CG16

THE HIGHLAND COUNCIL

ROSS, SKYE & LOCHABER
PLANNING APPLICATIONS COMMITTEE – 24th June 2008

Agenda Item	2.1
Report No	PLR-059-08

07/00212/FULSL - Lidl
Report by Area Planning and Building Standards Manager
SUPPLEMENATARY REPORT NO 1

SUMMARY

Description: Redevelopment of land at Dunvegan Road, Portree to provide a new food retail unit.

Recommendation : Grant

Ward : 11 - Eilean a Cheo

Hearing: Required

Reason for Committee: To support the application is a **minor departure** from the Development Plan and therefore requires a hearing before the Committee. The application is also of significant public interest.

1. INTRODUCTION

1.1 Members will recall the previous report dated 29th April 2008 which was considered at the Ross, Skye and Lochaber Planning Application Review Committee on the 6th May 2008.

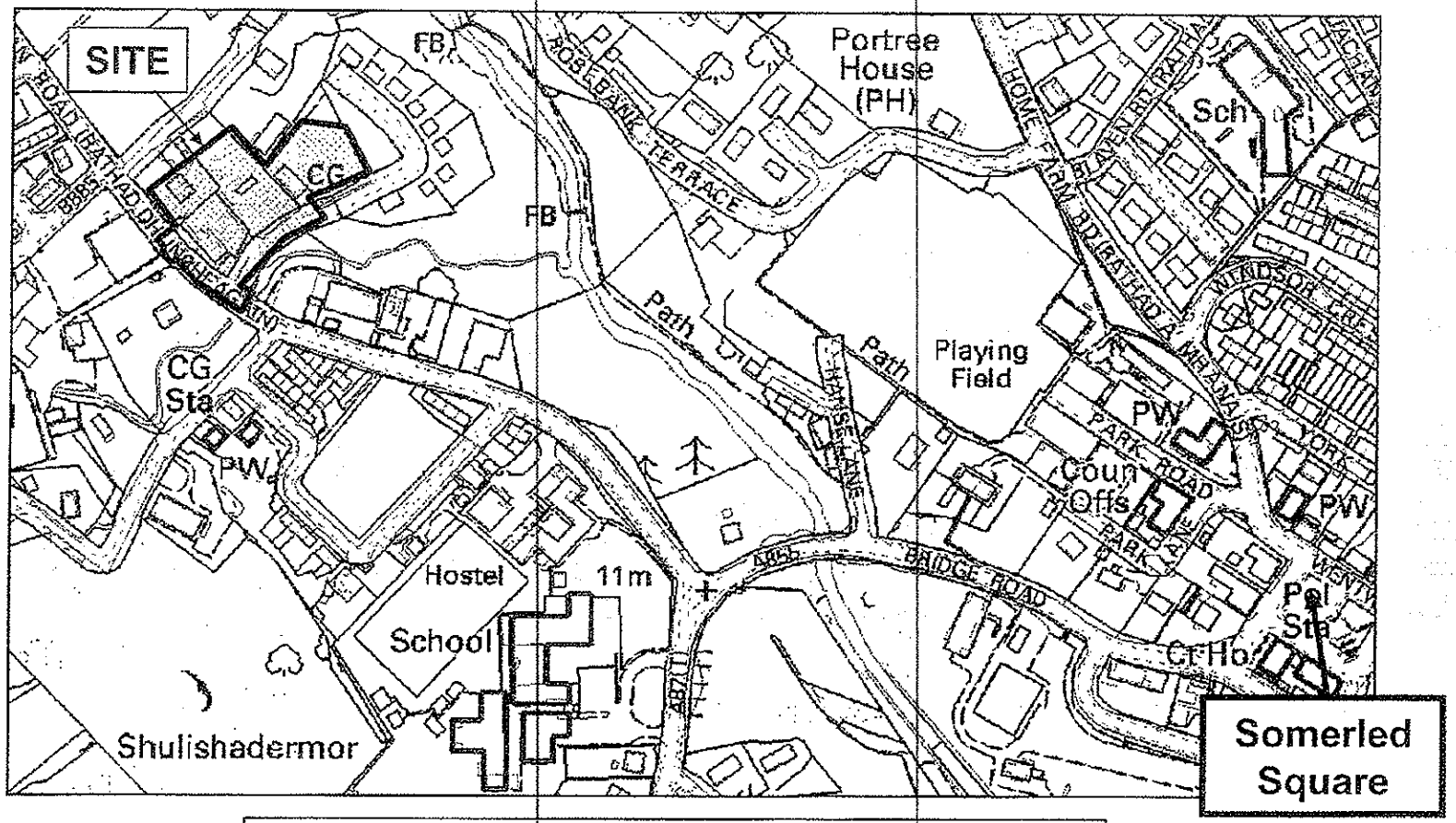
1.2 Members resolved to defer determination of the application to a departure hearing on the 24th June 2008, to allow time for the applicant to address the access difficulties and to bring forward feasible amended access proposals, and to allow relevant officers to explore with the applicant the possibility of a contribution to address their corporate and social responsibilities.

1.3 Members will recall that the principle of the proposed LIDL supermarket at this location could in terms of Development Plan policies be justified as a **minor departure**, but that there were a number of shortcomings with the as proposed access and parking arrangements, that even if the Planning Authority were minded to approve, these issues could not be adequately controlled by the imposition of conditions. The applicant has submitted revised drawings in order to address all of the concerns raised.

2. DETAILS OF REVISED PLANS

2.1 The drawings submitted show :

- Revised visibility splay at the junction of Beech Gardens in full compliance with the Trunk TECS (Roads) Authority requirements.



