

Agenda Item	6.10
Report No	PLS-69-22

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 18 August 2022

Report Title: 21/04582/PIP: Springfield Properties Plc
Land 80M East of Balvonie Cottage, Inshes, Inverness

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Residential development with associated infrastructure

Ward: 19 – Inverness South

Development category: Major

Reason referred to Committee: Response to Non-Determination Appeal and Major Development

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Recommendation

Members are asked to agree the recommendation to advise the Directorate for Planning and Environmental Appeals that, if the Planning Authority were to determine the application it would have refused the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 This report considers an application for Planning Permission in Principle for a residential development and supporting infrastructure. The information which supports the application has assumed the application site could accommodate up to 130 residential dwellings.
- 1.2 The application was validated on 01 October 2021. Officers entered a Planning Processing Agreement with the applicant to extend the period for determination of the application until 22 March 2022. The applicant was afforded additional time to provide information to address matters raised by consultees, as a result the extended timescale for determination was not met. Subsequently, the applicant has submitted an appeal to the Scottish Government's Directorate for Planning and Environmental Appeals against non-determination of the application. In line with the Council's Scheme of Delegation, this report sets out the Council's response to the appeal. In doing so, it sets out the position of officers on the proposed development, considering the proposal against the development plan in the same manner it would be required to do so if the Planning Authority were in a position to make a determination on the application.
- 1.3 There is an existing access which serves a farm from Drum Mossie Braes (B9117). However, the site access would be via two new accesses onto Drum Mossie Braes (B9117). A construction compound which is being used to facilitate the construction of the adjacent development is located to the north west of the site.
- 1.4 The applicant has undertaken public consultation which included two virtual public exhibitions in line with the guidance applicable at the time. These were held online on 08 July 2021 and 05 August 2021. The pre-application consultation events were advertised in accordance with the regulations and neighbour notification of nearby properties was also undertaken at the request of the Planning Authority. On 04 April 2019 and 20 June 2019. Five people attended the first virtual event and seven attended the second event.
- 1.5 The application has been supported by:
 - Archaeological Evaluation;
 - Design and Access Statement;
 - Flood Risk Assessment;
 - Noise Assessment; Transport Assessment
 - Pre-Application Consultation Report;
 - Drainage Impact Assessment;
 - Ecological Survey and Assessment Report;
 - Tree Survey Schedule
 - Bat Roost Survey and Assessment Report; and
 - Flood Risk Assessment.

- 1.6 No formal variations have been made to the application but additional information has been submitted to address comments from consultees including:
- A Technical Note on Transport matters;
 - Revised Drainage Impact Assessment;
 - Revised Flood Risk Assessment;
 - Revised Design and Access Statement;
 - Landscape Appraisal.

2. SITE DESCRIPTION

- 2.1 The site boundary comprises an area of land to the east of Drum Mossie Braes that currently is agricultural land and Easterfield Farmhouse and associated buildings are located in the centre of the site. Existing residential development is located to the north, west and east of the site. Drum Mossie Braes bounds the site to the north west and beyond that is a residential development currently under construction. To the south west of the site, lies the A9 trunk road. An area of woodland which provides the setting for the Birchwood Road development is located to the east of the site.
- 2.2 Access to the site would be via two new accesses on Drum Mossie Braes to allow for the delivery of a looped layout.
- 2.3 The site rises from north to south with some undulations within the site. The site is located within the Rolling Farmland and Woodland Landscape Character Type as identified in the NatureScot Landscape Character Assessment. The site is not situated within or close to any natural heritage designation. Culloden Battlefield lies approximately 3km to the south west. The Inshes Woodland Tree Preservation Order is located to the west of Drum Mossie Braes.
- 2.4 The Scretan Burn flows to the south of the site and the Dell Burn runs to the north of the site. Neither of these watercourses are anticipated to lead to fluvial flood risk in a 1 in 200 year flood risk event (inclusive of an allowance for climate change). The site is potentially at risk from pluvial flooding in two areas in the northern area of the site.

3. PLANNING HISTORY

- 3.1 22/00020/NONIN - Residential development and associated infrastructure (Appeal Against Non-Determination)
- 3.2 13.05.2021 21/02436/PAN - Residential development and associated infrastructure Case Closed

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Schedule 3 development, Potential departure from Development Plan
Date Advertised: 15 October 2021

Representation deadline: 29.10.2021

Timeous representations: 0

Late representations: 0

- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

- 5.1 **Cradlehall and Westhill Community Council** did not respond to the consultation.
- 5.2 **Access Officer** does not object to the application. He highlights that an Outdoor Access Plan is required. He considers it unlikely that people currently utilise the site for public access but acknowledges that the nearest routes to the site are to the south of the site (linking to the B9177), the woodland around Birchwood Road and the public right of way across the A9 at Inshes. He suggests that public access should be managed dependent on the construction programme for the site. He recommends that an active travel link is provided along the green frontage of the site adjacent to the B9177 linking the site to the planned path of the neighbouring development and Culloden Road. He provides details of the specification he would expect of any paths. He suggests that the public right of way across the A9 requires to be accommodated in consultation with Transport Scotland given the increase in demand that may be placed on the crossing due to the increased population. He identifies the need for contributions to monitoring of this route.
- 5.3 **Contaminated Land Team** do not object to the application. It highlights that the site has historic use as a farm and therefore may have some land contamination. It explains that it had been contacted in 2019 by a consultant to scope an assessment of contamination on the site. As the detailed historical use of the site has not been provided it recommends a scheme to secure a scheme dealing with potential contamination be required via condition.
- 5.4 **Development Plans Team** neither object nor support the application. It has highlighted that the principle of development on the part of the site which is allocated for development in the Inner Moray Firth Local Development Plan is supported. However, it considers there needs to be a clear and reasoned justification why the land which is not allocated, but within the settlement development area of Inverness, should be developed instead of the other sites across Inverness which are allocated for residential use. It does not consider a justification has been provided.

