

THE HIGHLAND COUNCIL

**NORTH AREA PLANNING APPLICATIONS COMMITTEE
– 16 September 2014**

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| Agenda Item | |
| Report No | PLN/062/14 |

**13/03976/PIP : Oatridge Limited Allan Campbell
Land 300M NW Of Electricity Sub Station, Staffin Road, Portree, Isle Of Skye**

Report by Area Planning Manager

SUMMARY

Description : Retail Supermarket, petrol filling station and associated parking and servicing areas. Access road from existing Home Farm Road roundabout with new bus stop, turning head and new pedestrian crossing. New link road and roundabout from Staffin Road to Home Farm Road.

Recommendation - REFUSE

Ward : 11 - Eilean A' Cheò

Development category : Major

Pre-determination hearing : n/a

Reason referred to Committee : Major development.

1. PROPOSED DEVELOPMENT

1.1 This application seeks planning permission in principle (PIP) for a 3350m² food retail store with associated car parking, petrol filling station, service yard and new access road. Total site area is 5.14 acres (2.08 hectares). The submitted Retail Planning Statement is based upon a 75% :25% split between convenience and comparison net floorspace.

1.2 Given this site area, the proposal falls into the Major category of development as defined by The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Consequently, the applicant was required to carry out a statutory pre-application consultation exercise the details of which were covered by Proposal of Application Notice 12/01571/PAN.

Chapter 2 of the supporting statement for the application provides the required report of the PAN feedback.

The proposal was also made the subject of a formal request for pre-application advice – 12/00412/PREAPP – and a comprehensive advice pack was produced for the developer.

These proposals coupled the supermarket proposal with a non-food retail and

business proposal for land further to the north. This part of the proposal has come forward as planning application 13/03980/PIP. Consultation responses identified a number of objections for this application to overcome. However, the applicant has indicated an unwillingness to progress these matters until the outcome of this supermarket application is known.

- 1.3 The application states that it will connect to the public foul drainage network and feature a SUDS surface water drainage system

Access is to be formed as a new arm off the northern side of the existing roundabout junction serving the eastern end of the Home Farm housing development.

The application also includes a further section of road which would complete a link between Staffin Road in the east and the A.87 in the west via the Home Farm feeder road.

- 1.4 The application has been submitted with a general supporting statement, a transportation assessment and a retail planning statement.

- 1.5 **Variations:** Further information in respect of the objections from SEPA has been submitted subsequently

2. SITE DESCRIPTION

- 2.1 The site is a level area of partially drained peat/blanket bog in wider countryside beyond the northern boundary of Portree as delineated by the recent Home Farm housing development and its feeder road. The site is surrounded by other similar open, undeveloped landform which rises generally to the north-east and north-west either side of the route of the Leasgeary river which flows southwards to Portree Bay and passes just to the north of the site.

The main area of application land is broadly rectangular and aligned south-east/north-west with the southern end being slightly wider than the north (about 135m across rather than 105m) and some 180m in length. The indicative plans show the supermarket positioned at the northern end of this area with the car parking to the centre and the petrol filling station to the south.

To the south, the site is separated from the Home Farm feeder road by an area of land identified as public open space by the Local Plan and required to be transferred to a community group for planting as a community woodland by a clause of the s.75 legal agreement attached to the Home Farm housing permission. The access to the site from the feeder road will cut across this land and passes up the north-eastern side of the application site.

The land identified for the section of new road that will link the feeder road to Staffin Road is an area of grazing croftland which slopes down from west to east and is an allocated housing site (H4) in the Local Plan.

3. PLANNING HISTORY

- 3.1 04/00251/OUTSL - Erection of Residential Development and Construction of Distributor Road, Formation of Open Space and Other Community Development - Withdrawn 27.05.2009

05/00116/FULSL - Erection of 249 Houses & Construction of Distributor Road - Granted 13.10.2005

13/03980/PIP - A mixed use development for Non-food Retail (class 1), Business

(class 4), General Industrial (class 5), Storage and Distribution (class 6) and Assembly and Leisure (class 11). New access from A87 and service road, extension to Leasgeary Road and provision of open space and a green corridor – Pending

12/01492/PAN - Non-food retail, business use, public open space and link road/access connection (relates to 13/03980/PIP)

12/01571/PAN - Foodstore and link road/access connection (relates to this application)

12/03822/PAN - Development of class 1 retail foodstore and petrol filling station (including associated access, parking and landscaping) (relates to 14/01464/PIP)

Related Retail Food Store History

14/01464/PIP - Erection of a Class 1 foodstore and petrol filling station with associated car parking, landscaping and access – Pending- this application is also before members for consideration at this Committee

07/00357/OUTSL - Erection of supermarket (outline) at land North of COOP currently occupied by Jewson and Macfarlane (Builders), Dunvegan Road, Portree - Granted - 06.01.2009. This consent has now lapsed.

11/03099/FUL - Application to vary Condition 1 (timescale) of Planning Permission 07/00357/OUTSL – Granted - 15.12.2011. This consent has now lapsed.

12/03919/FUL - Extension to Co-op retail store and erection of three retail units, car parking and associated works - Granted - 22.02.2013. This consent is still extant, and shall be discussed in relation to retail policy and retail impact in the policy assessment below.

07/00212/FULSL - Erection of foodstore, petrol filling station & kiosk & construction of car park - Withdrawn - 31.03.2009. This application for a foodstore on the site of the existing Ewen Macrae Garage on Dunvegan Road was recommended for approval subject to the conclusion of a legal agreement. This recommendation was accepted by committee, but the legal agreement was never concluded, resulting in the withdrawal of the application.

