

Agenda Item	5.1
Report No	PLS 013/18

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee  
**Date:** 13 March 2018  
**Report Title:** 17/02509/FUL: Scotia Homes Ltd  
Land 150m SW of Salix, Dalcroy Road, Croy  
**Report By:** Area Planning Manager – South/Major Developments

### Purpose/Executive Summary

**Description:** Erection of 100 houses, retail unit and cafe

**Ward:** 17 – Culloden and Ardersier

**Development category:** Major

**Reason referred to Committee:** Major application

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

### Recommendation

Members are asked to agree the recommendation to **Grant** planning permission as set out in section 11 of the report.

## **1. PROPOSED DEVELOPMENT**

- 1.1 Planning permission is sought for the erection of 100 houses plus a café and shop unit on land immediately to the southwest of Croy. 25 houses are proposed as affordable units.
- 1.2 The proposed houses are all 1¾ storeys in height and feature a variety of designs comprising nine separate house types from 1 bed cottage flats, 2 bed terraced houses, and a mix of 3 bed detached and semi-detached and 4 bed detached houses. They are of contemporary design and feature a palette of materials consisting of white roughcast finish for the walls on the majority of the units but with some of the corner houses being timber clad. All will feature UPVc windows with dark grey frames and dark grey concrete roof tiles.
- 1.3 The commercial units consisting of the café and shop will essentially form a gateway feature to the entrance to the development. These buildings are single storey in height, are clad in timber and will feature metal roofs.
- 1.4 High quality landscaping will feature throughout the site and has been integrated into the overall design, with full planting details submitted as part of this application.
- 1.5 There will be two main accesses serving the site. From the north the existing road serving School Brae and Ardgowan and extending southwest will form the main road serving the development. It will link in with a new access directly from the B9006 on the south side of the village.
- 1.6 Due to the topography of the site a surface water drainage strategy identified separate drainage catchments for the site and consequently the SUDS facility will consist of two detention basins. The larger of the two basins will provide treatment for surface water run-off associated with approximately 75% of the houses with the remaining houses and the café and shop premises being treated by a smaller pond to the northwest of the primary school.
- 1.7 Pre Application Consultation: The applicant engaged in statutory pre-application consultation following submission of a Proposal of Application Notice in December 2015. The consultation event consisted of a public exhibition held on 16 March 2016.
- 1.8 Supporting Information: The following information has been submitted in support of the application:
  - Supporting Statement;
  - Pre-application Consultation Report;
  - Design and Access Statement;
  - Transport Assessment;
  - Flood Statement, Flood Risk Assessment and Drainage Impact Assessment;
  - Landscape and Visual Impact Assessment; and
  - Master Plan.

1.9 Variations: Minor alterations to site layout.

## 2. **SITE DESCRIPTION**

2.1 The site is open, undulating farmland that slopes gently down from west to east, although the difference in existing site levels across the developable site area varies by only a few metres. The land rises sharply on the southeast boundary.

2.2 The site could be described as consisting of two areas. A small rectangular area of land on the northern part of the site is sandwiched between the residential units on Dalcroy Road and Croy Primary School to the east and the applicant's previous residential development to the west/northwest and consists of the café and shop units and 16 of the proposed houses. The much larger roughly square area that lies to the southwest contains the remaining residential development.

## 3. **PLANNING HISTORY**

3.1 11.12.2015 Proposal of Application Notice submitted.

## 4. **PUBLIC PARTICIPATION**

4.1 Advertised: Schedule 3 / Unknown Neighbour

Date Advertised: 16.06.2017

Representation deadline: 30.06.2017 and 03.12.2017 following re-notification.

Timeous representations: 29 representations from 10 households

Late representations: None

4.2 Material considerations raised are summarised as follows:

- a) Compliance with development plan;
- b) Relevance of current development plan policy in the context of an emerging plan;
- c) Compliance with Scottish Planning Policy;
- d) Archaeological potential of site and protection of features;
- e) Adequacy of Transport Assessment;
- f) Adequacy of Drainage Impact Assessment;
- g) Design of houses

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam).

## 5. **CONSULTATIONS**

5.1 **Croy Community Council:** Object on the grounds of inadequate drainage, school capacity and housing density.

