

Agenda item	6.2
Report no	PLN/049/18

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 1 August 2018

Report Title: 18/01017/PIP Land 160M West of Nutwood Strathpeffer.

Report By: Area Planning Manager – North

1. **Purpose/Executive Summary**

1.1 Applicant: Cromartie Estate

Description of Development: Erection of 15 houses (renewal of 14/02773/PIP)

Ward: Ward 05 - Wester Ross, Strathpeffer And Lochalsh

Category: Major

Reasons Referred to Committee: Major Development

All relevant matters have been taken into account when appraising this application. It is considered that although the site does not accord with the Development Plan there are other applicable material considerations which justify supporting the development.

2. **Recommendation**

2.2 Members are asked to agree the recommendation to grant as set out in section 11 of the report.

3. PROPOSED DEVELOPMENT

- 3.1 The application seeks to renew planning permission in principal ref 14/02773/PIP granted 25 March 2015. Permission 14/02773/PIP relates to the development of 3.25 hectares of land at Nutwood, Strathpeffer for 15 houses.
- 3.2 Statutory pre application consultation was undertaken prior to the submission of the previous application in 2014. Application 14/02773/PIP was accompanied by a Pre application consultation (PAC) report. This report has been provided as part of the accompanying documentation for the current application. There is no statutory provision for further pre application consultation with the community in cases where an application has been made to extend the time period for an existing permission which relates to a major development. It is understood that the arrangements for public consultations on major applications is currently being reviewed under the forthcoming Planning Bill.
- 3.3 The current application is supported by the design and access statement and plans providing an indicative site layout which accompanied the original application 14/02773/PIP.

3.4 **Variations:** None

4. SITE DESCRIPTION

- 4.1 The site lies on the northern edge of Strathpeffer village. Access is provided from the public road via the existing private driveway. The site of the housing development is under grass. From the point on the existing driveway where a new section of access road is proposed, the land rises gently to reach a natural plateau where the housing development is proposed.

The driveway currently serves three existing houses at Nutwood. Further houses back onto the southern boundary of the site which take access from and lie to the east of Golf Course Road. The properties at Nutwood lie immediately to the east of the site. To the north, west and east the development site is surrounded by long established woodland. To the south of the access driveway is the field in which the Pictish Eagle Stone stands.

5. PLANNING HISTORY

- 5.1 14/02773/PIP - Erection of 15 houses (Planning Permission in Principal) - Granted - 25 March 2015 subject to a S75 for the provision of affordable housing.

6. PUBLIC PARTICIPATION

- 6.1 Advertised : Departure/Potential Departure and Unknown Neighbour
Representation deadline : 30.03.2018

Timeous representations : Five

Late representations : None

- 6.2 Material considerations raised are summarised as follows:

- Site is not contained within the Inner Moray Firth Local Development Plan.

- Capacity of driveway to accommodate construction vehicles.
- Road safety concerns with the use of the proposed access.
- Protection of the Eagle Stone.
- Loss of mature trees to enable improvements to access junction with public road.
- Impact of Flood risk from surface water run off.
- Development does not enhance or preserve the character of the conservation area.
- Light pollution.
- Impact on wildlife.
- Impact on the residential amenity of neighbouring properties

6.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

7. CONSULTATIONS

7.1 **Development Plans Team:** No objection. The proposals are not consistent with the current development plan position. However both the extant permission and the fact that the proposals seek to address the reasons that the site allocation was removed from the IMFLDP are material considerations and carry significant weight. Furthermore the lack of any progress on the single housing allocation remaining in Strathpeffer at Kinellan is limiting housing options in the village.

As such there does not appear to be any overriding justification that would warrant a recommendation for this proposal to be refused. However it should be noted that the timing of this application had it been lodged after the expiry of the extant permission, less weight would have been given to the planning history

7.2 **Historic Environment Team:** No objection. The design statement recognises the sensitivities of the adjacent conservation area. The mitigation measures to screen the proposal from the conservation area with a minimum 20m buffer consisting of native trees and shrubs is considered acceptable. No significant impacts on the character, appearance or setting of the conservation area are therefore expected as a result of the proposal.

