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## Notice of Intention by Allison Coard, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2223
- Site address: Land at Drum Farm, South of Fire Station, Drumnadrochit, IV63 6TG
- Appeal by Springfield Properties PLC against the decision by Highland Council
- Application 19/02762/FUL for planning permission dated 19 June 2019 refused by notice dated 16 December 2019
- The development proposed: Formation of Mixed Use Village Core of Nursery, Office Space and Retail (food and non-food)
- Application drawings as listed in the schedule below
- Date of site visit by Reporter: 7 September 2020

Date of notice: 23 December 2020

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### Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission subject to the conditions listed below, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matters listed in paragraph 48.

### Preliminary

The council did not provide a screening opinion for the proposal. I issued a screening direction in accordance with regulation 13 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 dated 29 October 2020. I concluded that the proposal is not an EIA development.

### Reasoning

1. The development plan comprises the Highland-Wide Local Development Plan adopted in April 2012 and the Inner Moray Firth Local Development Plan adopted in June 2015. I am required to determine this appeal in accordance with the development plan unless other material considerations indicate otherwise. I am also required to have special regard to the desirability of preserving listed buildings or their setting and any special features of historic or architectural interest which they possess.

2. The main issues in this appeal having regard to the relevant provisions of the development plan are:

- the principle of development;



- the approach to mixed use and master-planning;
- layout and design;
- traffic and access;
- cultural heritage;
- flood risk;
- natural heritage;
- trees and landscaping; and
- developer contributions.

### Principle of Development

3. The appeal site forms part of an area of agricultural land within the village of Drumnadrochit which is allocated for development of 55 homes, business, retail and community uses through proposal DR5 Drum Farm in the Inner Moray Firth Local Development Plan. The area lies to the south of the River Enrick and is bounded to the west by the A82, residential properties and the bakery on Kilmore Road to the south and residential properties along Enrick Crescent to the south-east. The appeal site occupies the land adjacent to the A82 where two offices (150 sqm and 183 sqm); 3 retail units (Non-Food) (108 sqm, 178 sqm and 178 sqm); and a Café and Nursery (232 sqm) are proposed. There is also a current proposal on the remainder of the land to east for 94 houses. This proposal is also at appeal (PPA-270-2222). Part of the appeal site extends beyond that established in the local development plan to include an open area of land alongside the main road.

4. Paragraph 4.105 of the local development plan indicates the overall level of growth proposed for the village and the intention of creating a larger mixed used settlement to act as a hub for the Glenurquhart villages. It also references mitigation of the impact on the A82 and the protection of the integrity of the community through gradual phasing for the main development sites. In turn paragraph 4.107 references the need to make sure the village is not swamped by a surge of development and that the character and amenity of the village is maintained. Proposal DR5 relates specifically to the appeal site and requires a masterplan/design brief, phasing at a maximum of 10 housing units per year, a non-housing element within an initial phase, a high quality of landscaping and design, accessible green corridor retention and connection to the village path network. In addition a flood risk assessment is required recognising that this may impact on the developable area.

5. Drumnadrochit is identified within the settlement hierarchy of the Highland Wide Local Development Plan as a Local Centre. Policy 40 of that plan directs retail development to locations within village centres. In this case the appeal site is in a relatively central location within Drumnadrochit, on land allocated through the Inner Moray Firth Local Development Plan for mixed use development including retail. Whilst the village centre is not defined on the proposals map the proposed size of the retail units indicates to me a scale of provision that should complement rather than compete with the current choice of shopping and other facilities in the village.

6. Policy 41 of the Highland Wide Local Development Plan supports business use and I consider that the inclusion of two office units as part of this mixed use proposal accords with that policy. The nursery and café would further support the mixture of uses as referenced in Proposal DR5. I note the description of the café does not reference hot food and consequently any proposal for that use would require a separate planning application.

I agree with the council's officer that this could be addressed by use of an appropriately worded condition to define the café under Class 3 of The Town and Country Planning (Use Classes) (Scotland) Order 1997 (As Amended).

7. Policy 2 'Delivering Development' supports the development of large allocated sites subject to an appropriate masterplan, adequate infrastructure, services and facilities provision. The proposal would support the mixed use allocation of the site through Proposal DR5 albeit the proposed housing on the remainder of the site, whilst subject of the overall masterplan, is addressed through a separate proposal.

8. From the above I consider the principle of mixed use development on the site is supported by the relevant terms of the development plan. However, assessment of the acceptability of this current scheme is subject to the detailed considerations as set out below.

### Masterplan and Phasing

9. The appeal submissions include a phasing plan (Appendix 12) which indicates the development would consist of 4 phases, following a framework set out within the submitted Masterplan (Appendix 13) and the Design and Access Statement (Appendix 14). The plans relevant to both appeals are those referenced in the report of handling as Plans 1-6. The plans relevant to this appeal were confirmed by the council in response to my procedure notice as referenced in the schedule of plans below.

10. I recognise that delivery of the non-housing elements of Proposal DR5 is an important objective. There is a requirement for any application to include a non-housing element which must be provided within an initial phase of development. Concern is expressed by the community council and others that the village core proposal is only speculative at this stage.

