

Agenda Item	7.7
Report No	PLS-23-24

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 30 April 2024

Report Title: 23/05811/S42: Moray Estates Developments Ltd
Land North East of Tornagrain, Dalcross, Inverness

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Application under s42 to vary condition 11 (restriction on culverts), 12 (water crossings), 15 (development of infrastructure in riparian zone), 27 (alter timing of modification of A96(T) Mid Coul roundabout) of 16/05725/S42 for new town comprising up to 4,960 houses, community facilities, retail, business, general industry, storage and distribution, hotels, residential institution, leisure, petrol stations and associated landscaping, open space, infrastructure and services

Ward: 17 – Culloden and Ardersier

Development category: Major

Reason referred to Committee: Major application

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** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 This application has been submitted under Section 42 of the 1997 Planning Act and seeks modification of three conditions attached to planning permission 16/5725/S42. The Tornagrain new town development was granted permission in principle in November 2013 under 09/00038/OUTIN, and the phasing of the development was subsequently amended under planning permission 16/05725/S42 in May 2019.
- 1.2 The Tornagrain site is located off the A96(T) just south of Inverness Airport and to the east of the hamlet of Tornagrain. Ultimately the new town is envisaged to have a population of around 10,000, to be built out across 7 phases over a period of 30-40 years.
- 1.3 The phased development of Tornagrain is well underway, with Phase 1 nearing completion. Over 300 residential units have been provided to date, alongside shops, community facilities and associated infrastructure including roads, open space and drainage.
- 1.4 Phase 2 of the development, as agreed in the overall Tornagrain Masterplan and Area Development Brief, will extend the built development primarily to the west and north of the existing development. In order to access the developable land to the west, Mid Coul Burn will need to be crossed. The applicant has stated that their preferred crossing type is a culvert, however Condition 11 of 16/05725/S42 prevents the use of culverts to cross Mid Coul burn and Condition 12 controls water crossings. Condition 15 restricts development within an 8m riparian zone along Mid Coul Burn. This application therefore seeks modifications to these conditions to allow the future use of culverts in certain circumstances, with the agreement of SEPA and the Council's Flood Risk Management Team.
- 1.5 Condition 27 of 16/05725/S42 seeks the completion of works to Mid Coul roundabout prior to the occupation of any residential units within Phase 2. This application seeks an adjustment to Condition 27 to require these works to be completed prior to occupation of Phase 3 rather than Phase 2 due to a lower-than-expected increase in traffic since the granting of the original permission.
- 1.6 Under Section 42 of the Act consideration of this application must be limited to the conditions for which variations are sought. However, it is open to the Planning Authority to attach new or different conditions if appropriate and in order to bring the resultant permission as up to date as possible a small number of further changes are recommended to update or remove conditions which are no longer relevant or which have been amended through other means.
- 1.7 Pre-Application Consultation: None
- 1.8 Supporting Information: Transport Assessment
- 1.9 Variations: None

2. SITE DESCRIPTION

- 2.1 The Tornagrain New Town site extends to some 259ha and comprises largely of agricultural land. It sits to the south of the A96(T) and around 1.5km north of Croy and is accessed from the south via the Mid Coul roundabout on the A96. Mid Coul Burn flows through the central/western part of the site.

3. PLANNING HISTORY

- | | | | |
|-----|------------|--|--|
| 3.1 | 06.11.2013 | 09/00038/OUTIN - New Town Comprising up to 4,960 houses, Community Facilities, Retail, Business, General Industry, Storage and Distribution, Hotels, Residential Institution, Leisure, Petrol Stations and associated Landscaping, Open Space, Infrastructure and Services | Planning permission in principle granted |
| 3.2 | 11.08.2015 | 14/04476/MSC - Submission of Matters Specified in Condition 2(b), 2(c), 2(e), 2(f), 2(g), 2(i), 2(n), 2(p), 2(q) of Permission in Principle 09/0038/OUTIN for roads and infrastructure in support of Phase 1a (Enabling Infrastructure) at Tornagrain. | Approved |
| 3.3 | 11.08.2015 | 14/04477/MSC - Submission of Matters Specified in Condition 4 (Contamination) of Permission in Principle 09/0038/OUTIN | Approved |
| 3.4 | 11.08.2015 | 14/04478/MSC - Submission of Matters Specified in Condition 8 (Flood Risk Assessment) of Permission in Principle 09/0038/OUTIN | Approved |
| 3.5 | 14.10.2015 | 14/04479/MSC - Submission of Matters Specified in Condition 23 (Hard and Soft Landscaping) of Permission in Principle 09/0038/OUTIN | Approved |
| 3.6 | 11.08.2015 | 14/04480/MSC - Submission of Matters Specified in Condition 25 (Archaeological Written Scheme of Investigation) of Permission in Principle 09/0038/OUTIN | Approved |
| 3.7 | 11.08.2015 | 14/04481/MSC - Submission of Matters Specified in Conditions 5 (Badger Protection Plan) and 6 (Ecology Survey) of Permission 09/0038/OUTIN | Approved |
| 3.8 | 16.09.2015 | 14/04482/MSC - Submission of Matters Specified in Conditions 9 (Surface Water) and 10 (SuDS) of Permission 09/0038/OUTIN | Approved |

3.9	11.08.2015	14/04483/MS - Submission of Matters Specified in Conditions 26 and 28 (Croy Road Upgrade) and 31 (Traffic Management Plan) of Permission 09/0038/OUTIN	Approved
3.10	21.09.2015	15/01247/MS - Submission of Matters Specified in Condition 3 of Permission in Principle 09/00038/OUTIN in support of Phase 1a (Enabling Infrastructure) at Tornagrain	Approved
3.11	11.08.2015	15/01350/MS - Submission of Matters Specified in Condition 2a of Permission in Principle 09/00038/OUTIN in support of Phase 1a (Enabling Infrastructure)	Approved
3.12	11.08.2015	15/01409/MS - Submission of Matters Specified in Conditions 2(j) (k) (l) (m) (o) and (r) of Permission in Principle 09/00038/OUTIN in support of Phase 1a (Enabling Infrastructure) at Tornagrain.	Approved
3.13	16.09.2015	15/01410/MS - Submission of Matters Specified in Condition 20 of PIPIN 09/00038/OUTIN - Arboricultural Impact Assessment	Approved
3.14	14.09.2015	15/02461/MS - Submission of Matters Specified in Condition 7 (Ecology and Landscaping Management Plan) of 09/00038/OUTIN in support of Phase 1a (Enabling Infrastructure)	Approved
3.15	12.01.2016	15/03004/MS - Submission of matters specified in condition 33 (Access Management Plan) of Permission in Principle 09/00038/OUTIN (all phases).	Approved
3.16	19.04.2016	15/04766/MS - Matters Specified in Conditions 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 23, 25, 26 and 31 of 09/0038/OUTIN for Phase 1A	Approved
3.17	21.06.2016	16/01993/ADV - Advertisement of the following types : Hoarding, Flag	Approved
3.18	05.10.2016	16/02796/MS - Submission of Matters Specified in Conditions 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 23, 25, 26 and 31 of permission in principle 09/0038/OUTIN for phase 1a	Approved

