

Agenda Item	6.3
Report No	PLS 056/17

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 24 October 2017
Report Title: 17/03541/S42: Trustees of Richard Tyser's Overseas Settlement
Land to North of Torbreck, Inverness
Report By: Area Planning Manager – South/Major Developments

Purpose/Executive Summary

Description: Section 42 Application for Non-compliance with Condition 1 of Planning Permission in Principle Application Ref No. 04/00585/PIP

Ward: 15: Inverness Ness-side

Development category: Major

Reason referred to Committee: Major Development

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **GRANT** planning permission as set out in section 10 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 This application has been submitted under Section 42 of the Planning Act and relates to a number of the conditions attached to planning permission 04/00585/OUTIN granted on 08 July 2011 in respect of the Ness Castle (west) development. The applicant's justification for the non-compliance with Condition 1 is set out in their letter which accompanied the application and is attached to this report as Appendix 2.
- 1.2 The development at Ness Castle (west) comprises of 804 homes split over 4 sequential phases.
- 1.3 This application seeks to reword Condition 1 (Phasing of the development) to ensure that the planning permission reflects the approved phasing which has been delivered on the ground.
- 1.4 A copy of the original planning permission for the Ness Castle (west) development is contained within Appendix 3.
- 1.5 This application has been supported by the following information:
 - Supporting statement / letter; and
 - Previously approved plans for the development.

2. PLANNING HISTORY

- 2.1 The development at Ness Castle (west) commenced on 24 March 2015. The first element brought forward was the site access which serves this development and the adjacent Ness Castle (east) development that is currently being progressed by other developers.
- 2.2 08.07.2011 - Residential development including associated landscaping, access and infrastructure granted planning permission (04/00585/OUTIN).
- 2.3 02.11.2011 - Residential development (189 houses) and associated works granted planning permission (Phase 1 of Planning Permission 04/00585/OUTIN) (08/00070/FULIN).
- 2.4 08.06.2015 - Formation of additional section of distributor road granted planning permission (15/01144/FUL).
- 2.5 02.06.2017 - Matters specified in conditions 4a, 4b, 4c,4d, 4f, 4i, 5, 7, 9, 13,15 of planning permission in principle 04/00585/OUTIN - Erection of 137 dwelling houses, Phase 2 at Ness Castle approved matters specified in conditions (17/01189/MSC).
- 2.6 10.08.2017 - Layout as approved under MSC Application 17/01189/MSC, Change of house types and layout of plots pending consideration 17/03721/MSC.

3. PUBLIC PARTICIPATION

3.1 Advertised: Unknown Neighbour: 18.08.2017

Representation deadline: 01.09.2017

Timeous representations: 2

Late representations: 0

3.2 Material considerations raised are summarised as follows:

- Need to protect natural environment (trees and wild life)

3.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

4. CONSULTATIONS

4.1 None.

5. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

5.1 Highland Wide Local Development Plan 2012

Policy 1 - Completing the Unconstrained City Expansion Areas

Policy 28 - Sustainable Design

Policy 29 - Design Quality & Place-making

Policy 31 - Developer Contributions

Policy 32 - Affordable Housing

Policy 34 - Settlement Development Areas

Policy 51 - Trees and Development

Policy 52 - Principle of Development in Woodland

Policy 56 - Travel

Policy 57 - Natural, Built & Cultural Heritage

Policy 58 - Protected Species

Policy 59 - Other important Species

Policy 60 - Other Importance 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 71 - Safeguarding of Waste Management Sites

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 IN35 Ness Castle (Housing)

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 MATERIAL CONSIDERATIONS

6.1 Ness Development Brief (2007)

6.2 Scottish Government Planning Policy and Guidance

National Planning Framework 3 (2014)

Scottish Planning Policy (2014)

7. PLANNING APPRAISAL

7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

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 continues 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 Highland-wide Local Development Plan (2012). The Inner Moray Firth Local Development Plan (2015) has also since been adopted.
- 7.5 The key issue therefore is whether the amendment of the condition applied for would result in the development being incompatible with the Development Plan. The remainder of this report will consider the modification proposed and assess its 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. However, this re-phasing can only be supported if appropriate conditions are in place to ensure that adequate mitigation is being provided at the appropriate time. This is set out in the conditions on the original permission and it is proposed that these will continue to be applied to any revised permission which may be granted.
- 7.7 The revised condition proposed by officers and agreed by the applicant to address the phasing provides greater control to the Planning Authority and delivers greater certainty to the developer as to the level of development which will be permitted within each phase or sub-phase. This will also provide certainty to the community over likely timescales for delivery of development as well as the phasing of infrastructure. The phasing would continue to be delivered over 4 principal 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.

Other material considerations

- 7.8 Representations have raised concerns regarding impact of the development on wildlife and trees. While the masterplan for the site addressed these concerns, it is important that in bringing forward any applications to address the matters specified in conditions that these issues are taken into account. Therefore conditions will continue to be attached to the permission to protect wildlife and trees.

