

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
23 June 2015

Agenda Item	6.1
Report No	PLS/043/15

**10/04986/FUL & 10/04988/FUL: Gael Force Marine
Land at Thornbush Quay, Anderson Street, Inverness**

Report by Area Planning Manager - South

SUMMARY – UPDATED POSITION - JUNE 2015

Description: Erection of 38 Flats (10/04986/FUL) and Formation of Communal Landscaped Area (10/04988/FUL)

Recommendation - GRANT

Ward : 15 - Inverness Central

Development category : Local

Reason referred to Committee : Deferred at Planning Committee on 24 May 2011 to resolve issues in relation to flooding. It was re-presented to 19 May 2015 Committee but deferred again to allow for re-advertisement and further consultation and neighbour notification due to the changes in the design to accommodate the reduced floor level because of the flood prevention wall.

1.	PROPOSED DEVELOPMENT
1.1	The proposal is for the erection of 38 flats (10/04986/FUL) and the formation of a communal landscaped area (10/04988/FUL) at Thornbush Quay. Members may recall consideration of the two applications at their meeting on 24 May 2011 at which they were deferred to enable further assessment in relation to flood issues particularly in view of SEPA's objection on the grounds of flood risk. The attached previous reports explain the background to the proposals. Since the submission of the applications Albyn Housing Society has not been able to progress development of the site due to the absence of funding and as a result, the application is now in the name of the landowner, Gael Force Marine.
1.2	In the interim period, circumstances have changed as the Council's flood protection scheme for this area is nearing completion. The provision of the flood alleviation wall protects the site against flood levels up to 4.30m AOD and has resulted in SEPA withdrawing their technical objection. A revised and updated Flood Risk Assessment has been undertaken and this demonstrates that with the flood protection in place, the site is suitable for residential development.

1.3	Variations: Plans submitted on 6 November 2014 showing a reduction in the height of the finished floor levels due to the construction of the flood wall. Flood Risk Assessment (December 2014) submitted in February 2015.
2.	PUBLIC PARTICIPATION
2.1	No representations have been received following re-advertisement of the proposed development in the local Press.
3.	CONSULTATIONS
3.1	<p>Merkinch Community Council: Re-consulted in May 2015 and the following comments have been received:</p> <ul style="list-style-type: none"> • Question capacity in Merkinch School for all the extra children. • Sewerage - there would be extra pressure on the Kessock Road Pump Station • Traffic congestion - Massive lorries servicing Gael Force Marine and the Plumbing Centre use Anderson Street every day next to where these houses are to be built. The traffic generally is already putting huge pressure on the area. There are plans for 24 houses in Craigton Avenue and 60 in Glendoe Terrace and this would bring the new build total to 122. The Community Council does not oppose the principle of the additional houses but consider there needs to be consideration of the implications of the mix of industry and housing.
3.2	<p>SEPA: Re-consulted in November 2014. SEPA have removed their objection based on the fact that the River Ness Flood Prevention Scheme, when completed, will protect the site. It will however be a requirement that a condition is included prohibiting start of development until the Flood Prevention Scheme is complete and operational. In addition, it is recommended that a flood resilient structure and water resistant methods of construction are used with final agreement on finished floor levels being agreed with the Council but in any event with a minimum freeboard of 500-600mm. This remains their position after consultation in May 2015.</p>
3.3	<p>Transport Planning: Re-consulted in November 2014 and May 2015. The updated comments indicate that the latest speed survey information held by the Council for Anderson Street is based on 2007 data. This suggests that there is no problem with speeding traffic. In addition, the latest available road incident data for Anderson Street has been sourced to establish if there have been any subsequent records of road incidents which are linked to excessive speed. The data for the 5 years between 1 January 2008 and 31 December 2012 identifies one damage-only incident in 2010 and no injury incidents, which suggests there is not a road safety concern on this road. Given this information, Transport Planning has no road safety concerns on Anderson Street and, provided that the access and egress to the site is designed and implemented to an appropriate standard, would not envisage a development of this size or type to create any new road safety concerns on Anderson Street.</p>

	<p>It is noted that a Transport Assessment was submitted with the original application in 2010. No specific issues were identified as causing concern and although additional information would typically be required for a newly submitted proposal it is considered matters relating to pedestrian access and connectivity, provision of parking and cycle facilities and a requirement for upgrading existing roads and footways can be dealt with by appropriate conditions. This still remains the case after viewing the response of May 2015 from the Community Council.</p> <p>The Community Council make specific reference to speeding as being an issue. The survey data confirms that there was not a problem in 2007 and the accident data confirms that there is no current road safety problem on Anderson Street.</p>
3.4	<p>Flood Team: The presence of the flood wall improves the situation for the applicant but does not 'remove the flood threat' entirely. The development is still located within the functional flood plain (albeit now behind formal defences) and there remain residual risks that the applicant, through a FRA, would need to assess and mitigate against. These would include (but may not be limited to), overtopping defences; failure/ breach; groundwater/seepage and surface water. In favour of any riverside development behind the flood defences having raised floor levels and possibly resilient construction to a certain height (to be agreed) to mitigate against these residual risks. The extent to which these would be required is reduced considerably by the flood wall, so where the original application faced difficulties applying raised ground/finished floor levels to be above the flood level, much reduced raised floor levels or raised ground levels would now be acceptable.</p> <p>There is however a requirement to assess any revised design/layouts as there are differences in the flood risk between the Thornbush Quay area and the Gaelforce Yard.</p>
3.5	<p>Planning Gain Negotiator: This post did not exist at the time of the submission of the application in 2010 and so is a new consultee and was consulted in May 2015. This assessment is made in terms of the Highland-wide Local Development Plan (HwLDP) Policy 31: Developer Contributions and relevant Supplementary Guidance. Planning Obligations can be sought to mitigate the impact of any development which cannot be mitigated through the planning process or through the use of planning conditions. Any planning obligations sought must accord with Planning Circular 3/2012 Planning Obligations and Good Neighbour Agreements.</p> <p>The following developer obligations are relevant to this proposal:</p> <p><u>Affordable Housing</u> - The provision of at least 25% of the number of units are to be affordable as defined by the Affordable Housing Policy and these would need to be delivered in accordance with that policy.</p> <p><u>Education</u> - Contributions would be sought towards increasing the capacity of Merkinch Primary School as the school does not have capacity for pupils that would be generated by this development. Contributions would range from £206-260 per flat. One bedroom units are exempt as the view is taken that these do not generate pupils. Should the scheme be amended, houses attract a higher rate of contribution.</p> <p><u>Green Infrastructure: Open Space and Play Space</u> - There is the landscaped area subject of application 10/04988/FUL. There is a grassed area surrounding the blocks, however it does not offer any useable open space or play area. If no open space could be provided then normally contributions would be sought towards the upgrade of a nearby open space, for example on Thornbush Road.</p>