3.19	15.05.2019	16/05725/S42 - Tornagrain New Town - Vary Condition 1 and remove Condition 34 of 09/00038/OUTIN	Planning permission in principle granted
3.20	31.03.2017	17/00755/MSC - Submission of Matters Specified in Condition 24 of Permission in Principle 09/00038/OUTIN	Approved
3.21	04.08.2017	17/01369/MSC - Proposed site levels and restoration (condition 2K, 2P, and 2Q of Permission in Principle 09/00038/OUTIN)	Approved
3.22	09.08.2017	17/02696/MSC - Change of use of two ground floor units from residential (class 9) to Shops (Class 1). Amended design of Block 11 (Apt 1) (condition 2b, 2d, 2f, 2g, 2h, 2o and 2q of Permission in Principle 09/00038/OUTIN)	Approved
3.23	13.10.2017	17/04285/MSC - Amended material finish on the access ramp entrance of Block 11 (Apt 1) (condition 2b of Permission in Principle 09/00038/OUTIN)	Approved
3.24	10.11.2017	17/04644/MSC - Amended design and layout of Block 3b, change the permitted use of the building from flats to flats and café. Submission of matters specified in condition 2.	Approved
3.25	22.06.2018	18/01012/MSC - Submission of Matters Specified in Conditions 2(a) (b) (c) (d) (f) (g) (h) (j) (k) (l) (m) (o) 3, 4, 5, 6, 7, 8, 9, 10, 20, 23, 25, 26 and 31 of Permission in Principle 09/0038/OUTIN for Phase 1a - Block 13 (Erection of 19 flats with 2No. commercial units below and a Nursery Unit)	Approved
3.26	25.09.2018	18/02339/MSC - Conditions 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 23, 25, 26 and 31 of 09/00038/OUTIN in respect of 26 dwellings in Block 3C, 5B, and 7A (Plots 70-92 and 116-118) of Phase 1A	Approved
3.27	21.09.2018	18/02340/MSC - Submission of Matters Specified in Conditions 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 23, 25, 26 and 31 of permission in principle 09/00038/OUTIN for phase 1a - Blocks 6B and 7B	Approved

3.28	12.10.2018	18/02889/MSC - Submission of Matters Specified in Conditions 2 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r), 3, 4, 5, 6, 7, 8, 9, 10, 20, 23, 25, 26 and 31 of Permission in Principle 09/00038/OUTIN for Phase 1B - Enabling Works Infrastructure at Tornagrain, comprising details in respect of layout and design, landscaping, transport, trees, archaeology, construction environmental management, contamination, ecology and drainage and flood risk.	Approved
3.29	03.12.2018	18/03244/MSC - Submission of Matters Specified in Conditions 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 23, 25, 26 & 31 of permission in principle 09/00038/OUTIN for 96 residential units that comprise Phase 1b (Blocks 14-19) at Tornagrain.	Approved
3.30	21.01.2020	19/03214/MSC - Enabling infrastructure works (16/05725/s42 conditions 2(a) (d) (e) (g) (k) (l) (m) (n) (o) (p) (r) (s) (t), 3, 4, 5, 6, 7, 8, 9, 10, 19, 20, 21, 23, 24, and 25) Phase 1B	Approved
3.31	02.11.2020	20/01296/MSC - Submission of Matters Specified in Conditions 2 (a, b, c, d, e, f, g, h, k, l, m, n, o, p, q, s, t, u), 3, 4, 5, 6, 7, 8, 9, 10, 23 and 24 of Planning Permission in Principle ref. 16/05725/S42 for 27 residential + 1 commercial unit in AJS Phase 1c within Blocks 1, 2 ,3D and 107b (part thereof)	Approved
3.32	01.03.2022	20/01723/MSC - Application for Matters Specified in Conditions 2b (Siting), d (Access), e (Layout), f (Road Layout), l (management and maintenance), m (Boundary Treatments), o (Surface Drainage), p (Service Connections), s (Levels), u (Lighting), 8 (Flood Risk Assessment) , 9 (Surface Water Strategy), 10 (Surface Water Drainage), 12 (Mid Coul Burn Bridge) and 24 (Maintenance) of Planning Permission in Principle ref. 16/05725/S42 - Upgrade of Mid Coul Road, drainage infrastructure and associated works.	Approved
3.33	30.04.2021	21/01008/MSC - Matters Specified in Condition 2b (siting and design), 2c (sustainable design considerations), and 2g (car parking provision), of planning permission in principle 16/05725/S42 for the erection of a house on plot 72 - Modification of previously approved design	Approved

		granted under planning permission 18/02339/MSC	
3.34	07.09.2021	21/03027/ADV - Installation of 5 signs	Consent granted
3.35	10.06.2022	22/01257/MSC - Matters Specified in Conditions 2b (Siting) and 2j (Public Art Strategy) of Permission in Principle 16/05725/S42 - Erection of Market Cross	Approved
3.36	15.02.2023	22/02825/MSC - Matters specified in conditions 2(b), 2(c), 2(d), 2(e), 2(f), 2(g), 2(h), 2(k), 2(l), 2(m), 2(o), 2(p), 2(q), 2(s), 2(t), 2(u), 3, 4, 8, 9, 10, 23, 25 of planning permission in principle 16/05725/S42 - Erection of 68 residential units, associated landscaping, open space, infrastructure and services.	Approved
3.37	13.09.2023	22/02856/MSC - Matters Specified in Condition 2(a) (Area Development Brief) of planning permission in principle 16/05725/S42 for Phase 2 of the development	Approved
3.38	15.02.2024	23/02191/MSC - Matters specified in conditions 1, 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g), 2(k), 2(l), 2(m), 2(o), 2(p), 2(q), 2(s), 2(t), 2(u), 3, 4, 7, 8, 9, 10, 23, 24 and 31 (16/05725/s42) for housing, landscaping, open space, infrastrucutre and services	Approved
3.39	30.01.2024	23/02677/MSC - Matters specified in conditions 2(b), 2(c), 2(d), 2(e), 2(f), 2(g), 2(h), 2(k), 2(l), 2(m), 2(n), 2(o), 2(p), 2(q), 2(r), 2(s), 2(t), 2(u), 3, 4, 7, 8, 9, 10, 20, 23, 24 and 31 for 33 No. residential units and 2 No. units for shops and financial, professional and other services (Class 1A) and associated works pursuant to planning permission in principle (ref. 16/05725/S42) for new town comprising residential (up to 4,960 units), other uses, and associated landscaping, open space, infrastructure and services	Approved
3.40	20.03.2024	23/03750/MSC - Matters specified in conditions 2(b), 2(c), 2(d), 2(e), 2(f), 2(g), 2(h), 2(k), 2(l), 2(m), 2(n), 2(o), 2(p), 2(q), 2(r), 2(s), 2(t), 2(u), 3, 4, 7, 8, 9, 10, 20, 23, 24 and 31 for 16 No.	Approved

