Agenda Item	**7.6**
Report No	**PLS/69/26**

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 2 December 2026

Report Title: 25/01160/S42: The Highland Council

Nairn Academy, Duncan Drive, Nairn

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Section 42 application to develop land without compliance with Condition16 of planning permission 23/05756/FUL (new grass pitch provision)

Ward: 18 – Nairn and Cawdor

Development category: Major

Reason referred to Committee: Major development

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

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

1.1 Planning permission is sought under Section 42 (S42) of the Town and Country Planning (Scotland) Act 1997 ('the Act') to develop land without compliance with conditions imposed on the previous planning permission, namely Condition 16 (new grass pitch provision) of planning permission 23/05756/FUL which was granted by the Council on 25 June 2024 for the erection of a replacement secondary school, car parking, sports pitches; demolition of existing school, on land adjacent to Nairn Academy, Duncan Drive, Nairn. Development of the new school has recently been completed, with pupils moving into the £61M flagship project following the October holidays.

1.2 Condition 16 states:

"Prior to demolition of the existing school, full details of a new grass pitch to be constructed within the grounds of the existing school, shall be submitted to, and approved in writing by, the Planning Authority. Following approval, the new grass pitch shall be constructed and available for use within one year following the demolition of the existing school.

(Reason: To compensate for the loss of existing greenspace as a result of development)."

1.3 The applicant has requested that Condition 16 be removed and has submitted a letter in support of the application, advising that sportscotland's 'School Playing Fields Planning and design Guidelines' recommends that a secondary school with a roll of 800 pupils should have 1 full-size synthetic grass pitch (SGP) and 2 full-size grass pitches. As part of the wider redevelopment of the school site the following sports facilities have been provided:

- 1no. full-size SGP (existing and resurfaced as part of the project);
- 1no. full-size grass pitch (existing pitch regraded and resurfaced as part of the project);
- 1no. 61m x 43m SGP (new);
- 1no. Polymeric Multi Use Games Area (MUGA) 35m x 18m (new); and
- 1no. 100m grass running track (new)

1.4 The new school building is three storeys in height, on a rectilinear footprint with symmetrical extending wings on the southern elevation creating a courtyard feature. The completed building features a mixed palette of external materials including aluminium framed windows with powder coated louvre panels; interlocking aluminium cladding panels for the external walls; vertical coloured aluminium shading fins on window reveals; and an aluminium profiled sheet roof.

1.5 Internally, the new school features a games hall, gymnasium, and fitness suite.

1.4 Extensive landscaping (in sor far as not already implemented) will enhance the built environment within the new school boundary, with new hedgerows, meadow planting, amenity grass areas, and trees.

1.5 Vehicular access to the site is via the existing school access from Duncan Drive. Three new pedestrian and cycle access points have been created to provide direct

safe links to the school, and these are located along the northern boundary, utilising the existing pedestrian and cycle route.

1.6 Surface water is drained via a SUDS scheme with discharge to soakaways. Water supply and other drainage infrastructure will be provided via connections to the public network.

1.7 Pre Application Consultation: Not required in connection with this application.

1.8 Supporting Information: The following information relevant to the determination of this application has been submitted-

- Supporting letter as detailed above.

1.9 Variations: None.

2. SITE DESCRIPTION

2.1 The site is located on the western side of the town of Nairn. It sits within an established area of housing that was built around the same time as the old school (1970s – 1980s) which surround the north, east and west boundaries of the site. A Core Path (NA.04.19 – Nairn Academy safer route to school) runs along the northern boundary of the site. The southeastern boundary of the site runs parallel with the Aberdeen – Inverness railway line.

2.2 Pre-development, the site was split into two main uses. The northeastern part of the site is where the old school is located. Immediately to the southwest is a 3G sports pitch. The remaining land was a large area of greenspace used as publicly accessible playing fields, with a rugby pitch to the southwest.

3. PLANNING HISTORY

3.1	06.11.2019	19/04167/PREMAJ: Construction of new replacement secondary school within the site of existing secondary school. Subsequent demolition of the existing building and landscaping and external works to provide sports, external social and parking areas	Pre-application Advice Response Issued
3.2	28.06.2022	22/02707/PAN: Demolition of existing Nairn Academy and replacement with new secondary school, playing fields, access, landscaping and associated infrastructure	Proposal of Application Notice Submitted
3.3	25.06.2024	23/005756/FUL: Erection of a replacement secondary school, car parking, sports pitches; demolition of existing school	Planning Permission Granted

4. PUBLIC PARTICIPATION

4.1 Advertised: Schedule 3/Unknown Neighbour

Date Advertised: 13.05.2025

Representation deadline: 27.05.2025

Timeous representations: 4 representations from 4 parties

Late representations: 5 representations from 5 parties

4.2 Material considerations raised are summarised as follows:

a) Demolition of the old school could result in dust affecting nearby properties. As this is riddled with asbestos, this is a concern;

b) The loss of the grass pitch would be detrimental to the local community. Additional facilities and amenities, including toilets and changing facilities would be invaluable; and

c) Lack of suitable provision of sports pitches in Nairn.

