Report	PLS/091/19
Agenda Item	6.3

HIGHLAND COUNCIL

Committee:	South Planning Applications Committee	
Date:	4 December 2019	
Report Title:	19/02767/FUL: JAHAMA Highland Estates	
	Land 110M NE of Lorien, Hostel Brae, Foyers Road, Kinlochleven	
Report By:	Area Planning Manager – South	
Purpose/Executive Summary		

- **Description:** Siting of cabin and formation of car park
- Ward: 21 Fort William and Ardnamurchan

Development category: Local

Reason referred to Committee: Number of objectors

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 The application should be read in conjunction with application 19/02766/FUL for a zip wire proposal in Kinlochleven, and the report of handling for that application. This application is for a car park and welcome cabin in the village to serve the proposed zip wire project. A linear area measuring 165m by 16m is proposed as a car park in the village centre and approx. 1km from the zip wire reception, as that site does not have the capacity for this amount of parking. The car park would be on the southern end of the former smelter site south of the power station and east of the Ice factor in Kinlochleven.
- 1.2 The entrance would be opposite the car park entrance into the lce factor and an inout circulation loop would be marked out by the entrance, and a 20 foot container to serve as a welcome cabin would be sited just around the corner into the site. There would also be some staff parking here. Customers would be collected from here in a "land train" and taken just over 1km to the reception building by the head of the loch.
- 1.3 No excavation is proposed; the car park would be surfaced with locally sourced crushed stone and the container would be set on this surface.
- 1.5 Pre Application Consultation: informal advice provided regarding the scope of supporting information likely to be required
- 1.6 Supporting Information: Planning Design Statement, Transport Statement
- 1.7 Variations: Site Layout plan amended to include position of welcome cabin.

2. SITE DESCRIPTION

- 2.1 The site was previously occupied by the aluminium smelter, and is now a cleared, flat, gravelled open space, with some naturally regenerated scrub on it. The site is close to the centre of the village and all local services. The Ice Factor climbing centre, adjacent, contains a café, outdoor clothing shop, bar/restaurant, and public toilets.
- 2.2 The site falls within allocated site KN03 in the West Highland and Islands Local Development Plan and it is within the settlement development area for Kinlochleven. The nearest houses would be the new houses on Hostel Brae, approx. 20m to the SW. These are significantly elevated in relation to the site and their main aspect is to the NW, rather than over the proposed car park. A visitor centre housing "The Aluminium Story" is also close to the site.

3. PLANNING HISTORY

3.1 There is no relevant planning history.

4. PUBLIC PARTICIPATION

4.1 Advertised: unknown neighbour and development affecting the setting of a listed building.

Date Advertised: 19.7.19

Representation deadline: 8.8.19

Timeous representations: 13 (2 support, 11 obj)

Late representations: 1 (obj)

- 4.2 Material considerations raised against the proposal can be summarised as follows (see also report on 19/02766/FUL):
 - a) Increase in traffic concerns re highway safety and pollution
 - b) Increase in disturbance additional traffic and visitors
 - c) Land would be better used for other purposes eg. The car park would displace a future potential industrial use, or another suggestion is as a community garden
 - The planning application for the car park cannot be considered separately from the zip wire proposal; the same supporting document has been submitted for both yet this is a separate application
 - e) Lack of local consultation with the community by the developer
 - f) Inadequate local services for the scale of the proposed development
 - g) Concerns re the Security of cars in the car park
 - h) Is the land clear of Contamination now? Health and safety issues
 - i) Surface water drainage concerns if the car park is paved
 - j) There should be toilets in the cabin
 - k) Is there a water supply and drainage provision here?
- 4.3 Material considerations raised in support of the proposal can be summarised as follows:
 - a) The land has been largely unused for +10 years
 - b) The overall project will be beneficial to the village
- 4.4 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <u>www.wam.highland.gov.uk/wam</u>.