5.2 **Transport Planning:** No objection subject to a number of technical matters being addressed, including safer routes to school and pedestrian connectivity to the village.

- 5.3 **Flood Risk Management:** No objection subject to appropriate conditions.
- 5.4 **Historic Environment:** No objection subject to a condition requiring an archaeological evaluation.
- 5.5 **Environmental Health:** No objection. Recommend conditions controlling amenity matters associated with the operation of the café and retail unit.
- 5.6 **Forestry Officer:** No objection. Recommend further information is sought on footpath specification, tree protection measures and reconsideration of the proposed use of structural trees within close proximity of houses.
- 5.7 **Access Officer:** No objection. Recommends submission of access management plan for approval.
- 5.8 **SEPA:** No objection subject to conditions relating to flooding and drainage.
- 5.9 **Scottish Water:** No objection.
- 5.10 **Transport Scotland:** No objection.
- 5.11 **NATS Safeguarding:** No objection.

## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### **6.1 Highland Wide Local Development Plan 2012**

- 20 - Croy expansion
- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 31 - Developer Contributions
- 32 - Affordable Housing
- 40 - Retail Development
- 55 - Peat and Soils
- 56 - Travel
- 57 - Natural, Built & Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 61 - Landscape
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage
- 70 - Waste Management Facilities
- 75 - Open Space
- 77 - Public Access

## 6.2 **Inner Moray Firth Local Development Plan 2015**

2 - Delivering Development

4 - Water and Waste Water Infrastructure in the Inverness to Nairn Growth Area

## 7. **OTHER MATERIAL CONSIDERATIONS**

### 7.1 **Highland Council Supplementary Planning Policy Guidance**

Construction Environmental Management Process for Large Scale Projects  
(August 2010)

Developer Contributions (March 2013)

Flood Risk & Drainage Impact Assessment (Jan 2013)

Highland Historic Environment Strategy (Jan 2013)

Highland's Statutorily Protected Species (March 2013)

Managing Waste in New Developments (March 2013)

Open Space in New Residential Developments (Jan 2013)

Public Art Strategy (March 2013)

Standards for Archaeological Work (March 2012)

Sustainable Design Guide (Jan 2013)

Trees, Woodlands and Development (Jan 2013)

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

Designing Streets, 2010

Creating Places, 2013

Scottish Planning Policy, 2014

## 8. **PLANNING APPRAISAL**

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

### Determining Issues

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.

### Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy;
- b) site layout and design;
- c) traffic impact;
- d) drainage infrastructure requirements;
- e) impact on natural and cultural heritage interests; and

f) any other material considerations.

#### Development plan/other planning policy

- 8.4 The site forms part of a larger site allocated in the Highland-wide Local Development Plan (HwLDP) for mixed use (predominately residential) development and reaffirmed in the Inner Moray Firth Local Development Plan (IMFLDP) for residential, retail and community use.
- 8.5 The larger allocated site extends to some 15ha and stretches westwards adjacent to the existing modern residential development at Ardgowan. This planning application represents the first phase of development of the larger site and accounts for approximately 8.55ha of the overall area. A Masterplan has been prepared to facilitate delivery of the development.
- 8.6 Policy 20 of the HwLDP specifically relates to the expansion of Croy and lists a number of development criteria that would apply including phasing, transport, green networks and open space, natural, cultural and built heritage, design and developer contributions.
- 8.7 These criteria have been largely refreshed through the IMFLDP requiring the developer to prepare a masterplan, carry out a transport assessment and any mitigation on local and trunk road network, provision of appropriate SUDS and provision of appropriate connectivity with the wider village. In addition there is a requirement that development is phased. It should be noted however that the plan period from adoption envisaged the delivery of 50 homes between 2011 and 2016, a further 50 between 2016 and 2021, with 25 homes delivered in each 5 year period thereafter. Setting aside whether such restrictions on house building are reasonable within the context of development viability it is a matter of fact that this development could proceed in full, enabling delivery of all 100 units prior to 2021 and still be in compliance with this phasing schedule. Accordingly, in the event that Members are minded to grant planning permission for the proposal, it will not be necessary to secure phasing, except in so far as delivery of the commercial element within a reasonable timescale.
- 8.8 Subject to the proposal having no significant impact in terms of site layout and design, traffic generation, other necessary infrastructure and any natural or cultural heritage interests, the proposal would comply with the development plan.

