

Agenda Item	6.9
Report No	PLS-065-20

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee

**Date:** 08 December 2020

**Report Title:** 20/00599/S42: Cawdor Maintenance Trust  
Land to north of A96 extending from Whiteness Access Road to the Common Good land, Nairn

**Report By:** Area Planning Manager – South

### Purpose/Executive Summary

**Description:** Application for Non-Compliance with Condition 33 (08/00880/OUTNA) seeking amendment of cross reference to Phasing Condition

**Ward:** 18 – Nairn and Cawdor

**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 5 of the report.

## **1. Background**

- 1.1 This application was originally considered under the interim measures for determination of planning applications due to the Covid-19 pandemic via the Chair of South Planning Applications Committee on 28 April 2020. The report prepared and considered by the Chair is attached to this report as Appendix 2.
- 1.2 Subsequent to a determination being reached a late representation received identified that a piece of supporting information, which explained that the applicant was seeking a modified timescale direction to allow an extended period for the implementation of the planning permission in principle to be made, was not available online during the public consultation period. As this was the case, prior to a decision being issued it was considered appropriate to re-advertise the application and bring the application to South Planning Applications Committee for determination taking into consideration any further public comments which may be submitted.
- 1.3 The remainder of this report considers the comments made by those making representations and the effect this may have on the determination of the application.

## **2. PUBLIC PARTICIPATION**

### **2.1 Advertised: Unknown Neighbour**

Date Advertised: 18.02.2020 and 03.11.2020

Representation deadline: 17.11.2020

Timeous representations: 1

Late representations: 1

### **2.2 Material considerations raised are summarised as follows:**

- a) Lack of public consultation on proposed modification to timescale direction;
- b) Proposed changes to condition beyond the remit of the application;
- c) Impact on protected species and habitats;
- d) Changes in impacts on neighbouring developments require to be considered;
- e) Viability and deliverability of the proposed development based on the consented masterplan;
- f) Potential loss of school site; and
- g) Legality of modification of the planning permission in principle on matters related to timescale direction.

### **2.3 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](http://www.wam.highland.gov.uk/wam).**

## **3. Consideration of matters raised in further letters of representation**

- 3.1 This section of the report will consider the matters raised in further representations following the additional consultation period. Where appropriate, cross references will be made to the earlier report on this application, attached as Appendix 2 to this report.

## **1. Modified Timescale Direction**

- 3.2 As explained in paragraph 1.2 above, the application has now been re-advertised with relevant information related to the applicant's request for a modified timescale direction available online. his application was submitted prior to the original consent lapsing on 03 August 2020. However, it should be noted that due to the provision of the Coronavirus (Scotland) Act 2020, the original permission would now not lapse until 31 March 2021, or 30 September should the emergency period be extended.
- 3.3 As highlighted in a representation, Circular 3/2013 (Development Management Procedures) considers how timescales can be considered in relation to applications under Section 42 of the Act. This is clear that timescale directions alone can not be altered by an application under Section 42. However, in granting an application for non-compliance with conditions under Section 42, the Planning Authority is in effect issuing a new planning permission and the duration of the permission would be specified by the Act or the Planning Authority may direct that a longer or shorter period applies.
- 3.4 The applicant has requested that should the Planning Authority be minded to grant planning permission, that a fresh timescale direction be applied. The applicant initially sought that the first matters specified application requires to be submitted within five years of the granting of any S42 application.
- 3.5 Since the report in Appendix 2 was written, the review of the Inner Moray Firth Local Development Plan has been delayed. The Main Issues Report is scheduled to be published for consultation in early 2021 and subsequently the Proposed Plan issues for consultation in early 2022. To ensure that any timescale direction aligns with the likely timescales for publication and the end of the consultation period at the Proposed Plan stage, it is considered that an appropriate timescale direction for submission of the first matters specified application is three years from the date on any decision issued. This is also in line with the timescale specified for such permissions as set out in the Act. No changes are proposed to the direction for implementation of each phase of development after the submission and approval of the relevant matters specified applications.

## **2. Proposed changes to condition beyond the remit of the application (including implications for Appropriate Assessment)**

- 3.6 Paragraph 7.8 of the original report sets out 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. It goes on to explain that it is considered that the existing conditions are no longer in line with current good practice and therefore the full suite of conditions has been revised to remain in line with current good practice and suitably regulate the proposed development.
- 3.7 In revising the conditions, officers took the opportunity to streamline the conditions to ensure that they met with current good practice. In doing so, this removed the specific references to consultees as these are not specifically required given the Planning Authority would be required to consult the relevant consultees whether they

are specifically identified or not. However, to accord with the provisions of the Appropriate Assessment undertaken on the original application, it has been decided that these specific references require to be included. If these references are included it is considered that the application would accord with the findings of the previously undertaken Appropriate Assessment, which remain valid.

### **3. Impact on the environment including protected species and habitats**

3.8 When the decision was made on the application in 2015 impact on species and habitat was considered and found to be acceptable subject to a range of mitigation. That mitigation will still be secured through conditions including:

- Condition 24 – Species surveys – this condition requires surveys to be carried out prior to commencement on each phase and any mitigation required to be implemented;
- Condition 32 – Tree Felling – this condition requires species surveys to be completed on any trees and mitigation to be carried out prior to any tree felling on the site; and
- Condition 35 – Construction Environmental Management – this condition requires the developer to employ an Ecological Clerk of Works and have in place specific species protection plans.

3.9 Concern has also been raised about the impact on salt marshes as a result of the golf course development, in particular due to the changing nature of the salt marshes in the time since determination of the original application. If brought forward, the golf course development will be required to address these matters in detail. The principle of the development overall remains unaffected.

### **4. Changes to the built environment**

3.10 A representation has highlighted that there have been a number of changes brought forward in the area, most notably the renovation of the Hilton of Delnies Farm House which is in the location identified for the development of a hotel, golf centre and spa in the masterplan. While this permission has been issued and implemented, it does not preclude the proposals identified in the masterplan being brought forward given Hilton of Delnies is within the control of the applicant.

### **5. Viability and deliverability of the development**

3.11 A representation has questioned the viability and deliverability of the development of the masterplan and highlighted the previous refusal of an application seeking to remove the requirement for the delivery of a roundabout as the site access. The viability of the development is a matter for the applicant. Each matters specified in conditions application will be required to consider the deliverability of each individual phase of development and demonstrates how it relates the wider masterplan, with an emphasis on infrastructure delivery. The revised conditions ensure that the roundabout to access to the site will be delivered in line with the provisions of the original permission.

3.12 While a representation has highlighted that the existing permission is incapable of being implemented, it should be noted that the existing permission, and any permission granted following the determination under this application, would be a

planning permission in principle. It will be for the applicant to ensure that all constraints on delivery are addressed and that any matters specified in conditions application addresses the infrastructure requirements, environmental constraints and other matters set out in any permission which may be granted.

- 3.13 The existing legal agreement sets out that part of the site must be reserved for a primary school and a serviced site be provided for the delivery of a primary school at nil cost to the Council. It is incumbent on the Council to request that site from the developer timeously. To date the option for the provision of the serviced site has not been taken up by the Council as the primary school provision in Nairn is operating within capacity based upon the school roll forecasts. By granting this Section 42 application, this option for the Council to secure the site will be secured for a further three years, if the Council deem a new primary school in Nairn to be required.

#### 4. Conclusion

- 4.1 Having carried out further consultation on the application and considered the responses received, subject to amendments to conditions 5 (Golf Management Plan), 23 (Access Management Plan) and 24 (Species Survey) to include references to consultation bodies, it is considered that 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.

#### 5. RECOMMENDATION

**Action required before decision issued** Y

Conclusion of Modified Section 75 Y  
Obligation

**Subject to the above**, it is recommended that the application for non-compliance with conditions be **GRANTED**, subject to the following:

- A.** The prior conclusion of a modification to the legal agreement to tie it to the modified permission AND,
- B.** The conditions and reasons set out in Appendix 2 with the exception of conditions 5, 23, and 24 and the revised timescale direction which shall be worded as follows:

#### Conditions and Reasons

5. Any details pursuant to Condition 2 as they relate to the construction of the golf course shall include a Golf Management Plan, to be submitted to and approved in writing by the Planning Authority in consultation with Scottish Environment Protection Agency and NatureScot. The Golf Management Plan shall, include the following:
- a) Details of the seed mixes to be used for the planting of the golf course;

- b) A turf management plan including full details of fertilisers, herbicides and pesticides;
- c) A full topographical survey including all engineering works and site levelling etc required for the formation of the course;
- d) Surface water drainage management and water supply details including any new abstractions, the scope of which should take into account and protect the adjacent designated conservation sites;
- e) Details of mitigation to minimise the loss of habitats; and,
- f) Details of habitats to be created.

The works when undertaken shall accord with the details of the approved Golf Management Plan.

**Reason:** In the interests of habitat enhancement and in order to protect the environmental sensitivity of adjoining land uses.

