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J Bain
Highland Council
Sent By E-mail

Our ref: PPA-270-2312
Planning Authority ref: 22/03432/FUL

4 July 2025

Dear Julie-Ann Bain

**PLANNING PERMISSION APPEAL: LAND 255M SOUTH OF DRUMOSSIE HOTEL,
INSHES, INVERNESS, IV2 5BB**

Please find attached a copy of the decision on this appeal.

The reporter's decision is final. However you may wish to know that individuals unhappy with the decision made by the reporter may have the right to appeal to the Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ. An appeal **must** be made within six weeks of the date of the appeal decision. Please note though, that an appeal to the Court of Session can only be made on a point of law and it may be useful to seek professional advice before taking this course of action. For more information on challenging decisions made by DPEA please see <https://beta.gov.scot/publications/challenging-planning-decisions-guidance/>.

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I trust this explain the position.

Yours sincerely,

Christopher Kennedy

CHRISTOPHER KENNEDY
Case Officer
Planning And Environmental Appeals Division





Town and Country Planning (Scotland) Act 1997 Appeal Decision Notice

Decision by Allison Coard, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2312
- Site address: Land 255 metres south of Drumossie Hotel, Inshes, Inverness, IV2 5BB
- Appeal by Kirkwood Homes against the decision by The Highland Council
- Application for planning permission 22/03432/FUL dated 29 July 2022 refused by notice dated 4 December 2024
- The development proposed: erection of 80 residential units with associated access, landscaping and infrastructure
- Date of site visit by Reporter: 22 May 2025

Date of appeal decision: 4 July 2025

Decision

I dismiss the appeal and refuse planning permission.

Preliminary matters

Planning permission was previously granted (May 2016) at the appeal site for a tourism complex including 48 lodges and apartments. Whilst not implemented, the council states this permission remains valid as works were started through the formation of a site access and associated visibility splays.

The scale and nature of the proposed development is such that it comes within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. A direction was issued on 16 April 2025 to the effect that the proposed development is not EIA development.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. As the nearby Drumossie Hotel is a Category B Listed Building I am also required to consider any impact on its setting. Having regard to the provisions of the development plan the main issues in this appeal are: the principle of the development; accessibility and amenity; the setting of the listed building; and the weight to be attached to other housing evidence.

The principle of the development

2. The principle of a tourist related development on the site has been established by the planning permission referenced above. However, the fact that a particular type of development benefits from planning permission does not alone justify a conclusion that an alternative development, such as housing, would be appropriate. The nature of mainstream

housing may not be physically dissimilar to lodges and apartments. However, residential use means that connectivity and access to services and facilities become relatively more important considerations.

3. I must also consider the implications of release of a non- allocated greenfield site for housing on the wider delivery of the strategy adopted through the local development plan. A different development plan policy context applies to housing in the countryside as opposed to tourism-based development. The extant permission was granted at a time when the previous Inner Moray Firth Local Development Plan included Proposal IN90 for business/tourism use. Since then, circumstances have changed with the introduction of National Planning Framework 4 (NPF4) and the adoption of the Inner Moray Firth Local Development Plan 2 (IMFLDP2) in June 2024.

4. Section 2 of IMFLDP2 explains the increased focus on locations with environmentally sustainable transport choices and which promote the efficient use of infrastructure. This strategy is focussed on Inverness and main towns. Countryside locations are identified as typically having potential for only single unit developments. Map 23 identifies the site outwith the settlement boundary in the countryside and with no local development plan allocation. Map 2 shows the site within the hinterland area.

5. It is clear from IMFLDP2 that housing needs will be met from existing sites, new allocations and windfall development. The contribution from windfall sites (development on land not specifically allocated for this purpose within the Development Plan) is estimated at around 1000 houses. However, paragraphs 16-18 of the plan when read with the settlement hierarchy mean that any contribution of sites in the countryside would be limited in scale and nature. I consider the response of the IMFLDP2 to the Minimum All Tenure Housing Land Requirement (MATHLR) of NPF4 below. However, consideration of the sufficiency of that land supply was essentially a matter for the examination carried out prior to adoption of IMFLDP2. There is no local plan policy provision aligned to any exceptional release of land. I find nothing in the terms of IMFLDP2 to support the principle of 80 houses in this countryside location.

