

**THE HIGHLAND COUNCIL**

**SOUTH PLANNING APPLICATIONS COMMITTEE  
23 June 2015**

Agenda Item	7.3
Report No	PLS/046/15

**15/01809/S42: The Highland Council**

**Land Between Dores Road And Torvean, Dores Road, Inverness**

**Report by Head of Planning and Building Standards**

**SUMMARY**

**Description:** Application under Section 42 to develop land without compliance with conditions 15, 16, 17, 18 & 31 of 13/03825/FUL - Inverness West Link

**Recommendation: GRANT**

**Wards:** 14 – Inverness West and 16 - Inverness Ness-side

**Development category:** Major

**Pre-determination hearing:** None

**Reason referred to Committee:** Major Development

**1.0 PROPOSED DEVELOPMENT**

1.1 This application has been submitted under Section 42 of the Act and relates to a number of the conditions attached to planning permission 13/03825/FUL granted on 14 April 2014 in respect of the Inverness West Link.

1.2 The application seeks to **amend** the following conditions:

Condition 15

*No development shall commence on each stage until an assessment of the implications on sensitive receptors of traffic noise arising from construction has been undertaken and a report detailing any mitigation/management controls necessary, including a programme for implementation, has been submitted to, and agreed in writing by, the Planning Authority. The agreed mitigation/management controls shall be implemented in accordance with the agreed programme.*

*Reason: To protect the amenity of sensitive receptors from traffic noise during construction.*

#### Condition 18

*No development shall commence on each Phase until a scheme for monitoring traffic noise during the first year of operation has been submitted to, and agreed in writing by, the Planning Authority. Within six months of the first anniversary of the opening of each Phase, a report that compares the predicted effects contained with the ES submitted in support of this application and identifies any further mitigation deemed necessary to protect sensitive receptors, including a programme for implementation, shall be submitted to, and agreed in writing by, the Planning Authority. Any agreed mitigation shall be implemented in accordance with the agreed programme.*

*Reason: To protect the amenity of sensitive receptors from traffic noise that was not predicted.*

#### 1.3 The application seeks to **remove** the following conditions:

##### Condition 16

*In the event that movement joints are required in the design of the new bridge crossing the River Ness, a further assessment of the implications of traffic noise on near sensitive receptors shall be undertaken and submitted to the Planning Authority prior to the commencement of construction of the bridge. Such assessment shall include recommendations for any additional mitigation necessary and a programme for implementation. The agreed mitigation shall be implemented in accordance with the agreed programme.*

*Reason: To protect the amenity of sensitive receptors from traffic noise during construction.*

##### Condition 17

*No development shall commence on each stage until an assessment of the implications on sensitive receptors of ground borne vibration during operation of the road has been undertaken and a report detailing any mitigation necessary, including a programme for implementation, has been submitted to, and agreed in writing by, the Planning Authority. The agreed mitigation shall be implemented in accordance with the agreed programme.*

*Reason: To protect the amenity of sensitive receptors from ground vibration during operation.*

##### Condition 31

*The A82(T) Tomnahurich Swing Bridge shall remain closed during the weekday morning, lunchtime and evening peak hour periods, until a second swing bridge crossing of the Caledonian Canal is complete and fully operational to the satisfaction of the Planning Authority in consultation with Transport Scotland.*

*Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.*

1.4 A copy of the original planning permission is contained within Appendix 2.

## **2.0 PLANNING HISTORY/BACKGROUND**

2.1 **14 April 2014** Construction of 3.2km new single carriageway road, 5 No. roundabouts, a new swing bridge over the Caledonian Canal & a new bridge over the River Ness, with associated drainage, earthworks, fencing, landscaping, new access tracks/paths, street lighting etc. granted planning permission (13/03825/FUL).

## **3.0 PUBLIC PARTICIPATION**

3.1 Advertised: 22 May 2015 in the Inverness Courier.

Representation deadline: 05 June 2015

Timeous representations against:	0
Comments:	0
Representations in support:	0
Non-timeous representations against:	0

## **4.0 CONSULTATIONS**

4.1 Transport Planning has not objected to the application.

4.2 Environmental Health has not objected to the application.

4.3 Transport Scotland has not objected to the application.

## **5.0 DEVELOPMENT PLAN POLICY**

5.1 The development plan comprises of the Highland-wide Local Development Plan (2012), the Inverness Local Plan (2006, As Continued in Force 2012) and statutorily adopted Supplementary Guidance.

