICATIONS AND REVIEW COMMITTEE – 20 November 2007

Agenda Item	3.1
Report No	33/07

**07/00072/FULCA: formation of roads and site services and the change of use of agricultural land to create a nominal 41 plot housing development on land to the north-west of the village of Keiss, Caithness.**

**Report by Area Planning and Building Standards Manager**

**SUMMARY**

Application is made to form a housing site of nominally 41 plots on land adjoining and to the north-west of the village of Keiss. Most of the site lies within the development settlement boundary where there is a presumption in favour of appropriate housing development. Part of the site lies outwith the boundary where there is a presumption in favour of housing development subject to spacing criteria. The settlement boundary defined in the Local Plan seems somewhat arbitrary, cutting off two sections of one field and, if implemented, these two remaining areas would be of little productive use. The application seeks to develop the whole field which seems a more reasonable and practical proposition. However, as the development as proposed is not entirely in accordance with the Local Plan, the application has been advertised as being a Departure from the Development Plan and six letters of objection have been received. That being the case the objectors have been asked if they wish to appear at a Hearing at the Planning Committee and two have replied saying they do. Consequently **the Hearings Procedure will require to be followed prior to the determination of this application.**

None of the consultees has raised insurmountable concerns and I do not consider the grounds of objection merit refusal of this application. On balance, the proposal is logical and practical and is recommended for approval.

**The recommendation is to GRANT planning permission.**

Ward Number 4 – Landward Caithness

Applicant: J. W. Sutherland, Property Developments, 4 The Shore, Wick, KW1 4JW



## 1. PROPOSAL

- 1.1 Application is made in detail to form roads, footpaths and site services to facilitate the creation of a nominal 41 unit housing development on land adjoining the north west of the existing built up area of Keiss. The site is on a gently south sloping agricultural field. Access thereto is via a short section of public road, the U104 from the A99. Widening and improvements to the U104 form part of this application. The applicant has accepted that 25% of the residential units to be built will have to be affordable houses.

## 2. PLANNING HISTORY

- 2.1 None.

## 3. PUBLIC PARTICIPATION

- 3.1 Six letters of objection have been received from local residents, the grounds of which can be summarised as follows:
- a) Keiss is a small rural village and should remain so.
  - b) Increased traffic.
  - c) The school is at its limit for pupils.
  - d) A retained fire service would be needed.
  - e) There are insufficient Police to police the area.
  - f) The ambulance service is stretched to the limit.
  - g) There is next to no public transport.
  - h) The proposal will result in extra noise and drunks rolling out of the one and only pub late at night.
  - i) The proposal is too dense and will compromise the feeling of space which is one of the attractions of holidaying in and visiting a place like Keiss.
  - j) Loss of daylight, sunlight, outlook and privacy in existing adjacent houses.
  - k) Some of the proposed houses will be outwith the defined village boundary.
  - l) There is insufficient demand for these houses in the area.
  - m) The proposal will create drainage problems.

## 4. CONSULTATIONS

- 4.1 **Area Roads and Community Works Manager:** No objections subject to conditions.
- 4.2 **Scottish Environment Protection Agency:** No objection subject to conditions.
- 4.3 **Scottish Water:** No objections although the developer will require to make separate and independent arrangements with them to satisfy their requirements at the developer's expense.
- 4.4 **SSE Power Distribution:** No objections although the developer will have to divert or underground existing power lines which cross the site at his expense.
- 4.5 **Housing Services:** 25% of the houses should be affordable houses.

4.6 **Archaeology:** No objections provided a programme of archaeological investigation of the site is carried out prior to the commencement of the development.

## 5. POLICY

5.1 The following policies are relevant to the assessment of the proposals:

### **Highland Structure Plan (2001):**

- G2 Design for Sustainability
- H5 Affordable Housing

5.2 **Highland Council's Supplementary Development Plan Policy Guidance – Affordable Housing** – this states that all new housing developments in the private sector of 10 or more houses in areas of identified housing stress must contain 25% affordable houses.

### 5.3 **Caithness Local Plan**

The majority of the site is subject to General Policy H whereby the Council will seek to maintain and enhance the established character of residential areas and will encourage appropriate development. The remainder of the site is subject to Landward Policy 6(j) whereby the Council will favour housing development subject to there being a spacing of 150m between houses.