	residential units, 2 No. units for use as shops and doctors surgery (Class 1A) and associated works (ref. 16/05725/S42) for new town comprising residential (up to 4,960 units), other uses, and associated landscaping, open space, infrastructure and services	
3.41	24/00814/MS - Matters specified in conditions 2(d), 2(s), 3, 5, 6, 7 and 31 in relation to platforming land via excavations and ground works pursuant to planning permission in principle (ref. 16/05725/S42) for new town comprising residential (up to 4,960 units), other uses, and associated landscaping, open space, infrastructure and services.	Pending consideration
3.42	24/01040/MS - Application for approval of matters specified in conditions 2(f), 2(k), 2(l), 2(o), 2(r), 2(s), 2(u), 3, 5, 6, 7, 8, 9, 10, 12, 15, 20, 23, 24 and 31 in relation to new road crossing over Mid Coul Burn at Hillhead Road, landscaping and associated infrastructure pursuant to planning permission in principle (ref. 16/05725/S42) for a new town comprising residential (up to 4,960 units), other uses, and associated landscaping, open space, infrastructure and services	Pending consideration

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour / Schedule 3 development

Date Advertised: 29.12.2023

Representation deadline: 24.01.2024

Timeous representations: 1

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- a) Broadly supportive of the further development of Tornagrain but concerns about active travel – no viable and safe means of reaching Inverness, Nairn, airport, Dalcross railway station etc by cycle or foot. Prior to any further development active travel corridors should be put in place to connect these locations.
- b) Current pedestrian/cycle arrangements are extremely dangerous, particularly the crossing of the A96(T). Recently completed cycle route between Tornagrain and the Mid Coul roundabout is welcome but does not meet the Department of Transport design guide for Cycle Infrastructure Design.
- c) Predictions for future transport needs is based upon flawed principles because it uses historical data to predict future proportions of transportation modes. This

will lead to a continuation of car-centric arrangements and will result in a woeful lack of ambition.

- d) Savell Bird and Axon drawing 62648/A/1 (proposals for roundabout) do not show active travel designs that would be compliant with the Cycle infrastructure Design guidelines.

- 4.3 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.

5. CONSULTATIONS

- 5.1 **Transport Planning Team:** No comment.

- 5.2 **Flood Risk Management Team** do not object to the proposed amendments to Conditions 11, 12 and 15 subject to SEPA agreement.

- 5.3 **SEPA:** Originally objected to the proposal. Closed culverting is the least environmentally acceptable form of watercourse crossing, generally having the most negative impact on the water environment. Removing a condition which aims to protect the water environment, the local blue and green network and biodiversity would be contrary to the Inner Moray Firth Local Development Plan. However, further to amendments to the wording of the proposed conditions, to clarify the types of development that may be acceptable within the Mid Coul Burn Riparian zone, and to explain that culverting is only likely to be an acceptable water crossing option in very limited circumstances, SEPA has withdrawn its objection.

- 5.4 **Transport Scotland:** Do not advise against the granting of permission.

6. DEVELOPMENT PLAN POLICY

- 6.1 National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers and published on 13 February 2023. It is now part of the statutory development plan, while also replacing NPF3 and Scottish Planning Policy

6.2 **National Planning Framework 4 (NPF4) (2023):**

Policy 1 - Tackling the Climate and Nature Crises

Policy 2 - Climate Mitigation and Adaptation

Policy 3 - Biodiversity

Policy 4 - Natural Places

Policy 13 - Sustainable Transport

Policy 18 - Infrastructure First

Policy 22 - Flood Risk and Water Management

6.3 **Highland Wide Local Development Plan 2012**

13 - Tornagrain

28 - Sustainable Design

29 - Design Quality and Place-making

30 - Physical Constraints

34 - Settlement Development Areas

51 - Trees and Development

52 - Principle of Development in Woodland

- 56 - Travel
- 57 - Natural, Built and Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 63 - Water Environment
- 64 - Flood Risk
- 74 - Green Networks

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

- Policy 2 – Delivering Development
- TG1 – Tornagrain (mixed use)

6.5 **Inner Moray Firth Proposed Local Development Plan March 2024**

- Placemaking priority 34; TG01 – Tornagrain; Policy 2 (Nature protection, preservation and enhancement); Policy 9 (delivering development and infrastructure)

6.6 **Highland Council Supplementary Planning Policy Guidance**

- Construction Environmental Management Process for Large Scale Projects (August 2010)
- Flood Risk and Drainage Impact Assessment (Jan 2013)
- Green Networks (Jan 2013)
- Highland's Statutorily Protected Species (March 2013)
- Trees, Woodlands and Development (Jan 2013)

7. **OTHER MATERIAL POLICY CONSIDERATIONS**

7.1 **Scottish Government Planning Policy and Guidance**

- Designing Streets
- Creating Places

8. **PLANNING APPRAISAL**

- 8.1 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

- 8.2 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

- 8.3 The key considerations in this case are:
- a) compliance with the development plan and other planning policy
 - b) Impact on the water environment

- c) Impact on road infrastructure – Mid Coul roundabout
- d) other amendments/housekeeping
- e) any other material considerations

