#### THE HIGHLAND COUNCIL

# SOUTH PLANNING APPLICATIONS COMMITTEE 12 April 2016

Agenda Item	6.8
Report	PLS
No	028/16

15/04049/FUL: 3A Partnership Ltd

Land adjacent to Drumossie Hotel, Drumossie, Inverness

Report by Area Planning Manager - South

#### SUMMARY

Description: Change of use of land for a phased layout and servicing (including

access, parking, utilities, landscaping and public art) of land for development of a tourism and leisure complex comprising a maximum of 48 lodges and apartments and buildings for commercial/leisure uses, reception, marketing/office and grounds maintenance accommodation.

Recommendation - GRANT

Ward: 20 - Inverness South

**Development category:** Major

Pre-determination hearing: N/A

Reason referred to Committee: Major category of development

#### 1. PROPOSED DEVELOPMENT

1.1 The proposal seeks full planning permission for a 5 phased development comprising a tourism and leisure complex with associated infrastructure. The development proposes a development comprising a maximum of 48 lodges and apartments to provide tourist accommodation with ancillary commercial and leisure facilities, and together with reception, marketing/office and grounds maintenance accommodation. In addition, an area to the west of the main development site will be planted as an amenity woodland area to provide parkland facilities and to act as a buffer to the A9 which is situated immediately to the west of the application boundary.

The application is presented in two drawings, one as a site plan and the second identifying the 'development concept and indicative phasing'. The indicative layout identifies a development in 5 phases with land to the west identified for landscaping and woodland planting.

Although an indicative phasing, the plan identifies that the built development would extend over four phases with Phase A incorporating holiday lodges, Phase B providing the commercial and leisure facilities and the remaining development of further lodges and tourist facilities in Phases C and D.

The supporting information provides detailed evidence to justify the scope of development and indicates that 48 lodges are required if the development is to be financially viable. At this stage no further details are provided in respect of the design, scale or massing of the buildings, the final layout for each phase or service provision including car parking. Access to the site is proposed as a new junction with the B9177 (Drumossie Brae) and is located generally centrally within the site opposite an existing access serving residential properties.

The application also includes a detailed landscaping plan incorporating the parkland area to the west and identifies scope for areas of woodland planting and planting/landscaped areas to the north adjacent to the Drumossie Hotel boundary.

- 1.2 As a major category of development, a pre-application notice is required. The PAN (15/02820/PAN) was submitted in July 2015 and a public consultation meeting was held in Inshes Church on 3 September 2015.
- 1.3 The site comprises an area of agricultural land and it is not serviced by existing infrastructure although it is understood services are located within the vicinity.
- 1.4 The application includes the following supporting information:
  - Design and Access Statement
  - Consultation Report (public consultation)
  - Landscape Masterplan
  - Transport Statement
  - Ecological Walkover Survey
  - Drainage Impact Assessment
  - Economic Appraisal
  - Business Case
- 1.5 **Variations**: details of access arrangements varied to take account of consultee comments.

# 2. SITE DESCRIPTION

2.1 The site extends to some 5.6 hectares and is situated on grazing land immediately to the south of the Drumossie Hotel and is bounded to the east by the B9177. The site occupies an elevated position to the south of the city but is of generally level ground with mature trees and woodland defining the field boundaries, particularly at the western boundary of the site. The area proposed for development occupies the fields adjacent to the B9177 and extends to approximately 2.5ha. Drumossie Hotel is located to the north of the site and the A9 defines the west boundary. The south boundary is defined by an existing private road which serves two houses while further houses are located on the east side of the B9177.

#### 3. PLANNING HISTORY

3.1 15/02820/PAN - July 2015

15/02253/SCRE – Screening Opinion – no EIA required.

#### 4. PUBLIC PARTICIPATION

4.1 Advertised: Schedule 3 development, advertised in local press 20 November 2015.

Representation deadline: 4 December 2015

Timeous representations: 2
Late representations: 0

- 4.2 Material considerations raised are summarised as follows:
  - Objections raised regarding the provision of further commercial development in this location. Particular concerns are raised regarding the lack of safe access to the site along Drumossie Brae which has no street lighting or footpaths which will lead to dangers for pedestrians. Consideration should be given to providing appropriate pavements to serve the site.
  - Adverse impact on amenity and privacy of adjacent residents.
  - Loss of amenity due to potential for noise nuisance and additional activity.
  - Inappropriate planting of woodland would impact on residential amenity.
  - Potential adverse impact on wildlife due to changing character of the open spaces.
  - Development extends beyond the local plan allocation and should be contained within the allocated area.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <a href="www.wam.highland.gov.uk/wam">www.wam.highland.gov.uk/wam</a>. Access to computers can be made available via Planning and Development Service offices.