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 **Nairn West & Suburban Community Council:** Object. No audit/inventory appears to have been undertaken of pitch numbers and condition in the Nairn Academy catchment area to inform the application to reduce pitch availability at Nairn Academy.

According to football and rugby coaches and users, Nairn is very short of usable and available sports pitches.

Poor maintenance, rather than lack of demand, has caused deterioration and reduced usage of academy pitches.

Removal of the second grass pitch contravenes sportscotland Planning and Design Guidance.

Removal of the second grass pitch contravenes National Planning Framework 4, Policy 21.

Community and Consultee input into planning called for school facilities to replace the demolished academy.

5.2 **sportscotland:** No objection. In their initial holding consultation response received on 25 May 2025, sportscotland advised that whilst they had previously recommended (in relation to the 2023 planning application) that consideration be given to providing an additional grass pitch on the site once the existing school was demolished, this was not requested as a planning condition. Since then, sportscotland has received correspondence from the community noting that there is a high unmet demand for grass pitches to accommodate local sports clubs. Given this, sportscotland requested that consideration be given to this and additional data as needed to demonstrate compliance with national policy on protection of these spaces. Further justification was therefore required for the removal of this condition.

The applicant has subsequently engaged in correspondence with sportscotland

which led to a final consultation response being received on 3 September 2026. In that response, sportscotland noted that the applicant intended to establish a working group and that this will link into the work currently being undertaken on a sports strategy by the Council. It was also noted that there is a commitment from the Council to consider an additional pitch in the town, should this be the outcome of that work.

sportscotland request that the working group includes representative(s) from the sporting community and advise that they would be happy to help with this if it was of assistance. They also flagged the point made in relation to the use of the grass pitch at the school, where reference is made to sportscotland's guidance based on the playing capacity of grass pitches. Their guidance contains a range of assumptions, and these are intended to be a useful framework of factors to consider in relation to school pitches. Given that there will be other pitches at the school, their suggestion is that consideration is given to how best school and community use can be accommodated across the pitches, and that with considered management and programming, community use of the grass pitch could be possible.

Given the additional commitment given by the Council, sportscotland has no objection to the application.

6. DEVELOPMENT PLAN POLICY

6.1 The following Development Plan policies are relevant to the assessment of the application

National Planning Framework 4 2023 (NPF4)

6.2 1 – Tackling the climate and nature crises

2 – Climate mitigation and adaption

3 – Biodiversity

12 – Zero waste

13 – Sustainable Transport

14 – Design quality and place

18 – Infrastructure first

19 – Heat and cooling

21 – Play, recreation and sport

22 – Flood risk and water management

23 – Health and safety

Highland Wide Local Development Plan 2012

6.3 28 – Sustainable Design

29 – Design Quality & Place-making

34 – Settlement Development Areas

56 – Travel

57 – Natural, Built & Cultural Heritage

61 – Landscape

64 – Flood Risk

65 – Waste Water Treatment

66 – Surface Water Drainage

76 – Playing Fields and Sports Pitches

Inner Moray Firth 2 Local Development Plan 2024 (IMFLDP2)

6.4 1 – Low Carbon Development

2 – Nature Protection, Restoration and Enhancement

3 – Water and Waste Water Infrastructure Impacts in the Nairn and Inverness Areas

4 – Greenspace

8 – Place Making

9 – Delivering Development and Infrastructure

14 – Transport

Highland Council Supplementary Planning Policy Guidance

6.5 Flood Risk and Drainage Impact Assessment (Jan 2013)

Green Networks (Jan 2013)

Managing Waste in New Developments (March 2013)

Roads and Transport Guidelines for New Developments (May 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 PAN 65 – Planning and Open Space (Scottish Government, May 2008)
The Highland Council: Biodiversity Planning Guidance (May 2024)

8. PLANNING APPRAISAL

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

Determining Issues

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

Planning Considerations

8.3 The key considerations in this case are:

a) Compliance with the development plan and other planning policy

b) Consideration of not providing an additional grass pitch

c) Any other material considerations

Development plan/other planning policy

8.4 Whilst the policies listed under Section 6 above are of relevance to the development as a whole, the principle of development and an assessment against those policies has already been fully considered and established through the granting of planning permission 23/05756/FUL. Nevertheless, the proposed removal of Condition 16 does require to be considered, to assess compliance with NPF4 Policy 21 (Play, recreation and sport).