- 7.9 It is worth highlighting that an application submitted under S42 of the Planning Act provides a planning authority with an opportunity as part of the process in considering the proposed variation, to amend any, or each of the original conditions previously applied which it considers necessary to regulate the development proposed. Following consideration of the conditions attached to the extant planning permission, it is considered appropriate to revisit all the conditions attached to the original consent to ensure the wording is in line with current good practice and to ensure the conditions are suitable to regulate the proposed development. In doing so, this has provided an opportunity to strengthen the terms of the conditions and provide greater clarity as to the requirements of these, including the information required to satisfy the conditions.
- 7.10 The grant of permission under S42 of the Planning Act results in the issue of a fresh planning permission. Accordingly it is proposed to modify the timescale direction to reflect the revised phasing.
- 7.11 Any permission granted will continue the requirement for 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 safer routes to school; and
 - Contributions toward strategic road infrastructure.

8. 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 condition 1 of the extant planning permission accords with the development plan and is acceptable in terms of all other applicable material considerations.

9. IMPLICATIONS

- 9.1 Resource: Not applicable
- 9.2 Legal: Not applicable

9.3 Community (Equality, Poverty and Rural): Not applicable

9.4 Climate Change/Carbon Clever: Not applicable

9.5 Risk: Not applicable

9.6 Gaelic: Not applicable

10. RECOMMENDATION

It is recommended that this application for non-compliance with condition 1 is **GRANTED** subject to:

A. The signing of a modified legal agreement to reconfirm commitment to:

- Delivery of affordable housing;
- Public transport contributions;
- Contributions to Primary and Secondary Education facilities;
- Provision of a site for a primary school;
- Contributions toward safer routes to school; and
- Contributions toward strategic road infrastructure.

and

B. The rewording, deletion and modification of conditions attached to 04/00585/OUTIN to be replaced as follows:

1. Planning Permission in Principle is hereby granted for a mixed use development upon 71 hectares of land to be developed in five major sequential phases comprising dwelling numbers as set out within Table A Approved Phasing below.

Table A: Approved Phasing

	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5
	01/01/2014 to 31/03/2018	01/11/2017 to 31/12/2019	01/01/2020 to 31/12/2022	01/01/2023 to 31/12/2027	01/01/2028 To 31/12/2030
Residential	178 dwellings	137	157	234	98

The development shall be undertaken in accordance with the above phasing and in the locations shown on 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 Ness Castle Master Plan, Creating Places, Designing Streets and other relevant national and local policy and guidance related to the matters set out below:-

a) A “Design Brief” for each 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 Ness Castle Masterplan and shall include the following:

- i. Conformity with principles and vision of the Ness Castle Masterplan;
- ii. Place-making and public realm;
- iii. Transportation, access, active travel and connectivity;
- iv. Drainage, sustainable drainage and the water environment;
- v. Landscaping and open space;
- vi. Character and design including material palette;
- viii. Phasing, implementation and integration

Thereafter each application within each phase or sub-phase shall accord with the terms of the relevant Design Brief and the phasing strategy set out in the Tables A 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 layout of the site, in accordance with the principles of Designing Streets;

e) 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;

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

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

h) the details of and timetable for delivery of the provision of public open space, including allotments and equipped play areas in accordance with the Open Space in New Residential Developments: Supplementary Guidance, (or any superseding guidance prevailing at the time of submission);

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

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

k) 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;

l) details of the water and waste water connections;

m) 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;

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

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

p) details of finished floor levels;

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

Reason: In order to clarify the terms of the permission and to ensure that the overall layout and design is satisfactory for the site.

3. Any details pursuant to condition 2, unless otherwise approved in writing by the Planning Authority, shall show the provision of children's play facilities in locations shown on the approved Revised Equipped Play Areas Layout Plan (December 2008) and be available for use prior to the commencement of development in each

subsequent Phase.

Reason: To ensure that sufficient play provision is made for each phase of the development.

4. Any details pursuant to condition 2 shall include a Tree Constraints Plan that accords with BS5837:2012 Trees in Relation to Design, Demolition & Construction (or any superseding guidance prevailing at the time). 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.

5. 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.

6. Before work starts on each Phase of the development, a programme of archaeological work for the preservation and recording of any archaeological features affected by the proposed development, including a timetable for investigation, all in accordance with the attached specification, shall be submitted to and require the approval in writing of the Planning Authority. All arrangements thereby approved shall be implemented by the developer at his expense in accordance with the approved timetable.

Reason: To safeguard the archaeological potential of the site.

7. 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 school 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.

8. Any details pursuant to condition 2 shall show details of an alternative access to the site via the local road network for emergency vehicles only shall be submitted to and agreed in writing by the Planning Authority in discussion with the Roads Authority. The agreed access shall be available for use prior to the occupation of the first dwelling on the site and maintained thereafter in a state fit for access by emergency service vehicles.

Reason: In the interest of public safety.

9. Before work starts on each Phase of development, pre-construction surveys shall be carried out for the protected species interest of the site; specifically badgers, squirrels and bats. The survey methodology shall be agreed in writing by the Planning Authority in consultation with SNH. The findings of these pre-construction surveys will inform the mitigation/protection measures to be implemented during the construction and post-construction phases to avoid disturbance to species and their habitats. With specific regard to the site's badger interest, an updated survey and protection plan shall be prepared for the written approval of the Planning Authority in consultation with SNH.

Reason: To safeguard the natural heritage interest of the site.

10. Any details pursuant to condition 2 shall ensure that all surface water and flood prevention infrastructure is designed in accordance with the SuDS "CIRIA" design

manual and Sewers for Scotland 3. This shall accord with the overall principles of the drainage solution for the site. Further, and for the avoidance of doubt, all water retention or detention features shall be designed to minimise danger to the public and shall be fully landscaped and fenced where necessary to achieve this purpose to the satisfaction of the Planning Authority before any dwellings are occupied. The agreed scheme shall be implemented.

