| Agenda <br> Item | 6.9 |
| :--- | :---: |
| Report | PLS |
| No | $047 / 19$ |

## HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 11 June 2019
Report Title: 19/00664/PIP \& 19/00667/PIP: Ms F Newton
Land 150m South of South Lodge, Ness Castle, Inverness

Report By: Area Planning Manager - South

## Purpose/Executive Summary

Description: Erection of House
Ward: 15 - Inverness Ness-Side
Development category: Local
Reason referred to Committee: Members request
All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

## Recommendation

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

## 1. PROPOSED DEVELOPMENT

1.1 The proposal relates to two planning applications submitted in respect of the formation of two house plots situated on the south side of Torbreck Road, Inverness, opposite South Lodge. As the developments are inextricably linked this Report of Handling considers both proposals together.
1.2 A new access will be formed from Torbreck Road, towards the west side of the proposed Plot 1, and continue through Plot 1 to also serve the proposed Plot 2 situated to the rear (south).
1.3 Pre Application Consultation: There was formal pre-application consultation through the pre-application advice service under reference 17/05595/PREAPP. This raised potential issues in relation to flooding, access, trees, and Housing in the Countryside Policy requirements. The proposal was assessed as NOT complying with any of the exceptions whereby a house in the Hinterland area around Inverness would be acceptable.
1.4 Supporting Information: flood risk and drainage impact assessment; traffic speed survey and assessment; tree survey and tree constraints plan; ecological scoping survey; photographs.
1.5 Variations: amended site access location; amended visibility splays; additional drainage and flood risk assessment submitted; traffic survey submitted; tree constraints plan and tree removal / planting plan submitted.

## 2. SITE DESCRIPTION

2.1 There are two linked applications which utilise the same proposed access from Torbreck Road. Plot 1 lies adjacent to Torbreck Road, opposite South Lodge. Plot 2 lies to the south of this proposed plot, and extends to the rear of the existing houses which front Essich Road, to the south east.
2.2 Big Burn forms the east site boundary, and the existing field boundary / Broombank house curtilage forms the west site boundary. The wooded garden grounds of Drumdevan House lie on the opposite side of Big Burn.

## 3. PLANNING HISTORY

3.1 None

## 4. PUBLIC PARTICIPATION

4.1 Advertised: Neighbour

Date Advertised: 08/03/19
Representation deadline: 22/03/19
Representations: 2 households submitted comments
4.2 Material considerations raised are summarised as follows:
a) Requests a permanent fence of the maximum permissible height along the boundary with Broombank, before any works commence, to help minimise disruption and maintain privacy.
b) Red squirrels, badgers and pine martens move through this wildlife corridor on a daily basis, along with a family of Roe deer. This wildlife corridor should be protected in any future development.
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.

## 5. CONSULTATIONS

5.1 Access Officer: No comments.
5.2 Archaeology: The site lies within an area of archaeological potential. Site clearance work should be done under archaeological supervision so that if necessary any recording can be done without causing undue delay or inconvenience. Condition requested.
5.3 Forestry Officer: There is adequate space to develop a house without significant adverse impact on trees, but the access road to Plot 2 would require the loss of much of group G1, part of Area A and is likely to have an impact on some of the individual trees to the east of Broombank. Request conditions to require Tree Protection Plan; Arboricultural Method Statement; detailed Landscape Plan; no tree works to take place without the prior consent of the Planning Authority; plan to show footprint of house, garage, driveway, and underground services; and all trees to be retained and removed.
5.4 Transport Planning: The access is now 30 m from the existing access to Broombank which is acceptable. The Traffic Speed Surveys show that the required visibility splays are 87 m to the west and 85 m to the east. The achievable visibility splay to the west is acceptable, but to the east is approximately 70 m and therefore 15 m short. The traffic volumes show that the road is lightly trafficked, so the shortfall in visibility will be accepted subject to mitigation to enable pedestrians to keep outwith the public road and the path of oncoming traffic and to reduce dependency on the private car and encourage walking. Request a condition to extend the 30 mph zone so that the new access and the access to Broombank is within it, and to require a new footway to be built within the adopted road verge from the new access to a point opposite to where the existing footway ends at Holmburn.
5.5 Flood Risk Management: The access and indicative plot locations are not within the areas that are at risk of flooding. Conditions required - no ground raising to take place on land outside the indicative plot locations; finished floor level a minimum of 44.12 m AOD; drainage arrangements to be provided for review and in accordance with the submitted drainage strategy.
5.6 SEPA request a condition to ensure minimum finished floor levels of 44.12 m AOD , and condition to prevent any land raising on land outwith the indicative house locations.

