| Agenda Item | 6.6 |
|-------------|------------|
| Report No | PLS-025-20 |

HIGHLAND COUNCIL

| Committee: | South Planning Applications Committee | | |
|---------------|--|--|--|
| Date: | 10 March 2020 | | |
| Report Title: | 19/04788/FUL: Springfield properties PLC | | |
| | Land 123M SE Of Rosebank, Kingsteps, Lochloy Road, Nairn | | |
| Report By: | Area Planning Manager – South | | |

Purpose/Executive Summary

- **Description:** Partial remix to provide 2 no. additional house types (reduced from 3) on 5 no. plots at Meadow Lea Phase 3 (as per 17/05667/FUL)
- Ward: 18 Nairn and Cawdor

Development category: Local

Reason referred to Committee: More than 8 objections from members of the public

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 proposal is for the reconfiguration of 2 discrete sites within a housing development in the Lochloy/Kingsteps area of Nairn. Planning permission was granted for 115 houses on the site on 17 December 2018 and the development is currently under construction. This application seeks to remix 2 areas of the site in order to incorporate an additional 2 houses (reduced from 3) bringing the total number of houses to 117.
- 1.2 All access arrangements, drainage and servicing is being implemented as part of the original application.
- 1.3 Pre-Application Consultation: None
- 1.4 Supporting Information: None
- 1.5 Variations: Number of additional houses reduced from three to two.

2. SITE DESCRIPTION

2.1 The sites are currently part of an active construction site to the east of Nairn, beyond recent housing developments off Lochloy Road. The application relates to 2 discrete areas of the wider site, the first to the north of the site between the watercourse and the site boundary; and the second to the far west of the site. The northern boundary of the western site is separated from the rear garden of Kingsteps House by a 5m wide tree buffer, and it is separated from the watercourse which bisects the site from east to west by an area of open green space.

3. PLANNING HISTORY

3.1 17.12.2018 17/05667/FUL: Residential development and associated infrastructure.
3.2 21.02.2020 20/00162/FUL: Change of house types (Plots 6, 36, 39, 44, 73, 74, 76-78, 80-85, 87, 88, 90, 92, 94, 95 and 98) - Addition of Sun Lounges Granted

4. PUBLIC PARTICIPATION

4.1 Advertised: No

| Date Advertised: n/a | | |
|-----------------------------------|---------------------------------------|--|
| Representation deadline: 20.12.19 | | |
| Timeous representations: | 12 representations from 11 households | |
| Late representations: | 1 representation from 1 household | |

- 4.2 Material considerations raised are summarised as follows:
 - a) Original application for 115 houses already significantly larger than the indicative capacity set out in the IMFLDP of 90 houses. Only narrowly agreed by Committee
 - b) Will result in an increased load on services
 - c) Removes larger proposed houses that were intended to blend more sympathetically with the larger existing Kingsteps houses and gardens
 - d) Concern that it will set a precedent for future changes to further reduce green space and further stress overloaded services
 - e) Further erosion of green open space and wildlife habitat
 - f) Lochloy Road is already very congested and traffic from Montgomerie Drive is now coming up through Kingsteps if travelling east rather than travelling down Lochloy Road to the traffic lights
 - g) Lack of infrastructure to support the additional houses existing road congestion in and around Nairn
 - h) Loss of amenity of the existing rural settlement of Kingsteps original design statement stated that in order to preserve the amenity of the existing rural Kingsteps housing the housing adjoining the boundary would be large, single storey houses matching the existing Kingsteps houses.
 - i) Additional traffic assessment should be carried out
- 4.3 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 **Flood Risk Management Team** do not object. Notes that the amended layout may have a potential impact upon the drainage infrastructure and vesting and maintenance proposals previously granted. Transport Planning and Scottish Water should confirm that they are satisfied with changes and will vest the drainage infrastructure.
- 5.2 **Transport Planning Team** do not object. The additional units should not generate a material change to the traffic impacts assessed through the original application, however any ongoing increase in units on this wider development could lead to the need for a re-assessment of the overall traffic impacts. Confirmation is sought from Scottish Water that the proposals will not hinder their ability to access their infrastructure nor prevent them from vesting the SUDS features once built.
- 5.3 The Development Plans Team's original response (to the 3 additional houses) stated that from a visual point of view the 3 units did not raise significant concerns of over development as they are proposed to be largely sited within areas of open space, however the loss of open space was a concern (particularly the area the west of Plot 109). This area was considered to offer an important area for informal recreation and play which the other areas of open space identified in the approved site layout for application 17/05667/FUL do not, being either more formal or linear natural corridors with limited accessibility. It concluded that the proposal did not comply with Policy 75 of the HwLDP (Open Space). Subsequently the application was reduced in scale, with the one of the plots to the west of plot 109 being removed from the application. Development Plans have revised its response, stating that the