4. PUBLIC PARTICIPATION

4.1 Advertised : Unknown neighbour – expiry date: 31 January 2014

Representation deadline : 31 January 2014

Timeous representations : 11 from 10 addresses

Late representations : 1 from 1 address

4.2 Material considerations raised are summarised as follows:

For:

- New supermarket will create retail competition that Skye folk have been crying out for
- Link road will allow Staffin bound traffic to by-pass the village centre and also avoid Bosville Terrace
- Proposal will reduce number of people travelling to Inverness to shop – good for them and good for the environment and roads
- Concern about impact on village centre would be helped if supermarket

subsidised free parking in the village centre and provided a free shuttle bus from the store to the centre for at least six months a year

- Independent traders will survive. Competition more important.
- Facebook page “We Want Tesco in Portree” has 1980 ‘likes’ with lots of comments supporting this application
- A new supermarket will create more jobs

Against:

- Proposal fails to comply with policies and criteria of SPP and the Council’s development plan and undermines the plan-led approach to retail development on Skye
- Proposal lies outside the settlement development area
- The retail impact assessment underestimates the turnover of the store and so the negative impact of the proposal on Portree, Broadford and Kyle village centres – shops will close
- Petrol filling station could be a problem for existing similar uses
- Sequentially preferable site adjacent to Co-op
- Applicant cannot deliver the link road because they do not control the land required
- Application lacks many of the required supporting statements to allow a proper understanding of its impact
- Link road will generate additional traffic at Dunvegan Road junctions causing further delays

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. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 **Development Plans Team HQ** : Proposal does do not accord with the detail of the extant development plan. The proposal does comply with the spirit (the vision and strategy) of the development plan in terms of facilitating the economic expansion of the island capital.

There is too much uncertainty over issues such as surface water drainage, peat management, acceptability of trunk road and other connections and landscaping to reach a conclusion of overall conformity. More is needed to demonstrate how the site will function as a natural extension of the village and be integrated with it.

Completion of the Portree Link Road is a strategic objective in both the HwLDP and the WHILP because of the benefits it would bring in terms of shorter and cheaper travel connections for all road users... However, the development plan does not specifically require developers to fund its completion nor does the Council have a capital programme commitment to fund its completion. The developer’s transport assessment concludes that the Link Road’s completion is not required in terms of direct mitigation for the effects of the applications.

- 5.2 **Historic Environment Team** : recommend archaeological investigation condition
- 5.3 **Transport Planning Team**: No objection in principle – many matters require addressing through condition or as part of a full application
- 5.4 **Building Standards** : Verbal advice that the application raises no issues which cannot be dealt with during the Building Warrant process.
- 5.5 **Flood Team** : Initial objection due to lack of flood risk and drainage impact information
- 5.6 **Planning Gain Negotiator** : negotiations on-going – heads of terms identified
- 5.7 **SEPA** : Object in respect of lack of peat management and wetland ecology information
- 5.8 **SNH** : No objection – no peat habitats information
- 5.9 **Transport Scotland** : No objection – recommend Travel Plan condition
- 5.10 **Scottish Water** : require Development Impact Assessment form to be completed
- 5.11 **Crofting Commission** : General policy response

6. **DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

6.1 **Highland Wide Local Development Plan 2012**

| | |
|-----------|--|
| Policy 28 | Sustainable Design |
| Policy 29 | Design Quality and Place-Making |
| Policy 31 | Developer Contributions |
| Policy 36 | Development in the Wider Countryside |
| Policy 40 | Retail Development |
| Policy 47 | Safeguarding Inbye/Appportioned Croftland |
| Policy 55 | Peats and Soils |
| Policy 56 | Travel |
| Policy 58 | Protected Species |
| Policy 60 | Other Important Habitats and Article 10 Features |
| Policy 61 | Landscape |
| Policy 63 | Water Environment |
| Policy 64 | Flood Risk |
| Policy 65 | Waste Water Treatment |

Policy 66 Surface Water Drainage

Policy 75 Open Space

6.2 **West Highland and Islands Local Plan 2010**

Policies 1 & 2 In respect of settlement development area boundaries and allocated sites

Policy 16 Commerce

7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Draft Development Plan**

Not applicable

7.2 **Highland Council Supplementary Planning Policy Guidance**

Developer Contributions

Sustainable Design Guide

Highland's Statutorily Protected Species

Flood Risk and Drainage Impact Assessment

7.3 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy June 2014, paragraphs 58 to 73, sets out a "town centre first" policy for retail development which requires development plans to identify a network of centres which may be organised as a hierarchy, and to adopt a sequential approach to planning for new retail development which requires that locations are considered in the following order of preference:

- town centres (including city centres and local centres);
- edge of town centre;
- other commercial centres identified in the development plan; and
- out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes.

Out-of-centre locations should only be considered for uses which generate significant footfall where:

- all town centre, edge of town centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable;
- the scale of development proposed is appropriate, and it has been shown that the proposal cannot reasonably be altered or reduced in scale to allow it to be accommodated at a sequentially preferable location;
- the proposal will help to meet qualitative or quantitative deficiencies; and
- there will be no significant adverse effect on the vitality and viability of existing town centres.

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1977 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

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.

8.3 Development Plan Policy Assessment

The site falls outwith the Portree Settlement Development Area and so Policy 36 of the Highland-wide Local Development Plan applies. Policy 36 supports development proposals which are not significantly detrimental in terms of their siting and design, sympathy to existing patterns of development, compatibility with landscape character, contribution to the existing mix of development types, avoidance of the loss of locally important croftland and which can be adequately serviced without undue public expense or incongruous development in a rural area.

Development proposals should also meet the Design for Sustainability requirements of Policy 28 and Policy 29 repeats this emphasis on good design in terms of compatibility with the local settlement pattern. Policy 61 further emphasises the need for development to respect the landscape character of their surroundings.

Policy 31 states that where development proposals create a need for new or improved public services, facilities or infrastructure, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Such contributions will be proportionate to the scale and nature of the development proposed and may be secured through a Section 75 obligation or other legal agreement as necessary.

