



## Town and Country Planning (Scotland) Act 1997 Appeal Decision Notice

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Decision by Sinéad Lynch, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2298
- Site address: land at Drum Farm, South of Fire Station, Drumnadrochit IV63 6AH
- Appeal by Springfield Properties PLC against the decision by The Highland Council
- Application for planning permission 23/00532/FUL dated 1 February 2023 refused by notice dated 7 February 2024
- The development proposed: remix house types on land at Drum Farm
- Application drawings as listed in schedule 1
- Date of site visit by Reporter: not applicable

Date of appeal decision: 24 September 2024

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### Decision

I allow the appeal and grant planning permission subject to the thirty conditions and advisory notes as listed below in Annex A.

### Preliminary matters

A related appeal, PPA-270-2299, was submitted at the same time as this appeal and a decision notice on that proposal is issued separately. A claim for expenses was also submitted by the appellant and a decision notice is issued separately.

### Reasoning

1. On 12 June 2024, I issued a Notice of Intention stating that I was minded to allow the appeal and grant planning permission subject to the conditions that were listed in the Notice and that are repeated in Annex A of this decision notice. The intention to allow the appeal was also subject to the signing and recording or registering of variation to the existing obligation under section 75 of the Town and Country Planning Act 1997 between the appellant and the planning authority. The variation to the obligation was to cover the following matters: restricting or regulating the development or use of the land should be completed in order to address the revised phasing and delivery of homes on the site and the commercial elements of the proposal. The part of the obligation addressing education, roads and affordable housing requirements would also remain. A copy of the Notice of Intention is attached to this decision notice.

2. On 5 September 2024, I received confirmation of a Minute of Agreement between the appellant and the council, and confirmation that the Minute of Variation had been submitted to The Keeper of the Register of Scotland. The council has confirmed that it is content for a decision notice to be issued. Accordingly, I am in a position to formally determine the appeal.

3. I therefore grant planning permission subject to the conditions below.

*Sinéad Lynch*

Reporter

## **Annex A**

### **Conditions**

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of grant of this permission.

**Reason:** Section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permissions limiting their duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.

2. Planning Permission is hereby granted for 23 residential units to be developed in accordance with the Master Plan hereby approved in three 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 affordable housing identified within Phase 1 of the development;
- No delivery of development in Phases 2, or 3 until Phase 1 and the servicing and landscaping of the commercial land have been completed; and 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.

**Reason:** To ensure that the development proceeds in an appropriate phased manner and to secure delivery of non-housing uses in accordance with Proposal DR03 of the Inner Moray Firth Area Local Development Plan

3. The approved Access Management Plan (Rev B, November 2021), and any associated works, shall be implemented in full prior to the first occupation of the development or as otherwise may be agreed within the approved plan.

**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.

4. 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.

5. 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:
    - Drainage and sediment management measures from all construction areas;
    - Mechanisms to ensure that construction will not take place during periods of high flow or high rainfall.
  - i. Public Water Supply Protection Measures;
  - j. Emergency Response Plans; and
  - k. Other relevant environmental management as may be relevant to the development.
- iv. Special Study Area plans for any other specific issue identified within the Schedule of Mitigation and/or conditions attached to this permission;
- 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.

6. 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. 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.

7. Notwithstanding the details submitted no development shall commence or tree felling be undertaken until the following details of hard and soft landscaping have been submitted to, and approved in writing by, the Planning Authority:

- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- ii. A plan confirming any trees to be felled subject to compliance with condition 22 on protected species along with the 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 and to secure the protection of natural heritage in accordance with condition 24.

8. No development shall commence until the submission of a landscaping plan has been submitted to, and approved in writing by, the Planning Authority and this shall be carried out after the completion of the affordable housing in Phase 1.

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

9. No development shall commence until a Tree Protection Plan and Arboricultural Method Statement demonstrating compliance with conditions 6 and 22 and including a 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 and to protect the natural heritage of the area in accordance with Condition 23.

10. None of the houses or flats 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 home 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.

11. 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 Conditions 6 and 7 are 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. Prior to the first occupation of each house or flat 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. No development shall commence on each phase or sub phase 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.

