

Directorate for Planning and Environmental Appeals

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Mr K Gibson
Highland Council
Sent By E-mail



Our ref: PPA-270-2105

11 November 2014

Dear Mr Gibson

**PLANNING PERMISSION APPEAL: LAND 145M NORTH OF SMIDDY BAR
LEWISTON DRUMNADROCHIT**

I attach for your information a copy of a notice of intention issued by the reporter. This indicates that planning permission will be granted provided an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 is reached between the planning authority and the appellant. The planning permission will not be issued until that agreement is reached and registered.

I trust this information is clear. Please do not hesitate to contact me if you require any further information.

Yours sincerely

Jane Robertson

JANE ROBERTSON
Case Officer
Directorate for Planning and Environmental Appeals



Directorate for Planning and Environmental Appeals

Appeal: Notice of Intention

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Decision by Richard Hickman, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2105
- Site address: Lewiston, Drumnadrochit
- Appeal by Loch Ness Homes Ltd against the failure of the Highland Council to determine the application
- Application for planning permission in principle ref 13/03694/PIP dated 26 September 2013
- The development proposed: Mixed use development comprising (in summary) housing, mixed commercial uses, health centre, public open space and associated infrastructure
- Application drawings : 3468/01-01 and 01-02 Rev A
- Date of site visit by Reporter: 18 June 2014

Date of notice: 11 November 2014

Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission in principle subject to the 42 conditions set out in the annexe below, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matter described in paragraph 50.

Reasoning

1. The appeal site comprises a large rectilinear field located between Drumnadrochit and Lewiston on the north side of the A82 trunk road, together with a smaller area of agricultural land on the opposite side of the road, amounting in all to about 7.5ha.
2. The appeal is against the council's failure to determine the application. The appeal is submitted on the basis that although the development of these two sites would not be in accordance with the provisions of the existing adopted local plan, there are sufficient material considerations to justify a departure from the plan. The main elements of this justification are that there is a shortage of effective development land within the existing settlements; that important local businesses, including the Scotmid store and a large bakery operation, are on constrained sites so that relocation would be of benefit both to these businesses and to the community; that the council has proposed the development of both



sites in the new local development plan that is in course of preparation, on the basis that they offer the most appropriate and effective locations to accommodate necessary new development; that approval of the development should not be deferred on grounds of prematurity as there is an urgent need to provide additional land, approval would not prejudice the outcome of the work on the new plan, and that important grant assistance would be lost if there is further delay; and that the two objections to the proposals, and corresponding representations relating to the new local development plan, can be considered but do not justify refusal or deferral. It is acknowledged that (at the time of the lodging of the appeal) the issue of acceptable access to the trunk road was the subject of ongoing discussion between the applicant, the Highland Council, and Transport Scotland.

3. Section 25 of the planning act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. It is clear that the proposal would involve a departure from the approved development plan (the Inverness Local Plan adopted in 2006) which identifies the appeal site as an amenity area where there is a presumption against development that would not maintain the open character of the land. Thus the determining issue in this appeal is whether the reasons put forward in support of the appeal (briefly summarised above) are sufficient to justify this departure, taking account of the local objections and representations, the ongoing work on the preparation and adoption of the new local development plan, and the matter of satisfactory access to and from the trunk road.

4. The council has supplied an extensive statement as part of the appeal proceedings, in the form of a committee report which has been adopted by the committee. This takes account of the consultations and representations that have been submitted in response to the planning application, and the extensive documentation put forward in support of the proposals, including studies of design and access matters, drainage, and landscaping.

5. The general thrust of the committee report is that the proposals would accommodate various types of development for which additional land is needed; that (on the basis of the candidate site assessments for the new local development plan) the appeal sites would be the most appropriate and effective for the expansion of the settlements; and that the landscape proposals for the sites would allow the new development to integrate effectively with existing development without undue impact on the amenity of existing uses and occupiers. The new local development plan recognises the need for additional land for development in Drumnadrochit/Lewiston, and allocates the appeal land for development (proposals DR6 and DR7). Thus the position adopted by the council, notably in paragraphs 9.2- 9.4 of the committee report, is that the proposed development is considered to be generally desirable and acceptable in principle, subject to various requirements and reservations, including the matter of access to the trunk road.

6. There are two representations objecting to the proposed development, primarily on grounds of the loss of the open land that separates Lewiston and Drumnadrochit. Objectors are concerned about the loss of the open outlook across the fields, and the resulting adverse effect on visual amenity and the landscape of the area. In addition, it is contended that development here would lead to a loss of the distinctiveness and small scale character of the two settlements. Protection of this character, and the land in

question, forms an important component of the current adopted Inverness Local Plan. The developer has not justified this departure from the local plan, and from the relevant provisions of the Highland-Wide Local Development Plan.

