

THE HIGHLAND COUNCIL
CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING
APPLICATIONS AND REVIEW COMMITTEE –
23 September 2008

Agenda Item	5.4
Report No	52/08

08/00277/FULCA – Removal of condition 10 from planning consent 05/00073/FULCA being for the erection of a Class 1 retail development with associated access roads/car parking, landscaping and ancillary works and facilities on land to the south of Aikerness, Wick, Caithness.

Report by Area Planning and Building Standards Manager

SUMMARY

Planning permission for the erection of a Class 1 retail development together with associated access roads/car parking, landscaping, ancillary works and facilities was granted under Reference 05/00073/FULCA by the Caithness, Sutherland and Easter Ross Planning Applications and Review Committee on 20 November 2007. The Committee in granting the application attached a condition to the consent which reads that “Prior to the commencement of development, details of an alternative access for construction traffic, that avoids the use of the existing access to the adjacent Tesco store, shall be submitted to and agreed in writing by the Council. The agreed access arrangements shall be made available from commencement of works and maintained thereafter until occupation of the last building completed.” This application seeks removal of that condition. The Area Roads and Community Works Manager has been consulted and has no objections to the removal of the condition.

The Recommendation is to GRANT planning permission.

Ward Number 3 – Wick

Applicant – Scapa Properties Ltd and Highlands and Islands Airports Ltd., per James Barr Ltd., 226 West George Street, Glasgow, G2 2LN.

1. BACKGROUND

- 1.1 A planning application for a Class 1 retail development was submitted by Scapa Properties Ltd on 25 February, 2005. The land involved lies to the north-west of the Tesco store adjacent to Wick Airport. That application was reported to the Planning Committee which met on 20 November, 2007 and Committee agreed to grant planning permission subject to 16 conditions. Members will be aware that access into this site will be via the same access from the A99 which services the Tesco store. Currently the vehicular access is from the A99 to a mini roundabout the right turn of which leads to the Tesco superstore and there is a spur to the left which would facilitate access to this site.

- 1.2 Committee considered that it would be preferable that construction traffic does not use this dual access but instead takes some form of individual access from the A99 during the construction phase.
- 1.3 The applicant does not agree that a separate access from the A99 needs to be formed during the construction phase and a reasoned explanation of this argument is provided in the attached letter from the applicant's consultant James Barr Ltd.

2. CONSIDERATION

- 2.1 This application has been sent for consultation to the Area Roads and Community Works Manager. He has no objection to this condition being removed from the planning permission. He is of the opinion that the access from the A99 is fit for purpose for construction site traffic and he is not concerned about any wear and tear issues on the access from the A99 because that access is not adopted.
- 2.2 Given all the assembled information I can see no logical reason for refusing this application. The constructed access from the A99 is fit for purpose and has been designed from the outset to be able to service the Tesco development and this Class 1 retail development. In practice it would seem that the junction does perform extremely efficiently.

RECOMMENDATION

Grant planning permission

Signature: Allan J Todd

Designation: Area Planning and Building Standards Manager

Author: Iain Ewart 01955 607751


Background Papers: As referred to in the report above

Date: 16 September 2008

Rh/hc300508

Head of Planning
Highland Council
Council Offices
Glenurquhart Road
INVERNESS
IV3 5NX

30th May 2008

H.C. PLANNING AND DEVELOPMENT SERVICE		
- 2 JUN 2008		
PASS TO:	INITIALS	DATE:
BH		
		
FILE REF:		

James Barr

275 West George Street, Glasgow, G2 2UN

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www.jamesbarr.co.uk

Dear Sir

**SCAPA PROPERTIES LTD AND HIGHLANDS AND ISLANDS AIRPORTS LTD
PLANNING APPLICATION FOR REMOVAL OF CONDITION NUMBER 10 FROM PLANNING CONSENT
05/00073/FULCA, LAND SOUTH OF AIKERNESS, A99 WICK**

James Barr is instructed on behalf of Scapa Properties Ltd and Highlands and Islands Airports Ltd to submit this planning application for the removal of condition 10 attached to planning consent 05/00073/FULCA for Class 1 retail use at land south of Aikerness, A99 Wick.

