Agenda Item	6.5
Report No	PLS/082/19

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 29 October 2019

Report Title: 19/02933/FUL: Castle Stuart Golf LLP

The Golf Lodge, Castle Stuart, Dalcross, Inverness

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Formation of 2nd 18 hole championship golf course

Ward: 17- Culloden and Ardersier

Development category: Major

Reason referred to Committee: Major development

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 was granted in 2005 for two golf courses and associated accommodation on land at Castle Stuart (05/00316/FULIN). The first course is now complete and has been in use for several years attracting important national and international competitions. A clubhouse, storage and green keeping facilities, conversion of an existing cottage and farm buildings to form residential and office accommodation have each been implemented although to date no further accommodation has commenced on site.
- 1.2 The proposal is for the construction of a second 18 hole championship Golf Course including all access, drainage, earthworks shaping and irrigation systems required. The golf course development will be similar in size and scale to the existing championship course and will be defined by the foreshore of the Inner Moray Firth and Castle Stuart Bay, extending northwards to incorporate Castle Stuart as a focal point. The remainder of the proposed course extends northeast toward the existing course providing easy access between the two courses and will be served by the existing main vehicular access, car park and club house.
- 1.3 The form of the course will be similar to the existing in terms of vegetation and layout and will employ many of the construction techniques learned from the processes involved in the development of the first course.
- 1.4 The construction of the course will be undertaken over a period of 2 years with initial development involving the construction of protection measures around all sensitive areas and creating an artificial dune ridge bund on the north western boundary of Castle Stuart. Elsewhere within the site, the course itself will be constructed involving cut and fill as necessary to create tees, greens, fairways and bunkers followed by a comprehensive planting schedule incorporating predominantly locally sourced plants and grasses.
- 1.5 Vehicular access will be taken from the B9039 utilising the existing main access to serve both courses with the Clubhouse being focal to each course. Further internal access tracks will link the existing buildings at Scottack and Lonnie. During the construction phase a secondary access will be formed midway on a 440m straight section of B9039 and removed upon completion.
- 1.6 The proposal was the subject of the Council's pre application consultation process for Major Developments in June 2019 (19/01450/PREAPP) where general support for the principle and scope of the development was given. In addition, the proposal was both the subject of a Screening and Scoping Opinion from which, in terms of the EIA Regulations 2017, the need for an Environmental Impact Assessment was identified. The specific issues to be considered related to the potential significant impact the development could have on the Inner Moray Firth SSSI/SPA and Ramsar designation of Castle Stuart Bay, each in respect of the impact on the qualifying bird species and particularly over wintering birds.

- 1.7 Pre Application Consultation: Prior to submission, in accordance with the requirements of a Major category of development, a Pre Application Notice (19/01446/PAN) was submitted in April 2019. A public consultation exercise was undertaken in June 2019 at Ardersier with a presentation to Ardersier Community Council. Appropriate public advertisements were placed in local newspapers.
- 1.8 Supporting Information:
 - EIA Technical Statement
 - EIA non Technical Statement
 - Design and Access Statement
 - Pre Application Consultation Report and Appendices
 - Planning Support Statement
 - Planning Design Statement
 - Flood Risk Assessment
 - Drainage Impact Assessment
 - Water Abstraction Strategy
 - Arboricultural Impact Assessment.
- 1.9 The application was assessed in the context of the Town and Country Planning (Environmental Impact Assessment (Scotland)) Regulations 2017 and an EIA was deemed necessary given the 'likely adverse impact of the development on the qualifying species'.

The EIA includes detailed analysis of the following matters:

- Archaeology
- Ecology
- Ornithology coastal and terrestrial habitats
- Landscape and visual amenity
- Drainage
- Water Abstraction
- Flood Risk
- Transport and Traffic

Each has been assessed together with suggested appropriate measures of mitigation.

2. SITE DESCRIPTION

2.1 The site is located around Lonnie Farm, Dalcross and lies immediately to the south of the existing 'paired' development of Castle Stuart Golf Course, clubhouse and car park. The site comprises 91.51 hectares (226 acres) and is of mainly gently undulating arable agricultural land. The southern part of the site comprises a ridge that reaches elevations of over 40m, with steep slopes descending to a raised

beach along the Moray Firth. The northern part of the site comprises a low-lying area fringing Castle Stuart Bay. Castle Stuart, a Category A listed building dating to the 17th Century, is situated within the northeastern part of the site and, although excluded from the development site, will be flanked on all sides by the proposed golf course. In addition, the Category B listed farmhouse and buildings are located outwith and to the east of the site whilst the existing farmhouse at Lonnie is sited to the south west of the site. The small hamlet at Old Petty incorporating houses and church is located on the higher ground to the north.