7.3 **Transport Planning Team:** No objection. The technical issues remain unchanged since the original consultation response provided in relation to the previous application 14/02773/PIP. The up to date road crash check indicated no injury incidents in this location in a 5 year period. It should be noted that the technical specifications relating to condition 8 (Suds) have now been updated and that the wording should be amended to reference 'Sewers for Scotland 3rd edition' and 'the Suds Manual (CIRIA- C753)'.

7.4 **Access Officer:** No objection. Recommend the creation of information path around the site and into the surrounding woodland to provide a recreational opportunity for future residents.

7.5 **Scottish Water:** No objection. There is currently sufficient capacity in the Assynt Water Treatment Works and Strathpeffer Waste Water Treatment Works.

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan 2012

Policy 28	Sustainable Development
Policy 29	Design Quality and Place-Making
Policy 31	Developer Contributions
Policy 32	Affordable housing
Policy 35	Housing in the Countryside (Hinterland)
Policy 51	Trees and Woodland
Policy 56	Travel
Policy 57	Natural, Built and Cultural Heritage
Policy 58	Protected Species
Policy 51	Trees and Development
Policy 66	Surface Water Drainage
Policy 75	Open Space

8.2 Inner Moray Firth Local Development Plan July 2015

No specific policy applies - refer to Highland wide Local Development Plan

9. OTHER MATERIAL CONSIDERATIONS

9.1 Draft Development Plan

Not applicable

9.2 Highland Council Supplementary Planning Policy Guidance

- Developer contributions
- Affordable housing
- Open space
- Trees, woodland and development
- Highland Historic Environment Strategy

9.3 **Scottish Government Planning Policy and Guidance**

A Successful, Sustainable Place

- Enabling Delivery of New Homes
- Valuing the Historic Environment

9.4 **Other**

Planning permission 14/02773/PIP live on the date of receipt of the current application.

10. **PLANNING APPRAISAL**

10.1 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.

10.2 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.

10.3 **Development Plan Policy Assessment and other material considerations**

10.4 Since the determination of the previous application in 2015 the Inner Moray Firth Local Development Plan (IMFLDP) has been adopted. The Strathpeffer inset map identifies the site lying outwith the settlement development area and that the site is also within the hinterland identified on Map 3 of the IMFLDP; in these circumstances the principle of housing development on the site would normally be assessed against the Highland wide Local Development Plan (HwLDP) Policy 35 Housing in the Countryside (Hinterland areas).

10.5 In this instance a key material consideration is the previous planning permission which was valid at the time that the current application was submitted and registered by the Planning Service.

10.6 The planning legislation allows for the submission of a further application for planning permission or planning permission in principal for the same development where the previous application was granted permission, development has not begun and the duration of the previous permission has not expired. This process provides an opportunity for applicants to extend the life of the planning permission as in this case. The presence of a live planning permission at the time the application was submitted carries significant weight in the determination of the current application.

10.7 Although the site is no longer included in the local development plan, the development for which planning permission in principal is now sought and which benefitted from planning permission in principal at the time the current application was submitted is considered to address the fundamental reason for the site's exclusion from the IMFLDP for the following reasons.

10.8 The planning permission in principal provides for the existing driveway from the public road to be upgraded and thereby provides an acceptable means of access to the site. This proposal overcomes the previously held objections to the site's

inclusion in the local area development plan which related to the site being accessed through the inventoried ancient woodland to the north. At the time of assessing the previous planning application in principal detailed discussions were undertaken between the applicant and the Council to ensure that the upgrading of the existing access could be achieved in a manner that would conserve the attractive entrance and its setting, established by the mature roadside trees and ensure that the junction was acceptable in road safety terms.

10.9 The planning permission in principal also provided for improvements to the connectivity between the site and the village by the provision and upgrading of a footpath which is considered to address concerns about the integration of the site with the existing village.