	<p>The exact level of the contribution would have to be determined in liaison with Community Services. A waterside walkway around the periphery of the site is shown on the drawings and this would be welcome if this formed part of the proposal.</p> <p><u>Public Art</u> - It can take many forms and can be incorporated into the site and building design. In this instance the upgrade and maintenance of the listed structure on-site could be used. Ideally this provision would be within the site.</p> <p><u>Community Facilities</u> - The local community facilities could meet the needs of this development therefore no contributions would be required.</p> <p><u>Transport</u> - The local public transport network can meet the demands from this proposal therefore no contribution would be required. Any highways enabling works required by Transport Planning are considered separately.</p> <p>It is likely that the contributions would be secured through a Section 75 obligation between the landowners and the Council.</p>	
3.6	Contaminated Land – They were re-consulted in May 2015 and they recommend the same type of condition although this has been updated in terms of its wording.	
4.	DEVELOPMENT PLAN POLICY	
	The following policies are relevant to the assessment of the application	
4.1	Highland-wide Local Development Plan 2012	
	28	Sustainable Design
	29	Design Quality and Place Making
	30	Physical Constraints
	31	Developer Contributions
	32	Affordable Housing
	34	Settlement Development Areas
4.2	Inverness Local Plan	
	57	4.3ha allocated for business/industry
5.	OTHER MATERIAL CONSIDERATIONS	
5.1	Inner Moray Firth Local Development Plan - The Modified Plan Settlement Development Area	
5.2	Highland Council Supplementary Planning Policy Guidance Affordable Housing 2008 Flood Risk and Drainage Impact Assessment 2013	

5.3	Scottish Government Planning Policy and Guidance Not applicable
6.	PLANNING APPRAISAL
6.1	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.
6.2	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.
6.3	Development Plan Policy Assessment
6.3.1	Since the application was presented to Committee in May 2011 the Highland-wide Local Development Plan (HwLDP) has been adopted and the Inner Moray Firth Local Development Plan is now moving forward towards adoption. Policy 34 of HwLDP is relevant in this instance and requires proposals to be assessed in terms of compatibility with the existing pattern of development and landscape character, conformity with existing and approved adjacent land uses, and the effect on any natural, built and cultural heritage feature. Paragraphs 8.4 and 8.5 of the 2011 Committee Report refer to the reasons to support the proposals in policy terms and there have been no changes in policy which would result in any change to this recommendation.
6.4	Material Considerations
6.4.1	Design and Layout – This was viewed as acceptable in 2011 and the only change would be to lower the finished floor levels of the flats as a result of the Flood Defence Wall, which is nearing completion. The original submission comprised a raised finished floor level which allowed for cycle provision within a basement. The removal of this basement means cycle provision has to be provided within the site. This can be dealt with by condition.
6.4.2	Flooding – The erection of the Flood Defence Wall has enabled SEPA to remove their objection and the proposal can now be supported subject to the recommendations made by the Flood Team. The Flood Team has given further consideration of the proposed design and has recommended raising the finished floor levels to an agreed level. The applicant is aware of this requirement.
6.4.3	Community Council objection – Paragraph 8.16 of the 2011 Committee Report summarises the concerns of the Community Council regarding increased traffic flow but it will be noted that Transport Planning are of the opinion that there is no particular problem. The amenity area proposed in application 10/04988/FUL addresses their concern about the absence of provision for play or amenity areas. The Community Council were re-consulted in May 2015 and have raised concerns. Block One consists of 20 two bedroom flats and Block 2 consists of 13 two bedroom flats and 5 three bedroom flats. Foulwater drainage is a matter for resolution between the applicant and Scottish Water.

	<p>While the views of the Community Council are noted and appreciated in terms of traffic congestion Transport Planning are satisfied that no further Transport Assessment is necessary given the size of the development.</p> <p>In terms of the residential developments an application (14/02642/FUL) has been received for 24 houses to the rear of Craigton Avenue but it has not been determined at this point in time and it could be argued that Thornbush Road is the main artery leading into housing development in the area. The housing development at Glendoe Terrace is too remote to this site to be considered relevant and would not result in traffic using either Anderson Street or Thornbush Road. The Inner Moray Firth Local Development Plan and the Inverness Local Plan recognise the existing mix of industrial/commercial use and residential use and while it would be ideal to separate them, the historical development of the area does not allow this.</p>			
6.5	Matters to be secured by Section 75 Agreement			
	<p>The original application proposed that all the flats would be delivered as affordable. With the change in applicant this is no longer the case and accordingly, in line with Council policy, a minimum of 25% of the total number of units should be delivered as affordable. Delivery of this will be secured by a S75 legal agreement. After consultation with the Planning Gain Negotiator, as a new consultee, if present policies are to be taken into account then other developer contributions relating to education are also necessary.</p>			
7.	CONCLUSION			
7.1	<p>All relevant matters have been taken into account when appraising these applications. It is considered that the proposals accord with the principles and policies contained within the Development Plan and are acceptable in terms of all other applicable material considerations.</p> <p>Since the submission of the applications to Committee in 2011 the issue of flooding has been resolved and SEPA's objection removed thereby enabling a positive recommendation subject to appropriate conditions.</p> <p>Members will be aware that the length of time since the deferral in 2011 of both applications is unusual but is a direct result of the ongoing Flood Alleviation Scheme. The design of the Scheme has taken into account the potential for a residential development of this site and as a result the site is now considered suitable for development. It is inevitable that in the intervening period a change to some policies has occurred but none would alter the original recommendation to grant planning permission. There will be a requirement to meet current standards with regard to road layout, provision of off street parking and secure cycling facilities, and bin storage, together with an appropriate provision of affordable homes as well as other developer contributions for education facilities as stated above. These matters can be dealt with by conditions and a legal agreement.</p>			
8.	RECOMMENDATION			
	<table border="1"> <tr> <td>Action required before decision issued</td> <td><u>Y</u></td> <td></td> </tr> </table>	Action required before decision issued	<u>Y</u>	
Action required before decision issued	<u>Y</u>			