- 2.2 The site extends westwards towards an existing field boundary and is defined on the north and east sides by the Moray Firth and Castle Stuart Bay respectively. These are ecologically important features with designations of SSSI, SPA, SAC and Ramsar, the latter an international designation. The Inner Moray Firth and Castle Stuart Bay are important wetlands supporting 'nationally scarce plants' and supporting up to 20,000 waterfowl as an important over wintering and roosting site.
- 2.3 The site is dissected to the west and east by the Rough and Lonnie Burns and is defined to the south by the main east coast rail line. A small wooded area on elevated ground is situated to the west, while to the south west of Lonnie crop marks define archaeological remains including an area classified as a Scheduled Ancient Monument (SAM).
- 2.4 The site is currently served by one main road, the B9039, which is also a key access route to and from Inverness airport and links into the A96 trunk road to the south.

3. PLANNING HISTORY

3.1	26.06.2006	05/00316/FULIN - Formation of two golf courses/hotel/health club/timeshare units/farm conversions to offices/dwelling and associated facilities, services and infrastructure	Permission
3.2	04.07.2016	15/03626/FUL - Construction of 2nd Golf Course	Planning Permission Granted
3.3	29.05.2019	19/01450/PREAPP – Construction of 2nd Golf Course	

4. PUBLIC PARTICIPATION

4.1 Advertised: Environmental Statement and Schedule 3

Date Advertised: 19.07.2019

Representation deadline: 18.08.2019

Timeous representations: 0

Late representations: 0

5. CONSULTATIONS

- 5.1 **Forestry Officer**: As a renewal of permission no objections subject to conditions.
- 5.2 Access Officer: Castle Stuart's initial planning permission (05/00316/FULIN) contained 2 conditions to secure access management including the delivery of a Coastal Trail between Inverness and Nairn, a key element of the Councils' Green Networks Supplementary Guidance. Recommend new details and a revised Schedule in the same or similar condition for a Recreational Access Management Plan to override and replace the original agreed Schedule for the Coastal Trail across for both this new course and the existing Castle Stuart site.
- 5.3 **Flood Risk Management Team**: The Flood Risk Management Team has reviewed the information and are satisfied that there is no change from the previous application (15/03626/FUL). Therefore their response provided at the time is still valid and seek the application of the same conditions.
- 5.4 **Historic Environment Team**: The proposed application area is considered to have archaeological potential. A sample of at least 7% of the development area must be evaluated as the first stage in a programme of works. Areas where the sample size is proposed as lower should be justified and set out in an updated WSI to be submitted to and agreed with the HC Archaeologist. The document submitted to support the application dates to 2017 and should be updated accordingly to show areas where evaluation work has already been carried out as well as areas of proposed cut and fill where known. Recommend standard condition.
- 5.5 **Environmental Health**: Given the separation distances and the number of sensitive receptors involved construction noise is unlikely to be an issue provided normal working hours are adhered to; have powers to control construction noise under the Control of Pollution Act 1974 if required. Recommend a condition requiring the applicant to submit a dust suppression scheme for the approval of the Planning Authority prior to construction commencing.
- 5.6 **Transport Planning Team**: The submission includes a Transport Assessment (TA) by Fairhurst which updates an earlier TA by the same consultant submitted in support of the previous application (15/03626/FUL). It is generally satisfied with the methodology and content of the current TA and the conclusions reached and provide further comment on:

Site Accessibility

It is accepted that the Castle Stuart Golf Links (CSGL) resort operates differently from most other golf courses in that it is not a member based club. Journeys to and from the resort are therefore mostly one-off trips rather than regular trips by members. It is also noted that the current golf course and proposed second course will close between mid-November and late March each year. It is accepted that groups of golfers will often travel together by car, mini bus or coach, which reduces the number of vehicle trips generated by the resort.

A breakdown of visitor numbers supplied by CSGL shows that the average visitors per day has risen from 69 no. during the 2014 golf season to 74 no. during the 2018 season. Visitor numbers tend to peak between August and September with an average of 89 no. recorded during August 2018.

Given the location and nature of the development it is agreed that access to the site by walking, cycling and public transport will be limited.

Parking

The proposal is to make use of the existing car park for the current golf course, (which has a capacity of 96no.spaces), to also serve the new course. Reference is made to Highland Council maximum parking standards to arrive at an overall parking demand of 89no. spaces for visitors and staff associated with both courses. Not entirely convinced that parking capacity will be sufficient to meet the needs of both courses; however, any shortfall is unlikely to impact on the public road network. Nevertheless, a shortfall in capacity could have a negative effect on traffic circulation within the site and the overall visitor experience. It is therefore recommended that suitable overspill parking provision is provided within the site.

Suitable disabled parking spaces shall be provided in accordance with Council guidelines.

Suitable cycle parking/storage to meet anticipated demand from staff/visitors shall be provided.

Site Access

The existing main access off the B9039 will be retained and will also provide access to the second golf course. It is accepted that with the proposed upgrading of the single track access road to 5.5m wide this access will be suitable to serve both courses.

A new access from the B9039 is proposed approximately 1.5km south of the main access. This access will be used by construction vehicles during formation of the course; thereafter, by maintenance vehicles and as an access to some isolated properties. Use of the access will be light and therefore no objection to its retention.

Not clear on the intended use, if any, of the minor U2358 public road in relation to the existing maintenance compound; however, the road and its junctions with the B9039 are of such a poor standard that additional usage should be discouraged. Therefore, unless the road can be upgraded, or replaced, to provide safe and suitable access to/from the maintenance compound, it is recommended that no construction or operational traffic associated with either the existing or proposed golf course shall use this road.

