

Agenda Item	6.5
Report No	PLS-024-20

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 10 March 2020

Report Title: 19/05065/S42: Trustees of Richard Tyser's Overseas Settlement
Land to North of Torbreck, Inverness

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Section 42 Application for Non-compliance with Condition 17 of Planning Permission in Principle 17/03541/S42 (delivery of remote footpath/cycleway connection)

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 Condition 17 of the conditions attached to planning permission 17/03541/S42 granted on 26 June 2018 and 19/02594/S42 which Members were minded to at the meeting of the South Planning Applications Committee on 17 September 2019 in respect of the Ness Castle (west) development. The original permission for development on the site was granted on 08 July 2011 under reference 04/00585/OUTIN.
- 1.2 The development at Ness Castle (west) comprises of 804 homes split over 5 sequential phases. This application has been submitted following a request by Members of the South Planning Applications Committee to make modifications to Condition 17 to facilitate earlier delivery of the remote footpath / cycleway between Torbreck Road and the access to the Ness Castle development.
- 1.3 This application has been supported by the following information:
- Supporting statement / letter; and
 - Previously approved plans for the development.

2. PLANNING HISTORY

2.1	08.07.2011	04/00585/OUTIN - Residential development including associated landscaping, access and infrastructure	Outline Planning Permission Granted
2.2	02.11.2011	08/00070/FULIN - Residential development (189 houses) and associated works	Planning Permission Granted
2.3	08.06.2015	15/01144/FUL - Formation of additional section of distributor road	Planning Permission Granted
2.4	23.11.2015	15/03627/ADV - Consent for the proposed erection of signage	Planning Permission Granted
2.5	02.06.2017	17/01189/MSC - 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 no dwelling houses, Phase 2 at Ness Castle	Matters Specified Approved
2.6	26.06.2018	17/03541/S42 - Section 42 Application for Non-compliance with Condition 1 of Planning Permission in Principle Application Ref No. 04/00585/PIP	Planning Permission Granted

2.7	04.10.2017	17/03721/MSC - Amend Condition 2, MSC Application 17/01189/MSC, Change of house types and layout of plots	Matters Specified Approved
2.8	03.07.2018	18/02069/ADV - Advertisement of the following types : Box Sign, Hoarding, Flag	Planning Permission Granted
2.9	07.05.2019	19/01401/PAN - Development of a three stream primary school with nursery provision (Ness Castle Primary School)	Case Closed
2.10		19/01776/MSC - Matters specified in conditions 4a, 4b, 4c,4d, 4f, 4i, 5, 7, 9, 13,14, 18 and 19 of planning permission in principle 04/00585- Erection of 180 no dwelling houses, Phase 3	Pending Determination
2.11		19/02485/MSC - Submission of matters specified in condition 2 (17/03541/S42) change of house types and layout of plots	Pending Determination
2.12		19/03054/MSC - Phase 2 Ness Castle - matters specified in condition 2 (17/01189/MSC) Change of house types and layout of plots	Pending Determination
2.13	05.09.2019	19/03649/SCRE - Erection of new three stream primary school with nursery provision	EIA Not Required
2.14		19/05065/S42 - Non-compliance with Condition 17 of Planning Permission in Principle 17/03541/S42 (delivery of remote footpath/cycleway connection)	Pending Determination
2.15		19/05203/FUL - Erection of primary school and nursery and formation of access, car park and MUGA sports pitch	Pending Consideration

3. PUBLIC PARTICIPATION

3.1 Advertised: Unknown Neighbour

Date Advertised: 06.12.2019

Representation deadline: 20.12.2019

Timeous representations: 1

Late representations: 0

3.2 Material considerations raised are summarised as follows:

a) Concern about impact on wildlife;

- b) Concern about safety in relation to potential route of path and waterbody;
- c) Concern about removal of trees and shrubs.

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.

4. CONSULTATIONS

4.1 **Holm Community Council** do not object to the application. It welcomes the potential for earlier delivery of the path. It considers that the siting of the path would be best suited on the east side of the B862 and not adjoining the carriageway. It considers that the footing of an existing path could be utilised and an all abilities path would be the minimum standard they would accept.

4.2 **Transport Planning Team** do not object to the application. It welcomes earlier delivery of the path. It requests that any path is built to adoptable standards. It considers that lighting would be suitable on the route but this will require to be subject to further discussion.

5. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

5.1 **Highland Wide Local Development Plan 2012**

- 1 – Completing the Unconstrained City Expansion Areas
- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 31 - Developer Contributions
- 32 - Affordable Housing
- 34 - Settlement Development Areas
- 51 - Trees and Development
- 52 - Principle of Development in Woodland
- 56 - Travel
- 57 - Natural, Built & Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 63 - Water Environment
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage
- 70 - Waste Management Facilities
- 72 - Pollution
- 74 - Green Networks
- 75 - Open Space
- 77 - Public Access
- 78 - Long Distance Routes

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

Policy 2 – Delivering Development

Site IN35 – Ness Castle (Housing)

5.3 **Highland Council Supplementary Planning Policy Guidance**

Construction Environmental Management Process for Large Scale Projects (August 2010)

Developer Contributions (November 2018)

Flood Risk & Drainage Impact Assessment (Jan 2013)

Green Networks (Jan 2013)

Highland Historic Environment Strategy (Jan 2013)

Highland's Statutorily Protected Species (March 2013)

Housing in the Countryside and Siting and Design (March 2013)

Managing Waste in New Developments (March 2013)

Open Space in New Residential Developments (Jan 2013)

Standards for Archaeological Work (March 2012)

Sustainable Design Guide (Jan 2013)

Trees, Woodlands and Development (Jan 2013)

6. **OTHER MATERIAL POLICY CONSIDERATIONS**

6.1 **Scottish Government Planning Policy and Guidance**

National Planning Framework 3 (2014)

Scottish Planning Policy (2014)

Creating Places (2014)

Ness Development Brief (2007)

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.

Modification to Condition 17

- 7.5 The applicant has sought to modify the wording of the condition to allow for an earlier delivery of the footpath / cycleway connection between Torbreck Road and the access to the Ness Castle development. This is a change that was requested by Members and is broadly supported by consultees.
- 7.6 Through discussion with the applicant there are challenges to delivery of such a path in relation to tree cover, wildlife, and construction. While the applicant is content to bring forward the design details of the footpath, due to onsite constraints it considers that significant design work is required to ensure an appropriately sited and designed path. Having considered this, a timescale for the design work has been agreed as being no more than 18 months.
- 7.7 In terms of delivery of the path, the current build rate and phasing on the Ness Castle has been used to inform an appropriate trigger. The applicant has also secured land deals for Phase 3 but not for Phase 4. The applicant had initially requested the trigger for delivery to remain at 600 residential units. Taking into consideration the request from Members and the phasing of the development, the applicant has agreed to bring forward delivery of the path no later than the 550th residential unit.
- 7.8 While this is not bringing forward delivery significantly, this timescale recognises the challenges in delivering such a path. Further, this application gives the Planning Authority scope to ensure that the condition is appropriately worded to ensure that matters of concern in relation to the path, including its specification, tree constraints and protected species will all be considered in the design of the path. Safety of the path will be a further consideration and will be taken into account in relation to any route that is promoted by the applicant.

Other material considerations

- 7.9 It is worth highlighting that an application submitted under S42 of the Planning Act provides the 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 that the existing conditions remain in line with current good practice and suitably regulate the proposed development.
- 7.10 The grant of permission under S42 of the Planning Act results in the issue of a fresh planning permission. A modification to the timescale direction is not proposed.

Non-material considerations

- 7.11 A representation has raised concerns about land outwith the control of the applicant being used for the footpath link. The applicant will be required to consider landownership in bringing forward a deliverable scheme.

Matters to be secured by Section 75 Agreement

- 7.12 Any permission granted will continue to trigger the payment of developer contributions to offset the impact of the development. These developer contributions will be secured through a modified legal agreement to tie the provisions of the permission to the existing 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 continue to include:
- a) Delivery of affordable housing (minimum 25%);
 - b) Contributions to secondary education provision;
 - c) Provision of a 4ha site for a service site for a primary school and associated playing fields for the provision of the new Ness Castle Primary School; and
 - d) Contributions toward strategic road infrastructure (Inverness West Link).
- 7.13 The applicant has four months from the date of the determination of this application to submit, receive approval for a modified legal agreement from the Planning Authority and to deliver to the Council a modified registered minute of agreement. Should a modified agreement not be delivered within four months, the application shall be refused under delegated powers.