6. The Highland Wide Local Development Plan (HwLDP, adopted 2012) also applies. Policy 35: Housing in the Countryside (Hinterland areas) imposes a generally restrictive approach to housing in these areas. Housing to meet a demonstrable local need for affordable housing is one stated exception. I consider that matter further below in the context of NPF4 Policy 16. The proposal does not meet any of the other limited exceptions of Policy 35. In addition, Policy 34 on Settlement Development Areas reflects the focus on these areas in order to make the best use of existing infrastructure and services and to protect the character of the surrounding countryside.

7. The current proposal is for an urban scale of development. The site is located within the Rolling Farmland and Woodland Landscape Character Type as identified in the NatureScot Landscape Character Assessment. This forms the rural backdrop to the west, south and east of Inverness. There is some nearby dispersed rural housing in small groups surrounded by tree belts and agricultural land. In that context, the proposed scale of housing would be at odds with the scale and established character of development in the locality. The site whilst close to the edge of Inverness is physically detached from it by roads infrastructure and a rural landscape context. Consequently, I find the proposal contrary to Policy 34 of the HwLDP as it does not reflect the existing pattern of development and landscape character. Similarly, tension is identified with Policy 29 on quality of place given I consider this location is dislocated from the established pattern of settlement.

8. I appreciate the intent of NPF4 Policy 16 to deliver more homes. However, the reference to “in the right locations” clarifies that there are caveats to that support. Policy 16 makes it clear that for sites such as this, which are not allocated in a local development plan, support would only apply in limited circumstances.

9. The appeal submissions include a statement of community benefit as referenced under Policy 16 part b). This explains the benefits of the proposal in terms of affordable housing, how it will address improved accessibility and contribute to infrastructure. It also explains the design principles to secure residential amenity. In so far as the statement sets out the required matters, I consider compliance with this strand of the policy is demonstrated.

10. Turning to Policy 16 part c) the proposal includes 20 affordable houses, the remainder being for general needs. The proposal would make a useful contribution to meeting affordable housing needs. However, the mix of houses would not offer advantage over that which could be achieved on other sites already within the supply of housing land that is supported by the development plan. The proposal is not designed to meet any other particular local housing need. Consequently, I do not consider the contribution to affordable housing signals any specific support in the context of Policy 16 part c) nor Policy 35 of the HwLDP. In any event, given the scale and countryside location of this proposal I must also consider the specific terms of Policy 16 part f).

11. Whilst there is no agreed timescale for build out of this proposal, I find no reason to doubt the appellant’s assertion that it could be commenced in the near future to make a positive contribution to the supply of housing. The appellant states that the allocated land for housing is not delivering fast enough. However, that is not a scenario addressed by Policy 16. Rather Policy 16 part f) only enables housing in the opposite circumstance where the identified land supply is being used up quicker than anticipated. That is clearly not the case given the appellant refers specifically to the failure of the existing land supply to deliver. The latest available housing land audit provides evidence of that existing land supply.

12. Given my conclusion above that the proposal would be inconsistent with the spatial strategy of the IMFLDP2 there would be conflict with that aspect of 16 f). I find nothing in the local development plan that would support diversion from the focus placed on allocated sites and the Strategic Development Areas. I would be concerned that allowing this appeal would encourage other dispersed sites in the countryside and potentially undermine this adopted strategy and its focus on the delivery of the necessary infrastructure. I address my conclusions on the accessibility and connectivity of the site below.

13. On the matter of rural homes, I am conscious the plan must be read as a whole and so I have also considered NPF4 Policy 17. This is a greenfield site and does not offer the benefits of re-use of brownfield land. Nor does it meet any of the other stated terms of this policy. When read with Policy 9 the approach to rural housing re-enforces the conclusion that greenfield proposals will not be supported unless the site has been allocated for development, or the proposal is explicitly supported by other development plan policies. As explained above the current application of the local development plan strategy and the allocation of this site as countryside do not support the principle of housing in this location. Consequently, I do not consider these policies on rural homes when read with Policy 16 provide support for this proposal.

