

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE –
20 MAY 2014

Agenda Item	5.2
Report No	PLS/033/14

14/01198/S42: Hugh MacRae & Co, Academy Street Restorations Ltd and Mr A H Rapson
Land to the North East of Ness Castle, Inverness

Report by Head of Planning and Building Standards

SUMMARY

Description: Application for non-compliance with Conditions 1 and 2 of Planning Permission in Principle 07/01043/OUTIN.

Recommendation: **GRANT** planning permission

Ward: 16 – Inverness Ness-side

Development category: Major Application

Pre-determination hearing: None

Reason referred to Committee: Variation of condition imposed by Committee

1.0 PROPOSED DEVELOPMENT

1.1 The application seeks to vary Conditions 1 & 2 of the planning permission in principle granted for residential development (180 houses) at Ness Castle, Inverness.

1.2 Condition 1 of planning permission in principle 07/01043/OUTIN states:

For the avoidance of doubt, Planning Permission in Principle is hereby granted for a maximum number of 180 residential units, open space and landscaping, including children's play facilities, access from Dores Road and site infrastructure in accordance with the approved Master Plan (1470 PL400) and Phasing Plan (1470 PL401A).

***Reason:** In order to clarify the terms of the permission and to ensure that the overall layout and design is satisfactory for the site.*

1.3 Condition 2 of planning permission in principle 07/01043/OUTIN states:

For the avoidance of doubt, unless otherwise agreed or amended, the children's play facilities shall be provided in accordance with the approved Master Plan (1470

PL400) and Phasing Plan (1470 PL401A) and be available for use prior to the commencement of development in each subsequent Phase.

Reason: *To ensure the orderly development of the site, as the current application site grants planning permission in principle only.*

1.4 The application seeks to amend Condition 1 to read:

For the avoidance of doubt, Planning in Permission in Principle is hereby granted for a maximum of 180 residential units, open space and landscaping, including children's play facilities, access from Dores Road and site infrastructure in accordance with the approved Master Plan (2226 PL 002) and Phasing Plan (2226 PL 003). 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.

1.5 The application seeks to amend Condition 2 to read:

For the avoidance of doubt, unless otherwise agreed or amended, the children's play facilities shall be provided in accordance with the approved Master Plan (2226 PL 002) and Phasing Plans (2226 PL 003, 004, 005 & 006) and be available for use prior to the commencement of development in each subsequent Phase.

1.6 The principal reason for the applicant wishing to vary Conditions 1 & 2 is to enable development identified by Albyn Housing Society to occur within part of the site currently specified as Phase 2. In other words, the proposal allows for Phase 1 to be redrawn to encompass the land identified for development by Albyn.

1.7 A further consequence of the revised wording is the ability for prospective developers to apply for matters specified applications and therefore to develop a part of each Phase rather than whole Phases.

1.8 A copy of the original permission is contained within Appendix 2 and a statement submitted in support of the application within Appendix 3.

2.0 PLANNING HISTORY

2.1 **08 July 2011** Planning Permission in Principle granted (07/01043/OUTIN).

3.0 PUBLIC PARTICIPATION

3.1 Advertised: Neighbour Notification

Representation deadline: 19 April 2014

Timeous representations: 1

Late representations: 0

3.2 Issues raised can be summarised as:

- The emergency access proposed will be result in the removal of trees and therefore privacy will be adversely affected.

4.0 CONSULTATIONS

4.1 No consultations undertaken.

5.0 DEVELOPMENT PLAN POLICY

5.1 The development plan comprises of the Highland Wide Local Development Plan (2012), the Inverness Local Plan (2006) (as continued in force) and Statutory Supplementary Guidance.

5.2 The following policies are relevant to the assessment of the application:

Highland Wide Local Development Plan 2012

5.3 Policy 28 Sustainable Design

Inverness Local Plan (2006)

5.4 Policy 38(iv) Ness Castle/Ness-side
Policy 51 Trees and Development

Statutory Supplementary Guidance

5.5 Trees, Woodland and Development.
Developer Contributions.

6.0 OTHER MATERIAL CONSIDERATIONS

Development Briefs and Framework Plans

6.1 Torvean and Ness-side Development Brief (2013)

Inner Moray Firth Proposed Local Plan (2013)

6.2 IN31 Ness-side

Scottish Government Planning Policy and Guidance

6.3 Scottish Planning Policy (SPP)

7.0 PLANNING APPRAISAL

7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan in this case comprises the Highland wide Local Development Plan (approved April 2012).

Determining Issues

7.2 The determining issues are:

- do the proposals accord with the development plan?
- if they do accord, are there any compelling reasons for not approving them?
- if they do not accord, are there any compelling reasons for approving them?

Planning Considerations

7.3 The principal of the development has been established. This is an application to vary two conditions of the principal permission. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continues to comply with development plan policy and take into consideration any other material considerations.

Development Plan

7.4 The development of housing at Ness Castle clearly continues to be supported by the development plan. It is considered that the proposed change to conditions will result in development that continues to comply with the development plan.