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: The application facilitates the delivery of a footpath / cycleway which could make active travel and recreational access to the outdoors more attractive.

9.5 Risk: Not applicable

9.6 Gaelic: Not applicable

10. RECOMMENDATION

Action required before decision issued Y

Conclusion of Modified Section 75 Y
Obligation

Subject to the above, it is recommended that planning permission be **GRANTED**, subject to the following:

Conditions and Reasons

1. 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
178 dwellings	141 dwellings	180 dwellings	234 dwellings	71 dwellings

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.

2. 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 Table 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 Heras 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 4. 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. Within 18 months of the date of this planning permission a scheme for the delivery of a remote footpath running generally parallel with the B862 between the site entrance and the junction between Torbreck Road and the B862 has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt the scheme shall include:

- a) Details of a shared use path, the specification of which shall be agreed with the planning authority which comprising of:
 - i. A path with suitable clearance distances from fixed objects;
 - ii. surfaced with an appropriate material;
 - iii. details of surface water drainage.
- b) a tree constraints plan showing all retained trees and those proposed for removal to accommodate the path;
- c) Protected Species protection measures; and
- d) an arboricultural method statement and tree protection plan in accordance with details of any and all tree protection measures proposed to ensure adequate protection of trees in accordance with BS5837:2012 (Trees in Relation to Design, Demolition and Construction).

Thereafter, the approved scheme shall be implemented prior to the occupation of the 550th House within the application site, which ever date is the earlier.

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

18. No development shall commence until a community liaison group is established by the developer, in collaboration with The Highland Council and affected local Community Councils (including Holm Community Council) unless otherwise agreed in writing by the Planning Authority. The group shall act as a vehicle for the community to be kept informed of project progress and, in particular, should allow advanced dialogue on all works and development on the site including delivery of infrastructure and to keep under review the timing and type of development within future development phases. The liaison group, or element of any combined liaison group relating to this development, shall be maintained until the development has been completed and is occupied.

Reason: To assist project implementation, ensuring community dialogue and the delivery of appropriate mitigation measures throughout the construction period

REASON FOR DECISION

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.

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.

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 BuildingStandards@highland.gov.uk or on 01349 886608.

Land Ownership/Planning Permission

For the avoidance of doubt, the existence of planning permission does not affect or supersede an individual's ownership or other legal rights. Please be advised that this permission does not entitle you to build on, under or over ground outwith your ownership or to enter private ground to demolish, construct or maintain your property.

Factoring of the Development

Shared elements of the development are to be factored. The applicant is advised that it is their responsibility to ensure compliance with the provisions of the Property Factors (Scotland) Act 2011.

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.

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.

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

Protected Species - Contractors' Guidance

You must ensure that all contractors and other personnel operating within the application site are made aware of the possible presence of protected species. They must also be provided with species-specific information (incl. guidance on identifying their presence) and should be made aware of all applicable legal requirements (incl. responsibilities and penalties for non-compliance).

Designation: Area Planning Manager – South
Author: Simon Hindson, Team Leader, Strategic Projects
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Location Plan
Plan 2 - Phasing Plan
Plan 3 - Equipped Play Area Locations



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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

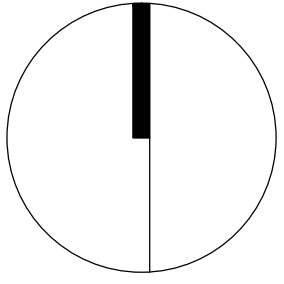
TRUSTEES OF RICHARD
 TYSER'S OVERSEAS
 SETTLEMENT