7. I have considered these representations opposing the development, the submissions put forward in support of the proposal, the council's committee report, and I have viewed the site and surroundings. I can understand why local residents wish to maintain the open character of the site. However I agree with the council that, as additional land is required for development in this locality, the appeal site has much to commend it. It already has development on two sides and part of a third side, and forms part of an enclave of undeveloped land almost completely surrounded by corridors of existing development. There is potentially good access from the main road (the A82 trunk road) passing through the settlements (see below). The indicative masterplan layout illustrates how the site could be developed to accommodate a variety of uses, while creating significant areas of green space to separate the new development from some of the adjoining occupiers and to form footpath connections to adjacent areas. Development here would be well related to the existing settlement and in a very accessible and sustainable location, in accordance with Scottish Planning Policy to support sustainable development.

8. I agree that the character of the appeal site would change from agricultural to urban, and that the development of this land would partially consolidate the fragmented pattern of development in Lewiston and Drumnadrochit. However I agree with the council that there would not be a significant adverse effect on the wider landscape setting and external views of these settlements, other than from elevated positions on the nearby hills. I also note that there is no objection to the proposal from Scottish Natural Heritage. Given that the council has recognised the need for additional development land in this area to accommodate housing and to relocate some existing local businesses to more appropriate sites, I agree that it would be in the public interest to accept this change in the local landscape character of the site. For these reasons, I am satisfied that the local landscape impact would be acceptable, and that any departure from the relevant terms of the Highland-Wide Local Development Plan is justified.

9. Development of the land for the purposes proposed in this planning application is proposed in the new local development plan that is in preparation. Representations have been lodged opposing these proposed allocations, based on similar reasons to the objections to the planning application. Objectors contend that approval of the present application would prejudice consideration of these representations as part of the local development plan process.

10. With regard to this issue of prematurity, I note that the council's view that the land should be allocated for these purposes is the result of a lengthy plan preparation process, taking account of many factors. The decision to allocate these sites was based on their effectiveness in delivery when compared with alternative expansion areas in the village. Paragraph 34 of Scottish Planning Policy (2014) advises that prejudice to an emerging plan may arise where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant planning permission would undermine the plan making

process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan.

11. In the present case, the proposal at appeal, affecting one settlement out of many in the area of the plan, cannot be regarded as central to the emerging plan. I accept that the council has good grounds for the selection of this site, in comparison with other options in the area, as the preferred location for these new land allocations to serve the community. I note the reasons put forward in support of early approval (see paragraph 3 above). I also note that representations relating to the new plan are presently under consideration by Scottish Ministers, and that the council expects the local development plan process to be completed some time in 2015, possibly reporting back to the planning committee after the end of March 2015. In these circumstances, I conclude that the submissions contained in the two representations opposing the planning application, and also opposing the corresponding allocations in the emerging plan, do not justify withholding a decision on the planning application on the grounds of prematurity and prejudice to the emerging plan, which would delay the decision for several months. To reach the opposite view, I would need to be satisfied that either additional land is probably not required, or that there is a good prospect that other sites in the locale would be satisfactory and effective for the purpose. No such submission is before me.

12. Turning to the issue of access to the trunk road, the indicative plan shows the new development on both sides of the trunk road served by a new roundabout giving access to both parts of the site. The council supports this concept, as access to the appeal site (and the two corresponding proposed allocations in the emerging local development plan) from the existing local road network is considered to be impracticable. More recently, the council has granted a separate planning permission for the development of the section of the appeal site to the south of the trunk road as a health centre. This to be served by a simple priority (T) junction, as advised by Transport Scotland.

13. Paragraph 278 of Scottish Planning Policy (2014) states that new junctions on trunk roads are not normally acceptable. Exceptions may be accepted where the planning authority considers that significant economic growth or regeneration benefits can be demonstrated. The new health centre was accepted on this basis.

14. The council understands that Transport Scotland's concerns about an additional junction to serve the land on the north side of the trunk road could be overcome if a case can be made demonstrating that further traffic management measures will be funded by the council/developer, and that the uses proposed are essential to the social and economic wellbeing of the community and will deliver employment and enhanced community facilities.

15. The council is satisfied that this is the case, and considers the position can be adequately safeguarded by a planning condition (number 30 in the list of suggested conditions in the committee report) requiring the provision of a roundabout designed to meet the appropriate trunk road standards. This would also serve the new health centre, replacing the T junction. The council also proposes (in suggested condition 34) that the 30mph limit should be relocated eastwards to beyond (ie to the east of) the new roundabout, or further east beyond the settlement of Lewiston.