	Notification to Scottish Ministers	N	
	Notification to Historic Scotland	N	
	Conclusion of Section 75 Agreement	Y	Affordable Housing and other developer contributions
	Revocation of previous permission	N	
	Subject to the above , it is recommended the application be Granted subject to the conditions and reasons mentioned below:		
	Conditions for 14/04986/FUL		
1.	No development shall commence on site until details of off street parking, secure cycle storage and the location of bin storage facilities have been submitted to and agreed in writing by the Planning Authority. None of the flats hereby granted permission shall be occupied until the facilities so agreed have been implemented and made available for use all to the satisfaction of the Planning Authority.		
	Reason : In the interest of public safety and to comply with relevant Council policies.		
2.	The flats for which planning permission is hereby granted shall not be occupied until the surface water drainage associated with the development, including areas of hardstanding, is installed and completed to the satisfaction of the Planning Authority and in accordance with SEPA's guidelines on SUDS, the details for which shall be submitted to and agreed in writing by the Planning Authority.		
	Reason : In order to ensure that the site is properly and adequately drained.		
3.	The flats for which planning permission is hereby granted shall not be occupied until the method by which foulwater drainage is to be provided on site has been implemented and completed to the satisfaction of the Planning Authority.		
	Reason : In the interests of public health.		
4.	No development shall commence until a scheme to deal with potential contamination on site has been submitted to and agreed in writing by the Planning Authority. The scheme shall include: a) the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be submitted to and agreed in writing by with the Planning Authority, and undertaken in accordance with PAN 33 (2000) and British Standard BS 10175:2011+A1:2013 Investigation of Potentially Contaminated Sites - Code of Practice;		

	<p>b) the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works, and proposed verification plan to ensure that the site is fit for the uses proposed;</p> <p>c) measures to deal with contamination during construction works;</p> <p>d) in the event that remedial action be required, a validation report that will validate and verify the completion of the agreed decontamination measures;</p> <p>e) in the event that monitoring is required, monitoring statements shall be submitted at agreed intervals for such time period as is considered appropriate by the Planning Authority.</p> <p>No development shall commence until written confirmation has been received that the scheme has been implemented, completed and, if required, monitoring measurements are in place, all to the satisfaction of the Planning Authority.</p>
	<p>Reason : To ensure potential risks arising from previous site uses have been fully assessed and to ensure remedial works are carried out to the agreed protocol.</p>
5.	<p>No development shall commence until full details of any external lighting to be used within the site and/or along its boundaries and/or access have been submitted to, and approved in writing by, the Planning Authority. Such details shall include full details of the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any direct illumination, glare or light spillage outwith the site boundary. Thereafter only the approved details shall be implemented.</p>
	<p>Reason : In order to protect the amenity of the area.</p>
6.	<p>No flats shall be occupied until a dedicated surface water outfall for the relief of flood water is constructed and completed to the satisfaction of the Planning Authority in consultation with the Roads Authority.</p>
	<p>Reason : To ensure that any flood water is removed as quickly as possible.</p>
7.	<p>No development, including any demolition works, shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the Planning Authority. The statement shall provide for:</p> <ul style="list-style-type: none"> i. the parking of vehicles of site operatives and visitors; ii. loading and unloading of plant and materials; iii. storage of plant and materials used in constructing the development; iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; v. wheel washing facilities; vi. measures to control the emission of dust and dirt during construction; and vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

	The approved Construction Method Statement shall be adhered to throughout the construction period.
	Reason : In the interests of residential amenity.
8.	No development shall commence on site until a scheme for protecting properties adjacent to the development site from dust has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall be implemented before any part of the development is brought into use and shall thereafter be maintained throughout the construction period.
	Reason : In order to protect the environment and amenity of residents.
9.	No works shall start on site until a suitable management and maintenance scheme for the roads, footpaths, parking areas, play areas and hard or soft landscaped areas that are not to be adopted by the Council is submitted to, and approved in writing by, the Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme.
	Reason : In the interests of road traffic safety.
10.	No works shall start on site until a fully detailed scheme of landscaping for the site, including a scheme of maintenance, is submitted to, and approved in writing by, the Planning Authority. All planting thereby approved shall be undertaken in the first planting season following occupation of the development and shall thereafter be maintained in accordance with the approved scheme of maintenance. Any plants which, within a period of five years from the occupation of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.
	Reason : In the interests of amenity and in order to ensure that the development is adequately screened.
11.	No development shall commence until full details of a covered and secure communal bicycle storage/racking system for 38 bicycles have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the storage/racking system shall be installed in accordance with these approved details prior to the first occupation of the development hereby approved.
	Reason : In the interests of providing a wide range of facilities for non-motor car residents, in the interests of sustainability.
12.	The flats for which planning permission is hereby granted shall not be occupied until the area set aside for car parking has been laid out and surfaced to the satisfaction of the Planning Authority. The car parking area shall be retained permanently thereafter for the accommodation of vehicles visiting the site and shall not be used for any other purpose.
	Reason : To ensure that car parking accommodation is made permanently available to the standards adopted by the Roads Authority in the interest of highway safety.

13.	Prior to occupation of the first flat or completion of the development, whichever is the sooner, the landscaped area granted within application 10/04988/FUL shall be formed to the satisfaction of the Planning Authority.
	Reason : To ensure the landscaped area is provided for the flats in terms of amenity.
14.	Prior to the commencement of 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 for investigation.
	Reason : In order to ensure the protection of the archaeological interest of the site.
15.	No development shall commence on site until the River Ness Flood Prevention Scheme is complete and fully operational. Reason: In the interests of public safety.
16.	Unless otherwise approved in writing with the Planning Authority, the finished floor levels shall be set at 3.45m AOD for Block 1 and 3.65m AOD for Block 2.
	Reason : To ensure the site is above the 1 in 200 year flood event as identified in the Flood Risk Assessment.
17.	No development shall commence on site until details of all finishing materials are submitted to and agreed in writing by the Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
	Reason : In the interests of visual amenity.
	Conditions for 10/04988/FUL
1.	No development shall commence until a scheme to deal with potential contamination on site has been submitted to and agreed in writing by the Planning Authority. The scheme shall include: a) the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be submitted to and agreed in writing by with the Planning Authority, and undertaken in accordance with PAN 33 (2000) and British Standard BS 10175:2011+A1:2013 Investigation of Potentially Contaminated Sites - Code of Practice; b) the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works, and proposed verification plan to ensure that the site is fit for the uses proposed;

