

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
19 January 2016

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| Agenda Item | 7.3 |
| Report No | PLS 006/16 |

15/04111/FUL : Morlich Homes
Site of former Altonburn Hotel, Altonburn Road, Nairn

Report by Area Planning Manager - South

SUMMARY

Description: Amend previously approved floor levels at plots 5, 6 & 7 Altonburn, Nairn (11/02363/FUL)

Recommendation - GRANT

Ward: 19 Nairn

Development category: Local

Pre-determination hearing: No

Reason referred to Committee: More than 5 objections.

1. PROPOSED DEVELOPMENT

1.1 The development consists of 3 houses/plots in a development of 9 houses previously granted planning permission. Of the three houses, the two approved for plots 5 and 7 are of 1½ storey form and the one approved for plot 6 is of 2 storey form. The house on plot 7 has been completed and the foundations and floor slab have been completed on plot 6 so the application is retrospective in relation to those two plots. The application seeks approval to amend the finished floor levels from those shown on the previously approved plans as follows:

Plot 5 - from 8.20m above datum to 8.40m above datum

Plot 6 - from 8.25m above datum to 8.60m above datum

Plot 7 - from 8.30m above datum to 8.71m above datum

1.2 Informal pre-application advice was given as follows:

The change in level at plot 7 had been the subject of a complaint.

- The change was judged to be material and would need to be the subject of an application for retrospective approval;

- Given the implications for the side boundaries of neighbouring plots the applicant should consider what other consequent changes in floor levels they might wish to seek approval for, and incorporate them all into a single comprehensive application;
- In considering what floor levels to propose particular regard should be had to the effect on the amenity of houses adjoining the periphery of the development site as a whole.

1.3 The site access is a new short cul de sac which has been constructed to base course level into the centre of the site with an adoptable geometry hammerhead in front of plots 6 and 7. The development is being constructed with public water supply and connections to the public sewer serving all the houses.

1.4 No supporting documents were submitted with the application but in reply to the objections which make reference to flooding and privacy issues the applicants have responded with a series of images and an engineer's report.

1.5 **Variations:** None

2. **SITE DESCRIPTION**

2.1 The site is an area of land on the north western edge of the built up area of Nairn bounded by the Common Good Fund's Sandown Lands to the south, the Nairn Golf Club golf course to the north, two modern bungalows to the west and two older houses (a cottage near the road and a 2 storey villa to the rear) to the east. The site was formerly occupied by the Altonburn Hotel, a substantial building with accommodation on 3 floors (2 storeys and attic) which was demolished during the processing of the 2011 application.

3. **PLANNING HISTORY**

3.1 11/02363/FUL - erection of 9 houses to replace former hotel. PP granted 14/10/13.

4. **PUBLIC PARTICIPATION**

4.1 Advertised: Unknown neighbour. Expiry date 8/12/15

Representation deadline: 8/12/15

Timeous representations: 7 (5 houses + golf club objecting; C.C. supporting)

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- Possible loss of amenity through impact on view from other houses
- Loss of amenity/privacy of golf course
- Possible economic impact of loss of golfing events
- Increased risk of surface water run off/flooding of adjacent land
- Impact of retaining wall on foul sewer
- (support): minimal effect on neighbours' light
- (support): no adverse effect on views of firth.

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 None

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28 Sustainable Design

66 Surface Water Drainage

75 Open Space

6.2 Inner Moray Firth Local Development Plan 2015

Not applicable

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Not applicable

7.2 Highland Council Supplementary Planning Policy Guidance

Not applicable

7.3 Scottish Government Planning Policy and Guidance

Not applicable

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**

The key Policy considerations relate to HwLDP Policies 28, 66 and 75. The questions to be addressed are whether there would be an unacceptable impact on individual and community residential amenity; conflict with the SUDS principle of dealing with surface water within the site; or are “inappropriate development” in the context of the golf course being a “high quality and fit for purpose open space”.

8.4 **Material Considerations**

A key consideration is that the principle of development is established by the existing permission for the site. Consideration of impacts therefore needs to be restricted to those arising from the differences between the development as already granted permission and as now (largely retrospectively) proposed.