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

### 6.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design
29 - Design Quality \& Place-making
31 - Developer Contributions
35 - Housing in the Countryside (Hinterland Areas)
51 - Trees and Development
58 - Protected Species
64 - Flood Risk
65 - Waste Water Treatment
66 - Surface Water Drainage

### 6.2 Inner Moray Firth Local Development Plan 2015

Outwith Inverness Settlement Development Area; within Hinterland. No site specific policies apply.

### 6.5 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011)
Developer Contributions (Nov 2018)
Flood Risk \& Drainage Impact Assessment (Jan 2013)
Housing in the Countryside and Siting and Design (March 2013)
Trees, Woodlands and Development (Jan 2013)

## 7. OTHER MATERIAL CONSIDERATIONS

### 7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy 2016
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) Flood risk
c) Trees
d) Access
e) Protected species
f) Impact on neighbours
g) Archaeology
h) Developer contributions
i) any other material considerations.

## Development plan/other planning policy

8.4 Policy 35 (Housing in the Countryside (Hinterland areas)) presumes against new housing within the Hinterland unless it complies with one of the exceptions detailed in the adopted Supplementary Guidance: Housing in the Countryside and Siting and Design. These relate to :

- where it is essential in relation to land management / business purposes, or someone retiring from this
- meeting a demonstrable local affordable housing need
- re-use of traditional buildings / redevelopment of derelict land
- development within garden ground
- rounding off an existing housing group
8.5 The applicant considers that the criteria for the rounding off of an existing housing group apply to this proposal. It therefore needs to be assessed whether the existing houses in the vicinity constitute a housing group as defined by the Supplementary Guidance.
8.6 This requires that:
- there are at least 3 existing houses that are physically detached from each other;
- all of the houses have a perceptible relationship with one another and share a well-defined cohesive character;
- the houses are not part of a defined 'small settlement'.

There are existing houses in the vicinity of the site, and these are not part of a defined 'small settlement'. It therefore needs to be assessed whether they have a perceptible relationship with one another and share a well-defined cohesive character.
8.7 There are two houses, 'South Lodge' and 'Holmburn', directly opposite the site on the north side of the Torbreck public road to the west of the burn. There are a further two houses also on the north side of the public road, 'Drumdevan Cottage' and 'Drumdevan Lodge', to the east of the burn. These are, however, separated from each other by the burn, and from the site by the public road. The development of this site for 2 houses is not considered to round off this row of houses.
8.8 There are two existing properties on the south side of the Torbreck public road on either side of Plot 1. 'Drumdevan House' is a single large traditional house, now in use as a hotel, set in substantial wooded garden grounds to the east of the site. Since its principle use is now a hotel, it is no longer classed as a house and does not count towards a housing group. 'Broombank' is a more modern single storey house within the field to the west, which is well set back from the public road and hidden from view from the Torbreck road. These have no visual relationship with each other and do not share a cohesive character. They are also visually separated from each other by the substantial woodland to the west of 'Drumdevan House', the rough grass area alongside Torbreck road (Plot 1), the trees along the boundary of Plot 1, and by the substantial set back of 'Broombank' from Torbreck Road. They are viewed as two unrelated stand-alone properties. Furthermore, there are only two and not the required 3 properties to be classed as a 'housing group', and one is no longer in use as a single house.
8.9 Furthermore, the proposed house alongside Torbreck Road (Plot 1) would inevitably have a roadside presence, whereas both 'Drumdevan House' (hotel) and 'Broombank' are set back and hidden from view from Torbreck road by existing trees and vegetation, and thus do not have a roadside presence. A visual link to these properties will therefore not be formed.
8.10 There are also three existing houses to the west of 'Broombank'. These are, however, separated from 'Broombank' by a field, and one of the houses, 'Coulavie', is divided from the others by an access road and avenue of trees. Therefore, these houses also do not form a cohesive group. The visual separation from 'Broombank' by the intervening area of field and its set back off the public road reinforces its stand-alone nature.
8.11 There are also existing houses between Plot 2 and the Essich public road to the south east. There are 4 houses alongside and on the west side of the Essich public road, all set within substantial garden grounds, and all accessed off and with a frontage to Essich Road.
8.12 Plot 2 lies immediately to the rear (north) of two of these houses, with the other two houses in the group backing onto the grounds associated with 'Drumdevan House' (hotel). Plot 2 is not seen as rounding off this housing group, since it has no roadside frontage, no access off the Essich road, but instead is located to the rear of this linear group. There is also an area of woodland along the south east boundary which provides containment for the row of houses along the Essich Road and further separation between this group and the application site.
8.13 The proposed two house plots therefore both fail to comply with the stipulated criteria for rounding off or infilling within an existing housing group. There is also no land management or rural business justification, the land is clearly not derelict or garden grounds, and the proposed houses are not to meet a demonstrable affordable housing need. The proposed Plots 1 and 2 are therefore both contrary to Policy 35 and to the adopted Supplementary Guidance Housing in the Countryside and Siting and Design, since they fail to comply with any of the policy exceptions whereby housing in the countryside (Hinterland) can achieve Officer support.