Reason: In order to ensure effective surface water drainage in the interest of sustainability.

11. Any details pursuant to condition 2 above shall show intended bus lay-bys and shelters on distributor roads within the development.

Reason: In the interest of road safety and to encourage greater use of public transport.

12. Before work starts on each Phase a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority. The Construction Environmental Management Plan (CEMP) shall set out clearly the steps and procedures that are to be implemented to minimise/mitigate the impacts of the development and identify the responsible person(s) for implementation and monitoring of these. In particular, the following shall be considered:

- Site Waste Management Plan
- Dust and Air Management Plan
- Noise and Vibration Management Plan
- Construction Traffic Management Plan
- Soil Management Plan
- Water Protection Plan
- Pollution Prevention Plan

The approved plan(s) shall be implemented and adhered to at all times unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure that the environmental impact of the development is effectively controlled.

13. For the duration of construction, a suitably qualified Arboricultural Consultant shall be employed to supervise the work in accordance with the agreed Tree Constraints and Protection Plan. Before work starts on each Phase, a scheme of supervision and staged sign-off shall be submitted to and agreed in writing by the Planning Authority. The agreed scheme shall be implemented.

Reason: In order to ensure that the Tree Protection Plan is implemented to the agreed standard.

14. No work to restore existing water bodies or features within the site shall be

undertaken between the months of September and February.

Reason: To safeguard the natural heritage interest of the site.

15. Any details pursuant to conditions 2 shall include, a scheme for the maintenance in perpetuity of all on-site green spaces including landscaped/treed areas and/or sports facilities and other spaces, 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 Council or Scottish Water. This scheme shall be implemented in on the first occupation of any house or school within that phase or as otherwise may be agreed in writing by the Planning Authority.

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

16. Before the occupation of the 600th house, accessed from the primary access road, a secondary access of a 6m wide carriageway shall be provided to the site. No work shall commence on this secondary access road until a detailed scheme design has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority.

The design of the access shall:-

- utilise existing sections of the existing C1040 Torbreck Road where possible;
- relocate the junction with the B862 Dores Road approximately 45m to the north to provide improved visibility;
- include a priority junction between the site access and the unaffected section of Torbreck Road so as to discourage traffic from the development using Torbreck Road; and
- be so designed to minimise the impact upon existing trees.

Only the agreed scheme shall be implemented.

Reason: In the interest of road safety.

17. Before the occupation of the 600th house, a remote footpath/cycleway shall be provided running generally parallel with the B862 Dores Road to connect the Torbreck Road and the main site entrance. No work on this footpath/cycleway shall commence until a detailed scheme design has been submitted to and agreed in writing by the Planning Authority. Only the agreed scheme shall be implemented.

Reason: To ensure that the necessary infrastructure is in place in the interest of road safety.

18. No houses shall be occupied until the following works to the public road network have been implemented to the satisfaction of the Planning Authority in consultation with the Roads Authority:-

- Installation of a single leg light-controlled Toucan crossing adjacent to the roundabout at the northern end of Holm Road;
- Provision of speed limit signage, including repeater roundels, on Torbreck Lane and Essich Road;
- Provision of 30mph road markings adjacent to the repeater signage; and
- Erection of warning signs for both cyclists and pedestrians.

Reason: In the interest of road and pedestrian safety

19. Within 6 months of the issuing of this planning permission the following works to Torbreck Lane shall be implemented to the satisfaction of the Planning Authority in consultation with the Roads Authority:-

- Removal of the soft verge on the north side of the bridge east of the entrance to Ness Castle and replacement with bitumen surface to the parapet wall;
- Provision of handrails on the parapet on the north side of the bridge;
- Provision of white lining, offset from the bridge parapet by 1 - 1.2m sufficient to provide a pedestrian walking route over the bridge to the footpaths either side;
- Provision of a 1.2m wide path leading from the Ness Castle entrance to the bridge to the east, then from the bridge to link with the remote path leading to Essich Road. The make up of such path to be 150mm type 1 sub-base with quarry dust top dressing.

Reason: In the interest of road and pedestrian safety.

REASON FOR DECISION

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

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

The Planning Authority recognises that Phase 1 and Phase 2 of the development will be developed in implementation of the following planning permissions:- 08/00070/FULIN dated 02.11.2011 (Phase 1); 17/01189/MSC dated 02.06.2017; and 17/03721/MSC dated 04.10.2017 (Phase 2). Accordingly, Phase 3 will be the first phase to be developed in implementation of this planning permission in principle and it is not anticipated that there will be further applications submitted in respect of Phases 1 and 2 for approval of the matters specified in the conditions

attached to 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 the 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 3

- i. FIVE YEARS from the date of 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 or, where the earlier application is the subject of a review by virtue of section 43A(8) of the Act, the expiration of SIX MONTHS from the date of the notice of the decision to uphold the determination given by virtue of Section 43A(11)(e) of the Act.

For each subsequent Phase

- i. FIVE YEARS from the date of approval of all matters specified in conditions for the immediately preceding Phase in each case;
- 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 or, where the earlier application is the subject of a review by virtue of section 43A(8) of the Act, the expiration of SIX MONTHS from the date of the notice of the decision to uphold the determination given by virtue of Section 43A(11)(e) of the Act. and

In respect of each phase of the development, this permission will lapse on the expiration of the period of TWO YEARS 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) unless the development of that phase is begun before that expiration.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance

with Section 27A of the Act to the Planning Authority prior to work commencing on site.

