

**The Highland Council**

**South Planning Applications Committee  
11 April 2017**

Agenda Item	6.4
Report No	PLS/025/17

**16/05725/S42: Moray Estates Development Company Ltd**

**Land North East of Tornagrain, Dalcross**

**Report by Area Planning Manager South/Major Developments**

**SUMMARY**

**Description:** Application to develop land without compliance with conditions 1 and 34 (regulating phasing and regulating noise) of 09/00038/OUTIN.

**Recommendation: GRANT**

**Wards:** 18 – Culloden and Ardersier.

**Development category:** Major

**Pre-determination hearing:** None

**Reason referred to Committee:** Major Development

**1. Proposed Development**

- 1.1 This application has been submitted under Section 42 of the Act and relates to a number of the conditions attached to planning permission 09/00038/OUTIN granted on 06 November 2013 for the development of a new town at Tornagrain. The justification for the non-compliance with conditions is set out in the applicants letter which accompanied the application and is attached to this report as Appendix 2.
- 1.2 The development at Tornagrain comprises of the following uses split over seven phases:
  - 4967 Residential Units;
  - 20,000m<sup>2</sup> Retail;
  - 7000m<sup>2</sup> Business Use;
  - 1000m<sup>2</sup> General Industry;
  - 1000m<sup>2</sup> Storage and Distribution;
  - 4000m<sup>2</sup> Hotel;
  - 5000m<sup>2</sup> Residential Institutions;
  - 18222m<sup>2</sup> Non-Residential Institutions (Primary and Secondary Education

- provision, Health Centre, Church, Emergency Services);
- 3000m<sup>2</sup> Leisure;
- 79.4ha Open Space; and
- 1500 Sui Generis Uses.

1.3 This application seeks to reword the following condition:

- Condition 1 (Phasing of the development)

1.4 This application seeks to delete the following conditions:

- Condition 34 (Construction noise).

1.6 A copy of the original planning permission for the Tornagrain development is contained within Appendix 3.

1.7 This application has been supported by the following information:

- Supporting statement / letter;
- Proposed re-wording for condition 1.

## **2. Planning History / Background**

2.1 The development of the first residential units commenced at Tornagrain on 19 April 2016. In advance of this enabling works, comprising largely of improvements to the local road network commenced in August 2015. The first occupation of a residential unit at Tornagrain was on 17 March 2017.

2.1 **06.11.2013** 09/00038/OUTIN - New Town Comprising up to 4,960 houses, Community Facilities, Retail. Business, General Industry, Storage and Distribution, Hotels, Residential Institution, Leisure, Petrol Stations and associated Landscaping, Open Space, Infrastructure and Services - Permission Granted

2.2 **21.08.2014** 14/02952/FUL - Variation of condition 1 to remove time stipulations for each Phase and allow revision of Phasing and Sub-phasing Plans as appropriate, variation of condition 26 to introduce requirement for the submission of a Phasing Plan - Application Withdrawn

2.3 **12.01.2015** 15/03004/MSC - Submission of matters specified in condition 33 (Access Management Plan) of Permission in Principle 09/00038/OUTIN (phase 1). of Tornagrain New Town - MSC

2.4 **11.08.2015** 14/04476/MSC - Matters Specified in Condition 2(b), 2(c), 2(e), 2(f), 2(g), 2(i), 2(n), 2(p), 2(q) (building details, access, sustainability, road hierarchy, car parking, public transport, loading bays, trees to be retained, site levels) for Phase 1a (Enabling Infrastructure) of Tornagrain New Town - MSC Approved

2.5 **11.08.2015** 14/04477/MSC - Matters Specified in Condition 4 (Contamination) for Phase 1a (Enabling Infrastructure) of Tornagrain New Town -

MSC Approved

- |      |                   |  |
|------|-------------------|--|
| 2.6  | <b>11.08.2015</b> | 14/04478/MSC - Matters Specified in Condition 8 (Flood Risk Assessment) for Phase 1a (Enabling Infrastructure) of Tornagrain New Town - MSC Approved                                       |
| 2.7  | <b>11.08.2015</b> | 14/04480/MSC - Matters Specified in Condition 25 (Archaeological Written Scheme of Investigation) for Phase 1a (Enabling Infrastructure) of Tornagrain New Town - MSC Approved             |
| 2.8  | <b>11.08.2015</b> | 14/04481/MSC - Conditions 5 (Badger Protection Plan) and 6 (Ecology Survey) for Phase 1a (Enabling Infrastructure) of Tornagrain New Town - MSC Approved                                   |
| 2.9  | <b>11.08.2015</b> | 14/04483/MSC - Matters Specified in Conditions 26 and 28 (Croy Road Upgrade) and 31 (Traffic Management Plan) for Phase 1a (Enabling Infrastructure) of Tornagrain New Town - MSC Approved |
| 2.10 | <b>11.08.2015</b> | 15/01350/MSC - Matters Specified in Condition 2a (Design Code) for Phase 1a (Enabling Infrastructure) of Tornagrain New Town - MSC Approved  |
| 2.11 | <b>11.08.2015</b> | 15/01409/MSC - Matters Specified in Conditions 2(j) (k) (l) (m) (o) and (r) (landscaping and open space) for Phase 1a (Enabling Infrastructure) of Tornagrain New Town - MSC Approved      |
| 2.12 | <b>14.08.2015</b> | 15/02461/MSC - Condition 7 (Ecology and Landscaping Management Plan) of 09/00038/OUTIN (Phase 1) - MSC Approved  |
| 2.13 | <b>14.09.2015</b> | 14/04482/MSC - Conditions 9 and 10 (Surface Water and SuDS) for Phase 1a - MSC Approved  |
| 2.14 | <b>14.09.2015</b> | 15/01247/MSC - Condition 3 (Construction Environment Management Plan) for Phase 1a - MSC Approved  |
| 2.15 | <b>14.09.2015</b> | 15/01410/MSC - Condition 20 (Tree Constraints Plan) for Phase 1a - MSC Approved  |
| 2.16 | <b>14.09.2015</b> | 15/00843/FUL - Water Main connection to Balnabual Reservoir - MSC Approved   |
| 2.17 | <b>14.09.2015</b> | 15/00841/FUL - Foul Main Connection for Phase 1a - MSC Approved  |
| 2.18 | <b>14.10.2015</b> | 14/04479/MSC - Matters Specified in Condition 23 (Hard and Soft Landscaping) for Phase 1a (Enabling Infrastructure) - MSC Approved   |
| 2.19 | <b>19.04.2016</b> | 15/04766/MSC - Matters Specified in Conditions 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 23, 25, 26 and 31 of 09/0038/OUTIN for Phase 1A of Tornagrain New Town - MSC Approved                       |
| 2.20 | <b>05.10.2016</b> | 16/02796/MSC - Matters Specified in Conditions 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 23, 25, 26 and 31 of 09/0038/OUTIN for Phase 1A - MSC Approved  |

2.21 **22.02.2017** 17/00755/MSC - of Matters Specified in Condition 24 of Permission in Principle 09/00038/OUTIN - Application Pending Consideration

### 3. Public Participation

3.1 Advertised: 20 January 2017 in the Inverness Courier.

Representation deadline: 03 February 2017

Timeous representations against:	0
Comments:	0
Representations in support:	0
Non-timeous representations against:	4

3.2 Material considerations raised in objection to the application:

- Contrary to phasing set out in the Highland-wide Local Development Plan;
- Contrary to the Inner Moray Firth Local Development Plan;
- Contrary to proposals in the Planning White Paper
- No assessment of socio-economic impacts of alteration of timescales;
- Need for certainty in terms of development and infrastructure upgrades required;
- Lack of information

### 4. Consultations

4.1 Environmental Health Officer: has not objected to the application. Requests a condition securing a construction noise assessment, carried out in accordance with BS5228 Code of practice for noise and vibration control on construction and open sites – Part 1: Noise.

### 5. Development Plan Policy

The development plan comprises of the Highland-wide Local Development Plan (2012), the Inner Moray Firth Local Development Plan (2015), the Inverness Local Plan (2006, As Continued in Force 2012) and statutorily adopted Supplementary Guidance.

The following policies are relevant to the assessment of the application:

#### 5.1 Highland-wide Local Development Plan (April 2012)

Policy 9	A96 Corridor - Phasing and Infrastructure
Policy 13	Tornagrain
Policy 28	Sustainable Development
Policy 29	Design and Place-Making
Policy 31	Developer Contributions

Policy 34	Settlement Development Areas
Policy 40	Retail Development
Policy 41	Business and Industrial Land
Policy 42	Previously Used Land
Policy 51	Trees and Development
Policy 56	Travel
Policy 57	Natural, Built and Cultural Heritage
Policy 58	Protected Species
Policy 59	Other Important Species
Policy 60	Other Important Habitats
Policy 63	Water Environment
Policy 64	Flood Risk
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage
Policy 70	Waste Management Facilities
Policy 72	Pollution
Policy 74	Green Networks
Policy 75	Open Space
Policy 77	Public Access

## 5.2 **Inner Moray Firth Local Development Plan (July 2015)**

Policy 2	Delivering Development
Site TG1	Tornagrain (Mixed Use)

## 5.3 **Inverness Local Plan (2006, As Continued in Force 2012)**

The general policies and land allocations of the Local Plan pertinent to this application have been superseded by the policies of the Highland-wide Local Development Plan and the Inner Moray Firth Local Development Plan.