16. When consulted about the planning application, Transport Scotland objected to the development due to concerns about the proposed new access points on both sides of the trunk road. However further information supplied during the appeal proceedings about the planning benefits of the proposal, and the support given to it by the planning authority, has allowed Transport Scotland to conclude that the proposal constitutes an acceptable departure from the national policy to safeguard the safety and effectiveness of the trunk road network (see paragraph 13 above). Transport Scotland has ongoing concerns about the detailed design of the development insofar as it would affect the trunk road, and the appropriate wording of conditions to ensure that trunk road interests are safeguarded. These are discussed in paragraphs 39-47 below.

17. Having considered these submissions, I am satisfied that there is a sound case for allowing a new access on the north side of the trunk road to serve the larger northern portion of the development, taking the form of a roundabout which would also serve the new health centre that has already been approved on the south side. I consider that the council has put forward good economic and social reasons to support the mixed uses on the appeal site, including the health centre, relocated and additional new businesses, and retail use, as well as additional housing. The new access would serve extensive new developments which cannot be adequately served by the existing local roads that already meet the trunk road.

18. I also note that this part of the trunk road, through Lewiston and Drumnadrochit, is characterised by discontinuous frontage development, numerous side roads, extensive signage, and use for local trips by vehicle, bicycle and on foot, including turning and crossing by all modes. Consequently it is a busy and potentially dangerous area where high speeds are not possible. A 30mph speed limit applies in Drumnadrochit but not in Lewiston. The new roundabout would ensure that traffic approaching from the south/east is travelling at a reasonable speed as it enters the main part of the settlement.

19. Even if a roundabout is not strictly necessary on traffic flow/capacity grounds, I consider that it would be preferable to the use of two staggered T junctions which would present an additional hazard unless right turn lanes are provided (which does not appear to be the case in the approved layout for the health centre) and which would be likely to cause delays or risky judgements for drivers emerging onto the trunk road when traffic flows on the main road are high (eg when there is considerable tourist traffic in summer). I am therefore satisfied that the new roundabout access is both justified and necessary, and that it would not unduly undermine the effective performance of the trunk road compared with the present situation.

20. Drawing these elements together, I find that the proposal would be a departure from the adopted local plan, but that approval of this departure is justified by the material considerations that have been put forward, and which are supported by the council, including the need for more development land in the area, the selection of this as the preferred site for development in the emerging local development plan, the satisfactory relationship between the masterplan proposals and adjoining uses, and the potential for an appropriate junction with the trunk road. I am also satisfied that approval in principle would

not prejudice a central matter in the emerging local development plan, so that the application cannot be regarded as premature.

21. The council has put forward an extensive set of conditions to regulate the development in a satisfactory manner and to ensure that it achieves the intended objectives. Prior to the committee meeting, one of the local members of the committee proposed 3 additional conditions, which were accepted by the committee. In response, the appellant and Transport Scotland have provided detailed critiques of some of the conditions, seeking the rewording of some and the deletion of others.

22. I have reviewed these various suggested conditions, the reasons for them, and the comments on them that have been supplied on behalf of the appellant and Transport Scotland, all in the context of the government guidance on planning conditions set out in circular 4/1998. I reach the following conclusions with regard to the suggested conditions.

23. The appellant notes that there is a substantial number of proposed conditions, and suggests that the number could be reduced by consolidation. I agree that there are numerous conditions, but the proposed mixed use development has complex implications. I would not wish to risk jeopardising the council's intentions by consolidating what is proposed, which could lead to less clarity or unintended omissions.

24. In relation to specific points about the conditions raised on behalf of the appellant, it is suggested that condition 4, which lists a palette of design details in order to respect the vernacular building traditions of the area, is too prescriptive. However these details reflect the indicative information contained in the documentation lodged in support of the application. I consider that it is helpful for the council to give notice of the architectural character that they wish to see on the site, as the starting point for discussions and detailed design work.

25. There is concern that condition 5, which requires no more than 10 houses to be erected before work commences on the commercial unit(s) on the site, will affect the financial viability of the whole scheme, as a large amount of front end funding will be required. A more viable number is not suggested. The first phase is also likely to include affordable housing, which is to be subsidised by the rest of the development.

26. I can understand the council's concern to ensure that the important commercial elements of the proposal are brought forward timeously, and that this does not become a predominantly residential development. However I note that the total number of housing units likely to be provided is in excess of 60, of which 10 is quite a small proportion. I accept that there will be considerable front end costs in developing the site in a satisfactory manner. Furthermore I consider it important to facilitate what appears to be a desirable development, and not to stifle it by overly restrictive planning requirements. On balance, I consider that these various objectives would be achieved by raising the limit on the number of housing units in condition 5 to 20, to include the affordable housing element of the scheme. This would ensure that no more than about one third of the units can be built prior to work commencing on the commercial elements.