11. It is proposed that the whole of the non-housing proposal is delivered as the second phase. No third or fourth tranche of housing development could commence until such times as this is complete. The wording of Proposal DR5 indicates to me that a more integrated form of delivery was envisaged whereby non housing uses may have been progressed as part of the same application. However it may still prove feasible to co-ordinate construction with the first phase of housing (24 affordable homes and 11 private homes). In any event the proposed sequence of development allows for completion of the non-housing element in advance of the second tranche (phase 3 for 33 houses) and third tranche (phase 4 for the remaining 25 homes). In that respect I consider it would be important to secure the programme of build and to prevent a situation where the housing could be completed in the absence of securing a mixed use development.

12. Subject to such a mechanism I consider the overall objective of Proposal DR5 to secure this proposal within an initial phase could be achieved. This is important given the local development plan indicates the need for enhanced facilities and services in the village if the anticipated level of growth is to be delivered. This becomes particularly relevant as a higher density of housing development is now being proposed exceeding that indicated in the local development plan. Obtaining surety as to the delivery of the mixed use approach as indicated in Proposal DR5 is complicated given the housing element of the overall scheme is addressed through a separate planning application which is now a separate appeal (PPA-270-2222).

13. To address this the council stresses the importance of the approach set out in its report of handling. This indicates the need for: a Section 75 agreement to tie together the proposals subject of the two planning applications, to secure development in accordance with the single overall Phasing Plan whereby the non-housing uses would be delivered as Phase 2 of 4; and that a condition (proposed condition 1) should be attached to both planning appeals to prevent commencement of Phases 3, or 4 until Phases 1 and 2 have been completed. The council considers that both applications should be linked through a single Section 75 planning obligation.

14. Circular 3/2012 on planning obligations and good neighbour agreements advises that legal agreements should not be used where a planning condition would achieve the same objective. In response to my procedure notice on this matter the council provided a draft wording for such an agreement. Comparison of the terms of suggested condition one and the draft wording indicates an agreement could address a number of additional matters. It could include those plans relevant to both applications and the shared access arrangements. It would link both appeals to those plans including the overall phasing plan. The masterplan is referenced in the draft wording submitted by the council and the plans relevant to both appeals are referenced in the report of handling as plans 1-6.

15. I consider that the proposed condition (condition one in the report of handling) can provide some assurance to address the delivery of the mixed use phases by preventing commencement of any further phases of housing prior to the mixed use component being delivered. However a Section 75 agreement would still be necessary to clarify the overall layout in respect of both appeals and to achieve a cohesive approach to development of the site overall. Such an agreement would provide a means of formally combining the considerations between the two appeals. Such a master-planned approach reflects the requirements of Proposal DR5. Consequently I consider this is a matter that should be addressed by agreement in accordance with the terms of Circular 3/2012 on planning obligations and good neighbour agreements. With such provision I consider that the requirements for mixed use and master-planning would be addressed.

### Design and Layout.

16. Proposal DR5 states that a high quality of design is required respecting the prominence of the site in the village and on a main tourist route. It should be set back from the A82 including a stone dyke and retention of public vistas and visual separation between settlements. Landscaping, green corridor connections and active travel linkages are also highlighted.

17. Policy 28: Sustainable Design of the Highland Wide Local Development Plan promotes the use of sites which are compatible with public service provision (water and sewerage, drainage, roads, schools, electricity), accessible by public transport, cycling and walking as well as by car. Proposals should avoid negative impacts upon individual and community residential amenity and demonstrate sensitive siting and high quality design in keeping with local character and making use of appropriate materials. In addition proposals should: promote varied, lively and well-used environments which will enhance community safety and security and reduce any fear of crime; accommodate the needs of all sectors of the community including people with disabilities or other special needs; and contribute to the economic and social development of the community.

18. Policy 29: Design Quality and Place-Making, also of the Highland Wide Local Development Plan requires new development to be designed to make a positive contribution to the architectural and visual quality of the place in which it is located and to consider the incorporation of public art as a means of creating a distinct sense of place and identity. The associated Sustainable Design Supplementary Guidance draws heavily from the Scottish Government's key policy statements on design and place-making – Creating Places, and Designing Streets – and requires proposals to consider and address the six qualities of successful places. These qualities are also reflected in the council's submitted extract from the Design Forum on Quality of Place for Retail.

19. I note some of the development footprint would extend beyond the boundary of site DR5, into the 'Open Space' strip alongside the A82 (T) as indicated on the proposals map for the Inner Moray Firth Local Development Plan. The council's appeal statement makes reference to a landscape set back of 35 metres on the proposals map whereas the appeal drawings show a depth of between 9-18 metres. It may be the figure of 35 metres has been scaled from the local development plan proposals map. There is no specific reference elsewhere to this figure and it is not signposted in the text of Proposal DR5. As it stands the proposal includes a set back from the main road with landscaping and the required stone dyke feature. Locating the business, community and retail uses on the portion of the site closest to the main road appears logical in terms of enabling access and creating a strong street frontage. The section of the frontage to the north and closest to the fire station is retained as open space.

20. The appellant points to other examples in the village where the requirements for a set-back has been similarly interpreted. It is not clear to me that a more significant depth of landscaping is necessary to secure the acceptability of the proposal. A deeper set back would serve to maintain the current open appearance of the road. However that would have impinged further on the development area which is already restricted by flood risk. A set-back sufficient to achieve walling and landscaping would still be achieved and would reflect the layout on the opposite side of the road in that respect.

21. I have considered the pattern of development in the village as observed on my site visit. The village centre has an area where development is arranged around a wide swathe of open space and other areas are set back from the road with established landscaping. However frontage development continues along the A82 towards the appeal site and on the same side of the road. I do not consider the layout would appear incongruous in this respect. This is particularly the case for retail and commercial properties which would function as a continuation of the village core. In that context I consider the proposal would achieve the development plan objective of retaining an appropriate frontage to this prominent central site to include landscaping and a stone wall.

