

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE –  
25 June 2013

Agenda Item	5.7
Report No	PLS/039/13

12/04555/PIP: Inverness Estates Ltd  
Highlander Way, Inverness Retail and Business Park, Inverness

### Report by Head of Planning and Building Standards

#### SUMMARY

**Description:** Connectivity strategy for Inverness Retail, Business and Leisure Park, Stoneyfield Business Park and University Campus (Beechwood) and development of four Class 3/drive-through units.

**Recommendation:** GRANT Planning Permission in Principle

**Ward:** 18 – Culloden and Ardersier

**Development category:** Local Development

**Pre-determination hearing:** None

**Reason referred to Committee:** Managers discretion.

#### 1. PROPOSED DEVELOPMENT

- 1.1 This application for planning permission in principle relates to the development of a four Class 3 (restaurants) and a strategy for connecting to adjacent sites on 1.9 ha of the Inverness Retail and Business Park (IRBP).
- 1.2 The application is supported by indicative plans, a supporting statement (Appendix 2), including design statement, and a transport assessment relating the following proposed uses:
  - 330sqm drive-through restaurant (McDonalds);
  - 2 x 317sqm restaurants (Chiquito's, Frankie and Benny's)
  - 330sqm restaurant;
  - 121 parking spaces

## **2. SITE DESCRIPTION**

- 2.1 The application site, which extends to some 1.9 ha in area, is located east of the City, immediately south of the A96(T) within the existing Inverness Retail and Business Park (IRBP). Stoneyfield Business Park adjoins to the northwest boundary and to the west, on the opposite side of the railway, lies the UHI Campus at Beechwood. Access to the site is from the A96(T) through the existing internal road system within the IRBP and to an access point shown onto Eastfield Way just south of the existing roundabout. The main site is a level piece of land that has in recent times been used as an informal parking area. The other red line areas within the application, one on the west boundary and the other on the southwest boundary of IRBP, are small areas of land currently not in use.

## **3. PLANNING HISTORY**

### General

- 3.1 10.11.1994 – outline planning permission granted for mixed use development at Seafield Farm (IN/1994/711).
- 3.2 04.10.2011 – Committee minded to grant planning permission for 10,451m<sup>2</sup> bulky goods retail development subject to s75 legal agreement (08/00788/OUTIN).

### Specific to this site

- 3.3 04.10.2011 – Committee refused planning permission for mixed use development including restaurants, drive-through restaurants, a public house/restaurant and a motorist centre (10/02161/PIP).

23.12.2011 – Appeal lodged with DPEA.

31.05.2012 – Appeal Dismissed.

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised: 14.12.2012

Representation deadline: 11.01.2013

Timeous representations : 3 (2 in support, 1 against)

Late representations : 1 (against)

- 4.2 Material considerations raised against the proposal can be summarised as follows:

- Proposal not supported by the Highland wide Local Development Plan policy
- Site is identified as business/office use in the Inverness Local Plan
- Unnecessary concentration of Class 3 outlets in an out of town location
- No sequential assessment undertaken to justify out of town location
- Linkages proposed are 'aspirational' – relying on others to make the connections

- Trading conditions for restaurants and retail in town centre less favourable currently

4.3 Material considerations raised in support of the proposal can be summarised as follows:

- Creation of jobs
- Identified need in Inverness for the type of restaurants proposed
- The location is appropriate for the type of restaurants proposed

4.4 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](http://www.wam.highland.gov.uk/wam).

## 5. CONSULTATIONS

5.1 **TEC Services – Roads and Transportation** has no objection in principle to the development subject to conditions.

5.2 **TEC Services – Environmental Health** has no objection subject to conditions regarding waste, noise and cooking odours.

5.3 **TEC Services – Flood Team** has no objection subject to conditions relating to watercourse management and drainage arrangements.

5.4 **SEPA** has no objection subject to conditions requiring connection to the public sewerage system and the need for surface water to be treated using SUDS principles.

5.5 **Transport Scotland**: No objection.

5.6 **Scottish Water** advises that the waste water network that serves the proposed development may be able to accommodate the new demand.