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

### **Highland-wide Local Development Plan (April 2012)**

6.2	Policy 8	Ness-side and Charleston
	Policy 28	Sustainable Development
	Policy 56	Travel
	Policy 72	Pollution

## **Inverness Local Plan (2006, As Continued in Force 2012)**

6.3 The vast majority of the general policies and land allocations of the Local Plan pertinent to this application have been superseded by the policies of the Highland-wide Local Development Plan. However a number of land allocations/proposals still remain in force. These include:

- Policy 8(ii) Action Areas Regeneration – Torvean
- Policy 29 A9-A82 Trunk Road Link
- Policy 32 Park and Ride
- Policy 41 Green Wedges
- Policy 41(ii) Green Wedges – Torvean / Muirtown
- Policy 43 Golf Course – Charleston
- Policy 46 Badger Survey

6.4 The following statutorily adopted supplementary guidance is relevant to the assessment of the application:

- Torvean and Ness-side Development Brief

## **7.0 OTHER RELEVANT PLANNING POLICY**

### **Proposed Inner Moray Firth Local Development Plan (November 2013)**

7.1 The Inner Moray Firth Plan will be reported to Full Council on 25 June 2015 with a recommendation to adopt the plan subject to receipt of a letter from Scottish Ministers. This letter will be received mid July and at that point the Inner Moray Firth Local Development Plan will form part of the Development Plan and supersede the policies and land allocations contained within the Inverness Local Plan. The following proposal allocation is relevant:

- IN24 Torvean and Ness-side (Northern Part) – Mixed Use (Homes, Business, Retail, Tourism, and Community).

### **Scottish Government Planning Policy and Guidance**

- 7.2
- National Planning Framework 3
  - Scottish Planning Policy
  - PAN 1/2011 - Planning and Noise
  - PAN 75 – Planning for Transport

## **8.0 PLANNING APPRAISAL**

8.1 Section 25 and of the Town and Country Planning (Scotland) Act 1997 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan in this case comprises the Highland wide Local Development Plan (Adopted April 2012), the Inverness Local Plan 2006 (as continued in force), and all associated statutorily adopted Supplementary Guidance.

## Determining Issues

8.2 The determining issues are:

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

## Planning Considerations

8.3 The principle of the development has been established. This is an application to remove and amend conditions. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continue to comply with development plan policy and take into consideration any other material considerations.

## Development Plan

8.4 Development Plan Policy has not changed since the time of the determination of the original application. The key issue therefore is whether the amendment or removal of the conditions applied for would make the development incompatible with the Development Plan.

8.5 At the time of the consideration of the original application, the Council's Environmental Health Officer was of the view that the development may have an impact on residential amenity as a result of ground borne vibration and noise. Conditions 15, 16, 17 and 18 were applied to the permission in the interest of protecting residential amenity in order to comply with Policy 28 of the Highland wide Local Development Plan.

8.6 As the project progressed into the detailed design stage, additional work was undertaken with regard to the predicted impact of noise and ground borne vibration. The submission in support of this application identifies that the specification of the bridge joints (Condition 16) aims to reduce noise that will mitigate the impact on residential properties and that sources of ground borne vibration (Condition 17) will not exist in proximity to residential properties but that in any case the Construction Environmental Management Plan required under Condition 12 includes mitigation in the event that this should occur.

8.7 Having taken the opportunity to review the submission, Environmental Health has confirmed that the design and in-built mitigation both during construction and operation of the road will not result in an unacceptable impact on the residential amenity. Accordingly, Environmental Health is content that Conditions 16 and 17 can be removed.

8.8 The assessment of traffic noise from construction was omitted from the Environmental Statement due to lack of traffic data for the construction period. Condition 15 sought to address this. What is proposed under this application is to provide a noise management plan rather than assess the implications of construction traffic noise, and therefore mitigation required, on each sensitive

receptor.