Policy 40 states that retail development in out of centre locations will be looked on favourably;

- (i.) where there are no suitable sites within the city/town/village centres or within edge of town centre locations in line with the sequential approach;
- (ii.) where there would be no detrimental impact on the vitality and viability of the city/town/village centre; and
- (iii.) where good active travel and public transport accessibility exists or can be secured.

In addition to the above, West Highlands & Islands Local Plan Policy 16 encourages retail development within a network of identified centres. Portree is identified along with Fort William as a sub-regional town centre within this hierarchy – which is one tier below the only regional centre of Inverness. This policy establishes that outwith the above centres, retail proposals will be judged against the following criteria:

- compliance with the sequential approach to site identification;
- accessibility by means of public transport, walking and cycling;
- impact, including any cumulative impact, on the vitality and viability of a centre defined in a Highland development plan;

- fit with the aim of creating a retail hierarchy in which travel is minimised;
- whether the type and scale of development proposed can reasonably be accommodated within a centre defined in the Plan;
- the extent to which the proposals meet with identified deficiencies; and
- whether any developer funded mitigation of the above is offered.

Policy 47 requires developments to, where possible, avoid siting on croft land of higher agricultural value and/or impeding access to the remaining croft land.

Policy 55 states that development proposals should demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils. Unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by benefits arising from the development proposal. Where development on peat is clearly demonstrated to be unavoidable then The Council may ask for a peatland management plan to be submitted which clearly demonstrates how impacts have been minimised and mitigated.

Policy 56 development proposals that involve travel generation must include sufficient information with the application to enable the Council to consider any likely on-site and off-site transport implications of the development.

Policies 58 and 60 state that a protected species survey should be carried out when there is good reason to believe a protected species may be present on site and that the Council will have regard to avoiding significant harm to Other Important Habitats.

Policy 64 states that development proposals within or bordering medium to high flood risk areas, will need to demonstrate compliance with Scottish Planning Policy (SPP) through the submission of suitable information which may take the form of a Flood Risk Assessment.

Policies 65 and 66 require foul and surface water drainage to meet standards that minimise the risk of pollution and flooding.

Policy 75 states that existing areas of high quality, accessible and fit for purpose open space will be safeguarded from inappropriate development and enhancement will be sought, where appropriate. All sites identified in the Highland Council's Audit of Greenspace will be safeguarded.

For the reasons laid out below, the proposal is considered to fail to comply with some of these policy requirements and therefore to be unacceptable in principle.

8.4 **Material Considerations**

Development Plan Conformity – the application site is in the wider countryside on land that has not previously been assessed for its development potential either through a earlier planning application or Local Plan land allocation process.

The consultation response from the Development Plans team concludes that this application does not accord with the development plan. Although the proposal is recognised to help deliver the plan's 'vision' for expanding the economic role of Portree as the island's capital and to be theoretically compatible with a future northern expansion of the village, it is, nevertheless, considered to fail to

demonstrate how the site would represent a natural and integrated extension of the village.

Furthermore, the development plans team note that in terms of peat management and wetland ecology the application does not contain sufficient information to satisfy concerns about whether the acceptable development of this land can be established in principle.

Visual Impact and Integration – it is not clear from the application why this particular area of land was chosen for a supermarket site. The application was submitted alongside a further application for non-food retail and other business uses on land partial covered by an industrial allocation - 13/03980/PIP. However, even in this context, the site does not appear to draw any particular siting justification from its surroundings and reads as a relatively isolated area of blanket bog in the wider countryside.

When seen from the raised land bordering the northern edge of the Home Farm feeder road or from any vantage point within the settlement development area to the south-west, the relative isolation of the site from other development becomes very apparent. In operation, a supermarket in this location would read as an island of intensive development surrounded by wide, open, undeveloped and relatively featureless moorland. The indicative plans show the main supermarket building positioned at the northern end of the site and this is considered to only accentuate the remote and incongruous appearance of the development relative to the nearest Home Farm buildings some 230m to the south-east.

This failure to physically and visually integrate the new development with the existing village is also highlighted by its shared south-eastern boundary with the area of open space identified as a future community woodland. As well as offering a public amenity function, this woodland will also provide a natural visual delineation of the edge of the Home Farm residential area and, indeed, the village as a whole. Placing the supermarket and petrol filling station development immediately beyond this future woodland not only undermines the visual boundary function of the woodland but also further emphasises how the supermarket development will sit visually apart and separated from other development at this northern end of Portree.

Policy 29 of the Highland-wide Local Development Plan states that,
“New development should be designed to make a positive contribution to the architectural and visual quality of the place in which it is located.....Proposals should have regard to the historic pattern of development and landscape in the locality and should, where relevant, be an integral part of the settlement.”

This proposal for a supermarket and petrol filling station is considered to fail to meet these development plan requirements in a significantly detrimental manner and consequently this aspect of the proposal is considered to justify a reason for refusal.

Peat Management and Wetland Ecology – this application is for planning permission in principle on an area of land which has never been assessed for its development suitability before - either through a planning application or Local Plan land allocation process. Consequently, the purpose of a PIP application in these circumstances is to establish two sequential conclusions about the land in question. The first is whether or not the physical conditions and constraints of the

site indicate that it is suitable for any development and the second is whether the land is suitable for the specific project or use being proposed.

The related material considerations of peat and wetland ecology fall clearly into the first category – land with a significant depth of peat and/or where wetland habitat will be destroyed, may simply be unacceptable for any development. Peat cannot be built on and its clearance from a development site inevitably raises visual and ecological issues in respect of its subsequent deposition and/or issues of disposal cost and sustainability if it is to be transported off-site to landfill. Scottish Planning Policy 2014 (paragraph 194) states as one of its Policy Principles that, “*The planning system should.....promote protection and improvement of the water environment, including.....wetlands.....in a sustainable and co-ordinated way*”.

