

THE HIGHLAND COUNCIL

**North PLANNING APPLICATIONS COMMITTEE
5 August 2014**

Agenda Item	6.2
Report No	PLN/050/14

**13/01211/MSC: Tulloch Homes Ltd
Ness Gap Site Ness Road Fortrose**

Report by Area Planning Manager

SUMMARY

Description : Erection of 31 houses (Plots 97-127 Areas E and F)

Recommendation - APPROVE SUBJECT TO CONDITIONS

Ward : 10 - Black Isle

Development category : Local development

Pre-determination hearing : Not required

Reason referred to Committee : Community Council Objection.

1. PROPOSED DEVELOPMENT

- 1.1 Planning permission is sought for the erection of 31 houses on land to the South of Ross Crescent, Fortrose.
- 1.2 The site forms part of the wider 'Ness Gap' development site (as allocated within the Ross and Cromarty East local Plan) and benefits from extant planning permission in principal.
- 1.3 The development will consist of a range of ten house types which include single storey, two storey, detached and semi detached properties.
- 1.4 **Variations:** A revision has been made to the layout of a number of the plots to improve the access and parking arrangements and the drainage scheme since the application was registered.

2. SITE DESCRIPTION

- 2.1 The application site currently constitutes vacant land within the Ness Gap development site other than the north corner which is currently occupied as the site compound. The site is bounded to the north by the local distributor road, known as Ross Crescent beyond which are the initial phases of development within which the majority of houses have been completed. To the south east the site is bounded by the Core Path which is a public right of way, known as the 'Fishermens' path'. To the south of this path lie houses which front onto Chanonry Crescent. To the west

of the site is an area of vacant land which forms part of the open space provision as set out in the planning permission in principal approved for the 'Ness Gap' development site (09/00471/PIP).

3. PLANNING HISTORY

- 3.1 09/00471/OUTRC – Master Plan for the erection of houses, formation of access and parking and provision of amenity/open space – outline consent - 08.06.2010
- 09/00472/FULRC - Erection of 16 affordable houses and 16 affordable flats (Phase 1a & 1b) (Detail) – Granted – 14-04-2010 – Completed.
- 10/02332/FUL - Erection of six houses. Reported to committee 2 November 2010 – Granted – 08-11-2010 – Completed
- 11/01270/MSC - Erection of 39 houses – (Phase B &C). Reported to committee 4 October 2011 - Granted – 19-10-2011– Phase B completed . Phase C -under construction.
- 12/04641/MSC - Erection of 24 houses (Phase D) – Reporting to committee 5 August 2014- Pending consideration.

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown Neighbour
- Representation deadline : 03.05.2013
- Timeous representations : Two
- Late representations : None
- 4.2 Material considerations raised are summarised as follows:
- Phasing and landscaping, including the 3 meter buffer strip with the core path for the site must accord with the terms of the planning permission in principal.
 - Two storey properties should be sited so as not to dominate the lower part of the site.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

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

Drainage. The detail for filter drain is as previous phases and has previously been accepted as part of Road Construction Consent and so is acceptable for these proposals.

Remote footpaths. The path from phase F to Deans Road and Easter Greengate is required and will be adopted by the Council as Roads Authority and form part of the Road Construction Consent (RCC). The paths must be suitable for shared cycle and pedestrian use, a minimum of 2m in width, surfaced and lit.

The in-curtilage car parking spaces meet the Council's minimum standards for two cars and are acceptable. The parking for visitors falls below current Council Standards (0.3 per house) however this matter has not been reserved and the shortfall is therefore accepted at this stage.

5.2 **Historic Environment Team** : No objections. On going monitoring for historical artefacts required as per conditions attached to the planning permission in principal.

5.3 **Fortrose and Rosemarkie Community Council**: The comments offered by the community council can be summarised as follows:

- Premature submission of application for the development of phase E and F.

5.4 **Scottish Water** : No objections. Waste water and water networks may have capacity for this development. Development Impact Assessment must be submitted to Scottish Water.