2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

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

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

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

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be

downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Signature: Nicola Drummond

Designation: Area Planning Manager – South/Major Developments

Author: Simon Hindson (01466 785047)

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

Relevant Plans: 000001 - Location Plan
000002 - General Play Area Layout Plan
000003 - Site Layout Plan

30 July 2017

K2159/Planning/ARF/CS

Simon Hindson
The Highland Council
Planning and Development Service
2nd Floor, Kintail House
Beechwood Business Park
Inverness
IV2 3BW

Dear Simon

SECTION 42 APPLICATION FOR NON-COMPLIANCE WITH CONDITION 1 OF PLANNING PERMISSION REFERENCE NO. 04/00585/OUTIN AT NESS CASTLE, INVERNESS

I refer to recent correspondence between ourselves regarding the above subject.

Please be advised that I have today submitted a Section 42 application to vary Condition 1 attached to the above noted planning permission in principle via e-planning reference no. 100057635-001.

As you are aware through our discussions, since the original planning permission in principle was granted, Barratt North Scotland have secured permissions for Phases 1 and 2 of the development.

In this regard, Barratt North Scotland most recently secured Approval for Matters Specified in Conditions 4a,4b,4c,4d,4f,4i, 5,6,7,9,13 and 15 of planning permission 04/00585/OUTIN in so far as they relate to Phase 2 of the development on the 02 June, 2017 (Ref No. 17/001189/MS).

I understand that as part of their Phase 1 and 2 approvals, Barratts have now submitted a revised Phasing Plan. The purpose of the Section 42 application to vary/amend Condition 1 of the extant outline planning permission in principle is to rationalise the site's planning position given recent approvals and, bring it into line with the approved phasing of development on the site as is now being currently experienced.

I am aware that there will also be a requirement to submit a Section 75A application to amend the extant Planning Agreement in order to tie in any amendment to the extant planning permission in principle with the Section 75 Agreement.

I would intend submitting this at a later date in prior discussion and agreement with yourself.

Please note that I have submitted copies of the original phasing plan, preliminary concept masterplan and equipped play areas plan which all form part of the 'stamped approved' drawings attached to the extant planning permission in principle ref 04/00585/OUTIN.

Please be advised, as previously agreed, I have no issue to a Processing Agreement being attached to the now submitted application.

I would further advise that I have no issue with the content of the draft Processing Agreement which you forwarded by email on 21 July, 2017.

I look forward to receiving validation of the said planning application and discussing the matter further with you in due course.

www.farnmac.co.uk

FARNINGHAM PLANNING THE BOURSE, SUITE 107, 47 TIMBER BUSH, LEITH, EH6 6QH
T: 0131 555 7528 F: 0131 555 7786
DIRECTOR ALAN B FARNINGHAM BSc (HONS) MRTPI
REGISTERED IN SCOTLAND NO. SC441795



In this latter regard, I note that we have agreed a meeting date of **15 September at your office at 11am**. It is in my diary.

In addition to including for a planning application fee of £202.00, I have also included for an advert fee of £121.00, all as previously discussed and agreed. I note that the Section 75A application to modify the current legal agreement has no fee requirement.

Please do not hesitate to contact me if you require anything further.

Kind regards

Yours sincerely

A solid black rectangular box redacting the signature of Alan R Farningham.

Alan R Farningham
DIRECTOR

PLANNING PERMISSION IN PRINCIPLE

Reference No: 04/00585/OUTIN

THE HIGHLAND COUNCIL

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

DECISION NOTICE

To:
Trustees Of Richard Tyser's Overseas
Settlement
Per Agent

Per:
Farningham McCreddie Partnership
Limited
65 York Place
Edinburgh
EH1 3JD

**Residential development including associated landscaping, access and infrastructure
on land to North of Torbreck, Inverness, Highland**

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:

Type of Plan	Plan Number	Date Plan Received
Site Layout	REVISED EQUIPPED PLAY	19.12.2008
Other	AREAS	01.10.2010
Other	REVISED PREL. CONCEPT MASTERPLAN REVISED PHASING PLAN	01.10.2010

This permission is granted subject to the following conditions: -

General

- 1. The development shall be undertaken in five Phases in accordance with the approved Phasing Plan (Revised Phasing Plan - 30 September 2010).**

Dated: 8th July 2011



Head of Planning and Building Standards

- a) **An application for approval of Matters Specified in Conditions for Phase 1 shall be submitted within 5 years from the date of this Planning Permission in Principle. The development of Phase 1 shall commence within 2 years of the date of approval failing which Planning Permission in Principle shall lapse.**
- b) **In respect of Phase 2 and each subsequent Phase, an application for approval of Matters Specified in Conditions shall be submitted within 3 years from the date of commencement of the previous Phase. The development in each subsequent Phase shall commence within 2 years of the date of approval failing which Planning Permission in Principle shall lapse.**

Reason: In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

- 2. **For the avoidance of doubt, Planning Permission in Principle is hereby granted for a maximum number of 804 residential units, a site for a primary school, open space and landscaping, including children's play facilities, access from Dores Road and site infrastructure in accordance with the approved Master Plan (Revised Preliminary Concept Master Plan - 30 September 2010).**

Reason: In order to clarify the terms of the permission and to ensure that the overall layout and design is satisfactory for the site.