## 5.4 **Supplementary Guidance**

The following statutorily adopted supplementary guidance is relevant to the assessment of the application:

- Developer Contributions (2013)
- Physical Constraints (2013)
- Sustainable Design Guide (2013)
- Managing Waste in New Developments (2013)
- Open Space in New Residential Developments (2013)
- Green Networks (2013)
- Highland Statutorily Protected Species (2013)

- Flood Risk and Drainage Impact Assessment (2013)
- Trees, Woodlands and Developments (2013)
- Public Art Strategy (2013)

## **6. Other Relevant Planning Policy**

### **6.1 Scottish Government Planning Policy and Guidance**

- National Planning Framework 3
- Scottish Planning Policy
- Creating Places
- Designing Streets

## **7. Planning Appraisal**

7.1 Section 25 and of the Town and Country Planning (Scotland) Act 1997 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.

### Determining Issues

7.2 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.

### Planning Considerations

7.3 The principle of the development has been established through the previous permission. This is an application to remove and modify conditions. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continue to comply with development plan policy and take into consideration any other material considerations.

### Development Plan

7.4 Development Plan Policy has changed since the time of the determination of the original application. The Highland Structure Plan (2001) is no longer in force and the Inverness Local Plan (2006) in relation to this site and the policy provisions have been superseded by the contents of the Highland-wide Local Development Plan (2012). The Inner Moray Firth Local Development Plan (2015) has also been adopted.

7.5 In taking forward the adoption of the Highland-wide Local Development Plan (HwLDP) and the Inner Moray Firth Local Development Plan (IMFLDP) the provisions of the consented development, including any mitigation required, have been included within the development plan under Policy 13 (Tornagrain) and Site allocation TG1 respectively. The key issue therefore is whether the amendment or removal of the conditions applied for would make the development incompatible with the Development Plan. The remainder of this report will consider each of the modifications sought in turn and assess their compatibility with the Development

Plan.

### Modification to Condition 1

- 7.6 The applicant has sought to modify the wording of the condition to allow for flexibility in the phasing of the development. In principle, the re-phasing of the development is supported, subject to the developer providing adequate mitigation at the appropriate time to ensure the development is supported by the right level of mitigation. However, the removal of timescales for phasing of the development would render the condition unenforceable and is not considered appropriate. A previous application (14/02952/FUL) for a modification to this condition had been submitted by the applicant but this was withdrawn as there was no demonstrable need to change phasing at that time as the development had not yet commenced and it remained possible to feasibly deliver a reasonable proportion of the development defined by Condition 1.
- 7.7 It is considered that the applicant would be in breach of condition if it did not deliver the level of development as set out in Table 1 and Table 2 of Condition 1 of their planning permission in principle. To regulate this; to ensure that certainty is provided to the community over likely timescales for delivery of development; and that control over phasing and delivery of infrastructure is maintained, it is proposed that timescales for each phase are retained. With that said it is appropriate to modify these to take effect from the time when development commenced on site. i.e. 2015. The phasing would continue to be delivered over 7 phases. This is not considered to undermine or otherwise significantly contradict the provisions of the development plan as no increase in the level of development is proposed within the plan period. This will continue to provide certainty to all parties in relation to the phasing of the development and ensure the condition remains enforceable. The applicant has agreed to this approach.
- 7.8 It is proposed that the modified condition continues to define the outline phasing for each of the 7 principle phases. The overall quantum of development remains in accordance with the development plan albeit the detail of when these elements will be delivered has changed. No other modification to this condition is proposed. For clarity, the changes to the timescales proposed which take account of the later start of development on site, and as intended in the revised condition, are set out below:

	Original Timescales as set out in Condition 1 of 09/00038/OUTIN	Proposed Timescales for each phase.
Phase 1	2012-2016	2015-2019
Phase 2	2016-2021	2019-2024
Phase 3	2021-2026	2024-2029
Phase 4	2026-2031	2029-2034
Phase 5	2031-2036	2034-2039
Phase 6	2036-2041	2039-2044

Phase 7	2041-2046	2044-2049
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Overall therefore, the start date was delayed by three years to 2015 and this delay is reflected in the corresponding phases.

#### Modification to Condition 34

- 7.9 This condition originally sought to control construction noise audible at the boundary of the site. This was to ensure the construction of the development did not adversely affect the amenity of the existing residents of the area. However, it does not protect the residents of the new development from being adversely affected by the construction of the development.
- 7.10 As advised by the Environmental Health Officer it is no longer the practice to stipulate construction hours in Planning consents as the local authority has similar powers under Section 60 of the Control of Pollution Act 1974. It is now standard practice that an informative is added to permissions, advising of the requirements of this Act and the powers local authorities have to enforce. This approach will safeguard amenity of existing residents of the area and residents of the new development.
- 7.11 Environmental Health request that a Construction Noise Assessment is submitted. Provision is made for that through Condition 3 (Construction Environment Management Document) of the original planning permission in principle therefore it is not considered necessary to have a further separate condition. However, it is considered appropriate to make reference to the British Standard in Condition 3.
- 7.12 As such, the Planning Authority, propose that this condition is deleted and the provisions related to construction noise assessments are enhanced in Condition 3 which sets out what needs to be submitted in advance of the commencement of works on any phase or sub-phase. In addition an informative would be attached to any permission granted setting out the provisions of the Control of Pollution Act 1974.

#### Other Material Considerations

- 7.13 There are no other material considerations.
- 7.14 It is worth highlighting that an application submitted under S42 of the Planning Act provides a planning authority with an opportunity, in considering the proposed application, to amend any, or all, of the conditions on a planning permission that it considers necessary to regulate the development proposed. Following consideration of the conditions attached to the extant planning permission, the Planning Authority has chosen to revisit all the conditions attached to the consent to ensure the wording is in line with current good practice and are suitable to regulate the proposed development. In doing so the Planning Authority has been able to strengthen the provisions of the conditions and provide greater clarity as to the requirements of the conditions, including the information required to satisfy the conditions.



- 7.15 Following a positive determination of an application under S42 of the Planning Act, a fresh planning permission is granted. It is not proposed that the timescale direction should be modified.
- 7.16 Any permission granted will continue to require appropriate developer contributions. These will be secured through a modified legal agreement. This requires a separate process which will be followed by the applicant further to the determination of this application. The modified legal agreement will include:
- Delivery of affordable housing;
  - Public transport contributions;
  - Contributions to Primary and Secondary Education facilities;
  - Provision of a site for a primary school;
  - Contributions toward A96 Connectivity;
  - Contributions toward an updated A96 Protocol;
  - Delivery of a Coastal Path between Castle Stuart and Ardersier;
- 7.17 A representation has raised concerns noting that the Scottish Government's consultation paper on the future of planning includes a provision where the Scottish Government is proposing to restrict the ability to modify and discharge terms of planning obligations so that commitments made when planning permission is granted are respected by those entering the obligation. The proposed modification to the legal agreement, which is required to ensure that any newly granted planning permission is tied to the existing legal agreement, has not yet been submitted by the applicant. This will be subject to a separate process and it is the intention of the Planning Authority that the provisions of the legal agreement and associated timescales for delivery are retained. However, it is important to note that the legal agreement does not specify dates for delivery but phases.

#### Non-material considerations

- 7.18 None

#### Matters to be secured by Section 75 Agreement

- 7.19
- Delivery of affordable housing;
  - Public transport contributions;
  - Contributions to Primary and Secondary Education facilities;
  - Provision of a site for a primary school;
  - Contributions toward A96 Connectivity;
  - Contributions toward an updated A96 Protocol; and
  - Delivery of a Coastal Path between Castle Stuart and Ardersier;

## **8.0 Conclusion**

- 8.1 All relevant matters have been taken into account when appraising this application. While not all proposed modifications as sought by the applicant are acceptable, following negotiation with the applicant the suite of conditions proposed to be attached to would result in the development remaining consistent with the policies

and provisions of the Development Plan.

8.2 It is considered that the application for non-compliance with conditions on this extant planning permission accords with the development plan and is acceptable in terms of all other applicable material considerations.

## 9.0 Recommendation

9.1 It is recommended that this application for non-compliance with conditions 1 and 34 is **GRANTED** subject to the following amendment of these conditions; and

a) The signing of a modified legal agreement to cover those matters as outlined above,

and

b) The rewording, deletion and modification of conditions attached to 09/00038/OUTIN to be replaced with the following:

(1.) Planning Permission in Principle is hereby granted for a mixed use development upon 168 hectares to be developed in accordance with the Master Plan hereby approved in seven sequential Phases in accordance with the Phasing Plan set out in Table 1 and the Approved Non-residential Uses for each Phase set out within Table 2:

**Table 1: Approved Residential Phasing**

Phase Use	1 2015- 2019	2 2019- 2024	3 2024- 2029	4 2029- 2034	5 2034- 2039	6 2039- 2044	7 2044- 2049
Residential (units)	344	507	780	885	960	1100	391

**Table 2: Approved Non-residential uses with each Phase and totals  
\*excluding High Wood**

Use Class	Phase Use	1 2015- 2019	2 2019- 2024	3 2024- 2029	4 2029- 2034	5 2034- 2039	6 2039- 2044	7 2044- 2049	Total
1-3	Retail (m <sup>2</sup> )	1500	0	9000	4500	500	2750	1750	20,000 m <sup>2</sup>
4	Business (m <sup>2</sup> )	500	0	2500	1750	750	1000	500	7,000 m <sup>2</sup>