07/00212/FULSL
LOCATION PLAN

- Revised fuel delivery tanker parking and manoeuvring area
- Revised access road width
- Provision of dedicated PFS (Petrol Filling Station) parking.
- Revised forecourt area and safeguarding visibility splays.
- Car Park and service entrance moved closer towards the Dunvegan Road frontage.
- Provision of turning head adjacent to entrance to Beech Gardens.
- Revised parking and service road layout.
- Additional 3 parking spaces
- Identified additional parking area if required.
- Provision of a 'raised table' at the entrance to Beech Gardens.
- Clearer delineation of connection with the footpath network
- Additional signage

3.0 PUBLIC PARTICIPATION

3.1 All affected neighbours have been re-notified. The amended plans show a revised parking and access arrangement, an increased site area, to allow the future expansion of parking provision.

3.2 At the date of writing this report no formal written comments had been received as a result of the re-notification. If in the intervening period between the writing of this report and the date of the hearing the salient points of any written representations shall be verbally reported to members.

3.3 Following drafting of the original report, a further 2 letters of representation were received from GL Hearn acting on behalf of the Co-op, most issues related to the Oatridge application, but raised further issues regarding the LIDL's proposal.
The areas of concerns are summarised as below:

- The proposal should be refused based on access and transportation issues.
- Requires to be referred to Scottish Ministers on the basis that the Trunk Road Authority did not object, that the conditions proposed can not be met within the application site and are unachievable.

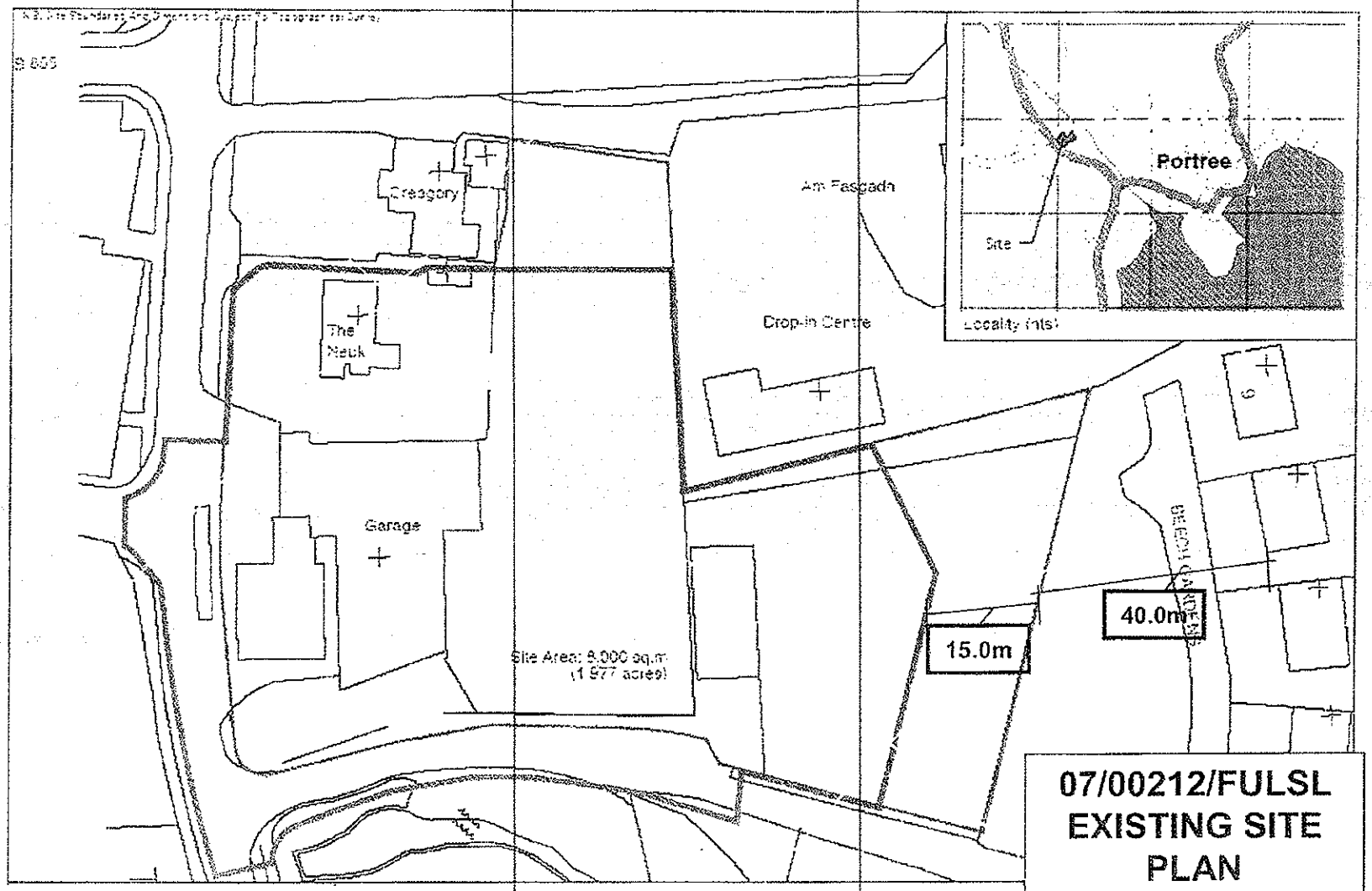
Comment: *In the absence of a formal response from the Trunk Road Authority it is difficult to confirm if all requirements have been fully met, however the revisions were based on negotiations between the applicant and the Trunk Road Authority and TECS (Roads).*

4.0 CONSULTATIONS

4.1 The Trunk Road Authority has received copies of the revised plans and whilst no formal written response has been received at the date of writing this report, it is clear that based on their previous advice of 'no objections' that their requirements have been met. All aspects can be adequately covered by conditions.