23. Any details pursuant to Condition 2 shall be informed by and include an access management plan (including details of footpaths and cycle ways and lighting (existing, during construction and upon completion and information on temporary or permanent diversion or closure)) shall be submitted for the written approval of the Planning Authority and NatureScot for each phase or sub-phase of the development. The plan shall show:-
- a. All existing paths, tracks and rights of way and any areas currently outwith or excluded from statutory access rights;
  - b. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage in relation to proposed buildings or structures;
  - c. All paths and tracks proposed to be constructed for use by walkers, riders, cyclists, all-abilities users etc and how these will integrate with existing or proposed networks. Details shall include but not be limited to:
    - i. Pedestrian access to any and all core paths;
    - ii. Construction details of all paths, inclusive of material finishes and drainage details;
    - iii. Details of the paths intended to form part of the Green Network's Coastal Trail and North - South Links as well as active travel links;
  - d. Any diversion of paths, temporary or permanent proposed for the purposes of the development;
  - e. Links to the Highland Council's core paths and green frameworks; and
  - f. Mitigation and monitoring mechanisms taking account of the qualifying interests of the Inner Moray Firth SPA/Ramsar site and Whiteness Head SSSI and the measures proposed for Whiteness Head and Sandown.

The Access Management Plan shall be implemented as approved and in accordance with the timetables outlined therein, unless otherwise approved in writing by the Planning Authority.

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

24. No development shall commence within each phase or sub-phase until pre-commencement surveys to locate the presence or absence of protected species have been undertaken and copies submitted to the Planning Authority in consultation with NatureScot. Should any protected species be found within or adjacent to an area likely to be affected by construction activities, appropriate mitigation measures shall be put in place by the developer prior to development commencing and be maintained for the duration of development, details of which shall first be submitted to, and approved in writing by, the Planning Authority.

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

#### **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. THREE YEARS from the date of the granting of this permission;

For Phase 2 and each subsequent Phase:

- i. THREE 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 planning permission in principle will lapse on the expiration of:

- i. For Phase 1, THREE YEARS
- ii. For Phase 2 and each subsequent Phase, THREE 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.

Designation: Area Planning Manager – South  
Author: Simon Hindson, Strategic Projects Team Leader  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - 00001 – Location Plan



## APPENDIX 2

Agenda Item	
Report No	

### HIGHLAND COUNCIL

#### Report of handling for consultation with Chair of SPAC under the revised Scheme of Delegation applicable during the Covid19 outbreak

**Date:** 28 April 2020

**Report Title:** 20/00599/S42: Cawdor Maintenance Trust

Land to north of A96 extending from Whiteness Access Road to the Common Good land, Nairn

**Report By:** Area Planning Manager – South

#### Purpose/Executive Summary

**Description:** Application for Non-Compliance with Condition 33 (08/00880/OUTNA) seeking amendment of cross reference to Phasing Condition

**Ward:** 18 – Nairn and Cawdor

**Development category:** Major

**Under the previous Scheme of Delegation this application would have been reported to Committee for the following reason(s):** 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

The Chair is 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 33 of the conditions attached to planning permission 08/00080/OUTNA granted on 03 August 2015 in respect of the Delnies Masterplan development.
- 1.2 The development at Delnies comprises:
- A total number of 300no. residential units to be contained within the development footprint as defined on the approved Concept Masterplan;
  - Hotel, Spa and Conference Facilities;
  - 18no. hole Championship Golf Course, Clubhouse, Golf Academy and Golf Range;
  - Equestrian Centre and Stables;
  - Ecological Centre with associated Bird Watching Hides;
  - Tourism and Heritage Centre;
  - Community Woodland and Country Park; and,
  - Associated infrastructural and landscape works including a new roundabout onto the A96(T).
- 1.3 This application seeks to reword Condition 33 (Landscaping) to update a cross reference in relation to the Phasing Plan. The current decision sets out that the Landscaping plan should relate to Condition 4 (Restriction of Delivery of Residential Units). The reference should however, be to Condition 3 (Phasing) to ensure the landscaping is delivered in line with the relevant phases of development.
- 1.4 The applicant is also seeking a revised timescale direction from the Planning Authority to allow a further period for implementation of the planning permission.
- 1.5 A copy of the previous planning permission for the Delnies development is contained within Appendix 2.
- 1.6 No modifications have been made to the application following validation of the application.
- 1.7 This application has been supported by the following information:
- Supporting statement / letter; and
  - Previously approved plans for the development.

## 2. PLANNING HISTORY

- 2.1 03.08.2008 08/00080/OUTNA - Mixed use development of 300 houses; tourism and heritage, equestrian and ecological centres; hotel and conference facilities; championship golf course, clubhouse and golf academy; community woodland and country park with associated infrastructure Outline Planning Permission Granted

- |     |            |   |                       |
|-----|------------|---|-----------------------|
| 2.2 | 13.04.2016 | 15/04666/S42 - Section 42 Planning Application to vary Condition 14 attached to Planning Permission in Principle 08/00080/OUTNA   | Application Refused   |
| 2.3 |            | 20/01573/S75M - Modification of Section 75 Agreement attached to 08/00080/OUTNA to tie the obligations to any planning permission that may be granted in relation to 20/00599/S42 | Pending Consideration |

### 3. PUBLIC PARTICIPATION

- 3.1 Advertised: Unknown Neighbour  
 Date Advertised: 18.02.2020  
 Representation deadline: 03.03.2020
- Timeous representations: 0  
 Late representations: 0

### 4. CONSULTATIONS

- 4.1 **Cawdor and West Nairnshire Community Council** did not respond to the consultation.

### 5. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

#### 5.1 Highland Wide Local Development Plan 2012

- 9 - A96 Phasing and Infrastructure
- 17 - Delnies
- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 30 - Physical Constraints
- 31 - Developer Contributions
- 32 - Affordable Housing
- 34 - Settlement Development Areas
- 42 - Previously Used Land
- 43 - Tourism
- 44 - Tourist Accommodation
- 51 - Trees and Development
- 52 - Principle of Development in Woodland
- 54 - Mineral Wastes
- 55 - Peat and Soils
- 56 - Travel
- 57 - Natural, Built & Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats

- 61 - Landscape
- 62 - Geodiversity
- 63 - Water Environment
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage
- 72 - Pollution
- 73 - Air Quality
- 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

NA6 – Delnies – 300 homes, business, Industrial and Community

Nairn Settlement Development Area

## **5.5 Highland Council Supplementary Planning Policy Guidance**

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

Developer Contributions (November 2018)

Flood Risk and Drainage Impact Assessment (Jan 2013)

Green Networks (Jan 2013)

Highland Historic Environment Strategy (Jan 2013)

Highland's Statutorily Protected Species (March 2013)

Managing Waste in New Developments (March 2013)

Open Space in New Residential Developments (Jan 2013)

Physical Constraints (March 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)

## **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 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 is no longer in force and the Nairnshire Local Plan in relation to this site and the policy provisions have been superseded by the Highland-wide Local Development Plan adopted on 29 June 2012. The original application was determined in accordance with the Proposed Highland-wide Local Development Plan which was a material consideration at the time. The Inner Moray Firth Local Development Plan has also since been adopted and it updates the provisions in relation to the allocation at Delnies. This sets out a list of developer requirements which any application requires to comply with. The original application meets these requirements.
- 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 33**

- 7.6 The applicant has sought to modify the wording of Condition 33 (Landscaping) to ensure an accurate cross-reference in so far as it relates to phased delivery of landscaping within each phase of development.
- 7.7 The change to ensure an appropriate cross-reference is considered appropriate as it ensures that appropriate phasing controls will be in place to ensure the timeous delivery of landscaping. The requested change to the condition would not lead to a conflict with either the Highland-wide Local Development Plan or the Inner Moray Firth Plan.

## **Other Material Considerations**

- 7.8 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 are no longer in line with current good practice and therefore the full suite of conditions has been revised to remain in line with current good practice and suitably regulate the proposed development.

- 7.9 Reviewing the conditions, all existing provisions remain in place to ensure delivery of infrastructure at the required points in the development and to ensure the protection of the environment. Further, additional conditions have been included to secure: waste management strategy; community liaison group; and provision for electric vehicle charging.
- 7.10 In granting planning permission for an application under the Planning Authority may attach a revised timescale direction. The applicant has requested that should the Planning Authority be minded to grant planning permission, that a fresh timescale direction be applied. The applicant initially sought that the first matters specified application requires to be submitted within five years of the S42 application.
- 7.11 The Inner Moray Firth Local Development Plan is currently under review and the “Call for Sites” was completed in 2019. The Main Issues Report is scheduled to be published in 2020 and subsequently the Proposed Plan issues for consultation in 2021. To ensure that any timescale direction aligns with the likely timescales for publication and the end of the consultation period at the Proposed Plan stage, it is considered that an appropriate timescale direction for submission of the first matters specified application is two years from the date of determination of this application. No changes are proposed to the direction for implementation of each phase of development after the submission and approval of the relevant matters specified applications.

#### **Other material considerations**

- 7.12 There are no other material considerations.