Trip Generation and Traffic Impact

The TA estimates that traffic generation associated with the new course will be 50% of existing golf course traffic. No hard evidence has been provided to justify this assertion but even with 100% uplift impact on local road network is unlikely to be significant.

Major Events

CGSL has in the past successfully hosted a number of major golfing events. As proposed by the TA, no objection to a dedicated Traffic Management Plan being prepared (in consultation with relevant stakeholders) as and when required for any future major event.

Travel Plan

The submission of a Travel Plan is acknowledged and welcomed. Monitoring and review of the Travel Plan Measures and Action Plan by the Travel Plan Coordinator will be critical to the success of the travel plan.

- 5.7 **Transport Scotland**: No objections
- Highlands and Islands Airport Limited (HIAL): The proposed site is directly underneath the arrival/departure paths to the main operational runway for Inverness Airport. To avoid lighting distraction to pilots, developer is required to contact HIAL to enable a suitable assessment to be made regarding any intended lighting.

The airport is obliged to ensure that any developments within 13km are assessed against the bird strike risk and associated hazard. Activities such as earthworks, soil stripping and seeding should be designed so as not to increase the risk of bird activity and the threat to aircraft safety. Water features should be avoided where possible, or suitably netted to discourage bird activity. Landscaping should be designed not to attract birds to roost or feed. Berry bearing trees are not acceptable.

It is possible that tall structures, fixed and/or mobile cranes used for construction, will impact on the airport protected surfaces. Close liaison between the airport and the developer must be established and maintained in the interests of aircraft safety.

Provided that these conditions are met Highlands and Islands Airports Limited would not object to this proposal.

- 5.9 **Historic Environment Scotland**: No particular concerns are raised. The layout of the course is considered to be sensitive towards ensuring protection of the SAM. A recent survey has indicated the potential for additional archaeological remains associated with the SAM but it is noted that the development of the golf course has the potential to minimise earth disturbance, potentially less so than as a result of ploughing and is therefore welcomed. No disturbance of the ground within or adjacent to the SAM will be permitted.
- Network Rail: No objections in principle to the proposal, but due to its proximity to the operational railway, request that if not already in place, the applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Recommend a 1.8 metre high 'rivetless palisade' or 'expanded mesh' fence. Network Rail's existing boundary measure must not be removed without prior permission. Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail for approval.

- 5.11 **Scottish Water**: No objections. No part of the development seeks connection to either a public water supply or foul drainage.
- 5.12 **SNH**: As a renewal it has no new comments to make and the comments from the previous application apply. The proposal can be progressed with appropriate mitigation but in the absence of such has the potential to affect the qualifying bird interest of the Inner Moray Firth Special Protection Area (SPA). Objections will not be raised if permission is granted subject to rigorous conditions so that all works are undertaken in accordance with the agreed programme of mitigation. particular, two bunds will be required, one adjacent to the Inner Moray Firth, the other adjacent to Castle Stuart Bay. Both areas are important for their habitats and any part of the development which would undermine the integrity of the areas and resultant negative impact on the qualifying bird species would be unacceptable. The provision of bunds as required together with a strict limitation on all construction work during the winter months (between October and March) will provide the necessary safeguards required by SNH. In addition, the applicant has indicated that use of the golf course will be restricted to outwith this period and this too is supported by SNH.

SNH wish to ensure that the special designations of SSSI, SPA, SAC and Ramsar are not adversely affected by the development and are satisfied, with SEPA's input regarding water course management, that the proposal can proceed. An Access Management Plan will also be required to limit disturbance to birds on Castle Stuart Bay. This will be addressed by appropriate condition. Land surveys for protected species have identified the presence of bats, badgers, and otters and appropriate mitigation will be required to safeguard their habitat. This too will be addressed by conditions.

5.13 **SEPA**: An initial objection based on the original submission for water abstraction has now been resolved following detailed discussion with SEPA and the applicant and the submission of revised details. In particular, SEPA are concerned to ensure that there is no adverse impact on watercourses within and adjacent to the site. The formation of the irrigation pond associated with water abstraction from the realigned Lonnie Burn has been adjusted to ensure that the pond remains offline. The proposed stream crossings and culverts are acceptable provided they are constructed in accordance with SEPA guidelines.

In addition, SEPA while generally satisfied that the proposed Flood Risk Assessment, Drainage Impact Assessment, Construction Environment Management Plan and protection of water courses meets their requirements, final details will require to be submitted and should cover the following matters:

- Provision of a heavily vegetation buffer of at least 5 m width between highly managed planting areas and the top of the banks of the Lonnie and Rough Burns;
- Updated Golf Management Plan;
- Finalised surface water drainage plan;
- Finalised construction of SUDS;
- Adherence to agreed mitigation measures;
- Site specific CEMP;

- Employment of Environmental clerk of works throughout construction
- Finalised details of watercourse engineering works and crossings
- Finalised Flood Risk Assessment based on finalised layout, to demonstrate no increase in flood risk to any local sensitivities.