4.2 TECS (Roads) have received copies of the revised plans and are generally accepting of the main changes, these include the following:

- Deletion of the road frontage pumps at the PFS,
- The improvement and provision of an unobstructed visibility splay,
- The provision (although not fully demonstrated) of a dedicated tanker



07/00212/FULSL
EXISTING SITE PLAN

delivery parking area,

- The provision of revised parking layout
- The commitment to providing additional parking, if after a trial period it is shown that the existing proposed parking provision of 92 spaces is inadequate,
- The provision of details ensuring that all traffic for the supermarket is directed into the car park.
- Further delineation of the public and private elements of the shared access,
- The provision of a turning area close to the entrance to Beech Gardens, to facilitate turning of any vehicles overshooting the car park entrance.
- Finally TECS (Roads) put forward a suggestion that the private section of Beech Gardens outwith of the site area could be upgraded and then adopted as a public road.

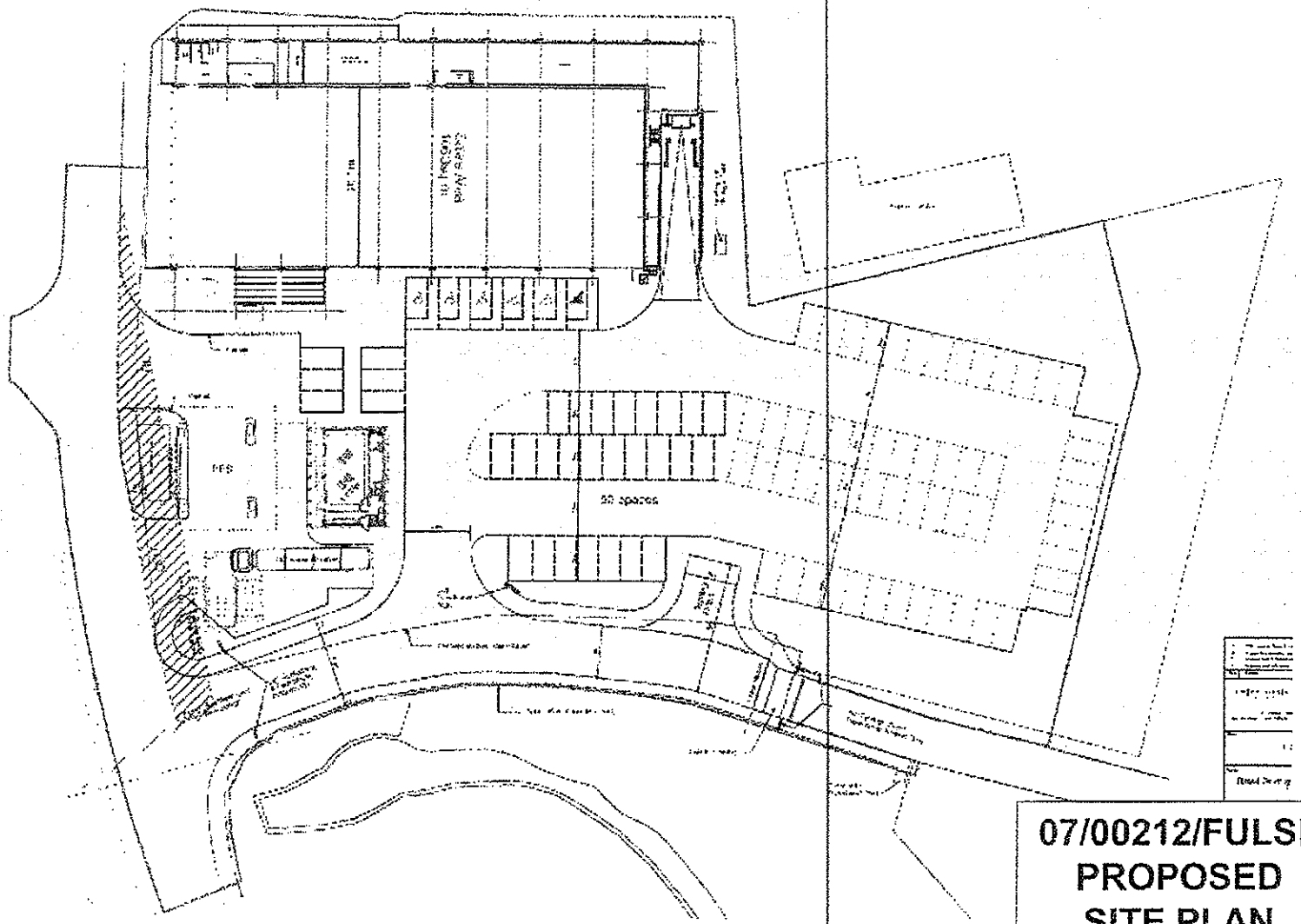
4.3 The details remaining to be fully resolved are the identification, delineation and safeguarding of the proposed frontage visibility splay onto the Dunvegan Road and the need for this to be fully protected. This is in order to prevent informal parking or stopping of vehicles and thus obstructing vehicles turning out of the junction. There are also details required to fully demonstrate the 'swept paths' and technical aspects of LGV (Large Goods Vehicles) movements within the PFS (Petrol Filing Station) forecourt area. Finally the suggested additional signage advising drivers of the entrance to the supermarket are located within the footway.

4.4 Additional comments from Portree Community Council were received on the 30th May 2008 and are summarised as follows:

- LIDL's approached the Community Council asking for support of the planning application.
- The majority decision of the Community Council meeting was that there was considerable support within the community for a LIDL's store in Portree.
- That any fuel leakage issues needed to be resolved.
- Concerns raised regarding the impact on the viability of Somerfields, as it performs an essential village centre service.
- Concerns raised regarding LIDL's not having fully addressed the possibility of siting a store in Bayfield.
- That LIDL's had not approached Bayfield land owners, and that policies supported the development of Bayfield in preference to out of town developments.
- LIDL's are supportive of local shops so why not locate in proximity to the village centre.