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

- 7.13 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 primary education provision;
  - c) Contributions to secondary education provision;
  - d) Contribution to the delivery of public transport; and
  - e) Provision of a 3ha site for a service site for a primary school and associated playing fields
- 7.14 The applicant has four months from the date that the Council's solicitor writes to the Applicant/Applicant's solicitor indicating the terms of the legal agreement, to deliver

to the Council a signed legal agreement. Should an 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 33 of the extant planning permission accords with the development plan and is acceptable in terms of all other applicable material considerations.
- 8.3 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.

## 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: Mitigation has been included in the proposed suite of conditions to manage the impacts of climate change as a result of this development. This includes the delivery of active travel infrastructure and provision of environmental protection and enhancement.
- 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 the application for non-compliance with conditions be **GRANTED**, subject to the following:

### Conditions and Reasons

1. Planning Permission in Principle is hereby granted for a mixed use development comprising of 300 houses; tourism and heritage, equestrian and ecological centres; hotel, spa and conference facilities; championship golf

course, clubhouse, golf range and golf academy; community woodland and country park with associated infrastructure to be developed in accordance with the indicative Concept Masterplan (Ref. A031992 SK(--))0002 Rev Q July 2010) hereby approved.

No development shall commence on each phase or sub phase until a phasing plan has been submitted to and approved in writing by the Planning Authority. The Phasing Plan shall detail the exact sequences of development for each proposed land use, the provision of infrastructure, the numbers of houses including affordable homes, landscaping, open space, footpaths, cycleways and, the location of any works compounds or materials storage areas.

Thereafter the development shall be undertaken in accordance with the agreed Phasing Plan or in Sub-Phases unless otherwise 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 the subject of any equivalent planning approval following an application in that behalf.

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

2. No development shall commence within each Phase, or sub-Phase, until an application, or applications, as they relate to or are relied upon by that Phase or sub-Phase has been submitted to and approved by the Planning Authority in respect of the following matters, insofar as they relate to the details of the proposed development taking full account of the approved indicative Concept Master Plan and Concept Design Statement, Creating Places, Designing Streets and other relevant national and local policy and guidance related to the matters set out below:-
  - a. submission of an 'Area Development Brief' for each Principal Phase of the development has been submitted to and approved by the Planning Authority in advance of the submission of any other application(s) for the approval of matters specified in conditions for that particular phase. Each Area Development Brief shall include the following:
    - i. Conformity with the principles and vision of the approved indicative Concept Masterplan and Concept Design Statement;
    - 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. Public art strategy;
    - vii. Character and design including materials palette; and,
    - viii. Phasing, implementation and integration.



Thereafter each application within each phase or sub-phase shall accord with the terms of the relevant Area Development Brief and the phasing strategy to be approved under Condition 1 of this planning permission in principle unless otherwise approved in writing by the Planning Authority.

- b. the siting, design and external appearance of all buildings and structures;
- c. details of sustainable design considerations inclusive of energy strategy;
- d. the means of access to the site including connections to the A96(T) and to adjacent development sites for all modes of transport;
- e. the layout of the site, in accordance with Designing Streets principles;
- f. road layout including:
  - i. the road hierarchy;
  - ii. typical form of the routes forming the hierarchy;
  - iii. junction layouts and design with projected traffic figures supported by traffic modelling;
  - iv. junction and forward visibility requirements;
  - v. junction spacing within the development;
  - vi. vehicle tracking at junctions and standard radii;
  - vii. details of any bus routes and bus stops inclusive of bus tracking infrastructure;
  - viii. details of the provision for cyclists and pedestrians (including linkages to the Nairn Town Centre) with junctions and crossings designed to facilitate active travel;
  - ix. provision for disabled users following consultation with the Nairnshire Access Panel;
  - x. details of safer routes to school;
  - xi. details of the location and type of service strips within the intended adoptable road boundary;
- g. the provision of car parking inclusive of disabled parking including in-curtilage parking, communal parking areas, parking courts and on-street parking with no driveways being located in positions where they may conflict with traffic movements at junctions, all in accordance with The Highland Council's Roads and Transport Guidelines for New Developments (or any superseding guidance prevailing at the time of submission);
- h. the provision of covered cycle parking including resident cycle parking in houses and communal covered cycle parking at flats and external secure, covered visitor cycle parking at flats, all in accordance with The Highland Council's Roads and Transport Guidelines for New Developments (or any superseding guidance prevailing at the time of submission);
- i. the details of and timetable for delivery of the provision of public open space, including, in accordance with the Open Space in New

- Residential Developments: Supplementary Guidance, (or any superseding guidance prevailing at the time of submission);
- j. the details of, and timetable for, the hard and soft landscaping of the site;
  - k. details of management and maintenance arrangements of the areas identified in (h), (i), (k) and (j) above;
  - l. details of all boundary treatments within the development designed in a manner which facilitates the creation of a sense of place and identity, as set out within the relevant approved Area Development Brief.
  - m. the provision for service vehicles following occupation of the development;
  - n. details of the provision of surface water drainage systems, including access for maintenance, 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;
  - o. details of the water and waste water connections, with connection to the public water and waste water networks;
  - p. means of dealing with domestic waste in accordance with the Highland Council's 'Managing Waste in New Developments' Supplementary Guidance' including any details of the siting of a recycling facility (or any superseding guidance prevailing at the time of submission);
  - q. details of existing trees, shrubs and hedgerows to be retained;
  - r. details of existing and proposed site levels with fall arrows;
  - s. details of finished floor levels; and,
  - t. details of all street lighting and lighting of car parking areas ensuring that safety and security are addressed with no lighting directed skyward.

**Reason:** Planning permission is granted in principle only and these specified matters must be approved prior to development commencing within each phase or sub-phase.

3. Any details pursuant to Condition 2 above shall show no built development, other than the Ecological Centre and associated bird hides, north of the raised beach escarpment as shown on drawing number A031992 SK(-- )0002 Rev Q.

**Reason:** To ensure that the development addresses the site's constraints.

4. No more than 100 residential dwellings shall be occupied until development on the adjoining Common Good Land/Sandown site to the east has commenced, unless otherwise agreed in writing with the Planning Authority.

In the event development on the Common Good Land/Sandown site has not commenced within 6no. months of completion of the 100th house on this site, such restrictions will be deemed to be discharged and construction of the remainder of the approved houses (i.e. 300no. in total) will continue in accordance with the Phasing Plan approved under Condition 1.

**Reason:** In the interests of proper planning of the area.

5. Any details pursuant to Condition 2 as they relate to the construction of the golf course shall include a Golf Management Plan. The Golf Management Plan shall, include the following:

- g) Details of the seed mixes to be used for the planting of the golf course;
- h) A turf management plan including full details of fertilisers, herbicides and pesticides;
- i) A full topographical survey including all engineering works and site levelling etc required for the formation of the course;
- j) Surface water drainage management and water supply details including any new abstractions, the scope of which should take into account and protect the adjacent designated conservation sites;
- k) Details of mitigation to minimise the loss of habitats; and,
- l) Details of habitats to be created.

The works when undertaken shall accord with the details of the approved Golf Management Plan.

**Reason:** In the interests of habitat enhancement and in order to protect the environmental sensitivity of adjoining land uses.

6. Any details pursuant to Condition 2 shall show all internal roads, footpaths, cycleways and car parking in accordance with the Council's Roads and Transport Guidelines for New Development.

**Reason:** In order to conform to the requirements of the Council's Roads and Transport Guidelines for New Development.

7. Any details pursuant to Condition 2 shall include a scheme for the location, design and installation of real time information bus stops within each phase of the development. For the avoidance of doubt, within the residential phase of development the full scheme shall be implemented no later than the occupation of the 100<sup>th</sup> residential unit and a temporary scheme identifying the location, design and installation of any temporary bus stops and turning facilities shall be implemented prior to the occupation of the 50<sup>th</sup> residential unit.

For all other phases of development, where bus stops are included the scheme shall be implemented prior to first occupation of that phase.

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

8. No phase or sub-phase of residential development shall be occupied until a detailed Residential Travel Pack for the relevant phase or sub-phase, which sets out options for residents for reducing dependency on the private car, has

been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt this shall include:

- Timetables for all buses serving or passing close to the site;
- Timetables for train services to Nairn and details of access to Nairn station by all modes including walking and cycling;
- Maps and details of active travel opportunities toward Nairn town centre;
- Descriptive information of active travel routes to nearby facilities and attractions and, public transport routes to those outwith walking distance;
- Information relating to school travel; and,
- Taxi Services.

The Residential Travel Pack shall be provided to each property within the relevant phase or sub-phase on first occupation of each property.

**Reason:** To facilitate the reduction in the use of private cars and increase use of sustainable and active travel.

9. No non-residential development within the application site shall be occupied until a Travel Plan has been submitted to and approved in writing by the Planning Authority. The plan shall detail the following measures:
- a) The name and contact details of an appointed Travel Plan Co-ordinator;
  - b) The proposed objectives and targets for those accessing the relevant non-residential use including targets to reduce access being taken to the development by staff and visitors in private cars, encourage access to the development within that phase by sustainable and active transport and for avoiding parking overspill onto the adjacent public roads;
  - c) Details of measures to be taken by the operator of the non-residential development within that phase to meet the proposed targets;
  - d) Details of monitoring that will be undertaken by the operator of the non-residential development within that phase to measure the success of the Travel Plan against the approved targets;
  - e) Details of the reporting of the monitoring of the Travel Plan by the operator of the non-residential development within that phase, which shall be a minimum of bi-annually from the date of the first occupation of each phase of development. This report shall include details of any further mitigation measures required to ensure the targets in the Travel Plan can be met.