#### Site layout and design

- 8.9 The site layout features a single almost 'L' shaped main or principal road through the development site. This is the road that connects the development with the B9006 to the south via a new access and the existing School Brae to the north. From there the residential streets fed off to serve the development.
- 8.10 The design of the houses is contemporary. They are less than 2 storeys in height and cover a range of housing tenures from a few 1 bedroom flats through to 4 bed detached houses. A simple palette of materials is featured comprising white roughcast finish for the walls on the majority of the units, whilst some of the street corner houses will be timber clad to accentuate their location. The contemporary

design is also reflected in the layout and orientation of the house types with many featuring open plan kitchen and dining areas towards the street and other living areas towards the rear of the houses. This places a strong emphasis on occupiers being able to enjoy the relatively peace, quiet, space and light afforded these areas whilst overlooking their own private garden space. Natural surveillance of the street is however maintained through appropriately located window openings elsewhere on the houses.

- 8.11 The developer will be required through condition to enhance the level of play provision for children and young people by delivering safe and imaginative play facilities consisting of greenspaces offering safe and accessible informal play opportunities and a hierarchy of equipped play facilities, and these must be provided in accordance with the Council's Supplementary Guidance 'Open Space in New Residential Development'.
- 8.12 Footpath linkages are provided throughout the site and connectivity with the wider village can be reinforced with appropriate planning conditions in the event that members are minded to grant planning permission for the proposal.
- 8.13 Overall the site layout and design is considered to be acceptable and meets the objectives of central and local planning policy in creating a good quality design and layout and contributing to a sense of place.

#### Traffic Impacts

- 8.14 The accompanying Transport Assessment and submitted road layout plan was examined by the Council's Transport Planning team as well as Transport Scotland.
- 8.15 The Council's Transport Planning team highlighted a number of matters of concern during the initial consultation response and subsequent changes were made to the road layout. This did not affect the overall layout or location of the buildings within the site, rather it sought minor changes to the proposals to accord with the Council's required standards and guidelines.
- 8.16 The latest amended road layout design (drawing no. 910 Rev. 8) shows visibility splays of 4.5 metres by 160 metres and this is considered acceptable. Members may wish to note that Transport Planning has also accepted proposals to stop up the existing B9006 private access and create a new private access from the new road accessing the development site. Whilst this does not form part of the planning application (it is a matter that will be addressed through Roads legislation) it has been of relevance in considering the acceptability of the new main access with the B9006.
- 8.17 Transport Planning has also requested that the applicant be required to provide a Travel Plan to promote active travel. This would also help promote strong connections to employment centres, including the new settlement at Tornagrain and Inverness Airport Business Park.
- 8.18 There are a number of additional matters that Transport Planning will require clarification on and these can be addressed at the Road Construction Consent stage. Nevertheless there are two matters that are pivotal in enabling Transport

Planning to withdraw its original objection to the proposal and this is the requirement to provide footpath provision to connect with the school as well as footpath provision to Dalcroy Road. Members may wish to note that both these elements can be covered by planning condition.

- 8.19 Transport Scotland has had no adverse comment to make in connection with the proposals.

#### Drainage Infrastructure Requirements – flood risk

- 8.20 The planning application as submitted did not contain a supporting Flood Risk Assessment (FRA), despite this previously being highlighted as a requirement in the Council's 2015 pre-application response pack by both SEPA and our Flood Risk Management team. This has resulted in unnecessary and lengthy delays in the processing of the application and led to objections being raised by both SEPA and the Flood team during the initial consultation process. The lack of information on flooding has also been a significant issue of concern to Croy Community Council and other third party objectors.

- 8.21 The FRA was finally submitted in early November 2017 and following assessment (along with previously submitted drainage information) SEPA was able to confirm on 15 November 2017 that its objection could be withdrawn, subject to relevant conditions covering the following matters:

- final design of engineering works associated with Croy Burn to be approved;
- any new culvert required shall be designed to ensure that it does not breach capacity of Croy School culvert located further downstream.