LAND AT NESS CASTLE, TORBRECK,
 INVERNESS

REVISED PRELIMINARY CONCEPT
 MASTERPLAN

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

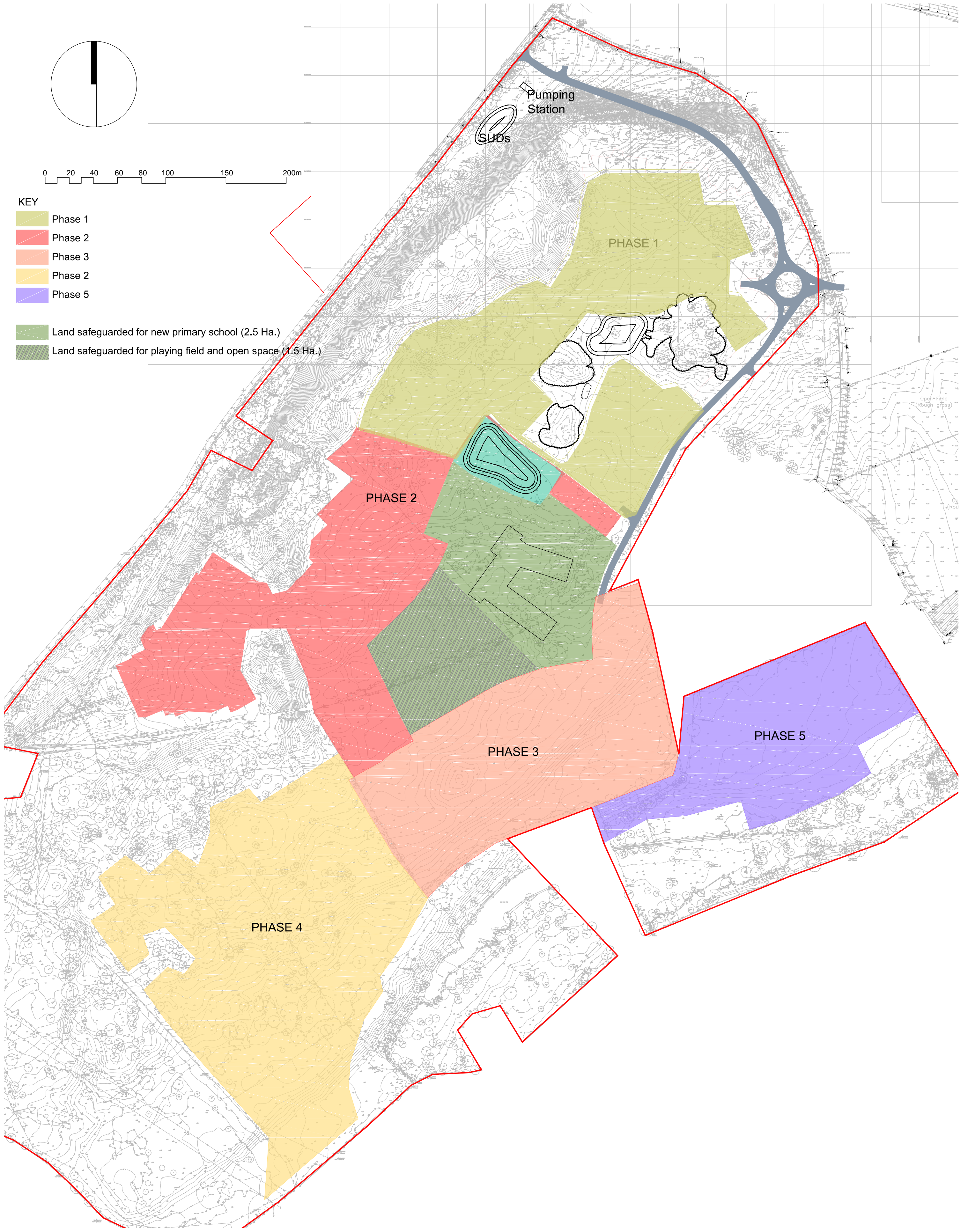


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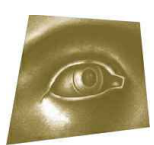
KEY

- Phase 1
- Phase 2
- Phase 3
- Phase 2
- Phase 5

- Land safeguarded for new primary school (2.5 Ha.)
- Land safeguarded for playing field and open space (1.5 Ha.)



Please note Phasing areas are approximate as scaled from a pdf



HALLIDAY FRASER MUNRO
 CHARTERED ARCHITECTS • PLANNING CONSULTANTS
 ABERDEEN • BELFAST • DUNDEE • EDINBURGH • GLASGOW



BARRATT
 HOMES

Torbreck, Inverness
BARRATT NORTH SCOTLAND

Revised Phasing Plan

Scale: 1:2500 @ A2
 Date: 22 August 2014
 Dwg No: A4665 / D(-)004 _ rev C

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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
19 DEC 2008
RECEIVED

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