5	General Industry (m <sup>2</sup> )	0	0	500	300	200	0	0	1,000m <sup>2</sup>
6	Storage & Distribution (m <sup>2</sup> )	0	0	500	300	200	0	0	1,000m <sup>2</sup>
7	Hotel (m <sup>2</sup> )	0	0	2500	1500	0	0	0	4,000m <sup>2</sup>
8	Residential Institutions (m <sup>2</sup> )	0	1000	1000	1000	1000	1000	0	5,000m <sup>2</sup>
10	Non-Residential Institutions (m <sup>2</sup> )								(18,222m <sup>2</sup> )
	Primary School	0	1418	0	1418	0	2496	1418	6,750m <sup>2</sup>
	Secondary School	0	0	0	8522	0	0	0	8,522m <sup>2</sup>
	Health Centre	0	0	0	400	0	0	0	400m <sup>2</sup>
	Church	0	0	650	0	0	0	0	650m <sup>2</sup>
	Emergency Services	0	0	600	0	0	0	0	600m <sup>2</sup>
	Other			881	419				1300m <sup>2</sup>
11	Leisure (m <sup>2</sup> )	0	0	0	0	0	0	3000	3,000m <sup>2</sup>
Sui Generis	Other (m <sup>2</sup> )	0	0	0	750	750	0	0	1,500m <sup>2</sup>
Open Space	Open Space (ha)*	10.90	7.48	3.14	3.23	11.53	10.73	32.39	79.4ha

The development shall be undertaken in accordance with the agreed Phasing Plan or in Sub-Phases as may be approved in writing by the Planning Authority. A Sub-Phase means any part of any Phase of Development the subject of an Approval of Matters Specified in Conditions issued by the Council following an application in that behalf, or otherwise subject of any equivalent planning approval following an application in that behalf.

**Reason:** To ensure that the development proceeds in an appropriate manner and that the necessary elements of the development are provided at the appropriate stages.

- (2.) No development shall commence within each Phase, or sub-Phase, until an application, or applications, as they relate to or are relied upon by that Phase or sub-Phase has been submitted to and approved by the Planning Authority in respect of the following matters, insofar as they relate to the details of the proposed development taking full account of the approved Tornagrain Master Plan, Creating Places, Designing Streets and other relevant national and local policy and guidance related to the matters set out below:-

a) submission of an 'Area Development Brief' for each Principal Phase of the development has been submitted to and approved by the planning authority in

advance of the submission of any other application(s) for the approval of matters specified in conditions for that particular phase. Each Area Development Brief shall be produced using the principles set out in the Tornagrain Masterplan and Environmental Statement and shall include the following:

- Masterplan;
- Design Code;
- Conformity with principles and vision of the Tornagrain Masterplan;
- Place-making and public realm;
- Transportation, access, active travel and connectivity;
- Drainage, sustainable drainage and the water environment;
- Landscaping, open space and biodiversity;
- Public art strategy;
- Character and design including material palette, street types and massing; and
- Phasing, implementation and integration.

Thereafter each application within each phase or sub-phase shall accord with the terms of the relevant Area Development Brief and the phasing strategy set out in the Tables 1 and 2 of Condition 1 of this consent.

b) the siting, design and external appearance of all buildings and other structures;

c) details of sustainable design considerations

d) the means of access to the site including connections to the A96(T) for all modes of transport; ;

e) the layout of the site, in accordance with Designing streets principles;

f) road layout including the road hierarchy, junction layouts and design with projected traffic figures supported by traffic modelling, junction visibility requirements, vehicle tracking at junctions and standard radii, details of any bus routes and bus stops, details of provision for cyclists and pedestrians including carriageway crossings, provision for disabled users, details of safer routes to school;

g) the provision of car parking including in-curtilage parking, communal parking areas, parking courts and on-street parking;

h) the provision of covered cycle parking including resident cycle parking in houses and communal covered cycle parking at flats and external covered visitor cycle parking at flats;

i) the details of and timetable for delivery of the provision of public open space, including allotments, equipped play areas and sports area, in accordance with the Open Space in New Residential Developments:

Supplementary Guidance, (or any superseding guidance prevailing at the time of submission);

j) details of public art provision in accordance with the Highland Council's Public Art Strategy Supplementary Guidance (or any superseding guidance prevailing at the time of submission);

k) the details of, and timetable for, the hard and soft landscaping of the site;

l) details of management and maintenance arrangements of the areas identified in (h), (i), (k) and (j) above;

m) details of all boundary treatments within the development, as set out within the relevant approved Area Development Brief.

n) the provision for loading and unloading all goods vehicles;

o) details of the provision of surface water drainage systems across the phase or sub-phase, how it relates to the surface water drainage strategy for the site as a whole and management and maintenance arrangements of said infrastructure;

p) details of the water and waste water connections;

q) means of dealing with domestic and commercial waste in accordance with the Highland Council's 'Managing Waste in New Developments' Supplementary Planning Guidance' including provision of communal composting and recycling facilities;

r) details of existing trees, shrubs and hedgerows to be retained;

s) details of existing and proposed site levels with fall arrows;

t) details of finished floor levels;

u) details of all street lighting and lighting of car parking areas ensuring that safety and security matters are addressed;

v) details of community facilities;

**Reason:** To enable the planning authority to consider these aspects of the development in detail.

(3.) No development shall commence within each Phase, or sub-Phase, until a Construction Environmental Management Document has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The Document shall include:

a). An updated Schedule of Mitigation (SM) including all mitigation proposed in support of the planning application, other relevant agreed mitigation

- (e.g. as required by agencies) and set out in the relevant planning conditions
- b). Processes to control / action changes from the agreed Schedule of Mitigation
  - c). The following specific Construction and Environmental Management Plans (CEMP):
    - (i) Habitat and Species Protection Plan
    - (ii) Pollution prevention plan
    - (iii) Dust management plan
    - (iv) Construction Noise Assessment and Mitigation Plan in accordance with BS5228 Code of practice for noise and vibration control on construction and open sites – Part 1: Noise
    - (v) Site waste management plan
    - (vi) Measures to protect private water supplies; including an emergency response plan.
  - d). Details of the appointment of an appropriately qualified Environmental Clerk of Works with roles and responsibilities.
  - e). Methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, Planning Authority and other relevant parties.
  - f). Statement of responsibility to 'stop the job / activity' if in potential breach of a mitigation or legislation occurs. The development shall proceed in accordance with the approved Construction Environmental Management Document.

**Reason:** To protect the environment and amenity from the construction and operation of the development.

- (4.) No development shall commence within each Phase, or sub-Phase, until a scheme to deal with potential contamination on site within that Phase has been submitted to and approved in writing by the Planning Authority. The scheme shall include:
- i) the nature, extent and type of contamination on site, identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment in line with PAN 33 and BS10175:2001, or any superseding guidance prevailing at the time of the assessment), the scope and method of which shall be submitted to and approved in writing by the Planning Authority;
  - ii) the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works and proposed verification plan to ensure that the site is fit for the uses proposed;
  - iii) measures to deal with contamination during construction works;
  - iv) a means of monitoring any decontamination measures;
  - v) a means of verifying the completion of any decontamination measures that may arise. Thereafter, no development shall commence within the phase in question until written confirmation that the scheme will be implemented and completed in accordance with an agreed programme and, if required, monitoring measures are in place, has been issued by the Planning Authority.

**Reason:** In order to ensure that the site is suitable for development, given the nature of previous uses/processes.

- (5.) No development shall commence within each Phase, or sub-Phase, until a revised Badger Protection Plan has been submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. The agreed plan shall be implemented.

**Reason:** In the interest of the protection of badgers.

- (6.) No development shall commence within each Phase or sub-Phase until pre-commencement surveys to locate the presence or absence of otter, badger, bat and red squirrel have been undertaken and copies submitted to both the Planning Authority and SNH. Should any of these species be found within or adjacent to an area likely to be affected by construction activities, appropriate mitigation measures shall be put in place by the developer prior to development commencing and be maintained for the duration of development, details of which shall first be submitted to, and approved in writing by, the Planning Authority in consultation with Scottish Natural Heritage.

**Reason:** To protect and enhance nature conservation from construction activities.

- (7.) No development shall commence within Phase 1, and each subsequent Phase, or sub-Phase, until a comprehensive Landscape and Ecological Management Plan, to include details of monitoring and reporting by an appropriately qualified person, has been submitted to, and approved in writing by, the Planning Authority in consultation with Scottish Natural Heritage. Thereafter, development and other work shall progress in accordance with the approved Landscape and Ecological Management Plan.

**Reason:** To enhance nature conservation within the site.

- (8.) No development shall commence within each Phase, or sub-Phase, until a comprehensive Flood Risk Assessment has been undertaken for that Phase or sub-Phase and has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. Any mitigation measures as may be detailed within the approved Flood Risk Assessment shall be completed in full prior to the first occupation of any houses or business premises within the Phase or sub-Phase in question, or as otherwise may be agreed in writing by the Planning Authority.

**Reason:** To protect the water environment and reduce flood risk.

- (9.) No development shall commence within each Phase, or sub-Phase, until a Surface Water Strategy that deals with the existing surface water on site has been submitted to, and approved in writing by, the Planning Authority in

consultation with SEPA. Thereafter, development shall progress in accordance with the approved Surface Water Strategy.

**Reason:** To protect the water environment and reduce flood risk.

- (10.) No development shall commence on a particular Phase, or sub-Phase, until full details of surface water drainage provision within the relevant Phase or sub-Phase (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 for the relevant phase or sub-phase shall be completed prior to the final occupation of the relevant phase or sub-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 and reduce the risk of flooding.

- (11.) No culverts shall be used to create crossings of the Mid Coul Burn.