- 8.9 Condition 18 requires monitoring traffic noise during the first year of operation against the effects predicted within the Environmental Statement. The applicant requests that the condition be amended to specify the need to monitor traffic noise after one full year of operation, rather than continuously, before then specifying any mitigation that may be required. Environmental Health has no objection to rewording of Conditions 15 or 18 on this basis.
- 8.10 Condition 31 was requested by Transport Scotland. It sought to control the operation of the existing bridge in order to allow free-flow of traffic on the trunk road. As two bridges will ultimately be provided, with one bridge always being open to traffic, it is considered that the flow of traffic on the trunk road will not be restricted by the development. However, at the time of the consideration of the application it was considered that the free flow of traffic on the trunk road until the time that the second swing bridge was operational should be secured.
- 8.11 What was unclear at the time of the application was the agreement between Transport Scotland and Scottish Canals on the operation of the bridge. An operational protocol for the bridge exists and, while this is not of any statutory basis, Transport Scotland could, more appropriately, agree to amend this agreement with the consent of Scottish Canals than require the Council to impose it on the applicant who has no ability to influence the outcome. It has been identified that the Caledonian Canal Act 1840 gave sole control over when the bridge could open to the canal operator. A planning condition cannot modify an Act of Parliament. It is therefore appropriate for the condition to be deleted. Having said that, it is understood that the formal operation protocol will continue to operate. Transport Scotland has not objected to this application.

#### Other Material Considerations

- 8.12 There are no other material considerations.
- 8.13 It is worth highlighting that an application submitted under S42 of the Planning Act provides a planning authority with an opportunity, in considering the proposed application, to amend any, or all, of the conditions on a planning permission that it considers necessary to regulate the development proposed. However, following consideration, there are no other conditions that require amendment, variation or deletion at this time.

### **9.0 CONCLUSION**

- 9.1 All relevant matters have been taken into account when appraising this application. The removal of Conditions 16, 17 and 31 would not result in the development being incompatible with the Development Plan. Neither would the modification to Conditions 15 and 18. However, the changes proposed to Condition 18 would change the emphasis of the condition and as such would not be supported.

9.2 It is considered that the application to amend the conditions on this extant planning permission accords with the development plan and is acceptable in terms of all other applicable material considerations.

## 10.0 RECOMMENDATION

10.1 It is recommended that this application for non-compliance with conditions is **GRANTED** subject to:

1. (a) The following modification to Condition 15:

No development shall commence on each stage until a Construction Traffic Noise Management Plan is submitted to, and approved in writing by, the Planning Authority. The Construction Traffic Noise Management Plan shall include a schedule of monitoring of impacts on sensitive receptors, details of working hours, any mitigation related to construction traffic noise set out in any Construction Traffic Management Plan which is required under Condition 13 of this planning permission and any mitigation related to construction traffic noise set out in the Construction Environment Management Document required under Condition 12 of this planning permission. The approved mitigation/management controls shall be implemented in accordance with the agreed programme, unless otherwise agreed in writing by the planning authority.

**Reason:** To protect the amenity of sensitive receptors from traffic noise during construction.

1. (b) The following modification to Condition 18:

No later than six months after the first anniversary of the opening of each Phase, a Noise Monitoring Report, that shall compare the predicted traffic noise contained within the ES against actual traffic noise on the nearest sensitive receptors to the development and identify any further mitigation deemed necessary to protect noise sensitive receptors, shall be submitted to, and approved in writing by, the Planning Authority. Any mitigation identified shall be undertaken in accordance with recommendations of the Report no later than 12 months of approval, unless otherwise agreed in writing by the Planning Authority.

**Reason:** To protect the amenity of sensitive receptors from any increase in traffic noise not predicted.

And;

2. All other conditions pertaining to planning permission 13/03825/FUL, except conditions 16, 17, 18, and 31, which shall be deleted.

Designation: Head of Planning and Building Standards

Author: Simon Hindson

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

Relevant Plans: PL02 Location Plan

## **Appendix 1 – Letters of Representation**

### **OBJECTORS**

None.

### **SUPPORTERS**

None.

### **GENERAL COMMENTS**

None.