The applicant has responded to concerns about impacts on outlook, amenity and privacy by comparing the height and fenestration of the housing development with the equivalent characteristics of the former hotel. This is not a straightforward “like for like” matter as the houses will extend across more of the site’s width than did the hotel building, and overlooking from hotel bedroom windows is materially different from and less obvious than overlooking from first floor living rooms and external balconies of houses. The increase in floor heights on plots 6 and 7 will afford marginally greater overlooking of parts of the golf course than in the approved scheme. However given that other houses elsewhere in Altonburn Road (notably in the “Fairways” development) have unrestricted views over other parts of the course it is not considered that this is a new issue carrying significant weight. The degree of change is relatively limited and seems unlikely to be such as to increase the likelihood of golf tournament organisers withdrawing from Nairn, all other things being equal, particularly when regard is had to the impact which the former hotel building would have had on views from the course and to the existing overlooking from other properties already mentioned.

The increased ridge heights will only marginally add to the impact on views over the firth to the Sutors from houses which look across the site (such as Benview, Sandown House and Barn Cottages) and the impact on public views from the A96 and the Tir-a-Luin right of way towards the firth will be insignificant.

In relation to the closest properties which might suffer adverse effects on daylighting, sunlighting, privacy and amenity as a result of the changes, no adverse effects of any significance can be identified. The house on plot 5, which is closest to any such potentially affected property, would only be raised by 200 mm.

It is therefore concluded that the changes for which permission is sought do not offend against the principles and tests of HwLDP Policies 28 and 75.

The issues of concern regarding surface water drainage, effect on sewers and flooding relate to ground levels in the house curtilages rather than to the floor levels of the houses themselves. Ground levels (as opposed to floor levels) are not specified in the original permission. To an extent, the garden levels and retaining walls would appear to reflect typical house buyer demand for as large an area of ground as near level as possible to accommodate outdoor living and are on the margin of what, in an already occupied house and curtilage, might be difficult to class as engineering operations requiring planning permission rather than as landscaping/gardening works “ancillary to the enjoyment of the dwellinghouse”. They are not mentioned in the description of development as forming part of the application. The applicant’s claim to be merely restoring the ground levels around the former swimming pool is somewhat misleading as it makes no allowance for the offset of the swimming pool site from the boundaries of plots 6 and 7 evident in the topographic survey in the engineer’s report. The crucial issue is whether the change to the soakaway’s vertical position is likely to increase the risk of flooding. The applicant has confirmed that it is situated at a depth below garden level no different from that which it would have been at had the floor and garden levels not been raised. Given the percolation values for subsoils submitted with the building warrant application for the house on plot 7 it is not considered that the change is likely to lead to any increased risk of off site flooding.

8.5 Other Considerations – not material

A number of objectors assert that the application should be determined by Committee rather than officers. This is a procedural matter.

A number of objectors say that approved plans should be adhered to and not set aside. While objectors are entitled to expect that approved plans will be adhered to and not materially changed without due process, applicants are entitled to have their proposals for changes judged on their merits whether proposed in advance or applied for retrospectively.

8.6 Matters to be secured by Section 75 Agreement

None

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

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| Action required before decision issued | No |
| Notification to Scottish Ministers | No |
| Notification to Historic Scotland | No |

Conclusion of Section 75 Agreement No

Revocation of previous permission No

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons and notes to applicant.

1. At all times during the development of the site and thereafter, there shall be maintained free of obstruction a vehicle route between Altonburn Road and the properties to the west of the site, via the internal site road and the "right of access" route shown on the approved site layout, and a pedestrian and vehicular route along Altonburn Road along the frontage of the site.

Reason: to maintain vehicle and pedestrian access for residents of the houses and for users of Altonburn Road requiring access beyond the site.

2. No house shall be occupied until visibility splays have been provided and maintained on each side of the internal site road with the unadopted section of road to the site which connects to the public road network, and at the point of access to the house. These splays are the triangles of ground bounded by the first 2.4 metres along the centreline of the access or internal site road as appropriate (the x dimension) and the nearside edge of the internal site access road or Altonburn Road as appropriate (the y dimension) measured a minimum of 40 metres in each direction from the intersection of the x and y dimensions. Within the visibility splays nothing shall obscure visibility between a driver's eye height of 1.0 metres positioned at the x dimension and an object height of 1.0 metre anywhere along the y dimension.

Reason: in the interests of public safety.

3. All roofs shall be clad in slate or a tile of similar colour to the satisfaction of the Planning Authority.

Reason: in the interests of visual amenity.

4. Not later than the date of completion of the last house in the whole development all roads and footways shall have their wearing course of bituminous macadam laid.

Reason: in the interests of visual and residential amenity and public safety.

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 accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE 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 27B 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 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.