**Reason:** In the interests of protecting the water environment and reduce the risk of flooding.

- (12.) No development shall commence within each Phase, or sub-Phase, until details of any bridging solution or watercourse crossing on the Mid Coul Burn required for that phase has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The agreed solution shall be implemented.

**Reason:** In the interests of protecting the water environment and reduce the risk of flooding.

- (13.) All Phases of the development shall be connected to the public waste water system and the public water supply.

**Reason:** In the interests of public health, to protect and enhance the natural environment, protect the water environment and prevent pollution.

- (14.) No quarrying or mineral extraction shall be permitted within any Phase, or sub-Phase, without planning permission being grant on application to the Planning Authority.

**Reason:** In order to properly control development in the interest of the environment.

- (15.) The following features shall be retained, maintained free from development and protected against construction-related damage or impact, details for which shall be submitted to and approved within each Phase as relevant:



- i) The Mill Pond wetland area;
- ii) An 8m riparian zone along Mid Coul Burn.

**Reason:** In the interests of protecting the water environment.

- (16.) Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development shall take place within 8m of the Mid-Coul Burn without planning permission being granted on application to the Planning Authority.

**Reason:** To ensure that development which is normally permissible without the need for a planning application is carefully managed and does not encroach onto riparian buffer strips. Such buffer strips are required a) for the maintenance of watercourses within the application site, b) to account for natural watercourse migration, and c) in order to safeguard property from flood risk.

- (17.) There shall be no temporary watercourse crossing points for construction vehicles.

**Reason:** In the interests of protecting the water environment.

- (18.) No development shall commence within Phase 3 until a scheme for compensatory planting, in accordance with the Scottish Government's policy on the Control of Woodland Removal, has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall be implemented prior to the commencement of development within Phase 5.

**Reason:** To enable appropriate woodland removal to proceed, without incurring a net loss in woodland related public benefit, within Scotland.

- (19.) No trees within any Phase, other than those that are specifically identified for removal on the approved plans, shall be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, unless otherwise agreed in writing with the Planning Authority.

**Reason:** In order to ensure the continuity of woodland cover within the site.

- (20.) No development shall commence within each Phase or sub-Phase until a Tree Constraints Plan that accords with BS5837:2012 Trees in Relation to Design, Demolition & Construction (or any superseding guidance prevailing at the time) has been submitted to, and approved in writing by, the Planning Authority. The Plan shall include the following details:

- i. A detailed plan to a scale and level of accuracy appropriate to the proposal that shows the position of every tree on site with a stem diameter over the bark measured at 1.5 metres above ground level of at least 150 millimetres. In addition any tree on neighbouring or nearby ground to the site that is likely to have an effect upon or be affected by

the proposal must be shown, for example by shade, overhang from the boundary, intrusion of the Root Protection Area or general landscape factors;

- ii. A tree survey that lists details for each tree, including a schedule of any remedial works which may be required. The root protection area and recommended holdback distance from any new building, which takes into consideration above ground constraints;
- iii. Tree categorisation in accordance with Table 1 - Cascade Chart for Tree Quality Assessment;
- iv. A Tree Constraints Plan that indicates categories for each tree annotated onto the original Land Survey along with canopy spread, root protection area and holdback distances. Details of any proposed alterations to the existing ground levels or the position of any proposed excavations within 5 metres of the root protection area of any retained tree, including those on neighbouring ground must be clearly identified;
- v. An Arboricultural Implications Assessment that superimposes the proposed layout, including any underground services, onto the Tree Constraints Plan; and
- vi. A Tree Protection Plan that details the appropriate tree protection measures for every retained tree before and for the duration of the development.

Thereafter, the approved Tree Constraints Plan shall be implemented in full and in accordance with the timescales contained therein.

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

- (21.) All retained trees within the application site shall be protected throughout the construction phase using Herras fencing secured to fixed posts and located beyond the root protection area in accordance with BS5837:2012 Trees in Relation to Design, Demolition & Construction (or any superseding guidance prevailing at the outset of the construction phase). The fencing and other tree protection measures must be approved in writing by the Planning Authority, following an on site inspection by a representative of the Planning Authority, prior to the commencement of development. All fencing and measures must be enacted prior to development commencing and maintained as approved throughout the construction phase(s).

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

- (22.) Prior to development commencing, and for the duration of the construction phase(s), the existing petrochemical pipeline on the northern boundary of the site shall be protected by a 6 metre buffer strip of robust fencing.

**Reason:** To safeguard the existing petrochemical pipeline from damage.

- (23.) No development shall commence within each Phase or sub-Phase until details of a scheme of hard and soft landscaping works have been submitted

to, and approved in writing by the Planning Authority for that particular Phase or sub-Phase. 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 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.

- (24.) Before the first occupation of each Phase, or sub-Phase, a scheme for the maintenance in perpetuity of all on-site green spaces and/or woodland and/or sports facilities, features or parts of the development that are not the exclusive property of any identifiable individual house owner such as communal parking areas, the common entrances to flatted developments and estate lighting, and those elements of surface water drainage regimes not maintained either by the Highland Council or Scottish Water for that Phase, shall be submitted to and agreed in writing by the planning Authority. The agreed scheme, which shall accord with the Highland Council's adopted standards contained within 'Open Space in Residential Development', shall be implemented thereafter to the satisfaction of the planning authority.

**Reason:** In the interests of amenity and to ensure that open space and recreational facilities are maintained in accordance with the Council's standards.

- (25.) No development or work (incl. site clearance) shall commence within each Phase, or sub-Phase, until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

**Reason:** In order to protect the archaeological and historic interest of the site.

(26.) No development shall commence on site until full details of the following (including scale plans as necessary) have been submitted to, and approved in writing by, the Planning Authority, in consultation with Transport Scotland:

- i) the proposed upgrade to Croy Road to provide for vehicular and non-vehicular transport and pedestrian and cycle crossing provision on the A96(T) associated with Phase 1;
- ii) the proposed public transport services and bus stop locations associated with Phase 1;
- iii) a transport and traffic monitoring plan that establishes the volumes of vehicular and non-vehicular traffic associated with the development as it proceeds to aid in the submission of Transport Assessments for future Phases;

There shall be no occupation of any part of Phase 1 until the upgrades and other work approved under parts (i) and (ii) above have been completed. Following occupation of any part of the development hereby granted the transport and traffic monitoring plan, approved under part (iii) above, shall be implemented.

**Reason:** To increase the capacity of the existing road network and improve active travel.

(27.) Prior to the occupation of Phase 2, modifications to the A96(T) Mid Coul roundabout, generally as indicated in Savell Bird and Axon drawing number 62648/A/1, shall be implemented to the satisfaction of the Planning Authority in consultation with Transport Scotland. The modifications shall, in all respects, accommodate all road users'.

**Reason:** To ensure that there is sufficient capacity within road network.

(28.) Prior to the occupation of any part of Phase 1, modifications to the existing minor road from the development to Croy including the provision of a remote combined use path on part of the route and a footway adjacent to the carriageway on the remainder of the route, new passing places and the upgrading of existing passing places generally as indicated in Fairhurst drawings 86944/sk1001-3, shall be implemented to the satisfaction of the Planning Authority.

**Reason:** To increase the capacity of the existing road network and improve active travel.

(29.) No development shall commence within any Phase, or sub-Phase, beyond Phase 2 until:

- i) The Trunk Roads Authority has completed the upgrading and realignment of the A96(T) between Inverness and Tornagrain allowing

- the integration of the application site with the Inverness Airport Business Park, to the satisfaction of the Planning Authority; or
- ii) If it can be demonstrated that the additional level of development brought about by the Phase or sub-Phase in question can be accommodated by the existing trunk road network following appropriate developer-funded mitigation measures, upgrades and improvements, such works have been completed.

In order to demonstrate that an additional Phase, or sub-Phase, development can be accommodated in accordance with ii) above, a Transport Assessment shall be submitted to, and approved in writing by, the Planning Authority (in consultation with Transport Scotland) for each Phase or sub-Phase. Each assessment shall:

- a) review the trunk road network and consider the impacts brought about by the proposed Phase or sub-Phase; and
- b) highlight what developer-funded mitigation measures, upgrades and improvements should be undertaken to the local trunk road network in order to accommodate the proposed Phase or sub-Phase.

Any mitigation measures, upgrades and improvements included within the approved Transport Assessment must be enacted prior to the first occupation of any of the development within the Phase, or sub-Phase, to which they relate, or as otherwise approved in writing by the Planning Authority (in consultation with Transport Scotland).

**Reason:** To ensure that there is sufficient capacity within the trunk road network.

- (30.) No development shall commence within any Phase, or sub-Phase, beyond Phase 2 until a Transport Assessment for each Phase, or sub-Phase, has been submitted to, and approved in writing by, the Planning Authority. Each Transport Assessment must:

- a) review the local road network and consider the impacts brought about by the proposed Phase or sub-Phase; and
- b) highlight what developer-funded mitigation measures, upgrades and improvements should be undertaken to the local road network including facilities for public transport, pedestrians and cyclists in order to accommodate the proposed Phase or sub-Phase.

Any mitigation measures, upgrades and improvements approved by the Planning Authority must be enacted prior to the first occupation of any of the development within the Phase, or sub-Phase, to which they relate, or as otherwise approved in writing, by the Planning Authority.

**Reason:** To ensure that there is sufficient capacity within local road network.

- (31.) No development shall commence within any Phase, or sub-Phase, until a Traffic Management Plan for that Phase, or sub-Phase, has been submitted to and approved in writing by the Planning Authority. Thereafter, the Traffic

Management Plan shall be implemented in accordance with any timescales contained therein.