10.10 **Third party representations**

10.11 The issues raised by the third parties regarding the means of access, impact on trees and other detailed matters were assessed during the processing of the previous planning application as far as practicable given that the application related to planning permission in principal. An application for planning permission in principal seeks to establish the acceptability of a proposal in principle only and does not set out the full details of a development. There have been no physical changes to the means of access or the development site which would warrant refusal of the application to renew the planning permission in principal for the site.

10.12 The planning permission in principal included a schedule of conditions which covered the need for the following matters to be the subject of further applications before development can commence on site;

- A detailed layout of the site which includes the 15 house plots and communal areas.
- Detailed layout and design of the reconstruction works to the existing driveway together with the details and design of the new road to service the houses, access to each plot and parking arrangements.
- Detailed layout and design of a footpath from the start of the new road to the footpath on the A835.
- The design and external appearance of the 15 houses and any domestic outbuildings.
- Landscaping proposals for the whole site.
- Details of the proposed water supply and drainage arrangements.
- Details of a public art installation.

10.13 The schedule of conditions included further conditions to ensure that the following matters are addressed in any future submission for approval of the matters specified above;

- Provision of a play area, and landscaping of the development including an avenue of trees from the junction with the A834 and the entrance to the housing development, specimen trees within the field to the west of the Eagle Stone.
- 20m green buffer between the boundaries of the plots and the red line boundary of the development site.

- a road designed to adoptable standards which complies with 'Designing Streets' and the Councils 'Roads and Transport Guidelines for New Developments' with visibility splays of 2.4m x 215m to the north and 2.4 x 90m to the south from the centre line of the junction with the A835.
- Improvements to the section of existing core footpath RC45.10 Eagle Stone Path from the field boundary to the A835 to an all abilities surfaced footpath.
- Details of surface water drainage proposals.
- Submission of a Tree Protection Plan
- Submission of a Construction Management Plan
- Submission of an Archaeological Watching Brief
- Submission of Factoring Agreement, and
- Submission of a bat survey

10.14 Through the submission of applications for the approval of the above matters, the material considerations raised by the third parties will be fully assessed. The application(s) will be the subject of statutory neighbour notification and publicity procedures with the opportunity for individuals to comment on the detailed proposals for the site.

10.16 Other Considerations – not material

10.17 A number of other matters have been raised in representations that are not material to this application. The first is the perceived lack of demand for housing in Strathpeffer and the number of houses that are currently for sale. There is also reference to loss of business earnings due to the impact of construction traffic and finally comment is made that the manner in which the application has been lodged is an attempt to circumvent the time limit direction on the previous planning permission.

10.18 The lack of demand for housing and the number of vacant properties is determined by wider economic matters and is outwith the remit of the Planning Authority. The impact of construction traffic on the existing properties served by the Nutwood driveway will be dealt with through the construction traffic management plan and thus it is anticipated that disturbance can be kept to a minimum with traffic being well managed during the construction period.

10.19 With regard to the comments asserting that the applicant is seeking to avoid the time limit direction of the previous permission, the applicant has followed a statutory procedure to renew the planning permission in principal for the development. The previous planning permission in principal was extant on the date that the current application was received and registered and this is a significant material consideration in the determination of this application.

10.6 Matters to be secured by Section 75 Agreement

A Section 75 Agreement was signed and registered prior to the issuing of the previous planning permission in principal which secured the provision of affordable housing in accordance with the Council's adopted supplementary guidance. The agreement requires to be modified so that it references the current application. An application to modify the Section 75 Agreement is pending consideration and will be progressed under the council scheme of delegation following the determination of this planning application.

11. CONCLUSION

- 11.1 All relevant matters have been taken into account when appraising this application. It is considered that the presence of a valid planning permission in principal for the same development for which planning permission in principal is sought is a material consideration. No change has occurred to the physical characteristics of the site and the development proposals, particularly the proposed means of access, addresses the principal reason for the site being removed from the local area development plan.