5.4 The proposal also requires to be assessed against relevant Scottish Planning Policies (SPP); National Planning Policy Guidelines (NPPG); and Planning Advice Notes (PAN). In this instance, in particular,

- SPP1 – The Planning System
- SPP3 – Planning for Housing

## 6. PLANNING APPRAISAL

6.1 **Determining issues** – 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.

6.2 The proposal requires to be assessed against the appropriate policies of the Development Plan, supplementary guidance and National Planning Policy and Guidelines as referred to in the Policy Section. In particular, the proposal requires detailed assessment of the following fundamental issues:

- whether the principle of development is appropriate in terms of policy
- whether the layout of development is appropriate
- the impact on the amenity of the area and residents
- other material issues raised by the objectors

- 6.3 The application site is split by policies in the Local Plan, the larger part of it falling within the Village envelope where housing development is appropriate and the remainder being subject to a policy which favours housing but only with a spacing requirement of 150m between houses. The policy boundary, however, seems somewhat arbitrary as it cuts off two 'slivers' of one field and if that were to happen the two resultant 'slivers' would have little productive use. Developing the whole field would appear to be a more rational and practical development option and that is what is proposed. However, strictly speaking, that means that part of this proposal is contrary to the Development Plan and as objections have been submitted by the public, and they have requested a Hearing as they are entitled to under the Council's Policy, then a Hearing will require to take place prior to the application being determined.
- 6.4 The layout of the proposed site is fairly standard with an access road into the site being taken from the public road and thereafter a loop road being created inside the site with standard sized plots being created both outside and inside the loop. I have indicated that this is a nominal 41 unit development. I say nominal because from experience elsewhere in Caithness the actual number of houses tends to change dependant on end user (that is, customer) requirements – for example, four envisaged detached plots could become six semi-detached houses. Furthermore, the requirements of the Housing Association involved in the 25% affordable provision is not yet known.
- 6.5 None of the consultees has raised matters which can not be satisfied and the conditions suggested below in the Recommendation should ensure that the requirements of consultees are addressed.
- 6.6 With regard to the grounds of objection summarised in paragraph 3.1 above I would respond to each in turn as follows:
- a) Even if this development proceeds to completion Keiss will still be a small rural village. Furthermore the Structure Plan recognises a need to halt rural depopulation and the need to sustain population to support local service provisions.
  - b) As part of this proposal significant improvements to the adjacent public road are proposed and footpath provisions greatly enhanced. The Area Roads and Community Works Manager is satisfied that traffic and access issues will be satisfactory.
  - c) I am advised by the Education Manager that the capacity of Keiss Primary School is 71. In 1999 the school had 58 pupils. In 2005/06 it had 41 pupils and the latest forecast is that if there is no change within the catchment it will fall to just 28 pupils by 2011.
  - d-h) These are the objectors' perceptions and assertions. The issues raised will be addressed by the relevant agencies responsible for them.
  - i) The proposed density of the housing is fairly low and not out of keeping with the rest of Keiss.

- j) Daylight, sunlight and privacy will not be unduly affected. It is assumed that 'outlook' refers to the loss of view. This is not a material planning consideration as there is no right to a view over other people's land.
- k) That is indeed correct and it is for Committee to decide whether they should be given permission or not.
- l) That is for the market to decide.
- m) Extensive attention has been given to drainage issues in the formulation and examination of these proposals and the Scottish Environment Protection Agency are satisfied with the SuDS scheme proposed.

## **7. CONCLUSION**

- 7.1 None of the issues raised by the objectors in themselves merits refusal of the application and the consultees' requirements can be satisfied by imposing appropriate conditions.
- 7.2 Parts of the proposal, however, are, strictly speaking, contrary to the Development Plan and it is for the Committee to decide if a departure to the plan is justified in this instance.

## **RECOMMENDATION**

Grant planning permission subject to the following conditions:

1. That all roads and footpaths shall be constructed to the adoptive standards of the Highland Council as Roads Authority and no buildings shall be constructed until such time as Roads Construction Consent has been granted for the site access roads.

Reason: In the interest of road safety and for the avoidance of doubt.

2. That no dwellinghouse on the site shall be occupied until the road thereto has been constructed to at least base course level.

Reason: In the interests of residential amenity.

3. That the use of all garages shall be restricted to private use incidental to the enjoyment of the dwellinghouse on the site and no commercial activity shall be carried out in or from any garage within the development.