In this regard please find enclosed the following,

- 4 copies of the completed application form
- a copy of the notice to owners
- a copy of the notice to neighbours
- a neighbour notification plan
- 4 copies of a site plan showing the red lined site boundary
- a cheque for the requisite fee of £290 made payable to Highland Council

Copies of the planned layout/landscaping plan are also submitted with this application for ease of reference. These drawings however do not form part of this application as they are already consented (ref: 05/00073/FULCA).

By way of background information, the Council will be fully aware of the recent history relating this site. An application was submitted in 2005 for Class 1 retail development on this site (ref: 05/00073/FULCA). The application received consent in January 2008. Meanwhile another application by Tesco Stores on the site adjacent has also been granted consent and their store has been operational for around eighteen months.

When Tesco built their store an access was taken off the A99 and a roundabout constructed which provides access both into the Tesco store and is also designed to provide access into the adjacent Class 1 retail site that received consent in January this year. Throughout the processing of the application (05/00073/FULCA) it has always been my client's assertion that this dual access point was sufficient to meet the requirements of both retail sites in terms of customer movements and also construction traffic.

James Barr

The subject of this planning application is condition 10 attached to the original consent referenced 05/00073/FULCA. Condition 10 states,

"Prior to the commencement of development, details of an alternative access for construction traffic, that avoids the use of the existing access to the adjacent Tesco Store, shall be submitted to and agreed in writing by the Council. The agreed access arrangements shall be made available from commencement of works and maintained thereafter until occupation of the last building completed."

I wrote to David Mudie of the Highland Council on 19th May regarding this condition 10 and, although I have yet to receive a written response, I have since discussed this matter on the telephone with Mr Mudie. During our discussion Mr Mudie intimated that he believed this condition to be unnecessary in the context of this application and that he would be supportive in principle of this application for its removal.

It is also the view of my clients that this condition is unnecessary and not required for the successful implementation of this planning consent. In view of this we do not believe that the condition meets with the tests described in Circular 4/1998, which stipulates that conditions must be necessary, relevant, enforceable, precise and reasonable. It is expressly our view that this condition is not necessary to this development and consequently not reasonable in its application to the consent. There are a number of reasons for this and these are described below.

In particular the view of my client's Transport Engineers is important in considering this matter. In a briefing note responding to this condition Waterman Boreham wrote,

"The implementation of a temporary access for construction traffic from the A99 is unnecessary due to the fact that the existing site access has been newly constructed and purpose built to accommodate the HGV's that currently serve the adjacent Tesco store. We do not anticipate that construction vehicles will have any difficulty in navigating this junction, and various traffic management measures will be implemented to ensure that there is minimal conflict between construction vehicles and Tesco traffic."

In addition, the minimum junction spacing for trunk roads is 250 m and the construction of a temporary junction, which would require to include a ghost island to accommodate right turning vehicles, is not recommended as this would give rise to safety concerns and would encroach on the minimum design standards for junction spacing."

The maximum RFC for the site access during the PM scenario is 61.8 %, indicating that the junction is operating within capacity during this period. The PM scenario was assessed as this is the busiest time for Tesco traffic."

It is anticipated that the peak period for construction traffic will be in the AM period and will not have any detrimental effect on the junction or on Tesco traffic."

James Barr

This commentary clearly states that the existing junction is sufficient to meet the needs of both developments during construction and normal retailing operations. Indeed it is the express concern of my clients and of Waterman Boreham's engineers that an additional, even if only temporary, junction would cause significant road safety concerns.

The Committee Report for the original retail application does not contain any consultation response from TEC Services - Roads and Community Works. On this basis the Committee Report concludes that the existing junction for the Tesco store is sufficient to meet the needs of the proposed new retail development. However, the minutes from the Committee meeting show that the Area Roads and Community Works Manager recommended that *"during the construction phase, if feasible, all construction traffic be routed via an alternative access to provide for separation with the public access."*

I am aware that the Council's Roads Department was repeatedly asked for their view on this application during the three years that that it was progressed however no such comment regarding construction access was received during this time. Although it was subsequently raised as an issue by the Roads Officer at the Committee meeting, it appears that this was a point of suggestion rather than a requirement particularly as the minutes of the meeting state that this request by Roads was only made on the basis of this action being "feasible".

