

THE HIGHLAND COUNCIL

**NORTH PLANNING APPLICATIONS COMMITTEE
21 February 2017**

Agenda Item	7.8
Report No	PLN/019/17

**16/04777/FUL : Major J Whitelaw
Land to South of Cul Mor, Jamestown, Strathpeffer**

Report by Area Planning Manager

SUMMARY

Description : Formation of two serviced house plots (renewal of planning permission 13/01882/FUL)

Recommendation - GRANT

Ward : 06, Wester Ross, Strathpeffer and Lochalsh

Development category : Local Development

Pre-determination hearing : Not required

Reason referred to Committee : Representations received from 5 households.

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is for forming 2 serviced house plots and associated road improvements, including culverting the roadside watercourse, and forming a new pedestrian footway over the culverted watercourse.
- 1.2 There was a previous consent granted on 29 October 2013 for the formation of 2 serviced house plots and road improvements (13/01882/FUL) in relation to this site. Works have not commenced, and this application therefore is to renew this consent.
- 1.3 A Scottish Wildcat survey has been carried out since there are confirmed sightings of wildcats in the Jamestown area.
- 1.4 **Variations:** The application was initially submitted with a reduced scheme of road improvements. It has been amended and is now identical to the previously approved scheme.

2. SITE DESCRIPTION

- 2.1 The site is currently part of a grass field, bounded to the west by an unclassified public road, to the north by a single detached bungalow, Cul Mor, and to the south by the croft house at Burnside Croft. The field slopes gently from north down to the

south, with a raised knoll towards the southern section of the site. The site of the two proposed house plots occupies the western section of the field, running between the boundary of Cul Mor and the boundary of Burnside Croft.

- 2.2 The site includes the road carriageway and the watercourse which runs along the east edge of the road. This relates to the section of road/watercourse alongside the proposed house plots, and also the section of road/watercourse alongside Cul Mor, from the junction with the side road which runs between the north of Cul Mor and the south of the former Church.

3. PLANNING HISTORY

- 3.1 13/01882/FUL – Formation of two serviced house plots - consent granted 29/10/13.
11/01381/FUL – formation of 3 serviced house plots - withdrawn - 22/05/13
13/04188/S75D – Application to discharge planning obligation (RC/1991/345) - discharge granted - 14/02/14

Related applications off site:

11/01377/FUL and 11/02398/LBC – erection of house within church ruin and reduction in height of existing walls - planning permission and listed building consent granted - 26/10/12

12/02388/FUL – Improvement works to existing road - granted -27/09/12. Works commenced, therefore this consent is 'live'.

13/02314/FUL – 4 serviced house plots adjacent Sun Dorne, Jamestown. Committee minded to approve following the satisfactory conclusion of a S75 Planning Obligation to achieve the 25% affordable housing requirement (10.01.2016).

16/04389/FUL – Formation of 2 serviced house plots adjacent to Doelcam – decision pending.

4. PUBLIC PARTICIPATION

- 4.1 Advertised : unknown neighbour

Representation deadline : 22/11/16

Representations : 7 letters of objection received (5 households).

- 4.2 Material considerations raised are summarised as follows:

- Application reliant on junction improvements approved under 12/02388/FUL being implemented
- Inter-dependency between applications should be restricted since it makes the proposals confusing, and difficult to follow and understand.
- The extent of junction improvements is different between 12/02388/FUL and 13/02314/FUL
- Jamestown roads are not capable of supporting increased traffic volumes from additional houses (even with improvements in place).
- Cumulative impact of the different housing schemes within Jamestown will lead to significant increase in traffic contrary to road safety interests.
- 40mph speed limit is detrimental to road safety and inappropriate for the rural nature of the hamlet

- Lesser road improvements may make the proposed house plots more commercially attractive, but at the expense of road safety and the Jamestown community.
- Should not be considering the application until such time as the road improvements have been carried out.
- Possibility of culverts becoming blocked and flooding. Who will be responsible for their long term maintenance?
- Increased noise and disturbance to neighbouring property
- Loss of privacy to existing houses
- Road improvements are out of character with the rural setting
- Loss of flora and fauna alongside the road out of keeping with rural setting.
- Policy designates Jamestown as ‘non-preferred status’ for future development – Jamestown is not suitable for expansion; sufficient housing capacity exists in Contin and Strathpeffer.