**Reason:** To ensure that the road network within the site is designed and developed in an appropriate manner.

- (32.) Car parking provision (including disabled parking) to serve the proposed development shall be in accordance with national standards set out in Scottish Planning Policy and, where national standards are not applicable, in accordance with The Highland Council's standards, unless otherwise agreed in writing with the Planning Authority.

**Reason:** To ensure adequate provision of car parking in accordance with Scottish Planning Policy national standards.

- (33.) No development shall commence on Phase 1, or any sub-Phase thereof, until a detailed Outdoor Access Management 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 (whether on land or inland water), 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, lighting, 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); and
- v. Links to the Highland Council's core paths and green frameworks The Outdoor Access Management Plan, and any associated works, shall be implemented as approved and in accordance with the timescales outlined therein. Furthermore, prior to the commencement of development on each Phase, or sub-Phase, following Phase 1, or any sub-Phase thereof, a review of the Outdoor Access Management Plan shall be undertaken and shall be submitted to, and approved in writing by, the Planning Authority. Where the approved review identifies the need for updates, the approved plan shall be considered as having been updated accordingly.

**Reason:** To ensure that the development is adequately connected with

existing and proposed pedestrian and cycle routes and to accord with the Land Reform (Scotland) Act 2003.

- (34.) All plant, machinery and equipment associated with ventilation, air-conditioning, heating and refrigeration or similar mechanical services within the application site, including fans, ducting and external openings shall be installed, maintained and operated such

that any operating noise complies with Noise Rating Curve 20 and details of a noise assessment for each installation shall be submitted alongside the relevant application for the approval of matters specified in conditions pursuant to condition 3 above.

**Reason:** In the interests of amenity.

- (35.) No development shall exceed 50 metres above existing ground level.

**Reason:** In the interests of aircraft safety.

- (36.) Following the commencement of the development hereby approved, and unless otherwise agreed in writing by them, the Planning Authority shall, in November of each year of development, be provided with data on the progress of key elements of the mixed use development including, as a minimum, the construction and occupation of the gross floor area (sq m) by use class and provision of structural landscaping.

**Reason:** To allow the effective control of a large scale development to emerge in tandem with the provision of necessary additional infrastructure.

## **REASON FOR DECISION**

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

## **TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE**

The Highland Council hereby makes the following Direction under Section 59(5) & (7) 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—

### **For Phase 1**

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

was dismissed.

**For each subsequent Phase**

- i. FIVE YEARS from the date of approval of matters specified in conditions for each previous Phase;
- ii. SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. SIX MONTHS from the date on which an appeal against such refusal was dismissed.

In respect of each phase, this permission will lapse on the expiration of the period from the date of the requisite approval of any matters specified in conditions applicable to that phase (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, unless that phase of the development to which the permission relates is begun before that expiration.

**SECTION 75 OBLIGATION**

You are advised that this planning permission has been granted subject to a Section 75 Obligation. The terms of the obligation must be read in conjunction with the planning permission hereby approved. The terms of the obligation may affect further development rights or land ownership and you are therefore advised to consult with the Planning Authority if considering any further development.

The full Section 75 Agreement can be inspected at the relevant planning office.

**IMPORTANT INFORMATIVES**

**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 the Trunk Roads Authority and/or the Roads Authority prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Trunk Road Authority and / or Roads Authority officer at the earliest possible 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.

### **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.

### **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](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species).

### **Protected Species - Ground Nesting Birds:**

Construction/demolition works have the potential to disturb nesting birds or damage their nest sites, and as such, checks for ground nesting birds should be made prior to the commencement of development if this coincides with the main bird breeding season (April - July inclusive). All wild bird nests are protected from damage, destruction, interference and obstruction under the Wildlife and Countryside Act 1981 (as amended). Some birds (listed on schedule 1 of the Wildlife and Countryside Act) have heightened protection where it is also an offence to disturb these birds while they are in or around the nest. For information please see:

[www.snh.org.uk/publications/online/wildlife/law/birdseggs.asp](http://www.snh.org.uk/publications/online/wildlife/law/birdseggs.asp)

### **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](mailto:env.health@highland.gov.uk) for more information.

### **Major Development Site Notice**

Prior to the commencement of this development, the attached Site Notice must be posted in a publicly accessible part of the site and remain in place until the development is complete. This is a statutory requirement of the Town and Country Planning (Scotland) Acts and associated regulations.

### **Badger Best Practice**

Badger Policy Guidance Note: March 2007 and associated guidance should be followed.

<http://www.highland.gov.uk/yourenvironment/planning/developmentplans/developmentplanpolicyguidance/Otherplanningguidance.htm>

### **Signature**

Signature:

Designation: Area Planning Manager South / Major Developments

Author: Simon Hindson - Acting Principal Planner

Background Papers: Documents referred to in report and in case file.

Relevant Plans: TCL1A                      Location Plan

## Appendix 2 - Supporting Letter from Applicant's Agent

41-43 Maddox Street, London, W1S 2PD  
T 020 7493 6693 F 020 7493 2393  
planning@turnberryuk.com  
www.turnberryuk.com

Simon Hindson  
Development Management  
The Highland Council  
Glenurquhart Road  
Inverness  
IV3 5NX

# Turnberry

Our ref: S Hindson 21.12.16 MEDCO-T  
Your ref:

21<sup>st</sup> December, 2016

Dear Simon,

### **Tornagrain: Section 42 Application to vary Condition 1 of Planning Permission in Principle 09/00038/OUTIN and remove Condition 34 of Planning Permission in Principle 09/00038/OUTIN**

As discussed, we are seeking a variation of condition 1 of application reference number 09/00038/OUTIN to provide for a phasing plan that is achievable and reflects progress on site. We are proposing minor variations to the wording of condition 1 to reflect the fact that the practical phasing of the development is more nuanced than the conditions envisaged, that planning permission was granted two years into the first phase of the development and to provide greater flexibility to support the delivery of Tornagrain.

We are further seeking to remove condition 34 of application reference number 09/00038/OUTIN as the condition covers a matter which is now addressed by environmental legislation and the requirement for the condition is therefore no longer required from a planning perspective. We have been advised that this condition is no longer attached to planning consents and therefore seek to bring the planning permission in principle 09/00038/OUTIN into line with this position. Residential amenity will still be protected under environmental legislation and through the Council's Environmental Health team and would therefore fail Test 1 'Need for a Condition' set out in Annex A of Circular 4/1998.

#### Proposed Condition 1

The proposed changes to the wording of condition 1 are minor and are essentially two-fold:

1. Remove the exact years specified in the phasing table within which each phase will be delivered;
2. Provide an alternative and more flexible mechanism for defining phasing which can respond to and better predict, actual delivery rates on site.

No amendments are proposed to the phasing of the development in terms of the delivery of uses within each phase, rather the set time stipulations for each phase have been removed, which are rigid

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and can only estimate the approximate phasing for such a complex and long term construction project.

The minor changes are designed to make the condition more flexible so that phasing can be more dynamic, reflecting actual site conditions. We propose to advise the Council of the timing of phases using the mechanism set out in the paragraph immediately following the table. This is achieved through the submission of Phasing and Sub-Phasing plans to the Council for approval to enable a more flexible approach in response to a slowing down or speeding up of development without compromising on the need to coordinate infrastructure etc.

#### Proposed Direction

We would underline the need for the original direction attached to planning permission 09/00038/OUTIN to be retained and reproduced verbatim on the revised Decision Notice. The direction is shown below in italics:

#### ***'Time limit for the implementation of this planning permission in principle***

*The Highland Council hereby makes the following Direction under Section 59(5) & (7) 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 –*

#### ***For Phase 1 B***

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

#### ***For each subsequent Phase***

- i. FIVE YEARS from the date of approval of matters specified in conditions for each previous Phase;*
- ii. SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or*
- iii. SIX MONTHS from the date on which an appeal against such refusal was dismissed.*

*In respect of each phase, this permission will lapse on the expiration of the period from the date of the requisite approval of any matters specified in conditions applicable to that phase (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, unless that phase of the development to which the permission relates is begun before that expiration.'*

I have included both a tracked changed and clean copy of the suggested wording of the condition for your consideration and trust that this is acceptable. However, should you have any queries or concerns about any of the information contained herein, please do not hesitate to contact me.