22. There is significant open space provision (48% of the non-housing element) and provision for a publically accessible green corridor. I consider the layout provides for the visual separation referenced in the terms of Proposal DR5. The proposed units are all single storey and would achieve cohesion in terms of scale, form and materials with gable ends facing the frontage. I understand the layout is intended to reinterpret the form of the nearby Drum Farm Courtyard in a modern context, essentially reflecting the design of traditional farm buildings in the area. I consider the relatively small scale and low height of the proposed units would be appropriate to the character of the area and to the proposed housing on the remainder of the site. I note the council consider the design lacks ambition

but I consider it would provide for the required mixed use and that the design responds appropriately to the requirements of Proposal DR5.

23. I consider that some further detailed specification of materials for the proposed units would be required but that this could appropriately be addressed by condition. The impact of the village core on public view-points towards the hills to the north is considered in the layout through the retention of open space and proposed landscape planting. Active travel provision would be provided immediately in front of the buildings and alongside the A82 (T). The non-motorised connections running through the site and connecting to other areas through landscaped corridors are an important part of the overall design layout.

24. Concern is expressed that given the necessary parking, servicing and vehicle turning space the remaining space for landscaping between the commercial and housing part of the site has been limited. However, Appendix 51 illustrates how the use of stone walling, landscaping and surfacing would create a strong entrance feature for both pedestrians and road users. I note the buffer between the commercial and residential uses on the north side of the proposed access is less substantial than that to the south. However I consider the arrangement of the buildings, road, parking and more limited landscaping would still enable a sufficient degree of separation between the uses.

25. From the above I appreciate there is some variation in terms of site boundaries and the footprint and layout from that indicated in the local development plan. However there is nothing that suggests to me that the layout and design are inappropriate in this location or that the design lacks a distinctive character appropriate to its context. I consider the proposal would achieve a safe and pleasant, welcoming and adaptable and resource efficient development that is not difficult to move around and beyond. Consequently I consider that compliance with proposal DR5 of the Inner Moray Firth Local Development Plan and with Policies 2, 28 and 29 of the Highland Wide Local Development Plan would be achieved in so far as these relate to layout and design.

### Traffic and Access

26. Policy 77 of the Highland Wide Local Development is concerned with public access whilst Policy 56 on travel covers wider transport considerations. The design and access statement shows how the layout and access proposals have evolved to focus access on a spine road from the A82 rather than to rely on secondary or other access from Kilmore Road which is more residential in nature. The appellant also proposes significant off-site road improvements including a new toucan crossing across the A82, a continuation of the footpath which runs alongside the A82 and new bus stops.

27. I note community concerns about the safety of an additional access onto the A82 and the traffic impacts of the proposal on the village. The appellant's Transport Assessment included assessment of the proposed development on the operation of the A82(T) and associated junctions and I find nothing to indicate the identified impacts would impact significantly on the capacity, efficiency or safe operation of the existing network subject to the mitigation outlined.

28. Transport Scotland's response requests that construction of the new ghost island right turn priority junction with the A82 should also be secured along with the proposed pedestrian accessibility improvements on the eastern side of the main road, the proposed Toucan pedestrian crossing and pedestrian refuge crossing and the proposed bus stops.

Subject to these matters being addressed and secured prior to the occupation of any part of the development there is no objection from the Trunk Roads Authority.

29. The appeal proposals make provision for a toucan crossing on the A82 near the southern end of the site (as a replacement for the existing advisory crossing with central refuge island nearby). In addition an advisory crossing with central refuge island is proposed on the A82 (T) to the north of the proposed access point into the site and a further central refuge has been incorporated into the junction design to facilitate crossing of the access road itself. I note new on-line bus stops (additional to existing bus stops in the village) are proposed around the northern end of the 'village core'.

30. Appendix 18 indicates the conclusions and actions from the Road Safety Audit. This clarifies a drawing referenced as 19044-008 Revision A which shows the footway provision relative to the A82, the associated Toucan pedestrian crossing and pedestrian refuge crossing. I understand this was one of the matters raised by the community council. Taking into account the detail provided on that drawing I consider this provision could be secured by the relevant conditions as set out in the council's report of handling.

31. From the submissions I understand the number of proposed parking spaces provided to be adequate given the nature of proposed uses and floor-space. However I agree with the council that any change to those uses or scale of units would require a further planning application. For that reason I consider it would be sensible to require a condition limiting the proposal to the specified unit sizes. This is not directly addressed in the description of the development albeit this could be scaled from the submitted plans.

32. There is also some question over the need for pick up and drop off relevant to the nursery provision and whilst the required amount of disabled parking is provided the location of that relevant to the units is also questioned. There is however no suggestion that these are matters that could not be addressed. In that respect I agree with the council's officers that it would be appropriate to attach conditions to address these further detailed matters. Such further detail, to be addressed by condition, would also include an access management plan to address access during construction and once the development is complete. Conditions are also proposed by the council to address details of the cycle parking and bus shelters, submission and implementation of an operational travel and traffic management plan, the detailed arrangements for bin storage and access and on the form and the final location of the proposed new crossing to be agreed with the Planning Authority in discussion with Transport Scotland.