### 5. CONSULTATIONS

Transport Planning: The original submitted details for the proposed road junction were considered unacceptable not least the proximity with the existing junction opposite the site. These concerns have to some extent been addressed with revised access arrangements but will involve formation of a significant visibility splay to north and south, a set back into the site of 4.5 metres which will reduce the opportunity for landscaping to the front boundary of the site. Concerns remain regarding the lack of detail and uncertainty of the internal road layout, how a safe pleasant environment for pedestrians can be created, the provision of cycleways and footways, and the absence of sufficient justification given for the proposed reduction by 50% of the maximum parking allocation of parking facilities. These matters will require to be addressed and further information and details provided.

A Travel Plan will be required to demonstrate that sustainable means of transport are provided for customers of the facilities, particularly to provide opportunities to transport guests arriving by rail and air. It should also include making provision for staff to access the site other than by car.

Although a footpath on the B9177 has not been specifically required by the development, consideration must be given to how pedestrian access to and from the site along the B9177 can be safely achieved and this will require a footpath from the site to the nearest bus stop.

Appropriate pedestrian linkages through to the Drumossie Hotel and facilities at Bogbain Farm are required including provision of a private mini bus for use by customers and staff.

5.2 Development Plans: The proposal generally accords with the land use allocation of the Inner Moray Firth Local Development Plan which identifies the site as suitable for Business/Tourism use. The provision of tourist self-catering accommodation will meet a current under-provision of such facilities and the element of commercial and leisure facilities proposed is not considered to have a detrimental impact on the vitality and viability of Inverness City Centre. Concern is expressed with regard to the lack of connectivity with adjacent attractions including the Drumossie Hotel and tourist facilities at Bogbain and this should be addressed. Access by residents of Milton of Leys to the commercial facilities should also be addressed.

Development of the site should incorporate a high standard of architecture and appropriate use of materials. There will be a requirement for public art as an integral element of the proposal and developer contributions may be required. The accommodation should be restricted to tourist accommodation only.

The encroachment of the development beyond the identified boundary within the development plan is not considered of concern.

- 5.3 **Forestry Officer**: No objections. Generally supportive of the Landscape Plan and recognises the opportunity for appropriate additional planting throughout the site. Existing trees should be retained and this should be included as a condition of any permission.
- 5.4 **Access Officer**: The development has the potential to attract people from Milton of Leys, Westhill and Inshes and appropriate active travel facilities should be provided. The development also has the potential to increase cycle borne visitors and the layout should provide an appropriate level of public access opportunities from outwith the site. Active travel between the resort and communities will therefore be required. Existing rights of way through the two fields must be retained. These matters can be covered by appropriate conditions.
- 5.5 **HET Archaeology Team:** Require a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation.
- 5.6 Transport Scotland: No objections.
- 5.7 **SEPA:** Raise objections unless appropriate conditions are included regarding SUDS and foul drainage facilities. Details as submitted regarding SUDS are not acceptable and should be provided before any development commences on site.
- 5.8 **SNH:** No objections subject to compliance with standing advice, particularly in respect of the potential to impact on badgers.
- 5.9 **Scottish Water:** Existing facilities have sufficient capacity to accommodate the development.

# 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

# 6.1 Highland-wide Local Development Plan 2012

Sustainable Design
Design Quality and Place making
Developer Contributions
Retail development
Tourism
Tourist Accommodation
Trees and Development
Travel
Natural, Built and Cultural Heritage
Protected Species
Other Important Species
Landscape
Flood Risk
Waste Water Treatment
Surface Water Drainage
Green Networks
Open Space

# 6.2 Inner Moray Firth Local Development Plan

Policy 1 Promoting and protecting City and Town Centres

IN 90 Land south east of Drumossie Hotel

# 7. OTHER MATERIAL CONSIDERATIONS

# 7.1 **Draft Development Plan**

Not applicable.

# 7.2 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide

**Developer Contributions** 

Managing Waste in New Developments

Open Space

Public Art Strategy

# 7.3 Scottish Government Planning Policy and Guidance

SPP

Creating Places – a policy statement on architecture and place for Scotland

#### **7.4** Other

None

# 8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

# 8.3 **Development Plan Policy Assessment**

The proposal represents a major development seeking to provide tourist accommodation and a retail/commercial outlet together with associated facilities. It is envisaged as a five phased development providing a maximum total of 48 holiday lodges. The details of the proposal are represented on two site plans which identify the areas reserved for landscaping and woodland planting and the extent of site reserved for future development of the holiday lodges and associated retail/commercial facilities. The application includes a significant amount of supporting information including a Landscape Masterplan, but in the absence of an agreed layout and phasing plan it is not possible to make a full assessment of the potential scope of development at this stage. The precise layout of the development including infrastructure, internal road and pedestrian routes, siting and design of lodges, and overall concept as a phased development, are not provided other than as an indicative solution. The current layout, albeit indicative, is not considered to represent an acceptable form and does not present a development contained within a parkland setting as may be expected for a tourist accommodation based facility. The applicant recognises that further details are required and that these will be the subject of further planning applications. Given this understanding, the application, notwithstanding the supporting information provided, is being assessed as a change of use of land only.