5.0 SUPPLEMENTARY TO REPORT

5.1 The revised drawings now fully demonstrate the requirements of both the Trunk Road Authority and TECS (Roads) in terms of the provision of the visibility splay at the junction of Beech Gardens and Dunvegan Road. Any further details for the safeguarding and delineation of the visibility splay can be addressed. However as the sightlines entail land in separate ownership it will be necessary to ensure its provision in perpetuity through a section 75 agreement. In all other respects subject to appropriate safeguards this aspect of the revised access may be considered acceptable.



07/00212/FULSL
PROPOSED
SITE PLAN
original

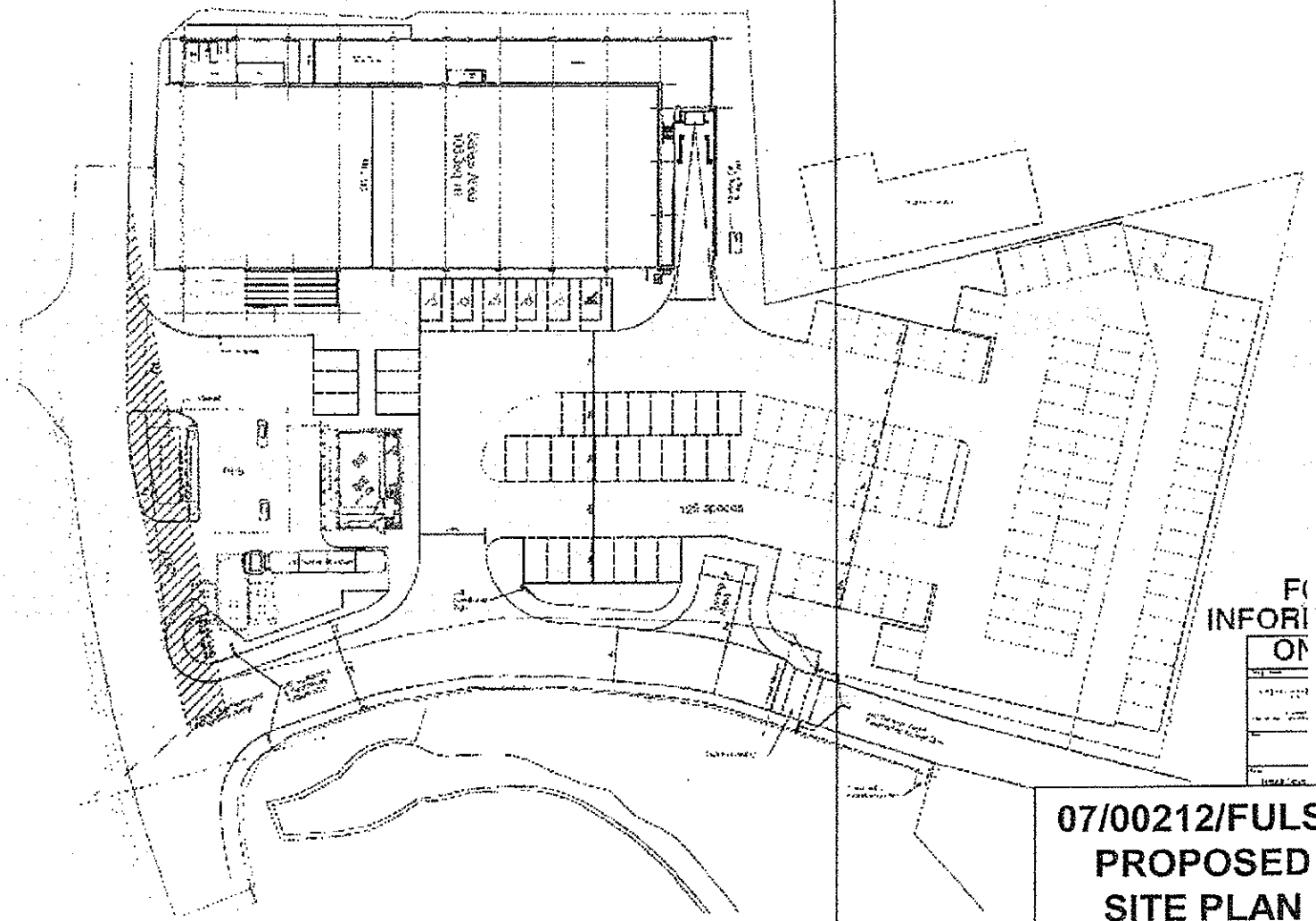
5.2 The revised plans now fully detail the deletion of all fuel pump access along the frontage closest to the Dunvegan Road. In effect this means two filling stances will no longer be usable, a reduction of 8 to 6. This addresses the majority of concerns of TECS (Roads), but what is not entirely clear is if all LGV (Large Goods Vehicle) refuelling will cease, as those of a height below the minimum height of the PFS canopy would still be able to refuel. As with 5.1 above full details of the pump removal and closing off will be required as a condition.

5.3 The plans now identify a dedicated fuel unloading bay immediately to the south of the proposed PFS kiosk, as shown this will enable a tanker of 20 metres in length to be accommodated, without infringing the identified visibility splay. TECS (Roads) have indicated that they are generally content with this detail, but will require confirmation of the proposed vehicle 'swept paths' across the forecourt, particularly of when the tanker is reversing into the bay. One element of this arrangement that is not entirely clear from the plans is the removal or otherwise of the current underground tank, vapour trap and tank ventilators. This is a technical detail that can be covered by condition.

5.4 The owners of the site Ewen Macrae have submitted a letter in response to TECS (Roads) request of fuel delivery details enclosing a confirmation from their fuel delivery agents confirming that the level of deliveries of fuel will be normally be one tanker per week with two tankers per week in peak summer periods. The delivery times are dictated by the fact that the supply depot is located in Inverness and that deliveries are likely to occur between 10-00 am and 3-30 pm as result of travel times and working hours restrictions for the drivers.