- 3. **For the avoidance of doubt, unless otherwise agreed or amended, the children's play facilities shall be provided in accordance with the approved Revised Equipped Play Areas Layout Plan (December 2008) and be available for use prior to the commencement of development in each subsequent Phase.**

Reason: To ensure the orderly development of the site, as the current application site grants planning permission in principle only.

- 4. **Prior to the start of work on each respective Phase of the development the following details shall be submitted to and approved in writing by the Planning Authority:-**

- **the siting, design and external appearance of any building(s);**
- **the means of access and landscaping;**
- **details of all roads, footpaths and cycleways and car parking;**
- **surface water drainage including provision for SuDS;**
- **water supply and foul drainage infrastructure including any required augmentation;**
- **levels and cross sections showing finished ground and floor levels relative to existing ground levels;**
- **street lighting and furniture;**
- **all amenity open space and recreation areas, children's play provision, landscaping and boundary enclosures and the programme for their implementation; and**

Dated: 8th July 2011


Head of Planning and Building Standards

- **waste storage and recycling facilities. Only the approved details shall be implemented.**

Reason: In order to clarify the terms of the permission and to ensure that the overall layout and design is satisfactory for the site.

5. **The development shall be undertaken in accordance with the Council's non-statutory guideline "Designing for Sustainability in the Highlands", particularly with regard to the use of sustainable building materials, waste water re-use/recycling and energy conservation.**

Reason: To ensure compliance with the Council's policies on sustainable development and to achieve a high quality design.

6. **With effect from the date of this permission, no trees within the site shall be lopped, topped, felled or otherwise damaged unless otherwise approved in writing by the Planning Authority, excepting those trees identified for felling or remedial works in the Arboricultural Impact Assessment and Drawing No L (90) 0002 Rev D Tree Removal Plan.**

Reason: In the interests of visual amenity and to safeguard as many trees as possible on the site.

Before work starts on site

7. **Before work starts on each Phase of the development, a programme of archaeological work for the preservation and recording of any archaeological features affected by the proposed development, including a timetable for investigation, all in accordance with the attached specification, shall be submitted to and require the approval in writing of the Planning Authority. All arrangements thereby approved shall be implemented by the developer at his expense in accordance with the approved timetable.**

Reason: To safeguard the archaeological potential of the site.

8. **No development shall start on site until the detailed arrangements for water and sewerage infrastructure, and its implementation programme to serve the site, shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Water. For the avoidance of doubt, no houses shall be occupied until off-site sewer connections and potable water storage infrastructure as required has been completed to the satisfaction of the Planning Authority or as otherwise agreed in consultation with Scottish Water.**

Reason: In order to ensure effective control over water and sewerage infrastructure in the interest of sustainability.

9. **No development shall start on site until a revised Flood Risk Assessment is submitted to and agreed in writing by the Planning Authority in consultation with SEPA.**

Dated: 8th July 2011


Head of Planning and Building Standards

Reason: In order to ensure that development will take place outwith the functional flood plain.

- 10. Before work starts on each Phase of the development, an updated Design Statement and Design Code to explain and illustrate the design principles and design concept of each Phase of the development and the measures proposed to achieve quality design integrating building forms and open spaces within the context of PAN68 "Design Statements", PAN67 "Quality Housing" and "A Policy Statement for Scotland - Designing Places" shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the detailed design for each Phase of development will require to be in general accordance with the updated Concept Design Statement and Design Code as agreed.**

Reason: In order to preserve the essential character of the site.

- 11. Before work starts on each Phase of the development, an updated Master Plan and Phasing Plan showing the context of the detailed submissions to reflect intended house numbers, open space and site servicing arrangements shall be submitted to and approved in writing by the Planning Authority.**

Reason: In order to ensure orderly development of the site.

- 12. No development shall start on site until details of an alternative access to the site via the local road network for emergency vehicles only shall be submitted to and agreed in writing by the Planning Authority in discussion with the Roads Authority. The agreed access shall be completed and available for use prior to the occupation of the first dwelling on the site.**

Reason: In the interest of public safety.

- 13. Before work starts on each Phase of development, pre-construction surveys shall be carried out for the protected species interest of the site; specifically badgers, squirrels and bats. The survey methodology shall be agreed in writing by the Planning Authority in consultation with SNH. The findings of these pre-construction surveys will inform the mitigation/protection measures to be implemented during the construction and post-construction phases to avoid disturbance to species and their habitats. With specific regard to the site's badger interest, an updated survey and protection plan shall be prepared for the written approval of the Planning Authority in consultation with SNH.**

Reason: To safeguard the natural heritage interest of the site.