Yours sincerely,

**Andrew Garraway**



**PLANNING PERMISSION IN PRINCIPLE**

Reference No: 09/00038/OUTIN

**THE HIGHLAND COUNCIL**

Town & Country Planning (Scotland) Act 1997 as amended by the Planning Etc. (Scotland) 2006 Act

**DECISION NOTICE**

To:  
Moray Estates Development Company  
Limited  
As Per Agent

Per:  
David Black  
Turnberry Consulting Limited  
41/43 Maddox Street  
London  
W1S 2PD

**New Town Comprising up to 4,960 houses, Community Facilities, Retail, Business, General Industry, Storage and Distribution, Hotels, Residential Institution, Leisure, Petrol Stations and associated Landscaping, Open Space, Infrastructure and Services Land North East Of Tornagrain, Dalcross, Inverness**

The Highland Council in exercise of its powers under the above Acts **grants planning permission in principle** for the above development in accordance with the particulars given in the application and the following plans/drawings:

<b>Type of Plan</b>	<b>Plan Number</b>	<b>Date Plan Received</b>
Location Plan	TCL1A	13.03.2009
Site Plan	TCL2A	13.03.2009
Bulk and Massing	TCL3A	13.03.2009
Distribution of Uses	TCL4A	13.03.2009
Buildings Retained/Demolished	TCL5A	13.03.2009
Phasing	TCL6A	13.03.2009
Open Space Allocations	TCL7A	13.03.2009
Indicative Layout	TCL12A	13.03.2009

**This permission is granted subject to the following conditions: -**

- (1.) Planning Permission in Principle is hereby granted for a mixed use development upon 168 hectares to be developed in accordance with the Master Plan hereby approved in seven sequential Phases in accordance with the Phasing Plan set out in Table 1 and the Approved Non-residential Uses for each Phase set out within Table 2:

**Dated: 6th November 2013**

  
Head of Planning and Building Standards

**Table 1: Approved Residential Phasing**

Phase Use	1 2012- 2016	2 2016- 2021	3 2021- 2026	4 2026- 2031	5 2031- 2036	6 2036- 2041	7 2041- 2046
Residential (units)	344	507	780	885	960	1100	391

**Table 2: Approved Non-residential uses with each Phase and totals  
\*excluding High Wood**

Use Class	Phase Use	1 2012- 2016	2 2016- 2021	3 2021- 2026	4 2026- 2031	5 2031- 2036	6 2036- 2041	7 2041- 2046	Total
1-3	Retail (m <sup>2</sup> )	1500	0	9000	4500	500	2750	1750	20,000 m <sup>2</sup>
4	Business (m <sup>2</sup> )	500	0	2500	1750	750	1000	500	7,000 m <sup>2</sup>
5	General Industry (m <sup>2</sup> )	0	0	500	300	200	0	0	1,000m <sup>2</sup>
6	Storage & Distribution (m <sup>2</sup> )	0	0	500	300	200	0	0	1,000m <sup>2</sup>
7	Hotel (m <sup>2</sup> )	0	0	2500	1500	0	0	0	4,000m <sup>2</sup>
8	Residential Institutions (m <sup>2</sup> )	0	1000	1000	1000	1000	1000	0	5,000m <sup>2</sup>
10	Non-Residential Institutions (m <sup>2</sup> )								(18,222m <sup>2</sup> )
	Primary School	0	1418	0	1418	0	2496	1418	6,750m <sup>2</sup>
	Secondary School	0	0	0	8522	0	0	0	8,522m <sup>2</sup>
	Health Centre	0	0	0	400	0	0	0	400m <sup>2</sup>
	Church	0	0	650	0	0	0	0	650m <sup>2</sup>
	Emergency Services	0	0	600	0	0	0	0	600m <sup>2</sup>
	Other			881	419				1300m <sup>2</sup>
11	Leisure (m <sup>2</sup> )	0	0	0	0	0	0	3000	3,000m <sup>2</sup>
Sui Generis	Other (m <sup>2</sup> )	0	0	0	750	750	0	0	1,500m <sup>2</sup>
Open Space	Open Space (ha)*	10.90	7.48	3.14	3.23	11.53	10.73	32.39	79.4ha

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The development shall be undertaken in accordance with the agreed Phasing Plan or in Sub-Phases as may be approved in writing by the Planning Authority. A Sub-Phase means any part of any Phase of Development the subject of an Approval of Matters Specified in Conditions issued by the Council following an application in that behalf, or otherwise subject of any equivalent planning approval following an application in that behalf.

**Reason:** To ensure that the development proceeds in an appropriate manner and that the necessary elements of the development are provided at the appropriate stages.

- (2.) No development shall commence within each Phase, or sub-Phase, until an application, or applications, for the approval of matters specified in conditions as they relate to or are relied upon by that Phase or sub-Phase has been submitted to and approved by the Planning Authority in respect of the following matters, insofar as they relate to the details of the proposed development taking full account of the approved Master Plan:-
- a) a detailed Master Plan and Design Code using the principles set out in the approved Master Plan, Planning Statement and Environmental Statement;
  - b) the siting, design and external appearance of all buildings and other structures;
  - c) details of sustainable design considerations including possible use of solar gain design, solar energy use, grey water recycling and rain water harvesting, external lighting to minimise sky glow, and energy conservation generally;
  - d) the layout of the site;
  - e) the means of access to the site including connections to the A96(T) for all modes of transport;
  - f) road layout including the road hierarchy, junction layouts and design with projected traffic figures supported by traffic modelling, junction visibility requirements, vehicle tracking at junctions and standard radii, details of bus routes and bus stops, details of provision for cyclists and pedestrians including carriageway crossings, provision for disabled users, details of safer routes to school;
  - g) the provision of car parking including in-curtilage parking, communal parking areas, parking courts and on-street parking;
  - h) the provision of cycle parking including resident parking in houses and flats and visitor parking at commercial and community facilities;
  - i) public transport provision including new and extended bus services;
  - j) the provision of equipped play areas;
  - k) the provision of public open space, including allotments in accordance with the Highland Council's interim guidance on the provision of open space in residential development (or any superseding guidance prevailing at the time of submission);
  - l) details of public art provision in accordance with the Highland Council's interim guidance on developer contributions (or any superseding guidance prevailing at the time of submission);
  - m) details of management and maintenance arrangements of the areas identified in (g), (j) and (k) above;
  - n) the provision for loading and unloading all goods vehicles;

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- o) means of dealing with domestic and commercial waste in accordance with the Highland Council's 'Managing Waste in New Developments' Supplementary Planning Guidance' (or any superseding guidance prevailing at the time of submission) including provision of communal composting and recycling facilities;
- p) details of existing trees, shrubs and hedgerows to be retained;
- q) details of existing and proposed site levels; and
- r) details of community facilities

**Reason:** To enable the planning authority to consider these aspects of the development in detail.

(3.) No development shall commence within each Phase, or sub-Phase, until a Construction Environmental Management Document has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The Document shall include:

- a). An updated Schedule of Mitigation (SM) including all mitigation proposed in support of the planning application, other relevant agreed mitigation (e.g. as required by agencies) and set out in the relevant planning conditions
- b). Processes to control / action changes from the agreed Schedule of Mitigation
- c). The following specific Construction and Environmental Management Plans (CEMP):
  - (i) Habitat and Species Protection Plan
  - (ii) Pollution prevention plan
  - (iii) Dust management plan
  - (iv) Noise and vibration mitigation plan
  - (v) Site waste management plan
  - (vi) Measures to protect private water supplies; including an emergency response plan
- d). Details of the appointment of an appropriately qualified Environmental Clerk of Works with roles and responsibilities.
- e). Methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, Planning Authority and other relevant parties.
- f). Statement of responsibility to 'stop the job / activity' if in potential breach of a mitigation or legislation occurs. The development shall proceed in accordance with the approved Construction Environmental Management Document.

**Reason:** To protect the environment and amenity from the construction and operation of the development.

(4.) No development shall commence within each Phase, or sub-Phase, until a scheme to deal with potential contamination on site within that Phase has been submitted to and approved in writing by the Planning Authority. The scheme shall include:

- i) the nature, extent and type of contamination on site, identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment in line with PAN 33 and BS10175:2001, or any superseding guidance prevailing at the time of the assessment), the scope and method of which shall be submitted to and approved in writing by the Planning Authority;

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- ii) the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works and proposed verification plan to ensure that the site is fit for the uses proposed;
- iii) measures to deal with contamination during construction works;
- iv) a means of monitoring any decontamination measures;
- v) a means of verifying the completion of any decontamination measures that may arise. Thereafter, no development shall commence within the phase in question until written confirmation that the scheme will be implemented and completed in accordance with an agreed programme and, if required, monitoring measures are in place, has been issued by the Planning Authority.

**Reason:** In order to ensure that the site is suitable for development, given the nature of previous uses/processes.

- (5.) No development shall commence within each Phase, or sub-Phase, until a revised Badger Protection Plan has been submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. The agreed plan shall be implemented.

**Reason:** In the interest of the protection of badgers.

- (6.) No development shall commence within each Phase or sub-Phase until pre-commencement surveys to locate the presence or absence of otter, badger, bat and red squirrel have been undertaken and copies submitted to both the Planning Authority and SNH. Should any of these species be found within or adjacent to an area likely to be affected by construction activities, appropriate mitigation measures shall be put in place by the developer prior to development commencing and be maintained for the duration of development, details of which shall first be submitted to, and approved in writing by, the Planning Authority in consultation with Scottish Natural Heritage.

**Reason:** To protect and enhance nature conservation from construction activities.

- (7.) No development shall commence within Phase 1, and each subsequent Phase, or sub-Phase, until a comprehensive Landscape and Ecological Management Plan, to include details of monitoring and reporting by an appropriately qualified person, has been submitted to, and approved in writing by, the Planning Authority in consultation with Scottish Natural Heritage. Thereafter, development and other work shall progress in accordance with the approved Landscape and Ecological Management Plan.

**Reason:** To enhance nature conservation within the site.

- (8.) No development shall commence within each Phase, or sub-Phase, until a comprehensive Flood Risk Assessment has been undertaken for that Phase or sub-Phase and has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. Any mitigation measures as may be detailed within the approved Flood Risk Assessment shall be completed in full prior to the first occupation of any houses or business premises within the Phase or sub-Phase in question, or as otherwise may be agreed in writing by the Planning Authority.

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**Reason:** To protect the water environment and reduce flood risk.

- (9.) No development shall commence within each Phase, or sub-Phase, until a Surface Water Strategy that deals with the existing surface water on site has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. Thereafter, development shall progress in accordance with the approved Surface Water Strategy.

**Reason:** To protect the water environment and reduce flood risk.

- (10.) No development shall commence on a particular Phase, or sub-Phase, until full details of surface water drainage provision within the relevant Phase or sub-Phase (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 for the relevant phase or sub-phase shall be completed prior to the final occupation of the relevant phase or sub-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 and reduce the risk of flooding.