5.5 The submitted plans show a revised parking layout in order to accommodate revised access entrance point and the turning head along Beech Gardens. In terms of numbers of parking spaces the revised plan shows 92 spaces, a very minor increase of 3 spaces over the original, provision of 3 dedicated spaces for the PFS with 6 disabled/accessible spaces. This still falls short of the desired minimum required, however the applicants have submitted an additional plan that identifies additional spaces, on intervening land to the east of the existing site boundary and Beech Gardens. This would give a total of 129 spaces and would therefore be fully compliant. As discussed in the original report, the applicant is not entirely convinced of the need for this additional parking, and TECS (Roads) as a result of this impasse are content to defer to the lesser number of spaces initially, with an agreement to review the situation at the end of 6 or 12 months. If the parking provision is found to be wanting, then the 'overflow' car park can be constructed. This will be addressed by condition.

5.6 It is intended to move the proposed car park entrance and service road closer to the Dunvegan Road frontage, together with the proposed turning head close to the entrance to the private section of Beech Gardens and additional signage. This will address concerns to prevent customers or delivery drivers to the supermarket continuing into an turning within Beech Gardens. The addition of a 'table crossing' at the boundary of the public adopted section of Beech Gardens with that which is to remain private will provide, both a visible and physical barrier/warning to any drivers that do overshoot. It is considered that all of these measures will address the stated concerns of the residents of Beech Gardens and will maintain their current level of privacy and unwarranted access.



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PROPOSED
SITE PLAN
revised

5.7 The wish by TECS (Roads) for the upgrade of the existing private road at Beech Gardens to adoptable standard is noted; however in planning terms it would be unreasonable to ensure its provision beyond the entrance to the site A condition is proposed to upgrade the road to adoptive standard as far as the entrance to the food store off Beech Gardens.

6.0 CORPORATE AND SOCIAL RESPONSIBILITY

6.1 It is understood that the applicant has been in discussions with the Corporate and Ward Managers on this matter in relation to this. However it should be emphasised to members that any commitment of providing monies should not be the basis or form any part of the determination of this application. There is no basis for the provision of additional infrastructure based on the consultation responses recieved.

7.0 CONCLUSION

7.1 Members will recall that the principle in respect of a LIDL supermarket at this location was in terms of Development Plan policies considered as a **minor departure** that could be justified, but that there were a number of shortcomings with the proposed access and parking arrangements, that even if the Planning Authority were minded to approve, these issues could not be adequately controlled by the imposition of conditions.

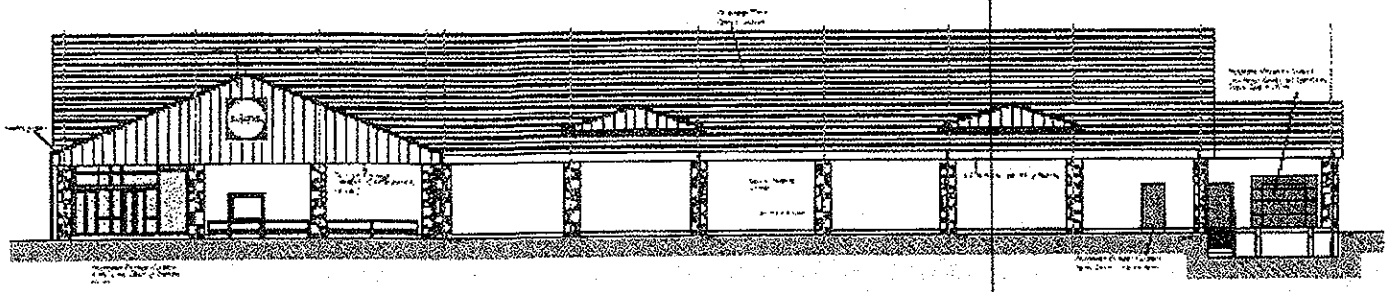
7.2 As detailed above the applicant has submitted revised drawings that address the majority of the technical shortcomings of the proposed access and visibility splay. In addition the revised layout and parking arrangements show a road layout that will direct traffic to the proposed supermarket and minimise the impact on the residents of Beech Gardens, additionally land has been identified reasons for additional parking if found to be required. The applicants have also stated a willingness to contribute to monies to the local community.

7.3 Taken as a whole the above package of revisions and commitments by the applicant, the Planning Authority are satisfied that the concerns with the original proposal have been addressed and that a minor departure from the Development Plan can be supported, for the reasons as set out in the original report.

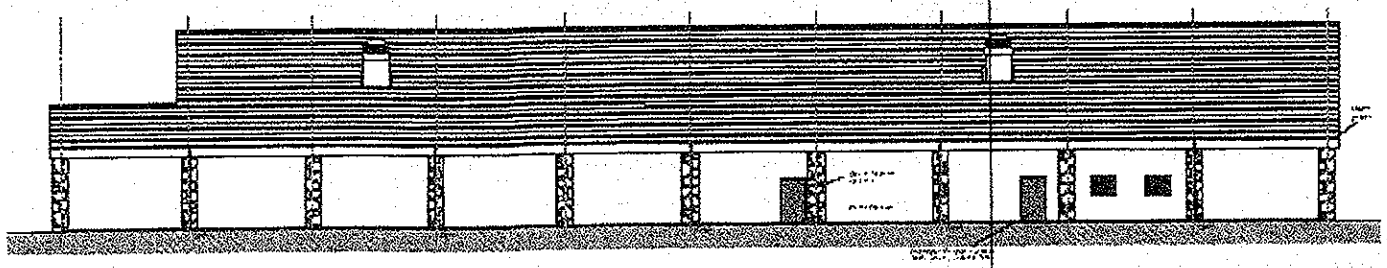
8.0 RECOMMENDATION

It is recommended that subject to the conclusion of a section 75 agreement (or equivalent mechanism) for the establishment and safeguarding of the required Trunk Road visibility splay of 9 metres by 70 metres that permission be **granted** subject to the following conditions:

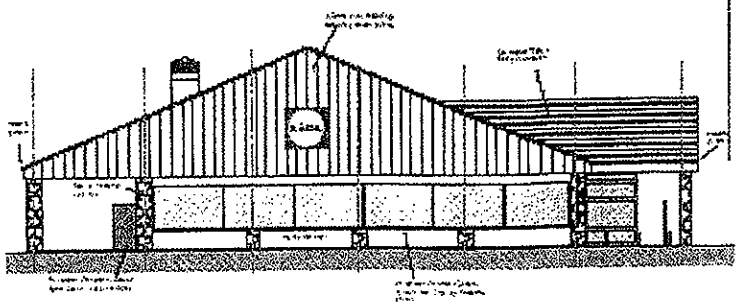
1. Prior to the development hereby approved coming into first use a Travel Plan, aimed at promoting sustainable travel modes and reducing the reliance on the private car shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. In particular the travel plan will identify measures to be implemented, the system of management, monitoring, review, reporting and evaluation of the plan. The scheme as may be approved shall be fully implemented to the satisfaction of the Planning Authority.



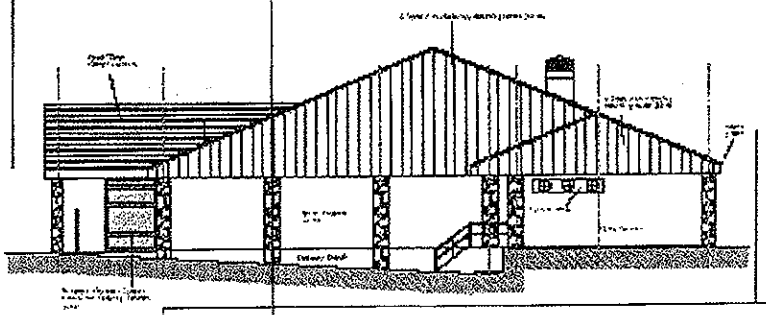
Front (West) Elevation to Car Park



Rear (East) Elevation



Side (South) Elevation



Side (North) Elevation

07/00212/FULSL
PROPOSED ELEVATIONS

Reason: *To be consistent with the requirements of SPP17; Planning for Transport and Advice Note 75 as well as Car Parking Standards for Redevelopment Control in the Highlands.*

2. Prior to the commencement of any works on site, full details, in plan form, of the finalised scheme for access, parking layout and surfacing, traffic calming and delivery vehicles shall be submitted to and approved in writing by the Planning Authority in consultation with the Area Roads and Community Works Manager. Thereafter the agreed scheme shall be fully implemented prior to the first operation of the food store and maintained thereafter in perpetuity.

   Reason: *In the interests of road and pedestrian safety*

3. Prior to the commencement of development full details of external plant or equipment to be installed or used for use in connection with the building, including all noise mitigation shall be agreed in writing with the Local Planning Authority, the development shall be carried out in accordance with the approved details.

   Reason: *To prevent noise and disturbance to the amenity of the occupiers of neighbouring and adjoining properties.*

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4. Prior to the commencement of development the details of all external lighting including hours of operation for the proposed building, car parking and all hard standing areas, shall be submitted to and approved in writing by the Planning Authority. The lighting scheme shall be installed as agreed.

   Reason: *In the interests of the visual amenity of the area so as to avoid light spillage form the site.*

5. No construction or demolition works shall take place except between the hours of 7:00 am to 7:00 pm Mondays to Fridays and 8:00 am to 1:00 pm on Saturdays and not at all on Sundays or Bank Holidays unless otherwise agreed in writing with the Planning Authority.

   Reason: *In the interests of amenity.*

6. In the event of driven piles being required for construction of the development, then prior to the commencement of development a suitable scheme detailing the measures taken to control vibration and noise from the pile driving operations shall be submitted to and approve din writing by the Planning Authority. The scheme shall have regard to the guidance contained in B.S.5228 unless otherwise agreed in writing by the Local Planning Authority the approved scheme shall be fully implemented.

   Reason: *In the interests of amenity.*

7. No development or any works shall take place at the site until such time as a suitably qualified person has carried out an assessment of the potential for contamination at the site. The assessment shall include as appropriate:
   i) a desk study consideration of historical uses of the site, hydro geological

and geological characteristics of the area and the likely nature, location and extent of any contamination;

ii) a site walk over, including the taking of any necessary samples;

iii) an assessment of the risk posed to the commercial development arising from the likely presence and nature of contaminants at the site.

The assessment shall be submitted to the Planning Authority in consultation with TEC Services (Contaminated Land Unit). No works on the development shall take place in advance of the written approval of such an assessment.