- 8.22 On 11 January 2018 the Council's Flood Risk Management team was also able to withdraw its objection on flooding grounds subject to the imposition of the following conditions:

- Full details of the replacement of the structure at the location of the stone culvert are provided for review and approval;
- final design of engineering works associated with Croy Burn to be approved, including details of any water crosses and predicted flood levels; and
- all plots and the SUDS basin are located on ground above predicted 200 year plus climate change level and that finished floor level of the buildings should allow for an additional 600mm of freeboard above design flood level.

#### Drainage Infrastructure Requirements - SUDS

- 8.23 An updated Drainage Impact Assessment (DIA) and accompanying revised drainage layout plan was submitted in December 2017. The DIA advised that a previous surface water drainage strategy had identified two separate drainage catchments due to site topography. The northern section of the site will drain to a private SUDS system and discharge to the existing surface water public sewer located in Dalcroy Road. The remaining larger housing area will drain to a separate SUDS facility to the southwest and discharge to the existing burn. A second level of treatment will include a swale adjacent to Croy Burn.



8.24 Both SEPA and the Council's Flood team are satisfied with arrangements for SUDS. The Flood team has however requested conditions covering the following matters:

- final detailed drainage design is provided for review and approval;
- details of the party to be responsible for the drainage infrastructure to be provided until such time as the network is adopted.

#### Natural and Cultural Heritage Interests

8.25 A number of third parties have raised concerns regarding natural and cultural heritage matters, including potential for archaeological impacts and impacts on protected species, most notably badgers.

8.26 The Council's Historic Environment team has advised that the site is located within an area of archaeological potential and recommend that a condition is imposed requiring an archaeological evaluation to be undertaken. This would address concerns raised regarding the proximity of the Clach na Sanais, a large stone of historic importance that is located in close proximity to the proposed new access road from the B9006.

8.27 It is noted that Policy 20 of the HwLDP specifically states that a badger survey and mitigation plan will be required for the site. Whilst there is no direct evidence that there are any badger setts on the land, especially given the open nature of the existing farmland which is not generally considered as a favourable habitat for the species, it is nevertheless a reasonable requirement that the developer undertakes appropriate surveys for all protected species that may be located within or adjacent to the site and to submit an appropriate mitigation plan in the event that any protected species are discovered in the locality.

#### Other material considerations

8.28 There are no other material considerations.

#### Matters to be secured by Section 75 Agreement

- 8.29 a) contributions towards primary and secondary education will be required; and  
b) transport and active travel contribution specifically towards Landward Trail.

8.30 The applicant has four months from the date that the Council's solicitor writes to the Applicant/Applicant's solicitor indicating the terms of the legal agreement, to deliver to the Council a signed legal agreement. Should an agreement not be delivered within four months, the application shall be refused under delegated powers.

## **9. CONCLUSION**

9.1 The proposed erection of 100 houses along with a café and retail unit will meet the development plan objectives for the expansion of this part of Croy.

- 9.2 The site layout, design, landscaping and infrastructure requirements have been well thought out and meet relevant standards in contributing towards good place making. The house designs themselves are contemporary, well-designed and attractive units suitable for this location. Implementation of the integrated landscaping scheme should ensure that the end result is the delivery of a high quality new residential scheme that will complement and enhance the community of Croy.
- 9.3 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

## 10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Section 75 Agreement will be required
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

## 11. RECOMMENDATION

<b>Action required before decision issued</b>	Y
Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	Y
Revocation of previous permission	N

**Subject to the above**, it is recommended that planning permission be **GRANTED**, subject to the following:

### Conditions and Reasons

1. No development shall commence on site until a scheme for the provision of, or contribution towards, on-site affordable housing (which meets the definition of affordable housing outlined in The Highland Council's Affordable Housing Supplementary Planning Guidance dated August 2008 (as amended, revoked or replaced; with or without modification)) as part of the development hereby approved has been submitted to, and approved in writing, by the Planning Authority. The scheme shall include:
  - i. the numbers, type, tenure and location of the affordable housing

provision to be made, which shall consist of not less than 25% of the total number of housing units proposed within the application site;

ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

iii. the arrangements for the transfer of the affordable housing to an affordable housing provider;

iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Thereafter, the affordable housing shall be provided in accordance with the approved scheme.