Development plan/other planning policy

- 8.4 Development Plan Policy has changed since determination of 16/05725/S42 with National Planning Framework 4 (NPF4) now forming part of the development plan. As the most recent document it takes precedence where there is any conflict between the provisions of any part of the development plan.
- 8.5 NPF4 Policies 1-3 apply to all development proposals nationwide. When considering all development proposals, significant weight will be given to the global climate and nature crises. Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats, and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions where possible.
- 8.6 NPF4 Policy 4 (Natural places) states that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment will not be supported.
- 8.7 NPF4 Policy 22 (Flood risk and water management) supports development proposals in a flood risk area if they are for specified types of development, one of which is water compatible uses such as flood control infrastructure and water transmission infrastructure. All risks of flooding must be understood and addressed, and the development proposal must not increase the risk of surface water flooding.
- 8.8 NPF4 Policy 13 (Sustainable transport) states that the cost of any mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer.
- 8.9 NPF4 Policy 18 (Infrastructure first) supports development proposal which provide for (or contribute to) infrastructure in line with that identified as necessary in LDPs and requires that the impacts of development proposals on infrastructure should be mitigated.
- 8.10 HwLDP Policy 13 (Tornagrain) supports the phased development of the new town and identifies requirements for Phase 1 of the development including improvements to Mid Coul roundabout and no culverting of watercourses. There are no requirements identified for Phase 2 or beyond. Other relevant HwLDP policies include Policy 56 (Travel) which states that development proposals should incorporate appropriate mitigation which may include road improvements; Policy 63 (Water environment) which supports development proposals that do not compromise the objectives of the Water Framework Directive which aim to protect and improve Scotland's water environment; and policy 64 (Flood risk) which states that proposals should avoid areas susceptible to flooding and promote sustainable flood management within flood risk areas.

- 8.11 The key determining issue in the assessment of this application is whether the proposed amendments or removal of the existing planning conditions, as proposed, would result in an incompatibility with the Development Plan.

Impact on the water environment

- 8.12 Condition 11 of 16/05725/S42 reads:

“No culverts shall be used to create crossings of the Mid Coul Burn

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

Condition 12 of 16/05725/S42 also deals with water crossings and reads:

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

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

The applicant originally proposed the deletion of Condition 11 and was of the opinion that Condition 12, which requires details of any water crossing to be submitted for approval, was sufficient in its current form to control the suitability of any water crossings. SEPA has been consulted on the application and does not object to the deletion of Condition 11, provided Condition 12 is amended to state that closed culverting is only acceptable in limited circumstances. They state that closed culverting is the least environmentally acceptable form of watercourse crossing which generally has the most negative impact on the water environment, however culverts may be acceptable in limited circumstances and an amended Condition 12 to that effect is acceptable.

- 8.13 The proposal is therefore to delete Condition 11 in its entirety and amend Condition 12 to read:

“No development shall commence within each Phase, or sub-Phase, until details of any watercourse crossing on the Mid Coul Burn required for that phase has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. For the avoidance of doubt closed culverting is not the preferred crossing solution and will only be supported in limited circumstances in agreement with SEPA. The agreed solution shall be implemented”.

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

- 8.14 Condition 15 requires an 8m riparian zone along the Mid Coul Burn to be retained, maintained and kept free from development and protected against construction-related damage or impact. Condition 15 reads:

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

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

Reason: In the interest of protecting the water environment”

- 8.15 While Condition 15 does not preclude development within the 8m buffer zone per se, the future development proposals at Tornagrain will require road and footpath crossings over the burn, as well as the upgrading of existing development within the 8m riparian zone such as footpaths. Provision for upgrading/provision of water/sewerage and other utilities and green infrastructure may also require to be carried out and needs to be considered in the wording of the condition. Therefore, in the interests of clarity, the applicant put forward a proposed modification to the wording of Condition 15 in order to make it clear that such infrastructure-related development could be supported subject to approval of details. SEPA have accepted the proposed modification with minor adjustments to specify the types of infrastructure that may be acceptable, subject to agreement. The proposed amended condition reads as follows:

“The following features shall be retained, maintained free from built development and protected against construction-related damage or impact, other than infrastructure works relating to watercourse crossings, water and sewerage facilities and other utilities, green infrastructure and works to upgrade existing transport infrastructure, details for which shall be submitted to and approved by the Planning Authority:

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

Reason: In the interest of protecting the water environment”

Impact on road infrastructure - Mid Coul roundabout

- 8.16 Condition 27 of 16/05725/S42 reads:

“Prior to the occupation of Phase 2, modifications to the A96(T) Mid Coul roundabout, generally as indicated in Savell Bird and Axon drawing number 62648/A/1, shall be implemented to the satisfaction of the Planning Authority in consultation with Transport Scotland. The modifications shall, in all respects, accommodate all road users.

Reason: To ensure that there is sufficient capacity within the road network”

The drawing referred to shows a slight enlargement of the westbound A96(T) approach to the Mid Coul roundabout and was designed to address vehicular capacity of the Mid Coul roundabout rather than to benefit pedestrians or cyclists. This application seeks to amend Condition 27 to require the works to the roundabout to be completed prior to the occupation of Phase 3 rather than Phase 2. The proposed wording in full is as follows:

“Prior to the occupation of Phase 3, modifications to the A96(T) Mid Coul roundabout, generally as indicated in Savell Bird and Axon drawing number 62648/A/1, shall be implemented to the satisfaction of the Planning Authority in consultation with Transport Scotland. The modifications shall, in all respects, accommodate all road users.

Reason: To ensure that there is sufficient capacity within the road network”

- 8.17 A revised Transport Assessment has been submitted in support of the proposal which notes that several factors have come into play since planning permission was granted meaning that the original assumptions around future traffic growth have not materialised – not least the Covid-19 pandemic which has had a significant impact on construction rates and work and travel patterns. The revised Transport Assessment revisits the capacity analysis of the A96 Mid Coul Roundabout using up-to-date traffic data and the latest development projections for both Tornagrain and the nearby Inverness Airport Business Park (IABP) to establish whether or not the requirements of Condition 27 can be deferred.
- 8.18 The Tornagrain planning permission allows for 851 dwellings to be completed by the end of Phase 2, which was expected to be completed by 2024 (344 in Phase 1 and 507 in Phase 2). In actual fact, only 304 dwellings have been completed to date (with a further 40 under construction) and it is likely that the 851 figure will not be reached until 2031 (applying the build out rates quoted in the 2022 Housing Land Audit).
- 8.19 The situation with non-residential floor space is similar, with the planning permission allowing for 4,418 sqm of non-residential floor space by 2024, but only 480 sqm of non-residential floorspace completed to date. A further 3,208 sqm of non-residential floorspace is planned for phase 2 (1,090 retail, 700 business and 1,418 Primary School) however the anticipated catchment for this floorspace is predominantly the Tornagrain community itself and is therefore not likely to impact greatly on the A96(T).
- 8.20 The build out rate of the Inverness Airport Business Park (IABP) has also been significantly slower than anticipated. The phasing condition in the IABP planning permission (08/00215/OUTIN) allowed for 106,626 sqm of floorspace by 2021, however to date, following a period of changing economic circumstances and a lower demand for commercial space following the 2008-2010 economic downturn, only 6,960 sqm of floorspace has been completed. Build out of a further 27,257 sqm of floorspace is expected by 2031.
- 8.21 No modification of the actual works to be carried out to the roundabout is sought, merely the timing of their delivery. The Transport Assessment has demonstrated that sufficient capacity will be maintained within the road network, and the Mid Coul roundabout will continue to operate comfortably until 2031, taking into account both the completion of Tornagrain Phase 2 and the predicted IABP build out programme. The assumptions made in the Transport Assessment were agreed with Transport Scotland and Transport Scotland have been consulted on the proposal and have no objections to the granting of permission.