5. CONSULTATIONS

- 5.1 **Contaminated Land Team**: Standard land contamination condition is recommended. Information on remediation works that have been carried out to the site has been provided by the applicant however it must be demonstrated that the site is suitable for the intended use for a cabin and car park and anything that which would not require a planning application such as the introduction of soft landscaping.
- 5.2 **Transport Planning Team**: Further details required regarding:
 - Layout of the car park and whether it would be fenced; would there be a separate area for coaches/mini buses?

- A detail of the access to show that a visibility splay of 2.4m by 90m can be achieved and where the existing street light would be re-sited to
- Clarification whether the recycling facility next to the entrance would remain or be re-sited
- Provision of parking for disabled persons close to the access (min 8 spaces), motorcycles (min 5 spaces) and cycle parking (min 15 bays)
- Details of how customers will be directed to the land train
- Details of surface water drainage to accord with SUDS principles
- 5.3 **Flood Risk Management Team**: No response received.

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
- 34 Settlement Development Areas
- 41 Business and Industrial Land
- 42 Previously Used Land
- 43 Tourism
- 56 Travel
- 57 Natural, Built and Cultural Heritage
- 66 Surface Water Drainage

6.2 West Highland and islands Local Development Plan Sept 2019

Kinlochleven Placemaking priorities

- Safeguard and revamp the industrial heritage of the area by promoting a mixed use redevelopment of the brownfield smelter site
- Protect the natural heritage of the settlement by allocating previously developed land such as the former smelter site
- Safeguard, through appropriate siting and design, areas protected or otherwise important for nature conservation or landscape qualities, in particular the Ben Nevis and GlenCoe NSA

Secure active travel connection and green network improvements with all new developments.

6.3 KN03: Smelter

Use: mixed use (Housing, Community, Business/Tourism, Retail

Developer requirements: Flood Risk and drainage Impact Assessment; minimum 6m buffer between watercourses and development; public sewer connection; setback from existing trees and woodland and integration of green network; protected species survey; land contamination site investigation; high quality of siting and design that respects the category A listed smelter powerhouse and its setting and the setting of the adjacent Category B listed carbon factory silos and avoid adverse impacts on the special qualities of the Ben Nevis and GlenCoe NSA.

6.4 Highland Council Supplementary Planning Policy Guidance

Developer Contributions (March 2013)

Flood Risk and Drainage Impact Assessment (Jan 2013)

Highland Historic Environment Strategy (Jan 2013)

Physical Constraints (March 2013)

Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Para 83. In remote rural areas, where new development can often help to sustain fragile communities, plans and decision-making should generally:

- encourage sustainable development that will provide employment;
- support and sustain fragile and dispersed communities through provision for appropriate development, especially housing and community-owned energy;
- include provision for small-scale housing and other development which supports sustainable economic growth in a range of locations, taking account of environmental protection policies and addressing issues of location, access, siting, design and environmental impact.

Para 212. Development that affects a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve should only be permitted where:

- the objectives of designation and the overall integrity of the area will not be compromised; or
- any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance

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) contaminated land
 - c) landscape and amenity
 - d) impact on listed buildings
 - e) surface water drainage
 - f) access and parking
 - g) any other material considerations.

Development plan/other planning policy

- 8.4 The car park would be within the Settlement Development Area for Kinlochleven, which is a "Main Settlement" in the West Highlands and Islands Local Development Plan. Policy directs that the majority of future developments should be directed to such Main Settlements. The zip wire attraction would complement existing tourist facilities in Kinlochleven and the surrounding area, and it would be likely to increase the length of people's stay, increase visitor spending and promote the area to a wider spread of visitors. It would help to support the community by helping to maintain and re-populate the community and strengthen services in the village. Subject to satisfactorily addressing issues surrounding access, and the management of natural, built and cultural heritage features it would accord with policy 43 in respect of tourism and policy 34 in being located in and associated with a main settlement.
- 8.5 The car park and welcome cabin on the former smelter site would also fit in with the proposed land uses identified in the Local Development Plan. The parking would involve minimal works to the existing ground, and it would be a sufficient distance away (+100m) not to adversely affect the setting of the listed power station building. It would similarly have a minimal impact on the setting of the former carbon silos approx. 80m away (now the Ice Factor climbing centre).