14. In considering the development plan as a whole, other policies also provide direction in assessing the “right location” for development. My conclusions on these other development plan matters are set out below.

Other development plan: Transport and Accessibility

15. From the submitted Transport Assessment dated June 2023 I agree that there is nothing to indicate an unacceptable impact resulting from the additional traffic that would use the local network. Cumulative impacts are capable of being addressed by means of a legal agreement.

16. However, NPF4 Policy 13 on Sustainable Transport Part b (i) relates to the sustainable travel hierarchy and the priority to be given to providing direct, easy, segregated and safe links via walking and cycling networks. This objective is reflected in Policy 14 which recognises the importance of well-connected places in securing a successful place. Similar principles are applied by Policy 15 on Local Living and 20 Minute Neighbourhoods which refers to the level and quality of interconnectivity of the proposed development with the surrounding area.

17. In addition, Policy 56 of the HwLDP states that development should be well served by the most sustainable modes of travel from the outset to encourage modal shift. Key travel desire lines, encouraging walking and cycling and a design that caters for the safety and convenience of all potential users should be taken into account. Policy 28 on Sustainable Design and Policy 29 on quality of place reflect similar objectives.

18. The proposal includes a continuous 2 metre footway link between the proposed site access and the existing footway provision in Milton of Leys extending for 650 metres. The footway would pass under the A9 adjacent to the B9177, where the existing guard rail would be retained and the crash barrier re-located. The submissions state that the 400 metre/5-minute isochrone covers an area that includes the Drumossie Hotel to the north. The 1600m / 20-minutes isochrone captures most of the adjacent Milton of Leys area and includes a food store, pharmacy, ATM, children’s playpark, and the newly upgraded Inshes District Park. Most of the City of Inverness lies within an 8 kilometre radius of the site, which indicates a suitable distance for cycling trips and there are three national cycle routes located nearby. A 30mph speed limit is proposed on the B9177 between Milton of Leys and the hotel.

19. I accept the proposal would enhance the current walking environment for pedestrians in relation to the reduced speed limit and the proposed footpath. The appellant’s submissions rely on a radius from the appeal site rather than specific details of the route and its separation from settlement. However, I must also consider the actual route of the proposed non-car access and whether it is safe and convenient to an extent that would encourage travel other than by private car.

20. Whilst the location of the site relative to settlement does not, on paper, indicate an unreasonable walking distance to Milton of Leys the proposed footpath would follow the B road through an area with few houses. It would require crossing the A9 by means of an underpass. The separation from settlement would be accentuated given the gradient and enclosure of the proposed path on approach to and exiting from the underpass. This circuitous route would form the only connection between the site and local service provision. I agree with the council that such a disconnection from the built-up area, the nature of the route and the lack of natural surveillance, is unlikely to encourage use. Ideally the proposed path link would have been wide enough to combine with a cycle-route. The

council advise a 3-metre-wide route would be required to enable this. The disconnected nature of the site also impacts on its accessibility to public transport.

21. The closest bus stop is at the Drumossie Hotel within 400 metres. However, it is served by only one bus which is stated in the appellant's submissions to run 3 times a day to link the Inverness University of the Highlands Campus with Aviemore. Access to wider and more frequent bus services would only be possible some 800 metres away. This would require the walk described above from the site via the new footway and A9 underpass. The application site falls within the catchment of Cradlehall Primary School and Culloden Academy Secondary School. There is no safe active travel route for children from this development to access either of these catchment schools. The development would require school transport provision given that the relevant school catchments are outwith acceptable walking distances.

22. The appellant refers to options for improving bus connectivity in the future given the nature of the area is changing and other development is progressing or proposed in the locality. A map is submitted that illustrates the status of applications in the surrounding area. However, the Transport Assessment states that negotiations with Stagecoach to extend their 4A/4C bus service have not proved successful. Provision is indicated for bus stops to enable school transport and possible future commercial services if these were to become viable but I find a lack of detail or certainty around these matters. No specification is included for shelter provision or crossing points and the council's Transport Planning Team objected to the application on the basis that the supporting information provided is insufficient. This was in relation to indicative bus stop locations, cycle provision, travel plans and the design of the site access.