It has set out that there are infrastructure issues across the City of Inverness which require mitigation to allow new development to proceed with these focused on transport and education infrastructure. It has highlighted that Cradelhall Primary School is predicted to reach over 90% capacity (with limited areas available for extensions) and Culloden Academy is already over its capacity, with other consented and allocated sites contributing to further capacity pressures. In terms of transport constraints, it has highlighted the Inshes junction and the recently reconfigured B9006/B9177 junction require to be considered. For both education and transport infrastructure it has highlighted that significant levels of developer

contributions will be required to mitigate the impacts.

It has also highlighted concerns related to amenity due to noise impacts from the A9(T) and connectivity of the site in relation to sustainable modes of transport.

It considers that the principles set out in the Development Framework are generally supported but further consideration / clarification is required on: active travel permeability; delivery of pedestrian / cycle access at the northern boundary of the site; connectivity between the northern blocks of the site; parking provision; and amenity of the open space adjacent to the A9(T). It welcomes the green buffers to the east and west of the development and that the landscaping and open space will be overlooked.

It has highlighted that some elements of the site are proposed to be allocated in the Inner Moray Firth Plan 2 but the southern section of the site (the land south of Balvonie Cottage) is proposed to be outwith the Settlement Development Area and would therefore be within the hinterland of Inverness. It explains that the Proposed Plan holds some weight as a material consideration.

It recommends that the applicant reduces the site boundary to reflect that identified in the Proposed Inner Moray Firth Local Development Plan.

It has identified that developer contributions are required: at new school / major school extension rates for both primary and secondary education; toward the delivery of the East Link and Inshes Corridor schemes; provision of sports facilities; and provision of Ashton District Park. In addition it has highlighted requirement for open space delivery and public area provision.

5.5 **Environmental Health** do not object to the application. It is noted that the noise modelling undertaken, considering the impacts of road noise from the A9(T), demonstrates that the standards published by the World Health Organisation can be achieved with appropriate levels of glazing with a higher acoustic attenuation than standard double glazing would be required. It cautions that the standards can only be met in most locations across the site if the windows are closed. It is advised that an alternative form of ventilation is required and that would need to meet the relevant building standards. It is suggested that in terms of external noise, most of the site falls within the limits established by the World Health Organisation Standards but some locations require acoustic garden fencing to be erected. It is recognised that the layout is indicative at this time and the impact of noise on properties in the final layout will need to be assessed.

It explains that planning conditions are not used to control impact of construction noise. In doing so it highlights that if work is proposed outwith the standard working hours then a construction noise assessment will be required.

Environmental Health has sought conditions to secure a revised noise assessment to accompany any matters specified in conditions application. It requests that this secures detail of mitigation including the proposed ventilation systems for properties, details of proposed garden fencing and compliance with the World Health Organisation Standards.

5.6 **Forestry Officer** does not object to the application. He has highlighted that while limited information is provided, due to the low level of trees within the site that subject to conditions securing a 20m stand off from trees (rather than the varied

stand off between 10m-20m show in in the Development Framework); consideration on the impact on trees of the northern active travel route; consideration of the impact of the SuDS on trees; and detailed landscaping plans being secured by condition, the application can be supported. .

- 5.7 **Flood Risk Management Team** do not object to the application following the submission of additional information. It has advised that given the attributes of the site a significant amount of flood risk and drainage information is required.

In relation to flood risk, it explains that the study undertaken identifies that the discharge from the site will flow into the Beechwood Burn. It requires that any discharge must be at the 1 in 2 year return period greenfield run off rate fro all storms up to a 1 in 200 year return period. It considers this discharge rate would provide some betterment by reducing peak flow. It has however highlighted that if this rate can not be met the Flood Team will object to future applications.

It has set out that: existing water ponding on the site should not be displaced elsewhere; detailed design of the surface water drainage will be required with future applications; drainage of roads (local and trunk) will need to be considered to avoid increased risk of flooding; finished floor levels should be no less than 250mm above the finished ground levels.

In relation to drainage, it outlines that the applicant intends to seek the surface water drainage to be vested by The Highland Council and Scottish Water. However, it highlights that the applicant's approach to its surface water drainage system requires further consideration in future applications. In particular, it considers that the surface water generated outwith the drainage system is unlikely to be accepted by the vesting authority. It recommends conditions to secure: site discharge rates; surface water discharge rates; and full details of drainage infrastructure supported by a detailed Drainage Impact Assessment.

- 5.8 **Historic Environment Team** do not object to the application. It has identified that the proposed development is in an area of archaeological potential. It has requested a condition to secure a programme for the survey, evaluation, preservation, and recording of any archaeological or historic features.

- 5.9 **Transport Planning** do not object to the application following submission of further information and refreshed traffic modelling. It highlights that the traffic modelling has considered a worst case scenario that all traffic to and from the development will go through the Culloden Road / Drumossie Braes junction. It advises that based upon the assessment of WSP acting on behalf of Transport Planning, that the predicted trips from this development would not severely impact upon the operation of the Culloden Road / Drumossie Braes or the Culloden Road / Caulfield Road junctions. This conclusion was however on the basis of modelling with existing pedestrian crossings not being taken into consideration. WSP acting on behalf of Transport Planning undertook their assessment with the pedestrian crossings being called regularly. It has concluded that the performance of the signals should not be unacceptably affected even with the pedestrian crossing functions of the signals being called regularly.

The cumulative impact of development on the Caulfield Road North and UHI Campus Access where it meets the B9006 was also considered. This sets out that the existing junctions are operating close to their practical operating capacity and

development from the proposed development would further impact on that situation. The modelling which identified this did not simulate the operation of these signals with a form of vehicle actuated system which adjusts signal timings in response to changes in traffic flow. This could improve the situation but clarification is required to determine whether double counting of impacts has been included given some of the campus is already built out. It has identified that the removal of 20 trips from the campus arm of the assessment, by an increased uptake in active and sustainable travel modes, would take account of the initial issues and continue to operate just within their practical operating capacity.