5.5 **SEPA**: No objections. Surface water drainage proposals acceptable.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

Policy 28 Sustainable development

Policy 29 Design Quality and Place – Making

Policy 34 Settlement development Area

6.2 Ross and Cromarty East Local Plan (as remains in force) 2007

Fortrose Housing Need for development at Ness Gap to comply with the local Policy E plan's framework plan and the masterplan and layout for the site.

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Inner Moray Firth Proposed Local Development Plan (November 2013) - Ness Gap mixed development site. Need to develop in accordance the planning permission in principal 09/00471/OUTRC.

7.3 Scottish Government Planning Policy and Guidance

SPP June 2014

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 **Development Plan Assessment**

8.4 The housing allocation as identified in the Ross and Cromarty East Local Plan of the land at Ness Gap remains in force with the adoption of the Highland wide Local Development Plan. Consequently there is an over riding presumption in favour of further development.

8.5 The master plan indicates 7 phases/areas of private housing development (B- G). Three of these areas have been built out to date. They are the land which lies to the north of the current application site (Phases B and C) and the area which lies to the east of Fortrose Academy known as Phase G.

8.6 The terms of the original planning permission (09/00471/OUTRC) which granted consent for the master plan required that subsequent applications for the development of each phase accord with the provisions of that planning permission and the design statement.

8.7 32 housing units (Ref: 09/00472/FULRC) formed the first phase of development within Ness Gap. These units are the affordable housing contribution for the whole site.

8.8 With respect to the comment submitted by the Community Council regarding the timing of the submission for approval of reserved matter of phases E and F, the planning permission in principal granted for the Ness Gap masterplan identified seven phases/areas of development. There is no specific requirement under the terms of this permission that the phases are built out in a sequential manner. Area G, which is located south of Fortrose Academy, was developed in parallel with areas B and C. There is no planning justification for such a requirement to be imposed.

8.9 **Material Considerations**

8.10 The representations lodged express concern about the proposals to build two storey houses and indicated that these house designs should be restricted to the northern end of the site.

8.11 Of the 31 houses approximately two thirds are to be two storeys. The houses which will form the south western corner of development, lying close to the Core Path and the houses on Chanonry Crescent are all single storey units. This ties in with the style of development proposed on the adjacent plots within phase D (plots 75-80). It is considered that the mix of house designs in the manner proposed is acceptable and meets the terms of the master plan. The approved master plan did not preclude two storey properties. The two storey design has been developed elsewhere on the site. As part of a large housing development which lies within a settlement boundary it is considered appropriate to support a variety of house designs. A diversity of styles adds visual interest to the development as a whole.

8.12 The third party representations seek an assurance that the openness of the core path will be maintained. The landscaping plan submitted indicates a three metre strip which will be planted with native shrubs such as hawthorn and beech which will form hedging along the boundary of plots 97, 105-107. In addition, to the south west of plot 97 there will be an area of open space across which a surfaced footpath will link into the Core footpath. The surrounding land will be laid out in grass with specimen trees. These proposals reflect the landscaping strategy which formed part of the planning permission for the masterplan.

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

8.14 A planning obligation was concluded at the time of granting planning permission in principal regarding the provision of affordable housing for the whole of the Ness Gap development site. The houses have been completed and are now occupied. No additional provision is required in connection with development of phases E and F.

8.15 Developer contributions were also secured for traffic calming measures from Fortrose to Munloch as required by the provisions of the Ross and Cromarty East Local Plan and the terms of the planning permission in principal granted for the masterplan. No additional contributions are required in connection with phases E and F.

8.16 **Other Planning considerations**

8.17 A condition on the planning permission in principal states that no more than ten houses shall be constructed within the application site until a traffic management scheme for Fortrose, Avoch and Munloch has been designed and enacted, unless otherwise agreed in writing by the Planning Authority in consultation with local Members.

8.18 In 2012 the wording of the condition was varied, following consultation with the local Members to allow 24 houses to be constructed before implementation of the traffic calming scheme.

8.19 A package of works has been implemented in accordance with the above requirements. There remains however, one outstanding element of this programme. These works involve the provision of chicanes on Millbank Road in Munloch. The delay associated with the works has been a result of third party objection to the Traffic Order which required the proposals to be reported to the Road and Transport Committee, and a subsequent independent review advised by Legal Services. It was necessary for these matters to be concluded before the works could be progressed through the design, pricing and delivery stages. The implementation of the works is programmed for completion by the Autumn of 2014, outwith the tourist and harvest season.