Nevertheless, on the basis of the foregoing, the proposed use is generally in accordance with the relevant policies of the Development Plan and capable of support as a principle of development. The site occupies a prominent location at Drumossie and is served by the existing B9177. It is isolated from the main residential developments to the west at Milton of Leys. As such, any development of the site must demonstrate sensitive siting together with buildings of an appropriate scale and massing if the rural characteristics of this gateway to the city are to be respected.

It is noted that part of the development site extends beyond the IMFLDP IN90 site allocation, but in terms of the overall development this is not considered a concern and can be addressed by appropriate landscaping and layout. The applicant indicates that a maximum total of 48 lodges is required together with ancillary accommodation and leisure/retail facilities. For the layout to be acceptable, it will be important to ensure that any buildings are accommodated within a parkland type layout with meaningful areas of landscaping and high quality pedestrian linkages both through and from outwith the site. The Landscape Masterplan provides appropriate landscaping solutions but has not taken into account the necessary roadworks for the junction, pedestrian linkages or how the lodges will be accommodated given that the layout is yet to be assessed.

It will therefore be for the applicant to demonstrate how the site, without further incursion into the area to the west (including for associated infrastructure), can satisfactorily accommodate the development proposed. The application includes an element of retail and leisure facilities but it is considered that the amount proposed will not have an adverse impact on the vitality and viability of the city centre and is therefore not in conflict with Policy 1 of the IMFLDP.

Tourist related facilities can make an important positive contribution to the vitality of the Highlands as a tourist destination. Although some distance from existing facilities, the rural characteristics of the area are appropriate for the use proposed and subject to a high standard of landscaping and appropriate connectivity through to Milton of Leys, Bogbain and surrounding areas, the relative remoteness of the site is not considered a particular concern.

The principle of the proposal is therefore considered to be in conformity with relevant development plan policies but the scope of development will be dependent on future consideration of specific details.

# 8.4 Material Considerations

The comments raised by consultees are noted, most particularly those of the Access Officer and Transport Planning. Each identifies that for the proposal to be successful, appropriate pedestrian linkages from within the site to nearby existing facilities will be essential. This will include ensuring that the retail facilities can be accessed by local residents other than by car. Resolving these matters, including the provision of adequate parking facilities, linkages through the site and promoting sustainable means of transport can be dealt with at a later stage by submission of further planning applications.

Other matters relating to consultee comments, including SEPA, can similarly be addressed in future submissions for planning permission. This would include details of SuDS and revisions to the landscape plan to take account of a final agreed layout.

The comments of the objectors are noted, particularly in respect of the potential adverse impact on the existing nearby residents. It will be essential to ensure that the final layout respects privacy and amenity of those residents, including appropriate levels of lighting within the site and the proximity of development to the existing houses. Landscaping too should ensure that unsympathetic woodland planting is avoided where amenity would be adversely affected as a result.

#### 8.5 Other Considerations – not material

There are no other matters not already considered.

# 8.6 Matters to be secured by Section 75 Agreement

Developer contributions will be required for off site roads related matters unless provided by the applicant.

#### 9. CONCLUSION

9.1 The application, as amended, is considered acceptable in terms of the principle of the scope of development proposed. In the absence of a detailed layout, details of the lodges and associated infrastructure, it is not possible to consider beyond the principle pf development and as a result, the application has been assessed as a change of use of the land. It will be evident from the comments of the consultees, particularly Transport Planning, that a number of issues will require to be addressed if an acceptable solution is to be achieved although support can be given to the proposed new access arrangement subject to the appropriate visibility splays being provided.

Similarly, as an application seeking full planning permission, without details of the design of the lodges, ancillary facilities and associated infrastructure, it is not possible to consider other than the principle of the use of the land for the purposes proposed. Accordingly the application is recommended for the grant of planning permission for the change of use of land including the access junction but with all other matters to be dealt with and fully assessed through future planning applications.