23. I accept the proposed footpath would increase the connectivity of the site to Milton of Leys. However, whilst that improvement offers advantage over the extant proposal I do not consider this would be a sufficiently attractive and convenient route that would encourage pedestrian access or bus travel. It may be that some of the detailed issues raised are capable of being resolved, including by suspensive conditions. However, I do not consider the extent of confirmed mitigation would sufficiently address the inherent poor active travel and public transport connectivity of the site. Consequently, I find conflict with NPF4 Policies 13 and 15 and Policies 28, 29 and 56 of the HWLDP.

Other development plan: Amenity and Design

24. I note the required reliance on acoustic screening and unopenable windows with ventilation to achieve suitable living conditions in proximity to the A9. Whilst technically acceptable and a solution deployed in some dense urban environments; I am less convinced this reflects the quality of living environment that might normally be expected. I am aware that two new house types were designed for the site to enhance the frontage to the development where cars and parking spaces are accessed from a rear courtyard. A main core road provides access to subsidiary rear courtyard areas allowing for multiple internal green spaces enabling active travel links through the development.

25. The appellant and council reference the site as a visual gateway to the Inner Moray Firth. Quality of place and residential amenity are relevant development plan considerations. Had the principle of the development been otherwise supported I would have considered these matters further. However, whilst I note the council's concern in these respects my decision in this case centres on the matters of principle I rehearse above.

The setting of the listed building

26. Historic Environment Scotland's Managing Change in the Historic Environment: Setting recognises that the surrounding context is important to the way in which historic structures are understood. It states that where development is proposed it is important to identify the historic assets that may be affected, define the setting and assess the impact of any new development on this.

27. Designed by William Taylor and built between 1936 and 1939 the setting of the Category B Listed Drumossie Hotel is open agricultural ground, rising gently towards the north and the appeal site. There are tree belts along field margins which help to reduce the visibility of the hotel. The most important part of the setting is the view of the hotel frontage, set back from the B9177. The long two storey and attic frontage with a three-storey flat roofed entrance drum is notable on direct approach from the public road.

28. Historic Environment Scotland does not object to the application. Concerns were expressed that the proposal would change the setting from open agricultural fields to a relatively dense housing development. However, I agree with the council that mitigation through more effective tree screening would address that concern. This could be controlled by condition. Subject to such a condition and given the proposed development would not be viewed in association with the hotel frontage, I am satisfied that there would be a neutral impact on setting. Consequently, I am satisfied the proposal would comply with the relevant historic environment policies of the local development plan.

Development Plan Conclusions

29. The principle of housing development in this countryside location, detached from settlement would not be supported by NPF4 Policy 16 on Quality Homes or 17 on Rural Homes. In addition, I find the proposal contrary to Policies 34 and 35 of the HwLDP and inconsistent with the locational strategy of the IMFLDP2. My findings on the lack of connectivity offered by this detached location, in conflict with NPF4 Policies 13 and 15 and the similar policy intentions of the local development plan re-enforce my conclusion that this is not the "right location". For these reasons, I find the proposal does not accord overall with the relevant provisions of the development plan.

Other considerations

30. The appellant refers to figures from the council's 'Housing Challenge' papers. The June 2024 report declaring the "Highland Housing Challenge" anticipated an additional 24,000 or so houses would be required over the next ten years. This figure is based on an updated ten-year Housing Needs Demand Assessment (HNDA) and is stated to be double the amount that would normally be built. I understand the most recent HNDA post-dates the preparation of IMFLDP2 and reflects higher growth assumptions connected to the Inverness and Cromarty Firth Green Free Port. Research commissioned by Homes for Scotland on Existing Housing Need in Highland estimates that 27% of highland households are in housing need and are not fully accounted for in the current approach adopted through the Housing Need and Demand Assessment (HNDA) methodology.