8.5 The intent of Policy 21 is to encourage, promote and facilitate spaces and opportunities for play, recreation and sport. Policy outcomes include the improvement of the natural and built environment, with more equitable access opportunities for play and recreation.

8.6 Policy 21 part (a) (iii) states that proposals which will result in the loss of outdoor sports facilities will only be supported where the proposal meets a requirement to replace the facility which would be lost, either by a new facility or by upgrading an existing facility to provide a better quality facility. The location will be convenient for users and the overall playing capacity of the area will be maintained; or (iv) can demonstrate that there is a clear excess of provision to meet current and anticipated demand in the area, and that the site would be developed without detriment to the overall quality of provision. This should be informed by the local authority's Open Space Strategy and/or Play Sufficiency Assessment and in consultation with sportscotland where appropriate.

8.7 Subject to it being adequately demonstrated that the removal of Condition 16 requiring an additional grass pitch would not conflict with NPF Policy 21, the proposal would comply with the Development Plan.

Consideration of not providing an additional grass pitch

8.8 Before the development of the new school the existing sports facilities comprised a floodlit full-size synthetic grass pitch (SGP) adjacent to the old school and a full-size grass pitch in the southwest corner of the playing fields lying to the west of the old school. Historically, there was a sports playing field running parallel with the northern boundary of the site, however anecdotal evidence suggests that this has not been used for several years and was completely overgrown grassland at the time of consideration and determination of the application for the replacement school.

8.9 It was due to the loss of this playing field area that sportscotland had recommended that consideration be given to provide an additional grass pitch space on the site of the old school, once it had been demolished. However, as highlighted in para. 5.2 sportscotland did not request this as a planning condition. Nevertheless, at the time of determination of the application, the officer's recommendation to Committee was to impose this as a condition of the planning permission as it would be the only

effective way of ensuring delivery at the appropriate time.

8.10 The applicant has subsequently given an undertaking to set up a working group to agree alternative options for the old school site to tie in with their intended sports strategy approach for Nairn. If the working group agree that the priority is a new grass pitch, and this ties in with the agreed sports strategy, then an additional pitch will be considered. This approach has met with the agreement of sportscotland.

8.11 Taking into consideration that there is evidence that the redeveloped playing field appeared not to have been in use for a number of years, the clear improvements to sporting facilities delivered as part of the new Nairn Academy project (namely the upgrading of the two existing pitches; new smaller SGP; new MUGA; and a running track) along with the applicant's commitment to investigate potential future improvements to sporting facilities for the old school site, it is considered that the proposed removal of Condition 16 would not conflict with the aims and objectives of NPF4 Policy 21, and therefore the proposal is considered to comply with the Development Plan.

Other material considerations

8.12 S42 of the Act requires the Planning Authority to consider only the question of the conditions subject to which planning permission should be granted. If it is determined that planning permission should be granted subject to different conditions, it should be granted accordingly, and if it is determined that permission should be granted subject to the same conditions, the Planning Authority is obliged to refuse the application.

8.13 The S42 process enables the Planning Authority to look at all conditions subject to which permission could be granted and not simply any revisions proposed by the applicant.

8.14 As mentioned in para. 1.1 the new Nairn Academy has recently been completed and is now operational. Most planning conditions imposed on the previous permission have been fully complied with. Accordingly, should Members agree to grant this S42 application, it is recommended that it be granted with the revised conditions at the end of this report which cover the remaining outstanding matters including the requirement for completion of landscaping and biodiversity enhancement, asbestos survey, and installation of the A96(T) crossing.

Non-material considerations

8.15 Members will wish to note that several objectors have raised concerns about the location of the new sports facilities, and particularly the new 3G pitch constructed along the northern boundary of the site. As these facilities formed part of the previous planning permission for the development, the objections raised are not material considerations in the determination of this application.

8.16 Similarly, concerns have been raised about potential future development of the old school site, possibly for housing. However, this is not a material consideration relevant to the determination of this application and any future development of the site for housing would fall under full planning control and require planning

permission.

Matters to be secured by Section 75 Agreement

8.16 None.

9. CONCLUSION

9.1 The recent completion of the new Nairn Academy project has been a much welcomed development for Nairn. As part of the wider project, existing sports pitches at the site have been upgraded and new facilities installed. Condition 16 was imposed on the previous permission to ensure that the statutory consultee recommendation from sportscotland could be delivered.

9.2 Since then, the applicant has engaged with sportscotland to agree an alternative approach to delivering possible improvements to future sports pitch provision in the area. Taking account of this and the improvements delivered as part of the new Nairn Academy development, it is considered that an alternative planning permission under S42 can be granted which negates the need to provide an additional grass pitch once the existing school is demolished.