**Appendix 2 - Planning Permission Decision Notice 13/03825/FUL**

**PLANNING PERMISSION**

Reference No: 13/03825/FUL

To:  
The Highland Council  
Per: Mr Jim Smith  
Osprey House  
Alness Point Business Park  
Alness  
IV17 0UP

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

**DECISION NOTICE**

**West Link- Construction of 3.2km new single carriageway road, 5 No. roundabouts, a new swing bridge over the Caledonian Canal & a new bridge over the River Ness, with associated drainage, earthworks, fencing, landscaping, new access tracks/paths, street lighting etc. West Link Road land between Dores Road and Torvean, Dores Road, Inverness**

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

<b>Type of Plan</b>	<b>Plan Number</b>	<b>Version No.</b>	<b>Date Plan Received</b>
Site Layout Plan	HRS7126 PL01		09.10.2013
Location Plan	HRS7126 PL02		09.10.2013
Site Layout Plan	HRS7126 PL03	Temporary Compounds	11.10.2013
Site Layout Plan	HRS7126 PL04	Design Details 1 of 4	11.10.2013
Site Layout Plan	HRS7126 PL05	Design Details 2 of 4	11.10.2013
Site Layout Plan	HRS7126 PL06	Design Details 3 of 4	11.10.2013
Site Layout Plan	HRS7126 PL07	Design Details 4 of 4	11.10.2013
Landscaping Plan	HRS7126 PL12	Landscaping (Sections)	11.10.2013
Landscaping Plan	HRS7126 PL13	Landscaping (Sections)	11.10.2013
Landscaping Plan	HRS7126 PL14	Landscaping (Sections)	11.10.2013
Landscaping Plan	HRS7126 PL15	Landscaping (Sections)	11.10.2013
Landscaping Plan	HRS7126 PL16	Landscaping (Sections)	11.10.2013
Landscaping Plan	HRS7126 PL17	Landscaping (Sections)	11.10.2013
Landscaping Plan	HRS7126 PL18	Landscaping (Sections)	11.10.2013
Landscaping Plan	HRS7126 PL19	Landscaping (Sections)	11.10.2013
Landscaping Plan	HRS7126 PL20	Landscaping (Sections)	11.10.2013
General Plan	HRS7126 PL21	Bridge General Arrangement	11.10.2013
General Plan	HRS7126 PL25	Underpass 1 Queens Park	11.10.2013
General Plan	HRS7126 PL26	Underpass 2 Queens Park	11.10.2013
General Plan	HRS7126 PL27	Underpass 3 Torvean	11.10.2013
General Plan	HRS7126 PL28	VMS Signing	11.10.2013
General Plan	HRS7126 PL29	Proposed CCTV	11.10.2013

**Dated:** 14th April 2014

**Head of Planning and Building Standards**

This permission is granted subject to the following conditions: -

- (1.) Planning Permission is hereby granted for a 3.2km length of single carriageway road with 5 roundabouts, a swing bridge over the Caledonian Canal and new bridge over the River Ness and associated development, as detailed with plans HRS7126 PL04 - PL07, which shall be developed in two sequential stages as follows:

Stage 1 - Holm Roundabout to Glenurquhart Road

Stage 2 - Tandem Canal Bridge and works to west of the canal.

**Reason:** In order to clarify the terms of permission and control phasing of implementation.

- (2.) No development shall commence on Stage 1 (North abutment - Queen's Park Roundabout) until such time as the pitches at Canal Park have been reconfigured in accordance with a scheme, to include details of the design specification, the appointed contractor(s) and work programme, that has been submitted to, and agreed in writing by, the Planning Authority in consultation with SportScotland. Such scheme shall include details for protection of the remaining pitches at Canal Park during construction of the road, including condition surveys before, during and post construction, and a statement on remedial measures to be taken in the event of deterioration. The agreed scheme shall be implemented.

**Reason:** To ensure that an appropriate level of replacement facilities are provided before construction of the road link and that the impact on new facilities at Canal Park can be minimised.

- (3.) As part of the reconfiguration of the Canal Park pitches, four metre (4m) high ball stop fencing shall be erected to the south-east and north-east sides of Canal Park, details of which, including their location, shall be submitted to, and agreed in writing by, the Planning Authority in consultation with SportScotland. The agreed fencing shall be provided prior to the pitches being available for use.