Subject to these maters being addressed, each of which can be dealt with by appropriate condition, SEPA has no objection to the proposal.

Discussions with Fairhurst in relation to water abstraction and flow augmentation have been undertaken. SEPA have confirmed that they are now content that the previously submitted information is still fit for purpose and the concept acceptable. Based on the information provided they consider that the principles of the abstraction proposals outlined within it are capable of being authorised by them under the Water Environment Controlled Activities Regulations (CAR).

However the Planning Authority and developer should note that (1) the exact volumes of water that can be abstracted at each location and when it can be abstracted will only be fully determined as part of the CAR process, and (2) the water bodies affected by the proposed activities do all enter the Castle Stuart Bay section of the Inner Moray Firth Special Protected Area. Therefore as we have a statutory duty under the Conservation (Natural habitats andc.) Regulations 1994 and the Nature Conservation (Scotland) Act 2004 for the protection of Special Protection Areas and Special Areas of Conservation, SEPA (in consultation with SNH) may have to carry out Appropriate Assessments as part of the authorisation process for each of the CAR related activities.

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 and Place-making
- 30 Physical Constraints
- 31 Developer Contributions
- 36 Development in the Wider Countryside
- 41 Business and Industrial Land
- 43 Tourism
- 51 Trees and Development
- 55 Peat and Soils
- 56 Travel
- 57 Natural, Built and Cultural Heritage
- 58 Protected Species
- 59 Other important Species
- 61 Landscape
- 64 Flood Risk
- 66 Surface Water Drainage
- 74 Green Networks
- 75 Open Space
- 77 Public Access
- 78 Long Distance Routes

6.2 Inner Moray Firth Local Development Plan 2015

Policy CS1 - Castle Stuart – Business, Tourism and Leisure uses. The policy lists a number of criteria to be met if development tis to be successful. These include a transport assessment and appropriate mitigation including traffic management measures. Flood Risk Assessment, species surveys and a recreation/access management plan will be required in support of development.

Policy 2 Delivering Development

6.3 Highland Council Supplementary Planning Policy Guidance

Developer Contributions (November 2018)

Flood Risk and Drainage Impact Assessment (Jan 2013)

Green Networks (Jan 2013)

Highland Historic Environment Strategy (Jan 2013)

Highland's Statutorily Protected Species (March 2013)

Public Art Strategy (March 2013)

Special Landscape Area Citations (June 2011)

Standards for Archaeological Work (March 2012)

Sustainable Design Guide (Jan 2013)

Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

SPP Scottish Planning Policy

PAN 43 – Golf Courses and Associated Developments

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) nature conservation and landscape designations
 - c) drainage
 - d) archaeology
 - e) trees

- f) access
- g) any other material considerations.

Development plan/other planning policy

- 8.4 The relevant policies of the development plan cover a wide range of issues. Significantly, Policy CS1 of the Inner Moray Firth Local Development Plan (IMFLDP) allocates the site for development for business, tourism and leisure so giving support to the current proposal. In addition SPP and PAN 43 are supportive of development which enhances existing facilities and introduces new uses to the wider benefit of the area particularly where, as here, significant economic benefit will be derived from the proposed development. Other issues covered by the development plan are noted in the preceding sections but particular attention is drawn to the policies which govern the extent to which a proposal may have an adverse impact on habitats or environment. The relevant policies in this respect are: HwLDP Policy 57 (Natural, Built and Cultural Heritage), Policy 58 (Protected Species), and Policy 59 (Other Important Species). For this reason, given that the principle of development was confirmed in planning permission 05/00316/FULIN, the assessment has concentrated on seeking to ensure that all matters relating to the protection of the habitats protected by the special designations, have been properly assessed.
- 8.5 The proposal has required an Environmental Impact Assessment and this has enabled a full assessment of the various potential adverse impacts created by the development of the second course. A key consideration has therefore been to ensure that the qualifying criteria within the SSSI, SPA and Ramsar designations have been assessed appropriately.
- 8.6 The lessons learnt from developing the first course have been taken into account and guided the scope of development now proposed particularly in terms of the protection of habitats and protected species, designing the layout of the course to minimise disturbance to the coastline habitat.
- 8.7 The development plan designation and the extant planning permission establish the principle of use of the land for a second golf course. Subject to ensuring that there is no significant detrimental impact on community and/or individual amenity, the built or cultural environment, the natural environment, or existing infrastructure then the proposal would comply with the development plan.

Nature Conservation and Landscape Designations

- 8.8 The over riding material consideration in the assessment of the proposed development has been to ensure that the special designations at Castle Stuart Bay and the Inner Moray Firth which include Ramsar, SSSI and SPA, are not adversely impacted by any part of the development, and that should an impact be identified, appropriate mitigation can be achieved.
- 8.9 The proposal was the subject of very detailed analysis by both SEPA and SNH. SNH in particular is concerned to ensure that the special habitats of the Inner Moray Firth SPA are not damaged by the development. Castle Stuart Bay supports a significant proportion of the qualifying interests of the SPA and any displacement

of birds in this area is not acceptable. In addition, the saltmarsh at the head of the Bay is important for roosting birds. The golf course has the potential to have a significant effect on these special interests and this has required mitigation. The position of holes 7 and 14 has been adjusted so as not to over fly the Bay while it will also be essential to form a bund along the Bay and barrier along the boundary of the SSSI and SPA. The applicant is aware of this requirement which is similar in some respects to the mitigation required for the first course. An Access Management Plan will also be required to limit disturbance to birds on Castle Stuart Bay but also meeting the requirements of enabling public access. A further mitigation involves restricting construction to between March and October with the course also out of play during the over wintering period. With these mitigations in place, SNH has confirmed that it does not object to the proposal.