Material Considerations

7.5 An application submitted under S42 of the Planning Acts provides a planning authority with an opportunity, in considering the proposed variation, to amend any, or all, of the conditions on a planning permission that it considers necessary to regulate the development proposed.

7.6 A key requirement of the existing and emerging development plan policy is the need to safeguard the existing mature trees within the development site. Conditions imposed on planning permission 07/01043/OUTIN provide for this. However, it is considered that greater control over the future maintenance and management of the woodland outwith the development footprint is required. It is considered that a further condition in this regard is necessary:

No houses shall be occupied within Phase 2 until a scheme for the management and maintenance in perpetuity of all woodland surrounding the development site has been submitted to, and agreed in writing by, the Planning Authority. The agreed scheme shall be implemented on occupation of the last house within Phase 2 or as otherwise may be agreed in writing by the Planning Authority.

Reason: *In order to ensure that arrangements are in place for the appropriate*

management and maintenance of the woodland surrounding the development in the interest of amenity and protection of the woodland resource.

- 7.7 As Condition 21 of planning permission 07/01043/OUTIN has been implemented, it is considered that this can be removed and the above condition inserted in its place. It is not current practice to require submission of completion certificates by condition. This is more appropriately dealt with by way of informative. Condition 25 can therefore be deleted.
- 7.8 In addition, since the ability to develop within sub-phases is considered acceptable and will still ensure that sufficient control is maintained to ensure orderly progress of development, it is necessary to amend all conditions where reference is made to 'Phase' to include 'or Sub-Phase' following the word 'Phase.'
- 7.9 With regard to the representation received, the principle of emergency access is established with the original planning permission. However, Condition 10 protects the final chosen alignment and therefore the level of necessary tree removal. Amenity will be considered as part of the matters specified applications for development as these come forward.

8.0 CONCLUSION

- 8.1 All relevant matters have been taken into account when appraising this application. The matters raised within the representation received have been accommodated within the planning permission already granted and can be reapplied to this permission. The application does not raise any significant new issues. It provides an opportunity to amend conditions other than those applied for in the interest of protecting existing woodland and not only those trees directly affected by the development.
- 8.2 It is considered that the application to amend the conditions on this extant planning permission accords with the development plan and is acceptable in terms of all other applicable material considerations.

9.0 RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended that the application be **granted** planning permission subject to:

- A.** A variation to Conditions 1 and 2 as follows: -
1. For the avoidance of doubt, Planning in Principle is hereby granted for a maximum of 180 residential units, open space and landscaping, including children's play facilities, access from Dores Road and site infrastructure in accordance with the approved Master Plan (2226 PL 002) and Phasing Plan (2226 PL 003). 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: In order to clarify the terms of the permission and to ensure that the overall layout and design is satisfactory for the site.

2. For the avoidance of doubt, unless otherwise agreed or amended, the children's play facilities shall be provided in accordance with the approved Master Plan (2226 PL 002) and Phasing Plans (2226 PL 003, 004, 005 & 006) and be available for use prior to the commencement of development in each subsequent Phase.

Reason: To ensure the orderly development of the site, as the current application site grants planning permission in principle only.

- B.** Deletion of Condition 21 and insertion of a new condition as follows:

21. No houses shall be occupied within Phase 2 until a scheme for the management and maintenance in perpetuity of all woodland surrounding the development site has been submitted to, and agreed in writing by, the Planning Authority. The agreed scheme shall be implemented on occupation of the last house within Phase 2 or as otherwise may be agreed in writing by the Planning Authority.

Reason: In order to ensure that arrangements are in place for the appropriate management and maintenance of the woodland surrounding the development in the interest of amenity and protection of the woodland resource.

- C.** The addition of the phrase 'or Sub-Phase' following 'Phase' in all conditions pertaining to planning permission 07/01043/OUTIN where 'Phase' appears.
- D.** All other conditions pertaining to planning permission 07/01043/OUTIN, except Condition 25, which shall be deleted.

Signature:

Designation: Head of Planning and Building Standards

Author: David Mudie (01463) 702255

Background Papers: Documents referred to in report and in case file.

APPENDIX 1 - LIST OF REPRESENTATIONS

OBJECTORS

1. Mr and Mrs N Porter, The Cottage, Ness Castle, Inverness, IV2 6DJ

PLANNING PERMISSION IN PRINCIPLE

Reference No: 07/01043/OUTIN

THE HIGHLAND COUNCIL

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

DECISION NOTICE

To:
Hugh MacRae And Co (Builders) Ltd
Academy Street Restorations Ltd
And Mr A H Rapson
Per Agent

Per:
G H Johnston Building Consultants Ltd
Willow House
Stoneyfield Business Park
Inverness
IV2 7PA

**Residential development (180 houses)
Land To North East Of Ness Castle Inverness Highland**

The Highland Council in exercise of its powers under the above Acts **grants planning permission in principle** for the above development in accordance with the particulars given in the application and the following plans/drawings:

Type of Plan	Plan Number	Date Plan Received
Other	PL 400	01.08.2010
Other	PL 401A	01.08.2010
Other	PL 402A	01.08.2010
Other	PL 403A	01.08.2010
Other	PL 404A	01.08.2010

This permission is granted subject to the following conditions: -

General

- 1. For the avoidance of doubt, Planning Permission in Principle is hereby granted for a maximum number of 180 residential units, open space and landscaping, including children's play facilities, access from Dores Road and site infrastructure in accordance with the approved Master Plan (1470 PL 400) and Phasing Plan (1470 PL 401A).**

Dated: 8 July 2011

Head of Planning and Building Standards

Reason: In order to clarify the terms of the permission and to ensure that the overall layout and design is satisfactory for the site.