33. These details respond to the matters raised in the Transport Scotland response and the response of the council as roads authority. There is no dispute between parties around these issues and the proposed conditions which also include a travel framework plan to reduce the use of private cars. I consider these conditions would be necessary in order to secure road safety and accessibility in accordance with the relevant provisions of the development plan and with Scottish Planning Policy and the associated Planning Advice Note 75 on Planning for Transport. The council's proposed wording of the relevant conditions in a suspensive form would secure delivery prior to the occupation of any part of the development.

### Heritage impacts

34. There are sites of archaeological interest recorded in the Highland Historic Environment Record within vicinity of the site. There is the potential for archaeological features to be present within the site. For these reasons I consider an archaeological watching brief would be required and that it could be secured by condition.

35. I have addressed the matter of any impact on the former Glenurquhart Secondary School and School House through my conclusions on PPA-270-2222. Given my conclusions I do not consider this separate proposal adjoining the A82 would impact on this listed building or its setting. Any potential effects on setting are more localised and confined to the mature trees and the landscaping along the active travel link where it adjoins Kilmore Road. Consequently I find there would be no conflict with the terms of the Act or with the relevant policies of the development plan with regard to the protection of this listed building and its setting.

### Flooding

36. Taking into account the 1 in 200 year flood event scenario plus an allowance for climate change, the northern part of the site, outwith the developable area, (around 1.8ha) is stated to be at risk of fluvial flooding from the River Enrick. However, no occupied element of the development, housing or non-housing uses is proposed within the area identified as a 1 in 200 year (plus climate change) flood event. I note that neither SEPA nor the council's Flood Risk Management Team have objected to the application. An active travel route is proposed to cross the area at risk of flooding and I understand it would be required to be designed appropriately and remain at existing ground levels to avoid any change to floodplain storage or conveyance

37. From the submissions I understand that the council has prepared a Flood Protection Scheme to reduce the risk of flooding of residential and commercial properties within the village and that detailed design is progressing with anticipated completion by summer 2021.

38. Subject to other planning considerations, it may be that following implementation of the flood protection scheme more land at Drum Farm would be suitable for development than is currently the case. However I note the current scheme was designed to alleviate risk to existing properties. In any event I am obliged to assess this case on its merits and at this stage there is no detail of an alternative development footprint nor of its suitability in terms of future flood risk.

39. I note that conditions are requested by the council to secure the final drainage design, including full network simulations for storms up to the 1 in 200 year plus climate change event. In terms of water and waste water provision, Scottish Water has not been able to confirm as yet whether there is sufficient capacity in the network to serve the development as a whole. However I note that it is proposed that the existing combined sewer, located within Springfield land, would be upgraded to increase capacity as part of the delivery of onsite development infrastructure. With these provisions there would be no conflict with Policy 64 of the Highland Wide Local Development Plan which applies to Flood Risk.

### Natural Heritage

40. There are no natural heritage designations on the site. Urquhart Bay Wood Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) are located to the



north east of the application site. There is hydrological connectivity between the application site and the designated sites. The Loch Ness and Duntelchaig Special Landscape Area (SLA) lies over 900 metres east of the application site at nearest points. However no issues are raised suggesting any likely significant effects on these interests. Avoidance of the flood risk area along with drainage provision connecting to the sewer is considered to avoid any significant impact in relation to hydrological connectivity. For these reasons my conclusion is that Appropriate Assessment under the terms of the Habitats (Scotland) Regulations 1994 would not be required.

41. Policy 58 of the Highland Wide Local Development Plan and the associated Supplementary Guidance March 2013 are concerned with Protected Species. An ecological walkover survey has been submitted. I have addressed the potential issue of those trees on site which indicate potential habitat for bats in relation to the associated housing appeal. However I note the referenced trees, which are located around Old School Court, are not within or directly adjacent to the village core proposals. Consequently no issues have been identified in this respect.

42. There is evidence of badgers commuting through the site on the southern boundary under the stock fence. However it is stated that these animals are likely to be foraging within the field for earthworms. There is no evidence of setts within or adjacent to the site. There was some recognised potential for ground nesting birds and a recommendation to avoid site clearance work April through to August or otherwise carry out further pre commencement surveys. In those respects, and noting the date of the submitted survey, I agree with the council that further pre commencement surveys would be required and any recommended implementation secured. I consider that this matter can be addressed by condition and that subject to compliance consistency with Policy 58, its associated guidance and the relevant aspects of Scottish Planning Policy would be achieved.

### Trees and Landscaping

43. Policy 51 (Trees and Development) of the Highland Wide Local Development Plan states that 'The Council will support development which promotes significant protection to existing hedges, trees and woodlands on and around development sites. I note there are only a few trees but that most of these are large and prominent with a number of elm trees around Old School Court. The consultation response from the council's forestry officer notes many of these elms are infected with Dutch elm disease. There are a number of other trees just outwith the southern and eastern boundaries of the site.

44. Section 194 (Policy Principles) of Scottish Planning Policy (June 2014) states that the planning system should...'protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value.'

45. The appellant's submissions include a Tree Constraints Plan, an Arboricultural Impact Assessment/ Method Statement, Tree Protection Plan, a set of three Landscape Plans, Site Layout Phasing Plan and a Landscape Schedule. The Landscape Plans show the proposed planting of 13 heavy standards, 22 select standards, 104 standards, 38 half-standards and 7500 hedge plants. I consider this is a relatively extensive level of landscaping and that this will be important to integrate the site within the village particularly as the planting becomes more established over time. There is a phasing drawing which shows the phasing of development and planting. However notwithstanding the detail

provided, confirmation of the timing of planting would be required. The submissions indicate the following mature trees within the wider site area : 7 Wych Elm, 2 Ash and 2 Sycamore. However the relevance of these is restricted to the housing appeal site.