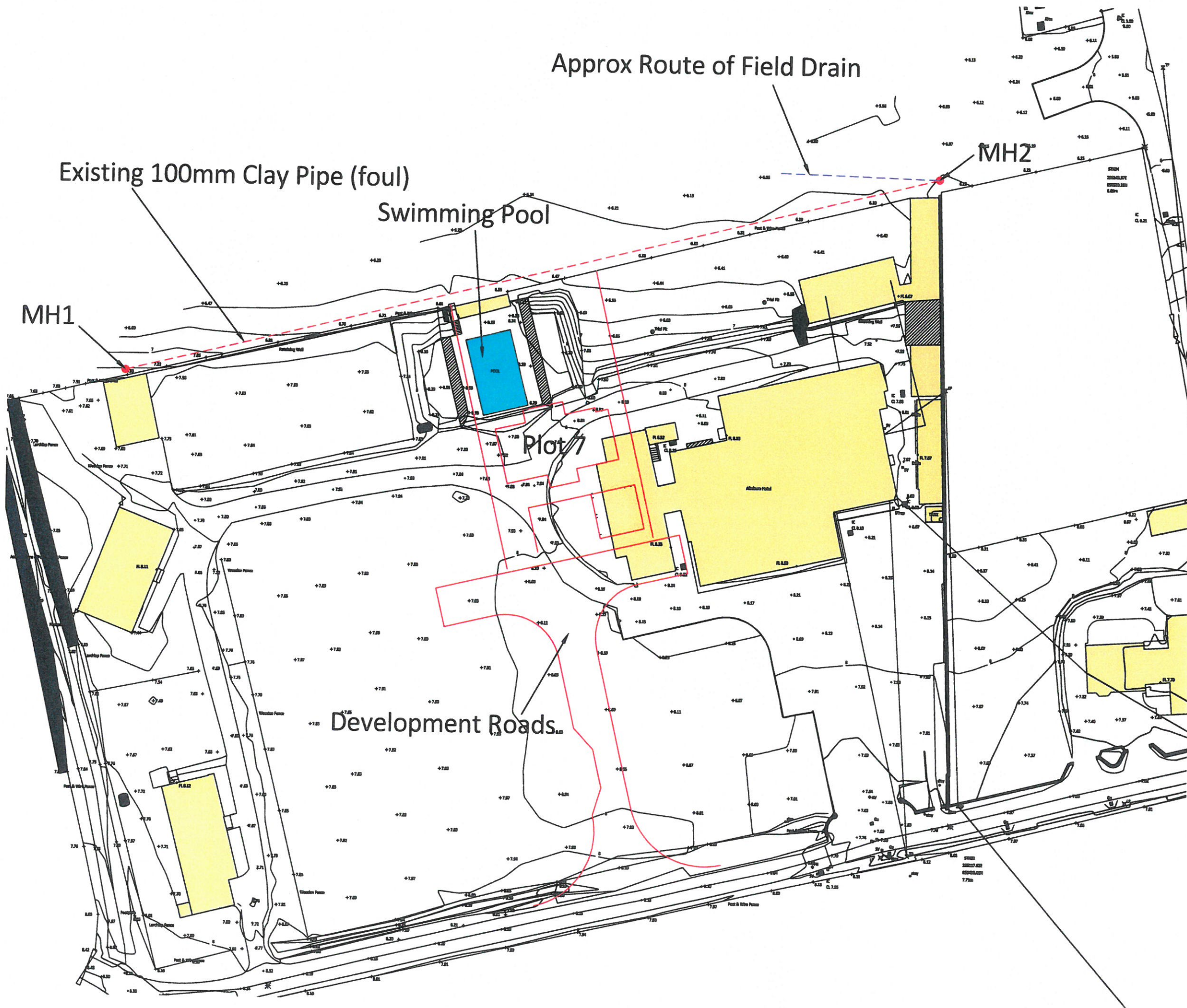
Construction Hours and Noise-Generating Activities

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 – Site Layout Plan showing proposed floor levels
Plan 2 – Site Layout Plan showing floor levels as previously approved
Plan 3 – Topographic survey of site before development



Approx Route of Field Drain

Existing 100mm Clay Pipe (foul)

Swimming Pool

MH2

MH1

Plot 7

Development Roads

gmcsurveys
 Surveys, Setting Out, Civil Engineering Design

T: 07557 431 702
 E: gmcsurveys@gmail.com

DRAWING TITLE
Site Topography/Layout

LOCATION
Altonburn, Nairn

SCALE
1:500 (At A3)

DATE
September 14

CLIENT
Morlich Homes Ltd

DRAWING NO.
APPENDIX A