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 **Transport Planning** : The scheme now for consideration is identical to that which was previously approved by officers on behalf of the Roads Authority. The previous consultation response (13/01882/FUL - no objections subject to conditions) would therefore remain valid.

5.2 **Access Officer** : A claimed Right of Way is recorded as following the western boundary, but it is uncertain if the route is still used or its exact line. It is thought that it will not be affected by this proposal.

5.3 **SNH** : The content of the species protection plan is adequate.

5.4 **SEPA** : No objection.

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
29	Design quality and place-making
35	Housing in the Countryside (Hinterland)
51	Trees and development

6.2 **Inner Moray Firth Local Development Plan 2015**

Outwith Settlement Development Area; within Hinterland

7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Draft Development Plan**

Not applicable

7.2 **Highland Council Supplementary Planning Policy Guidance**

Housing in the Countryside and Siting and Design 2013

7.3 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy 2014

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**

8.3.1 This application is for permission for the installation of servicing and infrastructure for prospective house plots. If granted, separate applications would be required for the detailed design and layout of the proposed houses. Jamestown is excluded from any identified settlement boundary in the Inner Moray Firth Local Development Plan, and lies within the Hinterland area. Policy 35 of the Highland wide Local Development Plan presumes against housing unless it meets one of the exceptions as set out in the adopted Supplementary Guidance: Housing in the Countryside and Siting and Design. One such exception relates to small scale housing to infill and round off existing housing groups. It was previously accepted (13/01882/FUL) that this proposal fell within this exception.

8.3.2 There is allocated housing land in both Strathpeffer and Contin. Jamestown falls outwith any housing land allocation. This does not, however, preclude it from future development, but leaves it to be assessed in the light of Policy 35.

8.3.3 The previous application 13/01882/FUL predated the adoption of the Inner Moray Firth Local Development Plan; however, the Ross and Cromarty East Local Plan also excluded Jamestown from any identified settlement boundary, and the allocation has therefore not changed.

8.3.4 Policy 35 of the Highland wide Local Development Plan and the Housing in the Countryside Supplementary Guidance have not been amended since the previous application was assessed. There has therefore been no material change in policy and the proposal continues to constitute the rounding off of an existing housing group.

8.4 **Material Considerations**

8.4.1 The amount of tree removal alongside the roadside watercourse remains unaltered from that previously approved. Although this will create a more suburban feel, the proposed planting of a roadside beech hedge with individual trees to the rear will help to maintain the feel of a rural settlement. This was previously assessed as an acceptable compromise to achieve road safety improvements through the provision of a footpath alongside this stretch of carriageway, and there has been no subsequent change which would affect this view.

8.4.2 The proposed culvert has been amended from the original submission for this application, and is now identical to that previously approved (13/01882/FUL). This complies with SEPA's requirements.

8.4.3 Jamestown lies within a 40mph speed limit; however, the internal access roads are single track in nature with no footpath and are not conducive to travel at the maximum permitted legal speed of 40mph. The nature of the roads is such that traffic is encouraged to travel at significantly reduced speeds. The reduced road improvements forming part of the original submission were considered inadequate to accommodate the additional traffic associated with this development and failed to provide for pedestrian safety, even at these reduced speeds. In response to issues raised by the planning service this led to the proposal being amended to the current proposal which includes the formation of a pedestrian footway above the culverted watercourse alongside the road carriageway. This is now identical to the road improvements approved under 13/01882/FUL, and continue to be assessed as acceptable for both pedestrian and vehicular traffic.

8.4.4 The proposed road improvements are required to facilitate access to the proposed two house plots. Although these remain as previously approved, there is now also an application for 2 serviced house plots within the garden grounds of Doelcam, to the south of the site (16/04389/FUL). This is also accessed via the public road which runs past this site. However, this application remains to be assessed separately and does not form part of the application to which this report relates (16/04777/FUL).

8.4.5 Application 13/02314/FUL for 4 serviced house plots adjacent to Sun Dorne, Jamestown, was considered by Committee in January, at which time Members were minded to approve the proposal following the satisfactory conclusion of a S75 Planning Obligation to ensure that the 25% affordable housing requirement was secured. This takes access off the internal road network close to the junction with the A834, and should not affect the volume of traffic passing the site or the internal road network adjacent to the site.