## Flood Risk

8.14 Policy 64 (Flood Risk) requires that development avoids areas susceptible to flooding, and promotes sustainable flood management.
8.15 Since the plots both lie along the western side of Big Burn, and Plot 1 is also in the vicinity of the Essich Burn, there is potential for flooding to occur. Accordingly, a flood risk assessment has been carried out, and both the Council's Flood Risk Management team and SEPA have been consulted.
8.16 The indicative plans show the access and the house locations are not within areas that are at risk during a 200 year plus climate change flood. It is important that no ground raising takes place on land outside the indicative house locations, to ensure that there is no impact on flood risk elsewhere. It is also important to ensure a minimum finished floor level of 44.12 m AOD (Plot 1). Plot 2 is not considered to be at flood risk and a minimum finished floor level is therefore not necessary to help guard against flood risk. A 6 m watercourse buffer, measured from the top bank of the watercourse, also needs to be maintained to facilitate upkeep of the watercourse and to accommodate any watercourse migration in the future.
8.17 The Flood Risk Assessment also outlines a drainage strategy for the site. The concept is acceptable, but since this application is for permission in principle, full details are not currently available. A condition is therefore required to ensure that the full details are submitted as part of any future application, and that they are in accordance with the drainage strategy currently presented.

## Trees

8.18 Policy 51 (Trees and Development) promotes significant protection of existing hedges, trees and woodlands on and around development sites. The acceptable developable area of a site will be influenced by tree impact, and adequate separation distances will be required between trees and new development. Additional planting will be required to compensate for any removal and to enhance the setting of any new development.
8.19 There is an existing Tree Preservation Order which covers the trees within the grounds of 'Drumdevan House' as well as trees alongside the Big Burn within these proposed house sites. There are also a substantial number of trees elsewhere within both plots (mainly along the boundaries), and an area of developing woodland dividing the two plots. Accordingly, a tree survey has been carried out.
8.20 Both of the plots include an existing clearing within which the proposed houses will be sited. This enables the retention of most of the surrounding trees. However, the proposed access to Plot 2 will require the removal of most of the area of developing woodland, and there are concerns that the access could also affect the edge of the TPO trees.
8.21 Indicative areas of replanting are included in the submitted plans.
8.22 Forestry Officer raises no objection to the proposal subject to conditions as outlined in 5.3 above.

## Access

8.23 One access off Torbreck Road is proposed for both plots. It therefore needs to be designed to comply with Council Standard SDB2. Although the achievable visibility to the west is acceptable, to the east it falls short by approximately 15m. Traffic volumes and speed have been surveyed, and these show that there are low vehicle movements on the road.
8.24 Transport Planning is willing to accept the reduced visibility splay subject to mitigation to enable pedestrians to keep outwith the public road and the path of oncoming traffic, and to encourage walking and reduce dependency on the private car. This should take the form of a new footway to be built within the adopted road verge from the new access to a point opposite to where the existing footway ends at 'Holmburn'. The existing 30 mph zone must also be extended so that the new access and the existing access to 'Broombank' are within it.