**Reason:** To minimise the impact of balls on footpaths and the clubhouse parking area as a result of the reorientation of the pitches.

- (4.) No development shall commence on Stage 1 (Mill Lade Roundabout - Canal Park Roundabout) until details of the ball stop fencing identified on drawing HRS7126 PL05 has been submitted to, and agreed in writing by, the Planning Authority in consultation with SportScotland. The agreed scheme shall be implemented.

**Reason:** To ensure appropriate provision in the interests of road safety and to preserve the continuing use of Canal Park as a location for Rugby Football.

- (5.) No development shall commence on Stage 1 (North abutment - Queen's Park Roundabout) until a scheme of pitch compensation (for the playing field areas lost at Canal Park), including design specification and timescale for delivery, has been submitted to, and agreed in writing by, the Planning Authority in consultation with SportScotland. The agreed scheme shall be implemented.

**Reason:** In order to ensure that the loss of pitch facilities is appropriately compensated in line with SPP.

**Dated:** 14th April 2014

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**Head of Planning and Building Standards**

- (6.) No development shall commence on Stage 2 until a scheme, including work programme, to ensure that a fully operational 18 hole golf course and ancillary facilities, including club house, parking area and practice facilities (the Torvean Golf Course) are available at all times both during and after construction of this stage of the road have been submitted to, and agreed in writing, by the Planning Authority in consultation with SportScotland. The agreed scheme shall be implemented.

**Reason:** To ensure that an appropriate 18 hole golf course is available at all times during and after construction of Stage 2 of the road link.

- (7.) For the avoidance of doubt the design/layout of vehicular access to the Canal towpath and location of new jetties and pontoons on the west side of the Canal to the south of the new swing bridge shown on drawing HRS7126-PL05 are not approved. No development shall commence on Stage 2 until revised plans and details, including a timetable for provision, relating to vehicular access to the Canal towpath and the location of boat jetties and pontoons on the west side of the Canal to the south of the new swing bridge have been submitted to, and agreed in writing by, the Planning Authority in consultation with SportScotland. The agreed plans and details shall be implemented in accordance with the agreed timetable.

**Reason:** To ensure the continued unimpeded operation of the rowing facilities on the canal by Inverness Rowing Club and rowers.

- (8.) No development shall commence on Stage 2 until confirmation that an appropriate and binding agreement between Transport Scotland and Scottish Canals regarding the sequence and operation of both canal swing bridges, that takes into consideration the needs of Inverness Rowing Club, has been secured.

**Reason:** To ensure that the new swing bridge will be capable of being opened when required by Inverness Rowing Club for rowing regattas.

- (9.) For the avoidance of doubt the designs for the new swing bridge, control building, plant building and Jacobite Cruises replacement building shown on drawings HRS7126 PL 22 - PL 24 & PL30 - PL32 are not approved. No development shall commence on Stage 2 until revised designs that take into consideration the proposals by Scottish Canals to improve the public realm around the canal has been submitted to, and agreed in writing by, the Planning Authority in consultation with Scottish Canals. Only the approved designs shall be constructed.

**Reason:** To ensure that the design of these elements are of an appropriate quality to this important gateway into Inverness and compatible with proposed environmental improvement work by Scottish Canals.

- (10.) The entrance walls, including parapet, string courses, reveals and returns, leading into the proposed underpasses at Queen's Park and Torvean Roundabouts shall be finished in natural stone, details of which shall be submitted to, and agreed in writing by, the Planning Authority before the commencement of development within each relevant stage. Only the agreed detailing and materials shall be implemented.

**Reason:** To ensure a high standard of design that is compatible with the setting of the Caledonian Canal and the general aspiration for improvements to the public realm in this location.

**Dated:** 14th April 2014

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**Head of Planning and Building Standards**

- (11.) All walling identified within plans HRS7126 V2 - S35/001-004 as landscape design and mitigation shall be constructed of natural stone details of which shall be submitted to, and agreed in writing by, the Planning Authority prior to commencement of the stage to which it relates. The approved details shall be implemented and thereafter maintained to the satisfaction of the Planning Authority.