It appears therefore that this is not a necessary element of the development and therefore this condition can be interpreted as unnecessary and therefore not required.

The opinion of Traffic Engineer's Waterman Boreham is clearly that the junction is adequate in terms of its size to deal with the type of vehicles required during the construction period and also that there will be no conflict with Tesco traffic as the construction vehicles will use the junction in the am and Tesco's peak traffic is in the pm.

Notwithstanding that this condition is unnecessary for the safe and successful implementation of this consent, my client would also dispute it's "feasibility". In order to implement this condition there would be onerous implications for the developer in terms of the legalities and practicalities of creating a new temporary access. Over and above this however are the road safety concerns in having two junctions off the A99 within close proximity, which is very clearly not desirable from a safety perspective.

I understand from my recent discussions with Mr Mudie that, as case officer for the original application, he does not necessarily deem this condition as necessary and this condition did not form part of his original report to Committee. If however the Council's Roads Department requires further information from the applicant or from the Traffic Engineers then we will be happy to discuss this in order to reassure the Council on each of the points raised above.

I believe that this condition is proven to be unnecessary to this consent and therefore not required in order for the successful implementation of this development. In this respect I ask that the Highland Council approve this application for the removal of condition 10 from planning consent 05/00073/FULCA.

James Barr

I look forward to receiving confirmation that this application has been registered and to taking forward further discussions with the Council regarding this matter.