Thereafter the Travel Plan shall be implemented prior to first occupation of the non-residential development within that phase.

The Travel Plan shall be monitored for a minimum period of 4 years following the occupation of each non-residential use within the application site by the

operator of the non-residential development . At the end of the 4 year period if the targets in the Travel Plan have not been met by operator of the non-residential development, a scheme of mitigation to address any deficiency in meeting agreed targets in the approved travel plan for the relevant phase of non-residential development requires to be submitted to and approved in writing by the Planning Authority.

**Reason:** to reduce the reliance on private cars and encourage modal shift to sustainable and active transport.

10. Any details pursuant to Condition 2 shall include details of and a timetable for implementation of the following elements to be approved by the Planning Authority in consultation with Transport Scotland:
  - a. Road lighting and road drainage;
  - b. Lighting within the site; and,
  - c. Boundary fencing details with the A96 trunk road.

Thereafter the details and timetable shall be implemented as agreed.

**Reason:** As directed by Transport Scotland to ensure that the efficiency of the existing road lighting/road drainage is not affected; there will be no distraction or dazzle to drivers on the trunk road; and, in order to ensure that the safety of users of the trunk road network is not diminished.

11. Any details pursuant to Condition 2 shall include a scheme for the delivery of a replacement for the existing lay-by on the A96(T) indicated on Waterman Boreham Drawing Ref No. 207837 - 105 dated 04 August, 2010 for the approval of the Planning Authority and Transport Scotland. Thereafter the approved scheme shall be implemented prior to first occupation of any element of the development.

**Reason:** To ensure that the standard of infrastructure modification proposed to the trunk road complies with the current standards and that the safety and the free flow of traffic on the trunk road is not diminished.

12. Any details pursuant to Condition 2 shall include details of the access to the site via a roundabout in the location as shown indicatively on the approved indicative Concept Masterplan (Ref No. A031992 SK(--))0002 Rev Q, July 2010). The design of the roundabout shall generally be in accordance with Waterman Boreham Drawing Ref No. 207837 - 105 dated 04 August, 2010 or as otherwise agreed with the Planning Authority in consultation with Transport Scotland.

Thereafter, no other development within the application site shall commence until the approved scheme is implemented in full to the satisfaction of the Planning Authority and Transport Scotland.

**Reason:** To ensure that the standard of infrastructure modification proposed to the trunk road complies with current standards and that the safety and free flow of traffic on the trunk road is not diminished.

13. Any details pursuant to Condition 2 shall include a scheme for the delivery of road, footpath and cycle links between the new roundabout junction on the A96(T) through the site to the adjoining Common Good Land/Sandown development to the east, which will be to 'local distributor' standard and be capable of accommodating public transport vehicles, shall be constructed and completed up to and including the mutual site boundary, at a point on the boundary to be agreed in writing with the Planning Authority.

Thereafter the approved scheme shall be delivered no later than the occupation of the 100<sup>th</sup> house within the development.

**Reason:** To provide for appropriate pedestrian and traffic links with the adjoining development and to avoid any potential 'ransom' strips in the interests of proper and effective planning for the area.

14. Any details pursuant to Condition 2 shall include a scheme for the design and implementation of the following infrastructure for the approval of the Planning Authority in consultation with Transport Scotland:

- a) The siting of a toucan crossing facility on the A96(T); and,
- b) Pedestrian footway/cycleway facilities linking the site and the existing pedestrian footway/cycleway network in the surrounding area, particularly to the east along the frontage of the Common Good Land/Sandown site towards Nairn and to the west, between the existing access/junctions with the A96(T) at Easter Delnies, the B9092 at Hilton of Delnies and, the B9092 at Wester Delnies.

Thereafter, no development within the application site shall be occupied until the approved schemes are implemented in full to the satisfaction of the Planning Authority and Transport Scotland.

**Reason:** To ensure that safe and attractive facilities are provided for pedestrians and cyclists generated by the development and that they may access the existing footway/cycleway network, including access to schools, community facilities, places of employment and shops.

15. Any details pursuant to condition 2 shall include detailed arrangements for water and sewerage infrastructure, and its implementation programme to serve the site. For the avoidance of doubt, all elements of the development hereby approved shall be connected to the public water and waste water network.

**Reason:** to ensure the development accords with Policy 9 and Policy 65 of the Highland-wide Local Development Plan.

16. Any details pursuant to Condition 2 shall include full details of surface water drainage provision within the relevant phase or sub-phase and how that relates to the surface water drainage approach for the site as a whole (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in the CIRIA Manual and Sewers for Scotland Fourth Edition, or any superseding guidance prevailing

at the time). This shall also detail updated greenfield run-off rates to reflect the details of the proposed development.

Thereafter, only the approved details shall be implemented and all surface water drainage provision for the relevant phase or sub-phase shall be completed prior to the occupation of the relevant phase or sub-phase.

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

17. The development shall not be occupied until details of the relevant person or party responsible for the maintenance of the on-site surface water drainage system have been provided to the Planning Authority. For the avoidance of doubt any part of the surface water drainage system not vested by Scottish Water or another responsible authority shall remain the responsibility of the developer and be maintained in line with the scheme to be approved.

**Reason:** To ensure that the surface water drainage system is maintained by an appropriate party and that the party responsible for maintenance can be easily identified should any issue arise.

18. Any details pursuant to Condition 2 shall include a 10m buffer zone from the top of the bank of any watercourse, drainage ditch or waterbody where no development can take place.

**Reason:** To ensure access to the watercourses can be maintained for maintenance and in the interest of avoiding impact on the watercourse which has the potential to increase risk of flooding.

19. Any details pursuant to Condition 2 shall include details of any and all improvements or modifications to the watercourses or waterbodies which are present within the site. Details shall include any proposed works to ensure more natural forms of watercourse or waterbodies present within the application site.

**Reason:** To ensure that the water environment is protected and enhanced in a manner which facilitates a more natural watercourse.

20. Any details pursuant to Condition 2 shall include details of the siting and design of all on street above ground infrastructure (including but not limited to electrical substations, junction boxes and broadband cabinets) within the relevant phase or sub-phase of the development.

Thereafter the delivery of above ground infrastructure shall be delivered in accordance with the approved details.

**Reason:** To ensure that these matters can be considered in detail to ensure the character and identity of the site is maintained in the interests of place making.

21. Any details pursuant to Condition 2 shall show all services to any buildings and to the golf course routed underground.

**Reason:** In order to safeguard the visual amenity of the area.

22. No development shall commence within each phase or sub-phase, until a scheme to deal with potential contamination within each phase or sub-phase has been submitted to, and approved in writing by, the Planning Authority. Each scheme shall include:
- i) the nature, extent and type of contamination on site, identification of pollutant linkages and assessment of risk (i.e. Contaminated Land Risk Assessment and Remediation Plan). The scope and method of this assessment to be agreed in advance with the Planning Authority, and undertaken in accordance with PAN 33 (2000) and BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites – Code of Practice;
  - ii) the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works and proposed verification plan to ensure that the site is fit for the uses proposed;
  - iii) measures to deal with contamination during construction works;
  - iv) in the event that remedial action be required, a validation report that validates and verifies the completion of the approved decontamination measures; and,
  - v) in the event that monitoring is required, monitoring statements submitted at agreed intervals for such time period as is considered appropriate in writing by the Planning Authority.

Thereafter, no development shall commence within any phase or sub-phase until written confirmation that the approved scheme has been implemented, completed and, if required, on-going monitoring is in place, has been issued by the Planning Authority.

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

23. Any details pursuant to Condition 2 shall be informed by and include an access management plan (including details of footpaths and cycle ways and lighting (existing, during construction and upon completion and information on temporary or permanent diversion or closure)) shall be submitted for the written approval of the Planning Authority and Scottish Natural Heritage for each phase or sub-phase of the development. The plan shall show:-
- g. All existing paths, tracks and rights of way and any areas currently outwith or excluded from statutory access rights;
  - h. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage in relation to proposed buildings or structures;
  - i. All paths and tracks proposed to be constructed for use by walkers, riders, cyclists, all-abilities users etc and how these will



integrate with existing or proposed networks. Details shall include but not be limited to:

- iv. Pedestrian access to any and all core paths;
- v. Construction details of all paths, inclusive of material finishes and drainage details;
- vi. Details of the paths intended to form part of the Green Network's Coastal Trail and North - South Links as well as active travel links;
- j. Any diversion of paths, temporary or permanent proposed for the purposes of the development;
- k. Links to the Highland Council's core paths and green frameworks; and
- l. Mitigation and monitoring mechanisms taking account of the qualifying interests of the Inner Moray Firth SPA/Ramsar site and Whiteness Head SSSI and the measures proposed for Whiteness Head and Sandown.