46. In terms of direct damage, the distances between the proposed development and the trees which are to be retained are sufficient to allow root growth without causing damage to the building structures. Protection measures can be secured through conditions. Given the layout of the site, it is not considered that the retained trees would present a significant nuisance.

47. Subject to conditions requiring the approval of further details I consider the submitted information demonstrates that a high quality landscaping scheme can be secured across the phased development in accordance with Proposal DR5 of the Inner Moray Firth Local Development Plan and Policy 51 of the Highland Wide Local Development Plan.

### Developer Contributions

48. Policy 31 (Developer Contributions) requires all developments to make appropriate contribution towards improved public services. The council considered the housing and village core proposals together in one report of handling. It references schools contributions but I have assumed these only apply to the housing element of the proposal. The same applies to the affordable housing contribution. I have accepted above the need to tie the proposals together through a single agreement. In relation to the provision of a pedestrian crossing across the A82, in the vicinity of the Health Centre, the council's evidence details this as a per house contribution so attributed to the housing proposals rather than to this appeal. This makes sense in terms of the relative timing of the proposals and the fact that most of the infrastructure is to be delivered in phase one. The other off-site transport infrastructure is to be provided prior to the occupation of any part of the development as controlled through suspensive conditions. However as rehearsed above the following need for agreement applies in the specific context of this appeal:

- tying together the proposals subject of the two planning appeals (PPA-270-2222 and this appeal PPA-270-2223) through a single agreement to secure development in accordance with the single overall Phasing Plan and Masterplan including the non-housing use to be delivered as Phase 2 of 4.

49. I note representation have raised concerns in relation to the capacity of healthcare facilities, shops, emergency services and postal services. However this is a site identified for development through the local development plan. The delivery of such facilities is largely outwith the control of the planning system and the council has not identified any specific deficiencies in other facilities. Nevertheless the delivery of a mix of uses on the site may help to address the perceived lack of provision in the village and an increase in population can also help support existing facilities and encourage new provision. My conclusion is that the matters indicated in paragraph 48 above would require to be addressed to achieve compliance with Proposal DR5 and in accordance with the terms of Circular 3/2012 on planning obligations and good neighbour agreements.

### Other Matters

50. I have referenced above the concerns raised by Glenurquart Community Council and note that similar matters are raised in the other representations. Other issues are raised

but these are not land use planning considerations that would influence this decision. Whilst I note the reference to allotment provision the site is identified for housing and mixed use development in the local development plan.

51. A number of concerns are raised in relation to amenity including the impacts during construction. In relation to construction impacts these would be short term in nature during the build phases for the site as a whole. As development progresses amenity considerations would also apply to new residents in the initial housing phases. However I note the terms of the council's proposed condition requiring the prior submission of a construction environmental management plan which would control matters including noise and dust impacts. A construction traffic management plan is also required to mitigate impacts in that respect. The proposed phasing of development should also help to address any associated impacts. I note that the council has also proposed a condition regarding community liaison to ensure community dialogue during the construction period and I agree that this would be appropriate in this central location where disruption to the village should be minimised as far as possible.

52. I can appreciate some frustration that the submitted scheme differs to some extent from that outlined in the local development plan and what the community may have envisaged in that context. However I consider that this proposal in combination with the proposed housing can enable the objectives of the local development plan, including Proposal DR5, albeit with some flexibility applied to the proposed details. I have not found the proposal to be unacceptable in terms of its identified impacts. Nor have I found that it would compromise the design and other objectives for the site.

### Conclusion

53. Consequently I consider the proposal achieves compliance overall with the development plan subject to the appropriate conditions and legal agreement. I find no other consideration sufficient to lead me to a different conclusion.

54. A planning obligation restricting or regulating the development or use of the land should be completed in order to address the timing and relationship with the associated village core proposals. This should also address the requirements referenced in paragraph 48 above. I will accordingly defer determination of this appeal for a slightly extended period of 14 weeks to take account of the holiday period. This should enable the relevant planning obligation or some suitable alternative arrangement (as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 14 week period, a copy of the relevant obligation, with evidence of registration or recording, has not been submitted I will consider whether planning permission should be refused or granted.

*Allison Coard*

Reporter

Schedule of Plans

Landscaping Phasing Plan	000001		29.09.2019
Landscaping Plan	000002		29.09.2019
Landscaping Plan	000003		29.09.2019
Landscaping Plan	000004		29.09.2019
Elevations	DR01_ELEV_01	A	24.09.2019
Elevations	DR01_ELEV_02	A	24.09.2019
Location Plan	DR01_LP_COM-01	A	19.06.2019
Visual Information	DR01_MAT_01		19.06.2019
Site Layout Plan	DR01_SL_COM-01	D	09.10.2019
Site Layout Plan	DR01_SL_COM-02	B	23.09.2019
Site Layout Plan	DR01_SL_COM-03	B	23.09.2019
Road Layout Plan	DR01_SL_PL-06	J	23.09.2019
Site Layout Plan	DR01-SL_PL-09	I	25.09.2019
Road Layout Plan	DRUM-ENG-001	I	07.10.2019
Site Layout Plan	DRUM-ENG-002	C	09.10.2019
Site Layout Plan	DRUM-ENG-007	G	30.09.2019
Site Layout Plan	DRUM-ENG-008	G	30.09.2019
Site Layout Plan	DRUM-ENG-009	C	30.09.2019
Road Layout Plan	DRUM-ENG-011	A	23.09.2019
General Plan – Bin/Cycle Store	DR01_PL_STORE_01	I	08.08.2019
Landscaping Plan	DR01_SL_PL-04		23.09.2019
Drawing – Refuse Vehicle Swept Path	DRUM-ENG-REFUGE	E	23.09.2019
	VEHICLE SWEPT PATH		