22. 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 design and implementation of safe routes to school, to Glenurquhart Primary School within the site connecting to existing safe routes to school outwith the site. This shall include provision of a pedestrian crossing of A82 (T). The agreed scheme shall be implemented prior to occupation of any residential unit within the development.

d) 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.

e) A scheme for the delivery of a footpath to the front of units 17-21 within the development.

Thereafter the scheme shall be implemented prior to occupation of these units. 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 Council 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.

23. No residential dwelling shall be occupied until Traffic Regulation Order(s), limiting the speed of traffic on all roads, within the development, to no more than 20mph, have been submitted to and approved in writing by the Roads Authority, unless otherwise agreed in writing by the Planning Authority. For the avoidance of doubt any Traffic Regulation Order(s) and any required signage and road markings shall delivered by the developer.

**Reason:** In the interests of safety of all road users in the residential development.

24. No development shall commence nor any tree felling approved pursuant of conditions 6 and 7 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 a Stage 2 bat survey and camera trap surveys of badger sets. The survey shall cover the whole application site and a 50- metre 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 including the details of any required tree felling shall only progress in accordance with any

mitigation measures contained within the approved report(s) of survey and the timescales contained therein.

**Reason:** To protect the natural heritage of the area in accordance with Policy 58 of the Highland Wide Local Development Plan.

25. No part of the development shall be occupied until the emergency access for the site and the maintenance access to the Sustainable Drainage System Basin has been formed and connected to Kilmore Road. This access shall be delivered and provided without impediment.

**Reason:** In the interests of timeous provision of emergency and drainage maintenance access.

26. 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.

27. 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.

28. 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.

29. 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 PAN 75 Planning for Transport.

30. For the avoidance of doubt, there be no land-raising within the functional floodplain including for the formation of the footpath and the Finished Floor Level (FFL) of the buildings shall be a minimum of 600mm above the 1 in 200 year plus climate change (37%) level.

**Reason:** To minimise the risk of flooding.

### Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the completion of the development:** As soon as possible after each of the phases of the development approved under condition 2 above is completed (except for the last or final phase, in respect of which notice shall be given under section 27B(1) of the Act) the person who has completed any phase shall give written notice of the completion of that phase to the planning authority.

Reason: To accord with section 27B (2) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006.]

### Schedule 1: Application drawings

Location Plan DR01-PH2LP-01 (23/00532/FUL)  
 Site Layout Plan DR01-PH2PP-01 (23/00532/FUL)  
 Location Plan DR01-PH3PLP-01 (23/00533/FUL)  
 Site Layout Plan DR01-PH3PP-01 (23/00533/FUL)  
 Site Phasing Plan DR01-PH2-3PP-07 (23/00532/FUL & 23/00533/FUL)  
 floor/elevation plan - Cupar semi 1073sd-stock-901  
 floor/elevation plan – Lauder 1104dt-stock-901  
 floor/elevation plan - Roslin 1202DT-STOCK-901  
 floor/elevation plan - Nairn 1237DT-STOCK-90  
 floor/elevation plan – Arden 1224dt-stock-901  
 floor/elevation plan – Nairn 1237DT-STOCK-901  
 floor/elevation plan - Balerno 1287dt-stock-901  
 floor/elevation plan – Nethy 1517dg-stock-901  
 floor/elevation plan – Kintore 1653dt-stock-901 rev A  
 floor/elevation plan - Culbin 1932ct-stock-901  
 floor/elevation plan - Dunning DR01-PL-DUNNING-901  
 floor/elevation plan - Cullen (23/00533/FUL)  
 floor/elevation plan - Moray and Dunbar cottage flats - (23/00533/FUL)

**Annex B****Notice of Intention dated 12 June 2024**

Planning and Environmental Appeals Division

Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

E: [dpea@gov.scot](mailto:dpea@gov.scot)

T: 0300 244 6668



Scottish Government  
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[gov.scot](http://gov.scot)

Town and Country Planning (Scotland) Act 1997

Appeal: Notice of Intention

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Notice of Intention by Sinéad Lynch, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2298
- Site address: land at Drum Farm, South of Fire Station, Drumnadrochit IV63 6AH
- Appeal by Springfield Properties PLC against the decision by The Highland Council
- Application for planning permission 23/00532/FUL dated 1 February 2023 refused by notice dated 7 February 2024
- The development proposed: remix house types on land at Drum Farm
- Application drawings as listed in schedule 1
- Date of site visit by Reporter: not applicable

Date of notice: 12 June 2024

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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 thirty conditions listed below, following the signing and registering or recording of an amended planning obligation under section 75 of the Act, [or some suitable alternative arrangement], covering the matters listed in paragraphs 33 -36 below.