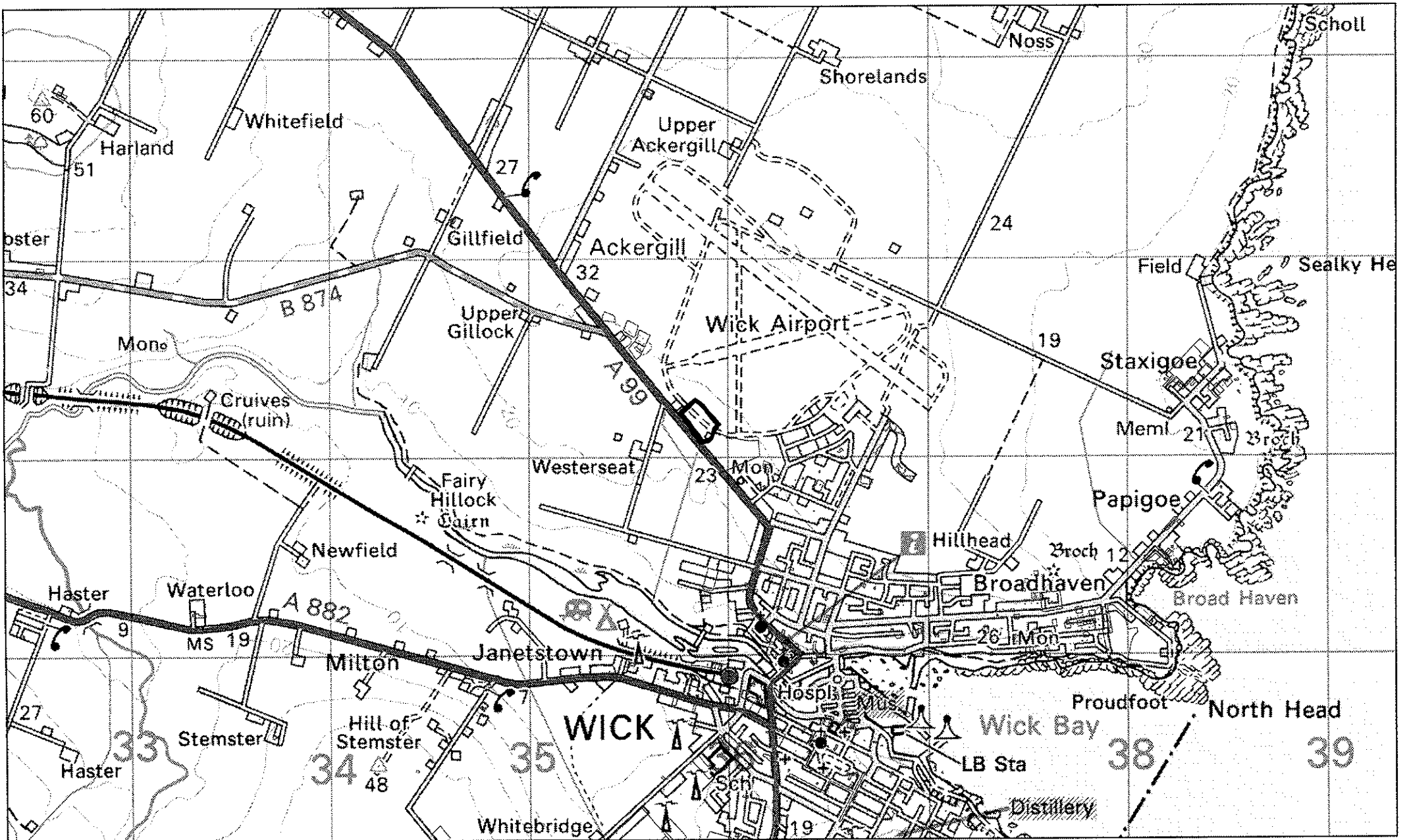
Yours sincerely

Ruth Highgate MRTPI
Senior Planner

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E-mail: rhhighgate@jamesbarr.co.uk

Enc.

Cc Scapa Properties Ltd



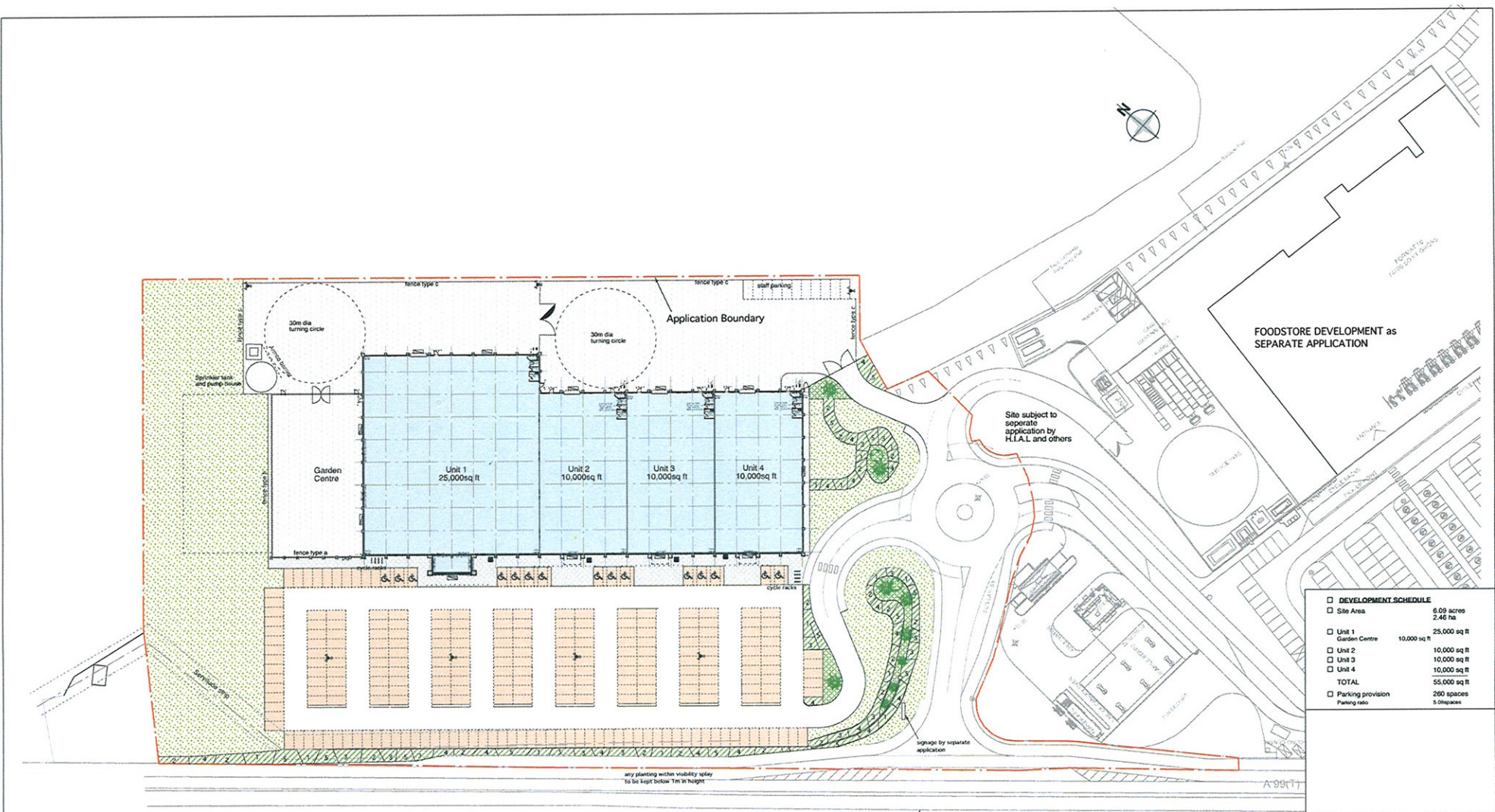
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05/00073/FULCA