It recommends conditions to secure: the design details for the 30mph speed limit on Drumossie Braes; construction traffic management; and provision of a residential travel pack. It also recommends developer contributions toward the implementation of the A9/A96 East Link scheme and associated improvements to the B9006 west of the A9. An informative is sought advising that permits to work on the local road network is required prior to commencement of work.

It sets out that no operational testing of the proposed access locations has been undertaken. A condition is sought to secure final details of the access location, inclusive of the form and location of the access, visibility splays and supported by a road safety audit.

In terms of internal site layout, it considers the snaking nature of the primary residential road through the site would limit cul-de-sacs within the scheme and could be welcomed subject to the provision of good quality active travel links. It seeks a condition to secure the detailed form and layout of the internal road and active travel routes through the site.

It has highlighted that car parking requires to be provided in line with Council's Road and Transportation Guidelines with disabled and electric vehicle car charging also needing to be provided. It also sets out that cycle parking requires to be provided in accordance with the aforementioned standards. It recommends a condition is used to secure waste management provision across the site including bin stores, bin collection points, and details of vehicle movements for refuse vehicles.

It requests a condition to secure a shared pedestrian and cycle facility, of a minimum width of 3m, be provided adjacent to the B9177 Drumossie Braes between the site access and B9006 Culloden Road. It has however set out that it is not clear that there is sufficient space to deliver this within either the public road boundary or land within the applicant's control. It considers that a link from the site to the signalised junction between Caulfield Road and Culloden Road would provide additional active travel benefits but it is not clear if the applicant has control of the land to form that route. Nevertheless, Transport Planning recommend that this link is secured by condition.

In relation to public transport provision it recommends a condition to secure a scheme for the improvement of connectivity of residential units within the development to local bus services.

It has highlighted concern over the width of the paths to Cradlehall Primary School, in particular the ability of the path alongside Caulfield Road to the junction with Culloden Road to accommodate shared use by walking and cycling. It has sought a scheme for improvement of these paths to be secured by condition. In relation to

connectivity to the secondary school, it has highlighted that the applicant has not provided an analysis of the safer routes to Culloden Academy. Given the location of the development in relation to Culloden Academy it may be that school transport may be required to access the site. If this is the case the layout will need to accommodate this.

It has explained that detailed drainage designs will require to be secured by condition. A further condition is also requested to secure an assessment of drainage implications of works impacting on existing local public road infrastructure. This may require the delivery of mitigation.

- 5.10 **Historic Environment Scotland** do not object to the application. It identifies that the site lies approximately 3km south west of the Battle of Culloden Inventory Battlefield. It considers that due to the lack of intervisibility there should be no direct impacts or setting impacts on the battlefield.
- 5.11 **Scottish Environment Protection Agency** do not object to the application on grounds of flood risk. It recommends that the applicant follows the surface water management measures identified in the submitted flood risk assessment to manage any residual risk of flooding from the nearby burn.
- 5.12 **Scottish Water** do not object to the application. It explains that it cannot confirm capacity to serve the development from Inverness Water Treatment Works at this time. It confirms there is sufficient capacity for a foul only connection in the Allanfearn Waste Water Treatment Works. It has set out that the development will impact existing Scottish Water assets and the applicant should discuss these with Scottish Water's Asset Impact Team. The surface water drainage arrangements are considered and it confirms that Scottish Water will not accept any surface water connections into its combined sewer system.
- 5.13 **Transport Scotland** advises that conditions should be attached to any permission the Council may give. These relate to: no access to the trunk road for pedestrians or vehicles; details of external lighting within the site; no connections to the trunk road drainage system; no advertising visible from the trunk road; provision of a travel plan to reduce dependency on private car use; provision of a construction method statement and traffic management plan; provision for all vehicles serving the site being sheeted; and provision of vehicle wheel cleaning facilities.

Having explained that the scope of the Transport Assessment was not discussed with Transport Scotland, it advises that the additional trip generation from the development is unlikely to significantly affect its view on previous applications that it is unlikely to affect the trunk road.

It explains that it understands the applicant is relying on the previously delivered mitigation on the local road network.

It recommends that cycle parking should be considered and recommends consideration of Cycling by Design 2021 in considering walking, wheeling and cycle user facilities. It highlights that it is unclear whether cycle user journeys to or from the school can be made safely. It recommends that the matter is discussed further with Transport Planning.

It considers that the methodology applied in the Transport Assessment is

acceptable to Transport Scotland and the impacts on the trunk road network are anticipated to be minor. However, it notes that a threshold assessment should have been carried out to determine the likely geographical scope of the assessment.

It has compared the data from DataShine Scotland Commute for this area of Inverness where it considers traffic is likely to travel north and west. Due to this it considers that there will unlikely be an impact on impact on trunks road network to the south of the proposed development. It does however note an increase in estimated traffic on southbound and existing movements from the A9(T), is not anticipated to be significant.

It considers that the addition of development traffic increases impact on several arms of the B9006 / UHI / A9(T) junction to around 90% of capacity but this will not change queuing significantly from the committee development model scenarios. It acknowledges that the model does not consider the vehicle actuated signal optimisation system in place at this junction.

The response highlights that no review of personal injury accidents has been undertaken as part of the Transport Assessment. It considers that this matter should be covered in the proposed Travel Plan and Construction Traffic Management Plan. It has highlighted that a review of trunk road accidents in vicinity of the site included an accident classifies as "Very Serious" in July 2020 and an accident classified as "Less Serious" in December 2020, both on the A9(T) junction with Sir Walter Scott Drive. It explains that driver error was recorded as a 'veery likely' contributing factor for both accidents.