- 14. Before work starts on each Phase of development a Tree Constraints and Protection Plan that accords with BS5837:2005 (Trees in Relation to Construction) shall be submitted to and agreed in writing by the Planning Authority. The Plan shall include the following details:-**

Dated: 8th July 2011

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Head of Planning and Building Standards

1. **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 75 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;**
2. **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;**
3. **Tree categorisation in accordance with Table 1 - Cascade Chart for Tree Quality Assessment;**
4. **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;**
5. **An Arboricultural Implications Assessment that superimposes the proposed layout, including any underground services, onto the Tree Constraints Plan; and**
6. **A Tree Protection Plan that details the appropriate tree protection measures for every retained tree before and for the duration of the development. The agreed Plan shall be implemented.**

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

15. **All surface water and flood prevention infrastructure shall be designed in accordance with the SuDS "CIRIA" design manual. Prior to the start of development the overall scheme design shall be submitted to and agreed in writing by the Planning Authority. The scheme shall specify full details of the SuDS scheme to be implemented. All water retention or detention features shall be designed to minimise danger to the public and shall be fully landscaped and fenced where necessary to achieve this purpose to the satisfaction of the Planning Authority before any dwellings are occupied. The agreed scheme shall be implemented.**

Reason: In order to ensure effective surface water drainage in the interest of sustainability.

Dated: 8th July 2011


Head of Planning and Building Standards

16. All roads, including footpaths, cycleways and car parking shall require road construction consent before works commence and, all such works shall require to conform to the requirements of the Council's Road Construction Design Manual. The developer shall be responsible for the erection or modification of any roads signage as specified by the Roads Authority, required as a result of roads infrastructure modification.

Reason: In order to conform to the requirements of the Council's Road Construction Design Manual.

17. Along distributor roads, intended bus lay-bys and shelters shall be provided by the developer at locations to be agreed in writing by the Planning Authority in consultation with the Roads Authority.

Reason: In the interest of road safety and to encourage greater use of public transport.

Construction

18. Before work starts on each Phase a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority. The Construction Environmental Management Plan (CEMP) shall set out clearly the steps and procedures that are to be implemented to minimise/mitigate the impacts of the development and identify the responsible person(s) for implementation and monitoring of these. In particular, the following shall be considered:

- Site Waste Management Plan
- Dust and Air Management Plan
- Noise and Vibration Management Plan
- Traffic Management Plan
- Soil Management Plan
- Water Protection Plan
- Pollution Prevention Plan

The approved plan(s) shall be implemented and adhered to at all times unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure that the environmental impact of the development is effectively controlled.

19. For the duration of construction, a suitably qualified Arboricultural consultant shall be employed to supervise the work in accordance with the agreed Tree Constraints and Protection Plan. Before work starts on each Phase, a scheme of supervision and staged sign-off shall be submitted to and agreed in writing by the Planning Authority. The agreed scheme shall be implemented.

Reason: In order to ensure that the Tree Protection Plan is implemented to the agreed standard.

Dated: 8th July 2011


Head of Planning and Building Standards

20. The normal working hours within the site shall be Monday to Friday between 0700 hours and 1900 hours and Saturdays between 0800 hours and 1300 hours, with no working being carried out on Sundays or public holidays. The carrying out of any work outwith these times shall only take place with the prior written approval of the Planning Authority.

Reason: In the interests of residential amenity.

21. No work to restore existing water bodies or features within the site shall be undertaken between the months of September and February.

Reason: To safeguard the natural heritage interest of the site.

Prior to occupation

22. Prior to the first occupation of the development, a scheme for the maintenance in perpetuity of all on-site green spaces including landscaped/treed areas and/or sports facilities and other spaces, 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 Council or Scottish Water, shall be submitted to and agreed in writing by the Planning Authority. The agreed scheme, which shall accord with the Council's adopted standards contained within Open Space in New Residential Development, shall be implemented on occupation of the last house within each Phase or as otherwise may be agreed in writing by the Planning Authority.

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

23. No houses shall be occupied until the new footpath/cycleway over the Holm Burn, including associated linkages along Dores Road from the Dores Road/Holm Road roundabout to the primary site access, shall be completed to the satisfaction of the Planning Authority in consultation with the Roads Authority.

Reason: In the interest of road and pedestrian safety.

24. No houses shall be occupied until the first phase of the primary access road from the T-junction with Dores Road to the new internal roundabout, which will be to 'local distributor' standard, has been completed to the satisfaction of the Planning Authority.

Reason: To ensure the orderly development of the site and in the interest of road safety.

Dated: 8th July 2011



Head of Planning and Building Standards

- 25. Before the occupation of the 600th house, accessed from the primary access road, a secondary access with 6m wide carriageway shall be provided to the site. No work shall commence on this secondary access road until a detailed scheme design has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority.**

The design of the access shall:-

- **utilise existing sections of the existing C1040 Torbreck Road where possible;**
- **relocate the junction with the B862 Dores Road approximately 45m to the north to provide improved visibility;**
- **include a priority junction between the site access and the unaffected section of Torbreck Road so as to discourage traffic from the development using Torbreck Road; and**
- **be so designed to minimise the impact upon existing trees.**

Only the agreed scheme shall be implemented.

Reason: In the interest of road safety.

- 26. Before the occupation of the 600th house, a remote footpath/cycleway shall be provided running generally parallel with the B862 Dores Road to connect the Torbreck Road and the main site entrance. No work on this footpath/cycleway shall commence until a detailed scheme design has been submitted to and agreed in writing by the Planning Authority. Only the agreed scheme shall be implemented.**

Reason: To ensure that the necessary infrastructure is in place in the interest of road safety.