The development plans team and SEPA both emphasised, as part of the formal pre-application response to the applicant in 2012, the need for any application on this land to include a comprehensive survey of the amount of peat on site and a report detailing how it was to be managed, stored or disposed of. Equally, they clearly stated the need for a Phase 1 habitat survey to be carried out with a particular emphasis on identifying whether any of the wetland contained ‘groundwater dependant terrestrial ecosystems’ which are specifically protected under the Water Framework Directive.

Disappointingly, this required information was not submitted as part of the original application in October 2013 and a further request for it was made under Regulation 24 of the Procedures Order in February 2014. Subsequently, a great deal of discussion and correspondence concerning these matters has taken place between the applicant and SEPA and some progress over other issues of flood risk and on-site watercourses has been made. This allowed one of the original grounds of objection in relation to concerns over flooding to be addressed and was withdrawn by SEPA in the revised response. It has also become clear that the applicant’s intention is to dispose of surplus peat (estimated at some 34,000 cubic metres if average peat depth is 1.75m) on adjacent land as part of a “peat bog restoration” project.

Regrettably, despite the above, the applicant has still failed to provide SEPA with the information they require in order to consider lifting their objection to the development. SEPA’s most recent correspondence of 22 August 2014 states,

*“Unfortunately the submission does not include the site specific information we have been seeking in our previous correspondence and as a result we **maintain our objection** in relation to a lack of information on peat and wetlands. Whilst we have set out these information requests in detail in our previous responses we provide the below list in order to assist and summarise our main requirements:*

- a) A map showing the location of the trial pits with the proposed development overlain along with the trial pit profiles, recorded depths for each trial pit and photographs;*
- b) A map of the proposed peat re-use areas (including proposed depths and area in m²) with all watercourses overlain in order to demonstrate suitable buffers between the re-use areas and watercourses (we have previously suggested 50m);*
- c) A map showing National Vegetation Survey results of the whole site and a 250m buffer around it with the proposed development overlain; and*

d) *A map showing National Vegetation Survey results of the whole proposed bog land restoration site with the areas where it will be proposed to re-use surplus peat overlain.*”

The applicant has suggested that this information could be made the subject of conditions of any permission but this is incorrect. Most of the area of land to which these matters relate falls outside this application boundary (and within the boundary of the applicant’s stalled application 13/03980/PIP). This means that any conditions relating to these matters would have to be of the ‘Grampian’ form – works required before any other development takes place. Government guidance in Circular 4/1998 states that such conditions should not be used when the ‘works’ in question are the carrying out of survey activity, subsequent to which, further works (mitigation for example) might be required.

More importantly, it is possible that the results of this survey work could mean that the development simply cannot be approved – an unacceptable ecological impact or impractical amounts of peat to be disposed of. These matters are potential ‘show stoppers’ for any development of this site.

Consequently, it is considered that the principle of development of this site has not been established by this application. Policy 55 of the Highland-wide Local Development Plan states,

“Development proposals should demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils.....Unacceptable disturbance of peat will not be permitted.....”

Policy 63 of the Highland-wide Local Development Plan states,

“The Council will support proposals for development that do not compromise the objectives of the Water Framework Directive (2000/60/EC), aimed at the protection and improvement of Scotland’s water environment.”

Allowing development to proceed without these matters being properly addressed could result in significantly detrimental and unacceptable impacts. Consequently, reasons for refusal in respect of peat and wetlands are recommended.

Foul and Surface Water Drainage and Flood Risk – as stated above, SEPA have been able to withdraw their original objection in respect of flood risk and are satisfied that any future detailed design can avoid flood risk from the Leasgeary river and other tributaries. In these circumstances the objection from the Flood Team in respect of the need for a full Flood Risk Assessment is considered to have been overcome.

It is understood that discussions have been held between the applicant and Scottish Water and that the latter is satisfied that a connection to the mains sewerage system can be made.

In terms of surface water drainage, the applicant has submitted further information in respect of a SUDS compliant system. However, it is noted that this system proposes a detention basin as the second level of surface water drainage control. The indicative site plan indicates that there is no room on the application site for the detention basin and so this is another element of the development that will have to take place on adjacent land. This could be made the subject of a Grampian-type condition, but might have implications for both peat extraction and wetland ecology and so would need to be first incorporated into that analysis.

Consequently, the application is not considered to meet the requirements of Policy 66 of the Highland-wide Local Development Plan as it is not clear that the detention basin could be created as suggested. Furthermore, the Flood Team have objected on the basis of the need for a full Drainage Impact Assessment. Such a report is required to allow this matter to be fully explored and justified - a reason for refusal in respect of surface water drainage is recommended in its absence.

Protected Species – in their consultation response, SNH have confirmed that it is likely that otters are present along the course of the Leasgeary river adjacent to the proposed site. However, it is not considered that the site is likely to represent an important piece of habitat for this protected species and much similar habitat exists nearby.

Like SEPA, SNH also note that the application is devoid of any on-site ecology assessment.

Retail Impact Assessment – it is noted that the submitted retail impact assessment for this application is based upon broadly similar figures to that produced in support of the current 14/01464/PIP application to the south-west. This, it is considered, helps support the credibility of both documents.

The application site is an out of centre location in terms of retail policy. HwLDP Policy 40 R Retail Development supports retail development in out of centre locations:

- (i) where there are no suitable sites within the city/town/village centres or within edge of town centre locations in line with the sequential approach;
- (ii) where there would be no detrimental impact on the vitality and viability of any affected centre(s); and
- (iii) where good active travel and public transport accessibility exists or can be secured.

In relation to **the sequential approach** the applicants' Retail Planning Statement states that there are no sequentially preferable sites. It is accepted that there are no suitable sites for this scale of retail development within or on the edge of the commerce centre boundary for Portree village centre, as defined within the West Highland and Islands Local Plan. Bayfield and the King George V playing field (raised as possible sites at the pre-app stage) are not considered genuinely viable possibilities.