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application:

### 6.1 Highland Wide Local Development Plan 2012

Policy 11	Inverness Retail and Business Park
Policy 28	Sustainable Design
Policy 29	Design Quality and Place-Making
Policy 31	Developer Contributions
Policy 40	Retail Development
Policy 64	Flood Risk
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

## 6.2 **Inverness Local Plan 2006 (as continued in force April 2012)**

Policy 7                Retailing (West Seafield)

Policy 9                Business (business/office/other compatible uses – West Seafield)

## 7. **OTHER MATERIAL CONSIDERATIONS**

### **Inner Moray Firth Local Plan – Main Issues Report**

- 7.1 The Inner Moray Firth Local Plan – Main Issues Report identifies the site as suitable for Business use. The current programme is for the proposed plan to be presented to the Planning, Europe and Development (PED) Committee in Autumn 2013.

### **Supplementary Planning Policy Guidance**

- 7.2 Developer Contributions Supplementary Guidance
- 7.3 Managing Waste in New Developments Supplementary Guidance
- 7.4 Flood Risk and Drainage Impact Assessment Supplementary Guidance

### **Scottish Government Planning Policy and Guidance**

- 7.5 Scottish Planning Policy (SPP)
- PAN 69 Flooding
  - PAN 78 Inclusive design
  - PAN 60 Planning for Natural Heritage
  - PAN 56 Planning for Noise
  - PAN 75 Planning for Transport
  - PAN 63 Waste Management
  - PAN 79 Water and Drainage
  - PAN 61 Planning and Sustainable Urban Drainage Systems
  - PAN 77 Designing Safer Places

## 8. **PLANNING APPRAISAL**

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

- 8.2 The determining issues are:

- do the proposals accord with the development plan?
- if the proposals do comply with the development plan are there any material consideration that indicate that they should not be granted?
- if the proposals do not comply with the development plan are there any material consideration that indicate that they should be granted?

8.3 To address the determining issues, the Committee must take into consideration:

- a) whether the principle of development is acceptable in policy terms;
- b) the impact upon existing transport infrastructure;
- c) the impact on drainage and flooding;
- d) the design and layout of the development, and;
- e) other matters raised in representations not considered above.

#### Policy

8.4 The site lies within a general area identified within the Highland wide Local Development Plan as Retail Park forming part of the proposed East Inverness expansion area. From a policy perspective support is given for further bulky goods retailing in the retail park location subject to a number of criteria including improvements to the internal road network as well as the access to the A96(T). Indeed, in October 2011 Committee took a decision to grant bulky goods retail development on that basis.

8.5 The specific site allocation for this application site is that set out in the adopted Inverness Local Plan (as continued in force). The Inverness Local Plan allocates the site for business/office uses. The principle of class 3 development in this location is therefore not supported through the current Local Plan. Members will be aware however that no development of the site for business has been forthcoming over the time that the Local Plan has been in place, and the review of the site allocation is currently being brought forward through the Inner Moray Firth Local Development Plan. Although the Main Issues Report did continue to highlight the potential of the site for business development, it is likely that the Members will be asked to support a mixed use allocation on the site when the Proposed Plan is presented to Committee in August 2013. Such an allocation would accommodate the current proposal.

8.6 It can be seen that the proposed uses do not sit comfortably with the land allocations within the development plan. It could be argued, as the applicant does, however that the proposed uses are complementary to the other uses within the IRBP, particularly the leisure uses that exist there. An emphasis within the applicant's supporting statement is placed on the changing context of the application site including matters such as proximity to emerging customer base at the Campus, the current low demand for business floor space and increased demand for leisure complement.

8.7 Representations received against the proposal point to conflict with the position of Scottish Planning Policy (SPP) and the development plan which support the role of the City centre. SPP confirms that town centres are a key element of the economic and social fabric of society and are the focus for a mix of uses including retail, leisure and entertainment. SPP advises that a sequential approach should be used when selecting locations for all retail and commercial leisure uses, the latter which includes restaurants. Preference is first given to the town centre, then edge of centre, other commercial centres identified in the development plan and only then out of centre locations.