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
- 32 - Affordable Housing
- 34 - Settlement Development Areas
- 42 - Previously Used Land
- 51 - Trees and Development
- 55 - Peat and Soils
- 56 - Travel
- 57 - Natural, Built and Cultural Heritage
- 58 - Protected Species
- 59 - Other Important Species
- 60 - Other Importance Habitats
- 61 - Landscape
- 63 - Water Environment
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage
- 70 - Waste Management Facilities
- 72 - Pollution

74 - Green Networks

75 - Open Space

77 - Public Access

6.2 Inner Moray Firth Local Development Plan (2015)

- IMFLDP Policy 2 – Delivering Development
- Within Inverness Settlement Development Area
- Allocation IN74 – Easterfield Farm (21 homes)

6.3 Highland Council Supplementary Guidance

- Developer Contributions (Nov 2018)
- Flood Risk and Drainage Impact Assessment (Jan 2013)
- Green Networks (Jan 2013)
- Highland Historic Environment Strategy (Jan 2013)
- Highland's Statutorily Protected Species (Mar 2013)
- Managing Waste in New Developments (Mar 2013)
- Open Space in New Residential Developments (Jan 2013)
- Public Art Strategy (Mar 2013)
- Standards for Archaeological Work (Mar 2012)
- Sustainable Design Guide (Jan 2013)
- Trees, Woodlands and Development (Jan 2013)
- Inshes and Raigmore Development Brief
- Inverness East Development Brief

7. OTHER MATERIAL POLICY CONSIDERATIONS

Emerging Local Development Plan Policy and Non-Statutory Planning Guidance

7.1 The Highland-wide Local Development Plan is currently under review and is at Main Issues Report stage. It is anticipated the Proposed Plan will be published following publication of secondary legislation and National Planning Framework 4 (NPF4).

7.2 The Inner Moray Firth Local Development Plan is also currently under review with its Proposed Plan (IMFLDP2 Proposed Plan) having been published for public consultation in March 2022. It is a material consideration in the determination of this application. IMFLDP2 continues to promote part of the site for housing development, forming allocation INE01 which has an indicative housing capacity of 74 homes but includes elements of land to the west of Drumossie Braes. This is a larger allocation than that in the adopted IMFLDP. Developer requirements for the land to the east of Drumossie Braes include: Land east of B9177: Flood Risk Assessment (no development in areas shown to be at risk of flooding), Drainage Impact Assessment; holdback distance of 20 metres between trees or woodland and new development, no construction activity within root protection area; Protected Species Survey; Land Contamination Site Investigation; Landscape and Visual Impact Assessment; programme of work for the evaluation, preservation and recording of any archaeological and historic features; improvement of active travel linkages out with the site, including direct link to Culloden Road; Transport

Assessment; Noise Assessment of A9(T) road traffic.

- 7.3 The identified 'Placemaking Priorities 21' for East Inverness include: safeguarding the green network, character and setting of the City by limiting development to the existing built edges of Culloden Balloch, Westhill and Cradlehall; Development of active travel links and improve connectivity for people and wildlife. Pertinent emerging Proposed Plan policies include:

- 1 - Low Carbon Development
- 2 - Nature Protection, Preservation and Enhancement
- 4 - Greenspace
- 5 - Green Networks
- 8 - Placemaking
- 9 - Delivering Development and Infrastructure
- 10 - Increasing Affordable Housing
- 11 - Self and Custom Built Housing
- 13 - Accessible and Adaptable Homes
- 14 - Transport

7.4 **Scottish Planning Policy, Other National Guidance and Policy**

- Scottish Planning Policy (The Scottish Government, 2014)
- National Planning Framework 3 (NPF3) (The Scottish Government, 2014)
- Consultative draft National Planning Framework 4 (NPF4) (The Scottish Government, 2021)
- National Transport Strategy 2 (The Scottish Government, 2020) and its Delivery Programme (The Scottish Government, 2022)
- Cycling by Design (Sustrans, 2021)
- Designing Streets (The Scottish Government, 2010)
- Creating Places (The Scottish Government, 2013)
- PAN 1/2011 - Planning and Noise (Mar 2011)
- PAN 60 - Planning for Natural Heritage (Jan 2008)
- PAN 61 - Sustainable Drainage Systems (Jul 2001)
- PAN 68 - Design Statements (Aug 2003)
- PAN 75 - Planning for Transport (Aug 2005)
- PAN 77 - Designing for Safer Places (Mar 2006)

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) development plan and other planning policy;
 - b) design and layout (including landscape and visual impact, open space and landscaping);
 - c) roads, access and parking;
 - d) water environment, flood risk and drainage;
 - e) natural heritage (including ecology and trees);
 - f) amenity impacts (including during construction);
 - g) infrastructure provision (including education); and
 - h) other material considerations.

Development plan/other planning policy

- 8.4 Development plan policy is set out in the Highland-wide Local Development Plan (HwLDP), the Inner Moray Firth Local Development Plan (IMFLDP) and statutorily adopted supplementary guidance.
- 8.5 The site is located within the Inverness Settlement Development Area as defined within the IMFLDP and the principle of residential development on part of this site complies with the Development Plan as a limited area of the northern section of the site is allocated for housing. It comprises IMFLDP allocation IN74 which identifies capacity for 21 homes across an area of 1ha. The remainder of the application site is in an area which is neither allocated for, nor safeguarded from, development. Policy 34 – Settlement Development Areas (SDAs) of the HwLDP states that the Council will support proposals within SDAs if they meet the requirements of Policy 28 – Sustainable Design and all other relevant policies of the Development Plan. Proposals will also be judged in terms of their compatibility with the existing pattern of development and landscape character, how they conform with existing and approved adjacent land uses and impacts on any natural, built and cultural heritage features.
- 8.6 While the site is currently undeveloped, it is considered that development of housing would be compatible with the housing to the east of the site. To the east lies further housing, but this is in a wooded setting and when viewed on the ground, rather than in plan form would not have a perceptible relationship with the application site. However, the land to the south is agricultural in nature and forms part of a green wedge that effectively defines the edge of the city. As one is travelling south on Drumossie Braes from the Culloden Road junction, the housing development which is nearing completion defines the western edge of the road. The land to the east of the road rises and there is a perception of enclosure of the landscape due to the trees on the horizon line. Traveling further south toward the bend in the road the rural nature continues to the east and the road then becomes more enclosed by roadside trees and hedging which forms the boundary of the property known as Balvonie Cottage, which ends at the boundary of the proposed allocation in IMFLDP2. The view then opens out again with an expanse of agricultural land bounded by woodland to the east. The boundary treatment of Balvonie Cottage and the opening up of the view across the agricultural land marks a transition from the urban edge to the hinterland around Inverness. While there