There is an extant planning permission (ref. 12/03919/FUL) granted in 2013 for a 580m² extension to the existing Co-op store on Dunvegan Road, plus the erection of three separate retail units sharing the same car park as this store. The largest of these units, which extends to 990m², is conditioned to be for food retailing, with the other two limited to non-food retailing. This amounts to a gross floor area of 2290m² overall. The objection by G.L.Hearn on behalf of the Co-op claims this consent provides a sequentially preferable opportunity on the basis that, while it is in an out-of-centre location, it has better public transport accessibility than the application site and is an established retail location within the settlement development area.

In terms of public transport accessibility, the indicative plans indicate that a bus stop on the new access road would be provided as part of the development. The planning gain negotiator has raised the issue of funding for an extended bus route

(see below) and a new pedestrian crossing from Home Farm is also proposed. Consequently, it is not considered that the 12/03919/FUL permission is sequentially preferable on public accessibility grounds.

The questions of the settlement development area and established retail location do not fall within the remit of the sequential retail policy test. With respect to the 12/03919/FUL permission being within the settlement development area, it is accepted that, in this regard, it is the preferable site in general planning terms and that this further exemplifies the above criticism of the application site in respect of its failure to physically and visually integrate with the northern part of the village.

However, at the same time, it must be recognized that the differing scale of gross floorspace on offer does not allow for such a simple comparative analysis to be made. This application is proposing a gross floorspace of 3530m² in a single building for a sole operator to run a supermarket. The extant 12/03919/FUL permission only amounts to a gross floor area of 2290m² but this is split over four separate areas including an extension to the existing Co-op store. Consequently, it is not considered that the extant permission offers a genuine alternative to this proposal. Accordingly, the application site and the site of the Co-op consent cannot be readily compared and it can be concluded that the application accords with the more limited remit of the retail policy sequential test approach.

In terms of **retail impact** the applicant provides the following figures, expressed in 2012 prices for the year 2017, when shopping patterns are expected to have settled following construction and initial trading of the store:

- Store convenience (food) turnover - £17.8m
- Total available convenience expenditure - £38.1m
- The turnover of existing stores and consented floorspace, and the effect of the proposed store on these turnover levels are set out in the following table which is drawn from the applicants' Retail Impact Assessment:

| | 2017 Turnover (£m) | 2013 Average (£m) | Diversion to Co-op consent and/or New Store (£m) | Residual 2017 Turnover (£m) | Impact on Company Average Turnover |
|-------------------------------|--------------------------|-------------------------|--|-----------------------------------|---------------------------------------|
| Kyle Co-op | 5.8 | 5.4 | 0.9 | 4.9 | 9% |
| Broadford Co-op | 8.4 | 3.8 | 5.2 | 3.2 | 16% |
| Portree TC Co-op | 1.8 | 1.7 | 0.3 | 1.5 | 12% |
| Portree Dunv Rd Co-op | 17.6 | 8.9 | 10.1 | 7.5 | 16% |
| 12/04557/FUL Co-op consent | 10.4 | 10.4 | 10.4* | 0 | 100% |
| Other Floorspace | 4.53 | 4.13 | 0.2 | | |

* Diversion to New store only

It is accepted that a reduction of 20% or more on a store's company average turnover figure is sufficient to threaten its continued operation.

It can be seen from the table above that the proposed new store would render the convenience elements of the Co-op 12/03919/FUL consent unviable because 100% of their turnover would be diverted to the proposed new store. However, because it would be an out of centre facility, this would not be a planning policy or material consideration on the basis that planning policy only protects town centres from retail impact arising from new out-of-centre proposals. There would be an impact of 16% on the Dunvegan Road Co-op, although, again, as this is an out of centre facility it does not enjoy retail planning policy protection. The retail impact assessment considers that there would be impacts of 9%, 16% and 12% on the Co-op Kyle, Broadford and Portree Bank St. stores.

The objection from G.L.Hearn on behalf of the Co-op disputes this assessment on the basis that;

- it severely underestimates the proposed store's convenience turnover which, it is claimed, would be some £26.5m rather than the £17.8m quoted above
- it overestimates 2017 population figures
- it overestimates per capita expenditure
- it underestimates the impact of grocery deliveries to the island
- it overestimates tourist spending
- it overestimates the turnover of existing stores

As a result G.L.Hearn contend that the proposed store will have a turnover in excess of the available convenience spend available. The result of this will be much greater trade diversions than shown in the retail impact assessment with the Kyle Co-op suffering a 32% impact, the Broadford Co-op a 99% impact, the Portree Bank Street Co-op a 31% impact and the Dunvegan road main Co-op a 120% impact. Such large impacts, it is suggested by G.L.Hearn, would result in the closure of the Dunvegan Road and Broadford stores and a very significant impact on the Bank St and Kyle stores.

It is considered unlikely that the Kyle Co-op would contribute as much of the new store's turnover as G.L.Hearn allege, given the distance between Kyle and Portree. Similarly, the Broadford Co-op's core market is almost certainly the southern end of the Island, and G.L.Hearn's prediction that this store would contribute 28% of the proposed store's turnover is therefore considered unrealistically high. If G.L.Hearn are correct in their assumption that the proposed store would result in the closure of their Dunvegan Road store in Portree, then on their own figures this would release £7.5m of residual turnover into the catchment, some of which would be available to both their Portree town centre and Broadford stores. The Co-op town centre store in Portree primarily fulfils a top-up shopping role, and is therefore unlikely to suffer much competition from the proposed new store. From observations this store is very busy, particularly during the tourist season. Accordingly, it is considered that this small store is well placed to weather the effect of the proposed new store.

It is therefore considered unlikely that the application proposals would adversely affect the vitality and viability of any existing centre within the catchment area.

As described above, there is another current food supermarket proposal on the

northern outskirts of Portree which is also before members for consideration (ref. 14/01464/PIP, as listed above). The store proposed by application 14/01464/PIP is forecast by the applicant to have a convenience turnover of circa £19m in 2012 prices. Neither applicant has considered the issue of **cumulative retail impact** in respect of these two proposals, but it is necessary for members to consider the retail impact implications of these two proposals trading simultaneously.