replacement of the previously granted pumping station (which has been moved elsewhere within the wider site as part of the detailed drainage assessment work undertaken to satisfy the planning conditions associated with 17/05667/FUL) with an underground storm cell which will be grassed over will result in an increase in the amount of useable greenspace. This benefit would have been cancelled out by the proposed 2 housing units, however the reduction to one unit west of plot 109 allows for the retention of an area of rectangular area of green space. It concludes that on balance, it is considered that the overall net change will be nil and the revised proposal is therefore considered to accord with the Development Plan.

5.4 **Transport Scotland**: No objection.

5.5 **Scottish Water**: No objection. Currently sufficient capacity in the Inverness Water treatment Works and Nairn Waste Water Treatment Works. Scottish Water have confirmed that the revised layout, which includes an access to the storm cell west of plot 113, is likely to be acceptable, however details are to be finalised prior to development commencing.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

- 28 Sustainable Design
- 29 Design Quality & Place-making
- 31 Developer Contributions
- 32 Affordable Housing
- 34 Settlement Development Areas
- 56 Travel
- 64 Flood Risk
- 65 Waste Water Treatment
- 66 Surface Water Drainage
- 75 Open Space

6.2 Inner Moray Firth Local Development Plan 2015

NA2 South Kingsteps

6.3 Highland Council Supplementary Planning Policy Guidance

Developer Contributions (March 2013) Flood Risk & Drainage Impact Assessment (Jan 2013) Open Space in New Residential Developments (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (The Scottish Government, June 2014)

8. PLANNING APPRAISAL

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

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key considerations in this case are:
 - a) compliance with the development plan and other planning policy;
 - b) impact on open space provision;
 - c) siting and design;
 - d) infrastructure; and
 - e) any other material considerations.

Development plan/other planning policy

- 8.4 Planning permission (17/05667/FUL) was granted for the erection of 115 dwellings (1, 2, 3 and 4 bed houses/flats) including 25% of affordable units by the South Planning Applications Committee on 8 August 2018. Construction is currently underway on site.
- 8.5 The site was allocated for housing in the Inner Moray Firth Local Development Plan (NA2 South Kingsteps) with requirements specified as *"transport assessment; open space; footpath/cycleway connections and linkages to wider area; landscaping; flood risk assessment; avoidance of any adverse effect on the integrity of the Inner Moray Firth SPA/Ramsar. The required traffic and flood risk assessments may impact upon the capacity of the site reducing the housing capacity below the currently projected capacity of 90 units".*
- 8.6 The proposal was for 25 more houses than the indicative capacity set out in the Local Plan, however the plan advises that *"planning applications are expected to be generally consistent with the indicative capacities specified. Different capacity than that specified may be acceptable subject to detailed design that demonstrates efficient use of land and a satisfactory site layout".* The Committee Report for application 17/05667/FUL assessed the proposed layout of the 115 houses and considered that the number of houses could be accommodated within the site while retaining an acceptable density commensurate with nearby housing developments; and providing satisfactory levels of amenity space, parking and open space throughout the development.
- 8.7 The principle of residential development on the site is therefore established and the key considerations for the determination of this application are the potential impact

of an additional 2 houses on the siting, layout, impact on open space and infrastructure of the wider approved site. Providing that the proposed housing does not have significant detrimental impact on existing open space provision, the character and amenity of the area, and existing infrastructure it would comply with the Development Plan.