are glimpses of the A9(T) through the trees which are present on the west of the road this is not considered out of character for a road in a more rural area. When travelling northbound on Drumossie Breas there will be a similar experience but in reverse with Balvonie Cottage marking a transition point from a rural to a more urban character. The trees which bound the site to the east reinforce the rural edge of the City when travelling northbound given the lack of visual connection between the housing within the woodland and the proposed development site. The site itself will stop one field short of the scattered housing group where large houses are located within large plots reinforcing the rural character of the road corridor.

- 8.7 The applicant has identified a green buffer around the site, seeking to facilitate the sites integration into the landscape. However, there is a concern that the provision of new accesses off the road network to the required standards, and the length of time it will take new landscaping to establish that the rural character of the route will be significantly changed, resulting in a suburban form at the edge of the city rather than safeguarding the green network, character and setting of the City. If, however, development was more limited in extent, and not effecting the transition between the urban and rural areas to the extent in which this linear site will bringing it close to a rural development pattern to the south, a level of development on the site may be considered appropriate. This would however be limited to development in the northern section of the site, with a strong landscaped edge running east to west along the field boundary to the rear of Balconie Cottage.
- 8.8 On 17 June 2022, four days prior to the submission of the appeal against non-determination, the applicant submitted a document titled Landscape Overview. This outlines an initial landscape and visual appraisal of the application site. This recognises that whilst the site is located within a landscape that exhibits characteristics of the Rolling Farmland and Woodland Landscape Type, its location is also within a transitional landscape on the edge of Inverness. The applicant's appraisal considers that the site has scope for the development proposals to include new layers of structural planting to benefit the landscape character of the area. The applicant considers the visual effect in longer distant views and where it is accepted that there would be limited views toward the site in which the cityscape would be significantly changed as a result of the proposed development. The assessment concludes that subject to more detailed landscape design, the site could help secure the value of the overall landscape resource. Whilst, the overall findings related to longer distance views are accepted, the effect on the transitional landscape remains of concern and it is considered that the applicant's appraisal underplays the way in which the closer proximity views will be affected by the proposals. These effects could be avoided if development was more closely related to the built edge of the City which is now defined by the Easterfield development which is reaching completion. This also reflects the new settlement development area in the Proposed IMFLDP.
- 8.9 The IMFLDP is under review with the Proposed Plan having recently been consulted upon. As outlined above the area of the site to the north of Balvonie Cottage is proposed to be allocated as INE01 which has an indicative housing capacity of 74 homes, stretching also across the area of the applicant's site which was previously consented and under construction at the time of the Proposed Plan publication. That site is now largely complete. Based on the above consideration of

the transitional nature of this area between urban and rural at this edge of the city the area identified for development proposed within the Proposed Plan could be supported as it would round off the city edge subject to appropriate landscaping on the southern boundary. It is however considered that the transition between the urban edge and rural areas would be blurred if the development continued uphill to the southern area of the proposed application site. In doing so it is considered that the elements of the site to the south of Balvonie Cottage would be significantly detrimental in terms of the existing pattern of development and conformity with existing a land uses.

- 8.10 There are no significant issues related to the effect on natural, built and cultural features. Therefore, it is appropriate to consider whether there are any clear material considerations that would justify permission being granted. The development plan contains a number of further policy tests that must be taken into account in determining this application; in particular matters related to layout, design, place-making and infrastructure provision.

Design and Layout (including Landscape and Visual Impact, Open Space and Landscaping)

- 8.11 The application is for planning permission in principle. In assessing applications of this nature the Planning Authority need to be satisfied that enough space has been identified for homes proposed, that these homes can be accessed appropriately, with the site being capable of being successfully services and drained, and that other on site and surrounding natural and cultural heritage interests are afforded sufficient protection.
- 8.12 The applicant's Design and Access Statement outlines a development framework for the site. A revised submission was submitted on 16 June 2022 in advance of submission of the appeal. This has identified a development framework for the site which seeks to address on-site constraints including a gas main, the adjacent woodland and the Balvonie Cottage. It includes consideration of the opportunities within the site including views out from the site, indicative site access points.
- 8.13 The indicative site layout has a number of qualities which would lead to it being considered compatible with the principles of Designing Streets. The main road would involve a snaking link road through the site joining two points of access. However, it requires further refinement in relation to active travel movements within the site. The structural landscaping to create three buffers and layers of development as moving up the hill is considered beneficial, as is the stand-off from existing trees and woodland. However, all of the open space areas are located to the edge of the site and are not well integrated with the rest of the layout. While the Development Framework sets out that houses will face onto the open spaces at the western edge of the site, it is not known how the housing will relate to the open space at the eastern edge given the in principle nature of the application, pushing open spaces to the edge is not generally good practice.
- 8.14 The design principles to create a sense of place include the retention of the existing stone dyke along the site frontage, promotion of street trees, diversity of architecture, provision of parking away from house frontages, and a mix of quality materials is welcomed and alongside an appropriate layout, a high quality

development could be brought forward.