**Reason:** To ensure that affordable housing is provided as part of the development, in order to reflect the need for the affordable housing within the area, alongside market housing, which has been established through the Council's Affordable Housing Supplementary Planning Guidance.

2. No development shall commence until a Phasing Plan outlining details of the phasing of the development has been submitted to, and approved in writing by, the Planning Authority. Thereafter, development shall be undertaken in accordance with this approved Phasing Plan. In particular, the phasing plan shall make provision for:

(i) the completion of all landscaping, open space and play facilities as appropriate within each phase; and

(ii) the construction and availability for use of the proposed café and retail unit, prior to occupation of the 25th house on the site.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason:** To ensure that build-out of the development is phased so as to avoid adverse impact on local services and infrastructure and to ensure the timeous delivery of the landscaping scheme and commercial development.

3. Further to Condition 2 above, all roads and pavements within the application site, (including the paths referred to in Condition 4 below) as they relate to a particular phase shall be formed to base course level prior to the first occupation of any of the houses within that phase. Thereafter, the final wearing surface shall be applied concurrently with the construction of the last house within the phase in question, or upon the expiry of a period of three years from the date of first occupation within that phase, whichever is

the sooner.

**Reason:** To ensure that roads and pavements are provided to an adequate standard and within a reasonable timescale comparable with the phasing of the development.

4. Notwithstanding the approved plans no development shall commence until full details of the following new path connections have been submitted to, and approved in writing by, the Planning Authority:
  - i) path provision to connect with the Croy School entrance;
  - ii) path provision from the development site through to Dalcroy Road;
  - iii) path provision from the new access junction with the B9006 running adjacent to the B9006 to the existing path on the north side of the B9006.

Thereafter, the paths shall be constructed and provided in accordance with the Phasing Plans approved under the requirements of Conditions 2 and 3 above.

**Reason:** To ensure the satisfactory provision of path connections from the development site and the existing village.

5. No development shall commence until a Construction Environmental Management Document (CEMD), in accordance with The Highland Council's Guidance Note on Construction Environmental Management Process for Large Scale Projects (August 2010) (as amended, revoked or re-enacted; with or without modification), has been submitted to, and approved on application to the Planning Authority. The CEMD shall be submitted at least two months prior to the intended start date on site and shall include the following:
  - i. A Schedule of Mitigation (SM) drawing together all approved mitigation proposed in support of the application and other agreed mitigation (including that required by agencies and relevant planning conditions attached to this permission);
  - ii. Construction Environmental Management Plans (CEMPs) for the construction phase, covering:
    - (a) Habitat and Species Protection, including the protection of existing trees in accordance with BS5837 and pre-commencement European protected species surveys and mitigation plans;
    - (b) Pollution Prevention and Control;
    - (c) Dust Management, including a scheme for protecting any neighbouring premises from construction dust. It is expected that the developer should take all reasonably practical steps to minimize the formation of dust in the atmosphere and in the surrounding area

which arises from the construction of the developments;

(d) Noise and Vibration Mitigation. The CEMP relating to noise shall detail the noise mitigation measures will be adopted for each of the construction activities particularly for any property where a significant adverse effect has been identified in the Construction Noise Assessment (CNA) dated 24.05.2017 from ERM. It shall also provide details of the communications and complaints procedure and the construction working hours. The noise CEMP shall follow the guidance contained within BS5228: Code of Practice for noise and vibration control on construction and open site and include all the mitigation measures detailed in 1.8.1 of the CNA including the construction of noise barriers (unless it can be demonstrate that barriers are not required).

(e) Site Waste Management;

(f) Site specific Surface and Ground Water Management Strategy including:

i. Drainage and sediment management measures from all construction areas and how works to remove the culvert will be carried out in such a way to avoid pollution downstream; and

ii. Mechanisms to ensure that construction will not take place during periods of high flow or high rainfall.

iii. Change control procedures to manage/action changes from the approved SM, CEMD and Construction Environmental Management Plans;

iv. Methods for monitoring, auditing, reporting and the communication of environmental management on site and with client, Planning Authority and other relevant parties.

Thereafter, development shall be carried out in accordance with the approved Schedule of Mitigation, Construction Environmental Management Document and any Construction Environmental Management Plans approved thereunder.