- 8.8 Inverness has a range of sites in a range of areas that would be technically suitable for the type of use proposed. This is evidenced by the recent development of a drive-through KFC at Millburn and the vacant plots/buildings within defined District Centres / Retail Parks around the City, for example at Inshes and Telford Street. However, letters received by potential operators in support of the application highlight that the type of restaurant proposed within the application site is most suited to this location, that the restaurants proposed are not in themselves destinations but are complementary to the other uses within the retail/leisure park. The application site therefore suits the locational needs of the operators and town centre sites would not be appropriate in this case.
- 8.9 If this view of the target operator is accepted, the development is unlikely to compete with and therefore directly affect the vitality and viability of the town centre. It will however offer choice and competition within the out of centre leisure market. While SPP advises that significant changes in the evolving role and function of centres should be addressed through development plans rather than by individual applications, it is clear from the statements submitted that there is no demand for office space at this location. Given the current uncertainty in the retail sector it seems unlikely that there will be further retail demand within IRBP in the near future, even if that were accepted by policy.

#### Impact on transport infrastructure

- 8.10 The Transport Assessment identifies that the proposal does not in itself require significant modification of the road infrastructure within IRBP. The main modification would be an amendment to the internal roundabout/Highlander Way to facilitate a right turning lane into the application site.
- 8.11 Yet it is well known that the existing internal roundabout within IRBP is not currently adequate with congestion occurring at peak times. TEC Services has already secured some contributions from developers within IRPB to resolve the capacity issues but is not yet at a stage to implement a scheme. The work proposed essentially involves the redevelopment and widening of the roundabout to three lanes with extra slip lanes onto the A96(T).
- 8.12 In recognition of the need for improvement, which will in any case be required to provide future capacity for the 'bulky goods' site at the rear of the Retail and Business Park, the applicant is offering to both contribute towards and implement the required improvements as part of this application. This would ensure that all works are implemented in one stage. This offer can be secured by legal agreement.
- 8.13 In addition, the applicant sees the opportunity to facilitate connections beyond the site into Stoneyfield and the Campus. Three key opportunities are identified:
1. securing the servitude rights of access to connect the Campus' Scretan Bridge footpath into the IRBP network,
  2. securing the servitude rights of access to construct/operate the Campus public transport link across railway into IRBP, and
  3. provide a footpath link into Stoneyfield beside the Holiday Inn.

These are all in the interest of the proper planning of the area and serve a planning purpose. Currently, the retail park is “landlocked” from Stoneyfield and these accessibility improvements will provide enhance the cross-linkages in this area for residents, workers and visitors to these attractions.

- 8.14 Subject to conditions TEC Services – Roads and Transportation has no objection to the scheme. Transport Scotland has no objection.

#### Impact on drainage and flooding

- 8.15 The site is not known to flood but given the proximity to watercourses may be subject to flooding. TEC Services – Flood Team indicate that measures should be taken to avoid this. This can be controlled by condition.
- 8.16 The development is expected to utilise the public waste water system, which Scottish Water advises may have capacity. Subject to this connection being available SEPA has no objection.
- 8.17 Surface water treatment will be designed to SuDS principles. TEC Services require a Stage 2 Drainage Impact Assessment. These matters can be controlled by condition. Subject to SuDS, SEPA has no objection.

#### Design and layout

- 8.18 While this is an application for planning permission in principle, seeking approval in principle for the specified uses, an indicative layout and a design statement has been submitted in support of the application (Appendix 2).
- 8.19 The indicative plans and illustrations seek to give an indication of how the development might be laid out and how it might appear when built. The proposed layout demonstrates a clear desire to link with the existing leisure uses on Inverness Retail and Business Park. By linking directly by footpath to Stoneyfield there is intention to increase accessibility to this so called ‘leisure hub.’ The majority of the proposed buildings will be capable of having a defined street frontage and accessible from both the street and car park areas. While the existing leisure uses do not have particularly strong street presence with no direct frontage to Highlander Way, there is potential for this to change over time.
- 8.20 Although the detail will be for further application(s), if the principle is accepted, the drawings submitted indicate that the site is of a scale that would be capable of accommodating the desired floor space.
- 8.21 In addition to signposting the entrance to the application site, following the works to the roundabout, the applicant proposes to improve and further define the entrance to IRBP that falls within their ownership. This is proposed to involve construction of a low level stone wall and provide an opportunity for public art.

