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Mr Frank Baldwin
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Our ref/Ar faidhle: 2014/0004742
27 February 2014

Dear Frank

A copy of your letter sent to the First Minister, Alex Salmond, on behalf of the Battlefields Trust, about the proposed development at Viewhill, Balloch, has been passed to me. I have been asked to respond as the Minister with responsibility for planning matters.

Firstly, can I assure you of the continued value that Scottish Ministers place on Scotland's historic battlefields which tell the story of our nation's past. This is why the Scottish Government has set out proposals that would update planning policy to reflect more recent legislation on the protection and management of battlefields. The draft proposal makes it clear that Planning Authorities should protect, conserve and, where appropriate, seek to enhance the key characteristics and special qualities of sites on the current Inventory of Historic Battlefields.

By way of background, all appeals to Scottish Ministers are administered by this office, The Directorate for Planning & Environmental appeals (DPEA). As such an appeal was submitted on behalf of Inverness Properties Ltd, against the decision by Highland Council to refuse planning permission for the demolition of agricultural buildings to redevelop for 16 residential plots and associated development. The appeal in this case, as in almost all planning appeals, was delegated to a DPEA reporter who is appointed on behalf of Scottish Ministers to decide the appeal.

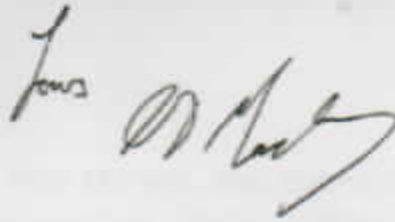
With respect to the application at Culloden, the reporter has followed due process by carefully considering all the arguments and balancing the evidence and in doing so, has agreed with Historic Scotland's view that given that the proposed houses are to be built on an already developed site, which currently houses large disused agricultural buildings, the new development would not have an adverse impact on the integrity or the significance of this nationally important battlefield.



The reporter appointed to consider this case has now issued a notice of intention, which states that he is minded to grant planning permission subject to agreement being reached between the developer and The Highland Council on matters of affordable housing and a new cycle path. The reporter set a timescale of 12 weeks, from the date of the notice, for this agreement to be reached, after which he will review the progress and consider whether planning permission can be granted at that stage. I have enclosed a copy of the notice of intention for your information.

Given that Scottish Ministers have appointed a reporter to consider and decide the outcome, it would be inappropriate, as I am sure you will understand, to comment further on the planning merits of what is still a live case. However, please accept my assurances that the reporter has followed the proper appeal process and that our nations' historic battlefields will continue to be places of interest and importance for Scots and visitors alike, for many more years to come.

If however you would like, on conclusion of the current case, a meeting on the general issues in planning I would be happy to oblige.



DEREK MACKAY

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Directorate for Planning and Environmental Appeals

Appeal: Notice of Intention

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Notice of Intention by Richard Hickman, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2093
- Site address: Viewhill, Balloch, Inverness
- Appeal by Inverness Properties Ltd against the decision by the Highland Council
- Application 11/04653/FUL for planning permission dated 20 December 2011 refused by notice dated 19 August 2013.
- The development proposed (in summary): Demolition of agricultural buildings to redevelop for 16 residential plots plus ancillary works including upgrading and extension of U2633 road, in accordance with submitted master plan
- Application drawings : see list on council's decision notice dated 19 August 2013
- Date of site visit by Reporter: 2 December 2013
- There is a claim for expenses which is covered in a separate decision notice

Date of notice: 24 December 2013

Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission subject to the conditions listed in the committee report, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matters covered in paragraph 20 below.

Description and background

1. The site is located in a rural setting to the south of Balloch, to the south of Culloden Wood. It comprises a large complex of agricultural buildings and associated hardstandings etc extending to 2.3ha. These are mainly large modern sheds, which were vacant and in a very poor state at the time of the site inspection. Road access is by means of a narrow cul-de-sac (Viewhill Road - U2633) leading west from the more important road leading south from Balloch to Culloden. There is a line of around a dozen detached houses along the north side of this cul-de-sac, extending to the farm complex, and several further houses immediately to the east on the opposite side of the main road.

2. The masterplan provides an indicative layout for the redevelopment of the site to form the house plots and ancillary parking etc. It also provides indicative building heights



ranging from one to 2.5 storeys, and details of proposed improvements to the access. The latter comprise reconstructing the full length of the existing cul-de-sac, together with an improved junction, pavement, and improved bus stop layby (northbound only) at the main road.

3. The reason given for the refusal of permission was: *It has not been demonstrated that the development will bring about an environmental benefit as required in order to qualify as an exception (under section 6.22 of the Housing in the Countryside Supplementary Guidance) to the general presumption in Policy 35 of the Highland wide LDP against new housing in hinterland areas.*

4. Policy 35 of the Highland-wide local development plan (Housing in the Countryside – Hinterland Areas) states a presumption against housing in the open countryside of the hinterlands around towns, subject to a number of exceptions. The sixth of these is (in summary) where *The proposal involves... the redevelopment of derelict land; the development of "brownfield" sites will be supported where a return to a natural state is not readily achievable and where a wider environmental benefit can be achieved through development.* The policy goes on to state that where exceptions are justified, all proposals should still accord with the general policies of the plan and the Housing in the Countryside/Siting and Design Supplementary Guidance.

5. There were objections to the proposal from the Balloch Community Council and the National Trust for Scotland due to concerns about the effect of the new houses on the Culloden Battlefield area. There were also 9 representations from local residents expressing a variety of concerns including the effect on the battlefield; access and road safety issues; surface water drainage/flooding; loss of privacy and amenity; inappropriate development in a rural area; sewage arrangements; and various other matters of detail.