**Preliminary matters**

A related appeal, PPA-270-2299, was submitted at the same time as this appeal and a decision notice on that proposal will be issued separately. PPA-270-2299 relates to proposed Phase 3 of the proposed development and seeks to provide 24 homes for private market housing on the site.

In addition, a claim for expenses against the Highland Council has been submitted by the appellant. A decision on that claim will be issued under separate cover, when a decision is issued for each of the current appeals.

The site has an extensive planning history. Of particular relevance to my decision is appeal decision PPA-270-2222 and planning permission 21/03612/Ful for 91 homes, which applies to the same site as the appeal site. The phasing as approved in that extant consent is as follows:

- Phase 1 – affordable housing (23 units), SUDS, private house sites (12), landscaping around commercial area;
- Phase 2 – commercial area and central landscaped area;
- Phase 3 – private housing (28 units) (site of application 23/00532/FUL); and

- Phase 4 - private housing (28 units) (site of application 23/00533/FUL)

Permission 21/03612/FUL also contains condition 1 which reads as follows:

“Planning Permission is hereby granted for 91 residential units to be developed 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 affordable housing identified within Phase 1 of the development;
- No delivery of development in Phases 3, or 4 until Phases 1 and 2 have been completed; and
- An average completion rate of 15 units per year in Phases 3 and 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

**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.”

The phasing and remix of housing types and numbers as proposed in this appeal is as follows:

- Phase 1 – 23 affordable houses (blue dotted line); 12 private houses; and central landscaped area (covered by permission 21/03612/FUL) and cycle path, boundary wall and heavy standard tree adjacent to A82 (front of commercial area) (covered by permission 19/02762/FUL after appeal);
- Phase 2 – 23 private houses (23/00532/FUL) (orange dotted line);
- Phase 3 - 24 private houses (23/00533/FUL) (green dotted line); and
- Sub-Phase 1/2/3 – installation of services, roads and other necessary infrastructure of non-residential element to be delivered in Phase 1

## Reasoning

1. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. The development plan consists of National Planning Framework 4 (NPF4), The Highland Wide Local Development Plan 2012 (HWLDP), the Inner Moray Firth Local Development Plan 2 (IMFLDP2) Intention to Adopt version March 2024 and associated Supplementary Guidance.

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

- phasing and delivery;
- revised layout;
- traffic and access;
- flood risk and drainage;
- heritage impacts; and
- developer contributions

3. I am satisfied that the extant planning consent and the appeal sites' designation in the IMFLDP2 as site allocation DR03 for mixed use including 93 houses demonstrates that the principle of development is established on this site and does not need to be rehearsed here.

#### Phasing and delivery

4. The appeal site is allocated in the IMFLDP2 as site DR03 with capacity for 93 houses. The current extant planning consent provides for 91 homes, delivered over three of the four phases of development.

5. This appeal and related appeal PPA-270-2299 seek to amend the delivery of those homes, to reduce the overall number of homes on the site and to alter the type of homes delivered. Phase 2 as proposed would deliver 23 private market homes, but the mix of house types would change to 15 four-bedroom houses and 8 three-bedroom houses. Consented Phase 2 is limited to the commercial area and the central landscaped area.

6. Proposed Phase 3 would deliver 9 four-bedroom houses 7 three-bedroom houses and 8 two-bedroom homes totalling 24 houses. Consented Phase 3 and Phase 4 provided 56 houses for the private market.

7. The total number of houses delivered on site would reduce from 91 to 82 (-9) as a consequence of these appeal proposals.

8. In terms of the commercial and non-residential elements of the development, it was to be delivered in Phases 1 and 2, with a condition attached to 21/0362/FUL limiting delivery of Phases 3 and 4 until Phases 1 and 2 had been completed.