### Other material considerations

- 8.22 The previous appeal and subsequent dismissal (albeit of a larger proposal, which did contain a retail element) is clearly an important material consideration for Members to consider when weighing up this current proposal (Appendix 3).
- 8.23 The supporting statement submitted by the applicant does deal with a number of the other issues which the Reporter took into account in that appeal. In particular, evidence is provided on the lack of interest in developing the site for business uses by professional surveyors and by Highlands & Islands Enterprise.
- 8.24 In addition, much more emphasis has been placed on the design elements of the scheme and the opportunity there is to open up accessibility between the various leisure hubs and the campus in this particular area. The retail park and the related leisure use contained within it already act as a major attractor in Inverness. The role of the campus is important. The site is developing and there will be clear links between the leisure facilities at Stoneyfield and the retail park as and when the linkages to the campus are put in place. Additional restaurant facilities will add to the offer available to the student population and any other associated business developments on the Enterprise Area sites.
- 8.25 Clearly the potential impact on city centre businesses is an important matter to take into account. The applicant has sought to provide evidence that such restaurant uses are compatible with existing city centre restaurants. Similarly the potential operators themselves have sought to make the same point. It is clear that as Inverness expands there will continue to be demand for both city centre facilities and those on the outskirts. There is a balance between city centre and out of centre restaurant provision. In this instance, the development of the hub at the retail park, combined with the accessibility improvements to open up access to it from the surrounding areas will help provide a complimentary provision for existing and future residents, workers and visitors.

## **9. CONCLUSION**

- 9.1 The proposal does not comply with the land allocation set out within the development plan which is for office/business use. Yet it is clear from the statements submitted in support of the application that there is no demand for office development at this location, either at the current time or is there likely to be in the near future. While at an early stage and therefore of limited weight the more mixed use allocation likely to be promoted through the forthcoming Inner Moray Firth Local Development Plan would appear to support this.
- 9.2 While individual applications should not normally come ahead of development plan policy, there is particular merit in the compatibility arguments advanced by the applicant. Inverness Retail and Business Park is not well served by restaurants, particularly those associated with similar leisure and retail parks. It is evident from the statements submitted by operators that there is demand for the type of restaurant they operate and that this type of location fits with their business model. These restaurants are not viewed as destinations in their own right but are dependent upon the other uses for trade. They would not normally be located



within town or city centres.

- 9.3 The development proposed would therefore offer choice but not necessarily at the expense of the city centre. The indicative layout and design statement add weight to this argument by strengthening the links between the application site, the existing leisure uses within IRBP and neighbouring sites, particularly the adjacent Campus. The proposal also brings with it employment opportunities.
- 9.4 In the interest of the proper planning of the area, the applicant is willing to bring forward the necessary improvements to the IRBP internal road network and connections into neighbouring land in advance of having an operator in place for the bulky goods development proposed under application 08/00788/OUTIN. Given the current state of the retail market this is welcomed.
- 9.5 These material considerations are considered to outweigh the existing development plan land allocation for the site.

## 10. RECOMMENDATION

It is recommended the application be **GRANTED** subject to:

**A:** The prior conclusion of a s75 legal agreement to cover the following matters:

1. The reservation and provision of land for the routeing of the Inverness Campus Bridge Landfall and Link Road, and the nature of user of that i.e. use for buses, pedestrians and cycles, not general road access;
2. The reservation for pedestrian/cycleway link from Scretan Bridge through HIE Land to the existing IRBP Road Network; provision for possible future widening of this link to incorporate road link to be addressed;
3. Application of existing developer contributions towards access improvement works (third land of roundabout/slip road link to A96(T) westbound – Tesco Extension/JJB Sports.

The conclusion of which shall be not later than three months from the date of the Committee decision failing which Committee shall give delegated authority to the Head of Planning and Building Standards to refuse the application on the basis that the justification for the proposals are largely dependent upon such linkages being established.

**B:** The following conditions:

1. A further application, (or applications), for the approval of matters specified in this condition must be made. These matters specified are:
  - a) A 'masterplan' for the development area shall be submitted for the prior written approval of the planning authority in advance of any subsequent matters specified by condition. The masterplan shall include a detailed layout of the site including - plot boundaries, proposed uses, means of access and servicing, car parking, a landscape framework showing existing and proposed landscaping, principal infrastructure provision and the proposed phasing of development plots.

b) Following the submission of the masterplan specified in condition 2a, design guidelines shall be submitted for the written approval of the Council. The design guidelines shall include the following:-

- Design principles applicable to the entire development
- Design principles for adopted roads and other public routes
- General soft and hard landscaping
- Sustainable design considerations including use of solar gain design, solar energy use, grey water recycling and rain water harvesting, external lighting to minimise sky glow, and energy conservation generally
- Boundary treatments including those proposed at the entrance to the Business and Leisure Park and their implementation
- Public Art and its implementation

c) following submission of details required by conditions 2a and 2b the further detailed matters specified by this condition will include detailed plans, sections and elevations of the siting, design and external appearance of all buildings and other structures. The development shall follow the general principles set out in the masterplan and design guidelines.