**Reason:** To ensure that the construction of the development is carried out appropriately and does not have an adverse impact on the environment.

6. No development or work (including site clearance) 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.

7. No development or work shall commence until a detailed specification for all proposed external materials and finishes (including trade names and samples where necessary) has been submitted to, and approved in writing by, the Planning Authority. Thereafter, development and work shall progress in accordance with these approved details.

**Reason:** In order to enable the planning authority to consider this matter(s) in detail prior to the commencement of development; in the interests of amenity.

8. No development shall commence until a scheme for the layout, design and construction of play facilities (including specifications, protection measures, boundary treatments and timescales for implementation) and in accordance with the Council's Supplementary Guidance 'Open Space in New Residential Development' 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:** To ensure the adequate provision of play facilities in the interests of amenity and in accordance with the Council's adopted supplementary guidance.

9. A Travel Plan for the development shall be submitted to the Planning Authority for approval within one month following occupation of the first residential unit. Following approval in writing the Travel Plan shall implemented in accordance with the approved details, subject however to a review and resubmission within one month of occupation of the 50th residential unit.

The Travel Plan shall incorporate the following aims and detail how these will be delivered / achieved during the lifetime of the Plan, which will operate until the development is complete:

- (i) provision of customer cycle parking provision at the café/retail unit area;
- (ii) Promotion of sustainable travel and connections with new settlement at Tornagarain and economic development of Inverness Airport Business Park;
- (iii) Mapping and leaflets during sales/marketing stage;
- (iv) Establishing relationship with public transport operators; and
- (v) Promotion of car sharing.

**Reason:** To promote active travel within the surrounding area.

10. No development shall commence until a scheme for the maintenance, in perpetuity, of all on-site green spaces and play areas and any other spaces,

facilities, features or parts of the development that are not the exclusive property of any identifiable individual home owner (such as communal parking areas, the common entrances to flatted dwellings and estate lighting, and those elements of surface water drainage regimes not maintained either by the Council or Scottish Water), have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the approved scheme shall be implemented in full and in accordance with the timescales contained therein.

**Reason:** To ensure that satisfactory arrangements are in place to manage the open space areas and play facilities in the interests of amenity and public safety.

11. No development shall commence until full details of the final design of the watercourse engineering works demonstrating that the works will not result in flood risk to the development or an increase in flood risk elsewhere have been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The design shall include the requirement that the finalized overall channel is calculated to convey  $4.06\text{m}^3/\text{s}$  in line with the design outlined in the previously submitted Flood Risk Assessment. The details shall also include any proposed crossings and predicted flood levels.

**Reason:** To ensure that the engineering works are carried out in a sustainable manner and will not increase flood risk within the site or elsewhere and to enable consideration of the design of any crossings.

12. Full details of any replacement structure at the location of the stone culvert shall be submitted to, and approved in writing by, the Planning Authority. The details shall include the maximum 88 metre Above Ordnance Datum top level is retained as recommended in the Flood Risk Assessment and the pass forward flow must be limited to less than  $0.36\text{m}^3/\text{s}$ .

**Reason:** To ensure that the flood risk at the Croy School culvert is not increased.

13. All plots and the SUDS basin shall be located on ground above the predicted 200 year plus climate change flood level, as determined in the design of the new channel. The Finished Floor Level (FFL) of the buildings shall allow for an additional 600mm of freeboard above the design flood level. Full details of any changes in proposed ground levels and FFL beyond which have been approved as part of this planning permission shall be submitted to, and approved in writing by, the Planning Authority prior to construction on any of those affected plots or the SUDS basin taking place.

**Reason:** To minimize the risk of flooding at the site and to enable full consideration to be given to any changes required to the design of the development in facilitating these requirements.

14. No development shall commence until full details of the final drainage design for the site have been submitted to, and approved in writing by, the Planning

Authority.

**Reason:** To ensure that the final scheme is fit for purpose.

15. Prior to first occupation of any of the development, details of the person(s) responsible for site management and maintenance of all roads, pavements and parking spaces and the proposed drainage infrastructure including the watercourse and SUDS, prior to any of the aforementioned infrastructure being vested, shall be submitted to, and approved in writing by, the Planning Authority.