Contaminated Land

- 8.6 The applicant states that a comprehensive remediation exercise was undertaken by Alcan prior to handing over this site to KLDT. This involved the removal of contaminated materials for treatment. Grant support was approved by Lochaber Ltd, the European Union (ERDF) and The Highland Council. This saw the site remediated to a level where any future use could be permitted. Following completion the site was transferred to KLDT.
- 8.7 Notwithstanding this, the developer does not intend to excavate any of this site. The area would be covered by 20mm – 50mm crushed stone with pedestrian paths identified with finer stone.
- 8.8 The Council's Contaminated Land Team would however require a current site investigation or remediation validation report to ensure the site is sufficiently protective of human health and the environment.

Impact on landscape and amenity

- 8.9 The car park would be on a village centre site that is allocated in the local plan for Housing, Community, Business/Tourism, or Retail use. No adverse impact on the National Scenic Area. This is an appropriate location for such a development and it would generate no more disturbance than other uses for which it is allocated. The container which would serve as a welcome cabin would be discreetly sited in a corner of the site which is not conspicuous from outside of the site. The appearance of the container may be improved by cladding and this can be secured by condition.
- 8.10 The use of a "land train" to ferry customers from the car park to the various elements of the zip wire site would minimise the number of individual journeys around the village, and so minimise traffic impacts on residents from the development.
- 8.11 A condition is recommended on application 19/02766/FUL restricting the hours and number of days a week that the zip wires would operate which would also mitigate the traffic impact.

Impact on Listed Buildings

8.12 The car park would be a sufficient distance from the listed former carbon store, and from the power station building not to adversely affect their setting. The container that is proposed to serve as a welcome cabin would not be viewed readily together with either of these buildings.

Surface water drainage

8.13 A condition is recommended to ensure that appropriate drainage is provided in accordance with SUDs principles and taking account of the previous contamination of the site.

Access and Parking

- 8.14 The Council's Transport Planning Team has not raised any concern regarding the adequacy of the roads into Kinlochleven, or their capacity to accommodate the predicted traffic generated by this proposal. A proportion would be visitors and locals who would be in the area anyway. Kinlochleven has been successful in promoting itself as a place for outdoor enthusiasts and as a focus for several events which have become regular annual fixtures in the village, such as the Six Day Trials, the pre-65s, and mountain running events such as the Skyline Race. Some of these events use the former smelter site including this site for their event parking, however it is anticipated that there would be enough space to accommodate parking for these occasional events and the zip wire parking without significant problems.
- 8.15 The access is off the publicly adopted Foyers Road via an existing private access. Minimal works would be necessary to make up the entrance to the Council's requirements, including the possible re-location of a street light and the recycling skips. This may be secured by condition.
- 8.16 A condition is also sought to show the layout of the car park, with spaces demarcated for buses, minibuses/ motorhomes, cars, motorbikes and cycle parking, together with a minimum requirement of disabled parking spaces.
- 8.17 The management of visitors by using the land train would minimise vehicle movements between the car park, reception and launch site. A condition is proposed on application 19/02766/FUL to ensure that customers are transferred between the elements of the site by a single vehicle rather than lots of separate trips being generated. Information regarding the zip wire attraction and the "land train" would be provided at the car park.

Other material considerations

- 8.18 The proposed use would not be likely to prejudice a future industrial use of the site, since the site has lain vacant for at least 10 years. No realistic alternative uses have come forward during this time. Its use as part of a proposed new tourist enterprise would fit with policy and this need is greater than the potential loss of the availability of the whole area by its piecemeal development.
- 8.19 The application has been subject to the required publicity as part of the planning application. In addition to this the applicant has undertaken some local consultation which goes beyond the statutory requirements for planning.
- 8.20 There are public toilets in the village centre in and adjacent to the Ice Factor. Toilets would also be provided at the reception building applied for under application 19/02766/FUL.