27. There is concern that condition 6, which would restrict the use of the “mixed commercial uses” element of the proposal to retail and related office uses, would preclude the relocation of the bakery business. The council considers that a planning application to relocate the bakery at this site would be considered on its merits, taking account of the potential impact on local amenity.

28. I agree with the council that some regulation of the uses permitted as part of the “mixed commercial uses” element of the development is necessary, as this description could include a wide variety of activities. It is intended to accommodate retail uses at the site, and the proposed condition reflects this. Whether the bakery constitutes a primarily retail use, and if not, whether it could be satisfactorily accommodated at the site, are matters for detailed assessment in due course, on the basis of the characteristics of the operation. It may be that some revision of the site layout at the detailed planning stage might facilitate the accommodation of the bakery so that the potential effect on the amenity of houses would be reduced to an acceptable level.

29. In relation to condition 14, which prescribes a minimum separation of 20m between any proposed development and existing trees, it is suggested that this should apply to buildings rather than development. The council is content to accept this alteration. I note that the protection of tree rooting systems is safeguarded by other conditions relating to works such as roadways, parking areas, and underground services that could affect rooting systems.

30. Condition 20, which relates to the landscape scheme, requires the scheme to be implemented at an early stage of the development. The appellant has suggested that some landscape works could await the development of that part of the site, whereas the council would like to see the work carried out early on to provide an appropriate landscape setting for the various elements of the development. I agree with the council that early implementation of the landscape works is desirable, both to provide a good landscape context for the development from an early stage and to allow planting to become established as soon as possible. There can be some adjustment of these details, if appropriate, once the details of layout and phasing become clearer. The same considerations apply to the requirements of condition 21.

31. Proposed condition 32 seeks the installation of bus stops and bus shelters on each side of the A82 before any construction of houses commences on site, and subject to approval by Transport Scotland. Transport Scotland has concerns about the wording of this condition, while the appellant considers that the provision of the bus stops and shelters should not be required until the occupation of the first house. The council is content with the latter option.

32. I agree that early provision of these facilities is desirable, both for the benefit of residents and to encourage the use of bus travel. However I am concerned that compliance with the condition depends on approval by a third party, which fails one of the tests set out in the Scottish Government’s guidance on the use of planning conditions (see paragraph 37 of circular 4/1998). The guidance suggests as an alternative the use of a suspensive condition. I also consider that it would be undesirable for the progress of the

housing element of the development to be held up if the interested parties are unable to reach agreement on the location or design of the bus facilities, a matter over which the developer may have little influence. I therefore propose that the wording of the condition is adjusted to read as a suspensive condition, tied to the occupation of the tenth house. While it is clearly more desirable for the bus facilities to be in place as soon as there are local residents who need them, I consider that this would strike an appropriate balance between ensuring that these facilities are provided while not holding up progress on the development.

33. The appellant has criticised the wording of condition 35 for the inclusion of the adjective “substantial” before “completion”, on the grounds of lack of precision. The council accepts that it would be preferable to omit this adjective. I agree that removal of this word would improve the precision of the condition, thus reducing the risk of future disagreements.

34. The appellant has concerns about the wording of condition 38, relating to the location of any works compound required during construction. The council accepts the thrust of this concern, and has proposed alternative wording. I agree that this amendment would be desirable, in the interests of flexibility.

35. The council has put forward 4 further suggestions relating to conditions, additional to those proposed in the report to the planning committee. The first of these is that there should be a requirement for a community liaison group. The appellant has not taken issue with this suggestion. Given the complexity of the proposal, and the need for its construction work to be carried out in a manner that minimises the problems for the community, I agree that a liaison group would provide a useful forum for contact between the developer, the community, and the planning authority. This would be an additional condition using the wording and reason put forward in the e mail from the council to the DPEA dated 20 August 2014.

36. The second suggested additional condition relates to the provision of paths outwith the site to link to the development. I agree that the provision of these external footpath links is essential to provide good connectivity and integration between the existing and new parts of the settlement. The indicative masterplan layout shows 3 such links, two of which are directly into existing public amenity space while the third would pass through an area of dense woodland adjoining the site. I do not think it is necessary or practicable to seek to make the developer responsible for the provision of these external links, especially in the case of the woodland where issues of land ownership and loss of trees may arise. The completion of footpath links outwith the site boundary is a matter for detailed discussion by interested parties, once the preferred final layout is under consideration.

37. The third suggested condition requires the design of the road layout in the development to incorporate a 20mph speed restriction. This is already covered in proposed condition 33. In any event, the council (as highway authority for the internal roads) is responsible for determining the appropriate speed limit.

38. It is also suggested that condition 19 (reserving land for the health centre on the south side of the main road) could be omitted as the centre now has its own planning

permission. Unless development of the health centre has actually commenced, I consider this safeguarding restriction to be desirable, as there will potentially be two overlapping planning permissions.