- (11.) No culverts shall be used to create crossings of the Mid Coul Burn.

**Reason:** In the interests of protecting the water environment and reduce the risk of flooding.

- (12.) No development shall commence within each Phase, or sub-Phase, until details of any bridging solution or watercourse crossing on the Mid Coul Burn required for that phase has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The agreed solution shall be implemented.

**Reason:** In the interests of protecting the water environment and reduce the risk of flooding.

- (13.) All Phases of the development shall be connected to the public waste water system and the public water supply.

**Reason:** In the interests of public health, to protect and enhance the natural environment, protect the water environment and prevent pollution.

- (14.) No quarrying or mineral extraction shall be permitted within any Phase, or sub-Phase, without planning permission being grant on application to the Planning Authority.

**Reason:** In order to properly control development in the interest of the environment.

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(15.) The following features shall be retained, maintained free from development and protected against construction-related damage or impact, details for which shall be submitted to and approved within each Phase as relevant:

- i) The Mill Pond wetland area;
- ii) An 8m riparian zone along Mid Coul Burn.

**Reason:** In the interests of protecting the water environment.

(16.) Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development shall take place within 8m of the Mid-Coul Burn without planning permission being granted on application to the Planning Authority.

**Reason:** To ensure that development which is normally permissible without the need for a planning application is carefully managed and does not encroach onto riparian buffer strips. Such buffer strips are required a) for the maintenance of watercourses within the application site, b) to account for natural watercourse migration, and c) in order to safeguard property from flood risk.

(17.) There shall be no temporary watercourse crossing points for construction vehicles.

**Reason:** In the interests of protecting the water environment.

(18.) No development shall commence within Phase 3 until a scheme for compensatory planting, in accordance with the Scottish Government's policy on the Control of Woodland Removal, has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall be implemented prior to the commencement of development within Phase 5.

**Reason:** To enable appropriate woodland removal to proceed, without incurring a net loss in woodland related public benefit, within Scotland.

(19.) No trees within any Phase, other than those that are specifically identified for removal on the approved plans, shall be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, unless otherwise agreed in writing with the Planning Authority.

**Reason:** In order to ensure the continuity of woodland cover within the site.

(20.) No development shall commence within each Phase or sub-Phase until a Tree Constraints Plan that accords with BS5837:2012 Trees in Relation to Design, Demolition & Construction (or any superseding guidance prevailing at the time) has been submitted to, and approved in writing by, the Planning Authority. The Plan shall include the following details:

- i. A detailed plan to a scale and level of accuracy appropriate to the proposal that shows the position of every tree on site with a stem diameter over the bark

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- measured at 1.5 metres above ground level of at least 150 millimetres. In addition any tree on neighbouring or nearby ground to the site that is likely to have an effect upon or be affected by the proposal must be shown, for example by shade, overhang from the boundary, intrusion of the Root Protection Area or general landscape factors;
- ii. A tree survey that lists details for each tree, including a schedule of any remedial works which may be required. The root protection area and recommended holdback distance from any new building, which takes into consideration above ground constraints;
  - iii. Tree categorisation in accordance with Table 1 - Cascade Chart for Tree Quality Assessment;
  - iv. A Tree Constraints Plan that indicates categories for each tree annotated onto the original Land Survey along with canopy spread, root protection area and holdback distances. Details of any proposed alterations to the existing ground levels or the position of any proposed excavations within 5 metres of the root protection area of any retained tree, including those on neighbouring ground must be clearly identified;
  - v. An Arboricultural Implications Assessment that superimposes the proposed layout, including any underground services, onto the Tree Constraints Plan; and
  - vi. A Tree Protection Plan that details the appropriate tree protection measures for every retained tree before and for the duration of the development.

Thereafter, the approved Tree Constraints Plan shall be implemented in full and in accordance with the timescales contained therein.

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

- (21.) All retained trees within the application site shall be protected throughout the construction phase using Herras fencing secured to fixed posts and located beyond the root protection area in accordance with BS5837:2012 Trees in Relation to Design, Demolition & Construction (or any superseding guidance prevailing at the outset of the construction phase). The fencing and other tree protection measures must be approved in writing by the Planning Authority, following an on site inspection by a representative of the Planning Authority, prior to the commencement of development. All fencing and measures must be enacted prior to development commencing and maintained as approved throughout the construction phase(s).

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

- (22.) Prior to development commencing, and for the duration of the construction phase(s), the existing petrochemical pipeline on the northern boundary of the site shall be protected by a 6 metre buffer strip of robust fencing.

**Reason:** To safeguard the existing petrochemical pipeline from damage.

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(23.) No development shall commence within each Phase or sub-Phase until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by the Planning Authority for that particular Phase or sub-Phase. 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 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.

(24.) Before the first occupation of each Phase, or sub-Phase, a scheme for the maintenance in perpetuity of all on-site green spaces and/or woodland and/or sports facilities, features or parts of the development that are not the exclusive property of any identifiable individual house owner such as communal parking areas, the common entrances to flatted developments and estate lighting, and those elements of surface water drainage regimes not maintained either by the Highland Council or Scottish Water for that Phase, shall be submitted to and agreed in writing by the planning Authority. The agreed scheme, which shall accord with the Highland Council's adopted standards contained within 'Open Space in Residential Development', shall be implemented thereafter to the satisfaction of the planning authority.

**Reason:** In the interests of amenity and to ensure that open space and recreational facilities are maintained in accordance with the Council's standards.

(25.) No development or work (incl. site clearance) shall commence within each Phase, or sub-Phase, until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

**Reason:** In order to protect the archaeological and historic interest of the site.

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(26.) No development shall commence on site until full details of the following (including scale plans as necessary) have been submitted to, and approved in writing by, the Planning Authority, in consultation with Transport Scotland:

- i) the proposed upgrade to Croy Road to provide for vehicular and non-vehicular transport and pedestrian and cycle crossing provision on the A96(T) associated with Phase 1;
- ii) the proposed public transport services and bus stop locations associated with Phase 1;
- iii) a transport and traffic monitoring plan that establishes the volumes of vehicular and non-vehicular traffic associated with the development as it proceeds to aid in the submission of Transport Assessments for future Phases;

There shall be no occupation of any part of Phase 1 until the upgrades and other work approved under parts (i) and (ii) above have been completed. Following occupation of any part of the development hereby granted the transport and traffic monitoring plan, approved under part (iii) above, shall be implemented.

**Reason:** To increase the capacity of the existing road network and improve active travel.

(27.) Prior to the occupation of Phase 2, modifications to the A96(T) Mid Coul roundabout, generally as indicated in Savell Bird and Axon drawing number 62648/A/1, shall be implemented to the satisfaction of the Planning Authority in consultation with Transport Scotland. The modifications shall, in all respects, accommodate all road users'.

**Reason:** To ensure that there is sufficient capacity within road network.

(28.) Prior to the occupation of any part of Phase 1, modifications to the existing minor road from the development to Croy including the provision of a remote combined use path on part of the route and a footway adjacent to the carriageway on the remainder of the route, new passing places and the upgrading of existing passing places generally as indicated in Fairhurst drawings 86944/sk1001-3, shall be implemented to the satisfaction of the Planning Authority.

**Reason:** To increase the capacity of the existing road network and improve active travel.

(29.) No development shall commence within any Phase, or sub-Phase, beyond Phase 2 until:

- i) The Trunk Roads Authority has completed the upgrading and realignment of the A96(T) between Inverness and Tornagrain allowing the integration of the application site with the Inverness Airport Business Park, to the satisfaction of the Planning Authority; or
- ii) If it can be demonstrated that the additional level of development brought about by the Phase or sub-Phase in question can be accommodated by the existing trunk road network following appropriate developer-funded mitigation measures, upgrades and improvements, such works have been completed.

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In order to demonstrate that an additional Phase, or sub-Phase, development can be accommodated in accordance with ii) above, a Transport Assessment shall be submitted to, and approved in writing by, the Planning Authority (in consultation with Transport Scotland) for each Phase or sub-Phase. Each assessment shall:

- a) review the trunk road network and consider the impacts brought about by the proposed Phase or sub-Phase; and
- b) highlight what developer-funded mitigation measures, upgrades and improvements should be undertaken to the local trunk road network in order to accommodate the proposed Phase or sub-Phase.

Any mitigation measures, upgrades and improvements included within the approved Transport Assessment must be enacted prior to the first occupation of any of the development within the Phase, or sub-Phase, to which they relate, or as otherwise approved in writing by the Planning Authority (in consultation with Transport Scotland).

**Reason:** To ensure that there is sufficient capacity within the trunk road network.

(30.) No development shall commence within any Phase, or sub-Phase, beyond Phase 2 until a Transport Assessment for each Phase, or sub-Phase, has been submitted to, and approved in writing by, the Planning Authority. Each Transport Assessment must:

- a) review the local road network and consider the impacts brought about by the proposed Phase or sub-Phase; and
- b) highlight what developer-funded mitigation measures, upgrades and improvements should be undertaken to the local road network including facilities for public transport, pedestrians and cyclists in order to accommodate the proposed Phase or sub-Phase.

Any mitigation measures, upgrades and improvements approved by the Planning Authority must be enacted prior to the first occupation of any of the development within the Phase, or sub-Phase, to which they relate, or as otherwise approved in writing, by the Planning Authority.