12. IMPLICATIONS

- 12.1 Resource – Not applicable
- 12.2 Legal –Not applicable
- 12.3 Community (Equality, Poverty and Rural) –Not applicable
- 12.4 Climate Change/Carbon Clever –Not applicable
- 12.5 Risk – Not applicable
- 12.6 Gaelic – Not applicable

13. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
Notification to Historic Scotland	N
Modification 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. No development shall commence until a Traffic Order has been made which will extend the 30mph speed limit north east of the proposed access junction. The traffic calming scheme and street lighting along the A834 associated with the extension of the 30mph zone, including signage of the new limit shall be provided at the expense of the developer.

Reason : The development would not be acceptable without the extension of the 30mph speed limit as there would be a danger to road traffic as a result of the intensification of use of the access due to the development.

2. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:
- i. A detailed layout of the site which includes the 15 house plots and communal areas.
 - ii. Detailed layout and design of the reconstruction works to the existing driveway along with the details and design of the new road to service the houses, access to each plot and parking arrangements.
 - iii. Detailed layout and design of a footpath from the start of the new road to the footpath on the A835.
 - iv. The design and external appearance of the 15 houses and any domestic outbuildings.
 - v. Landscaping proposals for the whole site.
 - vi. Details of the proposed water supply and drainage arrangements.
 - vii. Details of a public art installation.

Reason : Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

3. Any details pursuant to Condition 2 (i) above shall show a development featuring the following elements:
- Full details of the location, form and programme for delivery of a fully-equipped play area within the application site. Thereafter, the play area shall be installed by, and at the expense of, the developer in line with these approved details and their on-going upkeep shall be included in a factoring agreement (or similar).
 - A 20m green buffer between the boundaries of the plots and the red line boundary of the development site.

Reason : In order to ensure that there is suitable on site provision of open space and that the development takes cognisance of the setting of the site.

4. Any details pursuant to Condition 2 (ii) above shall show a development featuring the following elements:
- A road designed to adoptable standards which complies with 'Designing Streets' and the Councils 'Roads and Transport Guidelines for New Developments' with visibility splays of 2.4m x 215m to the north and 2.4 x 90m to the south from the centre line of the junction with the A835.
 - Car parking spaces provided within the curtilage of each of the dwellinghouses and formed in accordance with the Council's 'Road and Transport Guidelines for New Developments', prior to first occupation of the dwellinghouse to which it relates, thereafter being maintained for this use in perpetuity.

Reason : To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity and in order to ensure that the level of off-street parking is adequate.

5. Any details pursuant to Condition 2 (iii) above shall show a development featuring the following elements:
- Full details of the route and construction specification of a surfaced all abilities footpath between the houses, the Eagle Stone and the centre of Strathpeffer. Thereafter, the footpath shall be installed by, and at the expense of, the developer in line with these approved details and the on-going upkeep shall be included in a factoring agreement (or similar).
 - Full details of the improvement to the section of existing core footpath RC45.10 Eagle Stone Path from the field boundary to the A835 to an all abilities surfaced footpath.

Reason : In order to improve access to the Eagle Stone and between the development site and the village of Strathpeffer.

6. Any details pursuant to Condition 2 (iv) above shall show a development featuring the following elements:
- The design and external appearance of the houses shall comply with the design statement, as approved.

Reason : In recognition of the requirements of the location of the site adjacent to the conservation area.

7. Any details pursuant to Condition 2 (v) above shall show a development featuring the following elements:
- Proposals for all communal areas
 - An avenue of trees from the junction with the A834 and the entrance to the housing development.
 - The layout of specimen trees within the field which lies to the west of the Eagle Stone.
 - Landscaping proposals for the footpath link, as referred to in condition 5 above.
 - Boundary treatments for the 15 house plots and the communal areas
 - A line of beech hedging and a row of trees on the south side of the access junction.
 - Repairs to the existing retaining wall on the south side of the access.

All planting, seeding or turfing and repairs as may be comprised in the approved scheme and plans shall be carried out in the first planting and seeding seasons following the commencement of the development, unless otherwise stated in the approved scheme. 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: In order to ensure that the site is suitably landscaped and to mitigate the loss of trees that will take places as a result of the formation of the new road and the reconstruction of the existing driveway.