Impact on open space provision

- 8.8 Open space provision is required in line with HwLDP Policy 75 and the Open Space in Residential Development Supplementary Guidance. This requires 40sqm of open space per person for developments of 4 or more units within defined regional, sub-regional and local centres. Based on an occupancy rate of 2.23 people per home, the original development of 115 units was calculated to give rise to 256 residents, equating to a need for approximately 10,300 sqm of open space. The addition of 2 further units would increase this to 261 residents, requiring 10,436sqm of high quality, usable open space. This guidance states that this should be of high quality; accessible; and delivered in several forms throughout the development, including amenity green space, equipped play areas and natural green space.
- 8.9 In terms of square metreage the development as a whole is relatively well served for open space. Even with the additional 3 houses that were originally proposed the applicant estimated the open space provision to be 22,950sqm over double the required amount. However, much of this is made up of the land taken up by the watercourse which intersects the site, and its surrounds. While the watercourse is undoubtedly important to the setting of the development and provides an important natural corridor for wildlife; it is not particularly accessible and doesn't offer the same opportunities for informal recreation and play as areas of open green space. Areas for more formal amenity and play areas are provided elsewhere within the development.
- 8.10 The remix of plots 103 and 104 effectively replaces one of the larger houses with 2 smaller houses and will push the housing envelope only a few metres further north into the open space which separates the houses from the northern boundary of the development. This will not alter the general shape or usability of this area of open space, nor affect its main purpose, which is to provide a green setting and separation between the new and existing houses. It is considered that this amendment will have minimal impact upon the open space provision of the overall site and is acceptable.
- 8.11 The original submission included the addition of 3 further houses, 2 of which were located to the west of Plot 109. While the addition of one further house, directly opposite Plot 110, effectively rounds off the development, the second house was considered to encroach into the open space to the west of the site to an unacceptable degree. This area of open space is relatively large and has limited adjoining housing. It therefore offers an important area for informal recreation and play which the other areas of open space identified throughout the site do not (being more formal or linear natural corridors with limited accessibility). Following discussions with the applicant it was agreed that the application would be reduced in scale and the second house in this location was removed from the proposal. The remaining additional house rounds off the housing envelope while retaining a sizeable, usable area of informal

recreation space. It is considered that the proposal (as amended) complies with Council policies on open space provision.

8.12 Since the approval of 17/04556/FUL the drainage layout for the site has been amended though the submission of details to satisfy planning conditions, and as part of the RCC process. This has resulted in the pumping station (which was originally centrally positioned within this area of open space) being moved elsewhere within the site, improving the amount and usability of the open space. An underground storm cell and associated Grass Crete access is now proposed to the south of the open space. The storm cell itself will be grassed over and the access to it will be constructed from Grass Crete, resulting in little visual impact upon the landscape. The landscape plan has been updated to take the amended layout into consideration.

Siting and Design

- 8.13 The current proposal replaces original plots 103 and 104 (both 4-bed 1½ storey Culbin house types) with plots 203 (Culbin), 202 (Nairn) and 201 (Nairn). The Nairn house type is also 1½ storey but is smaller with only 3 bedrooms. The reduced footprint means that the additional house can be largely accommodated within the existing footprint, with only a very small encroachment into the open space to the north required. Both house types are similar in terms of materials and design features and the amendment will have little visual impact upon the character or layout of the housing development as previously granted.
- 8.14 The proposed additional house (plot 204) is a single storey 3-bed Croy house type, which features elsewhere in the row and maintains the principle of single storey housing along the boundary between the development site and the existing houses at Kingsteps. This will ensure there is no loss of privacy to the existing houses as a consequence of the development.

Infrastructure

- 8.15 Neither Transport Scotland nor the Council's Transport Planning Team have any objections to the proposal. The Transport Planning Team state that the additional units should not generate a material change to the traffic impacts assessed through the original application, however it does make it clear that any future applications for additional units within the wider development could lead to the need for a reassessment of the overall traffic impacts.
- 8.16 The drainage arrangements for the wider site have been agreed and are being implemented in accordance with planning permission 17/05667/FUL. The revised layout shows an underground storm cell located within the open space to the west of plot 110, and an indicative Grass Crete access route leading to it from the shared driveway. A planning condition will be included to ensure that the applicant provides evidence to demonstrate that the amended layout is acceptable to Scottish Water in terms of future access to and vesting of the drainage infrastructure in this location.