- 27. No houses shall be occupied until the following works to the public road network have been implemented to the satisfaction of the Planning Authority in consultation with the Roads Authority:-**

- **Installation of a single leg light-controlled Toucan crossing adjacent to the roundabout at the northern end of Holm Road;**
- **Provision of speed limit signage, including repeater roundels, on Torbreck Lane and Essich Road;**
- **Provision of 30mph road markings adjacent to the repeater signage; and**
- **Erection of warning signs for both cyclists and pedestrians.**

Reason: In the interest of road and pedestrian safety

Dated: 8th July 2011


Head of Planning and Building Standards

28. Prior to the occupation of the 100th house within the combined Ness Castle development site (04/00585/OUTIN and 07/01043/OUTIN) the following works to Torbreck Lane shall be implemented to the satisfaction of the Planning Authority in consultation with the Roads Authority:-

- **Removal of the soft verge on the north side of the bridge east of the entrance to Ness Castle and replacement with bitumen surface to the parapet wall;**
- **Provision of handrails on the parapet on the north side of the bridge;**
- **Provision of white lining, offset from the bridge parapet by 1 - 1.2m sufficient to provide a pedestrian walking route over the bridge to the footpaths either side;**
- **Provision of a 1.2m wide path leading from the Ness Castle entrance to the bridge to the east, then from the bridge to link with the remote path leading to Essich Road. The make up of such path to be 150mm type 1 sub-base with quarry dust top dressing.**

Reason: In the interest of road and pedestrian safety.

29. Upon completion of each Phase of the development the completed Notice of Completion form attached to this decision notice shall be submitted to the Planning Authority.

Reason: In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

DIRECTION UNDER SECTION 59(5) & (7) - 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) 5 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.**

Dated: 8th July 2011


Head of Planning and Building Standards

For Phase 2 and each subsequent Phase

- I) 3 YEARS from the date of commencement of the 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 of -

- I) For Phase 1, 2 YEARS;
- II) For Phase 2 and each subsequent Phase, 2 YEARS;

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.

INFORMATIVE NOTE REGARDING SECTION 27A(1) - NOTIFICATION OF INITIATION OF DEVELOPMENT

No development shall start on site until the completed Notice of Initiation of Development (NID) form attached to this planning permission/approval of matters has been submitted to and acknowledged by the Planning Authority. Failure to do so will constitute a breach of planning control under Section 123(1) of the Planning Acts.

INFORMATIVE NOTE REGARDING SECTION 27B(1) and (2) - NOTIFICATION OF COMPLETION OF DEVELOPMENT

Upon completion of each phase in the development the completed Notice of Completion form attached to this planning permission shall be submitted to the Planning Authority.

Dated: 8th July 2011

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Head of Planning and Building Standards

NOTIFICATION TO APPLICANT

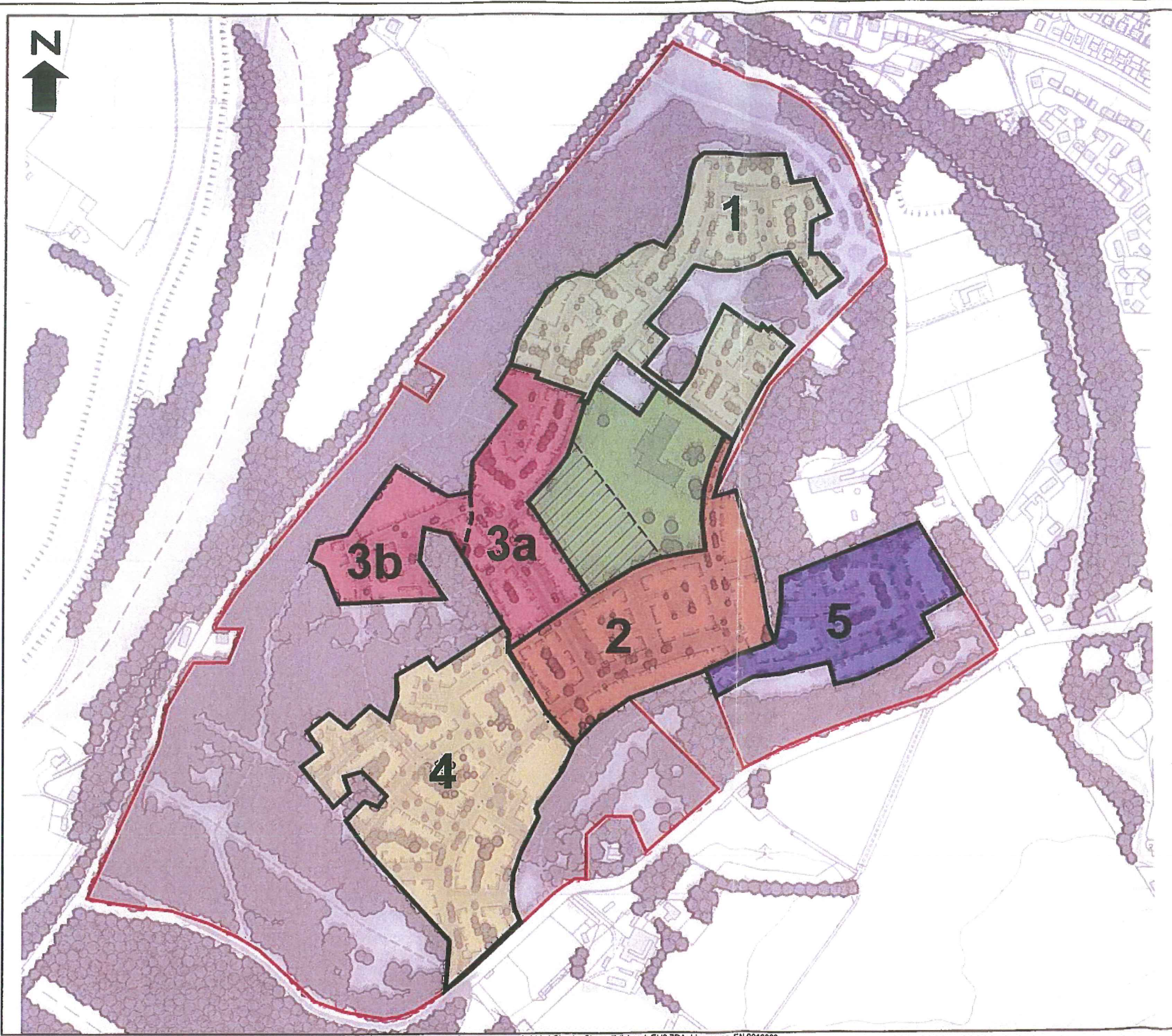
1. If the applicant is aggrieved by the decision to refuse planning permission for or approval required by a conditions in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may appeal to the Scottish Ministers under Section 47 of the Town and 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: 8th July 2011