**Reason:** To ensure that satisfactory arrangements are in place to manage the proposed infrastructure on site prior to formal adoption by the relevant Authority or Agency.

16. The new access road at its junction with the B9006 shall be formed to comply with drawing ref. 910 Rev 8 and shall feature visibility splays of 4.5 metres by 160 metres (the X dimension and Y dimension respectively) in each direction from the centre line of the junction. The access shall be formed in accordance with the phasing arrangements required by Condition 3 above.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

**Reason:** In the interests of road safety, and that the works involved comply with applicable standards.

17. No development shall commence until details for the provision of public art, in accordance with the Council's Public Art Strategy – Supplementary Guidance has been submitted to, and approved in writing by, the Planning Authority.

**Reason:** To ensure the adequate provision of public art in accordance with the Council's supplementary guidance.

18. No development shall commence until full details for the construction of an entrance feature to the development from the B9006, potentially designed in conjunction with the requirements of Condition 17 relating to public art provision, have been submitted to, and approved in writing by, the Planning Authority. Thereafter the entrance feature shall be constructed and completed prior to the new access road being available for use by the public.

**Reason:** To ensure the timeous provision of a landmark entrance feature to the site, in the interests of amenity.

19. Prior to the commencement of development, a detailed plan of public access across the site (existing, during construction and upon completion) shall be submitted to, and approved in writing by, the Planning Authority.



The details shall show:

1. All existing paths, tracks and rights of way, and any areas currently outwith or excluded from statutory access rights;
2. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures;
3. All paths and tracks proposed for construction, for use by walkers, riders, cyclists, all-abilities users, etc;
4. Any diversion of paths, temporary or permanent, proposed for the purposes of the development.

Thereafter, development shall progress in accordance with the approved details.

**Reason:** To ensure that public access is maintained and enhanced as a result of the development.

20. Prior to construction commencing on the café unit a scheme for the ventilation and filtration of cooking odours and fumes must be submitted for the approval of the Planning Authority.

**Reason:** To protect the amenity of occupiers of nearby properties.

21. The café and retail unit shall not be occupied until a scheme for the storage of refuse and recycling for the respective café or retail unit has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented prior to the first use of the café and/or retail unit and thereafter maintained in perpetuity.

**Reason:** In the interests of amenity and environmental protection.

22. No deliveries shall be received at the café or retail units after 10pm on any night or before 7am Mon-Sat or before 9am Sundays.

**Reason:** To protect the amenity of occupiers of nearby properties.

23. All plant, machinery and equipment associated with the café or retail unit be so installed, maintained and operated such that either of the following standards are met: - any associated operating noise must not exceed NR 20 when measured or calculated within the bedroom of any noise-sensitive premises with windows open for ventilation purposes.

OR

the operating noise Rating level must not exceed the Background noise level by more than 5dB(A) including any characteristics penalty. Terms and measurements to be in accordance with BS 4142: 2014 Methods for Rating

Industrial & Commercial Sound.

**Reason:** To protect the amenity of occupiers of nearby properties.

24. No development or work associated with the formation of the recycling facility to the west of the new access road with the B9006 shall be carried out until full details of the recycling facility have been submitted to, and approved in writing by, the Planning Authority.

**Reason:** To enable consideration of this matter in detail, in the interests of amenity.

## **REASON FOR DECISION**

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

## **TIME 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 (paragraph 259), 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 road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area 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/info/20005/roads\\_and\\_pavements/101/permits\\_for\\_working\\_on\\_public\\_roads/2](http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2)

### **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](mailto:env.health@highland.gov.uk) 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: [www.snh.gov.uk/protecting-scotlands-nature/protected-species](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species)

### **Archaeology – Mitigation Specification**

#### 1) Summary

This project may impact on valuable features of historic and archaeological importance. In view of the archaeological sensitivity and potential of the site, HET advised that an archaeological evaluation be undertaken in advance of development. The implementation of this brief will meet the concerns raised.

This brief is for an evaluation to determine the archaeological baseline of the application site. If significant deposits are encountered, recommendations for further measures necessary to mitigate the impact of the development should be made.