**Reason:** To accord with the provisions of the Town and Country Planning (Scotland) Acts because this planning permission is in principle only and the layout details (which were submitted for indicative purposes only) are required to be revised to conform with the terms of this permission.

2. Any details pursuant to condition 1(a) and (b) above shall include a detailed Landscape Plan and Maintenance Programme. The Landscape Plan shall be implemented in full during the first planting season following commencement of development, with maintenance thereafter being carried out in accordance with the Maintenance Programme. For the avoidance of doubt, any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason:** In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

3. No development shall commence until a Travel Plan, which sets out proposals for reducing dependency on the private car, has been submitted to, and approved in writing by, the Planning Authority. The Travel Plan shall include:

- i. Measures for extending and/or increasing the frequency of the existing local bus services(s) and associated financial contributions;
- ii. Details for the management, monitoring, review and reporting of these measures; and
- iii. Details of the duration of the Travel Plan.

The approved Travel Plan shall thereafter be implemented from the date of first occupation of any part of the development.

**Reason:** In order to reduce dependency on the private car and to encourage greater use of public transport in particular.

4. No development shall commence on site until a fully dimensioned car park layout and Parking Management Plan has been submitted to, and approved in writing by, the Planning Authority. The car parking layout shall comply with Highland Council guidelines for dimensions of and setting out of parking bays and aisles. The parking management plan shall include signage, specific provision for short-stay parking, management of staff parking and other parking control measures. The agreed proposals shall be implemented upon first occupation of the development.

**Reason:** To ensure that the car parking provided is used in an effective and appropriate manner.

5. No development shall commence on site until a construction phase Traffic Management Plan (including a routing plan for construction vehicles) has been submitted to, and approved in writing by, the Planning Authority. The approved traffic management plan shall be implemented prior to development commencing and remain in place until the development is complete.

**Reason:** In order to ensure the safety and free flow of traffic on the public road.

6. No development shall commence until details of the provision of 2 no. pedestrian/cycle crossing points along Eastfield Way have been submitted to, and approved in writing by, the Planning Authority. The crossings shall be designed to the satisfaction of Highland Council and constructed before first occupation of the development.

**Reason:** In the interest of pedestrian safety.

7. No development shall commence until full details of any external lighting to be used within the site and/or along its boundaries and/or access have been submitted to, and approved in writing by, the Planning Authority. Such details shall include full details of the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any direct illumination, glare or light spillage outwith the site boundary. Thereafter only the approved details shall be implemented.

**Reason:** In order to ensure that any lighting installed within the application site does not spill beyond the intended target area, does not impact adversely upon the amenity of adjacent properties and does not result in 'sky glow'.

8. No development shall commence on site until a Site Waste Management Plan shall be submitted to and agreed in writing by the Planning Authority. This plan shall detail the measures for minimising waste production and managing waste generation during the construction and operational stage of development. The plan shall thereafter be implemented in accordance with an agreed timetable throughout the construction and operational phases of the development hereby approved.

**Reason:** In the interests of amenity and manage and reduce waste production.

9. No development shall commence on site until a scheme for the storage of refuse and recycling within the application site in accordance with the Council's Managing Waste in New Developments Supplementary Guidance has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented prior to the first use of the development and thereafter maintained in perpetuity.

**Reason:** To ensure that waste on the site is managed in a sustainable manner in accordance with the Managing Waste in New Developments Supplementary Guidance.

10. All plant, machinery and equipment associated with ventilation, air-conditioning, heating and refrigeration services or similar and including fans, ducting and external openings shall be so installed, maintained and operated such that any associated operating noise does not exceed NR 20 when measured or calculated within any noise-sensitive premises with windows open for ventilation purposes. For the purposes of this condition, "noise-sensitive premises" includes, but is not necessarily limited to, any building, structure or other development the lawful use of which a) falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat or static residential caravan.