8.10 SNH's views have not changed from the last application in that there will be no significant effect on the Moray Firth Special Area of Conservation (SAC) or the Inner Moray Firth Special Protection Area (SPA). For the SPA it is seeking conditions for a bund to protect the bird roosts and foreshore immediately adjacent to the golf course and an Access Management Plan to limit disturbance to the birds using Castle Stuart Bay. An Appropriate Assessment is appended to this report.

Drainage

- 8.11 SEPA has assessed the development to ensure there is no adverse impact on existing water courses and the Firth to take into account the risk of coastal, fluvial and pluvial flood risk, drainage schemes, the direct impact on the water environment and details regarding abstraction of water to serve the course development. The Flood Risk Management Team is satisfied in these respects as well.
- 8.12 Initial objections have been resolved by appropriate mitigation and a revised proposal for the minor realignment of Lonnie Burn. The change to the proposed irrigation pond which now promotes off line water abstraction from existing water sources is also welcomed. A Flood Risk Assessment has been submitted and this now demonstrates that there will be no impact on sensitive receptors elsewhere. Additional mitigation measures will be addressed by condition and submission of further information relating to the water abstraction, construction management proposals and details of surface water drainage will be required. SEPA is however satisfied that the current details are satisfactory and no adverse impacts on the area will result from the development.

Archaeology

8.13 Historic Environment Scotland has identified that the site includes a Scheduled Ancient Monument and potential for other archaeological finds. The Scheduled Ancient Monument is located in the southwest corner of the site and relates to the Newton of Petty prehistoric settlement. The applicant has taken this into account and adjusted the position of the closest holes to ensure that there is minimal excavation or ground remodelling in the general area of the SAM. Historic Environment Scotland is supportive of this approach.

Trees

- 8.14 Historic Environment Scotland had concern about the loss of existing trees around and within the castle grounds. The applicant has confirmed that none of the important trees which form the avenue along the main drive will be affected. Three trees within the garden to the west of the castle will be felled. These are poor quality species and replacement trees are proposed. Elsewhere, to the west of the castle within the golf course, two additional trees are to be removed where their contribution to the landscape is of limited value. Replacement planting is proposed within these areas. The Forestry Officer is satisfied that the removal of the few trees proposed will not impact on the setting of the castle and is satisfied that the replacement species are appropriate.
- 8.15 Historic Environment Scotland's preference that all trees are retained is noted and the important large sycamores and avenue trees are to be retained and included in a long term management plan. None of the trees elsewhere on site are to be felled and it is considered that the proposed removal of no more than 8 mature trees within the entire site will not adversely impact on the setting of the castle.

Access

- 8.16 An Access Management Plan will be required to ensure public access is provided through the site extending from Westerton to Old Petty and Castle Stuart Bay. The Access Officer is satisfied that the revised scheme does provide the public access opportunities required.
- 8.17 The use of the existing access to serve the new course is considered acceptable. The applicant has demonstrated to the satisfaction of the Council that additional road improvements at the junction with the B9039 are not required based on the likely increase in traffic generated. This will however be subject to review. The existing 96 space car park is also considered sufficient to accommodate any increase in use. Cycle storage facilities will however be required.
- 8.18 The existing access, U2358, which serves the maintenance compound is substandard and requires to be improved. This had been a requirement of the original consent should a second course be developed. Details of the improvements required will be subject to a suspensive condition. A second access is also to be formed for use by construction traffic on B9039 and there is a desire to retain it for maintenance vehicles and access to isolated properties but this required further discussion. A Travel Plan, Events Management Plan and Construction Traffic Management Plan will each be required.

Other material considerations

8.19 None

Matters to be secured by Section 75 Agreement

8.20 Planning permission 05/00316/FULIN was subject to a s75 agreement which included the current application site. The s75 restricts the sale or separation of the lodges or dorm accommodation from their function as ancillary to the use of the site as a golf course. These restrictions apply to the current proposal and no further amendment of the existing s75 is required.

Developer's Contributions

8.21 The first course per planning permission (05/00316/FULIN) sought the delivery of a Coastal Trail between Inverness and Nairn and it is reasonable to impose a condition to this effect on this application as with the last application for this site.

