

Directorate for Planning and Environmental Appeals

Appeal Decision Notice

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Decision by Michael J P Cunliffe, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2094
- Site address: Land west of Inverness Retail and Business Park, Highlander Way, Inverness
- Appeal by Inverness Estates Ltd against the decision by The Highland Council
- Application for planning permission in principle 12/04555/PIP dated 30 November 2012 refused by notice dated 15 July 2013
- The development proposed: Connectivity strategy for Inverness Retail, Business & Leisure Park, Stoneyfield Business Park and University Campus (Beechwood), and development of four Class 3/ drive-through units
- Date of site visit by Reporter: 11 December 2013

Date of appeal decision: 30 December 2013

Decision

I dismiss the appeal and refuse planning permission in principle.

Reasoning

1. The determining issues in this appeal are the compatibility of the proposed development with the development plan, the potential effects of the Class 3/ drive-through units on the vitality and viability of the city centre, and whether there are any material considerations that would justify a departure from the development plan allocation.

Site and proposed development

2. The appeal site extends to about 1.9 hectares and is located east of the city, immediately south of the A96(T) within the existing Inverness Retail and Business Park (IRBP). Stoneyfield Business Park lies to the northwest, while to the west, on the opposite side of the railway, lies the University of the Highlands and Islands campus at Beechwood. Access to the site is from the A96 through the existing internal road system of the IRBP. The main site is a level piece of ground partly used as an informal parking area, while the remainder is rough grassland. The appeal relates to the development (in principle) of four Class 3 (restaurant) units, one of them a drive-through unit, associated car parking

(121 spaces) and a strategy for connecting to the adjacent sites at Stoneyfield and Beechwood.

The development plan

3. The development plan comprises the Inverness Local Plan 2006 and the Highland-wide Local Plan 2012. The appeal site is shown in the 2006 plan as allocated for business use. The proposals map of the 2012 plan additionally shows the site, along with other parts of the IRBP, as suitable for bulky goods retailing. The appeal proposal for restaurant use therefore does not accord with the development plan.

4. The 2012 plan seeks to strengthen the vitality and viability of Inverness city centre. Policy 40 applies a sequential approach to retail development, in which city centre and edge-of-centre locations are considered ahead of out-of-centre locations. The latter will be supported only where there would be no detrimental impact on the vitality and viability of the city centre. The policy does not explicitly apply to restaurants, but I consider that the general thrust of the plan is to encourage a similar approach.

The emerging development plan

5. The Inner Moray Firth Proposed Local Development Plan (LDP) was published in November 2013. The proposed plan maintains the allocation of the appeal site for business use (IN85). At the time the appeal was lodged, there had been indications that the site could be allocated for mixed use, and this formed an important part of the appellant's case. In the event, however, the council decided not to change the allocation.

Potential effects on the city centre

6. Both the Highland-wide Local Plan and the Scottish Planning Policy (SPP) strongly support the continued vitality and viability of town and city centres. The SPP (paragraph 62) requires a sequential approach when selecting locations for all retail and commercial leisure uses unless the development plan identifies an exception. The appellant argues that the types of restaurant envisaged for the appeal site are not of a kind that would normally locate in a city centre. They are not destinations in their own right, but rather are complementary to existing uses at IRBP including the cinema, sports facilities and shops. They would also be conveniently located for students and staff using the Beechwood campus. Letters of support from operators indicate that there is demand for such development and that it could happily co-exist with city centre provision.

7. Once planning permission in principle is granted, however, it would be difficult to control the type of restaurants on the appeal site. Class 3 of the Use Classes Order would allow 'destination' restaurants as well as 'complementary' ones. I have not been presented with any analysis of the likely effects of the appeal proposals on the city centre. In January 2011 there were 72 restaurants, cafes and fast food outlets in the city centre. However, size is an issue and the proposed units (two of 371 square metres and two of 330 square metres) seem to me likely to be bigger than most city centre facilities.

8. I accept that there would be a local market for the proposed units (shoppers, cinema-goers and students) that would be different from that in the city centre, though I consider there would be a degree of overlap and that some restaurant trade would be displaced from the city centre if the appeal were allowed. I have no means of judging the extent of that displacement, but I cannot conclude that it would be insignificant. On that basis, there would be some adverse effect on the vitality and viability of the city centre. The estimated 200 new jobs on the appeal site are unlikely all to be net additional, as I would expect there to be some offsetting losses elsewhere. Again, I do not have the information to assess the extent of these.

Other material considerations

9. There is evidence, including a letter from Highlands and Islands Enterprise, indicating a lack of demand for business development on the site. Insofar as there is demand for new offices in the Inverness area, there are other more attractive sites available (such as that adjoining the airport). However, the council has recently reaffirmed the allocation of the appeal site for business use in the proposed LDP. The proper place to debate the realism of that allocation is through the LDP process rather than through a planning appeal.

10. The appeal proposals include improvements in connectivity through road and footpath links to Stoneyfield and Beechwood and an enlarged roundabout where traffic enters the IRBP. These improvements could be pursued independently of the Class 3 element of the proposals, though I accept that they would be unlikely to materialise without some development gain or public funding. However, I do not consider that the strength or urgency of the need for these improvements is sufficient to justify a departure from the development plan or the potential risk to the city centre.

11. Representations have been made in support of the proposal by restaurant operators seeking to locate on the appeal site, including some who have existing city centre outlets which they consider serve a different market. Objections were received from the Inverness Business Improvement District representing city centre businesses, and from an existing operator at IRBP. The balance of these supports my view that while there is a local market at IRBP, some displacement from the city centre is likely.

Conclusion

12. I conclude that the proposed development would not be in accordance with the development plan. While it would provide some benefits for the IRBP and its users, and improvements to connectivity, there are likely to be some adverse effects on the city centre. I am not persuaded that the material considerations which support the appeal are sufficient to outweigh the development plan.

Michael J P Cunliffe

Reporter