	<p>c) measures to deal with contamination during construction works;</p> <p>d) in the event that remedial action be required, a validation report that will validate and verify the completion of the agreed decontamination measures;</p> <p>e) in the event that monitoring is required, monitoring statements shall be submitted at agreed intervals for such time period as is considered appropriate by the Planning Authority.</p> <p>No development shall commence until written confirmation has been received that the scheme has been implemented, completed and, if required, monitoring measurements are in place, all to the satisfaction of the Planning Authority.</p>
	<p>Reason: To ensure potential risks arising from previous site uses have been fully assessed and to ensure remedial works are carried out to the agreed protocol.</p>
2.	<p>No works shall start on site until a fully detailed scheme of landscaping for the site, including a scheme of maintenance, is submitted to, and approved in writing by, the Planning Authority. All planting thereby approved shall be undertaken in the first planting season following occupation of the development and shall thereafter be maintained in accordance with the approved scheme of maintenance. Any plants which, within a period of five years from the occupation of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.</p>
	<p>Reason: In the interests of amenity and in order to ensure that the development is adequately screened.</p>
3.	<p>The landscaped area shall be formed to the satisfaction of the Planning Authority prior to occupation of the first flat or completion of the development granted within application 10/04986/FUL, whichever is the sooner.</p>
	<p>Reason: To ensure the landscaped area is provided for the flats in terms of amenity.</p>
4.	<p>No works shall start on site until it has been demonstrated that the landscaped area will have no detrimental impact on the functional floodplain to the satisfaction of the Planning Authority in consultation with SEPA. Unless otherwise approved in writing with the Planning Authority, there shall be no structures such as raised planters within this area unless it can be proven that there will be no detrimental impact on the flood prevention measures.</p>
	<p>Reason: In the interests of amenity and flood prevention.</p>
5.	<p>Prior to the commencement of 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 for investigation.</p>

Reason: In order to ensure the protection of the archaeological interest of the site.

REASON FOR DECISIONS

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

TIME LIMITS

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

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. As per Scottish Planning Policy (p.259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Flood resilient design and materials should be employed for this site, as per guidance in Planning Advice Note (PAN) 69: Planning and Building Standards Advice on Flooding.

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 may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS 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 TECS Roads office for further guidance at the earliest opportunity.

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

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

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.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

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

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Signature: Allan J Todd
Designation: Area Planning Manager - South
Author: Keith Gibson
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Location Plan
Plan 2 - Site Layout Plan
Plan 3 - Elevation Plan - Block 1
Plan 4 - Floor Plan - Block 1
Plan 5 - Elevation Plan - Block 2
Plan 6 - Floor Plan - Block 2

THE HIGHLAND COUNCIL

**INVERNESS, NAIRN, BADENOCH AND STRATHSPEY
PLANNING APPLICATIONS COMMITTEE –24 May 2011**

Agenda Item	3.1
Report No	PLI 30/11

10/04986/FUL: Albyn Housing Society, Anderson Street, Inverness

Report by Area Planning and Building Standards Manager

SUMMARY

Description : The proposal is to erect 38 affordable flats at Anderson Street, Inverness

Recommendation - GRANT PLANNING PERMISSION

Ward : 15 - Central

Development category : Local

Pre-determination hearing: none

Reason referred to Committee: Technical objection by the Scottish Environment Protection Agency. Members should note that, if approved, the application will have to be referred to Scottish Ministers as the objection is on flood related grounds. There is also an objection by the Community Council, while a previous proposal on the same site was refused by Committee, contrary to officer recommendation.

1. PROPOSAL

- 1.1 The proposal is to erect 38 affordable flats at Anderson Street, Inverness, adjacent to the existing Gaelforce Marine building. The flats are between four and five storeys in height and finished in white render, buff and light grey facing block and a light grey aluminium seamed cladding for the roof covering. The layout shows two separate blocks of 18 and 20 flats respectively. Two access points and 47 parking spaces are also shown. The site is relatively high density with limited amenity space although application 10/04988/FUL for a communal landscaped area is an attempt to remedy this deficiency.
- 1.2 A key aspect of the proposal is the upfilling of the site. The site at present is generally in the range of +3.0 to +3.5m Above Ordnance Datum (AOD). It is intended, therefore to upfill to approximately +4.25m AOD to ensure the land is above the 1 in 200 year flood event, which is calculated in the studies carried out for the Highland Council Flood Scheme at +3.75m AOD.
- 1.3 The layout, as noted above shows two access points from Anderson Street, allowing for vehicle circulation. The applicants propose to dispose of surface water through a pipe to the River Ness after appropriate filtration treatment.

- 1.4 The applicants have submitted a Flood Risk Assessment for the present site and Thornbush Quay. A proposal for the latter site for a large residential scheme is still under consideration. The Assessment concludes that the site is within the coastal flood plain for the 1 in 200 year return period. Coastal flooding is the primary flood risk. To alleviate the flood risk, the Assessment proposes to raise ground levels within the site to 4.25m AOD in line with the River Ness Tidal Flood Prevention Scheme. The Assessment further recommends that finished ground floor levels be set no lower than 4.54m AOD.
- 1.5 The Assessment recognises that raising the land has the potential to create an island of development and therefore considers a number of access\egress routes. It suggests a potential safe route to the Community Centre. It concludes that under the 1 in 200 year event the maximum water depth along a vehicle access route is estimated at 0.4m and 0.2m for pedestrians. This is expected to last for a maximum of two hours in any 1 in 200 year event. The Assessment also recommends the installation of additional drainage from nearby roads under the development site to increase the rate of discharge of flood waters to the Ness. The proposed Highland Council River Ness Tidal Flood Prevention Scheme would prevent any overtopping and would remove the access\egress issue when complete.
- 1.6 The applicant has also submitted a Supporting Design Statement, Transport Assessment and Ground Investigation Interpretive Report. The Design Statement sets the site in context and outlines the proposed design of the flats, although this has now altered as described below. TEC Services have no objection to the Transport Assessment. The Ground Investigation Interpretive Report concludes that there are contamination risks notably in relation to lead, benzo(a)pyrene and dibenzo(a,h)anthracene but suggests a methodology to address the issue.
- 1.7 Since the previous application was submitted in 2008, market conditions in the property sector have altered markedly. The cost of the original submitted designs was well above the benchmark for affordable housing and was to be subsidised by the private sector scheme proposed for Thornbush Quay. The changed market conditions have led to a reassessment and new designs submitted that are closer to benchmark costs.

2. SITE DESCRIPTION

- 2.1 The site formed part of the Gaelforce Marine complex, now owned by the Caledonian Property Partnership. More specifically, it adjoins the part of the complex that abuts Anderson Street. Surrounding uses include the Gaelforce Marine megastore, several residential properties and various businesses. It can reasonably be described as being located in an area of mixed uses.