8.20 It is acknowledged that a breach of the terms of the condition, as revised, has taken place. The Planning Service has been in contact with the developers on a regular basis and also with Community Services (Roads) who are responsible for delivering the traffic calming measures. The works have a clear programme for delivery, which on occasion has required to be revised to take account of other

statutory requirements. On this basis it has not been considered prudent to pursue formal enforcement action in relation to the breach in condition. At all times the Planning Service has taken the matter of public safety as the foremost consideration and whilst no formal enforcement action has been taken the position that the Planning Service has adopted has been taken in detailed consultation with Community Services (Roads) who have the primary responsibility for road safety. Furthermore the traffic calming works undertaken to date have progressed at a proportionate level with the rate of development.

9. CONCLUSION

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and the broad requirements of the masterplan approved under planning permission in principle ref: 09/00471/OUTRC. It is considered acceptable in terms of all other applicable material considerations.

10. RECOMMENDATION

Action required before decision issued N

It is recommended the application be **Approved** subject to the following conditions and reasons / notes to applicant:

1. No development or work shall commence until a detailed specification for all proposed external materials and finishes for each of the houses types proposed (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. Red roof tiles are hereby, specifically excluded as a finish within this development.

Reason: The details shown on the approved plans lack sufficient detail and the use of red tiles in this location is considered inappropriate given the character of the area within which the development is located.

2. All soft landscaping works, shall be carried out in accordance with the plans approved as part of this permission Drawing Number HLD K109.13/SL -01 and no development shall commence until such time as a detailed planting schedule is submitted to, and approved in writing by, the planning authority. The landscaping shall be implemented in a sequential manner as follows:

i) The planting along the south eastern (rear boundaries) of plots 97, 105- 107 shall be carried out prior to the commencement of development on any house, hereby approved.

ii) The remaining soft landscaping works which lie within the red line of the application site shall be completed prior to occupation of the last house.

iii) All other soft landscaping works as detailed on Drawing Number HLD K109.13/SL -01, which form the amenity/open space, as approved under the terms of planning permission in principal 09/00471/OUTRC, shall be completed prior to the commencement of the seventh (7th) house, hereby.

Any variation to the above schedule shall require the prior written approval of the planning authority.

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. The on-going maintenance of these facilities shall be included in a factoring agreement.

Reason : In order to ensure that the approved landscaping works are timeously undertaken on site and that the development accords with the terms of the approved master plan for Ness Gap. .

3. The remote footpath links to the core path, Deans Road and Easter Greengate and all other footpaths shaded yellow on Drawing Number HLD K109.13/SL -01 shall be completed, to the satisfaction of the Planning Authority, prior to commencement of development on the seventh (7th) house, hereby approved. The on-going maintenance of these facilities shall be included in a factoring agreement, unless adopted by the Roads Authority and any variation shall require the prior written approval of the Planning Authority.

Reason : To ensure the timeous provision of these community facilities and their maintenance thereafter. The footpaths, other than the link to the Core path, shall be adopted by the road Authority.

4. All surface water drainage shall be completed in accordance with the scheme and plans approved as part of this permission drawing Number 2675.105 Rev A. The cut off drain along the south eastern boundary of the site with the core path shall be installed prior to the commencement of development of any house. Thereafter the on-going up keep of these facilities shall be included in a factoring agreement and any variation shall require the prior written approval of the Planning Authority.

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

5. Prior to the first occupation of each dwellinghouse hereby approved, parking spaces for a minimum of two cars shall be provided as detailed on the approved plans and shall thereafter be maintained for this use in perpetuity.

Reason : In order to ensure the safety and free flow of traffic on the public road.

6. No development shall commence until a scheme for the maintenance, in perpetuity, of all on-site open spaces, including footpaths, the play area and other parts of the development that are not the exclusive property of any identifiable individual home owner (such as remote footpath 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.

7. No development or work shall commence until a detailed specification for all boundary treatments (means of enclosure) along the boundary with the open/space area (as described in condition 2 (iii) above) have been submitted for the consideration and writing approval of the Planning authority. Thereafter only the agreed means of enclosure shall be used in the development.