- 8.4.6 Planning permission was previously obtained for improvements to the junction of the Jamestown internal access road with the A834 (12/02388/FUL), since this junction is severely substandard and incapable of accommodating the additional traffic associated with further houses. These improvement works have commenced with the felling of the trees at the junction, but have yet to be completed. Therefore, it remains appropriate for these works to be completed to bring the junction up to an adequate standard before any works commence on this site as construction traffic would use the junction.
- 8.4.7 The works approved for the junction improvements (12/02388/FUL) also form part of the site for the proposed 4 house plots 13/02314/FUL. However, the plans approved for 13/02314/FUL includes a greater extent of works, including the formation of a bus layby alongside the A834. This was indicated on the plans for 12/02388/FUL, but fell outwith the red edge denoting the application site and so did not form part of the works approved under 12/02388/FUL. The inter-relationship between applications and the dependency of one proposal on another being first implemented has unfortunately led to confusion regarding the extent of the proposals. Nevertheless the Planning Authority has to consider the application submitted.
- 8.4.8 This application is for permission for the installation of servicing and infrastructure for prospective house plots. If granted, separate applications would be required for the detailed design and layout of the proposed houses. The house plots are sufficiently proportioned to facilitate a development which does not result in overlooking of the neighbouring houses.
- 8.4.9 Since the previous application 13/01882/FUL was determined it has become known that there have been sightings of Scottish Wildcat in the Jamestown vicinity. A wildcat survey has therefore been carried out which found no signs of wildcat within the site. It is possible that wildcats might use this area as a link between areas of more suitable habitat, and mitigation to reduce the risk to wildcats is therefore proposed.

8.5 **Other Considerations – not material**

- 8.5.1 It can be seen in Section 3.1 above that there have recently been a number of applications for development in Jamestown, some of which are interdependent. Each application stands to be assessed on its merits. However at times it is appropriate only to allow a development to proceed subject to certain works approved under another planning permission being implemented beforehand.
- 8.5.2 The proposed culvert falls to be maintained in the future by Highland Council since it will form part of the adopted road network.

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. The proposal remains identical to that previously approved under 13/01882/FUL and there has been no subsequent material change of circumstances. It is considered that the proposal continues to accord with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended the application be **granted** subject to the following conditions and reasons / notes to applicant:

1. No development shall commence until full details of the road improvements at the junction of the A834 with the eastern Jamestown Access Road (U3066) shown on drawing 2358:103 approved under application 12/02388/FUL (or another such scheme which has been submitted to and approved in writing by the Planning Authority) have been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. For avoidance of doubt these works shall include provision of the visibility splay of 4.5m x 120m at the junction of the U3066 with the A834, appropriate road drainage and the relocation of all the equipment and street furniture affected by the road junction improvement. The detailed proposals shall comply with the Council's Roads and Transport Guidelines for New Developments. Thereafter the junction improvements shall be completed in full accordance with these details and be available for use before any other works commence.

Reason : In the interests of road safety, since the alignment and visibility at the junction is currently severely substandard.

2. No other development shall commence until the pedestrian footpath and the public turning head as shown on drawing No 2358:102/01 rev D have been constructed to base course level. Thereafter, the pedestrian footpath shall be completed in full before the first occupation of either of the house sites, and the turning head shall be completed in full prior to the first occupation of the second house site.

Reason : To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity, and to enable pedestrians to keep outwith the public road and the path of oncoming traffic, in the interests of road safety.

3. No other development shall commence until such time as road markings to delineate a shared surface area to accommodate pedestrians along the existing road from the entrance driveway to the Old Manse past the frontage of the former Church continuing to the junction with the A834 and the bus stop area has been carried out in full to the written satisfaction of the Planning Authority, in consultation with Transport Planning.

Reason : In the interests of road safety.

4. No other development shall commence on site until such time as the approved tree planting to the east of the site as detailed on drawing No 2023 PL004 rev N has been undertaken and protected to the written satisfaction of the Council.

The remaining planting shall thereafter be carried out in accordance with the scheme and plans thereby approved in the first planting season following the commencement of the 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 order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

5. With effect from the date of this permission, no trees are to be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way (other than those identified for removal on drawing 2023 PL001 rev B Tree Survey – Site Plan) without the prior approval of the planning authority.

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

6. No development shall commence until such time as a Tree Protection plan, Arboricultural Method Statement and Scheme of Supervision in accordance with BS5837:2012 (Trees in Relation to Design, Demolition and construction) in relation to the retained trees and cypress hedge along the boundary with Cul Mor, has been submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be implemented fully in accordance with the scheme thereby approved.

Reason : In order to ensure the protection of retained trees during construction and thereafter.