39. Turning to the concerns of Transport Scotland about the wording of the conditions having a potential bearing on trunk road interests, these relate to proposed conditions 7, 21, 27, 30-32, 34, 37, and 39. For most of these, Transport Scotland wishes the condition to refer to the need for consultation with Transport Scotland, and for the reasons for the imposition of the conditions to refer to the safeguarding of traffic and road safety. I agree in principle that these suggestions are desirable. However I consider the proposed change to condition 27 is unnecessary as the planning authority has control over the surface water drainage arrangements.

40. Perhaps the most important of these conditions is number 30, which relates to the provision of the new roundabout to give access to the northern and southern portions of the appeal site. As noted above, Transport Scotland has accepted the principle of the roundabout, but wishes the condition to require the design to be agreed with Transport Scotland, and the scheme to be installed before the occupation of any part of the development.

41. The wording of condition 30 already makes it clear that the design should meet the requirements of the trunk road authority, but I agree that it could be more explicit about the timing of the installation of the roundabout. This could be achieved by changing the second line of the condition to read : “..... is installed, designed to comply with”. Transport Scotland has also requested additional text regarding the design and funding of the new roundabout, which I agree is relevant and helpful (see below).

42. Similarly, in relation to condition 31(which requires the provision of pedestrian crossings on the A82 to serve the development), I consider that the wording already makes it clear that the details of these arrangements will have to meet the requirements of Transport Scotland. Transport Scotland wishes the pedestrian facilities to be in place before the occupation of any part of the development. I agree that these road safety features are essential, but accept that the council’s proposed threshold of the completion of the first 10 houses or the first commercial unit, whichever is the sooner, strikes an appropriate balance between the needs of road safety and avoiding delays on progress with the development if timeous agreement cannot be reached on the details of the pedestrian crossings.

43. Condition 34 seeks to relocate the 30mph speed limit on the A82 to the east of the new roundabout. Transport Scotland does not support this relocation, and considers the condition to be unnecessary. I agree that the choice of appropriate speed limits is a matter for the responsible authority (Transport Scotland for the A82), in consultation with interested parties, and that this is not a matter that should be covered in the terms of the planning permission. The condition should be deleted.

44. I agree that proposed condition 37 (relating to the design of the street lighting) should make reference to avoiding driver dazzle, in consultation with Transport Scotland.

45. With regard to condition 39, which requires a Traffic Management Plan to be prepared for the construction operations, I agree that there should be specific reference to Transport Scotland, as suggested, as the trunk road is such an important factor in considering how the traffic implications of the construction phase should be managed. The words “in consultation with Transport Scotland” should be added to the first sentence.
46. Transport Scotland has requested that a comprehensive Travel Plan should be required by means of an additional planning condition. The council does not consider this to be necessary. I note that the development site is well related to the existing settlement; will have good footpath connections; and that convenient bus stops/shelters will be provided. In these circumstances, I conclude that this is a sufficiently sustainable site, and that a specific requirement for a travel plan is not necessary on this occasion.
47. Transport Scotland has asked for an approved barrier to be erected along the boundary of the site with the trunk road. Proposed condition 7 already requires a stone wall or dyke to be erected along the southwestern boundary of the site with the A82. In these circumstances, I consider that the need for any additional barrier should be a matter for further discussion between the trunk road authority, the planning authority, and the developer, but should not be included in the planning conditions.
48. Transport Scotland also requests the addition of a further footnote to advise the applicant of the need to take account of the requirements of the trunk road authority, including bus operations. Again, given the importance of the trunk road at this site, I agree that this additional advice would be desirable.
49. My overall conclusion is that it would be appropriate and desirable to approve this application in principle, and that the planning conditions proposed by the council and as modified as explained above, would form a proper basis for this grant of permission.
50. I note that paragraph 6.6 of the committee report states that at least 25% of the housing units in the development should be affordable, and that this should be secured by means of a section 75 agreement. The development plan makes provision for such a contribution. The appellant has not opposed this proposition in the appeal submissions. I therefore conclude that a planning obligation should be completed in order to achieve this objective. I will accordingly defer determination of this appeal for a period of 12 weeks to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997 or such other legal instrument as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 12 week period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

Richard Hickman

R M HICKMAN
Reporter

APPENDIX - PROPOSED CONDITIONS

1. No development shall commence within a phase, or relating to a phase, until all of the matters specified below, as they relate to or are relied upon by that phase, 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
- iv. details of all boundary enclosures to individual house plots and areas of open space and the boundary to the A82;
- v. details of access and parking arrangements;
- vi. details of the proposed water supply and drainage arrangements; and
- vii tree protection measures.

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

2. The size, orientation and location of the dwellinghouses as shown on the approved plans is indicative only and no development shall commence until these matters have been approved on application to the planning authority.