Reason: The details shown on the approved plans lack sufficient detail.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS APPROVAL OF MATTERS SPECIFIED IN CONDITIONS

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date on this decision notice.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

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

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

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

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

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

Scottish Water

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

Local Roads Authority Consent

In addition to planning permission, you will require Road construction consent from Community Services (Roads) prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Community Services (Roads) office for further guidance at the earliest opportunity.

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

Mud & Debris on Road

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

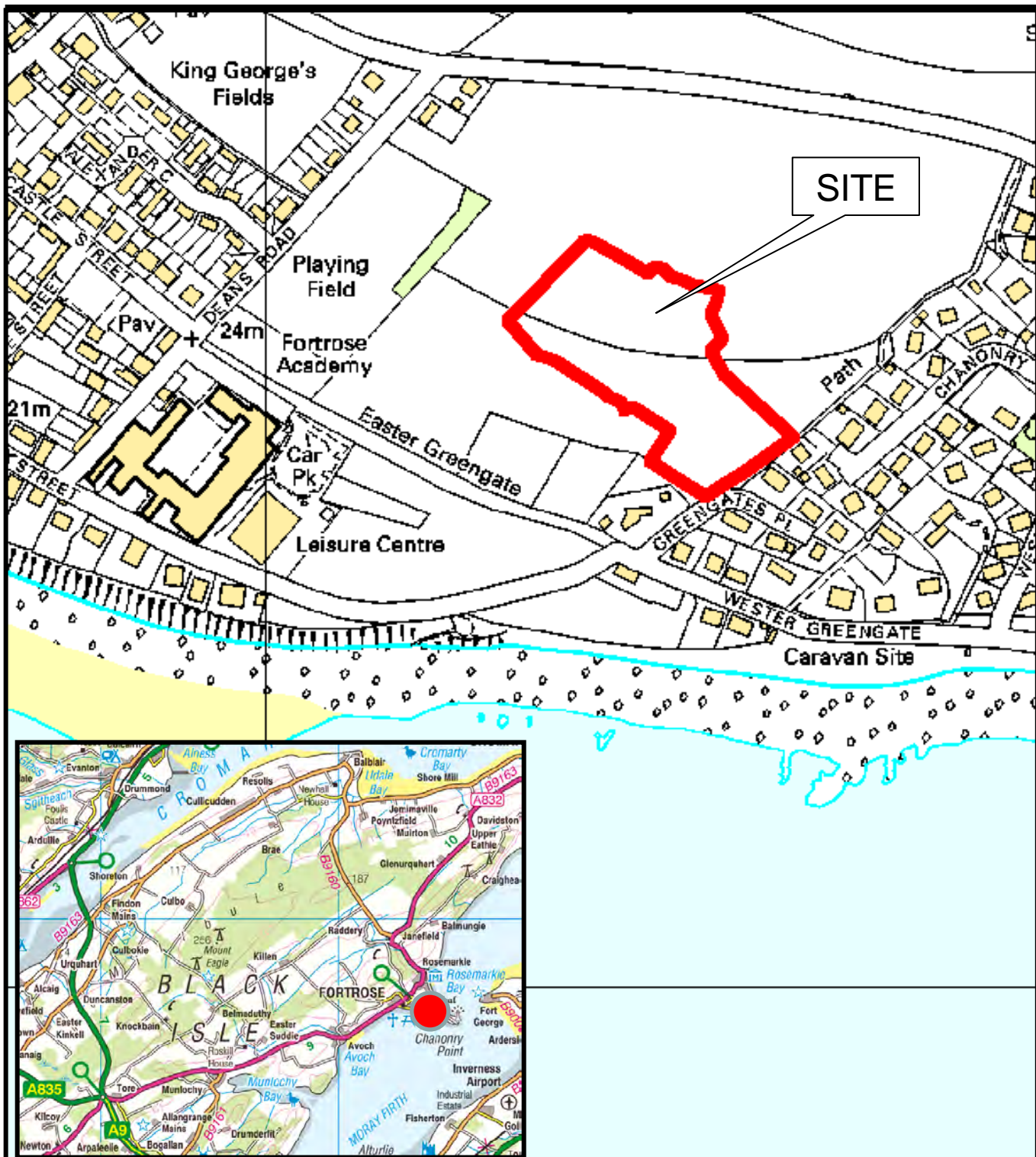
Conditions pertaining to planning permission in principle /09/00471/OUTRC

You are reminded that this Matters Specified in Conditions approval is directly linked to the previous grant of planning permission in principle and that conditional restrictions and requirements of the planning permission in principle consent remain. Failure to comply with these conditions will represent a breach of planning control against which the authority may take enforcement action.