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Head of Planning and Building Standards



- LEGEND**
- SITE BOUNDARY
 - PHASE 1 - 6.30 ha developable land (188 No. units @ 30 per ha)
 - PHASE 2 - 5.24 ha developable land (157 No. units @ 30 per ha)
 - PHASE 3 - 5.02 ha developable land (Phase 3a - 97 No. units @ 30 per ha Phase 3b - 30 No. units @ 16 per ha*)
 - * Low density development in this area due to requirement for in-curtilage soakaways
 - PHASE 4 - 7.82 ha developable land (234 No. units @ 30 per ha)
 - PHASE 5 - 3.27 ha developable land (98 No. units @ 30 per ha)
- Total number of units - 804 No.

- Land safeguarded for new Primary School / Community Centre 2.5 Ha
- Land safeguarded for Playing Field, Play Area (NEAP / LEAP) and areas of Amenity Open Space 1.5 Ha

THE HIGHLAND COUNCIL
 APPROVED BY THE
 HIGHLAND COUNCIL
 AS PLANNING AUTHORITY
 DATE 08.07.2011

TRUSTEES OF RICHARD
 TYSER'S OVERSEAS
 SETTLEMENT

**LAND AT NESS CASTLE, TORBRECK,
 INVERNESS**

REVISED PHASING PLAN

Job No: 4135
 Scale: 1:5,000 Date: 30 September 2010

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- LEGEND**
- Site Boundary
 - Neighbourhood Equipped Areas for Play (NEAP) with 600m straight line walking distance catchment area
Refer to Fields In Trust (FIT) Planning and Design for Outdoor Sport and Play
 - Local Equipped Areas for Play (LEAP) with 240m straight line walking distance catchment area
Refer to Fields In Trust (FIT) Planning and Design for Outdoor Sport and Play

**SUBJECT TO THE CONDITIONS
OF THIS PERMISSION**

THE HIGHLAND COUNCIL
 APPROVED BY THE
 HIGHLAND COUNCIL
 AS PLANNING AUTHORITY
 DATE *08.07.2011*

THE HIGHLAND COUNCIL
 PLAN 5 OF 5 OF
 APPLICATION REFERENCE : 04/00585/OUTIN
 RECEIVED: 16.12.2008

TRUSTEES OF RICHARD
 TYSER'S OVERSEAS
 SETTLEMENT



**LAND AT NESS CASTLE, TORBRECK,
INVERNESS**

**REVISED EQUIPPED PLAY
AREAS LAYOUT PLAN**















Job No: 4135
 Scale: 1:5,000 Date: December 2008

INVERNESS PLANNING &
 BUILDING CONTROL SERVICES
14 DEC 2008
RECEIVED

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- ### LEGEND
-  SITE BOUNDARY
 -  PROPOSED BUILDING FRONTAGE
 -  PROPOSED ROADS
 -  PROPOSED SHARED SURFACES / COURTYARDS
 -  PROPOSED FOOTPATHS / CYCLEWAYS
 -  EXISTING TREE PLANTING
 -  PROPOSED TREE PLANTING
 -  PROPOSED UNDERSTOREY / SHRUB PLANTING
 -  PROPOSED GRASSED AREAS
 -  PROPOSED SUDS PONDS
 -  PROPOSED LANDSCAPE FEATURE
 -  PLAY AREAS
 -  MAIN BADGER SETT
 -  OUTLIER BADGER SETT

SUBJECT TO THE CONDITIONS
 OF THIS PERMISSION

THE HIGHLAND COUNCIL
 APPROVED BY THE
 HIGHLAND COUNCIL
 AS PLANNING AUTHORITY
 DATE 08.07.2011

TRUSTEES OF RICHARD
 TYSER'S OVERSEAS
 SETTLEMENT



LAND AT NESS CASTLE, TORBRECK,
 INVERNESS

REVISED PRELIMINARY CONCEPT
 MASTERPLAN

Job No: 4135
 Scale: 1:5,000 Date: 30 September 2010

Land safeguarded for new Primary
 School / Community Facilities (2.5 ha)

Land safeguarded for Playing Field,
 Play Area (NEAP / LEAP) and areas of
 Amenity Open Space (1.5 ha)

New Priority Junction
 and Access Road