Schedule of Proposed Conditions

1. Planning Permission hereby granted for 333 square metres of office use (Use Classes 2 and 4), 464 square metres of Non-Food Retail (Use Class 1) and 231 square metres of Non-Residential Institutions (Nursery) with ancillary café use (Use Class 3) in accordance with the Master Plan hereby approved in four sequential phases. No development shall commence until a phasing plan has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt the plan shall include the following provisions:

- Delivery of all elements of the development hereby approved within phase 2 of the development;
- No delivery of development in Phases 3 or 4 until phase 2 has been completed.

The development shall be undertaken in accordance with the agreed Phasing Plan or in Sub-Phases as may be approved in writing by the Planning Authority. A Sub-Phase means any part of any Phase of Development. Any Use Class referred to in this condition reflects The Town and Country Planning (Use Classes) (Scotland) Order 1997 (As Amended).

Reason: To ensure that the development proceeds in an appropriate phased manner and to secure delivery of non-housing uses in accordance with Proposal DR5 of the Inner Moray Firth Area Local Development Plan.

2. No development shall commence until a detailed Access Management Plan for public access across the site (as existing, during and following completion) has been

submitted to, and approved in writing by, the Planning Authority. The plan shall include details showing:

- i. All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;
- ii. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to proposed buildings or structures;
- iii. All paths, tracks and other routes for use by walkers, riders, cyclists and any other relevant outdoor access enhancements inclusive of all paths connecting outwith the boundary of the development connected to existing paths outwith the development without impediment (including construction specifications, any measures for deterring use by motorised vehicles, signage, information leaflets, proposals for ongoing maintenance etc.). For the avoidance of doubt this shall include:
  - the removal of any signs or gates deterring access to the farm track near the fire station;
  - specification of the proposed path through the floodplain open space to be 3m wide, bitmac and lit with associated drainage;
  - specifications for the other paths including their widths, including the difference between the 3m Asphalt Cycleway and 2m Asphalt Footpath;
  - removal of the gate from the green corridor onto Kilmore Road;
  - details of the junction, inclusive of any barrier, of the active travel link onto Kilmore Road;
  - no pathside fences greater than 1.2m;
  - the path within the flood plain is at ground level; and
  - inclusion of a 2m wide asphalt path, between the parking / nearby housing areas around the southern end of the 'village core' development and the proposed crossing on the A82(T) in the vicinity of the Café and Taigh Anns A Choille.
 These paths shall be delivered and provided without impediment.
- iv. Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the development including details of mitigation measures, diversion works, duration and signage).

Thereafter the approved Access Management Plan shall be implemented.

Reason: To safeguard and maximise the opportunities for continued public access in and around the development site in accordance with Policy 77 of the Highland Wide Local Development Plan.

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

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

4. No development shall commence until a Construction Environmental Management Document (CEMD), in accordance with The Highland Council's Guidance Note on Construction Environmental Management Process for Large Scale Projects (August 2010) (as amended, revoked or re-enacted; with or without modification), has been submitted to,

and approved in writing by, the Planning Authority. The CEMD shall be submitted at least two months prior to the intended start date on site and shall include the following:

- i. A Schedule of Mitigation (SM) drawing together all approved mitigation proposed in support of the application and other agreed mitigation (including that required by agencies and relevant planning conditions attached to this permission);
- ii. Change control procedures to manage/action changes from the approved SM, CEMD and Construction Environmental Management Plans;
- iii. Construction Environmental Management Plans (CEMPs) for the construction phase, covering:
  - a. Pre-commencement habitat and species surveys;
  - b. Habitat and Species Protection;
  - c. Pollution Prevention and Control (inclusive of waterbodies);
  - d. Dust Management;
  - e. Construction Noise Assessment and Mitigation Plan in accordance with BS5228 Code of practice for noise and vibration control on construction and open sites - Part 1: Noise;
  - f. Construction Vibration Assessment and Mitigation Plan in accordance with BS5228 Code of practice for noise and vibration control on construction and open sites - Part 1: Noise;
  - g. Site Waste Management;
  - h. Surface and Ground Water Management;
  - i. Drainage and sediment management measures from all construction areas; and
  - ii. Mechanisms to ensure that construction will not take place during periods of high flow or high rainfall.
- iv. Special Study Area plans for:
  - i. Public Water Supply Protection Measures;
  - j. Emergency Response Plans; and
  - k. Other relevant environmental management as may be relevant to the development.
- v. Details for the appointment, at the developer's expense, of a suitably qualified Environmental Clerk of Works (ECoW), including roles and responsibilities and any specific accountabilities required by conditions attached to this permission;
- vi. A statement of responsibility to 'stop the job/activity' if a breach or potential breach of mitigation or legislation occurs; and
- vii. Methods for monitoring, auditing, reporting and the communication of environmental management on site and with client, Planning Authority and other relevant parties.