3. PLANNING HISTORY

- 3.1 04/00702/FULIN: Planning permission for the demolition of two derelict buildings, removal and infilling of redundant slip way and levelling of site.
- 08/00478/OUTIN: Pending application for the development of 151 flats on land immediately to the east of the present site.
- 08/00479/FULIN: Application for 38 flats refused on the following grounds

“Due to the unsuitability of the site for the proposed development due to unresolved flooding issues (thus contrary to SPP7) and the lack of residential amenity.”

08/00862/FULIN: Construction of Riverbank Defences on both banks of the River Ness – Planning permission.

10/04988/FUL: Formation of communal landscaped area: Pending Decision

4. PUBLIC PARTICIPATION

4.1 Advertised : Contrary to the Development Plan: 15.04.11

Representation deadline: 29.04.11

Timeous representations: representation from Community Council

Late representations: None

4.2 All letters of representation can be viewed at the Area Planning Office and for Councillors, will be retained within the members lounge prior to the Committee Meeting.

5. SUPPORTING INFORMATION FROM THE APPLICANT

5.1 Cycle provision will be made in the basement of the proposed flats.

The site will be raised by 750mm above existing ground level to provide an element of the proposed flood alleviation scheme. The flood risk report has met the approval of TECS Roads.

With the previous application there was insufficient open space provided within this first phase of development and to meet the concerns of the Planning Committee the central area has been dedicated to a landscaping scheme (application 10/04988/FUL refers).

6. CONSULTATIONS

6.1 **Scottish Environment Protection Agency:** object to the proposal unless the following conditions are attached to any consent

- No development can commence until the adjoining River Ness Flood Prevention Scheme is complete and operational and it is confirmed in writing to the Planning Authority that it provides a defence level of +4.25m AOD;
- The site itself will be raised to give a new minimum ground level of +4.25m AOD;
- The raised site itself directly adjoins land outwith the functional flood plain i.e. land which is protected by the Flood Prevention Scheme.

6.2 **Architecture and Design Scotland:** Submitted report refers to both the present site and the proposal for Thornbush Quay. Generally welcome principle of the

development. Some concerns over the design, notably proposals do not provide a coherent street frontage along Anderson Street; there is a lack of amenity space and access to riverside needs to be addressed.

6.3 **Highlands and Islands Airports:** No objections.

6.4 **Scottish Water:** No objections.

6.5 **Head of Housing Development and Estates:** Support proposal.

6.6 **TEC Services:** TEC Services has three areas of consultation as follows:

Contaminated Land: No objections subject to standard condition in relation to contaminated land.

Roads: No objections subject to appropriate cycle storage. 47 car parking spaces considered acceptable. It should be noted that the roads within the site would not be considered for adoption by Highland Council.

Flood Issues: The conclusions of the Flood Risk Appraisal are accepted. Accept that the site itself will not flood under the 1 in 200 year event but that there will be an "island of development" for a short period of time before the flood waters disperse. In order to disperse the water as quickly as possible a dedicated outfall to the River Ness should be constructed, the design to be agreed with TECS.

6.7 **Archaeology:** recommend standard condition

6.8 **Merkinch Community Council:** Object on the following grounds:

- Result in increased traffic flow along Anderson Street where there is an existing problem with speeding and no traffic calming measures included in the development
- No provision for play or amenity areas

7. **POLICY**

7.1 The following policies are relevant to the assessment of the proposal

Highland Structure Plan 2001

Policy G1. Conformity with Policy

Policy G2. Design for Sustainability

Policy H4. Affordable Housing

Policy H5. Affordable Housing

Policy NH1. Flood Consultation Areas

Inverness Local Plan

Policy GP1. Design Principles

Policy GP3. Designed Sustainable Construction

Policy GP4. Affordable Housing

Policy GP13. Flood Risk

Policy GP15. Contaminated Land

Policy GP16. Flood Appraisal

Policy 2.1. Revitalisation- Riverfront

Policy 2.57. Business/Industry

Affordable Housing : Supplementary Planning Guidance

7.2 The proposal also requires to be assessed against the following relevant Scottish Planning Policies (SPP); National Planning Policy Guidelines (NPPG), and Planning Advice Notes (PAN):

- Scottish Planning Policy

8. PLANNING APPRAISAL

8.1 A previous application was submitted for the same development per 08/00479/FULIN which was refused on the grounds set out in paragraph 3.1 above. The proposal has not changed but a further application has been submitted for a landscaped area on the north boundary considered elsewhere on this Committee Agenda.

8.2 Determining issues - 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.

8.3 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.

8.4 Development Plan Policy Assessment

The site is allocated in the Local Plan for business/industrial uses. The proposal is for affordable housing and the application is therefore clearly contrary to the Development Plan. This raises the question as to whether or not there are other material considerations that justify overturning the Development Plan and approving the proposal. In this instance it is considered that there are such justifications.

8.5 Members will be aware that there has been significant regeneration of the surrounding area over the past several years, particularly through new, affordable housing development. This has been supported by the Council and, in this respect, Members will note the advice from the Head of Housing Development and Estates. Secondly, the Local Plan supports revitalisation of the riverfront. Thirdly, this is a relatively small area of land and its loss will not seriously impact on the overall land supply, particularly as the Council is seeking to develop new business/industrial land under the A96 Corridor Framework Plan. For these

reasons, the proposal is considered acceptable.

8.6 **Material Considerations**

Design and Layout

The layout is in the form of an L shape with 20 of the flats facing onto Anderson Street and 18 located at right angles to the river. Two access points are shown onto Anderson Street with the bulk of parking to the rear of block 1. TEC Services are satisfied with this layout. However, amenity space is limited with the majority of the site taken up with flats/parking/access road. There will be limited communal green space but in this regard the proposal does not differ significantly from other developments in the area, for example, the new developments around Jamaica Street. Also, the submission of the related application to form a landscaped area helps to address this concern.

8.7 The design of the flats themselves is considered acceptable. They range between three and five storeys and the varying height helps break up the overall façade. This is also achieved through the use of colour and the mix of materials. The flats will be finished in buff coloured facing block, white render and grey aluminium seam cladding for the roofs.

8.8 **Impact on Amenity**

There are few residential properties in the immediate vicinity of the proposed flats. There are two properties immediately opposite with others to the south at MacLennan Crescent and further along Anderson Street. Impact on residential amenity will therefore be limited.

8.9 **Contamination**

The Ground Investigation Interpretive Report submitted by the applicant identifies that some contamination issues remain. The report has been considered by the Council's Contaminated Land Section. The advice is that the imposition of the standard planning condition in relation to contaminated land will allow the issue to be addressed.