Roads, Access and Parking

- 8.15 To access the site two new accesses will require to be created from Drumossie Braes. The applicant is relying on the previously identified and delivered mitigation through the Easterfield development on the west side of Drumossie Braes to accommodate the level of development proposed. The previously delivered mitigation included: realignment of Drumossie Braes / Culloden Road junction; relocation of 30mph speed limit; provision of an extended footway to a new pedestrian refuge on Culloden Road; adoption of a 20mph design speed within the internal road network; and provision of a footway connection to the signalized crossing at the Culloden Road / Caulfield Road junction. The applicant is however proposing an additional active travel link between the northern edge of the site and Culloden Road toward the Culloden Road / Caulfield Road signalized crossing.
- 8.16 In terms of operational capacity of the Drumossie Braes / Culloden Road junction, traffic modelling has shown that with the additional houses the junction will operate within its design capacity. The modelling was however subject to significant discussion and amendments prior to WSP on behalf of Transport Planning accepting this position. There is however concern over the capacity of other junction on the local road network, including that serving the Inverness Campus, which operates close to capacity at this time. It is noted though that the applicant's assessment did not consider the vehicle actuated signals which improve performance over what has been modelled. It is also noted that the Campus is required to deliver further mitigation to improve active and sustainable travel to and from the Campus. Transport Scotland have not objected in relation to impact on the trunk road. In relation to traffic impacts of the construction and operational phases of development on the free flow of the local road network, mitigation in the form of movement of the 30mph speed limit further south on Drumossie Braes; construction traffic management; and travel packs for residents are secured by condition.
- 8.17 The applicant's Design and Access Statement has identified indicative locations for accesses into the site. This is not accompanied by analysis of the location of the junctions or whether suitable visibility could be achieved. Given the 'in principle' stage of the application, it is considered that this could be a matter secured by condition along with the detailed site layout. The internal road layout is also indicative and would require to be secured by condition.
- 8.18 Non-car connectivity is critical to the success or otherwise of development on this site. Transport Planning has identified the need for a shared pedestrian and cycle facilities to be delivered along the existing Drumossie Braes between the site access and the Drumossie Braes / Culloden Road junction and the provision of a link from the site onto Culloden Road in vicinity of the Culloden Road / Caulfield Road signalised junction. However, it has raised concern over the deliverability of these connections. The applicant's Design and Access Statement has identified some limited facilities within a 800m buffer of the site but a wide range of facilities, including shops, childcare, veterinary surgery, Inverness Campus and dentist surgeries. within 1.6km of the site. This buffer is however as the crow flies and does not consider walking or cycling routes or facilities. Therefore, it is not considered that the site would meet the concept of a "20 minute neighbourhood" as

promoted through draft National Planning Framework 4. The applicant would be required to undertake isochrone analysis and undertake a detailed assessment of the routes available and their suitability for the proximity of these services to be considered a positive factor in the determination of the application. The proposed active travel route from the site to Culloden Road is welcomed and it is considered this would shorten some journeys.

- 8.19 Crucially, there is concern over the safety of shared use on the route to Cradlehall Primary School given the width of the path. It is not clear whether in its current form, the path could accommodate use by children walking and cycling. This is a concern raised by Transport Planning but also by Transport Scotland. Transport Planning recommend the use of a condition to secure appropriate upgrades to allow the path to accommodate both users. The safer route to Culloden Academy may also require some upgrades, this could be secured by condition and should be seen in the context of the proposed redevelopment of Culloden Academy.
- 8.20 In line with the provisions of Policy 77 (Public Access) of the HwLDP, an Outdoor Access Plan will be required. An Outdoor Access Plan can be secured by condition and will be required to detail the construction and location of all paths and provision of access rights within the site. This will also be required to consider the connections to areas outwith the site. This should cover the construction and operational phases of the development.
- 8.21 Connectivity between residents in the development and bus stops will require further consideration. Not all of the residences within the site are within 400m of a bus stop, this being the distance recommended to support trips being made by bus. The applicant would be advised to hold discussions with the Council's Public Transport Team to establish whether buses could be re-routed through the development. A condition can be sought to secure a scheme for enhanced connectivity of the site to local bus service provision.
- 8.22 In line with other developments in the area, the applicant should be required to make contributions to the delivery of strategic road infrastructure which will facilitate the safety and free flow of the local and trunk road networks. Contributions will therefore be sought toward the delivery of the Inshes Corridor and East Link projects.
- 8.23 Any future application will be required to provide details of car and cycle parking in accordance with the Roads and Transportation Guidelines for New Developments. This will be secured by condition. The cycle provision should also accord with Cycling by Design.
- 8.24 To facilitate a move toward a low carbon economy it is considered appropriate to facilitate the transition toward the phasing out of diesel and petrol cars. This would include the provision of electric car charging points. The details of the design and scale of this infrastructure can be secured by condition. Further a strategy for energy use and sustainability should be considered by the applicant and also secured by condition.

Water Environment, Flood Risk and Drainage

- 8.25 Parts of the site are at risk of pluvial flooding. The applicant's Flood Statement has demonstrated to the satisfaction of Scottish Environment Protection Agency and the Council's Flood Risk Management Team that the flood risk at the site can be managed. It is recommended that the finished floor levels are 250mm above the finished floor levels.
- 8.26 The proposed indicative drainage solution will include a network of surface water drainage infrastructure with a single large basin providing the final treatment. The Flood Risk Management Team is satisfied that sufficient attenuation is being provided within the site. A final design for the surface water drainage system, inclusive of maintenance and vesting arrangements will be required based on the design of the detailed layout of the development. The drainage solution sets out that the surface water discharge from the site requires to be limited from the site. This limit can be secured by condition.