Reason : *In the interests of public health.*

8. Prior to the commencement of any works on site and based upon the finding of the assessment as detailed under condition 7 above, a site remediation plan shall be submitted to and approved in writing by the Planning Authority in consultation with TEC Services (Contaminated Land Unit). A site remediation plan shall detail the works to be carried out in order to achieve site conditions suitable for residential development, including measures to attain agreed contaminant values. Where contaminant targets are acquired, they shall be agreed in writing by the Planning Authority in consultation with TEC Services (Contaminated Land Unit) and the plan shall detail the method to be employed to demonstrate that target values have been successfully achieved. Prior to the commencement of works on the foundations of the new building hereby approved the applicant shall submit a remediation completion certificate with the written approval of the Planning Authority in consultation with TEC Services (Contaminated Land Unit)

Reason : *In the interests of public health.*

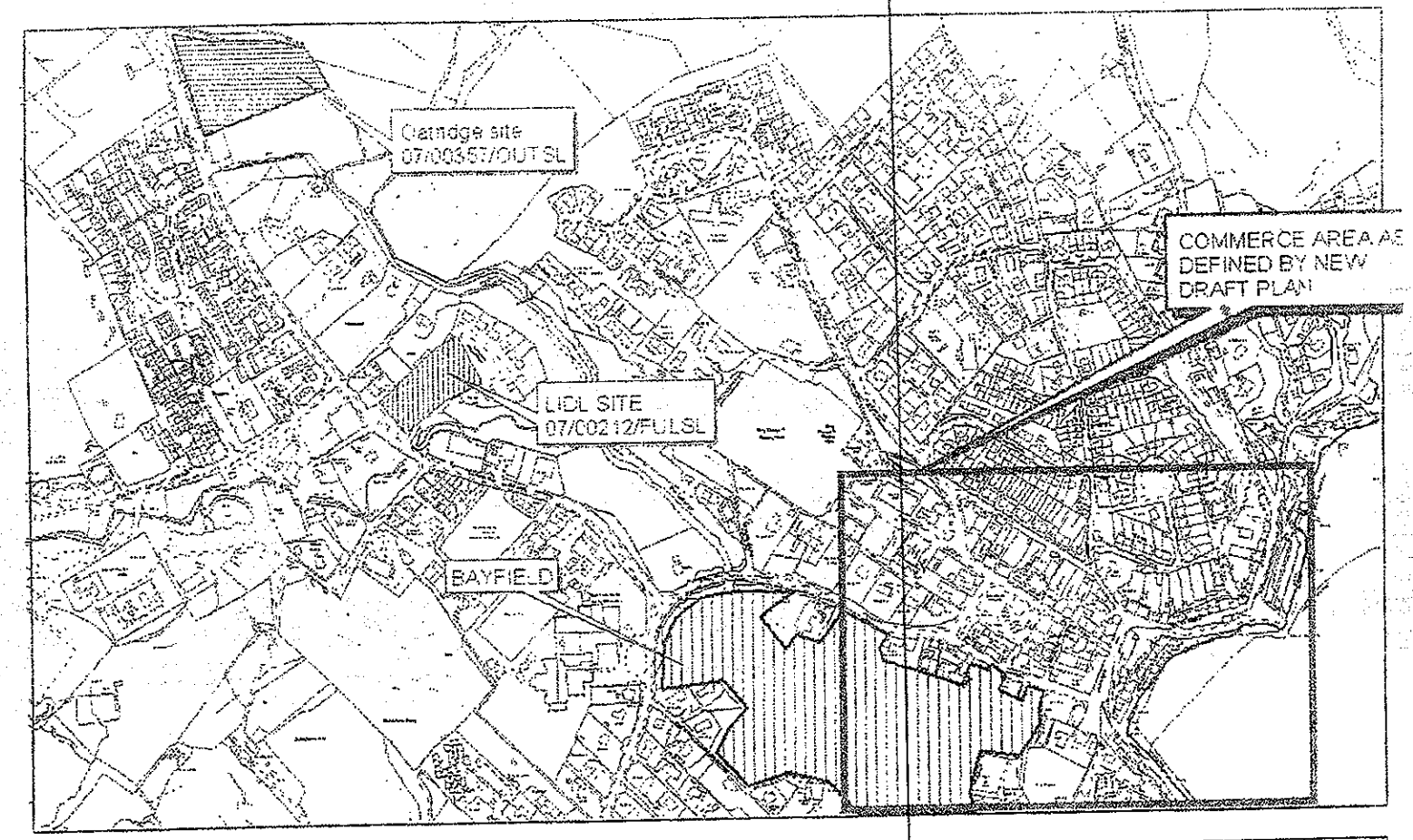
9. No works shall commence on the development hereby approved until full details of the methods to be deployed to make safe the fuel tanks and associated pipelines within the site have been submitted to and approved in writing by the Planning Authority in consultation with the Council's Petroleum Safety Officer. Thereafter, prior to the commencement of any works on the construction of the approved building, the remediation works shall be fully undertaken in accordance with the approved details.

Reason : *In the interests of public health.*

10. Prior to the building beginning operation the parking layout as detailed on drawing AL(0)03 showing 92 spaces shall be implemented and set out and marked in accordance with those details. After a period of 6 months the parking allocation shall be re-assessed by the Roads Authority and the Planning Authority and if found to be inadequate, the applicant shall within 3 months of written notification implement the parking layout as shown on drawing AL(0)103 and retained thereafter in perpetuity

Reason: *In the interests of road safety.*

11. Prior to the commencement of development the applicant shall submit a method statement outlining details of the hours of operation delivery times, details of waste



The Highland Council

Portree Supermarkets

SUPPLIED BY THE HIGHLAND COUNCIL

Scale 1:5000

Date

disposal and collection lighting hours and security measures. The development shall be operated in accordance with the approved details, unless otherwise agreed in writing.

Reason: *In the interests of amenity.*

12. Prior to the commencement of development details of all external materials and finishes including their colour, appearance and texture including samples shall be submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: *In the interests of visual amenity.*

13. Prior to the commencement of development, a fully detailed scheme of all hard and soft landscaping for the site, such details shall include including existing and proposed ground levels, all planting areas, species mix, a scheme of maintenance, details of all hard surfacing, retaining walls, all other ancillary structures and erections within the site area, shall be submitted to and require the approval in writing of the Planning Authority. All hard and soft landscaping and planting thereby approved shall be undertaken in the first planting season following occupation of the development and shall thereafter be maintained in accordance with the approved scheme of maintenance. Any plants that become diseased or seriously damaged shall be replaced in the immediately following planting season with others of a similar size and species.