The Access Management Plan shall be implemented as approved and in accordance with the timetables outlined therein, unless otherwise approved in writing by the Planning Authority.

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

24. No development shall commence within each phase or sub-phase until pre-commencement surveys to locate the presence or absence of protected species have been undertaken and copies submitted to the Planning Authority. Should any protected species be found within or adjacent to an area likely to be affected by construction activities, appropriate mitigation measures shall be put in place by the developer prior to development commencing and be maintained for the duration of development, details of which shall first be submitted to, and approved in writing by, the Planning Authority.

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

25. For the avoidance of doubt, construction of the ecological centre and hides must only take place between the 15 April and the 01 September in any year.

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

26. Any details pursuant to Condition 2 shall include and be informed by a programme of archaeological work for the preservation and recording of any archaeological features affected by the proposed development. This will include a timetable for investigation, all in accordance with the attached specification which shall require to be submitted for the written approval of the Planning Authority. All arrangements thereby approved shall be implemented by the applicant/developer at his/her expense in accordance with the approved timetable for investigation.

**Reason:** To ensure the protection and/or recording of the historical and archaeological interest that may be found on the site.

27. Any details pursuant to Condition 2 shall include a Heritage Interpretation and Access Plan (HIAP), including a timetable for its implementation for the written approval of the Planning Authority. The HIAP will detail which archaeological sites should have their access improved and, which sites would benefit from interpretation along with proposals for maintaining and encouraging public access to the archaeological resource, as well as details of signage and promotion of a Heritage Trail.

The approved details shall be implemented prior to the first occupation of each relevant phase or sub-phase.

**Reason:** To safeguard and promote the site's archaeological interests.

28. No trees within the application site, other than those which are specifically identified for removal on the approved plans, shall be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the Planning Authority.

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

29. Any details pursuant to Condition 2 shall be informed by:

- a) 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;
- b) 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 Hold Back Distance from any new building, which takes into consideration above ground constraints must be calculated;
- c) Tree categorisation in accordance with Table 1 - Cascade Chart for Tree Quality Assessment;
- d) A Tree Constraints Plan that indicates categories for each tree annotated onto the original Land Survey along with canopy spread, Root Protection Area and Hold Back 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;
- e) An Arboricultural Method Statement that superimposes the proposed layout, including any underground services, onto the Tree

Constraints Plan; and,

- f) 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.

Thereafter, development shall progress in line with the approved details unless otherwise agreed in writing by the Planning Authority.

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

- 30. No development, site excavation or groundwork shall commence until a suitably qualified Arboricultural Consultant has been appointed by the developer. Their remit shall first be approved in writing by the Planning Authority. For the avoidance of doubt, the Arboricultural Consultant shall be appointed as a minimum for the period from the commencement of the development until the completion of the development when tree works or planting are being undertaken and their remit shall, in addition to any functions approved in writing by the Planning Authority, include:
  - i. Ensuring that the approved Arboricultural Method Statement and approved Tree Protection Plans are implemented to the agreed standard. Stages requiring supervision are to be implemented as per the approved AMS for the written agreement of the Planning Authority; and,
  - ii. The preparation of written statements setting out the arboricultural works being completed for each stage of work involved in the development, which shall be submitted to the Planning Authority upon completion of the stage to which they relate. Prior to the commencement of development, site excavation or groundwork commencing, details of each stage of work (including a general description of the type and extent of work to be carried out within that stage) shall be submitted to, and approved in writing by the Planning Authority.

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

- 31. Any details pursuant to Condition 2 shall include the submission of a tree and woodland management plan, including a timetable for its implementation, which details the management proposals for all of the woodland and tree features within the site for the written approval of the Planning Authority. Thereafter the management plan shall be implemented as approved.

**Reason:** To ensure the long term management of all trees and woodland within the site in the interests of the local landscape and visual amenity of the area.

- 32. Before any works for the lopping, topping or felling of trees commences, surveys for protected species, generally squirrels and bats, shall be carried out. The survey methodology shall be agreed in writing by the Planning

Authority in consultation with Scottish Natural Heritage. The findings of these surveys will inform the mitigation/protection measures to be implemented during tree works.

**Reason:** To safeguard the natural heritage interests of the site.

33. Any details pursuant to Condition 2 for each phase or sub-phase shall include details of a scheme of hard and soft landscaping works related to that phase or sub-phase. Details of the scheme shall include:
- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
  - ii. A plan showing existing landscaping features and vegetation to be retained;
  - iii. The location and design, including materials, of any proposed walls, fences, gates, seating and other landscaping features within each open space, including 1:20 scale plans showing the detail of the feature;
  - iv. The location, type and design, including materials product name and specification, of any proposed play equipment and associated safety features (if required), including 1:20 scale plans within each open space;
  - v. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities, with no fruit bearing trees; and,
  - vi. A programme for the preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of that phase of development to which the scheme relates.

Any trees or plants which within a period of five years from the completion of the phase of development to which they relate die, or for whatever reason are removed or damaged, shall be replaced in the next planting season with others of the same size and species.

**Reason:** In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

34. Before the first occupation of each phase, or sub-phase of the residential element of the development, a scheme for the maintenance in perpetuity of all on-site green spaces and/or woodland and/or sports facilities, features or parts of the development that are not the exclusive property of any identifiable individual house owner such as communal parking areas, the common entrances to flatted developments and estate lighting, and those elements of

surface water drainage regimes not maintained either by the Highland Council or Scottish Water for that phase or sub-phase, shall be submitted to and agreed in writing by the Planning Authority. The agreed scheme, which shall accord with the Highland Council's adopted standards contained within 'Open Space in Residential Development', shall be implemented thereafter to the satisfaction of the Planning Authority.

**Reason:** In the interests of amenity and to ensure that communal infrastructure on the site are maintained in accordance with the Council's standards.

35. No development shall commence within each phase, or sub-phase, until a Construction Environmental Management Document has been submitted to and approved in writing by the Planning Authority. The Document shall include:
- a) An updated Schedule of Mitigation (SM) including all mitigation proposed in support of the planning application, other relevant agreed mitigation (e.g. as required by agencies) and set out in the relevant planning conditions;
  - b) Processes to control / action changes from the agreed Schedule of Mitigation;
  - c) The following specific Construction and Environmental Management Plans (CEMP):
    - (i) Habitat and Species Protection Plans for badger, bat, otter, and red squirrel
    - (ii) Pollution prevention plan
    - (iii) Dust management plan
    - (iv) Construction Noise and Vibration Assessment and a Mitigation Plan in accordance with BS5228 Code of Practice for noise and vibration control on construction and open sites – Part 1: Noise
    - (v) Site waste management plan
    - (vi) Measures to protect private water supplies; including an emergency response plan
    - (vii) Measures to prevent the spread of non-native invasive species;
  - d) Details of the appointment of an appropriately qualified Environmental Clerk of Works with roles and responsibilities;
  - e) Methods of monitoring, auditing, reporting and communication of environmental management on site with the client, Planning Authority and other relevant parties; and,
  - f) Statement of responsibility to 'stop the job / activity' if a potential breach of a mitigation or legislation occurs.

The development shall proceed in accordance with the approved Construction Environmental Management Document unless otherwise agreed in writing with the Planning Authority.

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

36. No development shall commence on each phase or sub- phase until a Construction Traffic Management Plan (including a routing plan for construction vehicles and details of wheel washing facilities) has been submitted to, and approved in writing by, the Planning Authority. This shall ensure no Heavy Goods Vehicle traffic movements or deliveries to the site during Rosebank Primary school pick up or drop off times. The approved Construction Traffic Management Plan shall be implemented prior to development commencing and remain in place until the development is complete.

**Reason:** In the interests of road safety, to limit the impacts on the local road network and to limit the amenity impacts of the construction phase of the development on local residents.

37. All plant, machinery and equipment associated with ventilation, air-conditioning, heating and refrigeration or similar mechanical services, including fans, ducting and external openings shall be installed, maintained and operated such that any operating noise complies with Noise Rating Curve 20 and details and a noise assessment of each installation will require to be submitted for the written approval of the Planning Authority.

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

38. Any details pursuant to Condition 2 shall be informed by and include a Waste Management Strategy for each phase or sub-phase. This shall detail the approach to sustainable waste management in the operation of all aspects of the development with the identification of bin stores, bin collection points, and refuse vehicle collection routes in each phase or sub-phase.

**Reason:** In the interests of amenity, to manage waste and prevent pollution.

39. Any details pursuant to Condition 2 shall include and be informed by a scheme detailing the provision of electric vehicle charging points. The scheme shall include:
- i. identification of locations for communal electric vehicle charging points serving flatted developments in the associated phase or sub-phase and located in communal parking areas and these charging point locations are to be made available to The Highland Council or other public body for the installation of the charging point infrastructure;
  - ii. the provision of infrastructure, defined as the provision of cabling from the consumer unit within the property to an external point, to allow charging of electric vehicles within the curtilage of each house in each

- phase or sub phase, where the house has in-curtilage car parking provision;
- iii. a timescale for the implementation of the infrastructure within each phase or sub phase; and,
- iv. outline detail of a communication pack to be provided to each household on first occupation explaining how they can access electric vehicle charging infrastructure.