Reason: In order to enable the planning authority to consider this matter in detail prior to the commencement of development; in the interests of amenity.

3. No development shall commence until a Phasing Plan outlining details of the phasing of the development has been submitted to, and approved in writing by, the planning authority. Thereafter, development shall be undertaken in accordance with this approved Phasing Plan. For the avoidance of doubt, the timing and mechanism for the delivery of the commercial units shall be included within the Phasing Plan and thereafter completed in accordance with the approved phasing.

Reason : To ensure that build-out of the development is phased so as to avoid adverse impact on local services and infrastructure until required improvements have been put in place.

4. Any details pursuant to Condition 1 above, shall show housing development featuring the following elements:

- i. walls finished predominantly in a white/off-white wet-dash render/smooth coursed cement render/natural stone;
 - ii. a roof covering of natural slate or agreed equivalent;
 - iii. a maximum of 2 storeys in height;
 - iv. windows with a strong vertical emphasis;
 - v. a roof symmetrically pitched of not less than 35° and not greater than 45°;
- and
- vi. predominantly rectangular in shape with traditional gable ends.

Reason: In order to respect the vernacular building traditions of the area and integrate the proposal into its landscape setting; in the interests of visual amenity.

5. or the avoidance of doubt, no more than 20 houses, to include the affordable housing element, shall be erected before development commences on the delivery of the commercial unit(s), with completion of the unit(s) before development commences on Phase 2 of the development hereby granted planning permission.

Reason: To control the rate of development and to ensure timeous delivery of commercial facilities.

6. For the avoidance of doubt, the use of the commercial units shall be restricted to Class 1 and 2 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, unless planning permission is otherwise obtained.

Reason: In the interests of residential amenity.

7. For the avoidance of doubt a stone wall or dyke shall be erected and completed on the south-west boundary with the A82, in consultation with Transport Scotland, as agreed in terms of condition 1 prior to occupation of the first house in the first phase of development or occupation of the first commercial unit, whichever is the sooner.

Reason: In the interests of visual amenity and road safety.

8. The use of the commercial centre for which planning permission is hereby granted consent shall not be implemented until the car parking and service facilities have been laid out, demarcated and completed, and thereafter retained solely for that purpose. For the avoidance of doubt; no excavation shall take place within the defined root protection area of adjacent trees without the written consent of the planning authority.

Reason: In order to ensure that adequate parking facilities are provided and trees protected.

9. The use of the commercial centre for which planning permission is hereby granted consent shall not be implemented until full details of a covered and secure communal bicycle storage/racking system for bicycles have been submitted to, and approved in writing by the planning authority. Thereafter, the storage/racking system shall be installed in accordance with these approved details prior to the first occupation of the development hereby approved.

Reason: In order to ensure provision is made for cyclists.

10. Delivery by service vehicles for the commercial centre shall be restricted to between the hours of 0600 and 1200 midnight. For the avoidance of doubt, and prior to the commencement of development of the commercial centre, it must be demonstrated to the satisfaction of the planning authority that there will be no unacceptable noise nuisance associated with delivery vehicles for adjacent residents.

Reason: In the interests of residential amenity.

11. All building material, plant and equipment associated with the commercial centre and health centre shall be stored within the boundaries of the individual application sites throughout the construction period and outwith the root protection area of existing trees to the satisfaction of the planning authority.

Reason: To ensure that there are no obstructions to the public highway and to protect existing trees.

12. For the avoidance of doubt there shall be no roof plant or equipment located on the roof of the commercial centre or the health centre.

Reason: In the interests of visual amenity.

13. No development shall commence on either the commercial centre or health centre until a scheme for the storage of refuse and recycling within the application site has been submitted to, and approved in writing by the planning authority. The approved scheme shall thereafter be implemented prior to the first use of the development and thereafter maintained in perpetuity. The storage of refuse shall be incorporated into the design of the building and no external storage areas shall be formed.

Reason: To ensure that suitable provision is made for the storage of communal waste and recycling bins.

14. A minimum separation of 20 metres shall be maintained between existing trees and any proposed building.

Reason: In order to secure an appropriate distance between existing trees and any new development to avoid future conflict due to safety and nuisance concerns.

15. No development shall commence on site until a plan clearly showing the footprints of all development, along with any underground services due to be excavated in relation to existing trees, has been submitted to and agreed in writing by the planning authority.

Reason: To ensure the protection of retained trees during construction and thereafter.

16. With effect from the date of this permission, no trees adjacent to the site are to be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the planning authority.

Reason: To ensure the protection of retained trees during construction and thereafter.

17. No development shall commence on site until a Tree Protection Plan has been submitted to and subsequently approved in writing by the planning authority, in accordance with BS5837:2012 (Trees in Relation to Design, Demolition and Construction). The development shall thereafter proceed in accordance with the approved measures to protect trees.