Reason: *In the interests of the visual amenity of the area.*

14. Prior to the commencement of development details of all boundary fences and means of enclosure shall be submitted to and approved in writing by the Planning Authority.

Reason: *In the interests of the residential amenity of residents of Beech Gardens*

NOTE

The applicant is advised that there shall be no obstruction of the protected visibility splays as secured by the Section 75 Agreement or other mechanism, and in accordance with the letter dated 23rd May 2008 from Ewen MacRae referring to fuel deliveries.

Signature:

Designation: Area Planning & Building Standards Manager

Author: Michael Hoar

Date :12th June 2008

Background Papers: Skye & Lochaber Local Plan

CG17

The Highland Council
Comhairle na Gaidhealtachd
SERVING The Highland Community

27 APR 2009

GL Hearn
16 Gordon Street
Glasgow
G1 3PT

Please ask for: Simon Fraser
Direct Dial: [redacted]
E-mail: [redacted]
Our Ref: 07/00212/FULSL/SIFR/SACO
Date: 22 April 2009

Dear Sir/Madam

ERECTION OF FOODSTORE, PETROL FILLING STATION & KIOSK & CONSTRUCTION OF CARPARK AT EWEN MACRAE LTD WEST END GARAGE, DUNVEGAN ROAD, PORTREE, HIGHLAND

Further to our previous correspondence in respect of the above, I have now received written confirmation from the applicant that the application has been withdrawn.

This has been recorded in the public planning applications register and the case file is now closed.

Thank you for giving this matter your attention.

Yours faithfully

[redacted]

DAFYDD JONES
Area Planning & Building Standards Manager
Ross, Skye & Lochaber

Area Planning and Building Standards Manager, Ross, Skye & Lochaber:
Dafydd Jones, Highland Council, Kings House, The Green, Portree, IV51 9BT
Tel: [redacted] Fax: ([redacted]

CG18

The Highland Council
Comhairle na Gaidhealtachd
SERVING The Highland Community

27 APR 2009

GL Hearn
16 Gordon Street
Glasgow
G1 3PT

Please ask for: Simon Fraser
Direct Dial: [redacted]
E-mail: [redacted]
Our Ref: 07/00212/FULSL/SIFR/SACO
Date: 22 April 2009

Dear Sir/Madam

ERECTION OF FOODSTORE, PETROL FILLING STATION & KIOSK & CONSTRUCTION OF CARPARK AT EWEN MACRAE LTD WEST END GARAGE, DUNVEGAN ROAD, PORTREE, HIGHLAND

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Yours faithfully

[redacted]

DAFYDD JONES
Area Planning & Building Standards Manager
Ross, Skye & Lochaber

Area Planning and Building Standards Manager, Ross, Skye & Lochaber:
Dafydd Jones, Highland Council, Kings House, The Green, Portree, IV51 9BT
Tel: [redacted] Fax: ([redacted]

HIGHLAND COUNCIL

SKYE & LOCHALSH RETAIL STUDY

OCTOBER 2007

White Young Green

The Highland Council
Comhairle na Gaidhealtachd
SERVING The Highland Community

NEMS
Ticking all the right boxes

7.08 WYG considers it realistic and appropriate that the Council should seek to improve the current market share of facilities in Skye and Lochalsh in order to reduce the level of expenditure currently lost to competing centres. Given that Portree is identified as the main centre within Skye and Lochalsh it is considered the most appropriate location for improvement to the comparison goods offer.

Proposed Developments

7.09 The Council are currently considering two applications in Portree which propose to improve the retail offer, most notably the convenience goods sector, which is currently dominated by Co-op. The applications propose a new Lidl store and a new supermarket both at land on Dunvegan Road outside Portree.

7.10 Our assessment identifies that there is sufficient capacity to support the proposed Lidl store given the limited floorspace proposed at current market shares without having an adverse impact on established centres.

7.11 In contrast, the proposed supermarket represents a significant increase in floorspace and a potential turnover in excess of £17m. Our assessment identifies that there is insufficient capacity to support the level of floorspace proposed given the limited opportunity to claw back lost expenditure and the current shopping patterns within Skye and Lochalsh.

7.12 Whilst it is considered that there is a need to improve the convenience and comparison floorspace within Skye and Lochalsh it is considered that there is no demonstrable capacity to support the level of floorspace proposed as part of the new supermarket. Moreover, it is considered that the proposal will have an adverse impact on existing centres within Skye and Lochalsh. Consequently, given that there is insufficient 'spending power' in the Study Area to support a new supermarket in addition to existing provision there is a real danger that existing stores will close not only in Portree but also in Kyle and Broadford. The potential impact on existing centres within Skye and Lochalsh would be even greater should the Council grant planning permission for both applications. Whilst it is acknowledged that the two applications will compete to some extent with each other, the impact on smaller stores within the centres would be even more significant as older premises such as the Somerfield in Portree would not be able to compete with larger modern premises out-of-centre.

Recommended Approach

7.13 WYG considers that the proposed Lidl store at Portree will improve consumer choice for local residents and provide increased competition to the Co-op, which clearly has a monopoly on shopping patterns in the Skye and Lochalsh. The scale of the proposal is appropriate to the

capacity identified and will not have an adverse impact upon existing centres within Skye and Lochalsh.

7.14 In terms of the proposed supermarket at Dunvegan Road, whilst it is acknowledged that there is a need to improve the retail offer of Portree and Skye and Lochalsh WYG considers that there is insufficient capacity to support the level of floorspace proposed. Furthermore, the proposal is likely to have an adverse impact on established centres.

7.15 Instead, WYG considers that any proposal by Co-op at Broadford to extend their existing store should be supported by the Council as it would improve the offer for local residents without the need for people to travel significant distances either elsewhere in Skye and Lochalsh or beyond.