Other material considerations

8.17 Developer Contributions were agreed as part of planning permission 17/05667/FUL and secured via a Section 75 legal agreement. Contributions are required towards

the following: a pedestrian and cycle bridge crossing the railway line to Balmakeith Industrial estate; primary education facilities (Auldearn primary school); school transport provision; community facilities (towards an expansion of services to Nairn Leisure Centre); public transport provision; and the Nairn-Moray coastal trail. This equates to £6,557.28 per house, index linked to the date of payment. The applicant can choose to either amend the current Section 75 agreement or make an upfront payment to account for the additional houses. No planning permission will be issued until the S75 has been modified or an upfront payment received.

8.18 The Council's policy on developer contributions makes it clear that in developments of this type 25% of all housing units should be affordable (ether delivered on site or as a commuted payment). In this instance the developer is providing 29 affordable units within the wider development site, which is sufficient to meet the 25% housing contribution for the 117 houses, and an additional contribution will therefore not be required. It should be noted, however that any future increase would require an additional affordable housing contribution to be made.

Matters to be secured by Section 75 Agreement

- 8.19 The applicant may choose to amend the existing Section 75 Agreement to account for the 2 additional houses and associated increase in developer contributions payment. Alternatively, an up-front payment to cover the full cost of the additional contributions can be made prior to the planning permission being issued.
- 8.20 The applicant has four months from the date that the Council's solicitor writes to the Applicant/Applicant's solicitor indicating the terms of the legal agreement, to deliver to the Council a signed legal agreement. Should an agreement not be delivered within four months, the application shall be refused under delegated powers.

9. CONCLUSION

- 9.1 The proposal seeks to amend the approved layout for a housing development site which was identified for residential use in the Inner Moray Firth Local Development Plan. A number of objections to the proposal have been received, largely concerned with the number of houses proposed. The proposal has been amended during its determination, reducing it from three additional houses to two. Statutory consultees have advised that the proposal (as amended) is acceptable and it is considered that the additional 2 houses can be accommodated within the site without significantly impacting upon its infrastructure, layout or the open space provision of the overall site; and that the proposal can therefore be supported.
- 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 issued Y

| Notification to Scottish Ministers | | | | | | |
|---|-----|--|--|--|--|--|
| Conclusion of Section 75 Obligation o upfront payment | r Y | | | | | |

Revocation of previous permission N

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

Conditions and Reasons

 No development shall commence on the approved house plots until a final Drainage Site Plan (including access arrangements) for the drainage infrastructure to the west of plot 110 has been submitted to and approved in writing by the Planning Authority in consultation with Scottish Water. Thereafter, the scheme shall be implemented in accordance with the approved details prior to first occupation of the houses.

Reason: In order to ensure the site is adequately drained and to retain the water quality of local watercourses.

REASON FOR DECISION

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

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

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

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

- 1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
- 2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit,

occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <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 & 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 <u>env.health@highland.gov.uk</u> 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: <u>www.snh.gov.uk/protecting-scotlands-nature/protected-species</u>

| Designation: | Area Planning Manager – South | | |
|--------------------|-------------------------------|--|--|
| Author: | Christin | e Macleod | |
| Background Papers: | Docume | ents referred to in report and in case file. | |
| Relevant Plans: | Plan 1 | - Site Plan: NA06_SL_PL-10 rev E | |
| | Plan 2 | - Landscape Plan: NA06_SL_PL-11 rev B | |
| | Plan 3 | - Floor/elevation plan Croy: 1060BW(AS)911 | |
| | Plan 4 | - Floor/elevation plan Nairn: 1237DT()911 | |
| | Plan 5 | - Floor/elevation plan Culbin: 1932DT(OP)911 | |
| | Plan 6 | - Location Plan: NA06_LP_PL-02 | |
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