Other amendments/housekeeping

- 8.22 When an application is made under Section 42 of the Planning Act the assessment must be restricted to the matters contained within the conditions which the application seeks to vary, however the resulting decision notice is effectively a new planning permission, and the Planning Authority can take the opportunity to carry out some housekeeping of the other planning conditions and remove any that are no

longer relevant and amend any that have been varied through other means, in order that the resultant planning permission is as up to date as possible. The following amendments are recommended.

- 8.23 Amendments to Condition 1 of 16/05725/S42 have already been agreed in writing by the Planning Authority. The developer requested some minor adjustments to the number of houses which are permitted within each phase of development in order to reflect the 'on the ground' position and the likely programming for the next few years. There is no change to the overall number of units permitted. The reference to phasing years, which very quickly become obsolete in developments of this scale, has also been removed. The wording of Condition 1 allows for such adjustments to be made by agreement in writing with the Planning Authority and this was done by exchange of letter in February 2024.
- 8.24 The works required by Condition 28 of 16/05725/S42, to provide a remote combined use path and footpath and new and upgraded passing places along the length of the minor road between the development and Croy, have been satisfactorily completed and the condition discharged. The condition can now be deleted.
- 8.25 Condition 26 of 16/05725/S42 required that no houses could be occupied until the road between the development site and Croy was upgraded; a pedestrian and cycle crossing was provided on the A96; and public transport and bus stop provision in respect of Phase 1 was provided. A transport and traffic monitoring plan also needed to be submitted and implemented prior to occupation of any part of the development. All of the above works have now been completed.

Other material considerations

- 8.26 One letter of representation was received raising concerns about the active travel arrangements between the new settlement at Tornagrain and Inverness, Nairn and Inverness airport/Dalcross rail halt; particularly the arrangements for crossing the A96(T) road. The works to Mid Coul roundabout required under Condition 27 involve a widening to the westbound approach to the roundabout and will not impact upon the active travel arrangements in the area. The issues raised are not, therefore, relevant to the determination of this S42 application, however they do raise important wider issues regarding the promotion and implementation of active travel within the area. Key to this is the future proposals for dualling the A96(T). If the A96(T) dualling goes ahead, its planned route will take the new road further north, towards the new Dalcross rail halt, which will allow the existing A96 road to be de-trunked and continue in use as a local distributor road. In this instance the existing crossing arrangements are likely to be sufficient, with some enhancement. In the event that the A96 dualling does not go ahead, there is a mechanism with the Section 75 legal agreement for a new overhead pedestrian/cycle crossing of the A96 to be provided, however this will only be required if there is agreement that the A96 will not be dualled within the near future.
- 8.27 There are no other material considerations.

Matters to be secured by Legal Agreement / Upfront Payment

- 8.28 Tornagrain is covered by a Section 75 legal agreement which has been written in such a way that it does not need to be amended to take account of any changes made under Section 42 of the Planning Act. The existing Section 75 agreement will continue to take effect without any amendment required.

9. CONCLUSION

- 9.1 This application, made under S42 of the Planning Act, seeks permission for ongoing development to be carried out at Tornagrain without compliance with some of the conditions attached to 16/05725/S42. The effect of the amendments will remove the overarching ban on culverts as a crossing option of the Mid Coul Burn. Control will, however, be retained by the Planning Authority and SEPA through a remaining (amended) condition. A further amendment clarifies the position regarding to circumstances where limited infrastructure related development may be acceptable within the 8m riparian zone of Mid Coul Burn.
- 9.2 The submitted Transport Assessment, which has reassessed the capacity analysis of the A96 Mid Coul Roundabout using up-to-date traffic data, has demonstrated that, for a variety of reasons, the assumed increase in traffic utilising the A96(T) Mid Coul roundabout has not materialised and that it will operate comfortably within capacity until at least 2031, which will allow Phase 2 of the Tornagrain development to be occupied before the works are required.
- 9.3 All relevant matters have been taken into account when appraising this application. It is considered that the application for non-compliance with conditions attached to planning permission 16/05725/S42 accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued N

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

Subject to the above actions, it is recommended that this application for non-compliance with Conditions 11, 12, 15 and 27 of planning permission 16/05725/S42 is **GRANTED** subject to the following amendment of these conditions and reasons and the rewording, deletion and modification of conditions attached to 09/00038/OUTIN to be replaced with the following:

1. 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 or Phase 2:

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

For each subsequent Phase:

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

In respect of each phase, this permission will lapse on the expiration of the period from the date of the requisite approval of any matters specified in conditions applicable to that phase (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained), whichever is the later, unless that phase of the development to which the permission relates is begun before that expiration.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. Planning Permission in Principle is hereby granted for a mixed-use development upon 168 hectares to be developed in accordance with the Master Plan hereby approved in seven sequential Phases in accordance with

the Phasing Plan set out in Table 1 and the Approved Non-residential Uses for each Phase set out within Table 2:

Table 1: Approved Residential Phasing

Phase	1	2	3	4	5	6	7
Residential (units)	363	507	799	857	950	1108	383

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

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

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

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

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

a) submission of an 'Area Development Brief' for each Principal Phase of the development has been submitted to and approved by the Planning Authority in advance of the submission of any other application(s) for the approval of matters specified in conditions for that particular phase. Each Area Development Brief shall be produced using the principles set out in the Tornagrain Masterplan and Environmental Statement and shall include the following:

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

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

- b) the siting, design and external appearance of all buildings and other structures;
- c) details of sustainable design considerations;
- d) the means of access to the site including connections to the A96(T) for all modes of transport;
- e) the layout of the site, in accordance with Designing streets principles;
- f) road layout including the road hierarchy, junction layouts and design with projected traffic figures supported by traffic modelling, junction visibility requirements, vehicle tracking at junctions and standard radii, details of any bus routes and bus stops, details of provision for cyclists and

pedestrians including carriageway crossings, provision for disabled users, details of safer routes to school;