- 2. For the avoidance of doubt, unless otherwise agreed or amended, the children's play facilities shall be provided in accordance with the approved Masterplan (1470 PL400) and Phase 1 Plan (1470 PL 402A) and be available for use prior to the commencement of development on Phase 2.**

Reason: To ensure the orderly development of the site, as the current application site grants planning permission in principle only.

- 3. Prior to the start of work on each respective Phase of the development the following details shall be submitted to and approved in writing by the Planning Authority:-**

- the siting, design and external appearance of any building(s);**
- the means of access and landscaping;**
- details of all roads, footpaths, cycleways and car parking;**
- surface water drainage including provision for SuDS;**
- details of all amenity open space and recreation areas, children's play provision, landscaping and boundary enclosure and the programme for their implementation;**
- levels and cross sections showing finished ground and floor levels relative to existing ground levels;**
- street lighting and furniture; and**
- waste storage and recycling facilities.**

Only the approved details shall be implemented.

Reason: In order to clarify the terms of the permission and to ensure that the overall layout and design is satisfactory for the site.

- 4. The development shall be undertaken in accordance with the Council's non-statutory guideline "Designing for Sustainability in the Highlands", particularly with regard to the use of sustainable building materials, waste water re-use/recycling and energy conservation.**

Reason: To ensure compliance with the Council's policies on sustainable development and to achieve a high quality design.

- 5. With effect from the date of this permission, no trees within the site shall be lopped, topped, felled or otherwise damaged unless otherwise approved in writing by the Planning Authority**

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

Prior to commencement

Dated: 8 July 2011

Head of Planning and Building Standards

6. Before work starts on each Phase of the development, a programme of archaeological work for the preservation and recording of any archaeological features affected by the proposed development, including a timetable for investigation, all in accordance with the attached specification, shall be submitted to and require the approval in writing of the Planning Authority. All arrangements thereby approved shall be implemented by the developer at his expense in accordance with the approved timetable.

Reason: To safeguard the archaeological potential of the site.

7. No development shall start on site until the detailed arrangements for water and sewerage infrastructure, and its implementation programme to serve the site, has been submitted to and approved in writing by the Planning Authority in consultation with Scottish Water. For the avoidance of doubt, no houses shall be occupied until off-site sewer connections and potable water storage infrastructure as required has been completed to the satisfaction of the Planning Authority or as otherwise agreed in consultation with Scottish Water.

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

8. Before work starts on each Phase of the development, a design statement to explain and illustrate the design principles and design concept of the development and measures proposed to achieve quality design integrating building forms and open spaces within the context of PAN68 "Design Statements", PAN67 "Quality Housing" and "A Policy Statement for Scotland - Designing Places" shall be submitted to and agreed in writing by the Planning Authority.

Reason: In order to preserve the essential character of the site.

9. Before work starts on each Phase of the development, an updated Master Plan and Phasing Plan showing the context of the detailed submissions to reflect intended house numbers, open space and site servicing arrangements shall be submitted to and approved in writing by the Planning Authority.

Reason: In order to ensure orderly development of the site.

10. No development shall start on site until details of an alternative access to the site via the local road network for emergency vehicles only shall be submitted to and agreed in writing by the Planning Authority in discussion with the Roads Authority. The agreed access shall be completed and available for use prior to the occupation of the first dwelling on the site.

Reason: In the interest of public safety.

Dated: 8 July 2011

Head of Planning and Building Standards

11. Before work starts on each Phase of development, pre-construction surveys shall be carried out for the protected species interest of the site; specifically badgers, squirrels and bats. The survey methodology shall be agreed in writing by the Planning Authority in consultation with SNH. The findings of these pre-construction surveys will inform the mitigation/protection measures to be implemented during the construction and post-construction phases to avoid disturbance to species and their habitats. With specific regard to the site's badger interest, an updated survey and protection plan shall be prepared for the written approval of the Planning Authority in consultation with SNH.