Natural Heritage (including ecology and trees)

- 8.27 The applicant has submitted an ecological survey and assessment report in support of the application. This has identified a range of habitats across the site, with the most common being improved grassland. No non-native invasive species have been identified within the site. Desktop studies were undertaken for badger, bat, pine marten and red squirrel. Subsequent surveys were also undertaken. There are badger sets in proximity of the site and the site layout will need to accommodate badger movement across the site. Bats are present within the adjacent woodland but the setback of buildings from the trees would allow free movement of the bats. Survey work would however be required to ensure that the bat habitat in the trees on the eastern boundary area is protected during construction. There was no signs of pine marten, red squirrel or breeding birds on the site when the applicant undertook its surveys. There is potential for geese to feed on the grazing fields but as they are not in crop with cereals, it is less likely. There is opportunity in the existing buildings on the site for bat and bird nesting. Therefore bird and bat boxes within the development should be secured by condition. The applicant's report recommends the use of planting to increase biodiversity and enhance the habitat for breeding birds.
- 8.28 In line with the provisions of draft National Planning Framework 4 and the emerging policy in the Proposed IMFLDP, proposals for biodiversity enhancement should be secured by condition. This should be an enhancement from the baseline conditions on the site.
- 8.29 In addition, a construction environmental management document approach will be required as will an ecological clerk of works for the development. These matters can be secured by condition.
- 8.30 Trees bound the site and there are a limited number of trees within the application site. The applicant has submitted a tree survey report. This will require to be considered in the detailed design layout of the development. However, it is important in order to protect the trees from the development and also in terms of amenity of future residents that there is sufficient setback of development from the retained

trees. A design parameter for all future phases which ensures a 20m setback from all retained trees will be secured by condition in line with the advice from the Forestry Officer. Final landscaping and tree planting details will require to be secured by condition.

Amenity Impacts (including during construction)

- 8.31 The site is located relatively close in proximity to the A9(T). As a result, it is likely that the properties within the site will experience a level of road noise. The noise assessment submitted by the applicant demonstrates that in open site conditions the western edge of the site would experience noise levels beyond that considered acceptable in the World Health Organisation Standards. However, the applicant has set out a range of mitigation which means that, based on the indicative layout, the standards could be met. The mitigation includes acoustic glazing and acoustic fencing to particular gardens. The nearby site includes an acoustic barrier between the houses and the A9(T) and this appears to be effective in addressing noise from the A9(T) but road noise is still experienced from Drumossie Braes. The standards can only however be met if the windows of properties are kept shut and an alternative mechanical ventilation of properties is provided. Environmental Health have highlighted concern with this approach, and indeed Members have raised concern over similar mitigation on the adjacent development. However, Environmental Health have not objected subject to securing details of the mitigation and the ventilation system.
- 8.32 Due to the location of the development, the topography of the site and intervening landscaping the properties in the development will not lead to amenity impacts in terms of privacy or daylight to existing properties. However, this will be looked at in detail as part of any future matters specified in conditions application.
- 8.33 It is considered appropriate that the amenity of nearby residents is protected through a construction environmental management approach, which would include a Construction Noise Management Plan and Dust Suppression plan. These can be secured through a condition on construction environmental management. Further a construction traffic management plan will be required. This will be required to detail construction traffic routes, construction site operation times and provide a commitment to no deliveries or heavy goods movements immediately before or after school pick up and drop off times at Cradlehall Primary and Culloden Academy.

Infrastructure Provision (including education)

- 8.34 HwLDP Policy 31 Developer Contributions and HwLDP Policy 32 Affordable Housing and the Developer Contributions Supplementary Guidance (DCSG) allows the Council to seek from the applicant a fair and reasonable contributions towards the additional costs or requirements for improved public services, facilities or infrastructure to enable development. The Inshes and Raigmore Development Brief and the Inverness East Development Brief both explain the requirement for strategic infrastructure in the wider area. In doing so it identifies contributions to delivery of such infrastructure. Given the connectivity between the site and the proposed infrastructure (including the Inshes Corridor Improvement Scheme; the East Link and Ashton District Park and the strategic sports facilities at Inverness

East) it is appropriate to seek these contributions. These require to be secured by a legal agreement.

- 8.35 The DCSG requires that at least 25% of all homes proposed must be affordable, rounded to the nearest whole number. The proposed number of homes is not clearly set out in the application description but assuming that the level of units assessed through the Transport Assessment (130 units) meaning a minimum of 33 must be affordable. A Section 75 legal agreement would be required, ensuring that these affordable homes are provided, and delivered as early as possible. The proposed IMFLDP increases the level of affordable housing required but this does not currently have the same weight as the adopted Development Plan and it is not considered appropriate to apply that increased level at this time.
- 8.36 The proposed development, based on a worst case scenario of all the properties being houses, will generate 39 primary school pupils and 16.9 secondary school pupils. These figures have been derived from the published Pupil Product Ratios in the Developer Contributions Supplementary Guidance (DCSG). The impact on the school estate has been considered in the context of the published 2021/22 School Roll Forecasts (SRF). The DCSG sets out that contributions are usually required when a school's capacity is over 90% for five or more years of the 15 year forecast; and that the contribution rate is based on the number of pupils above the 90% threshold. Based on the SRF:
- Cradlehall Primary has a capacity of 340 pupils and currently has a roll of 290 pupils. The school roll forecasts have been re-run with unit completions based on 40 units in 2024/25, 45 units in 2025/26 and 45 units in 2026/27. This indicates that the capacity of the school will exceed 90% capacity in 2026/27 and peak in 2035/36. Given the level of the breach above 90% capacity predicted new school / major school extension rates would be required. However, there is limited space within the Cradlehall Primary School site to accommodate such an extension; and
 - Culloden Academy has a capacity of 964 pupils and is currently over capacity with a roll of 1,124 pupils. The roll is forecast to increase to around 1,663 by 2035/36. As the 90% capacity threshold has already been breached by more than 50 pupils, new school developer contribution rates apply, plus land costs with a new secondary school site haven been identified within the Inverness East Development Brief Area to serve both the existing Milburn Academy and Culloden Academy catchments.
- 8.37 Any extension to the catchment schools, or new school to serve these catchments, will need to be subject to a separate proposal. The location of any extension, and any subsequent loss of school grounds, would be assessed as part of any such development. As explained in the DCSG, the onus for the delivery of increased school provision and management of the school estate would be with Care and Learning who would be the recipients of the developer contributions to enable development.