9. In effect, if both current appeals are upheld, then the commercial area could be delivered as a sub-phase of Phase 1 or 2 or 3 of the development, with the central landscaped area being delivered in Phase 1. The affordable housing element would remain to be delivered in Phase 1 with 12 private homes in the same phase, an additional 23 homes in Phase 2 and 24 homes in Phase 3. There would be no Phase 4.

10. Current planning conditions mean that delivery of the phased elements of the development are consecutive, not concurrent. The appellant's primary argument for both appeals is that due to recent market conditions, market demand for particular house types and the phasing restrictions, the project as a whole is not viable. Halting the build process of the residential element would give rise to significant construction stop / start costs and would mean that the site would remain a construction zone until at least 2035.

11. In terms of the development plan, NPF4 Policy 16 Quality Homes supports the delivery of high-quality homes in the right location. In particular, part a) of the policy supports new homes on land allocated for housing.

12. IMFLDP2 and the Housing Land Audit 2022 both identify the site as contributing 93 homes towards meeting the Local Housing Land Requirement. At Section 4 of the plan, there is a settlement statement for Drumnadrochit, setting out that development will largely be limited to the allocated sites in the village, of which the appeal site is one. The site-specific requirements for Drum Farm state that development will be in accordance with the planning permission and legal agreements for the site, including phasing amongst other matters. Should there be an alternative proposal for the site, then phasing will need to include early availability of serviced sites for non-housing uses.

13. I note that in appeal decision PPA-270-2222 the reporter concluded that a build rate of approximately 15 homes per annum at the site would be acceptable and that the existing village would be capable of accommodating that level of new homes. That decision was made in 2019. On that basis, it could be expected that up to 75 homes might have been delivered on the site to date.

14. Condition 1 of 21/03612/FUL sets out a phasing sequence and an average build rate of 15 homes per year for phases 3 and 4. Again, it might be expected that since 2021, that consent could have delivered 43 homes in Phase 1, then up to 30 in Phases 3 and 4 to date, if Phase 2 had been delivered.

15. The appellant has provided an assessment of financial viability to support this appeal, which illustrates that at this point in time, having to stop construction on the residential element would give rise to difficulties in restarting the project. The ownership of the commercial element has changed, and the appellant is no longer in a position of control. The commercial works as originally envisaged in Phase 1 could take place as a sub-phase of any phase, rather than as a discrete phase to be completed in full, prior to moving on to subsequent phases.

16. I note that the community council has raised concerns regarding the proposed changes to house types to be delivered on site, particularly the reduction in the number of two-bedroom homes, as well as to the rate of delivery proposed. When the previous appeal was submitted, the appellant at that time advised that a 'large house' approach to the site would not be commercially viable. Their more recent market research suggests the opposite, with a lower demand for smaller units.

17. The proposed changes to house types and phasing would, I find, lead to an overall reduction of approximately 10% in new homes on this site for Drumnadrochit. In total, IMFLDP2 allocates land for 146 homes in the village in the plan period. The reduction in the delivery of new homes in the village overall would be in the region of 5.5%. The LDP at paragraph 134 notes that the settlement is not suitable for significant further growth, and that a cautious approach to future growth is sensible. I am satisfied that the reduction in the delivery of new homes on the site would be compatible with the delivery of the LDP settlement strategy.

18. I find that IMFLDP2 does not dictate the type of homes to be provided on site. There is no policy imperative to deliver particular house types on the site or in the settlement. I am satisfied that the change in house type and the reduction in the number of two-bedroom homes would be compliant with the LDP.

19. The rate of the delivery of homes on the site would change. If the phases continued to be sequential, rather than concurrent, then the maximum delivery in any one year after Phase 1 would be 24 homes per annum, assuming all homes in each phase would be delivered in one year. Although that rate is different to the consented rate and to that envisaged in the LDP, I find that it is not so different as to have a detrimental effect on the village.

20. The proposed changes to the phasing and delivery of development on the site would have an impact on the existing Section 75 legal agreement. Amendments to the agreement would be required to ensure that any party to the development of the site adheres to the revised phasing and delivery commitments.