Reasoning

6. The determining issues in this appeal are thus whether the proposal would be in accordance with the development plan provisions cited in the reason for refusal and any other relevant development plan policies; and if so, whether other material considerations indicate a different outcome. The matters of concern to the community council, the National Trust for Scotland, and local residents relate largely to environmental matters so that they require to be considered as part of the assessment of the potential wider environmental benefit for the purpose of policy 35.

7. Paragraph 6.22 of the Housing in the Countryside Supplementary Guidance covers the inclusion of limited new build housing associated with the conversion and rehabilitation of redundant traditional (underlined in text) buildings. This policy would not apply to the current proposal which (with a very limited exception) is primarily a new build development to replace non-traditional farm buildings.

8. The only reason given by the council for refusing the application is the issue of whether the proposal would result in an environmental benefit, as provided for in policy 35, sixth bullet point, which refers to a wider environmental benefit resulting from the development (see paragraph 4 above). I accept the appellant's submissions that the proposal would result in a number of benefits, of which I consider the most important to be

the removal of a large complex of redundant and partially derelict non-traditional agricultural buildings. I agree that there is no realistic prospect that the site could be cleared and restored for agricultural use, nor that these buildings will resume an agricultural use in the foreseeable future. Consequently, if no positive action is taken, I agree that the buildings would become progressively more rundown and unsafe, and that their removal would result in a major environmental benefit.

9. The council does not agree that there would be an environmental benefit because of the impact of the new houses on the battlefield site, the proposed density of the development, and the effect of additional vehicle movements on existing residents at Viewhill. The council contends that it would not be an acceptable expansion of the housing group as it would more than double the number of houses and extend the linear nature of the group.

10. The plans and cross sections contained in the appeal submissions show that the new houses would be largely contained within the footprint of the existing buildings, and would be significantly lower in overall height. I therefore agree with the appellant that the proposed redevelopment scheme would form a much less prominent feature in the landscape than the sheds, and would be better hidden in views from the south by the intervening ridge.

11. With regard to the impact on the Culloden battlefield area, the National Trust for Scotland is concerned that the proposal has the potential to affect the character of the battlefield conservation area by interrupting the open views and increasing the visual and physical intrusion of development into the battlefield site. The Balloch Community Council and others support this view. However Historic Scotland is content that the proposal would be unlikely to significantly increase the impact on the character of the battlefield area resulting from the existing buildings, and that the new proposal would not affect the integrity or significance of the battlefield.

12. As noted above, the houses would be well screened from the south by the intervening ridge, so that they would be scarcely visible (if at all) from the heart of the battlefield area and the location of the NTS visitor centre. I agree that the number and layout of the new houses would be appropriate to the setting, and would not affect the character of the battlefield area. I thus agree with Historic Scotland that it is unlikely that the proposal would have any impact on the character and ambience of the battlefield area. Redevelopment of the site would afford the opportunity for archaeological investigation, as provided for in the proposed planning conditions.

13. I can understand residents' concerns about a loss of residential amenity due to additional residential traffic using the Viewhill access road. I note that some of the houses are well screened from the roadway by walls and vegetation, but others are close to the road, where more passing traffic would be an unwelcome intrusion. Although unlikely, any re-use of the appeal site for farming activities or agricultural storage might well have some effect on residential amenity, as would a progressive deterioration of the buildings, especially for those living closest to the site. The access roadway would be upgraded to adoptable standards, with traffic calming and pedestrian/cyclist safety measures, while



achieving a rural character with soft edges and without conventional street lighting. I therefore consider that the new residential traffic and these arrangements would not cause an undue loss of amenity to existing residents.

14. On balance, I am satisfied that the environmental benefits of removing the unsightly derelict sheds at the appeal site, and reducing their visual impact on the landscape setting of the battlefield, would greatly outweigh any environmental disbenefits resulting from additional residential traffic on the access road. I therefore conclude that the proposal would, in principle, be a justifiable exception to policy 35 as provided for in the sixth bullet point of the policy.

15. Policy 35 also requires all exceptions to the policy to accord with the general policies of the plan, and with the supplementary guidance on housing in the countryside. In this respect, the council argues that the proposal would not be an acceptable expansion of the housing group as it would more than double the number of houses and extend the linear nature of the group, and that the density of the proposed development would be inappropriate as part of the appeal site is within the inventory site of the Culloden battlefield.

16. I agree with the appellant that the proposal would meet the criteria for the suitable extension of housing groups set out in the supplementary guidance, as it would form a limited and compact rounding off of the group, using brownfield land within a well defined boundary. The master plan and other details have been evolved to achieve a suitable design that is appropriate to the location, retaining an existing traditional building within the layout, and without having an adverse effect on trees and the landscape setting. The proposed density and height of the new houses would be compatible with maintaining the character of the battlefield.

17. In addition, I note that :

- The proposed road access, drainage, and surface water run-off arrangements are all acceptable to the responsible authorities. The development would be served by mains drainage and water supply. Surface water would be disposed of through an attenuation system that is acceptable to the council and not opposed by SEPA, based on a reduced run-off from surfaces amounting to around half of the existing roof area.
- Bats have been found to be using the buildings. Safeguarding arrangements would be put in place. The council officers' assessment of the matter, as explained in the committee report and taking account of the consultation reply from SNH, concludes that the 3 tests laid down in the habitats regulations would be met.
- The new houses would be reasonably conveniently placed for access to local services in Balloch, with an improved bus stop close by and a near-continuous pedestrian footway alongside the road.

18. Apart from the matters discussed above, the council has not identified any potential breaches of the development plan. The officers' committee report took account of all aspects of the development plan considered to be relevant, including the protected species, concluding that planning permission should be granted, subject to the listed conditions and a legal agreement to secure contributions to affordable housing and footpath/cycle