- g) the provision of car parking including in-curtilage parking, communal parking areas, parking courts and on-street parking;
- h) the provision of covered cycle parking including resident cycle parking in houses and communal covered cycle parking at flats and external covered visitor cycle parking at flats;
- i) the details of and timetable for delivery of the provision of public open space, including allotments, equipped play areas and sports area, in accordance with the Open Space in New Residential Developments: Supplementary Guidance, (or any superseding guidance prevailing at the time of submission);
- j) details of public art provision in accordance with the Highland Council's Public Art Strategy Supplementary Guidance (or any superseding guidance prevailing at the time of submission);
- k) the details of, and timetable for, the hard and soft landscaping of the site;
- l) details of management and maintenance arrangements of the areas identified in (h), (i), (k) and (j) above;
- m) details of all boundary treatments within the development, as set out within the relevant approved Area Development Brief.
- n) the provision for loading and unloading all goods vehicles;
- o) details of the provision of surface water drainage systems across the phase or sub-phase, how it relates to the surface water drainage strategy for the site as a whole and management and maintenance arrangements of said infrastructure;
- p) details of the water and waste water connections;
- q) means of dealing with domestic and commercial waste in accordance with the Highland Council's 'Managing Waste in New Developments' Supplementary Planning Guidance' including provision of communal composting and recycling facilities;
- r) details of existing trees, shrubs and hedgerows to be retained;
- s) details of existing and proposed site levels with fall arrows;
- t) details of finished floor levels;
- u) details of all street lighting and lighting of car parking areas ensuring that safety and security matters are addressed; and

v) details of community facilities.

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

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

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

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

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

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

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

Reason: In the interest of the protection of badgers.

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

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

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

Reason: To enhance nature conservation within the site.

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

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

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

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

11. No development shall commence on a particular Phase, or sub-Phase, until full details of surface water drainage provision within the relevant Phase or sub-Phase (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision for the relevant phase or sub-phase shall be completed prior to the final occupation of the relevant phase or sub-phase.

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

12. No development shall commence within each Phase, or sub-Phase, until details of any watercourse crossing on the Mid Coul Burn required for that phase has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. For the avoidance of doubt closed culverting is not the preferred crossing solution and will only be supported in limited circumstances in agreement with SEPA. The agreed solution shall be implemented.

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

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

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

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

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

15. The following features shall be retained, maintained free from built development and protected against construction-related damage or impact, other than infrastructure works relating to watercourse crossings, water and sewerage facilities and other utilities, green infrastructure and works to upgrade existing transport infrastructure, details for which shall be submitted to and approved by the planning authority:

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

Reason: In the interests of protecting the water environment.

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

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

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

Reason: In the interests of protecting the water environment.

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

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

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

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

20. No development shall commence within each Phase or sub-Phase until a Tree Constraints Plan that accords with BS5837:2012 Trees in Relation to Design, Demolition & Construction (or any superseding guidance prevailing at the time) has been submitted to, and approved in writing by, the Planning Authority. The Plan shall include the following details:
- i. A detailed plan to a scale and level of accuracy appropriate to the proposal that shows the position of every tree on site with a stem diameter over the bark measured at 1.5 metres above ground level of at least 150 millimetres. In addition, any tree on neighbouring or nearby ground to the site that is likely to have an effect upon or be affected by the proposal must be shown, for example by shade, overhang from the boundary, intrusion of the Root Protection Area or general landscape factors;
 - ii. A tree survey that lists details for each tree, including a schedule of any remedial works which may be required. The root protection area and recommended holdback distance from any new building, which takes into consideration above ground constraints;
 - iii. Tree categorisation in accordance with Table 1 - Cascade Chart for Tree Quality Assessment;
 - iv. A Tree Constraints Plan that indicates categories for each tree annotated onto the original Land Survey along with canopy spread, root protection area and holdback distances. Details of any proposed alterations to the existing ground levels or the position of any proposed excavations within 5 metres of the root protection area of any retained tree, including those on neighbouring ground must be clearly identified;
 - v. An Arboricultural Implications Assessment that superimposes the proposed layout, including any underground services, onto the Tree Constraints Plan; and
 - vi. A Tree Protection Plan that details the appropriate tree protection measures for every retained tree before and for the duration of the development.

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

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

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

be enacted prior to development commencing and maintained as approved throughout the construction phase(s).

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

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

Reason: To safeguard the existing petrochemical pipeline from damage.

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

- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- ii. A plan showing existing landscaping features and vegetation to be retained;
- iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
- iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
- v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works. Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of the development, unless otherwise stated in the approved scheme. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

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

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

'Open Space in Residential Development', shall be implemented thereafter to the satisfaction of the Planning Authority.

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

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

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

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

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

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

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

27. Prior to the occupation of Phase 3, modifications to the A96(T) Mid Coul roundabout, generally as indicated in Savell Bird and Axon drawing number 62648/A/1, shall be implemented to the satisfaction of the Planning Authority in consultation with Transport Scotland. The modifications shall, in all respects, accommodate all road users'.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32. No development shall commence on Phase 1, or any sub-Phase thereof, until a detailed Outdoor Access Management Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the Planning Authority. The plan shall include details showing:

- i. All existing access points, paths, Core Paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;
- ii. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to proposed buildings or structures;
- iii. All proposed paths, tracks and other routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, lighting, information leaflets, proposals for on-going maintenance etc.);
- iv. Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the development (including details of mitigation measures, diversion works, duration and signage); and
- v. Links to the Highland Council's Core Paths and green frameworks. The Outdoor Access Management Plan, and any associated works, shall be implemented as approved and in accordance with the timescales outlined therein. Furthermore, prior to the commencement of development on each Phase, or sub-Phase, following Phase 1, or any sub-Phase thereof, a review of the Outdoor Access Management Plan shall be undertaken and shall be submitted to, and approved in writing by, the Planning Authority. Where the approved review identifies the

need for updates, the approved plan shall be considered as having been updated accordingly.

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

33. All plant, machinery and equipment associated with ventilation, air-conditioning, heating and refrigeration or similar mechanical services within the application site, including fans, ducting and external openings shall be installed, maintained and operated such that any operating noise complies with Noise Rating Curve 20 and details of a noise assessment for each installation shall be submitted alongside the relevant application for the approval of matters specified in conditions pursuant to condition 3 above.

Reason: In the interests of amenity.

34. No development shall exceed 50 metres above existing ground level.

Reason: In the interests of aircraft safety.

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

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

REASON FOR DECISION

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.

INFORMATIVES

Initiation and Completion Notices

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

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.

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

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

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

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).