21. Overall, I conclude that the proposed changes to the phasing of delivery and to the house types to be delivered on the appeal site are in accordance with the relevant parts of NPF4 and IMFLDP2 and would not have a detrimental effect on the character and amenity of Drumnadrochit.

### Revised layout

22. The appellant's revisions to the number and type of homes on site would result in changes to the approved layout. Where the original SUDs Pond had been located to the east, there are now four houses. The SUDs Pond has been moved north, and there is now a second SUDs Pond to the southeast of the fire station. Concern has been expressed regarding a reduction in the amount of usable open space on the site as a consequence of these proposed changes. Policy 75 of the HWLDP sets out a requirement for high quality open space, with the associated supplementary guidance setting a requirement for 40 square metres per person. I note that the revised layout as submitted incorporates some 36,600 square metres of open space, which I find more than sufficient to meet the required standard.

23. In calculating density, the number of homes is the determining factor, not the footprint of those homes. On that basis, I am satisfied that the density of the proposed development would be lower than the approved density.

24. The eastern boundary of the site is adjacent to the western part of Enrick Crescent, where five existing homes share the boundary. Concern has been expressed in relation to two of those homes, regarding a potential loss of privacy and amenity. I note that in this location, the house types proposed are single storey and there would be a two-metre-high boundary fence controlled by a condition attached to any consent. I am satisfied that any impact on residential amenity would not be adverse, or greater than that arising from the extant consent.

25. The southern boundary of the appeal site is adjacent to Kilmore Road. Although the proposed house type has changed in that area, the revised layout continues to propose two storey homes in this location. I am satisfied that any impact on residential amenity would not be adverse, or greater than that arising from the extant consent.

### Traffic and access

26. The revised layout for both appeals continues to have a single access point to the site, from the A82 trunk road to the west of the site. Transport Scotland have sought to have the same condition attached to any new consent, relating to the construction of the new ghost island right turn priority junction with the A82(T), the proposed pedestrian accessibility improvements on the eastern side of the A82(T), the proposed Toucan pedestrian crossing and pedestrian refuge crossing on the A82(T) and the proposed bus stops on the A82(T). Traffic and access issues were fully resolved during the consideration of PPA-270-2222 and 21/03612/FUL. I agree that such a condition is required and have included it in the conditions attached to this decision notice.

27. Highland Transport Planning do not object to the proposal, subject to suitable conditions of consent. The community council have concerns regarding both disabled and cycling parking. The appellant has provided revised plan DR01\_PH2/3PP\_03 Revision A, which could be referenced in the schedule of approved plan should consent be granted. A



plan addressing electric car charging points has also been provided, DR01-PH2-3PP-11 REV A.

28. I consider that matters relating to traffic and access have been resolved on and off site in accordance with policy and guidance, subject to the imposition of appropriate conditions.

#### Flood risk and drainage

29. The appeal site is partially subject to a 1 in 200 year plus climate change fluvial flood event. However, none of the proposed homes, or the developable area, is within that flood zone. SEPA has not objected to the proposed development. Highland Flood Risk Management Team have suggested a condition to control the finished floor levels of the buildings. I agree that such a condition would be appropriate.

30. The community council is concerned that the revised layout and drainage strategy may have an adverse impact on the adjacent Urquhart Bay Wood SAC and SSSI. There is a separate application for the sustainable urban drainage system for the site, which does not form part of this appeal or the associated appeal PPA-270-2299.

#### Heritage impacts

31. The former school and schoolhouse lie to the south of the appeal site, on Kilmore Road. It is a Category B listed building. As with the extant consent, the potential impact on the listed building would arise mainly from the active travel link and the proposed landscaping scheme. I consider that retaining existing trees and the proposed new landscaping would protect the listed building in accordance with the terms of the Town and Country Planning (Scotland) Act 1997 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

32. I note that the archaeological report required by conditions attached to the extant consent is largely if not wholly complete. Nevertheless, a condition addressing an archaeological watching brief should be attached to any consent to ensure that future opportunities for adding to records are not missed.

#### Developer contributions

33. HWLDP Policy 31 Developer Contributions requires all developments to make the appropriate contribution to public services.