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

12. Before work starts on each Phase of development a Tree Constraints and Protection Plan that accords with BS5837:2005 (Trees in Relation to Construction) shall be submitted to and agreed in writing by the Planning Authority. The Plan shall include the following details:
1. A detailed plan to a scale and level of accuracy appropriate to the proposal that shows the position of every tree on site with a stem diameter over the bark measured at 1.5 metres above ground level of at least 75 millimetres. In addition any tree on neighbouring or nearby ground to the site that is likely to have an effect upon or be affected by the proposal must be shown, for example by shade, overhang from the boundary, intrusion of the Root Protection Area or general landscape factors;
 2. 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;
 3. Tree categorisation in accordance with Table 1 - Cascade Chart for Tree Quality Assessment;
 4. 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;
 5. An Arboricultural Implications Assessment that superimposes the proposed layout, including any underground services, onto the Tree Constraints Plan; and
 6. A Tree Protection Plan that details the appropriate tree protection measures for every retained tree before and for the duration of the development.

The agreed Plan shall be implemented.

Dated: 8 July 2011

Head of Planning and Building Standards

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

- 13. All surface water and flood prevention infrastructure shall be designed in accordance with the SuDS "CIRIA" design manual. Prior to the start of development the overall scheme design shall be submitted to and agreed in writing by the Planning Authority. The scheme shall specify full details of the SuDS scheme to be implemented. All water retention or detention features shall be designed to minimise danger to the public and shall be fully landscaped and fenced where necessary to achieve this purpose to the satisfaction of the Planning Authority before any dwellings are occupied. The agreed scheme shall be implemented.**

Reason: In order to ensure effective surface water drainage in the interest of sustainability.

- 14. All roads, including footpaths, cycleways and car parking shall require road construction consent before works commence and, all such works shall require to conform to the requirements of the Council's Road Construction Design Manual. The developer shall be responsible for the erection or modification of any roads signage as specified by the Roads Authority, required as a result of roads infrastructure modification.**

Reason: In order to conform to the requirements of the Council's Road Construction Design Manual.

- 15. Along distributor roads, intended bus lay-bys and shelters shall be provided by the developer at locations to be agreed in writing by the Planning Authority in consultation with the Roads Authority.**

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

- 16. No work shall start on site until evidence that the site is suitable for its proposed use, by way of an assessment of potential contamination, has been submitted to and agreed in writing by the Planning Authority. The assessment shall be consistent with the approach to land contamination contained in Planning Advice Note 33, and the British Standard for investigation of potentially contaminated sites (BS10175:2001). In the event that contamination is found, details of the measures required to treat/remove contamination (remedial strategy) to ensure that the site is fit for the uses proposed shall be submitted to and agreed in writing by the Planning Authority. The agreed remedial strategy shall be implemented to the satisfaction of the Planning Authority before work starts on site.**

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

Dated: 8 July 2011

Head of Planning and Building Standards

Construction

17. Before work starts on each Phase a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority. The Construction Environmental Management Plan (CEMP) shall set out clearly the steps and procedures that are to be implemented to minimise and/or mitigate the impacts of the development and identify the responsible person(s) for implementation and monitoring of these. In particular, the following shall be considered:

- **Site Waste Management Plan**
- **Dust and Air Management Plan**
- **Noise and Vibration Management Plan**
- **Traffic Management Plan**
- **Soil Management Plan**
- **Water Protection Plan**
- **Pollution Prevention Plan**

The approved plan(s) shall be implemented and adhered to at all times unless otherwise agreed in writing by the Planning Authority.

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

18. For the duration of construction, a suitably qualified Arboricultural consultant shall be employed to supervise the work in accordance with the agreed Tree Constraints and Protection Plan. Before work starts on each Phase, a scheme of supervision and staged sign-off shall be submitted to and agreed in writing by the Planning Authority. The agreed scheme shall be implemented.

Reason: In order to ensure that the Tree Protection Plan is implemented to the agreed standard.

19. The normal working hours within the site shall be Monday to Friday between 0700 hours and 1900 hours and Saturdays between 0800 hours and 1300 hours, with no working being carried out on Sundays or public holidays. The carrying out of any work outwith these times shall only take place with the prior written approval of the Planning Authority.

Reason: In the interests of residential amenity.

Dated: 8 July 2011

Head of Planning and Building Standards

Prior to occupation

- 20. Prior to the first occupation of the development, a scheme for the maintenance in perpetuity of all on-site green spaces including landscaped/treed areas and/or sports facilities and other spaces, facilities, features or parts of the development that are not the exclusive property of any identifiable individual house owner such as communal parking areas, the common entrances to flatted developments and estate lighting, and those elements of surface water drainage regimes not maintained either by the Council or Scottish Water, shall be submitted to and agreed in writing by the Planning Authority. The agreed scheme, which shall accord with the Council's adopted standards contained within Open Space in New Residential Development, shall be implemented on occupation of the last house within each Phase or as otherwise may be agreed in writing by the Planning Authority.**

Reason: In order to achieve quality open spaces in compliance with Council Supplementary Planning Guidelines.

- 21. No houses shall be occupied until the new footpath/cycleway over the Holm Burn, including associated linkages along Dores Road from the Dores Road/Holm Road roundabout to the primary site access, shall be completed to the satisfaction of the Planning Authority in consultation with the Roads Authority.**

Reason: In the interest of road and pedestrian safety.