Reason: To protect the natural interests of the site and for the avoidance of doubt.

4. That all private driveways within the site
  - a) shall incorporate visibility splays of  $x=2.5$  metres by  $Y=70$  metres in both directions and shall thereafter be maintained free of any obstruction above adjacent carriageway levels; and
  - b) shall have a minimum width of 3.3 metres, shall be hard surfaced 6 metres back from the rear of the footway, and shall incorporate drop and transitional kerbing.

Reason: In the interests of road safety.

5. That before the development hereby permitted starts a scheme of landscaping including boundary treatment shall be submitted to and approved in writing by the Planning Authority and shall include:
  - a) details of any earth moulding and hard landscaping, grass seeding and turfing;
  - b) a scheme of tree and shrub planting incorporating details of location, number variety and size of trees and shrubs to be planted, not only within the public areas but also within garden areas; and
  - c) details of the phasing of these works.

Reason: In the interest of amenity.

6. That before the development hereby permitted starts, full details of the design and location of all fences and walls to be erected shall be submitted to and approved in writing by the Planning Authority.

Reason: In the interests of amenity and safety.

7. That prior to the commencement of development details of the lighting system design for the development site shall be submitted to and require the approval in writing of the Planning Authority in consultation with the Roads Authority in order to limit urban sky glow and light spillage onto surrounding areas.

Reason: In the interests of amenity.

8. That before the fifth dwellinghouse on the site is occupied the existing public road U104 shall be widened to 5.5m as indicated in approved drawing number 100 and the footpath from Robertson Crescent to the new junction shall be formed to be a minimum of 1.5m in width, all at the developer's expense and all to the adoptive standards of the Highland Council as Roads Authority.

Reason: In the interests of traffic and pedestrian safety.

9. That before construction works commence on the site the existing 11000 volt overhead line running through the site shall either be deviated or undergrounded to the standards required and with the consent of SSE Power Distribution Limited, all at the developer's expense, and the developer shall ascertain whether an existing underground low voltage cable within the site also requires deviation and shall thereafter implement such deviation if so required.

Reason: In the interests of amenity and public safety.

10. Prior to the commencement of development, detailed proposals for the disposal of surface water from the site, which shall require to follow the principles of Sustainable Drainage Systems (SuDS), shall be submitted to, and require the approval in writing, of the Planning Authority in consultation with the Roads Authority and the Scottish Environment Protection Agency. All proposals thereby approved shall be implemented prior to occupation of the houses.

Reason: In order to ensure that the site is properly drained and does not adversely affect adjacent properties.

11. That all foul drainage from the development shall be connected to, and served by, the public sewer, and no development shall take place at the site until the developer exhibits to the Highland Council as Planning Authority written confirmation from Scottish Water that this development will be connected to the public sewer.

Reason: In order to ensure that foul sewage from the site is properly disposed of and in order to satisfy the requirements of Scottish Environment Protection Agency.

12. That should this development necessitate the existing sewage network to be upgraded these costs shall be met by the developer.

Reason: In order to clarify responsibility.

13. That the development hereby approved shall incorporate a minimum number of 25% affordable units. No development shall commence on site until the developer has entered into a design and build contract with a social housing provider or equivalent to deliver the affordable housing units within Communities Scotland benchmark costs and built to Communities Scotland Housing for variable needs standards, unless otherwise first agreed in writing by the Planning Authority.

Reason: In order to ensure an adequate supply of affordable housing, in compliance with Council Policy.

14. That prior to the commencement of development, a programme of archaeological work for the preservation and recoding of any archaeological features affected by the proposed development, including a timetable for investigation, all in accordance with the attached specification, shall be submitted to and require the approval in writing of the Planning Authority.

Reason: In order to preserve the archaeological interest of the site.

15. That with the exception of plots 38 to 41 shown on approved drawing number 100, the rear elevation of all of the houses shall be a minimum of 9 metres from the back boundary of the site on which it sits.

Reason: In the interests of residential amenity.

16. That the houses to be built on plots 7 to 11 shown on approved drawing number 100 shall not exceed one storey in height.

Reason: In the interests of the amenity of existing adjacent residents.

17. That notwithstanding the provisions of Class 7 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, or any Order revoking and re-enacting that Order, with or without modifications, the express approval of the Planning Authority shall be required for any gate, fence, wall or other means of enclosure which extends beyond the building line of any dwellinghouse to be erected, on any side of the house where its curtilage is bounded by a road.