This brief has been produced for the applicant who will be responsible for the work and all costs incurred, including any tendering and contractual arrangements. This brief must be read with reference to the Highland Council Standards for Archaeological Work document that sets out in detail who is responsible for what, as well as the terms of reference, objectives, method, monitoring and reporting arrangements.

The Standards for Archaeological Work is available on our webpage at

[http://www.highland.gov.uk/downloads/file/1022/standards\\_for\\_archaeological\\_work](http://www.highland.gov.uk/downloads/file/1022/standards_for_archaeological_work)

## 2) Archaeological Background

Initial archaeological evaluation work carried out in advance of the submission of this application has identified that extensive buried prehistoric remains survive here. The evaluation was not completed due to extensive vegetation, spoil heaps and other restrictions on the site. There is now a requirement to complete the archaeological work by means of a controlled strip across the remainder of the site.

## 3) Objectives

- To identify the location, nature and extent of any features or objects of archaeological importance that would be damaged or destroyed by this development.
- To propose arrangements for the safeguarding where possible, and recording where necessary of any archaeological features or finds identified. These will need to be agreed with the Historic Environment Team.

## 4) Methodology

All fieldwork must be informed by a desk-based assessment undertaken in advance of the start of works. This will include the report produced by AOC Archaeology for the 2016 evaluation.

### Controlled Strip

Archaeological monitoring is required during all site groundworks for this application, including all site clearance work, access roads and service arrangements. Topsoil stripping (using a smooth-bladed bucket) of the entire application site must be monitored and guided by an archaeologist so that any buried archaeological features can be identified, recorded and/or appropriate mitigation put in place to ensure their preservation.

All recovered artefacts and ecofacts must be subject to a programme of post-excavation analysis and the results incorporated into a final report.

The Historic Environment Practitioner must refer to the minimum standard requirements as laid out in the HC Standards for Archaeological Work. This brief itself is not comprehensive or definitive - tendering Historic Environment Practitioners will need to determine for themselves the methodology that will deliver the required product. This should be laid down in a Project Design and agreed with HET in advance of the start of site works. The start of archaeological work will be subject to the submission and approval of this document.

## 5) Schedule & Monitoring

The Historic Environment Practitioner is responsible for agreeing arrangements for monitoring with HET staff. We will monitor projects as necessary to ensure that minimum standards are met. Prior notice of fieldwork starting dates, with contact names, telephone numbers and arrangements for access must be given to HET in advance of the start of works.

The Historic Environment Practitioner must make a short progress report (by telephone) to HET for every week of fieldwork undertaken. Any unexpectedly significant or complex discoveries or other unexpected occurrences which might

significantly affect the archaeological work and/or the development must be notified by the Historic Environment Practitioner immediately to the applicant and HET. The finds or features must be left in situ until arrangements have been agreed for safeguarding or recording them. In the meantime work may continue on other areas of the site.

#### 6) Products

Following completion of the fieldwork, an archive and report will be produced and disseminated according to the standards set out in the HC Standards for Archaeological Work. The report should describe the nature of the field work undertaken; the conditions and limitations within which the work was carried-out; the results that were obtained and recommendations for mitigation and/or further work, as appropriate. Further work may include additional fieldwork, post-excavation analysis, specialist studies and publication.

#### **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.

Signature: Nicola Drummond  
Designation: Area Planning Manager – South/Major Developments  
Author: John Kelly  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - Location Plan  
Plan 2 - Phase 1 Site Plan  
Plan 3 - Café & Retail Site Plan  
Plan 4 - Café & Retail Street Elevation Plan  
Plan 5 - Street Elevations – Site Sections  
Plan 6 - Housing Mix Plan  
Plan 7 - House Type 85 Elevations  
Plan 8 - House Type 110 Elevations  
Plan 9 - House Type 135 Elevations (with cladding)  
Plan 10 - House Type 150 Elevations  
Plan 11 - Planting Detail 1/9  
Plan 12 - Planting Detail 2/9  
Plan 13 - Planting Detail 3/9  
Plan 14 - Planting Detail 4/9  
Plan 15 - Planting Detail 5/9  
Plan 16 - Planting Detail 6/9

Plan 17 - Planting Detail 7/9

Plan 18 - Planting Detail 8/9

Plan 19 - Planting Detail 9/9