**Reason:** To ensure that there is sufficient capacity within local road network.

(31.) No development shall commence within any Phase, or sub-Phase, until a Traffic Management Plan for that Phase, or sub-Phase, has been submitted to and approved in writing by the Planning Authority. Thereafter, the Traffic Management Plan shall be implemented in accordance with any timescales contained therein.

**Reason:** To ensure that the road network within the site is designed and developed in an appropriate manner.

(32.) Car parking provision (including disabled parking) to serve the proposed development shall be in accordance with national standards set out in Scottish Planning Policy and, where national standards are not applicable, in accordance with The Highland Council's standards, unless otherwise agreed in writing with the Planning Authority.

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**Reason:** To ensure adequate provision of car parking in accordance with Scottish Planning Policy national standards.

- (33.) No development shall commence on Phase 1, or any sub-Phase thereof, until a detailed Outdoor Access Management 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 (whether on land or inland water), 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, lighting, 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); and
  - v. Links to the Highland Council's core paths and green frameworks. The Outdoor Access Management Plan, and any associated works, shall be implemented as approved and in accordance with the timescales outlined therein. Furthermore, prior to the commencement of development on each Phase, or sub-Phase, following Phase 1, or any sub-Phase thereof, a review of the Outdoor Access Management Plan shall be undertaken and shall be submitted to, and approved in writing by, the Planning Authority. Where the approved review identifies the need for updates, the approved plan shall be considered as having been updated accordingly.

**Reason:** To ensure that the development is adequately connected with existing and proposed pedestrian and cycle routes and to accord with the Land Reform (Scotland) Act 2003.

- (34.) Construction operations for which noise is audible at the boundary of the site shall only be carried out between 08.00 hours and 18.00 hours Monday to Friday, between 08.00 hours and 13.00 hours on Saturdays and at no time on a Sunday or Bank Holidays (as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended)). Work requiring to be carried out outwith these times shall only commence with the prior written approval of the Planning Authority, except in the case of an emergency.

**Reason:** In the interests of amenity.

- (35.) All plant, machinery and equipment associated with ventilation, air-conditioning, heating and refrigeration or similar mechanical services within the application site, including fans, ducting and external openings shall be installed, maintained and operated such

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that any operating noise complies with Noise Rating Curve 20 and details of a noise assessment for each installation shall be submitted alongside the relevant application for the approval of matters specified in conditions pursuant to condition 3 above.

**Reason:** In the interests of amenity.

(36.) No development shall exceed 50 metres above existing ground level.

**Reason:** In the interests of aircraft safety.

(37.) Following the commencement of the development hereby approved, and unless otherwise agreed in writing by them, the Planning Authority shall, in November of each year of development, be provided with data on the progress of key elements of the mixed use development including, as a minimum, the construction and occupation of the gross floor area (sq m) by use class and provision of structural landscaping.

**Reason:** To allow the effective control of a large scale development to emerge in tandem with the provision of necessary additional infrastructure.

### **REASON FOR DECISION**

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

### **TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE**

The Highland Council hereby makes the following Direction under Section 59(5) & (7) 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—

#### **For Phase 1**

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

#### **For each subsequent Phase**

- i. FIVE YEARS from the date of approval of matters specified in conditions for each previous Phase;
- ii. SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. SIX MONTHS from the date on which an appeal against such refusal was dismissed.

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In respect of each phase, this permission will lapse on the expiration of the period from the date of the requisite approval of any matters specified in conditions applicable to that phase (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, unless that phase of the development to which the permission relates is begun before that expiration.

## **SECTION 75 OBLIGATION**

You are advised that this planning permission has been granted subject to a Section 75 Obligation. The terms of the obligation must be read in conjunction with the planning permission hereby approved. The terms of the obligation may affect further development rights or land ownership and you are therefore advised to consult with the Planning Authority if considering any further development.

The full Section 75 Agreement can be inspected at the relevant planning office.

## **IMPORTANT INFORMATIVES**

### **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.

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### **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 road construction consent, 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.

### **Major Development Site Notice**

Prior to the commencement of this development, the attached Site Notice must be posted in a publicly accessible part of the site and remain in place until the development is complete. This is a statutory requirement of the Town and Country Planning (Scotland) Acts and associated regulations.

**Dated: 6th November 2013**

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**Head of Planning and Building Standards**

**Gaelic Language**

In line with the Council's Gaelic Language Plan and Policies, you are encouraged to consider the use of both Gaelic and English on signage within in this development (both internal and external signs) as well as the adoption of Gaelic or Gaelic-influenced street names. For further guidance, you may wish to contact the Council's Gaelic Development Manager (01463 724287) or Comunn na Gàidhlig (01463 234138).

**Badger Best Practice**

Badger Policy Guidance Note: March 2007 and associated guidance should be followed. <http://www.highland.gov.uk/yourenvironment/planning/developmentplans/developmentplanpolicyguidance/Otherplanningguidance.htm>

**Building Regulations**

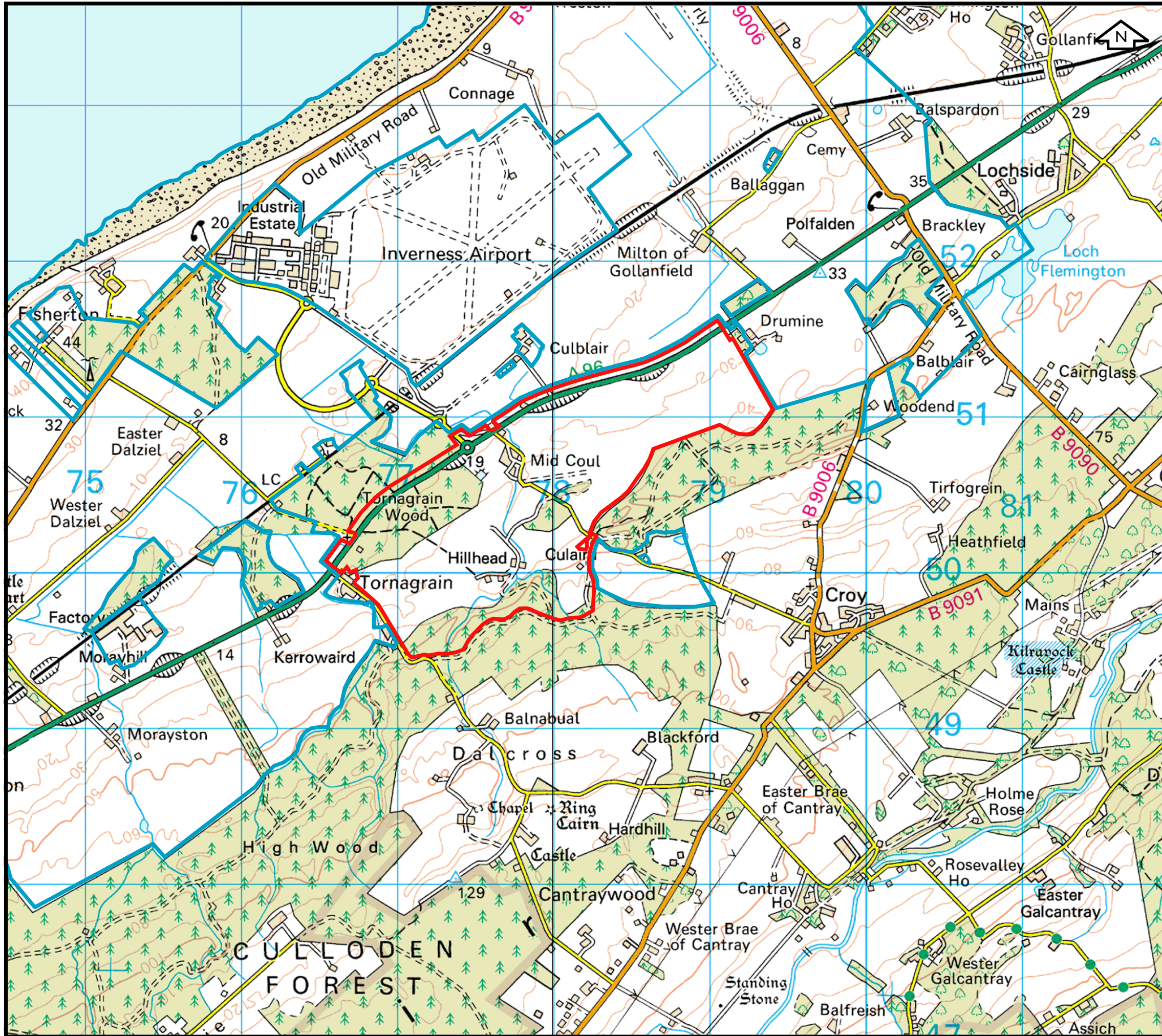
Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at [Building.Standards@highland.gov.uk](mailto:Building.Standards@highland.gov.uk) or on 01349 886606.

**NOTIFICATION TO APPLICANT**

1. If the applicant is aggrieved by the decision to refuse planning permission for or approval required by a conditions in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may appeal to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of appeal should be addressed to:  
Directorate for Planning and Environmental Appeals  
4 The Courtyard  
Callendar Business Park  
Callendar Road  
Falkirk  
FK1 1XR  
Appeals can also be lodged online via the ePlanning Portal at <https://eplanning.scotland.gov.uk/WAM/>
2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

**Dated: 6th November 2013**

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**Head of Planning and Building Standards**



- Application Site
- Other Land in Applicants Ownership

**LOCATION PLAN**

**Tornagrain**  
Moray Estates

TCL 1A

**Tornagrain**  
A Planned Town for the Highlands

Scale 1:25 000 @ A3 - March 2009  
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