Reason: To ensure the protection of retained trees during construction and thereafter.

18. The land identified on the indicative site layout plan for amenity housing shall be reserved for this use only.

Reason: In the interests of the provision of amenity housing.

19. The land identified on the indicative site layout plan for the provision of a health centre shall be reserved for this use only.

Reason: In order to secure an appropriate mix of uses within the development.

20. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by the planning authority. This shall be a phased landscaping scheme to accord with the approved phasing

of the development unless otherwise approved in writing by the planning authority. The area of parkland shall be formed within the first planting season following occupation of the tenth house in phase 1 of the development or occupation of the first unit in the commercial centre, whichever is the sooner. Details of the scheme shall include:

- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- ii. A plan showing existing landscaping features and vegetation to be retained;
- iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
- iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
- v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged, shall be replaced in the next planting season with others of the same size and species.

Reason: In the interests of visual amenity.

21. The approved Landscape Plan shall be implemented in full during the first planting season following commencement of each phase of development. As part of the first phase of development, the footpath link provision and associated landscaping on the frontage with the A82 and parkland shall be provided prior to occupation of the first house, in consultation with Transport Scotland. For the avoidance of doubt, the area identified as parkland shall be landscaped and laid out to grass and made available for public use before completion of the tenth house on site. A scheme for the maintenance of the area shall be submitted to and agreed in writing by the planning authority and thereafter implemented.

Reason: In the interests of visual amenity and road safety.

22. No development shall commence until a scheme for the layout, design and construction of green spaces, play areas and outdoor sports and recreation facilities (including specifications, protection measures, boundary treatments and timescales for implementation) has been submitted to and approved in writing by the planning authority. Thereafter, the approved scheme shall be implemented in full and in accordance with the timescales contained therein.

Reason: In order to secure high-quality open spaces in compliance with Council Supplementary Planning Guidelines.

23. No development shall commence until a scheme for the maintenance, in perpetuity, of all on-site green spaces and/or woodland and/or sports facilities and/or play areas and/or other spaces, facilities, features or parts of the development that are not the exclusive property of any identifiable individual home owner (such as communal parking areas, estate lighting, and those elements of surface water drainage regimes not maintained either by the Council or Scottish Water) has been submitted to, and approved in writing by, the planning

authority. Thereafter, the approved scheme shall be implemented in full and in accordance with the timescales contained therein.

Reason: To ensure that all communal spaces, facilities and landscaping areas are properly managed and maintained.

24. Any details pursuant to Condition 22 above shall include full details of the location, form and programme for delivery of the requisite fully-equipped play areas within the application site. Thereafter, the play area(s) shall be installed by, and at the expense of, the developer in line with these approved details and their on-going upkeep shall be included in a factoring agreement (or similar).

Reason: In order to secure high-quality open spaces in compliance with Council Supplementary Planning Guidelines.

25. No development shall commence until a detailed Outdoor Access Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the planning authority. The plan shall include details showing:

- i. All existing access points. paths, core paths, tracks, rights of way and other routes, and any areas currently outwith or excluded from statutory access rights under Part One of the land Reform (Scotland) Act 2003, within and adjacent to the application site;
- ii. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to proposed buildings or structures;
- iii. All proposed paths. tracks and other routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications. signage. information leaflets, proposals for on-going maintenance etc.);
- iv. Any diversion of paths. tracks or other routes (whether on land or inland water). temporary or permanent, proposed as part of the development (including details of mitigation measures, diversion works. duration and signage) .

The approved Outdoor Access Plan, and any associated works, shall be implemented in full prior to the first occupation of the development or as otherwise may be agreed within the approved plan.

Reason: In order to safeguard public access both during and after the construction phase of the development.

26. On-site provision for public art shall be made in accordance with the Supplementary Guidance for the Public Art Strategy, the location and design of which shall be approved in writing by the planning authority with the first application for matters specified in conditions. This shall equate to 1% of the capital construction costs unless otherwise approved in writing by the planning authority. The timing for such provision shall be approved in writing by the planning authority at the time of the first application for matters specified in conditions.

Reason: To accord with the Supplementary Guidance on Developer Contributions and the Public Art Strategy.

27. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable

Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the planning authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision, as it relates to, or is relied upon by, an individual phase, shall be completed prior to the first occupation of any of the development within that phase.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

28. Development shall not commence on site until full details of all temporary surface water drainage measures designed to prevent flooding and contamination of existing watercourses during construction have been submitted to and agreed in writing by the planning authority and thereafter so implemented.

Reason: In order to ensure the proper provision of SUDS facilities.