If the two currently proposed foodstores were to trade simultaneously they would of course impact upon each other, and their forecast turnover levels would be suppressed. However, it is inevitable in this scenario that the existing convenience anchor stores in the town centres of Portree, Broadford and Kyle would experience additional trade diversion levels beyond those forecast in the table above. These additional levels of trade diversion would appear likely to adversely affect the viability of at least some of these anchor stores, with attendant impacts on the vitality and viability of their centres which are likely to be detrimental.

Accordingly, if members were minded to approve both this application and the other current supermarket proposal which is the subject of application 13/03976/PIP, then they are advised that there is not sufficient cumulative retail impact information to allow a decision to be made in this regard. Accordingly, it would be necessary to secure this information before a decision could be made to approve both applications, if the committee were so minded. A decision to approve both applications in the absence of this information would render both applications vulnerable to legal challenge as the decisions would not be based on an appropriate appraisal of their cumulative impact in policy terms. However, in the scenario of both current supermarket proposals trading, officers are of the opinion that the additional levels of trade diversion involved would appear likely to adversely affect the viability of at least some of these anchor stores, with attendant impacts on the vitality and viability of their centres which are likely to be detrimental. Accordingly, members must be advised that it is considered that both applications cannot be recommended for approval on this basis.

Transport Impact Assessment – the submitted transport assessment applies a standard methodology to assess whether or not the existing infrastructure (particularly road junctions) have the capacity to cope with the extra vehicle movements (620 two-way trips during the evening peak) generated by this proposal.

Its conclusions are that the existing road system has sufficient capacity without the need for any further mitigation or works and without any contribution made by the proposed link road. In their consultation response, Transport Scotland appear to agree with these conclusions - their only stipulation is that a condition requiring the submission and approval of a Travel Plan prior to occupation of the development, be included in any permission.

The response from the Council's Transport Planning Team also offers no objection, but states that various transportation matters require further consideration and should be specified by condition or included within a full planning application. These issues comprise pedestrian, public transport and cycle linkages, detailed layout of the access and car park, consideration as to whether local traffic calming is required, a Green Travel Plan, details of servicing arrangements, proposals for

traffic management during construction, and drainage details.

The Link Road – This Transport Planning Team response also refers to the objective of completing the link road between Dunvegan Road and the Staffin Road which is set out in the West Highlands & Islands Local Plan. It is accepted that the proposal can be adequately serviced by the existing trunk road and local road networks and completion of this link is not required for the development to function satisfactorily. While it would appear preferable from a transport viewpoint that this windfall development should make a contribution as a significant generator of traffic, it is acknowledged that there are policy issues which prevent such a contribution being sought.

Given the above transport assessment conclusions, the inclusion of the completing stretch of the Dunvegan Road-Staffin Road link road in this application is somewhat surprising. It is not required to mitigate the traffic impacts of this development. In fact, the transport assessment suggests that its completion might have a negative impact on the free-flow of traffic at the Bridge Road/Viewfield Road/Dunvegan Road junction.

Equally, it is not a general policy requirement for development proposals in this part of the village – only in respect of the H4 housing allocation is passed through. As the development plans consultation response makes clear, it is an ‘aspiration’ of the Council and has been included in the Local Plan as Objective 9.3 with the prospect of providing several positive improvements to the Portree road network as well as helping to open up further development land. However, its completion was estimated in 2010 to be likely to cost £1.1 million.

The applicant has explained the inclusion of the link road in this application on the basis that supermarket operators spoken to have indicated that, as a rule, they do not wish their premises to be located in any sort of a cul-de-sac situation in respect of the road network and prefer to take access from a through-route.

The Council has received a letter from solicitors acting on behalf of the owner of the land over which the link road would pass, stating categorically that no agreement exists between himself and the applicant to sell the land and that he has no intention of doing so.

The conclusion to all of the above is that the completion of the link road cannot be tied to the completion of this development by either a clause in a s.75 legal agreement or by a planning condition – it is not required to mitigate the impact of the proposal and so does not meet the tests set by Circulars 4/1998 or 3/2012. Given the high construction costs involved in building the road for any future developer of the supermarket and the apparent reluctance of the land owner to sell the land for this use, it is considered that the prospects for the actual construction of this element of the proposal are very doubtful.

Consequently, very little weight can be given to the inclusion of this element of the application in the planning assessment.

The Transport Planning Team response concludes with a recommendation that any future review of the Development Plan should include measures which ensure proportionate developer contributions from any schemes which take access from the existing and proposed link road towards its completion.

Croftland – the Crofting Commission have provided a general consultation

response. This development is not considered to be incompatible with the requirements of Policy 47 of the Highland-wide Local Development Plan in any way.

Archaeology – the team have requested that a condition requiring archaeological survey work to be carried out in advance of other works be attached to any permission. The previous works at Home Farm uncovered significant prehistoric finds and there is good reason to believe they may extend beneath this site also.

8.5 **Other Considerations – not material**

This application is not made by or on behalf of any particular supermarket operator.

8.6 **Matters to be secured by Section 75 Agreement**

Developer Contributions – the applicant has held a meeting with the Council's planning gain negotiator. The following four heads of term have been identified for inclusion within any s.75 agreement;

- Town Centre improvements to include shop-front refurbishment, street lighting, planting, surfacing etc.
- Public Transport contribution to meet the costs of extending the existing bus service to the site
- Green Infrastructure/Outdoor Access to meet the costs of extending footpath and cycle links between the site and the village centre
- Public Art either directly installed on site or through a financial contribution to the value of 1% of the capital budget of the project

9. **CONCLUSION**

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

10. **RECOMMENDATION**

Action required before decision issued N

Subject to the above, it is recommended the application be **Refused** for the following reasons for refusal:

1. The proposed development by virtue of its siting, orientation, physical and visual separation from the northern built development edge of Portree, fails to integrate with the village or represent a logical extension to it and appears as an incongruous addition to its landscape surroundings. As such the proposal fails to comply with the requirements of Policies 29 and 61 of the Highland-wide Local Development Plan.
2. The application presents insufficient information in respect of the quantity of peat to be removed as part of the development and the subsequent management of its deposition on adjacent land, to satisfy the planning authority that the development

will not cause unacceptable levels of peat disturbance and degradation. As such the proposal fails to comply with the requirements of Policy 55 of the Highland-wide Local Development Plan.