## Protected Species

8.25 A scoping survey has been carried out to determine the likely presence or otherwise of protected species or habitats. This found no protected habitats on the site that will be affected by the proposed development. It did recommend a breeding bird survey if works to clear vegetation are undertaken during the bird breeding season (March - July).
8.26 It also recognised that there is the potential for bat roosts within the mature trees, and recommends an assessment of any trees likely to be impacted by works.
8.27 Otters were found to be using the Big Burn for commuting, and a pre-construction survey for otter resting places is therefore recommended.
8.28 Badgers are also using the site for foraging. No impact on them is anticipated and further action is therefore not required.
8.29 A Red Squirrel drey was seen in an adjacent conifer tree, and a pre-construction survey of trees likely to be affected by the works for Red Squirrel is recommended.

## Impact on Neighbours

8.30 An existing house, 'Broombank', lies to the side of the site, adjacent to the area of regenerating woodland which divides Plot 1 and Plot 2. The potential area within which a house can be built for both Plot 1 and Plot 2 has been identified from a need to minimise flood risk, and a need to utilise the existing clearings to minimise tree felling. The location for a house within Plot 1 will therefore need to be set forwards (to the north east) of 'Broombank', and within Plot 2 will need to be sited to the rear (south east) of 'Broombank'. This will inevitably result in considerable separation between 'Broombank' and both these houses. The area to the side (east) of 'Broombank' is also indicated for planting with native species. This will further screen both Plots from this house.
8.31 Similarly, 'Essich House' and 'Holmburn' both lie to the rear (south) of Plot 2, and are separated from this Plot by a steep gulley and by existing woodland which
should not be impacted by the proposal. They are also some distance away.
8.32 'Drumdevan House’ (hotel) is also separated from both Plots by existing woodland within its garden grounds and also alongside Big Burn. This provides seclusion for 'Drumdevan House' which will not be impacted by the development of either Plot.
8.33 There is sufficient separation from all neighbouring property for a house on Plot 1 and a house on Plot 2 to not materially impact upon the amenity which the nearby properties currently enjoy.

## Archaeology

8.34 The site lies within an area of archaeological potential, and there is potential for buried features or finds to be impacted by the proposal. Archaeology therefore request a condition to require that an archaeological watching brief is submitted to the Planning Authority, to be carried out during site clearance and excavation works.

## Other material considerations

8.35 There are no other material considerations

Non-material considerations
None.

## Developer Contributions

8.37 Policy 31 requires all developments to make fair and reasonable contributions towards improved public services as required. The following is what would be required in the event that planning permission were to be granted.
Table 1 - summary of contributions

| Summary of Developer Contributions |  |  |
| :---: | :---: | :---: |
| Infrastructure / Service Type | Select Answer | Contribution Rate <br> Per Home <br> (a small scale housing discount has already been |
| Number of Homes Proposed | 1 | applied) |
| Schools - Primary |  |  |
| Build Costs | Major extension / new school | £1,504 |
| Major Extension / New School Land Costs | None - No land costs required | £0 |
|  | Primary Total | £1,504 |
| Schools - Secondary |  |  |
| Build Costs | Major extension / new school | £712 |
| Major Extension / New School Land Costs | None - No land costs required | £0 |


|  | Secondary Total | £712 |
| :---: | :---: | :---: |
| Affordable Housing |  |  |
| CNPA | No | £0 |
| Cumulative Transport |  |  |
| Development Brief / Agreement Area | None - No cumulative transport costs required | £0 |
| Breakdown | N/A | N/A |
|  | N/A | N/A |
|  | N/A | N/A |
|  | Total Per Home | £2,216 |
|  | Total for Development | £2,216 |
| All costs are subject to indexation (BCIS All-In TPI) and have been indexed to the appropriate quarter. |  |  |

## Matters to be secured by Section 75 Agreement

8.38 In the event that planning permission is granted, a Section 75 agreement will be required for the costs of the extension of the existing 30mph zone so that the new access and the existing access to 'Broombank' are within it (Traffic Regulation Order, signs, and road lining/roundels etc). It will also be required to secure the developer contributions detailed in 8.35 above unless an upfront payment is first made.