9. CONCLUSION

- 9.1 The proposal is considered to have met the terms of the relevant development plan polices and guidance as referred to in the preceding sections. The proposal as amended to take into account the concerns of consultees, is considered acceptable subject to the conditions noted below.
- 9.2 The development of the second championship golf course at Castle Stuart is to be welcomed and will be of economic benefit to the area enhancing a well established existing facility. The key environmental issues associated with this development are similar to those of the first course and the applicant has demonstrated through construction and operation of the existing course an understanding of the need to ensure that the habitat, flora and fauna of the area is protected in accordance with the relevant regulations and guidance. The course will provide an opportunity to expand existing facilities with the potential to encourage tourists to the area.
- 9.3 Provided the course is constructed and managed in accordance with the terms of this planning permission, there should be no adverse impact on the qualifying species and habitat and will result in a high quality development to the benefit of the area.
- 9.4 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: 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

Action required before decision issued N

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

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. For the avoidance of doubt, the golf course hereby granted planning permission shall comprise a single planning unit together with the existing golf course and associated infrastructure and neither shall be separated one from the other or disposed off separately unless the approval of the Planning Authority is obtained.

Reason: In order to comply with the terms of the extant planning permission and in the interest of the good management of the facility.

2. No development shall commence on site unless details of the vegetation buffer required between highly managed planting areas and the tops of the banks of the Lonnie and Rough Burns has been submitted to and agreed in writing by the Planning Authority in consultation with SEPA and thereafter is implemented in accordance with the approved layout and agreed timescales all to the satisfaction of the Planning Authority. The buffer shall be maintained in perpetuity.

Reason: In the interest of the protection of the existing water courses.

3. No development shall commence on the construction of the course hereby granted consent unless an updated Golf Management Plan is submitted to and agreed in writing by the Planning Authority in consultation with SEPA and thereafter implemented in accordance with the agreed plan to the satisfaction of the Planning Authority.

Reason: In order to ensure the proper management of the golf course.

4. No development shall commence on site unless details of a surface water drainage plan are submitted to and agreed in writing by the Planning Authority in consultation with SEPA and SNH and thereafter implemented in accordance with the details and timescales set out in the approved plan all to the satisfaction of the Planning Authority.

Reason: In order to ensure that surface water drainage is managed to an acceptable level on site.

5. No development shall commence on site unless details of construction SUDS are submitted to and agreed in writing by the Planning Authority in consultation with SEPA and thereafter implemented in accordance with the timescales and details set out in the agreed plan to the satisfaction of the Planning Authority.

Reason: In order to ensure there is no discharge of surface water during construction on existing water courses

6. No development shall commence on site unless it has been demonstrated that an Ecological Clerk of Works has been employed for the duration of the construction works, the details of which shall be submitted to and agreed in writing by the Planning Authority in consultation with SEPA and thereafter implemented in accordance with the agreed scheme to the satisfaction of the Planning Authority.

Reason: In the interest of good management of the construction of the course.

No development shall commence on site unless a site specific CEMP is submitted to and agreed in writing by the Planning Authority in consultation with SEPA and thereafter implemented in accordance with the terms of the CEMP to the satisfaction of the Planning Authority. For the avoidance of doubt, all mitigation measures so identified shall be implemented in accordance with the agreed CEMP to the satisfaction of the Planning Authority.

Reason: in order to ensure the protection of the environment.

8. Construction of the course shall proceed in accordance with the mitigation measures identified in the Environmental Statement in Tables 1.2, 1.3.2, 1.3.6, 1.3.7 and 1.3.8 (or as may otherwise be agreed) to the satisfaction of the Planning Authority.

Reason: In the interests of protecting the environment.

9. No development shall commence on site until details of the finalised design of the watercourse crossings (designed to convey a 1in 200 year plus climate change flow) and related watercourse engineering works have been submitted to and agreed in writing by the Planning Authority in consultation with SEPA and thereafter implemented in accordance with eth approved design to the satisfaction of the Planning Authority.

Reason: In order to protect the existing watercourses and to comply with SEPA Regulations.

10. No development shall commence on site until a finalised Flood Risk Assessment is submitted to and agreed in writing by the Planning Authority in consultation with SEPA has been submitted and agreed in writing and thereafter implemented in accordance with the agreed scheme to the satisfaction of the Planning Authority. **Reason**: in order to ensure that there is no increase flood risk to local sensitive receptors.

No development shall commence on site until details of a bund including the method of construction which will be created along the foreshore of the Inner Moray Firth and adjacent to Castle Stuart Bay to protect bird roosts from disturbance together with timescales for construction, has been submitted to and agreed in writing by the Planning Authority in consultation with SNH and thereafter implemented in accordance with the agreed details. For the avoidance of doubt the bund shall be constructed outwith the key wintering bird period 1 October to 31 March inclusive. For the further avoidance of doubt, no development shall commence on the construction of the golf course unless the bund is constructed and completed to the satisfaction of the Planning Authority.

Reason: In order to afford appropriate protection of bird roosts.

12. No development shall commence on site until an Access Management Plan which shall include details of the routes to provide access through the entire site to direct non golf recreational visitors away from the foreshore and to minimise disturbance to birds using Caste Stuart Bay extending from Westerton through to the east boundary of the current application site has been submitted to and agreed in writing by the Planning Authority in consultation with SNH. The development shall thereafter be implemented in accordance with the agreed timescales and details..

