

THE HIGHLAND COUNCIL
PLANNING, DEVELOPMENT, EUROPE & TOURISM
COMMITTEE

16 AUGUST 2006

Agenda Item	
Report No	

**06/00038/OUTCA: ERECTION OF CLASS 1 RETAIL FOODSTORE, PETROL FILLING
STATION, ASSOCIATED CAR PARKING, LANDSCAPING, ACCESS ROAD AND
ROUNDBOUT, SERVICING PLAYING FIELD, PROVISION AND ASSOCIATED
COMMUNITY FACILITIES AND CAR PARKING IN OUTLINE AT PENNYLAND
FARM, THURSO, CAITHNESS**

Report by Director of Planning & Development

SUMMARY

To seek deferral of consideration of this application until the next meeting of the Committee on 27 September 2006.

1. This application was considered at a special meeting of the Caithness, Planning, Development, Europe & Tourism Committee on 26 June 2006 when Members resolved to refuse planning permission.
2. Subsequently a Notice of Review has been submitted.
3. There has been some criticism of the quality and conclusions contained in the Retail Impact Assessment submitted in support of the application by ASDA Stores Ltd. Following on from the service of a petition for Judicial Review of the earlier decision to grant planning permission to Tesco in Wick, consultants have been commissioned by the Planning & Development Service to examine the working and conclusions of the respective Retail Impact Assessments. The results of this independent work will not be available to the Council until later in August.
4. Accordingly, I strongly recommend to Members that determination of the ASDA application in Thurso be deferred. This has been the subject of prior discussion and agreement with the mover of the Notice, the Area Planning Chairman, the Chairman of this Committee and the agent for the developer.

RECOMMENDATION

That determination of the application, including a hearing, be deferred to the next meeting of the Committee on 27 September 2006.

Signature:

Designation: Director of Planning & Development

Date: 11 August 2006

Author: John D Rennilson (Tel: 2251)

Ref: JDR/EB

Background Papers

**Minutes of Special Meeting of the
Caithness Planning, Development, Europe and Tourism Committee
held in Morven Building, North Highland College, Ormlie Road, Thurso,
on Monday 26th June, 2006**

Present:

Councillor Graeme M. Smith (Chairman)
Councillor William N. Fernie
Councillor David C. M. Flear
Councillor John H. Green
Councillor Thomas C. Jackson

Councillor Alastair I. MacDonald
Councillor Donald M. Mackay
Councillor Roger Saxon

In Attendance:

Mr. Ian Hargrave, Caithness Area Manager
Mr. Iain Ewart, Area Planning and Building Standards Manager
Mr Gordon Mooney, Senior/Principal Planner
Mrs. Fiona Sinclair, Area Solicitor/Administrator
Miss Karen McLeod, Principal Solicitor

1. Apologies for Absence

Apologies for absence were intimated on behalf of Katrina McNab and William A Mowat.

2. Hearing - Erection of Class 1 Retail Food Store, Petrol Filling Station, Associated Car Parking, Landscaping, Access Road and Roundabout, Servicing, Playing Field, Provision and Associated Community Facilities and Car Parking in Outline at Pennyland Farm, Thurso, Caithness (06/00036/OUTCA)

There had been circulated report (C/P/154/06) dated 30th May, 2006, by the Director of Planning and Development, recommending approval of an application for the erection of Class 1 retail food store, petrol filling station, associated car parking, landscaping, access road and roundabout, servicing, playing field provision and associated community facilities and car parking in outline at Pennyland Farm, Thurso, Caithness.

Prior to the meeting a site inspection had taken place which was attended by all of the Councillors present at the meeting, Mr. Ewart, Mr. Hargrave, Mr Mooney, Mrs. Sinclair and Miss McLeod.

The Chairman read through the hearings procedure for the benefit of those present and invited Mr. Ewart to introduce the application. Mr. Ewart explained the details of the proposed development.

Mr Backovic representing ASDA addressed the Committee in support of the application. He advised that the applicant had been looking for a site in Thurso for 18-20 months. He indicated that the Committee report was fair and that he appreciated the concerns of residents. He reminded the Committee that this application is in outline. He indicated that the applicant's household survey indicated that there was a 15-16% retail leakage to Inverness and that it would make more sense to have a store in Thurso. The retail impact assessment indicated that the existing Somerfield and Co-op are trading above their company averages. He commented that in the 4-5 years since the application site was allocated for a hotel use none had been forthcoming. He stressed that the application site had a good walking catchment and that the roads situation would be improved as a result of a new roundabout. Also that land would be gifted to the Council to meet their aspirations for a formal recreation area – once it had been decided what the leisure deficiency was, this would be provided by the applicant and the cost of maintenance for 40 years would be paid to the Council. In concluding, he stressed that when the applicant lodged the detail of the

development; this would be comprehensive and would be a good standard of design so as not to detract from the area.