The approved scheme(s) shall be implemented in line with the approved timescales.

**Reason:** To facilitate the move toward the reduction in reliance of petrol and diesel cars.

- 40. 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 Cawdor and Nairn West 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 the provision of all transport-related mitigation measures 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**

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.

## **Direction Under Section 59(5) & (7) - Time Limit For The Implementation Of This Planning Permission In Principle**

### **Time Limit Direction**

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:

- ii. TWO YEARS from the date of the granting of this permission;

For Phase 2 and each subsequent Phase:

- iv. THREE YEARS from the date of commencement of the previous Phase;
- v. SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- vi. SIX MONTHS from the date on which an appeal against such refusal was dismissed.

In respect of each phase, this planning permission in principle will lapse on the expiration of:

- iii. For Phase 1, THREE YEARS
- iv. For Phase 2 and each subsequent Phase, THREE 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.

### **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 and Conditions**

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those



requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

### **Flood Risk**

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

### **Scottish Water**

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

### **Septic Tanks and Soakaways**

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

### **Local Roads Authority Consent**

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

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

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

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

[http://www.highland.gov.uk/info/20005/roads\\_and\\_pavements/101/permits\\_for\\_working\\_on\\_public\\_roads/2](http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2)

As required by the Roads (Scotland) Act the developer shall obtain Road Construction Consent from the Council as Roads Authority prior to commencement of construction of any of the houses or the roads within the development.

In accordance to comply with the relevant statutory regulations for implementing traffic calming and road signage the applicant will be required to apply to the Council as Roads Authority for promotion of a 20mph zone; all necessary costs associated

with the promotion, making and enactment of any required Traffic Order shall be at the applicant's expense and this application shall be made prior to occupation of any of the units.

### **Mud and Debris on Road**

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

### **Construction Hours and Noise-Generating Activities**

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

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

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

### **Protected Species – Halting of Work**

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

### **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.

### **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.

Designation: Area Planning Manager – South  
Author: Simon Hindson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - 00001 – Location Plan

Appendix 1 – Letters of Representation

None.

## Appendix 2 – Copy of Delnies Planning Permission

### PLANNING PERMISSION IN PRINCIPLE

Reference No: 08/00080/OUTNA

#### THE HIGHLAND COUNCIL

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

#### DECISION NOTICE

To:  
Cawdor Maintenance Trust  
As Per Agent

Per:  
Alan R Farningham  
The Bourse, Suite 107  
47 Timber Bush  
Leith  
Edinburgh  
EH6 6QH

**Mixed use development of 300 houses; tourism and heritage, equestrian and ecological centres; hotel and conference facilities; championship golf course, clubhouse and golf academy; community woodland and country park with associated infrastructure  
Land To North Of A96 Extending From Whiteness Access Road To The Common Good Land Nairn**

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
Concept Design Statement		01.07.2010
Site Plan	000001	10.06.2008

This permission is granted subject to the following conditions: -

- (1.) Applications for approval of Matters Specified in Conditions (MSC) shall provide full details of the proposed development and include the following:
  - a) the siting, design and external appearance of all buildings and structures;
  - b) the means of access;
  - c) details of all roads, footpaths, cycleways and car parking provision, the latter in accordance with approved Highland Council Guidance and National Parking Standards;
  - d) surface water drainage including provision for SuDs;
  - e) water supply and foul drainage infrastructure including any required augmentation;
  - f) levels and cross sections showing proposed finished ground and floor levels relative to existing ground levels and to a fixed datum point;
  - g) street lighting, designed and installed so as not to cause undue light pollution and, street furniture;
  - h) all amenity open space and recreational areas, children's play provision, landscaping and boundary enclosures including screen walls and fencing and, a programme for their implementation;
  - i) waste storage and recycling facilities in accordance with the Council's approved

- standards contained in "Managing Waste in New Residential Developments"; and,
- j) in respect of the golf course, details of all cut and fill operations involved in its construction. Only the approved details shall be implemented.

Reason: Permission for the development has been granted in principle only. Subsequent approval is required for the MSC in order to be in compliance with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland) Act 2006. In order to retain proper control over the development and to ensure that the overall layout and design is satisfactory for the site.

- (2.) Approval is given in principle for the Concept Masterplan for Delnies. (Ref: A031992 SK(--)  
0002 REV Q, July 2010) For the avoidance of doubt, the scale of development approved in this Planning Permission in Principle is as follows:
- a) A total number of 300no. residential units to be contained within the development footprint as defined on the approved Concept Masterplan;
  - b) Hotel, Spa and Conference Facilities;
  - c) 18no. hole Championship Golf Course, Clubhouse, Golf Academy and Golf Range;
  - d) Equestrian Centre and Stables;
  - e) Ecological Centre with associated Bird Watching Hides;
  - f) Tourism and Heritage Centre;
  - g) Community Woodland and Country Park; and,
  - h) Associated infrastructural and landscape works including a new roundabout onto the A96(T).
  - i) No built development shall take place north of the raised beach escarpment as shown on drawing number AO3199 SK(--)  
0002 Rev Q.

Reason: To clarify the extent of the Planning Permission and to be in compliance with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland) Act 2006.

- (3.) Prior to the commencement of development, a detailed Phasing Plan shall be submitted with the first application for approval of Matters Specified in Conditions (MSC) and within each phase, programming will be determined by a detailed Phasing Plan which shall be submitted at the first formal application for each phase, or as otherwise agreed by the Council. The Phasing Plan shall detail the exact sequences of development for each proposed land use, the provision of infrastructure, the numbers of houses including affordable homes, landscaping, open space, footpaths, cycleways and, the location of any works compounds or materials storage areas. Development of the site shall thereafter take place in accordance with the approved Phasing Plan and Schedule unless otherwise approved in writing by the Planning Authority.

Reason: To ensure that the development takes place in an orderly manner, in the interests of the proper and effective planning for the area and, the timeous provision of the different inter-related parts of the development.

- (4.) The residential element of the development hereby approved will initially be restricted to 100no. houses until such time as the development on the adjoining Common Good Land/Sandown site to the east has commenced, unless otherwise agreed in writing with the Planning Authority. In the event development on the Common Good Land/Sandown site has not commenced within 6no. months of completion of the 100th house on this site, such restrictions will be deemed to be discharged and construction of the remainder of the approved houses (i.e. 200no.in total) will continue in accordance with the phasing schedule set out in the proposed Highland wide Local Development Plan.

Reason: In the interests of the proper and effective planning of the area.

- (5.) That concurrently with the submission of the first application for approval of Matters Specified in Conditions (MSC), a Masterplan Design Statement and Design Code for the entire development site (including residential, commercial, tourist, leisure and recreational uses) shall be submitted to and agreed in writing by the Planning Authority. The required Masterplan Design Statement and Design Code shall clearly set out the design standards and criteria to which all subsequent applications shall adhere to within the context of PAN78 "Inclusive Design", PAN77 "Designing Safer Places", PAN76 "New Residential Streets", PAN68 "Design Statements", PAN67 "Housing Quality" and, "A Policy Statement for Scotland - Designing Places". Thereafter, the detailed design for each Phase of development will require to be in general accordance with the Masterplan Design Statement and Design Code, unless otherwise agreed in writing by the Planning Authority.

Reason: In order to give further consideration to those details that are still to be submitted and, to preserve the essential character of the site and the surrounding area by promoting a high quality development.

- (6.) 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.

- (7.) No works in connection with the construction of the golf course shall take place until a Golf Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The Management Plan shall, inter alia, include the following:

- m) Details of the seed mixes to be used for the planting of the golf course;
- n) A turf management plan including full details of fertilisers, herbicides and pesticides;
- o) A full topographical survey including all engineering works and site levelling etc required for the formation of the course; and,
- p) Surface water drainage management and water supply details, the scope of which should take into account and protect the adjacent designated conservation sites.
- q) Details of mitigation to minimise the loss of habitats.
- r) Details of habitats to be created. The works when undertaken shall accord with the details of the approved Golf Management Plan.

Reason: In the interests of habitat enhancement and in order to protect the environmental sensitivity of adjoining land uses.

- (8.) All internal roads within the development including footpaths, cycleways and car parking shall require road construction consent before works commence and, all such works shall require to conform generally to the requirements of the Council's Roads and Transport Guidelines for New Development. 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 Roads and Transport Guidelines for New Development.

- (9.) Along internal distributor roads, intended bus lay-bys and shelters, including lighting and real time information displays, 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 interests of road safety and to encourage greater use of public transport.

- (10.) Prior to the occupation of any part of the commercial, leisure, recreational and tourist elements of the development hereby approved, a comprehensive Travel Plan that sets out detailed proposals for reducing dependency on the private car shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. In particular, the Plan shall detail measures to reduce mode share for private vehicles. The agreed measures shall be implemented from the date of first occupation of the development and shall continue without time limit, subject to the provisions for monitoring and review contained within the Plan.