8. Any details pursuant to Condition 2 (vi) above shall show a development featuring the following elements:

Detailed surface water drainage proposals including identified outfalls and volumes, type size and location of Suds features, appropriate test results and the proposals for maintenance of the infrastructure all designed in accordance with Sewers for Scotland 3rd edition and the Suds Manual (CIRIA- C753) and Suds for Roads (SCOTS) as appropriate for the identified maintenance regime.

Reason: In order to ensure that an acceptable Suds scheme for the site is provided

9. No development shall commence until a Tree Protection Plan and Arboricultural Method Statement has been submitted to and subsequently approved in writing by the planning authority, in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction (or any superseding document prevailing at the time).

A suitably qualified Arboricultural consultant shall be employed at the applicant's expense to ensure that the approved Tree Protection Plan and Arboricultural Method Statement are implemented to the agreed standard. Stages requiring supervision shall be agreed with the planning authority and certificates of compliance for each stage are to be submitted for approval.

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 retained trees during construction and thereafter.

10. No development shall commence until a scheme for the maintenance, in perpetuity, of all on-site green spaces, woodland, the play area and the footpath link from the new section of road to the A834 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, 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 thereafter maintained in perpetuity in accordance with the timescales contained therein.

Reason: To ensure that all communal spaces, facilities and landscaping areas are properly managed and maintained.

11. No development shall commence until a management scheme for construction traffic has been submitted for the consideration and approval of the planning authority. The scheme shall include the number of HGV's, together with the route and strategy for maintaining access to the existing properties. Thereafter the approved scheme shall be implemented.

Reason: In the interest of traffic and pedestrian safety.

12. 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

13. No development shall commence until a bat pre-commencement survey has been undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall cover all of the trees identified for removal and 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 approved report of survey and the timescales contain therein.

Reason: To ensure that the trees that are affected by the development are surveyed and the development does not have an adverse impact on protected species or habitat.

14. Prior to commencement of development on any of the house plots hereby approved the visibility splays of 2.4m x 215m to the north and 2.4m x 90m to the south shall be provided and thereafter maintained in perpetuity to the satisfaction of the Planning Authority.

Reason : In the interest of road safety during and after construction.

REASON FOR DECISION

It is considered that the presence of a valid planning permission in principal for the same development for which planning permission in principal is sought at the time that the application was lodged is a material consideration. No change has occurred to the physical characteristics of the site and the development proposals, particularly the proposed means of access addresses the principal reason for removing the site from the local area development plan.

TIME LIMIT DIRECTION

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- I. The expiration of THREE YEARS from the date on this decision notice;
- II. The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- III. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained), whichever is the later. If development has not commenced within this period, then this planning permission in principle shall lapse.

FOOTNOTE TO APPLICANT

Requirement for promotion of 30mph speed limit order and implementation prior to any development commencing.

It is important to note that an extension of the 30mph limit will be subject to a Statutory Process requiring public consultation and allowing objection. The outcome cannot therefore be pre-determined. The applicant will be expected to provide a financial contribution toward the promotion of the Traffic Order.

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.

I 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_or_working_on_public_roads/2

Mud and 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.

