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Your ref: FL/SV8075/26
Our ref: PPA/270/459
18 January 2008

Dear Sirs

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
PLANNING APPEAL: PROPOSED FOODSTORE AT AUCTION MART SITE, ORMLIE
ROAD, THURSO**

1. This letter contains the Scottish Ministers' decision on the appeal, lodged on behalf of your clients, Miller Developments Ltd, against The Highland Council's non-determination (deemed refusal) of an outline planning application for the demolition of the existing buildings and the erection of a retail store, petrol filling station, housing, parking, landscaping and associated works at Thurso Auction Mart, Ormlie Road, Thurso.
2. Under the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1987, as amended, the appeal came into a class to be determined by a person appointed by the Scottish Ministers, rather than by Ministers themselves. However, in exercise of the powers under paragraph 3(1) of Schedule 4 to the Town and Country Planning (Scotland) Act 1997, the Scottish Ministers directed, on 18 April 2007 that they would determine the appeal. This was so that the appeal could be considered jointly with another retail application in the surrounding area which was to be determined by Scottish Ministers.
3. The appeal was thereafter considered at a conjoined public local inquiry held between 7 and 22 August 2007, by Mrs Jill Moody DipTP MRTPI. A copy of the report by Mrs Moody is enclosed for your information.
4. A list of the parties who appeared at the conjoined inquiry is given at Appendix 1 to the report. Chapters 1 and 2 of the report describe the appeal site, its surroundings, planning history and the relevant national and development plan policies.

Evidence at the Inquiry

5. At Chapter 3 the Reporter summarises the arguments advanced by your clients Miller Developments Ltd, Asda Stores Ltd, The Highland Council and third parties. The Reporter's findings of fact are contained in Chapter 4 under that heading.

The Reporter's Consideration

6. The Reporter's reasoning, conclusions and recommendation that the appeal be upheld and outline planning permission be granted subject to conditions, are contained between pages 87 and 91 of the report.

The Scottish Ministers' Decision

7. The Scottish Ministers have carefully considered all the evidence presented at the inquiry, written representations, the Reporter's findings of fact and conclusions and her reasoning and recommendation thereon. They accept the Reporter's findings, agree with her reasoning and conclusions and adopt them for the purposes of their own decision, and accept the Report's recommendation that outline planning permission should be granted, subject to conditions.

8. Accordingly, the Scottish Ministers hereby uphold the appeal by Miller Developments Ltd and grant outline planning permission for the erection of a retail unit and associated works at Thurso Auction Mart, Ormlie Road, Thurso subject to the conditions contained in the attached Annex. This letter constitutes their decision to that effect.

9. The foregoing decision of the Scottish Ministers is final, subject to the right, conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997, of any person aggrieved by this decision to apply to the Court of Session within 6 weeks of the date hereof. On any such application the Court may quash the decision, if satisfied that it is not within the powers of the Act, or that the appellants interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or of any orders, regulations or rules made under these Acts.

10. Copies of this letter and of the public local inquiry report have been sent to The Highland Council and to all other parties who appeared at the public local inquiry.

11. The productions submitted to the inquiry are currently held in this office. If any parties wish to collect their productions they should contact this office to make the necessary arrangements after the 6 week appeal period mentioned above has elapsed. If not collected, they will be disposed of after 3 months.

Yours faithfully

J E SWANNEY

CONDITIONS TO BE ATTACHED TO THE GRANT OF OUTLINE PLANNING PERMISSION FOR THE DEMOLITION OF THE EXISTING BUILDINGS AND THE ERECTION OF A RETAIL STORE, PETROL FILLING STATION, HOUSING, PARKING, LANDSCAPING AND ASSOCIATED WORKS AT THURSO AUCTION MART, ORMLIE ROAD, THURSO.

1. No permission is hereby granted for the indicative site layout submitted with the application.

Reason: for the avoidance of doubt, because the application is in outline only and to clarify the terms of the permission hereby granted.

2. Before development starts on site, written approval must be obtained from the planning authority for details of the siting, design, height and external appearance of all buildings, the means of access thereto, and proposals for the laying out and maintenance of hard and soft landscaping on the site. Collectively these details are known as reserved matters, and plans and particulars of them must be submitted to the planning authority for consideration within 3 years of the date of this permission. As a matter of principle, the detailed plans must show that the proposed housing and the supermarket comprise a fully linked and properly integrated development. Otherwise, the development hereby permitted must start within 5 years of the date of this permission, or within 2 years from the date of written approval of the planning authority of the last reserved matter.

Reason: because the application is in outline and no such details have been submitted, to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, and to secure an acceptable standard of development to suit the surroundings.

3. The application for approval of the reserved access matters will incorporate the provisions of the JMP Consulting, Transport Assessment dated 18.12.06, in accordance with the Highland Council Road Guidelines for New Developments, including in particular:

- a) a new footway along the western side of Ormlie Road;
- b) adequate visibility at the site entrances;
- c) an off-road footpath/cycle path from the development to the adjoining proposed housing;
- d) a bus stop and lay by on Ormlie Road directly to the west of the site;
- e) provision for cycle and pedestrian access to the site and for cycle parking;
- f) bus shelters on Ormlie Road;
- g) a pedestrian 'Puffin crossing on Ormlie Road;
- h) road safety improvements at the Lovers Lane and Ormlie Road junction; and
- h) a Microprocessor Optimised Vehicle Actuation Signal Control System installation at the existing Sir George's Street/Traill Street A9 (T)/Sinclair Street 4-arm signalised junction.