34. Planning consent 21/03612/FUL included a legal agreement which addressed the following:

- 25% affordable housing;
- Contribution toward the enhancement of primary school capacity at Glenurquhart Primary School (£7,359 per house or £4,171 per flat. No contributions to education were required from 1-bedroom flats); and
- Contribution toward the provision of a pedestrian crossing of the A82 to facilitate access from the site to the health centre and pharmacy (£515 per dwelling).

35. Developer Contributions Supplementary Guidance (2018) at 1.17 sets out that where necessary, developer contribution requirements will be re-established by applying the most up to date provisions of the LDP, including the guidance, whilst also taking into account any developer contributions made to date. This could result in new, increased or reduced developer contributions, taking into account the most up to date information at the time of the planning application's determination.

36. For these appeals, the legal agreement would need to be amended to reflect the revised phasing and the servicing of the commercial land. I also find that the matters addressed in the extant legal agreement continue to require to be addressed in accordance with Policy 31 and the terms of Circular 3/2012 on planning obligations and good neighbour agreements.

### Other matters

37. There were representations and submissions made relating to the proposal. Matters were raised in those representations and submissions which have been addressed above. Matters were also raised which are not material to the planning system, including but not restricted to matters such as the number of planning applications on the site, support for local businesses, and community benefits and support. As such matters are not material to my decision, I have not taken them into account.

38. A representation has questioned if benches provided on site can be considered public art for the purposes of developer funded schemes. I consider that would be a matter to be addressed when any public art schemes are being finalised with the developer, as required by condition 15 below.

### Conditions

39. The council had suggested that thirty conditions be attached to any appeal decision that is allowed. I have also made minor alterations to these conditions and reasons to provide for clarity and compliance with the provisions of Circular 4/1998: The Use of Conditions in Planning Permissions and to reflect the circumstances of this appeal.

### Conclusions

40. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan. I conclude that the variation from the approved house types is not a matter which is subject to development plan policy. I conclude that the proposed changes to the phasing of delivery and to the house types to be delivered on the appeal site are in accordance with the relevant parts of IMFLDP2 and would not have a detrimental effect on the character and amenity of Drumnadrochit. I conclude that there are no material considerations which would justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

41. An amended planning obligation restricting or regulating the development or use of the land should be completed in order to address the revised phasing and delivery of homes on the site and the commercial elements of the proposal. This planning obligation should also continue to address the education, roads and affordable housing requirements. I will accordingly defer determination of this appeal for a period of up to 12 weeks. This should enable the relevant amendments to the 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 12-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.

*Sinéad Lynch*

Reporter

## Conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of grant of this permission.

**Reason:** Section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permissions limiting their duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.

2. Planning Permission is hereby granted for 23 residential units to be developed in accordance with the Master Plan hereby approved in three 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 affordable housing identified within Phase 1 of the development;
- No delivery of development in Phases 2, or 3 until Phase 1 and the servicing and landscaping of the commercial land have been completed; and 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.

**Reason:** To ensure that the development proceeds in an appropriate phased manner and to secure delivery of non-housing uses in accordance with Proposal DR03 of the Inner Moray Firth Area Local Development Plan

3. The approved Access Management Plan (Rev B, November 2021), and any associated works, shall be implemented in full prior to the first occupation of the development or as otherwise may be agreed within the approved plan.

**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.

4. 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.

5. 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:
    - Drainage and sediment management measures from all construction areas;
    - Mechanisms to ensure that construction will not take place during periods of high flow or high rainfall.
  - i. Public Water Supply Protection Measures;
  - j. Emergency Response Plans; and
  - k. Other relevant environmental management as may be relevant to the development.
- iv. Special Study Area plans for any other specific issue identified within the Schedule of Mitigation and/or conditions attached to this permission;
- 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.

6. 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. 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.

7. Notwithstanding the details submitted no development shall commence or tree felling be undertaken until the following details of hard and soft landscaping have been submitted to, and approved in writing by, the Planning Authority:

- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- ii. A plan confirming any trees to be felled subject to compliance with condition 22 on protected species along with the 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 and to secure the protection of natural heritage in accordance with condition 24.