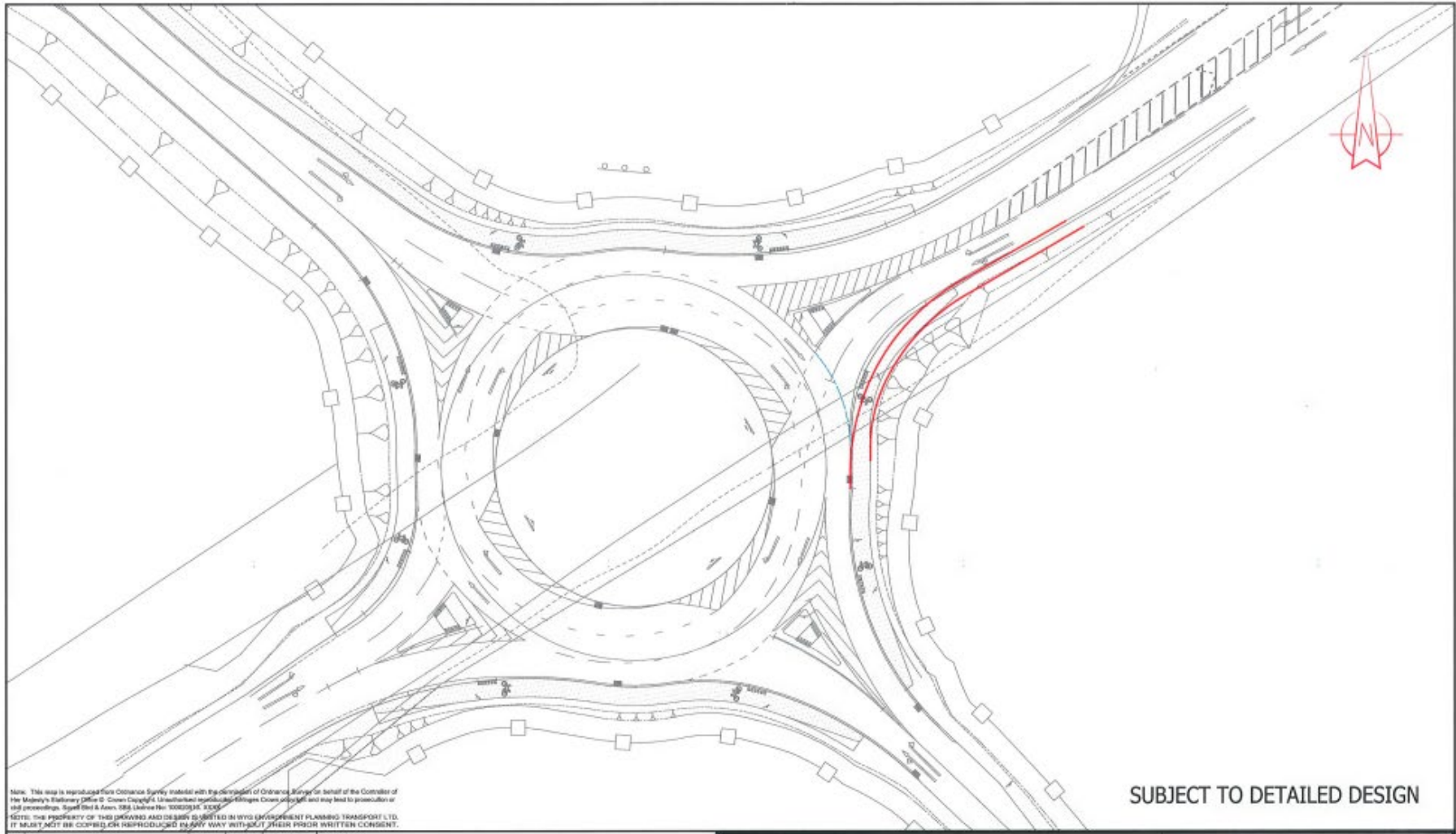
Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to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

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot 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 NatureScot: <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species>

Signature: David Mudie
Designation: Area Planning Manager – South
Author: Christine Macleod
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - TCL 1A – Location Plan



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SUBJECT TO DETAILED DESIGN

REV.	DETAILS	DRAWN	CHECKED	DATE
-		-	-	-

Notes:

1. This is not a construction drawing and is intended for illustrative purposes only.
2. White lining is indicative only.

Tornagrain

**Mid Coul Junction:
Proposed Improvements**

DRAWN: JMc	CHECKED: J.F.	DATE: 04.08.09	SCALE: 1:500 at A3
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Moray Estates

Savell Bird & Axon
part of the WYG group



Ariel House 74a Charlotte Street London W1T 4QJ
t: 020 7580 8844 f: 020 7580 8838 e: sba@sba.co.uk

DRAWING NUMBER: 62648/A/1	REVISION: •
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Appendix 2

Type	COMPLETE FOR LEGAL AGREEMENTS AND UPFRONT PAYMENTS				REQUIRED FOR LEGAL AGREEMENTS ONLY				
	Contribution	Rate (per house)	Rate (per flat)	Total Amount*1	Index Linked ¹	Base Date*2	Payment Trigger*3	Accounting Dates*4	Clawback Period*5
Schools²									
Primary – Build Costs	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Primary – Land Costs	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Secondary – Build Costs	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Secondary – Land Costs	Insert what contribution is for	£0.00	£0.00	£0.00	No		TOC/CC	Apr/Oct	15 or 20
Community Facilities	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Affordable Housing									
On-site provision ³	X units. Insert details of unit size and timescale for delivery if agreed	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Off-site provision ⁴	X units. Insert details of location, unit size and timescale for delivery if agreed	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Commuted Sum ⁵	£0.00 per affordable unit not delivered on/off site. Insert expected timescale for payment - can be in installments	N/A	N/A	£0.00	N/A	N/A	Insert specific payment date	N/A	5 Years
Agreement for Delivery Needed	Y/N. If delivery for affordable housing has not yet been agreed, enter Y and specify the date/timescale that the scheme for delivery is to be submitted for approval	N/A	N/A	N/A	N/A	N/A	Insert date for submission to Planning Authority	N/A	N/A

¹ If the contribution is to be used towards infrastructure projects involving building e.g. new school, new cycle route etc BCIS ALL IN TENDER will be the index, if it doesn't involve building then another appropriate index may need to be chosen with the agreement of Team Leader

² Indicate whether or not 1 bed houses/flats are exempt

³ Indicate whether a penalty payment due for late delivery (and, if so, what it is based upon).