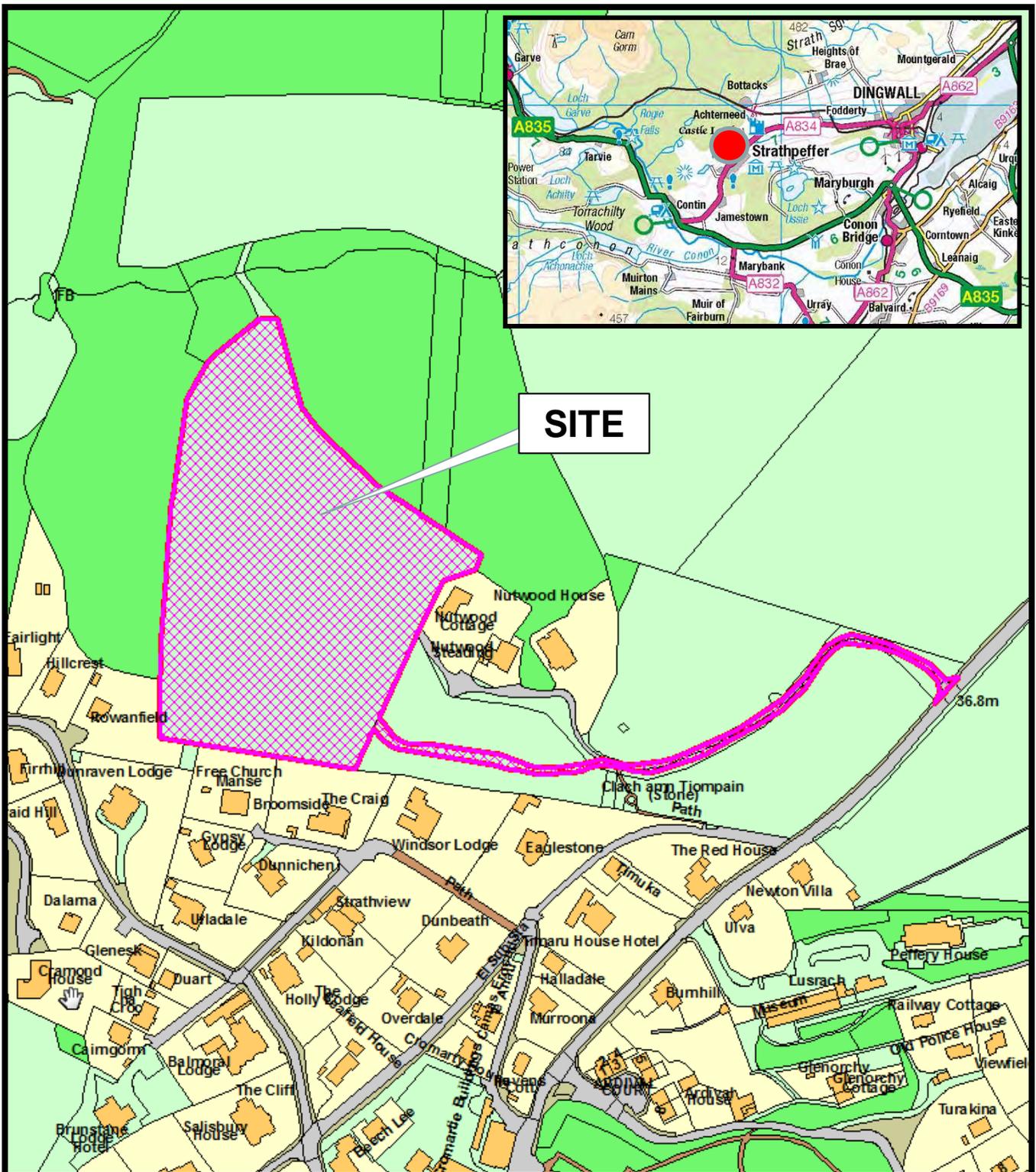
Section 75 Agreement

An Agreement in terms of Section 75 of the 1997 Planning Act relates to this development. The terms of the Section 75 Agreement are as follows:

The provision of affordable housing is secured by a Modification to the Section 75 Agreement which allows for either delivery of the provision on site or the Council securing an equivalent financial contribution which would allow the provision to be provided elsewhere in the Ward.

The full Section 75 Agreement can be inspected at the relevant planning office.

Designation: Area Planning Manager - North
Author: Erica McArthur
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan.
Plan 2 – Indicative layout with Affordable housing Plots.
Plan 3– Indicative layout.



Planning & Development
Service

18/01017/PIP
Erection of 15 houses
(renewal of planning permission 14/02773/PIP)

at Land to West of Nutwood, Strathpeffer