- 22. No houses shall be occupied until the first phase of the primary access road from the T-junction with Dores Road to the new internal roundabout, which will be to 'local distributor' standard, has been completed to the satisfaction of the Planning Authority.**

Reason: To ensure the orderly development of the site and in the interest of road safety.

- 23. No houses shall be occupied until the following works to the public road network have been implemented to the satisfaction of the Planning Authority in consultation with the Roads Authority:-**

- Installation of a single leg light-controlled Toucan crossing adjacent to the roundabout at the northern end of Holm Road;**
- Provision of speed limit signage, including repeater roundels, on Torbreck Lane and Essich Road;**
- Provision of 30mph road markings adjacent to the repeater signage;**
- Erection of warning signs for both cyclists and pedestrians.**

Reason: In the interest of road and pedestrian safety.

Dated: 8 July 2011

Head of Planning and Building Standards

24. Prior to the occupation of the 100th house within the combined Ness Castle development site (04/00585/OUTIN and 07/01043/OUTIN) the following works to Torbreck Lane shall be implemented to the satisfaction of the Planning Authority in consultation with the Roads Authority:

- **Removal of the soft verge on the north side of the bridge east of the entrance to Ness Castle and replacement with bitumen surface to the parapet wall;**
- **Provision of handrails on the parapet on the north side of the bridge;**
- **Provision of white lining, offset from the bridge parapet by 1 - 1.2m sufficient to provide a pedestrian walking route over the bridge to the footpaths either side;**
- **Provision of a 1.2m wide path leading from the Ness Castle entrance to the bridge to the east, then from the bridge to link with the remote path leading to Essich Road. The make up of such path to be 150mm type 1 sub-base with quarry dust top dressing.**

Reason: In the interest of road and pedestrian safety.

25. Upon completion of each Phase of the development the completed Notice of Completion form attached to this decision notice shall be submitted to the Planning Authority.

Reason: In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

DIRECTION UNDER SECTION 59(5) & (7) - TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE

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

An application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

For Phase 1

- i. 5 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.**

Dated: 8 July 2011

Head of Planning and Building Standards

For Phase 2 and each subsequent Phase

- i. **3 YEARS** from the date of commencement of the previous Phase;
- ii. **SIX MONTHS** from the date on which an earlier application for the requisite approval was refused; or
- iii. **SIX MONTHS** from the date on which an appeal against such refusal was dismissed.

In respect of each phase, this permission will lapse on the expiration of the period of –

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

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

INFORMATIVE NOTE REGARDING SECTION 27A(1) - NOTIFICATION OF INITIATION OF DEVELOPMENT

No development shall start on site until the completed Notice of Initiation of Development (NID) form attached to this planning permission/approval of matters has been submitted to and acknowledged by the Planning Authority. Failure to do so will constitute a breach of planning control under Section 123(1) of the Planning Acts.

INFORMATIVE NOTE REGARDING SECTION 27B(1) and (2) - NOTIFICATION OF COMPLETION OF DEVELOPMENT

Upon completion of each phase in the development the completed Notice of Completion form attached to this planning permission shall be submitted to the Planning Authority.

Dated: 8 July 2011

Head of Planning and Building Standards

NOTIFICATION TO APPLICANT

1. If the applicant is aggrieved by the decision to refuse planning permission for or approval required by a conditions in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may appeal to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of appeal should be addressed to:
Directorate for Planning and Environmental Appeals
4 The Courtyard
Callendar Business Park
Callendar Road
Falkirk
FK1 1XR
Appeals can also be lodged online via the ePlanning Portal at <https://eplanning.scotland.gov.uk/WAM/>

2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Dated: 8 July 2011

Head of Planning and Building Standards

PLANNING STATEMENT in support of Application to Vary Conditions 1 and 2 of Planning Permission ref 07/01043/OUTIN for Residential Development (180 Houses) on land to North East of Ness Castle, Inverness

This statement provides supporting information on the reasons for the proposed variation of Conditions 1 and 2 of the original planning permission to allow for the approval of a revised Master Plan and Phasing Plans. These plans now need to be revised mainly to reflect the following changes in circumstances since the planning authority was first minded to grant permission in February 2009: -

1. The extent of developable land relative to priority tree retentions.
2. Clarification of the location and level of the affordable housing development.
3. The change in private housing market conditions.

On 10 February 2009 the Highland Council's Inverness, Nairn, Badenoch and Strathspey Planning Applications and Review Committee agreed that Planning Permission in Principle should be granted for 180 houses at Ness Castle East. A period of extensive negotiations on the terms of the draft Section 75 Agreement followed which delayed the issuing of the decision notice until 8 July 2011. In addition, in the period it took to conclude the Section 75 Agreement the applicants, working jointly with adjoining land owners, the Trustees of the Richard Tyser Overseas Settlement Trust (Tyser Trustees), undertook to work up detailed infrastructure proposals for the joint servicing of their land.