Reason: In order to provide access to the public through the site.

13. No development shall commence on site until details of the timings on phasing of the construction of the course has been submitted to and agreed in writing by the Planning Authority in consultation with SNH and thereafter implemented in accordance with the agreed phasing. For the avoidance of doubt, , there shall be no construction work undertaken during the wintering bird season (1st October – 31st March).

Reason: In order to protect the qualifying bird species.

14. The use of the course for play shall be restricted to between the months of 1 April – 30 September inclusive unless otherwise agreed by the Planning Authority in consultation with SNH.

Reason: In order to protect the over wintering roosts of qualifying species of bird.

15. 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

16. No development shall commence on site until details of the means by which the Scheduled Ancient Monument is to be protected from earthworks and ground modelling to the satisfaction of the Planning Authority in consultation with Historic Environment Scotland. Thereafter the agreed details shall be implemented to the satisfaction of the Planning Authority.

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

17. No development shall commence on site until details of all tall structures to be used in connection with construction has been submitted to and agreed in writing by the Planning Authority in consultation with HIAL. The development shall thereafter be undertaken in accordance with the agreed details.

Reason: In the interest of safety.

18. No development shall commence on site until details of any intended lighting are submitted for the prior written approval of the Planning Authority in consultation with HIAL and these measures shall be implemented before any part of the development comes into use.

Reason: In the interest of safety.

19. No development shall commence on site until details of a trespass proof fence adjacent to the railway line has been submitted to and agreed in writing by the Planning Authority in consultation with Network Rail and thereafter implemented in accordance with the agreed scheme to the satisfaction of the Planning Authority and maintained in perpetuity.

Reason: In the interest of public safety.

20. No development shall commence on site until a Recreational Access Management Plan is submitted to and approved in writing by the Planning Authority in consultation with SNH. The plan shall identify the route, design, promotion and delivery of the Inverness to Nairn Coastal Trail through this course, the course approved with permission 05/00316/FULIN and Castle Stuart and connections to neighbouring properties. The plan shall also show other routes and access furniture proposed for public access management, and identify those areas over which access rights will apply before, during and after construction. The approved Recreational Access Management Plan shall thereafter be implemented in accordance with the approved details.

Reason: In order to secure appropriate public access.

21. No development on the construction of the course shall commence until the access to the maintenance compound area is upgraded, constructed and completed in accordance with details which are to be submitted to and agreed in writing by the Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of public safety.

22. No development shall commence on site until details of the road layout design onto the B9039 are submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the new access shall be constructed and completed before development commences on site all to the satisfaction of the Planning Authority. Unless otherwise agreed in writing with the Planning Authority this access shall be removed and the land reinstated to a satisfactory condition.

Reason: In the interests of public safety.

23. No development shall commence on site until details of the road layout design at the U2358 cross roads, including new access proposals to the site, have been submitted to and agreed in writing by the Planning Authority. Thereafter the new access shall be constructed and completed before development commences on site all to the satisfaction of the Planning Authority.

Reason: In the interests of public safety.

24. The construction access from the U2358 to the southern half of the construction compound shall only be used during the construction works and shall on completion be removed and prevented from use by vehicles to the satisfaction of the Planning Authority.

Reason: In the interest of public safety

25. No development shall commence on site until details of the construction access arrangements have been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. For the avoidance of doubt, the existing access to Lonnie shall be stopped up on completion of the development all to the satisfaction of the Planning Authority in consultation with the Roads Authority. For the avoidance of doubt, the construction access, shall be modified to accommodate residential traffic only on completion or first use of the golf course.

Reason: In the interest of public safety.

26. The use of the golf course shall not be implemented until cycle storage facilities and disabled parking spaces in accordance with Council Guidelines are provided within the main car park to the satisfaction of the Planning Authority, the details of which shall be submitted to and agreed in writing by the Planning Authority.

Reason: In order to provide cycle storage facilities in accordance with the Council's standards.

27. No development shall commence on site until a Travel Plan, Construction Traffic Management Plan and Outline Events Management Plan have been submitted to and agreed in writing by the Planning Authority. Thereafter all matters so agreed shall be implemented in accordance with the agreed plans all to the satisfaction of the Planning Authority.

Reason: In order to promote appropriate levels of traffic management.

28. No development shall commence on site until details of landscaping of the site has been submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt, the details shall include the sourcing of all plants and seeds, together with any fertilizers to be used. Only plants and seeds from the agreed source shall be used. Activities such as earthworks, soil stripping and seeding shall be designed so as not to increase the risk of bird activity and the threat to aircraft safety. Water features shall be avoided where possible, or suitably netted to discourage bird activity. Landscaping should be designed not to attract birds to roost or feed.

Reason: In the interests of protecting the amenity and habitat of the area and so as not to increase the risk of bird activity and the threat to aircraft safety.

29. With effect from the date of this permission, no trees within the site shall be lopped, topped, felled or otherwise damaged unless otherwise approved in writing by the Planning Authority. Where agreement is given for removal of trees, none shall be felled until details for their replacements have been submitted to and agreed in writing by the Planning Authority. Thereafter the replacement trees shall be replanted in accordance with the agreed methodology within the first planting season following removal all to the satisfaction of the Planning Authority.