Thereafter, development shall be carried out in accordance with the approved Schedule of Mitigation, Construction Environmental Management Document and any Construction Environmental Management Plans approved thereunder.

Reason: To ensure that the construction of the development is carried out appropriately and does not have an adverse effect on the environment.

5. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved by, the Planning Authority. The CTMP, which shall be implemented as approved during all period of construction, must include:

- i. The CTMP shall make provision for all construction access being taken via the proposed site access as shown on the approved site layout.

- ii. A description of all measures to be implemented by the developer, in order to manage traffic during the construction phase (incl. routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised suitably qualified traffic management consultant;
  - iii. The identification and delivery of all upgrades to the public road network to ensure that it is to a standard capable of accommodating construction related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of The Highland Council and where appropriate Transport Scotland, including;
    - An initial route assessment report for construction traffic, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigations measures as necessary;
  - iv. A procedure for the regular monitoring of road conditions and the implementation of any remedial works required during construction periods.
  - v. A detailed protocol for the delivery of loads/vehicles, prepared in consultation and agreement with interested parties. The protocol shall identify any requirement for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of larger load movements in the local media. All such movements on Council maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events.
  - vi. Details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior approval of Highland Council, as roads authority.
  - vii. Wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road;
  - viii. Appropriate reinstatement works shall be carried out, as identified by Highland Council, at the end of the construction of the development.
  - ix. Measures to ensure that construction traffic adheres to agreed routes.
- Thereafter the approved Construction Traffic Management Plan shall be implemented in full, unless otherwise approved in writing by the Planning Authority.

Reason: To maintain safety for road traffic and the traffic moving to and from the development, and to ensure that the transportation of abnormal loads will not have any detrimental effect on the road network.

6. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
  - i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
  - ii. A plan showing existing landscaping features and vegetation to be retained;
  - iii. The location and design, including materials, of any existing or proposed boundary treatments inclusive of walls, fences and gates;
  - iv. A scheme for the layout, design and construction of all green spaces shown on the approved site layout, including the provision of natural and equipped play opportunities and recreation facilities (including specifications of any equipment, protection measures and boundary treatments). The submitted plans shall show any individual pieces of equipment or furniture at 1:20 scale.
  - v. A scheme for the layout, design and construction of all hard landscaped spaces shown on the approved site layout, including the details of all street furniture (including specifications of any equipment, protection measures and boundary treatments). The submitted plans shall show any individual pieces of street furniture at 1:20 scale.

- vi. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
- vii. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

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

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 development, unless otherwise stated in the approved scheme.

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

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

7. No development shall commence until a Tree Protection Plan and Arboricultural Method Statement including programme of supervision, in accordance with BS5837:2012 (Trees in Relation to Design, Demolition and Construction), has been submitted to and subsequently approved in writing by the planning authority.

Thereafter the approved details shall be implemented.

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

8. None of the units shall be occupied until a scheme for the maintenance, in perpetuity, of all on-site green spaces and any other spaces, facilities, features or parts of the development that are not the exclusive property of any identifiable individual unit owner (such as communal parking areas and estate lighting, and those elements of surface water drainage regimes not maintained either by the Council or Scottish Water), have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the approved scheme shall be implemented in full and in accordance with the timescales contained therein.

Reason: To ensure that all communal spaces, facilities and landscaping areas are properly managed and maintained.

9. No development, site excavation or groundwork shall commence until a suitably qualified Landscape Consultant has been appointed by the developer. Their appointment and remit shall first be approved in writing by the Planning Authority. For the avoidance of doubt, the Landscape Consultant shall be appointed as a minimum for the period from the commencement of the development until the completion of the approved landscaping work and their remit shall, in addition to any functions approved in writing by the Planning Authority, include:

- i. Ensuring that the Landscaping Plans to be approved under Condition 6 is implemented to the agreed standard; and
- ii. The preparation of Certificates of Compliance 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 that a high standard of landscaping is achieved, appropriate to the location of the site.

10. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland 4, or any superseding guidance prevailing at the time and include details of the surface water drainage for the site) have been submitted to, and approved in writing by, the Planning Authority. The submission shall be supported by a revised Drainage Impact Assessment and Flood Risk Assessment (inclusive of any revised modelling) to ensure the final design does not have an adverse impact on the established principles of flood risk and drainage established through this application. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

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

11. 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 shall remain the responsibility of the developer and maintained in line with the scheme to be approved under Condition 10 above.

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.

12. No development or work shall commence until a detailed specification for all proposed road and path materials and finishes (including trade names and samples where necessary) has been submitted to, and approved in writing by, the Planning Authority. Thereafter, development and work shall progress in accordance with these approved details.

Reason: In order to ensure that important elements of the proposed character and identity of the site are delivered.

13. No development shall commence on site until a scheme for the inclusion of public art within the development, including types and locations of artworks and the management and maintenance thereof, has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall be implemented prior to occupation of the development and maintained in perpetuity.

Reason: To ensure the delivery of a development with a unique identity which facilitates the creation of place.

14. Prior to the first occupation any unit within the development, car parking spaces (inclusive of disabled parking spaces) and cycle parking spaces (inclusive of communal cycle parking facilities as appropriate) shall be provided in line with the standards contained within The Highland Council's Road and Transportation Guidelines. Thereafter, all car parking and cycle parking spaces shall be maintained for this use in perpetuity.

Reason: To ensure that appropriate levels of car and cycle parking are available for each plot.