Since August 2010 the Albyn Housing Society has investigated the feasibility of delivering between 21 and 67 affordable houses, spread over Phases 1 and 2, on part of the Ness Castle East land with permission for the 180 houses. However, in that time these proposals and interest by private developers has been hindered by the protracted consideration of tree removals by the Council necessary to clarify the detailed extent of developable land. For this purpose it was necessary to re-assess the condition of directly affected and nearby trees through a survey carried out in October 2012. It then took until late January 2014 to reach a general agreement with Council officials over the location of the affordable housing in relation to priority tree retentions. This has only recently allowed the Albyn Housing Society to finalise the extent of the part of the site that it wishes to develop in advance of progressing to prepare and submit a detailed planning application and conclude missives for the purchase of the land from the owners (the applicants).

With this position being reached, the applicants and co-owners (the Tyser Trustees) will be able to unlock public loan finance from the Scottish Government's House Building Infrastructure Loan Fund and commit to the commencement of the overall infrastructure works contract. The main infrastructure includes the new primary access road from Dores Road and a long off site foul sewer connection to serve the development of up to 984 houses approved at Ness Castle. In the absence of being able to agree the extent of developable land with the Council there was a real concern that both the affordable housing funding and Infrastructure Loan Fund allocations would be diverted to other projects elsewhere. This would have had far reaching consequences for the feasibility of the overall development at Ness Castle, the logical release of effective housing land in Inverness in line with the Local Development Plans and ultimately for the local economy.

The area of the site now being taken forward by the Albyn Housing Society will in its entirety form part of Phase 1 of the development and will comprise 46 dwellings. This development as part of Phase 1 is an essential component of the overall development funding package. However, the location of only part of this land accords with the Phasing Plan approved as part of the Permission in Principle.

There is also now a stronger private development interest in other parts of the approved site. This includes the 36 apartments approved in Full for the part of the site west of the wooded driveway, which will be developed by MacRae Homes Ltd. In addition, the most recent marketing exercise for the remainder of the site has resulted in a healthy number of offers from house builders. In order to retain such interest there is as need to allow the first phase of the development to commence on three areas of



the site. This will cater for the different non-competing housing sectors once the initial infrastructure works are in place. While this might only see the completion of no more than around 30 private houses per annum on average, other amendments are required to the Phasing Plan to provide flexibility in the early part of the development that will meet initial demand and help spread start up costs.

It is accepted that there is still a need for the planning authority to exercise control over the rate of development through phasing, including in relation to the provision of play facilities and impact upon existing school rolls. It is also anticipated that private house builders will break down their developments into smaller and more manageable sub-phases. However, until this development interest is confirmed, flexibility in the initial phase will greatly assist towards getting the overall proposals out of the ground.

In view of the above permission is now sought to vary Conditions 1 and 2 of the Planning Permission in Principle granted under 07/01043/OUTIN to allow the submission of the revised Master Plan and Phasing Plans, which also form part of the current application. The variation of these conditions will in turn allow detailed applications to be progressed for each part of the site. The second part of the proposed wording of Condition 1 also allows for any further changes to the Phasing Plan as a result of Sub-Phases being confirmed to be dealt with under Approval of Matters Specified in Conditions applications.

Conditions 1 and 2 as attached to the permission granted on 8 July 2011 are as follows: -

1. *For the avoidance of doubt, Planning in Permission in Principle is hereby granted for a maximum of 180 residential units, open space and landscaping, including children's play facilities, access from Dores Road and site infrastructure in accordance with the approved Master Plan (1470 PL 400) and Phasing Plan (1470 PL 401A).*

Reason: In order to clarify the terms of the permission and to ensure that the overall layout and design is satisfactory for the site.

2. *For the avoidance of doubt, unless otherwise agreed or amended, the children's play facilities shall be provided in accordance with the approved Master Plan (1470 PL 400) and Phasing Plan (1470 PL 402A) and be available for use prior to the commencement of development in each subsequent Phase.*

Reason: To ensure the orderly development of the site, as the current application grants planning in permission in principle only.

The wording of the proposed variation of Conditions 1 and 2 indicated below has resulted from recent discussions with Highland Council Planning officials.

1. ***For the avoidance of doubt, Planning in Permission in Principle is hereby granted for a maximum of 180 residential units, open space and landscaping, including children's play facilities, access from Dores Road and site infrastructure in accordance with the approved Master Plan (2226 PL 002) and Phasing Plan (2226 PL 003). 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.***