Signature: Dafydd Jones
 Designation: Area Planning Manager North
 Author: Erica McArthur
 Background Papers: Documents referred to in report and in case file.
 Relevant Plans: Plan 1 –Location Plan
 Plan 2 – Site layout Plan – Phased E and F
 Plan 3 – Landscaping Scheme
 Plan 4 – House Type – Ardross
 Plan 5 – House Type – Birch
 Plan 6 – House Type – Eriskay
 Plan 7 – House Type – Glencoul
 Plan 8 – House Type – Harris
 Plan 9 – House Type – Tiree
 Plan 10 – House Type – Kinglass
 Plan 11 – House Type – Kinloch
 Plan 12 – House Type – Strathy
 Plan 13 – House Type – Carnegie

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mr. John Mackenzie,	1 Greengates Place, Fortrose, IV10 8RY	03/05/13	Against
Mr Alan Murray	12 Chanonry Crescent, Fortrose, IV10 8RH	03/05/13	Against

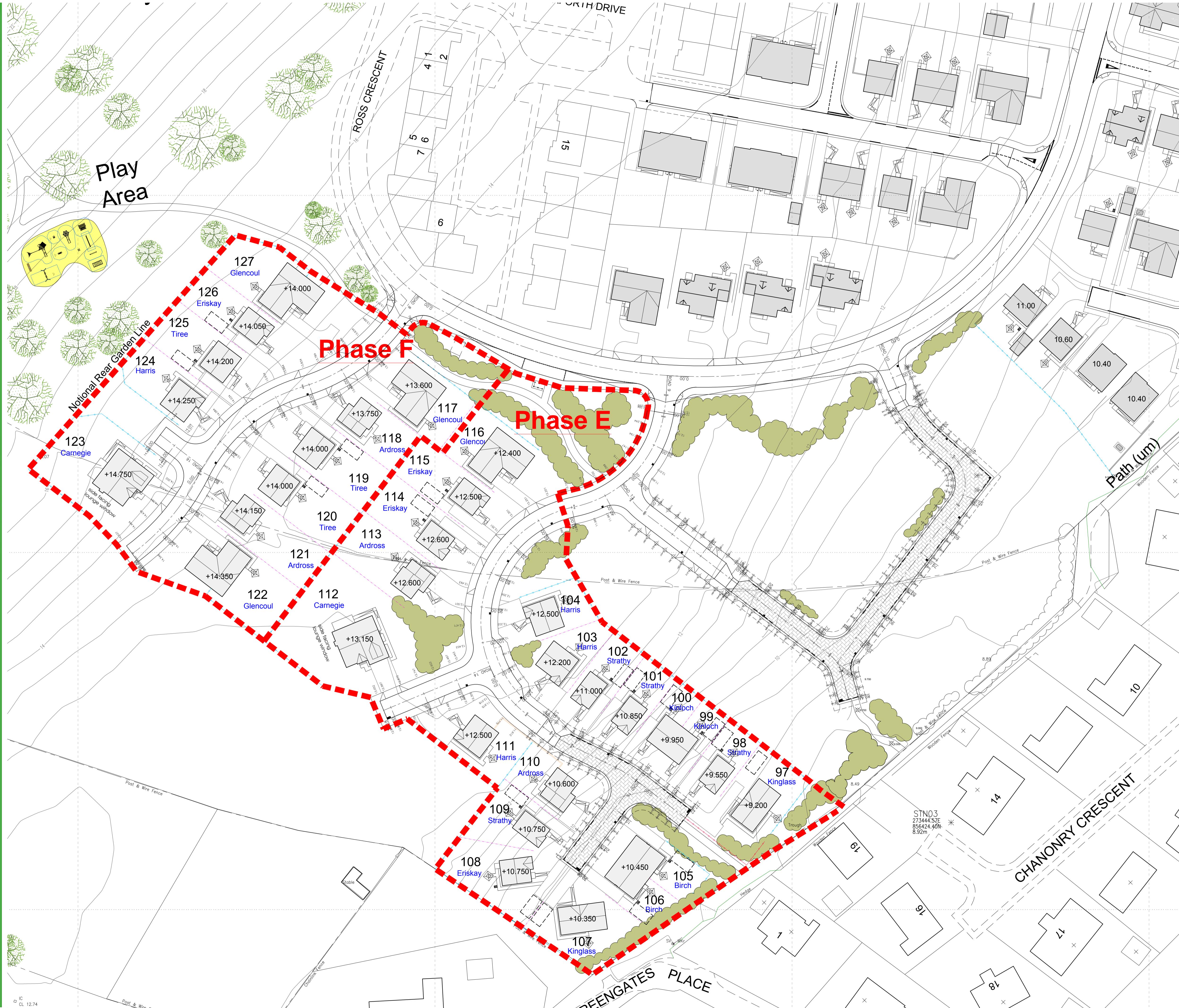


Planning & Development
Service




PLAN 1
13/01211/MSC
Erection of 31 houses
at Ness Gap Site, Ness Road, Fortrose

05 August 2014





LEGEND

-  180mm Vertical screen fence (side & rear)
-  750mm Timber Rail Fence
-  Feature Walls



REVISIONS

Bracewell Stirling Architects

- 5 NESS BANK, INVERNESS, IV2 4SF
TEL: 01463 233760 FAX: 01463 233785
- 38 WALKER TERRACE, TILlicouLTRY, FK13 6EF
TEL: 01259 750301 FAX: 01259 752365

NESS ROAD HOUSING DEVELOPMENT
PHASE E & F - FORTROSE
TULLOCH HOMES LTD

SITE LAYOUT PLAN - PHASE E & F

SCALE 1:500 @ A1 DATE 19.03.14 BY

DWG NO 3953-EF-050 REV



REVISIONS