7. No development, site excavation or groundwork shall commence until all retained trees have been protected against construction damage using protective barriers located beyond the Root Protection Area (in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction, or any superseding guidance prevailing at that time). These barriers shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

Reason: In order to ensure the protection of retained trees, which are important amenity assets, during construction.

8. No development shall commence until full details of all surface water drainage provision within the application site (which shall 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 shall be completed prior to the first occupation of any of the development.

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

9. All new and upgraded culverts within the development site shall be designed to accommodate a 1 in 200 year flood event, and shall be a minimum of 600mm diameter, as specified in the application details.

Reason: To ensure that all water crossings are free from flood risk and do not exacerbate flood risk elsewhere.

10. All development shall be carried out wholly in accordance with the mitigation identified in the Scottish Wildcat Species Protection Plan by Dr Eric Donnelly and Yvonne Brown (A9 Consulting Ltd), dated 17 December 2016. This shall include:

1. A preconstruction survey shall take place two months in advance of the commencement of construction, or one month in advance of the commencement of construction if works start in January – June. This will involve the use of trail cameras placed at likely identified entrances for a minimum of two weeks prior to any works on site, with follow up surveys on site and within 200m of the site if any signs are seen on the cameras during this period;
2. Timing of the start of works shall avoid wildcat breeding season (January – May inclusive)
3. No works between half hour before sunset and half hour after sunrise;
4. If wildcats or any other protected mammals are seen on site during the works, SNH must be contacted;
5. In the unlikely event that a wildcat or other mammal is found trapped on site, it must not be approached and SNH must be contacted immediately;
6. A toolbox talk for all new workers on the site in relation to good practice in relation to wildcats and other mammals;
7. Protected species information boards in offices and welfare units to make all staff and visitors aware of good practice in relation to wildcats and other mammals;
8. No pits left uncovered and all pits and trenches shall have an escape route for wildcats and other mammals;
9. All wastes shall be securely stored and disposed of. All skips and bins shall be covered and not allow animals to crawl inside;
10. No food wastes or food packaging rubbish shall be left on site to attract animals;
11. No wire or metal mesh or fencing shall be left uncovered to avoid cats getting stuck;
12. All plant shall be checked before use to ensure that no cats have crawled into gaps; and,
13. No hazardous materials (oil, chemicals, paint, cement) shall be left uncovered to avoid poisoning animals, with all placed in COSSH cabinets when not in use.

Reason : To ensure that Scottish Wildcat (a protected species) are not adversely impacted by the proposal

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 LIMITS

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.

Indicative Layout and Future Applications

For the avoidance of doubt permission is granted solely for the servicing and infrastructure as shown and subject to the relevant conditions attached to the decision notice. The size, orientation and location of the dwellinghouse(s) as shown on the approved plans is indicative only and does not have the benefit of permission. The detailed siting, design, scale and finish of the houses will require to be the subject of separate planning applications to the Planning Authority.

SSE

SSE advise that there is a high voltage underground cable crossing the site. Their document HSG47 can be referred to for safe working practices from the HSE website : <http://www.hse.gov.uk/electricity/nearelectric.htm>

If you require further advice, to have the cable located or diverted, please contact these Engineering Bureau on 08000 483515.

Culvert

The developer must ensure that the culverting of the watercourse does not adversely impact upon the existing hedging along the boundary with Cul Mor.

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.

Septic Tanks and Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area 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/info/20005/roads_and_pavements/101/permits_or_working_on_public_roads/2

Mud and 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.

Damage to the Public Road

Please note that the Council, under Section 96 of the Roads (Scotland) Act 1984, reserves the right to recover all costs for repairing any damage to the public road (and/or pavement) which can be attributed to construction works for this development.

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.

Protected Species - Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Signature:	Dafydd Jones
Designation:	Area Planning Manager - North
Author:	Susan Hadfield
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 – site location plan
	Plan 2 – site layout plan
	Plan 3 – junction improvement plan (12/02388/FUL)

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Jack and Sandra MacDonald	Rose Cottage, Jamestown	01/11/16 and 24/01/17	Against
Charlie Ramsay	Cul Mor, Jamestown	04/11/16	Against
Craig Colclough	Glenview, Jamestown	16/11/16	Against
Simon Bates	Miltoga, Jamestown	17/11/16 and 10/01/17	Against
Billy and Liz Kellas	Burnside Croft, Jamestown	30/01/17	Against