8.10 **Flooding**

The key issue in relation to the proposal is flood risk. In this regard, Members will note that SEPA is objecting to the proposal on the basis that no development should be allowed until the River Ness Flood Prevention Scheme is completed.

8.11 The applicant, as noted above, has submitted a flood risk appraisal. This has been accepted by all parties. It is also agreed that the finished floor levels will ensure that the flats themselves will not flood during the 1 in 200 year event. The issue is that when such an event does occur, an island of development will be created with the flats completely surrounded by water. A pedestrian escape route is identified, although this will be under water to a maximum of some 20cm for up to 2 hours. The other issue is access by emergency vehicles during the flood. Roads are likely to be covered by up to 40cm of water, whereas TECS advise that the emergency services prefer operating only up to 15cm. However, the approved Flood

Prevention Scheme, when completed, will deal with these issues, hence the stance taken by SEPA.

- 8.12 The advice from TEC Services is that the flood risk is acceptable, given the short duration of the event, perhaps one to two hours, and that water dispersal can be improved by the construction of a dedicated outfall to the River Ness. This would be constructed at the lowest point adjacent to the development and would remove the flood water more quickly.
- 8.13 The River Ness Flood Scheme Order is in place and, and planning permission granted in December 2009. However, final completion of the scheme is likely to be years away. If the advice of SEPA is accepted, further development/regeneration in this area would be severely restricted, if not halted altogether. This is not a tenable proposition, especially when any risk can be managed.
- 8.14 Scottish Planning Policy contains advice on landraising. It notes that this may have a role but that it should not create islands of new development but should adjoin developed areas outwith the functional flood plain.
- 8.15 Flooding is a topical issue and can have serious impacts on people's lives. In this instance a decision must be taken on the risks involved and how these balance with the proposal itself – the provision of affordable housing – a key element in the Council's overall strategy for the Highlands. There is no doubt that an island of development will be created under the 1 in 200 year flood event. This is contrary to central Government advice and the advice of SEPA. On the other hand, the flood will be short in duration and a pedestrian escape route identified, albeit this will be under up to 20cm of water and only for up to 2 hours. In addition TEC Services have indicated that a new dedicated outfall will help disperse the water more quickly. Accepting the advice of SEPA would also mean a loss of affordable housing and may involve a moratorium on further development in this general area until the Flood Scheme is in place. In this instance, it is considered that the balance favours support for the proposal.
- 8.16 The representations relate to two issues. The Community Council is concerned about the increased traffic flow along Anderson Street where they perceive there is an existing problem with speeding. Traffic calming measures are only within the site itself. A rumble strip will be located at both entrances to the site. In consultations with TECS Area Roads on the previous application this was not raised as an issue and there is no evidence of it being a problem on Anderson Street. The Community Council has also expressed concern about the absence of provision for play or amenity areas but with the application for a landscaped area on the north boundary, this should help address this concern. Development in this general area has been of a relatively high density which is consistent with the older areas around India Street and Madras Street. The Council's Guidance on open space suggests that there should be amenity open space within 300m of a development with local equipped play areas and natural greenspace within 600m. There is amenity open space around the site, although relatively limited, but Members will be aware that there is significant open space to the north at South Kessock with playing fields, natural open space and play areas and it would seem unreasonable to insist on provision within the application site.

9. CONCLUSION

- 9.1 The proposal is contrary to the Development Plan. However, in this instance, it is considered that the type of development – affordable housing and the ongoing regeneration of the riverfront, and this area in particular, justify support for the development. The second key issue is flood risk. The issues are set out in para 8.14 above where it is concluded that the overall benefits of the proposal outweigh the risks inherent in allowing an island of development to form in the 1 in 200 year flood event.

RECOMMENDATION

Action required before decision issued Y

Notification to Scottish Ministers Y

Notification to Historic Scotland N

Conclusion of Section 75 Agreement N

Revocation of previous permission N

Reason: Notification to Ministers is required under the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 because of the unresolved objection from SEPA regarding flood risk.

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons / notes to applicant:

1. Except as otherwise provided by the terms of this permission, the developer shall construct and operate the development in accordance with the plans and supporting information submitted with the application and docketed as relative hereto with no deviation therefrom unless otherwise approved in writing by the Planning Authority.

Reason: In order to clarify the terms of the permission hereby granted and to ensure that the development is implemented as approved.

2. The flats for which planning permission is hereby approved shall not be occupied unless the surface water drainage associated with the development including areas of hardstanding, is installed and completed to the satisfaction of the Planning Authority and in accordance with SEPA's guidelines on SUDS.

Reason: In order to ensure that the site is properly and adequately drained.

3. The flats shall not be occupied unless the method by which foul drainage is to be provided on site has been implemented and completed to the satisfaction of the

Planning Authority.

Reason: In the interests of public health.

4. Construction work associated with the development hereby approved, for which noise is audible at the boundary of the site shall only be carried out between 08:00 and 19:00 Monday to Friday, between 08:00 and 13:00 on Saturdays and at no time on a Sunday or Public Holidays.

Reason: To minimise the risk of noise nuisance given the close proximity of the existing houses.

5. Delivery of construction materials to the site shall be between the hours of 08:00 and 18:00 Monday to Friday, 08:00 and 13:00 on Saturdays and at no time on Sundays or Public Holidays.

Reason: To minimise the risk of noise nuisance given the close proximity of the existing houses.

6. Prior to the commencement of development, the Applicant shall provide, by way of an assessment of potential contamination issues, evidence that the site is suitable for its proposed use. Such an assessment shall be consistent with the approach to land contamination contained in Planning Advice Note 33, and with the British Standard for investigation of potentially contaminated sites (BS10175:2001). Should contamination be found, the applicant shall submit a written remediation strategy and effect remediation in consultation with TECS Services, such that the site is suitable for use.

Reason: To ensure potential risks arising from previous site uses have been fully assessed and to ensure remedial works are carried out to the agreed protocol.

7. A street lighting design, which shall minimise light spill on to adjacent areas and skywards, shall be submitted to and require the approval of the Planning Authority prior to the commencement of road construction.

Reason: In order to protect the amenity of the area.

8. No flats shall be occupied until a dedicated surface water outfall for the relief of flood water is constructed and completed to the satisfaction of the Planning Authority in consultation with the Roads Authority.

Reason: To ensure that flood water is removed as quickly as possible.

9. No works shall start on site until a construction method statement is submitted for the prior written approval of the Planning Authority. This shall include the proposed location of the works compound, the means of screening the site, how the site will be developed and mitigation measures in terms of dust and noise for adjacent premises. The development shall be carried out in accordance with the approved scheme and statement.