**Reason:** To ensure a high standard of design and finish in the interest of visual amenity.

- (12.) No development shall start on any Stage until a Construction Environmental Management Document is submitted to, and agreed in writing by, the Planning Authority in consultation with SNH and SEPA. The Document shall include:

- An updated Schedule of Mitigation (SM) including all mitigation proposed in support of the planning application, other relevant agreed mitigation (e.g. as required by agencies) as may be set out in other relevant planning conditions.
- Processes to control / action changes from the agreed Schedule of Mitigation.
- Processes for informing neighbouring residents, potentially with involvement of Community Councils, of the work programme and likely significant events such as temporary road/path closures, heavy loads and working hours.
- The following site specific Construction and Environmental Management Plans (CEMP);
  - i. pollution prevention plan
  - ii. drainage and surface water management plan with specific regard to protection of the River Ness (link to River Moriston SAC)
  - iii. chemical pollution plan
  - iv. waste management plan
  - v. species protection plans, specifically with regard to protection of Atlantic Salmon, Bat, Otter and Red Squirrel
  - vi. Noise and vibration mitigation plan based on guidance with Parts 1 & 2 of BS5228: "Code of Practice for Noise and Vibration Control on Construction and Open Sites" including assessment and mitigation for any piling requirements
  - vii. Dust mitigation plan based on the GLA/London Council guidance
- Details of the appointment of an appropriately qualified Environmental Clerk of Works with roles and responsibilities which shall include but not necessarily be limited to:
  - i. Providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;
  - ii. Monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
  - iii. Advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
  - iv. Directing the placement of the development (including any micro-siting, if permitted by the terms of this consent) and the avoidance of sensitive features; and
  - v. The power to call a halt to development on site where environmental considerations warrant such action.

**Dated:** 14th April 2014

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**Head of Planning and Building Standards**

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- Details of any other methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, Planning Authority and other relevant parties.
- Statement of any additional persons responsible for 'stopping the job / activity' if in potential breach of a mitigation or legislation occurs. Unless otherwise agreed in writing by the Planning Authority the development shall proceed in accordance with the agreed Document.

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

(13.) No development shall commence on each stage until a Construction Traffic Management Plan (CTMP) has been submitted to, and agreed in writing by, the Planning Authority in consultation with the Roads Authorities. The CTMP shall include details relating to:

- Traffic management measures including accommodation works to manage construction traffic
- Measures to minimise traffic impacts on existing users
- Measures to accommodate pedestrians, cyclists and bus users
- Details of temporary signage
- Details of construction vehicle routing

The measures identified within CTMP and agreed shall be implemented.

**Reason:** To protect non motorised users and maintain the safety and free flow of the road network.

(14.) No development shall commence on each stage until the following road drainage details have been submitted to, and agreed in writing by, the Planning Authority:

- Infiltration basins, including inlet/outlet structures, cross sections, fencing and signage;
- An operation and maintenance manual detailing the frequency and type of maintenance measures for all proposed SUDS infrastructure;
- The design of the roadside ditches.

The agreed details, and maintenance as appropriate, shall thereafter be implemented to the satisfaction of the Planning Authority.

**Reason:** In order to ensure that the design and maintenance of the SUDS infrastructure is appropriate.

(15.) No development shall commence on each stage until an assessment of the implications on sensitive receptors of traffic noise arising from construction has been undertaken and a report detailing any mitigation/management controls necessary, including a programme for implementation, has been submitted to, and agreed in writing by, the Planning Authority. The agreed mitigation/management controls shall be implemented in accordance with the agreed programme.

**Reason:** To protect the amenity of sensitive receptors from traffic noise during construction.

**Dated:** 14th April 2014

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**Head of Planning and Building Standards**

- (16.) In the event that movement joints are required in the design of the new bridge crossing the River Ness, a further assessment of the implications of traffic noise on near sensitive receptors shall be undertaken and submitted to the Planning Authority prior to the commencement of construction of the bridge. Such assessment shall include recommendations for any additional mitigation necessary and a programme for implementation. The agreed mitigation shall be implemented in accordance with the agreed programme.