ALL DIMENSIONS TO BE CHECKED ON SITE
 WORK TO FIGURED DIMENSIONS ONLY
 REPORT DISCREPANCIES TO THE LANDSCAPE ARCHITECT
 AT ONCE BEFORE PROCEEDING

HIGHLAND LANDSCAPE DESIGN
 MORVEN,
 CAROLINE STREET,
 FORRES,
 MORAYSHIRE,
 SCOTLAND,
 IV 36 1AN.
 TEL: 01539 676800
 FAX: 01539 676515
 jlm@highlandlandscapedesign.co.uk

Client
TULLOCH HOMES

**KEITH L WOOD BA (HONS) CMLI
 LANDSCAPE ARCHITECT**
 1, Old Branziel Cottage, Balmorie, By Torrance,
 Glasgow, G64 4AH.
 Tel : 01560 620558 Mob: 07584 054586
 email: keith.l.wood@hopeeworld.com

Project Title
**HOUSING DEVELOPMENT, FORTROSE
 SITES E & F.**
 Drawing Title
**DESIGN + BUILD CONTRACT SOFT
 LANDSCAPE PROPOSALS**

Scale: 1:500/PA0 Date: 14.5.15
 Drawn: k.wood Approved: J.Lodge
 Drawing No. Rev.
 HLD K109/15/SL-01

KEY

- Native species woodland thickets planting with tree /shrub shelters and / or guards.
- Native species shrub thickets planting with shrub shelters and / or guards.
- Mixed species hedging to open space boundaries and site entrances.
- Proposed low growing shrub planting within visibility splays.
- Proposed 3-3.5m tall, selected standard fastigate avenue tree planting.
- Proposed 3-3.5m tall, selected standard tree planting.
- Proposed 2-2.5m feathered trees.
- Proposed 1.5m high feathered conifer trees.
- Proposed close mown grass.
- Proposed front gardens - turfed.
- Proposed rear gardens - soiled and cultivated.
- Proposed species rich long grass areas.