29. No development shall commence until arrangements for potable water and sewerage infrastructure to serve the site (including a programme for implementation) have been submitted to and approved in writing by the planning authority. No part of the development shall be occupied until sewer connections and potable water storage infrastructure, as required, have been completed in accordance with the approved arrangements.

Reason: In order to ensure that water and sewerage infrastructure is carefully managed and provided timeously, in the interests of public health and environmental protection.

30. No development shall commence on any part of the site until the new roundabout onto the A82 is installed, designed to comply with DMRB standards to the satisfaction of Transport Scotland in consultation with the planning authority. The layout shall be similar to HGA Consulting drawing number 2655:101, titled Road Layout. All necessary costs associated with the supervision and safety audits necessary for the safety of users of the trunk road shall be funded by the developer.

Reason: In the interests of road traffic safety.

31. Prior to completion of the first 10 houses or the first commercial unit, whichever is the sooner, provision for pedestrians crossing the A82 shall be installed, the number, location and design of which shall be approved in writing by the planning authority, in consultation with Transport Scotland.

Reason: In the interests of road traffic and pedestrian safety.

32. Prior to the occupation of more than 10 dwellings on the application site, provision for bus stops and shelters shall be formed on either side of the A82, the locations and design of which shall be approved in writing by the planning authority, in consultation with Transport Scotland.

Reason: To accord with the Supplementary Guidance on Developer Contributions and in the interests of public safety.

33. No work shall start on site until a site layout plan is submitted showing the dimensions and gradients of all roads to be adopted together with footways shared surfaces

and verges. A 20mph design speed shall be adopted and parking for all elements provided in accordance with council guidelines.

Reason: In the interests of road traffic safety.

34. **[condition deleted]**

35. On completion of each phase of the development for which planning permission is hereby granted, all roads and footpaths shall be constructed and completed to road construction consent standard and allow full public access.

Reason: In the interests of the free flow of traffic and public safety.

36. All roads, including footpaths and cycleway, shall require road construction consent before works commence and all such works, including the provision of car parking, shall require to conform to the council's Roads and Transport Guidelines for New Developments.

Reason: In the interests of public safety.

37. A street lighting design, which shall minimise light spill on to adjacent areas and skywards, shall be submitted to and require the approval of the planning authority, in consultation with Transport Scotland, prior to the commencement of road construction. All lighting shall thereafter conform to the approved design.

Reason: In order to protect the amenity of the area and to avoid distraction/dazzle or road users.

38. No development shall commence until a Construction Environmental Method Statement has been submitted to and received the written approval of the planning authority. This shall include the proposed location of the works compound, the means of screening the site, how the site will be developed and mitigation measures in terms of dust and noise for adjacent premises. For the avoidance of doubt the works compound shall not be located in an area which would have an impact on the amenity of houses. The development shall thereafter be implemented in accordance with the approved Method Statement.

Reason: In the interests of residential amenity.

39. No development shall commence on site until a construction phase Traffic Management Plan (including a routing plan for construction vehicles) has been submitted to and approved in writing by the planning authority, in consultation with Transport Scotland. The approved traffic management plan shall be implemented prior to development commencing and remain in place until the development is complete.

Reason: In the interests of road traffic safety and amenity.

40. The applicant shall take all necessary measures to avoid nuisance to neighbouring residents caused by dust which arises from operations carried out in connection with the planning permission.

Reason: In order to protect the environment and amenity of residents.

41. No topsoil shall be stripped from any phase area of the development hereby approved (as defined on the approved plans):

- i. which does not benefit from the approval of matters specified in conditions specific to that phase; and
- ii. until a Notice of Initiation of Development, under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended), has been submitted to, and acknowledged in writing by, the planning authority.

Furthermore, any undeveloped phases shall be maintained in a tidy order with weed control measures and grass cutting carried out at least four times per year.

Reason: To ensure that topsoil is not removed from future phases of the proposed development until it is absolutely necessary and that undeveloped phases are properly maintained; in the interests of visual amenity and the prevention of dust related pollution.

42 : No development shall commence on site until a liaison group (which shall include members of the community and at least one ward 13 member) has been established, and prior details of which (including constitution and remit) have been agreed by the planning authority. Thereafter the group shall meet in accordance with an agreed frequency during the duration of construction. The remit of the group will be to keep the community fully informed of the development and its impact on the surrounding area during construction.

Reason : To ensure that the community is kept informed about the work on the development.

TIME LIMITS

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.

FOOTNOTES TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant

completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.

2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 278 of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

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 (p.198), 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 0845601 8855.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (including 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 or more information.

Trunk Road Consent

This planning permission does not bring with it the right to carry out works within the trunk road boundary. All necessary permissions should be obtained from Transport Scotland. It is the developer's contractor's responsibility to liaise with the trunk road operating company during the construction period to ensure that all necessary permissions are obtained.

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.yk/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](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.