Reason: As directed by Transport Scotland to be consistent with the sustainable transport requirements of Scottish Planning Policy (February 2010) and PAN75 Planning for Transport.

- (11.) Prior to the occupation of any part of the residential element of the development hereby approved, a comprehensive Travel Pack shall be provided to each household. The Pack shall generally contain the following information:

- Timetables for all buses serving or passing close to the site;
- Timetables for train services to Nairn and details of access to Nairn station by all modes including walking and cycling;
- Maps and details of walking and cycling opportunities within Nairn;
- Descriptive information of walking routes to nearby facilities and attractions and, public transport routes to those outwith walking distance;
- Information relating to school travel; and,
- Taxi Services.

Reason: In the interests of sustainable transport objectives.

- (12.) Prior to the commencement of development, the following details, including a timetable for their implementation, shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland:

- Road lighting and road drainage;
- Lighting within the site; and,
- Boundary fencing details with the A96 trunk road.

Thereafter the details and timetable shall be implemented as agreed.

Reason: As directed by Transport Scotland to ensure that the efficiency of the existing road lighting/road drainage is not affected; there will be no distraction or dazzle to drivers on the trunk road; and, in order to ensure that the safety of users of the trunk road network is not diminished. (Please note that this is a composite condition of Transport Scotland conditions 3, 4 and 5)

- (13.) Prior to the occupation of any part of the development hereby permitted, the existing lay-by on the A96(T) indicated on Waterman Boreham Drawing Ref No. 207837 - 105 dated 04 August, 2010 shall be relocated to a location approved by the Planning Authority in consultation with Transport Scotland.



Reason: As directed by Transport Scotland to ensure that the standard of infrastructure modification proposed to the trunk road complies with the current standards and that the safety and the free flow of traffic on the trunk road is not diminished.

- (14.) Before development commences, the new roundabout access to the site as shown indicatively on the approved Concept Masterplan (Ref No. A031992 SK(--)) 002 Rev Q, July 2010) shall be constructed in accordance with detailed plans to be submitted and approved by the Planning Authority in consultation with Transport Scotland. The approved plans shall generally be in accordance with Waterman Boreham Drawing Ref No. 207837 - 105 dated 04 August, 2010 or as otherwise agreed with the Planning Authority in consultation with Transport Scotland.

Reason: As directed by Transport Scotland, to ensure that the standard of infrastructure modification proposed to the trunk road complies with current standards and that the safety and free flow of traffic on the trunk road is not diminished.

- (15.) Before the completion of the 100th house, a road link including footpaths from the new roundabout junction on the A96(T) through the site to the adjoining Common Good Land/Sandown development to the east, which will be to 'local distributor' standard and be capable of accommodating public transport vehicles, shall be constructed and completed up to and including the mutual site boundary, at a point on the boundary to be agreed in writing with the Planning Authority.

Reason: To provide for appropriate pedestrian and traffic links with the adjoining development and to avoid any potential 'ransom' strips in the interests of proper and effective planning for the area.

- (16.) No part of the development hereby permitted shall be occupied until the following works to the public road network have been approved in detail and implemented to the satisfaction of the Planning Authority in consultation with Transport Scotland and the Roads Authority:

- c) The siting of a toucan crossing facility on the A96(T); and,
- d) Pedestrian footway/cycleway facilities linking the site and the existing pedestrian footway/cycleway network in the surrounding area, particularly to the east along the frontage of the Common Good Land/Sandown site towards Nairn and to the west, between the existing access/junctions with the A96(T) at Easter Delnies, the B9092 at Hilton of Delnies and, the B9092 at Wester Delnies.

Reason: To ensure that safe and attractive facilities are provided for pedestrians and cyclists generated by the development and that they may access the existing footway/cycleway network, including access to schools, community facilities, places of employment and shops.

- (17.) No development shall commence on site until the detailed arrangements for water and sewerage infrastructure, and its implementation programme to serve the site, is submitted to and approved in writing by the Planning Authority in consultation with Scottish Water and the Scottish Environmental Protection Agency (SEPA). For the avoidance of doubt, it is a pre-requisite for the development proposals approved within the site to connect into the public wastewater and water supply networks. Furthermore, no buildings 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 and SEPA.

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

- (18.) Before development commences, the overall scheme design for surface water drainage shall be submitted to and agreed in writing by the Planning Authority in consultation with SEPA and SNH. The scheme shall specify full details of the SuDS scheme to be implemented and include a development impact assessment and detailed maintenance programme. All surface water infrastructure shall be designed in accordance with the SuDS "CIRIA" design manual. 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 part of the development is occupied.

Thereafter, only the approved details shall be implemented and all surface water drainage provision, as it relates to, or is relied upon by, an individual phase, shall be completed prior to the first occupation of any of the development within that phase.

Reason: In order to ensure effective surface water drainage in the interests of sustainability and conservation objectives.

- (19.) No modifications are to be made to any existing watercourses, ditches or water bodies within or adjoining the site without the prior written approval of the Planning Authority in consultation with SEPA and SNH. Furthermore, provision shall be made for a 10 metre (minimum) buffer zone either side of any watercourses, ditches or water bodies, unless otherwise agreed in writing with the Planning Authority in consultation with SEPA and SNH.

Reason: In the interests of protecting and enhancing the environmental amenity and biodiversity of the site.

- (20.) Prior to the commencement of each phase of development, details of any electricity sub-station or gas governor kiosks shall be submitted to and approved in writing by the Planning Authority and the works when completed shall accord with the details as approved.

Reason: To ensure that any electrical sub-station or gas governor kiosks are to be sited in appropriate locations and are of appropriate materials for the natural environment of the site.

- (21.) All services to any buildings and to the golf course will be routed underground unless otherwise agreed in writing by the Planning Authority.

Reason: In order to safeguard the visual amenity of the area.

- (22.) That concurrently with the submission of the first application for approval of Matters Specified in Conditions (MSC), a detailed Site Investigation Report/Contaminated Land Assessment addressing potential contamination on the site shall be submitted to, and approved in writing by, the Planning Authority. Thereafter, any required mitigation shall be implemented before the commencement of construction works on the site.

Reason: To satisfactorily demonstrate that the site is suitable for its proposed use in accordance with best practice principles and guidance contained within PAN33.

- (23.) That concurrently with the submission of the first application for approval of Matters Specified in Conditions (MSC), a revised Access Management Plan be submitted for the approval of the Planning Authority in consultation with Scottish Natural Heritage (SNH). That plan shall show:

- a) All existing core paths, paths, tracks and public rights of way, and any areas currently outwith or excluded from statutory access rights [as under Part 1 of the Land Reform (Scotland) Act 2003]
- b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures;
- c) All paths and tracks proposed for construction, for use by walkers, riders, cyclists , all-abilities users including those routes those intended to form part of the Green Network's Coastal Trail and North - South Links as well as active travel links
- d) Any proposed diversion of paths, temporary or permanent, for the purposes of the development.
- e) Mitigation and monitoring mechanisms taking account of the qualifying interests of the Inner Moray Firth SPA/Ramsar site and Whiteness Head SSSI and the measures proposed for Whiteness Head and Sandown.

Reason: In order to promote public access and maintain appropriate pedestrian links into, out of, and through the site in the interests of a sustainable form of development and to protect identified conservation interests and access rights.

- (24.) Before work starts on each phase of development, pre-construction surveys shall be carried out for the site's protected species interest, specifically badgers, otters, 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, bat and otter interests, updated surveys and protection plans shall be prepared for the written approval of the Planning Authority in consultation with SNH. Thereafter, the protection plan shall be implemented as agreed.

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

- (25.) Construction of the ecological centre and hides must only take place between the 15 April and the 01 September in any year.

Reason: To avoid disturbance to qualifying bird species and compromising conservation objectives.

- (26.) 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, 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 for investigation.

Reason: To safeguard the archaeological potential of the site.

- (27.) Before work starts on each phase of the development, a Heritage Interpretation and Access Plan (HIAP), including timetable for its implementation, shall be submitted to and agreed in writing with the Council. The HIAP will detail which archaeological sites should have their access improved and, which sites would benefit from interpretation along with proposals for maintaining and encouraging public access to the archaeological resource, as well as details of signage and promotion of a Heritage Trail. The approved details shall be implemented.

Reason: To safeguard and promote the site's archaeological interests.

- (28.) 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.

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

- (29.) 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:
- g) 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;
  - h) 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 Hold Back Distance from any new building, which takes into consideration above ground constraints must be calculated;
  - i) Tree categorisation in accordance with Table 1 - Cascade Chart for Tree Quality Assessment;
  - j) A Tree Constraints Plan that indicates categories for each tree annotated onto the original Land Survey along with canopy spread, Root Protection Area and Hold Back 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;
  - k) An Arboricultural Implications Assessment that superimposes the proposed layout, including any underground services, onto the Tree Constraints Plan; and,
  - l) 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.

- (30.) 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.