15. No development shall commence until the principles for the siting and design of all on street above ground infrastructure (including electrical substations, junction boxes and broadband cabinets) within the development has been submitted to and approved in writing by the Planning Authority. Thereafter the delivery of above ground infrastructure shall be delivered in accordance with the approved principles.

Reason: In the interests of visual amenity and to ensure that these matters can be considered in detail to ensure the character and identity of the development is maintained.

16. No development shall commence on any phase or sub phase until a scheme has been submitted detailing the provision of electric car charging points within the development serving the associated phase or sub-phase. This shall include the location and design of each charging point and a timescale for implementation. The approved scheme shall be implemented in line with the approved timescales.

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

17. No development shall commence until a Waste Management Strategy has been submitted to and approved in writing by the Planning Authority. This shall detail an approach to sustainable waste management in the operation of all aspects of development; identify bin collection points and bin stores (and include design of the bin stores as appropriate at 1:20 scale plans) ; identify routes for waste collection vehicles and any required infrastructure in each phase or sub-phase. Thereafter the strategy shall be implemented in line with the timescales contained therein.

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

18. No development shall commence until a community liaison group is established by the developer, in collaboration with The Highland Council and affected local Community Councils (Glenurquhart 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

19. No development shall commence until the materials to be used in external finishes (including but not limited to finishes of walls, roofs, rainwater goods, windows and doors) of any and all built structures (inclusive of houses, flats, cycle stores and bin stores), have been submitted to and approved in writing by the Planning Authority.

Reason: To ensure that these matters can be considered in detail to ensure the character and identity of the development.

20. No development shall commence until a scheme for the delivery of the following mitigation, in line with timescales for delivery set out in this condition, and detailed design of the mitigation has been submitted to and approved in writing by the Planning Authority:

- a) a scheme for the location, design and installation of a gateway feature on the main spine road between the residential and commercial areas to the specifications and standards set out by The Highland Council. Thereafter, the scheme shall be implemented before occupation of any units within the development;
- b) A scheme for the provision of a footway connecting from the internal footpath network in the development to the existing footpaths to the north and south of the site adjacent to the A82(T). Thereafter, the approved scheme shall be implemented prior to the occupation of any residential unit within the development;
- c) A scheme for the provision of bus stops, inclusive of new bus shelters.

The agreed scheme shall be implemented prior to occupation of any residential unit within the development.

Prior to the submission of any of the proposed schemes set out in points a-d Glenurquhart Community Council shall have a minimum of 14 days to provide comment on the proposed schemes. The developer will be required to submit a report outlining any comments received by the Community Councils and how they have been taken into consideration in the formulation of the submitted schemes.

Reason: To ensure that the consequences for the local road network and pedestrian safety as a result of traffic from the proposed development are addressed.

21. No development shall commence until a pre-commencement protected species survey has been undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. This shall include camera trap surveys of badger sets. The survey shall cover the whole application site and a 50m area around the application site and the report of survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Reason: To protect the natural heritage of the area.

22. Prior to the occupation of any part of the development hereby permitted, the new ghost island right turn priority junction with the A82(T), generally as illustrated on ECS Transport Planning Ltd's Drawing No. 19044\_008 Rev. A, shall be constructed to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

Reason: To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished.

23. Prior to occupation of any part of the development hereby permitted, the proposed pedestrian accessibility improvements on the eastern side of the A82 (T), generally as illustrated on ECS Transport Planning Ltd's Drawing No. 19044\_008 Rev. A, shall be constructed to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

**Reason:** To ensure that facilities are provided for the pedestrians that are generated by the development and that they may access the existing footpath system without interfering with the safety and free flow of traffic on the trunk road.

24. Prior to occupation of any part of the development hereby permitted, the proposed Toucan pedestrian crossing and pedestrian refuge crossing on the A82(T), generally as illustrated on ECS Transport Planning Ltd's Drawing No. 19044\_008 Rev. A, shall be constructed to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

**Reason:** To ensure that facilities are provided for the pedestrians that are generated by the development and that they may access the existing footpath system without interfering with the safety and free flow of traffic on the trunk road.

25. Prior to occupation of any part of the development hereby permitted, the proposed bus stops on the A82(T), generally as illustrated on ECS Transport Planning Ltd's Drawing No. 19044\_008 Rev. A, shall be constructed to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

**Reason:** To be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport.

26. Prior to the commencement of the development details of the lighting within the site shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority.

**Reason:** To ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

27. Prior to commencement of the development, details of the landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland.

**Reason:** To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

28. There shall be no drainage connections to the trunk road drainage system.

**Reason:** To ensure that the efficiency of the existing trunk road drainage network is not affected.

29. All plant and machinery, including air source heat pumps, 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.

30. No development shall commence until an Operational Travel Plan has been submitted to an approved in writing by the Planning Authority. This shall set out proposals for reducing dependency on the private car and encouraging active travel.

The detailed Travel Framework Plan shall include:

- a. Measures for extending and/or increasing the active travel opportunities in the area;
- b. Details for the management, monitoring, review and reporting of these measures;
- c. A system of management, monitoring, review, and reporting.

The Travel Framework Plan shall be implemented as approved from the first occupation of the development.

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

31. No development shall commence until the Planning Authority has approved the terms of appointment and the identity of the appointee by and at the cost of the Developer of an independent and suitably qualified consultant to act as Travel Plan Co-ordinator to deliver the Travel Framework Plan required under Condition 30 of this Planning Permission from commencement of development to the date of completion of the development.

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