Reason: in the interest of the amenity of the area.

30. No development, site excavation or groundwork shall commence until a suitably qualified Arboricultural Consultant has been appointed by the developer. Their appointment and remit shall first be approved in writing by the Planning Authority. For the avoidance of doubt, the Arboricultural Consultant shall be appointed prior to the commencement of the development and as a minimum retained until the completion of the development and their remit shall, in addition to any functions approved in writing by the Planning Authority, include:

- i. Ensuring that the approved Tree Protection Plan and approved Arboricultural Method Statement are implemented to the agreed standard; and
- ii. The preparation of Certificates of Compliance for each stage of work involved in the development, which shall be submitted to the Planning Authority upon completion of the stage to which they relate. Prior to development, site excavation or groundwork commencing, details of each stage of work (including a general description of the type and extent of work to be carried out within that stage) shall be submitted to, and approved in writing by the Planning Authority.

Reason: In the interests of protecting retained trees.

31. No development, site excavation or groundwork shall commence until details of all retained trees to be protected against construction damage have been submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt, this will use protective barriers located beyond the Root Protection Area (in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction, or any superseding guidance prevailing at that time). These barriers shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

Reason: In order to ensure the protection of trees on site.

32. No development shall commence on site until a scheme for protecting properties adjacent to the development site from construction-related dust has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall be implemented before any development commences and be maintained until development is complete.

Reason: In order to safeguard the amenity of neighbouring properties and occupants

REASON FOR DECISION

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

TIME 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 and 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 wor king on public roads/2

Mud and Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact 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

Protected Species - Contractors' Guidance

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

Protected Species - Ground Nesting Birds

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

Railway Line

Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development.

Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.

The developer must contact the Asset Protection Engineers regarding the above matters, contact details below:

Network Rail Asset Protection Engineer 151 St. Vincent Street, GLASGOW, G2 5NW

Tel: 0141 555 4087

E-mail - <u>AssetProtectionScotland@networkrail.co.uk</u>

Signature: David Mudie

Designation: Area Planning Manager – South

Author: Keith Gibson

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

Relevant Plans: Plan 1 - 103(21) G1 SO XX DR A LP02 PL REV P0 Location Plan

Plan 2 - 103(21) G1 SO XX DR A LP01 PL REV P0 Location Plan

Plan 3 - 103(21) G1 SO XX DR A SP02 PL REV P0 Site Layout Plan

Special Protection Area

Formation of 2nd 18 hole championship golf course

19/02933/FUL

The Golf Lodge, Castle Stuart, Dalcross, Inverness

CONSIDERATION OF PROPOSALS AFFECTING EUROPEAN SITES

The status of the Inner Moray Firth Special Protection Area (SPA) means that the Conservation (Natural Habitats, etc.) Regulations 1994 (as amended) apply.

The above means that where the conclusion reached by the Council on a development that is likely to have a significant effect on this site, it must undertake an Appropriate Assessment of the implications for the conservation interests for which the areas have been designated. The need for Appropriate Assessment extends to plans or projects out with the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- Determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- Determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then
- Make an Appropriate Assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not have an adverse effect on the integrity of the sites (AESI). If this is not the case and there are not alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

Screening in Likely Significant Effects

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required. The proposed golf course has the potential to have a likely significant effect on the qualifying interests, due to the impact on Inner Moray Firth SPA due to the potential impact on the bird species roosting and feeding in the SPA.

APPROPRIATE ASSESSMENT

While the responsibility to carry out the Appropriate Assessment rests with the Council, advice contained within Circular 6/1995 is that the assessment can be based on the information submitted from other agencies. In this case, the Appropriate Assessment is

informed by information supplied by SNH, the applicant and various published information, including those as referenced.

In its response to the Council (dated 27 November 2015) SNH has advised the proposal is likely to have a significant effect on the bird species in the SPA. However, they stated that, it will not adversely affect the integrity of the SPA provided the proposal is undertaken in accordance with the following mitigation:

- A bund should be created to protect the bird roost and foreshore immediately adjacent to the golf from disturbance. This should be constructed outwith the key wintering bird period (i.e. 1 October to 31 March inclusive). The design and construction of the bund should be agreed by the Highland Council (in consultation with SNH)
- An Access Management Plan to limit disturbance to the birds using Castle Stuart Bay should be agreed by the Highland Council (in consultation with SNH)

THE HIGHLAND COUNCIL APPRAISAL OF THE PROPOSAL

- The proposal is likely to have a significant effect on the site; therefore;
- An Appropriate Assessment of the implications (of the proposal) for the site in view of that site's conservation objectives is provided below.

Conclusion

The proposed development is unlikely to result in an adverse effect on site integrity so long as mitigation is undertaken as suggested by SNH and the subject of a condition in relation to the bund and access management plan and these are agreed in writing by the Planning Authority (in consultation with SNH)

Decision

On the basis of this appraisal, it is concluded that the proposal will not have an adverse effect on the integrity of the Inner Moray Firth Special Protection Area (SPA).