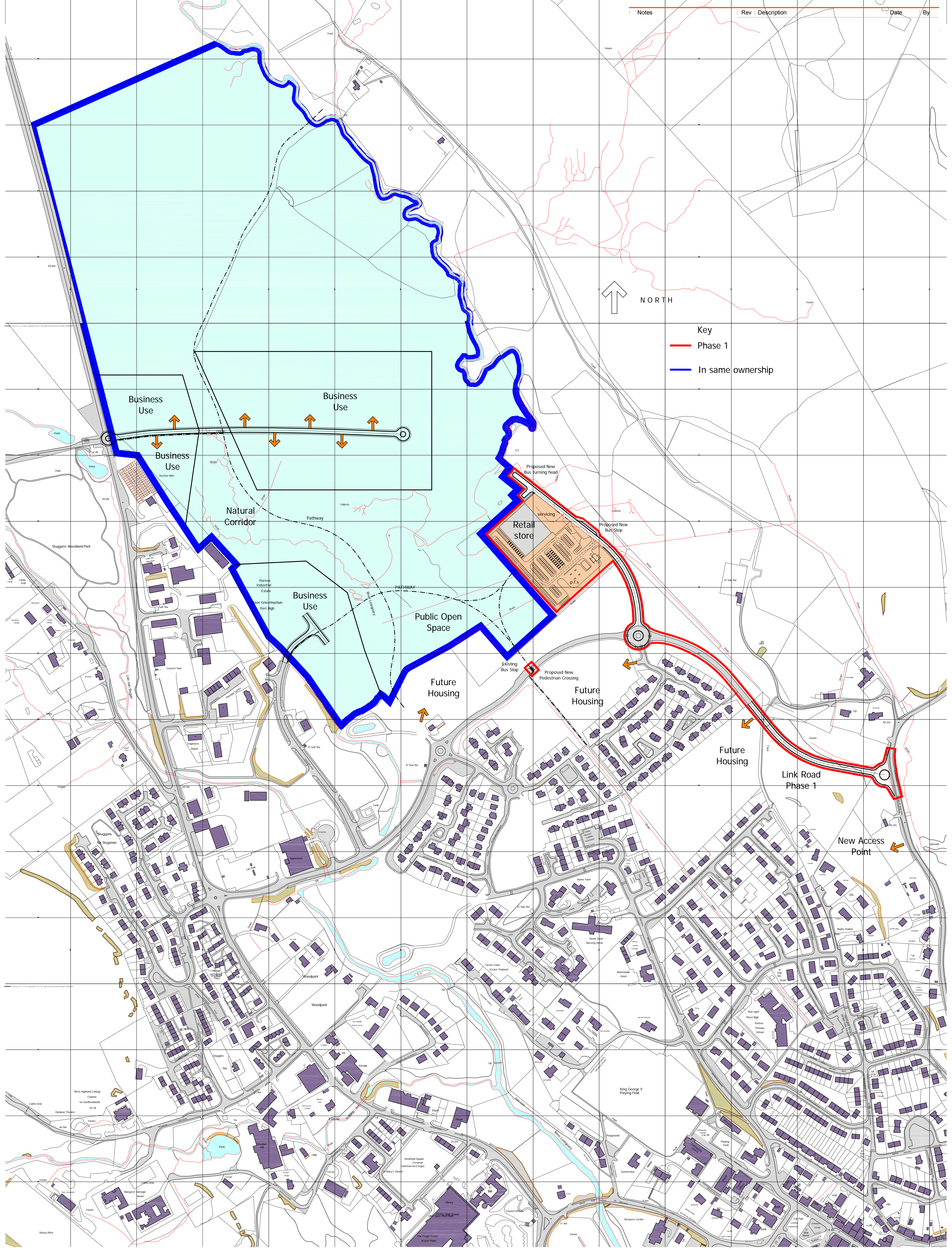
3. The application presents insufficient information in respect of the nature, extent and quality of the wetland ecology of both the application site and the area of adjacent land on which it is proposed to deposit surplus peat, to satisfy the planning authority that the development will not compromise the objectives of the Water Framework Directive and result in an unacceptably detrimental impact on the water environment. As such the proposal fails to comply with the requirements of Policy 63 of the Highland-wide Local Development Plan.
4. The application presents insufficient drainage impact assessment information in respect of the location, design, construction and operation of the SUDS detention basin to satisfy the planning authority that such a provision will function adequately and that its construction will not have a detrimental impact upon the peat and wetland ecology of the land adjacent to the site. As such the development fails to comply with the requirements of Policy 66 of the Highland-wide Local Development Plan.