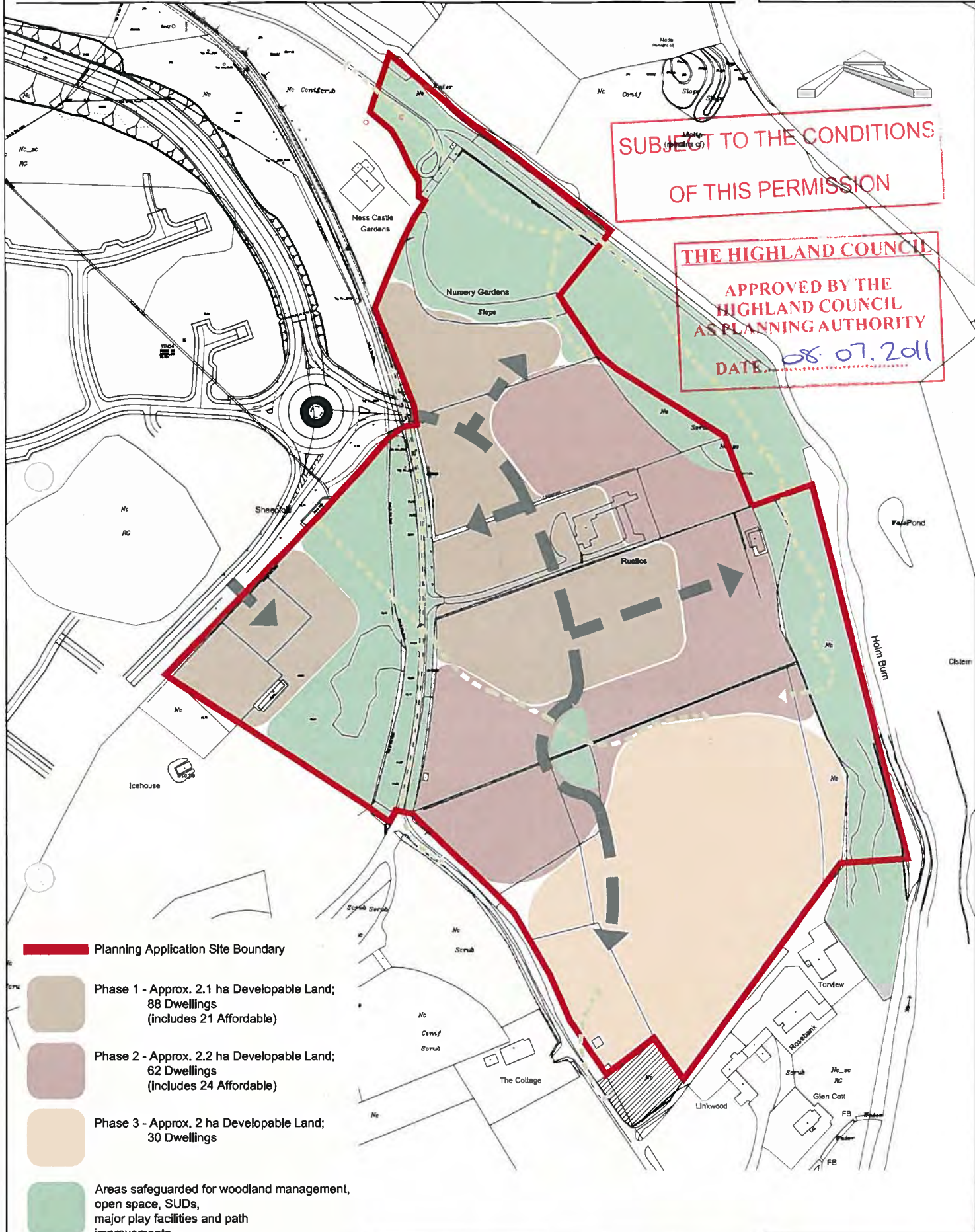
A Sub-Phase means any part of any Phase of Development the subject of an Approval of Matters Specified in Conditions issued by the Council following an application in that behalf, or otherwise subject of any equivalent planning approval following an application in that behalf.

2. ***For the avoidance of doubt, unless otherwise agreed or amended, the children's play facilities shall be provided in accordance with the approved Master Plan (2226 PL 002) and Phasing Plans (2226 PL 003, 004, 005 & 006) and be available for use prior to the commencement of development in each subsequent Phase.***



Ness Castle East : Proposed Phasing Plan August 2010

DO NOT SCALE, IF IN DOUBT PLEASE ASK
 All selling out must be checked on site prior to commencement. Any discrepancy must be reported to G. H. JOHNSTON Building Consultants Ltd



SUBJECT TO THE CONDITIONS OF THIS PERMISSION

THE HIGHLAND COUNCIL
 APPROVED BY THE HIGHLAND COUNCIL AS PLANNING AUTHORITY
 DATE: 08.07.2011

-  Planning Application Site Boundary
-  Phase 1 - Approx. 2.1 ha Developable Land; 88 Dwellings (includes 21 Affordable)
-  Phase 2 - Approx. 2.2 ha Developable Land; 62 Dwellings (includes 24 Affordable)
-  Phase 3 - Approx. 2 ha Developable Land; 30 Dwellings
-  Areas safeguarded for woodland management, open space, SUDs, major play facilities and path improvements.
-  Main Access Roads
-  Key Paths

Drawing Proposed Phasing Plan August '10		
Scale NTS	Date Aug '10	Drawn by SMP
Project no 1470	Dwg no PL 401	Rev A