All relevant matters have been taken into account when appraising this application. It is considered that the proposal, as a change of use of land, accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

#### 10. RECOMMENDATION

Action required before decision issued Y

Notification to Scottish Ministers N

Notification to Historic Scotland N

Conclusion of Section 75 Agreement Y

Revocation of previous permission N

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

1. For the avoidance of doubt, the planning permission hereby granted is for change of use of land only to comprise a phased layout and servicing (including access, parking, utilities, landscaping and public art) of land for development of a tourism and leisure complex comprising a maximum of 48 lodges and apartments and buildings for commercial/leisure uses, reception, marketing/office and grounds maintenance accommodation. No development shall commence on site other than the formation of the main road access junction with the B9177 in accordance with details to be submitted and agreed in writing by the Planning Authority. All other matters as referred to, including all infrastructure, traffic management and internal roads, footways and cycleways, pedestrian facilities and sustainable means of access shall be the subject of and require separate planning permission. The use shall not be implemented until these matters are granted planning permission. For the further avoidance of doubt, the development shall proceed in accordance with the approved phasing.

**Reason**: The application is for change of use of land and additional details are required.

2. No development shall commence on the construction of the road access junction until details are submitted to and agreed in writing by the Planning Authority. The details shall specify the requisite visibility splays, set back from the public road and boundary finishes to define the east boundary. Thereafter the access junction will be formed in accordance with the agreed details to the satisfaction of the Planning Authority.

**Reason**: In the interests of public safety and the free flow of traffic.

3. No development shall commence on the construction of the road access junction until a scheme to enhance the advanced signing and road markings for the proposed junction arrangements on the B9177 has been submitted to and agreed in writing by the Planning Authority. Thereafter the approved scheme shall be implemented and completed before development commences on the access junction to the satisfaction of the Planning Authority.

**Reason**: In the interests of the free flow of traffic and public safety.

4. No development shall commence on the construction of the road access junction until details of the method by which surface water will be drained to ensure no discharge of surface water onto the public road have been submitted to and agreed in writing by the Planning Authority. Thereafter the access junction will be formed in accordance with the agreed details to the satisfaction of the Planning Authority.

**Reason**: In the interest of public safety and to prevent the discharge of surface water onto the public road.

5. For the avoidance of doubt the Landscape Management Plan as submitted is not approved and no landscaping shall be undertaken on site until a revised Landscape Management Plan for landscaping and onward maintenance of the land outwith the footprint of development to the west of the site, including timescales, is submitted to and agreed in writing by the Planning Authority. Thereafter landscaping of the agreed areas may proceed in accordance with the approved Plan and shall be maintained in accordance with the approved plan all to the satisfaction of the Planning Authority.

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

No development shall commence until a scheme for the maintenance, in perpetuity, of all trees and/or woodland identified for retention and management on the approved plans has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the approved scheme shall be implemented in full and in accordance with the timescales contained therein.

**Reason**: In the interest of the protection of existing trees.

7. No development or work (including site clearance) on the access junction, or landscaping, shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

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

No development shall commence until a pre-commencement survey for statutorily protected species has been undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The report of survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the survey and the timescales contain therein to the satisfaction of the Planning Authority.

**Reason**: In order to afford protection to statutorily protected species.

9. For the avoidance of doubt, the application site shall comprise a single planning unit and none of the component parts of the development, including holiday lodges and retail outlet, shall be disposed of separately.

**Reason**: In order to ensure the timeous delivery of the development and to ensure the long term maintenance of the site and facilities.

#### **REASON FOR DECISION**

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

# TIME LIMITS

#### 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.

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

#### **Scottish Water**

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

# **Local Roads Authority Consent**

In addition to planning permission, you 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 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 <a href="mailto:env.health@highland.gov.uk">env.health@highland.gov.uk</a> for more information.

# **Protected Species - Halting of Work**

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: <a href="https://www.snh.gov.uk/protecting-scotlands-nature/protected-species">www.snh.gov.uk/protecting-scotlands-nature/protected-species</a>

# **Protected Species - Contractors' Guidance**

You must ensure that all contractors and other personnel operating within the application site are made aware of the possible presence of protected species. They must also be provided with species-specific information (incl. guidance on identifying their presence) and should be made aware of all applicable legal requirements (incl. responsibilities and penalties for non-compliance).

# **Protected Species - Ground Nesting Birds**

Construction/demolition works have the potential to disturb nesting birds or damage their nest sites, and as such, checks for ground nesting birds should be made prior to the commencement of development if this coincides with the main bird breeding season (April - July inclusive). All wild bird nests are protected from damage, destruction, interference and obstruction under the Wildlife and Countryside Act 1981 (as amended). Some birds (listed on schedule 1 of the Wildlife and Countryside Act) have heightened protection where it is also an offence to disturb these birds while they are in or around the nest. For information please see: www.snh.org.uk/publications/online/wildlife/law/birdseggs.asp

Signature: Allan J Todd

Designation: Area Planning Manager – South

Author: Nicola Drummond

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

Relevant Plans: Plan 1 – indicative site plan

Plan 2 – indicative phasing plan

Plan 3 – location plan