⁴ As above

⁵ Indicate whether a penalty payment is due for late payment of commuted sum (and, if so, what it is based upon)

Type	COMPLETE FOR LEGAL AGREEMENTS AND UPFRONT PAYMENTS				REQUIRED FOR LEGAL AGREEMENTS ONLY				
	Contribution	Rate (per house)	Rate (per flat)	Total Amount*1	Index Linked ¹	Base Date*2	Payment Trigger*3	Accounting Dates*4	Clawback Period*5
Transport									
Active Travel	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Safer Routes to Schools	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Public Realm	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Wayfinding	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Public Transport	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
School Transport	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Road Improvements	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Parking	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
EV Charging	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Traffic Signals	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Lighting	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Road Traffic Orders	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Cumulative Transport Contributions	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Green Infrastructure									
Open Space	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Green Network	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Built/Natural Heritage	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Water and Waste									
Catchment Improvement Works	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Strategic Flood Scheme	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Maintenance of SuDs	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Off Street Waste Storage	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Recycling Point Provision	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Glass Banks	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
		£0.00	£0.00	£0.00					
Public Art	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Other (Please Specify)	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20

*1 Adjust total to take account of flat exemptions

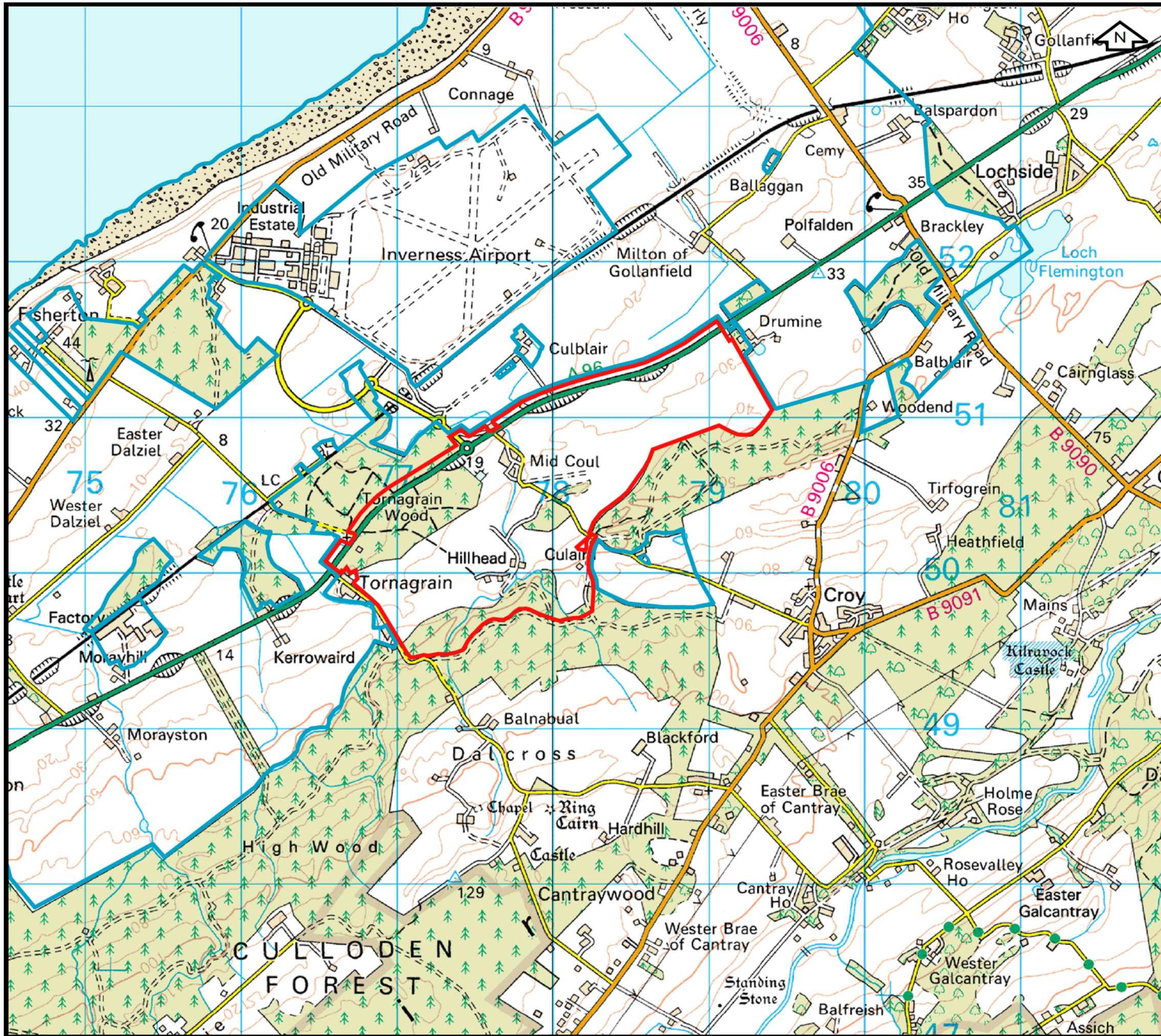
*2 Base Date – Set out in Supplementary Guidance on Developer Contributions

*3 TOC/CC – The earlier of the issue of either a temporary occupation certificate or a completion certificate – or specify alternative time if appropriate

- *4 Accounting dates - 1 April and 1 October each year of development (if the contribution is to be paid on a basis other than related to units completed in the preceding 6 months (e.g. lump sum on a specific date) then indicate this instead of the Apr/Oct payment dates)
- *5 Clawback – 15 years for Major development; 20 years for Local development

Other Legal Agreement requirements

Type	Details
Bond	1. Describe the purpose of the Bond
	2. Specify the amount to be secured
	3. Restriction on Bond provider
	4. Set the review date and mechanism for review
	5. Describe the call on circumstances
	6. Any other relevant details
Habitat Management Plan	1. Describe what the Plan is to cover
	2. Describe the area the Plan is to cover (and provide a plan)
	3. Set the timetable for submission of the Plan
	4. Set the timescale for implementation of the Plan
	5. Describe requirements to consult third parties
	6. Specify the financial contribution (if any)
	7. Specify the clawback period (if any)
	8. Any other relevant details
Road Survey	1. Specify the timescale for the initial survey
	2. Describe which roads are to be surveyed (provide a plan)
	3. Specify an interim survey date (if required)
	4. Specify the final survey requirements and timescale
	5. Any other relevant details
Land and Asset Transfer	1. Describe the area of land / asset to be transferred (provide a plan)
	2. Describe the use of the land / asset
	3. Specify the cost of transfer
	4. Any other relevant details



- Application Site
- Other Land in Applicants Ownership

LOCATION PLAN

Tornagrain
Moray Estates

TCL 1A

Tornagrain
A Planned Town for the Highlands

Scale 1:25 000 @ A3 - March 2009
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