REVISIONS		
rev.	description	date
A	Additional Woodland Added	Feb'11

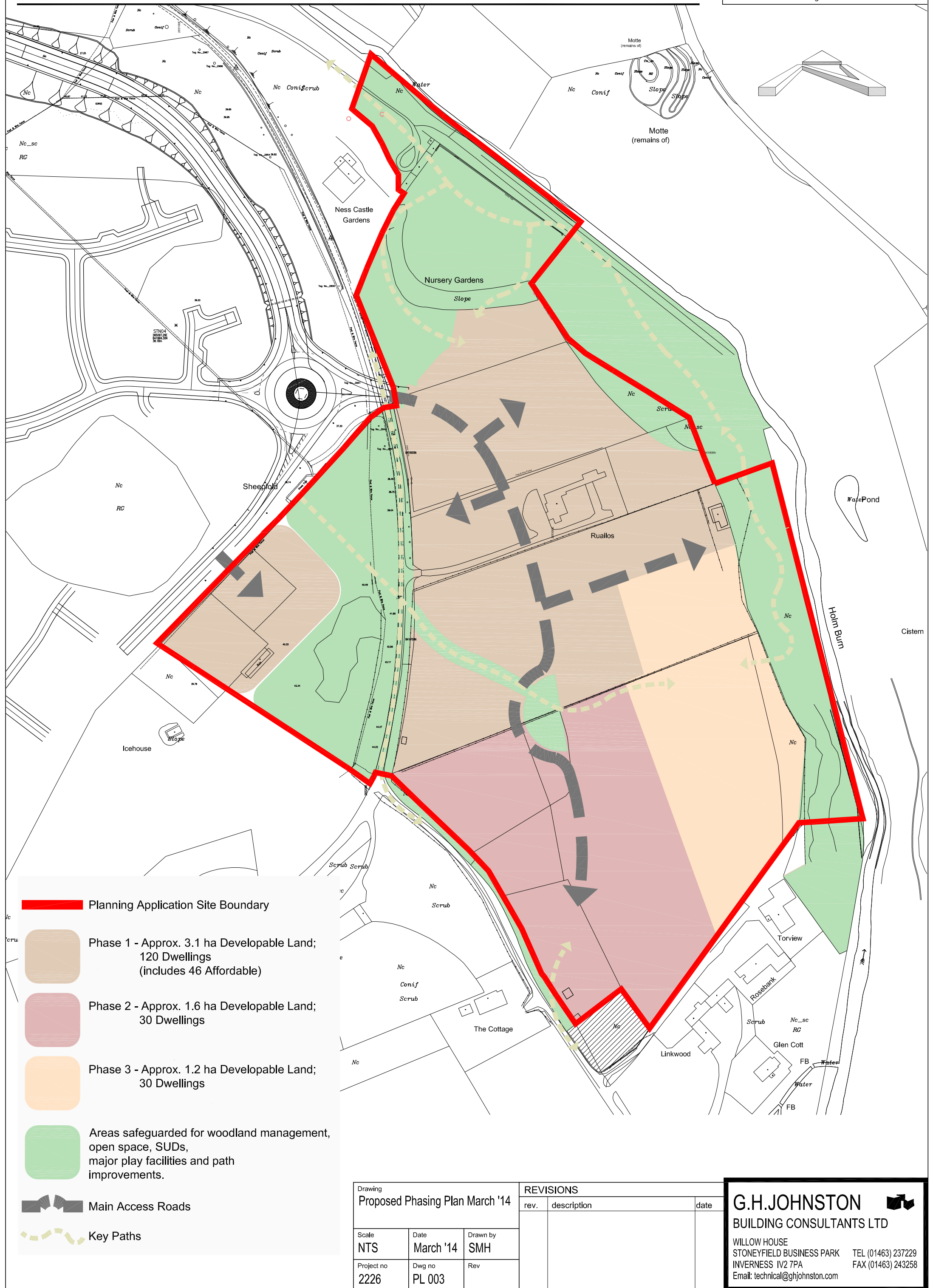
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 BUILDING CONSULTANTS LTD


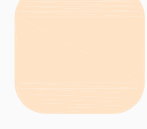
WILLOW HOUSE
 STONEYFIELD BUSINESS PARK
 INVERNESS IV2 7PA
 Email: technical@ghjohnston.com

TEL (01463) 237229
 FAX (01463) 243258

Ness Castle East : Proposed Phasing Plan March 2014

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 G. H. JOHNSTON Building Consultants Ltd



-  Planning Application Site Boundary
-  Phase 1 - Approx. 3.1 ha Developable Land; 120 Dwellings (includes 46 Affordable)
-  Phase 2 - Approx. 1.6 ha Developable Land; 30 Dwellings
-  Phase 3 - Approx. 1.2 ha Developable Land; 30 Dwellings
-  Areas safeguarded for woodland management, open space, SUDs, major play facilities and path improvements.
-  Main Access Roads
-  Key Paths

Drawing Proposed Phasing Plan March '14		
Scale NTS	Date March '14	Drawn by SMH
Project no 2226	Dwg no PL 003	Rev

REVISIONS		
rev.	description	date

G.H.JOHNSTON
 BUILDING CONSULTANTS LTD

WILLOW HOUSE
 STONEYFIELD BUSINESS PARK
 INVERNESS IV2 7PA
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