- (31.) That concurrently with the submission of the first application for approval of Matters Specified in Conditions (MSC), a tree and woodland management plan, including a timetable for its implementation, which details the management proposals for all of the woodland and tree features within the site should be prepared and submitted for the written approval of the Planning Authority. Thereafter the management plan shall be implemented as agreed.

Reason: To ensure the long term management of all trees and woodland within the site in the interests of the local landscape and visual amenity of the area.

- (32.) Before any works for the lopping, topping or felling of trees commences, surveys for protected species, generally squirrels and bats, shall be carried out. The survey methodology shall be agreed in writing by the Planning Authority in consultation with Scottish Natural Heritage. The findings of these surveys will inform the mitigation/protection measures to be implemented during tree works.

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

- (33.) No works in connection with each respective phase of the development hereby approved, shall take place until a detailed landscape scheme of hard and soft landscaping works, linked to the agreed Phasing Plan pursuant to Condition 4 above, has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
- a) Existing and proposed finished ground levels relative to a fixed datum point;
  - b) Existing landscape features and vegetation to be retained;
  - c) Existing and proposed services including cables, pipelines and sub-stations;
  - d) The location of new trees, shrubs, hedges, grassed areas and water features;
  - e) A schedule of plants to comprise species, plant sizes, proposed numbers and densities;
  - f) The location, design and materials of all hard landscaping works including walls, fences, gates, street furniture and play equipment;
  - g) An indication of existing trees, shrubs and hedges to be removed;
  - h) A programme of advanced planting; and,
  - i) A programme for the completion and subsequent long term maintenance of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting session immediately following commencement of each respective phase of development or such other date that may be agreed in writing with the Planning Authority. Any planting which, within a period of 5no. years from the completion of each phase of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of a similar size and species to those originally required to be planted.

Reason: To ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

- (34.) Prior to the first occupation of the residential element of 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, features or parts of the development that are not the exclusive property of any identifiable owner such as communal parking areas, common entrances 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 the Council's Supplementary Planning Guidelines.

- (35.) No work shall be carried out on any phase of the development unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted

to and approved by the Planning Authority prior to its installation if required for that phase. When required, such a facility shall be retained in working order and be used such that no vehicle shall leave the site carrying earth and mud on their wheels in such a quantity which would cause a nuisance or hazard on the road system in the locality

Reason: In the interests of road safety.

- (36.) Before work starts on each phase, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. The Construction Environmental Management Plan (CEMP) shall clearly set out 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 to include measures to mitigate impacts on adjacent designated areas
- A procedure to be enacted if protected species are encountered.
- Details of actions to prevent the spread on non-native species. The approved plan(s) and procedures shall be implemented during each phase and adhered to at all times unless otherwise agreed in writing with the Planning Authority.

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

- (37.) During the construction phase, 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.

- (38) Permission is hereby granted on the basis that the development of the site shall include at least 25 per cent of the housing units being affordable housing within the terms of the council's "Affordable Housing" Supplementary Planning Guidance. For the purposes of this permission, affordable housing shall have the meaning assigned to it by the Affordable Housing Policy – that is, plots for the provision of or dwellings available in perpetuity for low-cost accommodation for local persons.

Reason: In order to meet the objectives of the Council's policy with respect to the provision of low-cost accommodation for local persons.

- (39) Prior to the commencement of development, detailed proposals for ensuring that the units of affordable housing are to be made available in terms of the Planning Authority's Policy on Affordable Housing shall be submitted to and require the approval in writing of the Planning Authority.

Reason: In order to meet the objectives of the Council's policy with respect to the provision of low-cost accommodation for local persons.

## **FOOTNOTE TO APPLICANT RELATIVE TO APPLICATION 08/00080/OUTNA**

**Statutory Requirements:** The following are statutory requirements of the Town and Country Planning (Scotland) 1997 (as amended). Failure to meet their respective terms represents a breach of planning law and may result in formal enforcement action.

The Highland Council hereby makes the following Direction under Section 59(5) and (7) of the Town and Country Planning (Scotland) Act 1997 (as amended)

1. The development shall be undertaken in phases in accordance with the approved Phasing Plan to be submitted to and approved by the Planning Authority in accordance with Condition 3 of this permission.
  - a) An application for approval of Matters Specified in Conditions (MSC) 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 (MSC) 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.

**Conditions:** Your attention is drawn to the conditions attached to this permission. 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 meet these conditions may invalidate your permission or result in formal enforcement action.

### **Building Regulations**

Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at [Building.Standards@highland.gov.uk](mailto:Building.Standards@highland.gov.uk) or on 01349 886608.

## **NOTIFICATION TO APPLICANT**

1. If the applicant is aggrieved by the decision of the planning authority –
  - a) to refuse planning permission for the proposed development;
  - b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
  - c) to grant planning permission or any approval, consent or agreement subject to conditions;

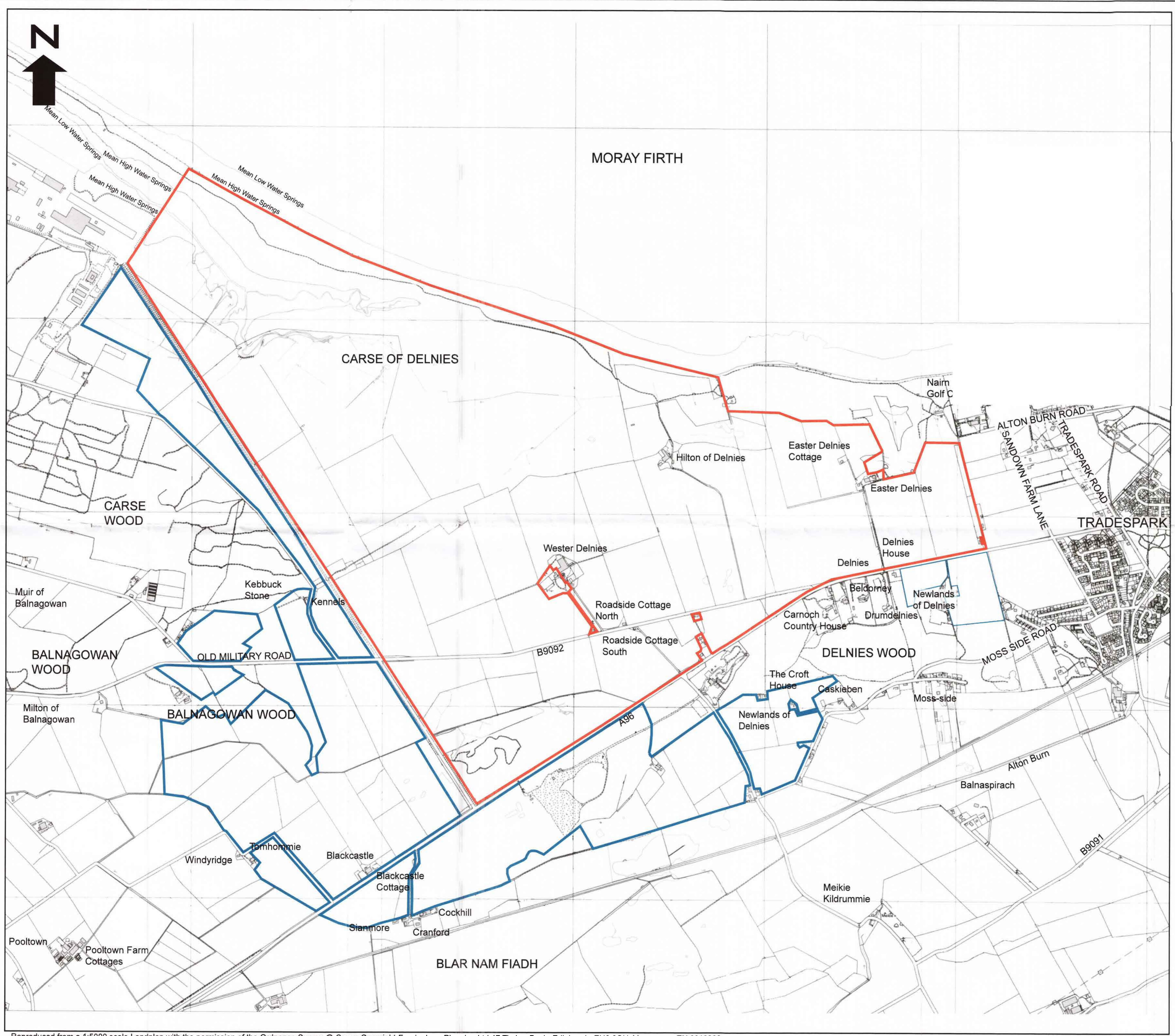
the applicant may appeal to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months beginning with the date of this notice. The notice of appeal should be addressed to:

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 (as amended).





**LEGEND**

- SITE BOUNDARY
- ADDITIONAL LAND WITHIN APPLICANT OWNERSHIP

Cawdor Maintenance Trust      FARNINGHAM PLANNING

LAND AT DELNIES, NAIRN

**SITE PLAN**

Scale: 1:20,000@A3  
Date: Jan 2020

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