Reason: In the interests of residential amenity.

10. The applicant shall take all necessary measures to avoid nuisance to neighbouring residents caused by dust which arises from operations carried out in connection with the planning permission.

Reason: In order to protect the environment and amenity of residents.

11. No works shall start on site until a suitable management and maintenance scheme for the roads, footpaths, parking areas, play areas and hard or soft landscaped areas that are not to be adopted by the Council is submitted to and require the approval in writing of the Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme.

Reason: In the interests of road traffic safety.

12. No works shall start on site until a fully detailed scheme of landscaping for the site, including a scheme of maintenance, is submitted to and require the approval in writing of the Planning Authority. All planting thereby approved shall be undertaken in the first planting season following occupation of the development and shall thereafter be maintained in accordance with the approved scheme of maintenance. Any plants which, within a period of five years from the occupation of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.

Reason: In the interests of amenity and in order to ensure that the development is adequately screened.

13. Prior to completion of the works hereby permitted, cycle storage of a type and in a location previously submitted to and agreed in writing by the Planning Authority shall be provided and permanently retained thereafter.

Reason: In the interests of providing a wide range of facilities for non-motor car residents, in the interests of sustainability

14. Before the buildings hereby permitted are first occupied, the area set aside for car parking shall be laid out and surfaced to the satisfaction of the Planning Authority and retained permanently thereafter for the accommodation of vehicles visiting the site and shall not be used for any other purpose.

Reason: To ensure that car parking accommodation is made permanently available to the standards adopted by the Roads Authority in the interest of highway safety.

15. Prior to occupation of the first flat or completion of the development, whichever is the soonest, the landscaped area approved with application 10/04988/FUL shall be formed to the satisfaction of the Planning Authority.

Reason: To ensure the landscaped area is provided for the flats in terms of amenity.

16. Prior to the commencement of 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 for investigation.

Reason: In order to ensure the protection of the archaeological interest of the site.

17. Unless otherwise approved in writing with the Planning Authority, the site shall be upfilled to 4.25m AOD and the ground floor level shall be set at 4.54m AOD.

Reason: To ensure the site is above 1 in 200 year flood event as identified in the Flood Risk assessment.

Note to Applicant

Please note: Your attention is drawn to the conditions attached to this permission. 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 meet these 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. As per Scottish Planning Policy, planning permission does not remove the liability position of developers or owners in relation to flood risk.

Road Openings Permit / Road Construction Consent: you may require consent from the Roads Authority prior to the commencement of this development. You are therefore advised to contact them direct to discuss the matter.

Street Names: in line with the Council's Gaelic Language Plan and Policies, you are encouraged to consider the adoption of Gaelic or Gaelic-influenced street names in this development. For further guidance, you may wish to contact the Council's Gaelic Development Manager (01463 724287) or Comunn na Gàidhlig (01463 234138).

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.

Time Limit : In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

No development shall start on site until the completed Notice of Initiation of Development (NID) form attached to this approval of matters has been submitted to and acknowledged

by the Planning Authority

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

Signature:

Designation: Area Planning & Building Standards Manager Inverness, Nairn,
Badenoch and Strathspey

Author: K. Gibson

Background Papers: As referred to in the above report

Relevant Plans: Plan 1 – Supporting Design Statement
Plan 2 – Ground Investigative Interpretive Report
Plan 3 – Transport Assessment
Plan 4 - Site Layout
Plan 5 – Floor Plans – Block 1
Plan 6 – Elevations – Block 1
Plan 7 – Floor Plans – Block 2
Plan 8 – Elevations – Block 2
Plan 9 – External Surface Water Drainage Layout

THE HIGHLAND COUNCIL

**INVERNESS, NAIRN, BADENOCH AND STRATHSPEY
PLANNING APPLICATIONS COMMITTEE – 24 May 2011**

Agenda Item	3.2
Report No	PLI 31/11

**10/04988/FUL: Albyn Housing Society Land At Thornbush Quay
Anderson Street, Inverness**

Report by Area Planning and Building Standards Manager

SUMMARY

Description: the proposal involves the formation of a communal landscaped area.

Recommendation: GRANT PLANNING PERMISSION

Ward: 15 - Inverness Central

Development category: Local

Pre-determination hearing: not required

Reason referred to Committee: related to application 10/04986/FUL which is also on this Committee Agenda.

1. PROPOSAL

- 1.1 The proposal involves the formation of a communal landscaped area to the north of the proposed site for 38 flats (10/04986/FUL), which is also on this Agenda. It did form part of the parking area for application 08/00478/OUTIN.

2. SITE DESCRIPTION

- 2.1 The site formed part of the Gaelforce Marine complex, now owned by the Caledonian Property Partnership. More specifically, it adjoins the part of the complex that abuts Anderson Street. Surrounding uses include the Gaelforce Marine megastore, several residential properties and various businesses. It can reasonably be described as being located in an area of mixed uses.

3. PLANNING HISTORY

- 3.1 04/00702/FULIN: Planning permission for the demolition of two derelict buildings, removal and infilling of redundant slip way and levelling of site.
- 08/00478/OUTIN: Pending application for the development of 151 flats on land immediately to the east of the present site.
- 08/00479/FULIN: Application for 38 flats refused on the following grounds

“Due to the unsuitability of the site for the proposed development due to unresolved flooding issues (thus contrary to SPP7) and the lack of residential amenity.”

08/00862/FULIN: Construction of Riverbank Defences on both banks of the River Ness – Planning permission.

10/04986/FUL: Erection of 38 flats: Pending Decision

4. PUBLIC PARTICIPATION

4.1 Advertised: no neighbour notification or advertisement necessary

Timeous representations: 0

5. SUPPORTING INFORMATION FROM THE APPLICANT

5.1 With the previous application there was insufficient open space provided within this first phase of development and to meet the concerns of the Planning Committee they have dedicated the central area to a landscaping scheme.

6. CONSULTATIONS

6.1 **SEPA:** Not normally concerned with regard to landscape proposals which, when taken in isolation from associated development, did not materially change the landform or have an adverse impact on the functional floodplain. As this application is closely associated with the proposed development of 38 Houses at Thornbush Quay (10/4986/FUL) have reviewed the documents submitted in support of this application and concluded that, based on the low level of information provided they are unable to comment on the flood risk implications for this proposal. Whilst the application site lies in the identified functional floodplain and that it could benefit from the River Ness Flood Prevention Scheme no detail of the proposals and any information relating to how the proposals would not affect the functional floodplain or the timeline of the proposed landscaping has been provided.