Reason: to make sure that: traffic safety will not be diminished; that adequate provision will be made for pedestrians and cyclists; and the safety and free flow of traffic will not be interrupted, all in the interests of maintaining road safety and efficiency on the trunk road.

4. Once approved, the landscaping reserved matters shall be implemented fully within 6 months of the commencement of either trading from the supermarket or occupation of the first house, whichever is the sooner. Thereafter, the landscaping shall be maintained to the satisfaction of the planning authority, but it will include the replacement of any plant stock

that fails to survive, for whatever reason, as often as is required to ensure that the approved landscaping scheme establishes.

Reason: to make sure that a high standard of landscaping is achieved, in the interests of amenity.

5. Before any development starts on site, written approval must also be obtained from the planning authority for:

- a) the design and appearance of boundary enclosures and treatments;
- b) the design and siting of infrastructure for sustainability, which should include:
 - wind power or solar energy or ground heat exchange pumps
 - the use of "grey water" for toilet flushing, vehicle washing and similar uses.
 - the use of wood fuel where possible
 - heat recycling and ventilation
 - measures for energy efficiency
 - materials minimisation, composting and recycling;
- c) a detailed specification, including samples and trade names, of all proposed external materials;
- d) the means of sourcing all materials locally;
- e) all external lighting; and
- f) a detailed sustainable urban drainage scheme designed to protect public safety and to accord with the CIRIA design manual.

Thereafter, only those details as may be approved will be implemented on site, and all before the supermarket hereby approved begins trading.

Reason: because the application is in outline only and no such details have been submitted, for the avoidance of doubt, to ensure compliance with sustainability policies, in the interests of amenity, and to make sure that drivers will not be distracted.

6. No development will start on site until a water and drainage scheme is agreed with Scottish Water and until that agreement is confirmed in writing to the planning authority. The scheme will make sure that development areas that might suffer polluting activities like the petrol station and delivery bays, plus the skip, yard, pressure washing, and fuelling areas, are all connected to full retention oil interceptors before discharging to the foul sewer.

Reason: to reduce pollution and to make sure that the site is serviced adequately.

7. The gross retail floor space of the supermarket hereby approved shall be limited to a maximum of 2896 square metres. The net retail floorspace of the supermarket shall be allocated as 70% convenience goods and 30% comparison goods, and the construction of any mezzanine floor will require formal planning permission.

Reason: as proposed, to accord with development plan policy, to ensure that the development operates primarily as a food retail outlet, and to make sure that any change in the balance or extension of that floorspace does not occur without the necessary related access and car parking improvements.

8. Before development starts on site, including any demolition, a programme for the preservation and recording of any archaeological features affected by the proposed development, including a timetable for investigation, shall be submitted for the written approval of the planning authority. Once approved, the scheme shall be implemented in accordance with the approved timetable for investigation and a photographic record shall be made of the remains of old buildings and other affected features.

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

9. Before any development starts on site, existing and proposed cross-sectional details through the site showing existing ground levels and finished ground and floor levels shall be submitted for the written approval of the planning authority. The scheme will show that cut and fill site engineering work is minimised, to make sure as far as is practicable, that it does not exceed 2 metres from existing ground level.

Reason: to ensure that the proposed development relates satisfactorily to existing topography.

10. Before any development starts on site, a scheme for the treatment of potential on-site contamination shall be submitted for the written approval of the planning authority. The scheme will include:

- a) an assessment of the nature, extent and type of contamination on site, identification of pollutant linkages and assessment of risk in accordance with Planning Advice Note 33 (2000) and BS10175:2001;
 - b) a remedial strategy to treat/remove contamination, to include a method statement, programme of works, proposed verification plan;
 - b) proposals for the ongoing monitoring of the condition of the site; and
 - c) a validation report for remedial action by a competent person who will verify that work has been completed to a satisfactory and an approved standard.
- The scheme will then be implemented as approved.

Reason: to ensure that the site is fit for the uses proposed, to ensure that land contamination is treated properly, to avoid harming public health, and in the interests of amenity.

11. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with International Standards Organisation (I.S.O.) Noise Rating 25 (NR25) when measured and/or calculated within any nearby living apartment, and no structure borne vibration shall be perceptible within any nearby living apartment.

Reason: to protect the nearby residents from any nuisance from noise or vibration.

12. Within 3 months of the completion of the supermarket hereby approved a comprehensive Travel Plan, generally in accordance with the framework set out in the Transport Assessment by JMP Consulting dated 18.12.07, shall be submitted for the written approval of the planning authority. In particular, the Travel Plan will incorporate measures to be implemented, the system of management, monitoring, review, reporting, the duration of the plan, and measures to encourage the use of transport modes other than the private car.

Reason: to accord with Scottish Planning Policy 17 and Planning Advice Note 57.