Non-material considerations

8.21 The applicant has stated that a percentage of the profits from the development would go to the local community. This is not a material planning consideration.

Matters to be secured by Section 75 Agreement

8.22 a) None.

9. CONCLUSION

- 9.1 The development would accord with the uses set out in the site's allocation in the newly adopted West Highland and Islands Local Development Plan. Issues surrounding its potential contamination, details of the car park's layout and drainage may be adequately addressed by conditions.
- 9.2 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 issuedNNotification to Scottish MinistersNConclusion of Section 75 ObligationN
 - Revocation of previous permission N

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

Conditions and Reasons

- 1. No development shall commence until a scheme to deal with potential contamination within the application site has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include:
 - i. the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be first submitted to and approved in writing by with the Planning Authority, and undertaken in accordance with PAN 33 (2000) and British Standard BS 10175:2011+A1:2013 Investigation of Potentially Contaminated Sites - Code of Practice;
 - ii. the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works and proposed verification plan to ensure that the site is fit for the uses proposed;
 - iii. measures to deal with contamination during construction works;
 - iv. in the event that remedial action be required, a validation report that validates and verifies the completion of the approved decontamination measures;
 - v. in the event that monitoring is required, monitoring statements submitted at agreed intervals for such time period as is considered appropriate in writing by the Planning Authority.

Thereafter, no development shall commence until written confirmation that the approved scheme has been implemented, completed and, if required, on-going monitoring is in place, has been issued by the Planning Authority.

Reason: In order to ensure that the site is suitable for redevelopment given the nature of previous uses/processes near to the site in accordance with policy 42 of the Highland wide Local Development Plan.

2. No development shall commence until precise plans and elevations for the welcome cabin have been submitted to, and agreed in writing by, the Planning Authority. The development shall thereafter be undertaken in accordance with the approved plans.

Reason: To ensure the structures have a high quality appearance appropriate to the National Scenic Area, in accordance with policies 28, 29, 57 and 61 of the Highland wide Local Development Plan.

3. No other development shall commence until the car park access has been constructed in accordance with the following dimensions, with:

- i. visibility splays of 2.4m x 90m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.
- ii. The street light has been re-positioned in accordance with the requirements of the Highways Authority
- iii. The recycling skips have been re-sited in accordance with the requirements of the Highways Authority

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

Reason: To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity in accordance with policy 56 of the Highland wide Local Development Plan.

4. No development shall commence until a drawing to show the layout of the car park, including its fencing and any entrance gates, plus spaces demarcated for buses, minibuses/ motorhomes, cars, motorbikes (a minimum of 5 parking bays) and cycle parking (minimum of 15 parking bays), together with a minimum requirement of 8 disabled parking spaces has been submitted to and approved in writing by the Planning Authority. The development shall thereafter be undertaken in accordance with the approved plans.

Reason: To ensure that an adequate amount of parking is provided for each mode of transport and the layout complies with applicable standards, in accordance with policies 28 and 56 of the Highland wide Local Development Plan.

5. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment in accordance with policy 66 of the Highland wide Local Development Plan.

REASON FOR DECISION

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

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

THIS DECISION SHOULD BE READ IN CONJUNCTION WITH PLANNING PERMISSION 19/02766/FUL FOR THE OTHER ELEMENTS OF THE ZIP WIRE PROJECT

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: <u>http://www.highland.gov.uk/yourenvironment/roadsandtransport</u>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

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

Designation:	Area Planning Manager – South	
Author:	Lucy Prins	
Background Papers:	Documents referred to in report and in case file.	
Relevant Plans:	Plan 1 -	Location Plan Red Line boundary 1061/h+m/WCVP/PP01 Rev A
	Plan 2 -	Welcome cabin and visitor parking area Initial layout Plan 1061/h+m/WCVP/PP02 Rev B
	Plan 3 -	cabin elevation plan – 20ft container