## 9. CONCLUSION

9.1 The proposal is contrary to Policy 35 (Housing in the Countryside (Hinterland areas)) of the Highland-wide Local Development Plan, and the associated adopted Supplementary Guidance: Housing in the Countryside and Siting and Design, in that it does not comply with any of the detailed exceptions. In particular,

- it does not meet the stipulated criteria for the small scale infill or round off of an existing housing group;
- it is not essential for land management or business purposes, or for someone retiring from this;
- it is not to meet a demonstrable affordable housing need;
- it does not constitute the re-use of derelict (brownfield) land;
- it does not constitute the sub-division of garden grounds.
9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.


## 10. IMPLICATIONS

### 10.1 Resource: Not applicable

### 10.2 Legal: Not applicable

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

It is recommended that;
A. Planning permission in principle 19/00664/PIP be Refused for the following reasons:

1. The proposal is contrary to Policy 35 Housing in the Countryside (Hinterland areas) of the Highland-wide Local Development Plan, which presumes against housing in the open countryside of the Hinterlands around towns, unless it meets at least one of the stipulated exceptions. These are detailed in the associated adopted Supplementary Guidance: Housing in the Countryside and Siting and Design.
The proposed house plot fails to comply with any of the detailed exceptions. In particular,

- it does not meet the stipulated criteria for the small scale infill or round off of an existing housing group;
- it is not essential for land management or business purposes, or for someone retiring from this;
- it is not to meet a demonstrable affordable housing need;
- it does not constitute the re-use of derelict (brownfield) land;
- it does not constitute the sub-division of garden grounds.

And;
B. Planning permission in principle 19/006647/PIP be Refused for the following reasons:

1. The proposal is contrary to Policy 35 Housing in the Countryside (Hinterland areas) of the Highland-wide Local Development Plan, which presumes against housing in the open countryside of the Hinterlands around towns, unless it meets at least one of the stipulated exceptions. These are detailed in the associated adopted Supplementary Guidance: Housing in the Countryside and Siting and Design.
The proposed house plot fails to comply with any of the detailed exceptions. In particular,

- it does not meet the stipulated criteria for the small scale infill or
round off of an existing housing group;
- it is not essential for land management or business purposes, or for someone retiring from this;
- it is not to meet a demonstrable affordable housing need;
- it does not constitute the re-use of derelict (brownfield) land;
- it does not constitute the sub-division of garden grounds.

| Signature: | David Mudie |
| :---: | :---: |
| Designation: | Area Planning Manager - South |
| Author: | Susan Hadfield |
| Background Papers: | Documents referred to in report and in case file. |
| Relevant Plans: | Plan 1 - Location Plan PL001 Rev A |
|  | Plan 2 - Site Layout Plan PL003 |
|  | Plan 3 - Tree Removal / Planting Plan PL006 |
|  | Plan 4 - Tree Constraints Plan PL004 Rev A |
|  | Plan 5 - Visibility Splay Plan PL005 Rev A |
|  | - Drainage Statement |
|  | - Flood Risk Assessment |
|  | - Tree Survey |
|  | - Traffic Speed Survey |
|  | - Ecological Scoping Survey |









PLANNING APPLICATION

REVISIONS

| Rev. | Descripioion | Drawn | Date |
| :--- | :--- | :--- | :--- |
| A | $\begin{array}{l}\text { lis splay } \\ \text { eastust with junction moved } \\ \text { easwards }\end{array}$ | ca | 09.04.19 |

Clien
Freda Newton

Project
House Plot No 2
Torbreck Road
Inverness
Drawing
Location Plan

| $\begin{aligned} & \text { Scale } \\ & \text { 1:1250@A2 } \end{aligned}$ | $\begin{aligned} & \hline \text { Date } \\ & 02.2019 \end{aligned}$ | Drawn by <br> CA |
| :---: | :---: | :---: |
| $\begin{aligned} & \text { Project no } \\ & 2463 \end{aligned}$ | $\begin{aligned} & \hline \text { Dwg no } \\ & \text { PL001 } \end{aligned}$ | Rev <br> A |
| G.H.JOHNSTON <br> BUILDING CONSULTANTS LTD <br> WILLOW HOUSE <br> STONEYFIELD BUSINESS PARK <br> TEL (01463) 237229 <br> INVERNESS IV2 7PA <br> Email: technical@ghjohnston.co.uk |  |  |