Signature: Dafydd Jones
Designation: Area Planning Manager North
Author: Mark Harvey
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan PL-10 Rev. A

Appendix – Letters of Representation

| Name | Address | Date Received | For/Against |
|-----------------|---|-----------------------------|-------------|
| Mr Ian Murphy | 8 Storr Road, Portree | 20 Dec 2013 | For |
| Graeme Laing | GL Hearn Ltd, 16 Gordon Street, Glasgow (acting on behalf of Co-operative Group) | 9 Jan 2014 & 31 Jan 2014 | Against |
| Amanda Boswell | Coralach, Dunvegan | 17 Jan 2014 | Neither |
| Geoffrey Lake | Hawkhill, Carbostbeg, Carbost | 28 Jan 2014 | For |
| Mandy Jones | 5 Urquhart Court, Portree | 28 Jan 2014 | For |
| Alex Shanks | The Barn, 44 Bernisdale, Portree | 29 Jan 2014 | For |
| Sam Bell | Kilmuir House, Dunvegan | 29 Jan 2014 | For |
| Johnny Campbell | “Learg” 9 Linicro, Kilmuir | 30 Jan 2014 | For |
| Janet Gillies | 11 Glamaig Place, Portree | 30 Jan 2014 | For |
| David Hearn | Redcliff, Portree writing as Chair of the Portree and Braes Community Council | 31 Jan 2014 | For |
| Catriona Leslie | No address given | 5 Feb 2014 | Against |

| Notes | Rev | Description | Date | By |
|-------|-----|-------------|------|----|
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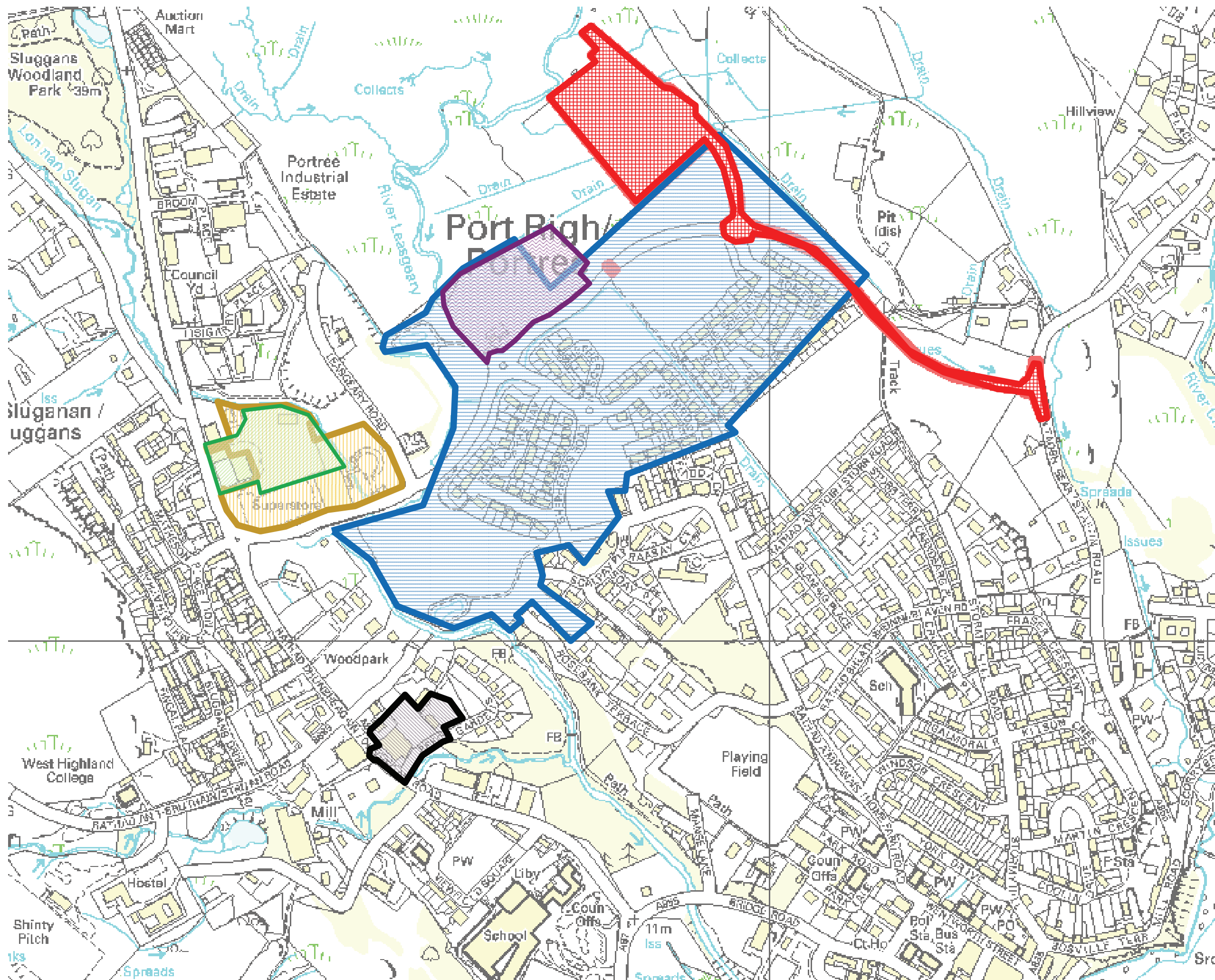
Key
 — Phase 1
 — In same ownership

This drawing is copyright. All dimensions and details are to be verified on site. Any discrepancies are to be notified to the Architect prior to work commencing. Do not scale from drawings.

| | | | |
|--------------|---|---------------|-----------|
| Content | Phase 1 (Supermarket) | | |
| Client | Oatridge Limited | | |
| Project | Home Farm, Portree, Mixed Use Development | | |
| Date | JUNE 2013 | Drawing Scale | 1:1000@A1 |
| Paper size | A1 | Drawn by | GG |
| | | Checked | AS |
| Project Code | 645 | Drawing No. | PL-10 |
| | | Revision | A |

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PLANNING

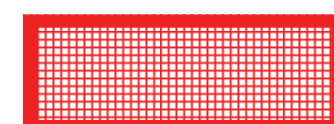


KEY

14/00464/PIP Rubicon Supermarket Proposal



13/03976/PIP Oatridge Supermarket Proposal



12/03919/FUL Extension to Co op Supermarket



07/00357/OUTSL Previous Oatridge Supermarket application



07/00212/FUL Lidl Supermarket



05/00116/FULSL Home Farm Housing Scheme