**Reason:** To protect the amenity of sensitive receptors from traffic noise during construction.

- (17.) No development shall commence on each stage until an assessment of the implications on sensitive receptors of ground borne vibration during operation of the road has been undertaken and a report detailing any mitigation necessary, including a programme for implementation, has been submitted to, and agreed in writing by, the Planning Authority. The agreed mitigation shall be implemented in accordance with the agreed programme.

**Reason:** To protect the amenity of sensitive receptors from ground vibration during operation.

- (18.) No development shall commence on each Phase until a scheme for monitoring traffic noise during the first year of operation has been submitted to, and agreed in writing by, the Planning Authority. Within six months of the first anniversary of the opening of each Phase, a report that compares the predicted effects contained with the ES submitted in support of this application and identifies any further mitigation deemed necessary to protect sensitive receptors, including a programme for implementation, shall be submitted to, and agreed in writing by, the Planning Authority. Any agreed mitigation shall be implemented in accordance with the agreed programme.

**Reason:** To protect the amenity of sensitive receptors from traffic noise that was not predicted.

- (19.) No development shall commence on each Phase until a scheme for monitoring both motorised and non-motorised travel patterns within the road network during the first year of operation has been submitted to, and agreed in writing by, the Planning Authority. Within six months of the first anniversary of the opening of each Phase, a report that compares the predicted effects contained with the Transport Assessment submitted in support of this application and actual affects shall be submitted, and agreed in writing by the Planning Authority.

**Reason:** In order to monitor the effectiveness of the proposed development.

- (20.) No development shall commence on each stage, including tree felling works, until pre-commencement surveys to locate the presence or absence of otter, bats and squirrel is undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall inform any mitigation measures identified in the Species Protection Plan required as part of the Construction Environmental Management Document/Plan(s) approved under Condition 11.

**Reason:** To protect nature conservation interests from construction activities.

- (21.) No development shall commence on each stage until a Badger Protection Plan has been submitted to, and agreed in writing, by the Planning Authority in consultation with Scottish Natural Heritage. The agreed plan shall be implemented.

**Reason:** To protect the badger interest of the site.

**Dated:** 14th April 2014

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**Head of Planning and Building Standards**

- (22.) With effect from the date of this permission, no trees are to be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the Planning Authority.

**Reason:** To ensure the protection of trees before, during and after construction.

- (23.) All tree works are to be carried out by a suitably qualified and experienced arboriculturalist in accordance with BS:3998(2010) Tree Work - Recommendations.

**Reason:** To ensure the tree works are carried out to a high standard.

- (24.) Prior to any site excavation or groundworks within each stage a Tree Protection Plan, Arboricultural Method Statement and a Scheme of Supervision (all in accordance with BS5837:2012 - Trees in Relation to Design, Demolition and Construction) are to be submitted to and subsequently approved in writing by the planning authority. All retained trees are to be protected against construction damage using protective barriers located beyond the Root Protection Area (in accordance with BS5837:2012 Trees in Relation to Design, Demolition & Construction). Barriers are to remain in place throughout the construction period and must not be moved or removed without the prior written approval of the Planning Authority.

**Reason:** To ensure the protection of retained trees during construction and thereafter.

- (25.) A suitably qualified Arboricultural consultant shall be employed at the applicant's expense to ensure that the Tree Protection Plan and Arboricultural Method Statement are implemented to the agreed standard. Stages requiring supervision as per the approved Scheme of Supervision under Condition 22 are to be agreed with the Planning Authority prior to the commencement of work on each Stage. Certificates of compliance shall be submitted for approval following completion.

**Reason:** To ensure the protection of retained trees throughout the construction period.

- (26.) No development shall commence on each stage until a detailed Landscape Plan, to include details of type/location and size of species relevant to any required compensatory tree planting, and programme for its maintenance has been submitted to, and approved in writing by, the Planning Authority. The Landscape Plan shall be implemented in full during the first planting season following commencement of development or as otherwise may be agreed in writing by the Planning Authority.