The Chairman invited Members to ask questions of the applicant's representatives. Cllr Jackson asked the applicant's representative to justify the conclusions drawn in the retail impact assessment. The applicant's representative indicated that the retail impact assessment followed a standard format and was carried out by consultants in consultation with the Council. Paul Rounce of the applicant's consultants indicated that they had carried out a 1000 person telephone survey and asked respondents where they shopped. He advised that the average sales density figures quoted in the retail impact assessment are UK wide sources that are nationally recognised. The reason that Co-op and All-days have the same average sales density is because these are similar performers.

Cllr Saxon referred to the supplementary statement lodged by the applicant and asked why the business park site had not been considered by the applicant. The applicant's representative indicated that application site had a very good walking catchment whereas the business park did not – although housing is planned for this area, it is not yet built. From a national planning policy perspective, the application site is a better site.

Cllr Saxon, again referring to the supporting statement, asked for clarification about whether the application site was isolated or not as he felt there were contradictory statements contained in this document. The applicant's representative indicated that the application site was not isolated however it would be well screened to reduce the impact of the development on possible future development in the locality.

Cllr Flear asked if this was the only application currently in the system and the applicant's representative confirmed that this was the applicant's only application in Thurso.

Cllr MacKay asked whether the applicant had looked at the Mart site and if not, why not? The applicant's representative indicated that the owner of the Mart site would not sell to the applicant; an option is already in place that locks the development away from the applicant.

The Community Council had not lodged an objection to the application therefore was not represented at the hearing.

Three objectors spoke in support of their written objections as follows:

Mrs Amy Walker indicated that she was speaking on behalf of other objectors as well as on behalf of herself and her family. She referred to the Local Plan and that the area was identified as to be protected and enhanced; that Pennyland Farm was identified as open space; that the panoramic views should be maintained and that the open character was to be retained. She indicated that the application was contrary to the Local plan, adopted in 2002, and highlighted her concern that if the plan was breached how could further development be resisted. She referred to paragraph 45 of NPPG8 – Town Centres and Retailing which requires an application that does not comply with the Local Plan to meet all 11 criteria set out in the Guideline. She indicated that the objectors did not consider that all of the criteria had been met. She indicated that, in her view, there were better locations for this development than the application site and urged the Committee to reject the application.

Mr David Doohan stated that, in his view, it was a huge understatement to say that the application did not accord with the Local Plan. He stated that the application was not in accordance with either national or local policy. He stated that the estimates of the job opportunities supplied in the retail impact assessment were suspect and not borne out by experience elsewhere when a supermarket moves into an area. The new store in his view would mean the loss of local businesses. He highlighted there were other edge of centre sites that would not mean the loss of amenity areas. He concluded in indicating that none of the roads surrounding the proposed recreational area were suitable for temporary parking.

Mrs Lorna Mascall spoke out in support of protecting the greenbelt and giving local children a decent and safe play area.

Members had no questions for the objectors.

Mr Backovic was given the opportunity to respond to matters raised as part of the hearing and he indicated that the application site is currently used for grazing and that as part of the proposed development sufficient land for a recreation area would be gifted to the Council.

The Chairman asked if the parties to the hearing were satisfied with the way in which the hearing had been conducted. All parties indicated that they were satisfied. The Chairman indicated that the hearings process had been completed.

Mr Mooney presented his recommendation in light of the relevant planning policies, material considerations and issues raised in the parties' submissions. He made reference to the statutory test contained in section 25 of the Town and Country Planning (Scotland) Act 1997 and those material planning considerations relevant to the determination of this application. He referred to the Highland Structure Plan which identifies Thurso as a sub-regional centre and therefore a suitable location for a major superstore. He referred to NPPG8 – Town Centres and Retailing and the sequential test. The application site is edge of centre and there will be an impact on a town centre retailer (the Co-op) but that this would not affect its viability. His conclusion was that approval of this application would not impact on the vitality and viability of the town centre and that it would prevent retail leakage to Inverness.

He indicated that the application was contrary to the Caithness Local Plan which allocated a site of 1.2 ha for a hotel and the rest of the site for amenity/open space/farm land. He indicated that the local Plan sought to maintain the panoramic view. Although the application was contrary to the Local Plan he reminded Members that the site had been allocated for development. The application is in outline although an indicative sketch layout has been lodged. He indicated that he had reservations about this layout which could be resolved by an amended layout. He indicated that the impact on the residents' amenity could be mitigated by good design and layout.