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

11. No development shall commence on any building until full details of all external ducting and other elements of the proposed ventilation system have been submitted to, and approved in writing by, the Planning Authority. Thereafter, development shall progress in accordance with these approved details.

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

12. No development or work (incl. site clearance) shall commence on site until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

**Reason:** In order to protect the archaeological and historic interest of the site.

13. No development shall commence on site until a comprehensive Drainage Impact Assessment (Level 2), as outlined within the Council's Flood Risk and Drainage Impact Assessment Supplementary Guidance, has been undertaken and submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. Any mitigation measures identified within the Drainage Impact Assessment shall be completed in full prior to the occupation of any building.

**Reason:** In order to properly consider water quantity and quality in accordance with the Flood Risk and Drainage Impact Assessment Supplementary Guidance.

14. No development shall commence on site until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

**Reason:** To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

15. No development shall commence until a Foul Drainage Scheme has been submitted to, and approved in writing by, the Planning Authority. The scheme shall address the following matters:

i. Details of the temporary private wastewater drainage system to serve the development;

ii. Proposals for making a connection to the public sewerage network as soon as such a connection is available; and

iii. A decommissioning and restoration plan for the removal of the temporary drainage system when connection to the public sewerage network has been made.

Thereafter, the approved Foul Drainage Scheme shall be implemented in accordance with the timescales outlined therein. For the avoidance of doubt, any private foul drainage system permitted is done so as a temporary measure only.

**Reason:** In order to ensure that private foul drainage infrastructure is suitably catered for, in the interests of public health and environmental protection.

16. No development shall commence on site until a comprehensive Flood Risk Assessment has been undertaken and submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. Any mitigation measures identified within the Flood Risk Assessment shall be completed in full prior to the occupation of any building.

**Reason:** To ensure that all flood mitigation infrastructure, required in order to reduce the risk of flooding occurring both within and outwith the application site, is provided timeously.

17. Minimum finished floor levels of 300mm above surrounding ground levels should be applied to all buildings to protect against any potential residual flood risk associated with surface water sources.

**Reason:** In the interests of reducing the risk of flooding.

18. No culverts shall be used to create crossings of the Dell Burn.

**Reason:** In the interests of protecting the water environment and reducing the risk of flooding.

19. No development shall commence on site a Badger Protection Plan shall be submitted to and agreed in writing by the Planning Authority in consultation with Scottish Natural Heritage. The agreed plan shall be implemented.

**Reason:** To protect the natural heritage of the area.

20. Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development shall take place within 6 metres of any watercourse without planning permission being granted on application to the Planning Authority.

**Reason:** To ensure that development which is normally permissible without the need for a planning application is carefully managed and does not encroach onto riparian buffer strips. Such buffers strips are required a) for the maintenance of watercourses within the application site, b) to account for natural watercourse migration, and c) in order to safeguard property from flood risk.

21. No part of the development shall be occupied until a 3m wide combined pedestrian/cycle link (identified as Link 1 on Plan 121071A) , including the required bridge, designed to connect the site with Stoneyfield Business Park has been implemented to the satisfaction of the Planning Authority to a standard capable of adoption.

**Reason:** To improve pedestrian access to and from the development and wider Business park.

## **REASON FOR DECISION**

While the proposal is contrary to the land use allocation of the development plan, material considerations - such as the lack of interest in the site for business use, the compatibility with existing uses within the Business Park, the type of development proposed and the role it has within the development of the wider East Inverness area - indicate that it can be supported.

## **TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE**

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i. The expiration of THREE YEARS from the date on this decision notice;
- ii. The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained)., whichever is the later. If development has not commenced within this period, then this planning permission in principle shall lapse.

Signature:

Designation: Head of Planning and Building Standards

Author: David Mudie (01463) 702255

Background Papers: Documents referred to in report and in case file.

## Appendix 1 – Letters of Representation

Name	Address	Date Received	For/Against
MacDonald's Restaurants Ltd	11-59 High Road, East Finchley, London, N2 8AW	12.12.2012	For
The Restaurant Group Ltd	5-7 Marshalsea Road, London SE1 1EP	12.12.2012	For
Caspian UK (on behalf of Burger King)	The Cedars, 2 High Street, Bagshot Surrey GU19 5AE	11.01.2013	Against
Inverness BID	111 Academy Street, Inverness IV1 1LX	25.01.2013	Against