**Reason:** In the interests of amenity and to secure appropriate compensatory planting.

- (27.) A suitably qualified landscape consultant shall be employed, at the applicant's expense, to ensure that the Landscape Plan is implemented and thereafter maintained to the agreed standard. Stages requiring supervision are to be agreed with the Planning Authority prior to the commencement of work on each Stage. Certificates of compliance shall be submitted for approval following completion.

**Reason:** In the interests of amenity and ensuring that appropriate mitigation treatments are secured.

**Dated:** 14th April 2014

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**Head of Planning and Building Standards**



- (28.) No development shall commence on each Stage until a detailed Access Management Plan for public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the Planning Authority. The plan shall include details showing:
- i. All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;
  - ii. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to proposed buildings or structures;
  - iii. All paths, tracks and other routes for use by walkers, riders, cyclists and any other relevant outdoor access enhancement i.e. car park (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.);
  - iv. Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the development (including details of mitigation measures, diversion works, duration and signage).

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

**Reason:** To safeguard and maximise the opportunities for continued public access in and around the development site in accordance with Policy 77 of the HwLDP.

- (29.) No development shall commence on each Stage until a programme for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and agreed in writing by, the Planning Authority. The agreed proposals shall be implemented in accordance with the agreed timetable for investigation.

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

- (30.) There shall be no drainage connections to the trunk road drainage system.

**Reason:** To ensure that the efficiency of the existing drainage network is not affected.

- (31.) The A82(T) Tomnahurich Swing Bridge shall remain closed during the weekday morning, lunchtime and evening peak hour periods, until a second swing bridge crossing of the Caledonian Canal is complete and fully operational to the satisfaction of the Planning Authority in consultation with Transport Scotland.

**Reason:** To minimise interference with the safety and free flow of the traffic on the trunk road.

- (32.) The proposed pedestrian crossing point on the A82(T) to the east of Tomnahurich Roundabout shall be constructed to a layout, type and method of construction that shall be submitted to and agreed by, Transport Scotland prior to the commencement of development.

**Reason:** To maintain the safety and free flow of the trunk road network.

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**PLANNING PERMISSION**

- (33.) Prior to the commencement of road construction, details of all proposed lighting shall be submitted to, and agreed in writing by, the Planning Authority. All lighting shall be designed to avoid extraneous light pollution or urban "sky glow." Only the approved lighting shall be implemented.

**Reason:** In order to ensure proper selection of lighting that reduces 'sky glow' in the interest of amenity.

**REASONS FOR DECISION**

The proposal accords with the provisions of the Development Plan and applicable supplementary guidance. There are no material considerations which would warrant refusal of the application.

**TERMS OF SECTION 75**

None

**VARIATIONS**

None

**LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION**

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.

**INFORMATIVES****Trunk Roads Authority Consent**

You are informed that this consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland. Please contact the Route Manager via 0141 272 7100 to obtain permission. The Operating Company have responsibility for co-ordination and supervision of works and after permission has been granted it is the developer's contractor's responsibility to liaise with the Operating Company during the construction period to ensure that all necessary permissions are obtained.

**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

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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](mailto:env.health@highland.gov.uk) for more information.

**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.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

**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.

**Bilingual Signage**

In line with the Council's Gaelic Language Plan and policies, you are encouraged to consider the use of both Gaelic and English on signage within in this development (both internal and external signs). For further guidance, you may wish to contact the Council's Gaelic Development Manager (01463 724287) or Comunn na Gàidhlig (01463 234138).

**Major Development Site Notice**

Prior to the commencement of this development, the attached Site Notice must be posted in a publicly accessible part of the site and remain in place until the development is complete. This is a statutory requirement of the Town and Country Planning (Scotland) Acts and associated regulations.

**Building Regulations**

Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at [BuildingStandards@highland.gov.uk](mailto:BuildingStandards@highland.gov.uk) or on 01349 886606.

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**NOTIFICATION TO APPLICANT**

1. If the applicant is aggrieved by the decision to refuse planning permission for or approval required by a conditions in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may appeal to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of appeal should be addressed to:

Directorate for Planning and Environmental Appeals  
4 The Courtyard  
Callendar Business Park  
Callendar Road  
Falkirk  
FK1 1XR

Appeals can also be lodged online via the ePlanning Portal at  
<https://eplanning.scotland.gov.uk/WAM/>

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

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