6.2 **TEC Services – Area Roads Manager** : no objections

6.3 **Archaeology** - no objection subject to standard condition

7. POLICY

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

Highland Structure Plan 2001

G1 Conformity with Strategy

G2 Policy Design for Sustainability

NH1 Flood Consultation Areas

Inverness Local Plan

Policy GP1 Design Principles

Policy Flood Risk
GP13.

Policy 2.1. Revitalisation- Riverfront

Policy Business/Industry
2.57.

- 7.2 The proposal also requires to be assessed against the following relevant Scottish Planning Policies (SPP); National Planning Policy Guidelines (NPPG), and Planning Advice Notes (PAN):
- Scottish Planning Policy

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 planning application requires to be assessed against all policies of the Development Plan relevant to the application, and all national and local policy guidance and **all** other material considerations relevant to the application.

8.3 Development Plan Policy Assessment

The site is allocated in the Local Plan for business/industrial uses. The proposal is for a landscaped area and the application is therefore contrary to the Development Plan. It arose out of the presentation of the last application for 38 flats (08/00479/FULIN) to Committee where it was considered there was insufficient open space provided within this first phase of development. The applicant is seeking to meet the concerns of the Planning Committee at that time and has dedicated the central area to a landscaping scheme. This raises the question as to whether or not there are other material considerations that justify overturning the Development Plan and approving the proposal. In this instance it is considered that there are such justifications.

8.4 Material Considerations

Members will be aware that there has been significant regeneration of the surrounding area over the past several years, particularly through new, affordable housing development. This has been supported by the Council and, in this respect, Members will note the advice from the Head of Housing Development and Estates. Secondly, the Local Plan supports revitalisation of the riverfront. Thirdly, this is a relatively small area of land and its loss will not seriously impact on the overall land supply, particularly as the Council is seeking to develop new business/industrial land under the A96 Corridor Framework Plan. If this view is accepted for application 10/04986/FUL for 38 flats then the landscaped area is also considered acceptable.

- 8.5 **Impact on Amenity** - The introduction of a landscaped area to the north of the site

for the proposed flats will help to enhance the proposed development.

- 8.6 **Flooding** – SEPA do not object to the proposal but note the application site lies in the identified functional floodplain and that it could benefit from the River Ness Flood Prevention Scheme but no detail of the proposals and any information relating to how the proposals would not affect the functional floodplain or the timeline of the proposed landscaping has been provided. As the application does not involve the erection of any habitable buildings it would seem unreasonable to seek a Flood Risk Assessment and it should be viewed in terms of the adjacent application for 38 flats. The timeline of the proposed landscaping is not relevant as it will be formed at the same time as the flats. This site was included in the Flood Risk Report prepared by the applicant.

9. CONCLUSION

- 9.1 The proposal is contrary to the Development Plan. However, in this instance, it is considered that given the recommendation of approval for 38 flats (10/04986/FUL) this proposal is also acceptable, helping to provide an area of amenity for the flats. The second key issue is flood risk. SEPA has not objected to the application as it will not give rise to the erection of habitable buildings but the application site lies in the identified functional floodplain and would benefit from the River Ness Flood Prevention Scheme. No detail of the proposals and any information relating to how the proposals would not affect the functional floodplain has been submitted, but the site is to be used for landscaping and further detailed information can be submitted prior to the start of works to demonstrate there is no adverse impact. The formation of structures such as raised planters, which may have an impact, can be avoided.

RECOMMENDATION – GRANT PLANNING PERMISSION

Action required before decision issued N

Notification to Scottish Ministers N

Notification to Historic Scotland N

Conclusion of Section 75 Agreement N

Revocation of previous permission N

Reason :

Subject to the above, it is recommended the application be **Granted** subject to the following conditions:

1. Except as otherwise provided by the terms of this permission, the developer shall construct and operate the development in accordance with the plans and supporting information submitted with the application and docketted as relative hereto with no deviation therefrom unless otherwise approved in writing by the Planning Authority.

Reason: In order to clarify the terms of the permission hereby granted and to ensure that the development is implemented as approved.

2. Construction work associated with the development hereby approved, for which noise is audible at the boundary of the site, shall only be carried out between 08:00 and 18:00 Monday to Friday, between 08:00 and 13:00 on Saturdays, and at no time on a Sunday or Public Holidays.

Reason: To minimise the risk of noise nuisance.

3. Delivery of construction materials to the site shall be between the hours of 8:00 and 18:00 Monday to Friday, between 08:00 and 13:00 on Saturdays, and at no time on a Sunday or Public Holidays.

Reason: To minimise the risk of noise nuisance

4. Prior to the commencement of development, the Applicant shall provide, by way of an assessment of potential contamination issues, evidence that the site is suitable for its proposed use. Such an assessment shall be consistent with the approach to land contamination contained in Planning Advice Note 33, and with the British Standard for investigation of potentially contaminated sites (BS10175:2001). Should contamination be found, the applicant shall submit a written remediation strategy and effect remediation in consultation with TECS Services, such that the site is suitable for use.

Reason: To ensure potential risks arising from previous site uses have been fully assessed and to ensure remedial works are carried out to the agreed protocol.

5. No works shall start on site until a fully detailed scheme of landscaping for the site, including a scheme of maintenance, is submitted to and require the approval in writing of the Planning Authority. All planting thereby approved shall be undertaken in the first planting season following occupation of the development and shall thereafter be maintained in accordance with the approved scheme of maintenance. Any plants which, within a period of five years from the occupation of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.

Reason: In the interests of amenity and in order to ensure that the development is adequately screened.

6. This site shall only be developed for the landscaped area in conjunction with the application 10/04986/FUL for 38 flats and shall be formed prior to occupation of the first flat or completion of that development, whichever is the soonest.

Reason: In the interests of visual and residential amenity.

7. No works shall start on site until demonstrated that the landscaped area will have no detrimental impact on the functional floodplain to the satisfaction of the Planning Authority in consultation with SEPA. Unless otherwise approved in writing with the Planning Authority, there shall be no structures such as raised planters unless it can

be proven there is no detrimental impact on the flood prevention measures.

Reason: In the interests of amenity.

8. Prior to the commencement of 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 for investigation.

Reason: In order to ensure the protection of the archaeological interest of the site.

Note to Applicant

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

No development shall start on site until the completed Notice of Initiation of Development (NID) form attached to this decision notice has been submitted to and acknowledged by the Planning Authority

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

Signature:

Designation: Inverness, Nairn, Badenoch and Strathspey Area Planning & Building Standards Manager

Author: Keith Gibson

Background Papers: As referred to in this report

Relevant Plans: Plan 1 – site layout – proposed