Reason: In the interests of residential amenity.

Signature:

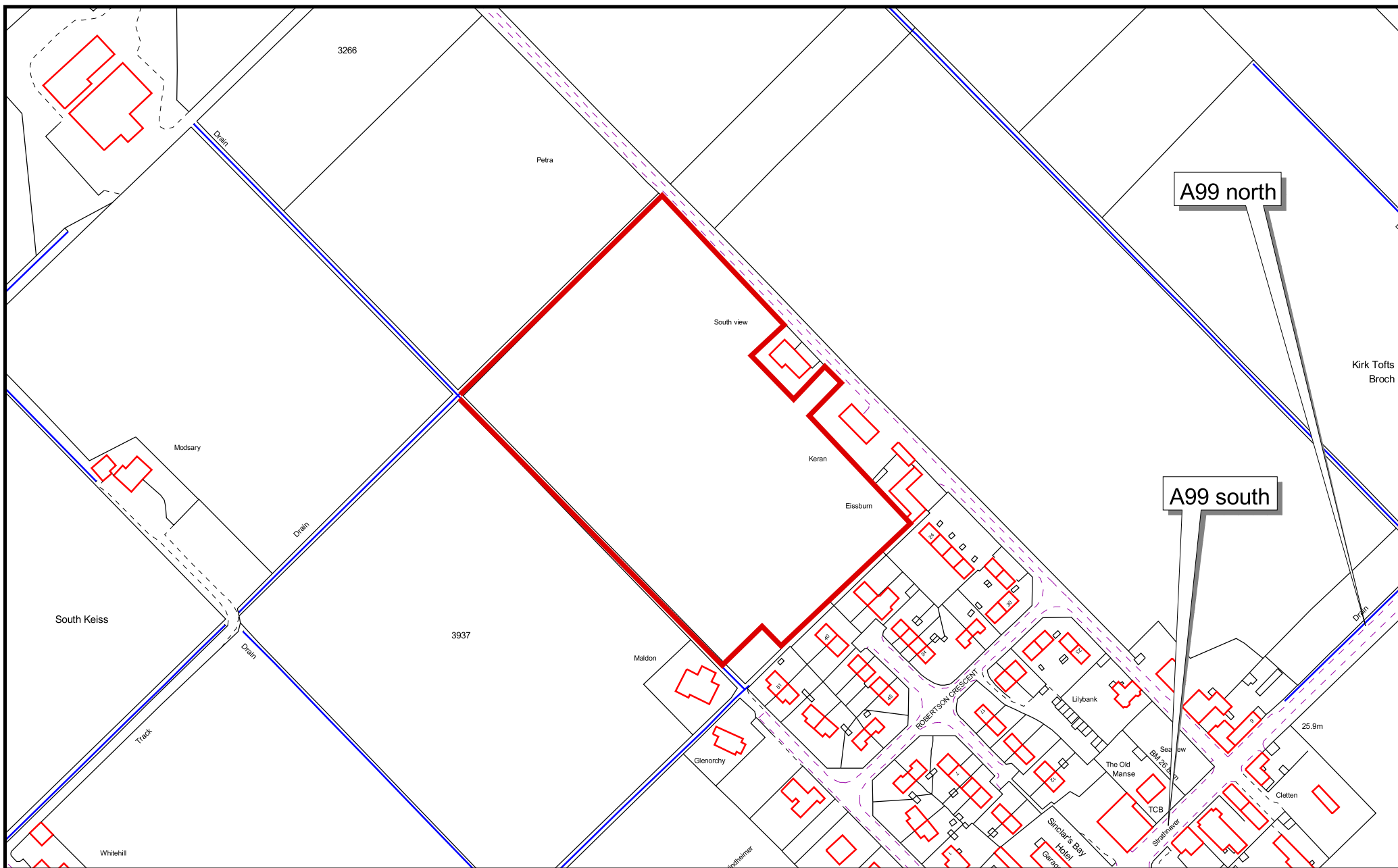
Designation: Area Planning & Building Standards Manager

Author: Iain Ewart, Team Leader (01955 607757)

Background Papers: As referred to in the report above.

Date: 12 November 2007





**07/0072/FULCA - Formation of roads and site services for 41 sites for housing development at land to north of Keiss village**

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15 August 2007