He concluded by indicating that the application met the key themes and objectives of the Structure Plan and that although it was contrary to the Local Plan he felt, in principle, the application was acceptable subject to a considerable number of conditions, therefore he put forward a recommendation that the application could be approved subject to the prior notification of the Scottish Executive and conclusion of an agreement in terms of section 75 of the Town and Country Planning (Scotland) Act 1997.

The Committee Members considered the application as follows:

Cllr Saxon, the local Member, indicated that a lot of people in Thurso would welcome the store. He noted the misgivings of the local traders but was aware that there was already leakage from Thurso and when Tesco opened that this would increase. He agreed that there are no town centre locations for a proposal of this size but was concerned that the alternative sites included in the supporting statement were always likely to fail whereas other appropriate alternative sites, such as the business park, were not included. Referring to the indicative plan, the proposed size of the store would be twice the size of the hotel site and the playing field was shoehorned in. If the recreation facility is to be a football pitch then it will need a high fence and there may be calls for floodlighting. A further worry would be parking. There is no evidence that there is a call for a sports ground in this location and he felt that this was a ploy to try and make the development fit in with the Local Plan. The proposals contained in the Local Plan were the subject of intense public consultation. Key is the need to retain the green wedge, retain the panoramic views and have open space for recreation. Land was set aside at the business park which in time will be on the distributor road. He concluded by stating that if this development is allowed to proceed and is built, there will be development pressure on the remainder of the site and the entire thrust of the Plan will be lost.

Cllr Jackson suggested that the survey undertaken by the applicant was flawed and asked the planning officials whose expertise is called upon to assess the material lodged by the applicant. He stated that he was not convinced by the conclusions of the assessment undertaken.

Cllr Flear stressed that this was an outline application, that the sketch plan was indicative only and that the application site was currently a field. He stated his view that there is a need for play areas and that the developer had agreed to develop whatever was appropriate. He referred to the fact that there was a considerable amount of retail leakage to Inverness and that once Tesco came to Wick, Thurso may not be able to compete. The design of the store is something that remains within the control of the Council and he stated that any hotel to be built on site would not be single storey. In reference to the business park site which also anticipated new housing development, he spoke of Caithness suffering from de-population and was concerned that these houses may never be built.

Cllr MacKay referred to the Local Plan which states clearly that only a hotel and a play area are acceptable and stated that, in his view, if the application was approved then there would be empty shops in the town centre. For these reasons he could not support the application.

Cllr MacDonald stated that it seemed that the offer of land of a sufficient size for a sports area did not seem to be wanted. This edge of centre site has a good walking catchment and would have sufficient car parking space. He referred to the town centre in Thurso where it can be difficult to get a parking space and the fact that 12 businesses have gone from the main street – the process of change is already happening. He stressed that you have to expect change and unless you are going to choose an out of town location then you will have to look at sites such as the application site.

Cllr Green indicated that he disliked the fact that the application departed from the Local Plan. However part of the site is allocated for built development in the local Plan and he disagreed with the view that if Members allowed for one deviation from the Local Plan that the rest of the area would be developed.

Cllr Fernie indicated that there is evidence in Wick that small businesses are changing hands and indicated that he did not think that the argument that businesses would close if the development was approved stands up.

Cllr Smith indicated that a clear majority of people would welcome development of this kind however his concern was the choice of site. Just because Thurso is a sub-regional centre and therefore this size of development is appropriate doesn't mean that it has to be on this site. He stated that he would like confirmation from the planning officials that the application meets all the criteria in paragraph 45 of NPPG8. In conclusion he stated that the application did not accord with the development plan and, in his view, material considerations did not indicate that the application should be approved.

Cllr Saxon seconded by Cllr Jackson moved that the application be refused on the grounds that it was contrary to the Local Plan and that insufficient justification had been given to overcome the presumption against this development.

Cllr Green seconded by Cllr Flear moved an amendment to the motion namely that, (1) subject to notification of the application to the Scottish Executive and the prior conclusion of an appropriate legal agreement, the application be approved subject to the conditions set out in the report by the Director of Planning and Development, and (2) the approval of the detailed plans, once submitted, be referred to members rather than to officers.

There being no further amendments votes were cast as follows:

For the motion – Councillors Jackson, MacKay, Saxon and Smith. For the amendment – Councillors Fernie, Flear, Green and MacDonald. Accordingly the Chairman was asked to exercise his casting vote which he did in favour of the motion therefore the motion by Cllr Saxon was carried by five votes to four and became the decision of the Committee.

The Committee agreed to refuse the application for the reasons given.

The meeting ended at 1210.