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

10. IMPLICATIONS

10.1 Resource: Not applicable

10.2 Legal: Not applicable

10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: Not applicable

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued

Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

Recommended to **GRANT** the application subject to the following conditions and

reasons:

1. Within 3 months of the date of this permission a Noise Impact Assessment, carried out by a suitably qualified and competent person, which assesses the likely impact of noise on neighbouring houses arising from the community use of the sports pitches, shall be submitted to the Planning Authority for approval. In undertaking the assessment, the applicant's attention is drawn to the guidance published by Sport England entitled Artificial Grass Pitch (AGP) Acoustics – Planning Implications.

   The assessment should include but is not limited to the following: -

   i) A description of the proposed development in terms of noise sources and the proposed locations and operating times of the same;

      A detailed plan showing the location of noise sources, noise sensitive premises and survey measurement locations.*;

   ii) A description of any noise mitigation methods that will be employed. The effect of mitigation methods on the predicted levels should be reported where appropriate;

   iii) A survey of current ambient (LAeq) and background (LA90) noise levels at appropriate locations neighbouring the proposed site;

   iv) A prediction of noise levels resultant at neighbouring noise sensitive premises, for the operational phase of the proposed development. The raw data and equations used in the calculations should be made available on request; and

   v) An assessment of the predicted noise levels in comparison with relevant standards.*

      *Relevant standards and monitoring locations must be agreed beforehand with the Council's Environmental Health Officer.

   Thereafter, any community use of the sport pitches shall progress in accordance with the approved submissions and all approved mitigation measures shall be in place prior to the operational phase commencing or as otherwise may be agreed in writing by the Planning Authority.

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

2. The School Travel Plan approved by the Planning Authority pursuant to Condition 8 of planning permission 23/05756/FUL shall be implemented in full within 3 months of the date of this planning permission.

   Reason: To ensure that adequate measures are implemented to ensure safe travel to and from the school for all users.

3. The landscaping and biodiversity enhancement measures approved by the

Planning Authority pursuant to Condition 12 of planning permission 23/05756/FUL shall be implemented in full, insofar as not already completed, in accordance with the approved details. Thereafter, the approved landscaping and biodiversity enhancement measures shall be retained, monitored and managed for a minimum period of 15 years.

Reason: To secure the implementation, retention and long-term management of approved landscaping and biodiversity enhancement measures in order to comply with Policy 3 of National Planning Framework 4 and the Council's supplementary guidance.

4. Within 6 months of the date of this permission, the signal-controlled crossing of the A96(T), approved by the Planning Authority pursuant to Condition 13 of planning permission 23/04546/FUL, shall be installed and brought into operation.

Reason: To ensure suitable crossing arrangements are provided in the interests of road safety.

5. Asbestos containing materials are present within the fabric of the building to be demolished. Prior to demolition, an Asbestos Demolition Survey shall be submitted for the written approval of the Planning Authority. No demolition works shall be carried out until the Asbestos Demolition Survey has been approved in writing by the Planning Authority.

Reason: To ensure that the presence of asbestos within the building is surveyed and appropriate mitigation measures put in place, in the interests of human health and environmental protection.

REASON FOR DECISION

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

INFORMATIVES

Initiation and Completion Notices

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

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.

2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

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

Network Rail

The proximity and type of planting proposed are important when considering a landscaping scheme. Leaf fall in particular can greatly impact upon the reliability of the railway in certain seasons. Network Rail can provide details of planting recommendations for neighbours.

Where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance from the boundary which is greater than their predicted mature height. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary.

Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Engineer before development can commence.

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

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

The developer must contact our Asset Protection Engineers regarding the above matters, see contact details below: Network Rail Asset Protection Engineer 151 St. Vincent Street, GLASGOW, G2 5NW

E-mail: AssetProtectionScotland@networkrail.co.uk

Please use this link Asset Protection and Optimisation - Network Rail to access further information regarding working on or near the railway on Network Rail's website.

Transport Scotland

The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.

Trunk Road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the

design organisation.

Trunk Road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.

Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

Mud & Debris on Road

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

Construction Hours and Noise-Generating Activities

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

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

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

Signature:	Bob Robertson
Designation:	Area Planning Manager – South
Author:	John Kelly
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 – Location Plan



DRAWING INFORMATION

NOTE

All dimensions should be checked on site.
Do not scale off this drawing.
Any drawing errors or divergences should be brought to the attention of the originator of this drawing.

Revision

P01	First Issue	30/10/2023
P02	Drawing updated to reflect client comments	27/11/2023
P03	General Updates - Following THC Comments	07/12/2023

Site Boundary - 8.6 Hectares

Land Owned by Applicant

S4 - STAGE APPROVAL

Reiach and Hall Architects

Nairn Academy

PLANNING

LOCATION PLAN - PROPOSAL

CAL20019-C0563-ZE-XX-DR-A-080001

Rev:	Scale:		Date:	Job No:
P03	1 : 2500	A1	30/10/2023	4651

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