Other Material Considerations.

- 8.38 Farm buildings and agricultural use may lead to land contamination. As this is the case, the Contaminated Land Team have advised that an assessment to

investigate potential contamination and identify appropriate mitigation as required, should be secured by condition.

- 8.39 Culloden Battlefield is to the south west of the proposed development. Historic Environment Scotland do not consider that the proposed development will have an adverse impact on key views toward the battlefield as a result of the application sites location and positioning facing north west.
- 8.40 The area has potential for archaeological finds. A condition to secure a programme for the survey, evaluation, preservation, and recording of any archaeological or historic features is required.
- 8.41 The development will be required to meet current Building Standards in terms of sustainability and a condition can be included to ensure the applicant considers the environmental impacts of the design (including energy use). The construction period would likely give rise to carbon emissions. To off-set these emissions it is considered that tree planting should be secured. The tree planting proposed within the site will therefore have two roles, carbon off-set and augmenting the existing woodland within the development, with a scheme for the planting to be conditioned.

Matters to be secured by Section 75 Agreement

- 8.42 In order to mitigate the impact of the development on infrastructure and services the following matters require to be secured prior to planning permission being issued:
- a) Contributions to the delivery of enhanced Primary Education capacity within the City of Inverness, in the first instance a major school extension to Cradlehall Primary School (£7,359 per house or £4,171 per flat);
 - b) Contributions to the delivery of enhanced Secondary Education capacity within the City of Inverness Catchment Area, in the first instance to the delivery of a new school and/or major school extension at Culloden Academy to mitigate the impacts of the development (£3,482 per house or £1,875 per flat) plus new school land acquisition costs (£91 per house or £52 per flat);
 - c) Contributions to the delivery of strategic sports facilities in the east of Inverness (£164 per home);
 - d) Contributions to the delivery of Ashton District Park in the east of Inverness (£1,369 per home);
 - e) Contributions towards Inshes Corridor Road Improvement Scheme and Inverness East Link (£2,734 per home);
 - f) Contribution towards monitoring usage of the at grade A9 crossing which connects with Dell of Inshes Road (£15,000); and
 - g) Minimum of 25% affordable housing to be delivered on site with a scheme to be agreed prior to commencement of development.
- 8.43 If the DPEA consider the above contributions to be appropriate they will set out a timescale for completion of any legal agreement.

9. CONCLUSION

- 9.1 The site as a whole is not allocated for development. The area of land in the north of the application site is allocated for 21 units in the adopted Development Plan and the remainder of the land is neither safeguarded nor allocated for development. The emerging Development Plan increases the allocated area within the application site boundary but the remaining land (to the south of Balvonie Cottage) would be outwith the Settlement Development Area. Although the site is not allocated for development, there are benefits to the city as a result of this proposal, including the delivery of a modest number of affordable homes to meet current need and demand. These benefits must be balanced against the provisions of the Development Plan.
- 9.2 The adopted development plan requires the principle of the development to be assessed against matters which include; pattern of development, landscape character and conformity with existing and approved adjacent land uses and impact on infrastructure. A level of housing in this area is considered appropriate, subject to mitigation related to traffic and transport, inclusive of active travel connections. However, there is concern over the deliverability of some of the active travel connections. There will also be an increase in pressure on education infrastructure, albeit that may be resolvable via a suitable level of developer contributions. However, it is considered that this should be limited to the northern area of the site and progress no further south than the southern boundary of Balvonie Cottage. This is due to the impact on the pattern of development in this part of the city and the transition from the urban edge to the rural hinterland. This impact is appreciated from Drumossie Braes where there is a clear change in character south of Balvonie Cottage. The impact of the pattern of development is appreciated in reality but not necessarily in plan form on a two-dimensional drawing. As a result of this, the proposal in its current form would be contrary to Policy 34 (Settlement Development Areas) and Policy 28 (Sustainable Development) of the Highland-wide Local Development Plan
- 9.3 The response to the appeal requires to be accompanied by a suite of conditions which the Council would impose if it were in a position to determine the application and recommend that the application be granted. This does not prejudice the Council's position on the application and is standard procedure on all appeals. This text in this report sets out the framework for the conditions which are expected to be applied. A draft copy of draft conditions will be circulated to Members of the committee in advance of the Committee meeting.
- 9.4 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is not outweighed by any other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: This is a response to an appeal. Depending on the view of the Reporter, it

may be that further procedures to determine the appeal may be required.

- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Conditions have been proposed to secure electric vehicle charging and biodiversity enhancement.
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. **RECOMMENDATION**

It is recommended to respond to the Directorate for Planning and Environmental Appeals advising that if the Council were in a position to determine the application, it would have **REFUSED** the application for the following reasons:

1. The application is contrary to Policy 34 (Settlement Development Areas) and Policy 28 (Sustainable Design) of the Highland wide Local Development Plan as the development would have a significantly detrimental impact on the pattern of development in this transitional area at the edge of the City of Inverness, particularly as viewed by those using Drumossie Braes due to the scale and location of the proposed development.
2. The application is contrary to Policy 28 (Sustainable Design) and Policy 56 (Travel) as it is not clear whether the required mitigation in the form of appropriately designed active travel routes to and from the site to local facilities, including neighbourhood retail centres and Cradlehall Primary School can be delivered by the applicant in the land within their control or withing control of the Council to ensure safety and convenience of all potential users.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Signature: David Mudie
Designation: Area Planning Manager – South
Author: Simon Hindson - Strategic Projects Team Leader
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Development Framework