31. I am conscious that the IMFLDP2 was recently adopted in July 2024. This was in the context of NPF4 and a Minimum Housing Land Requirement for the whole of the Highland Council Area except for the Cairngorm National Park, of 9,500 housing units. The MATHLR would apply proportionately to the Inner Moray Firth Area and the IMFLDP2 sets out how that is to be addressed. I find no clear reason to assume that the uptake of the established supply of housing land it relies on cannot increase.

32. I am aware that the new development plan approach now relies on a delivery programme and pipeline. Whilst this evidence is not provided the council estimates that sufficient housing land is available combined with known existing windfall developments. The audit whilst dating from 2023 records available sites with planning support and the sufficiency of the land supply was rehearsed through the development plan examination. The reporter's conclusions at paragraph 64 on page 72 of the Examination Report was that the supply of potentially deliverable land was well in excess of Inner Moray Firth's anticipated contribution to the MATHLR as established in NPF4.

33. I do not consider the appellant provides sufficient alternative evidence to demonstrate that sites within the existing supply cannot prove deliverable in the context set by NPF4. There is a lack of detail to support the assertion that there is a delivery failure that would warrant any exceptional release of this site contrary to the development plan. The HNDA based approach remains an accepted methodology validated by robust and credible status. The submitted Homes for Scotland report provides primary research data but is not validated and does not benefit from the status afforded to the established methodology of the HNDA. I understand the role of this research was to inform evidence to be considered in preparation of the local development plan rather than to be applied to decisions on individual sites. I do not consider it provides sufficient basis to depart from a plan led approach.

34. I appreciate that some housing evidence may now be updated including in relation to a more recent HNDA as referenced above. However, I do not agree that means the development plan is out of date. Indeed, the IMFLDP2 is relatively recently adopted. The relevant policies or guidance do not suggest that any housing land supply or deliverability issues would change that conclusion.

35. The council are in the initial stages of preparing a new Highland Wide Local Development Plan and a further review of the three area local development plans. The detail of the council's response to meeting any additional housing needs remains to be clarified and may include other mechanisms aside from the allocation of further greenfield land. There is a due process for any update to housing evidence to be led through the next local development plan. The first step in that process will be the required Evidence Report and a likely call for sites. That process should enable a planned and infrastructure first approach to any future release of land around Inverness. I find insufficient evidence in this case to pre-empt that process.

36. Consequently, I am not persuaded that release of this site at this time would be justified particularly as such a decision could encourage diversion away from the emphasis of the locational strategy of the recently adopted IMFLDP2. This could prove contrary to the overall objective of planning to meet housing needs. Simply adding further land may not alone correlate to increased build rates. A range of other factors, including market considerations, may be influential. In any event, even if I accepted the case for additional housing land release that would not address my concern, as rehearsed above, that this is not currently the "right location" for such development.

37. I recognise above that the proposal offers some benefits including delivery of affordable housing, contributions to education, open space and transport which could all be secured by condition and/or an appropriate Section 75 Agreement. There would also be wider economic benefits. However, I do not consider these benefits sufficient to justify release of this site given its location in the countryside, its lack of accordance with the

established development plan strategy and its limitations in terms of encouraging access to services and facilities other than by private car.

38. My conclusions above take account of the submitted Chief Planner's letter dated February 2023 as well as the referenced legal opinion. Matters raised about the council's process and delay are not within my remit in determining this appeal on its planning merits.

39. I have also considered the submitted decisions for residential development (18/05593/PIP (Erection of 90 affordable and private houses with associated roads and infrastructure services) and 18/05597/FUL (Erection of 30 affordable housing units). However, those decisions were made in 2019 in a different planning policy context. Both these sites were at that time within the Settlement Development Area. The appeal decision (PPA-270-2265) is relatively more recent and considers the NPF4 context. However, part of the site was allocated for housing in both the IMFLDP extant at that time and the then proposed IMFLDP2. Proposals in other locations and circumstances are rarely directly comparable and the change in policy position since these decisions were made accentuates the importance of assessing this case on its own merits.

Conclusion

40. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission.

Allison Coard
Reporter