8. No development shall commence until the submission of a landscaping plan has been submitted to, and approved in writing by, the Planning Authority and this shall be carried out after the completion of the affordable housing in Phase 1.

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

9. No development shall commence until a Tree Protection Plan and Arboricultural Method Statement demonstrating compliance with conditions 6 and 22 and including a 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 and to protect the natural heritage of the area in accordance with Condition 23.

10. None of the houses or flats 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 home 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.

11. 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 Conditions 6 and 7 are 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. Prior to the first occupation of each house or flat 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. No development shall commence on each phase or sub phase 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.

22. 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 design and implementation of safe routes to school, to Glenurquhart Primary School within the site connecting to existing safe routes to school outwith the site. This shall include provision of a pedestrian crossing of A82 (T). The agreed scheme shall be implemented prior to occupation of any residential unit within the development.

d) 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.

e) A scheme for the delivery of a footpath to the front of units 17-21 within the development.

Thereafter the scheme shall be implemented prior to occupation of these units. 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 Council 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.

23. No residential dwelling shall be occupied until Traffic Regulation Order(s), limiting the speed of traffic on all roads, within the development, to no more than 20mph, have been submitted to and approved in writing by the Roads Authority, unless otherwise agreed in writing by the Planning Authority. For the avoidance of doubt any Traffic Regulation Order(s) and any required signage and road markings shall be delivered by the developer.

**Reason:** In the interests of safety of all road users in the residential development.

24. No development shall commence nor any tree felling approved pursuant of conditions 6 and 7 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 a Stage 2 bat survey and camera trap surveys of badger sets. The survey shall cover the whole application site and a 50- metre 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 including the details of any required tree felling shall only progress in accordance with any mitigation measures contained within the approved report(s) of survey and the timescales contained therein.

**Reason:** To protect the natural heritage of the area in accordance with Policy 58 of the Highland Wide Local Development Plan.

25. No part of the development shall be occupied until the emergency access for the site and the maintenance access to the Sustainable Drainage System Basin has been formed and connected to Kilmore Road. This access shall be delivered and provided without impediment.

**Reason:** In the interests of timeous provision of emergency and drainage maintenance access.

26. 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.

27. 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.

28. 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.

29. 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 PAN 75 Planning for Transport.

30. For the avoidance of doubt, there be no land-raising within the functional floodplain including for the formation of the footpath and the Finished Floor Level (FFL) of the buildings shall be a minimum of 600mm above the 1 in 200 year plus climate change (37%) level.

**Reason:** To minimise the risk of flooding.

### Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. **Notice of the completion of the development:** As soon as possible after each of the phases of the development approved under condition 2 above is completed (except for the last or final phase, in respect of which notice shall be given under section 27B(1) of the Act) the person who has completed any phase shall give written notice of the completion of that phase to the planning authority.

Reason: To accord with section 27B (2) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006.]

### Schedule 1: Application drawings

Location Plan DR01-PH2LP-01 (23/00532/FUL)  
 Site Layout Plan DR01-PH2PP-01 (23/00532/FUL)  
 Location Plan DR01-PH3PLP-01 (23/00533/FUL)  
 Site Layout Plan DR01-PH3PP-01 (23/00533/FUL)  
 Site Phasing Plan DR01-PH2-3PP-07 (23/00532/FUL & 23/00533/FUL)  
 floor/elevation plan - Cupar semi 1073sd-stock-901  
 floor/elevation plan – Lauder 1104dt-stock-901  
 floor/elevation plan - Roslin 1202DT-STOCK-901  
 floor/elevation plan - Nairn 1237DT-STOCK-90  
 floor/elevation plan – Arden 1224dt-stock-901  
 floor/elevation plan – Nairn 1237DT-STOCK-901  
 floor/elevation plan - Balerno 1287dt-stock-901  
 floor/elevation plan – Nethy 1517dg-stock-901  
 floor/elevation plan – Kintore 1653dt-stock-901 rev A  
 floor/elevation plan - Culbin 1932ct-stock-901  
 floor/elevation plan - Dunning DR01-PL-DUNNING-901  
 floor/elevation plan - Cullen (23/00533/FUL)  
 floor/elevation plan - Moray and Dunbar cottage flats - (23/00533/FUL)