Non-Food Retail Development Wick

Scale : 1:25000 **Date :** 06/11/2007



DEVELOPMENT SCHEDULE	
Site Area	6.09 acres 2.46 ha
Unit 1	25,000 sq ft
Garden Centre	10,000 sq ft
Unit 2	10,000 sq ft
Unit 3	10,000 sq ft
Unit 4	10,000 sq ft
TOTAL	55,000 sq ft
Parking provision	260 spaces
Parking ratio	5.0 spaces

Rev	Details	Date	By	Check	
SHITH DESIGN ASSOCIATES <small>15 Lynton Court Glasgow G3 7JD T 0141 303 5000 F 0141 303 5001 E graham@shithdesignassociates.co.uk</small>					
Scapa Properties Ltd & Highlands & Islands Airports Ltd					
Proposed Retail Development A99(T) Wick					
Site Plan Landscaping					
Scale:	1:500 @ A3	Original Drawing Size:	A1		
Drawn By:	FR	Checked By:		Date: 29.07.06	
Planning					
Job No:	G1399	Drawing No:	AL(0)01	Revision:	-

Car Park Gradients:
 - Disabled Parking Zones, Mother + Child and pavement areas to be 1 in 40.
 - All other parking areas to be 1 in 40 max. Refer to engineers details

Below ground services shown are indicative, locations to be confirmed

CAR PARK LIGHTING
 Lighting layout to be detailed design by subcontractor, to provide level of 20lux min. avg

- Wall mounted fittings 250watt @ 6m height to car park
- 150watt @ 6m height to service yard
- 400 watt fittings mounted on 6m columns in car park (behind protected in vulnerable places)
- 150 watt fittings mounted on 6m column in service areas
- Litter bins 500mm dia stainless steel, Cutoff International CAP500

KEY TO MATERIAL FINISHES

	Bitmac/Asphalt
	Block Pavior
	Marshalls Prisma Rod
	Slab Paving
	Charcon Appalachian
	450x450mm concrete paving slabs, grey finish
	600x600 p-c slabs
	Concrete Surfacing

SOFT LANDSCAPE SPECIFICATION

SPECIMEN SHRUBS:
 300-500mm MIN. HEIGHT / SPREAD
 3 LITRE MIN. POT SIZE FOR PLANTING ALL YEAR ROUND.
 FIT SIZE 300 x 300 x 300mm. ALL TO BE PLANTED ON LOW MOUNDS.

SHRUB BEDS:
 50mm COVER OF COARSE ORNAMENTAL BARK 20-40mm GRADE OF CHIP.
 300mm DEPTH OF APPROVED TOPSOIL. DECOMPACT SUBSOIL TO 500mm AND LIGHTLY REGRADE TO FORM LOW MOUNDS.
 LEAVE SUBSOIL 400mm BELOW ADJACENT KERBS FOR TOPSOIL / BARK.

BARK BLINDING:
 50mm COVER OF COARSE ORNAMENTAL BARK 20-40mm GRADE OF CHIP.
 100mm DEPTH OF APPROVED SUBSOIL SMALL GRADED HARD CORE.
 DECOMPACT FORMATION TO 500mm AND LIGHTLY REGRADE TO FORM LOW MOUNDS.
 LEAVE SUBSOIL 75mm BELOW ADJACENT KERBS FOR BARK.

MAINTENANCE:
 12 MONTHS MAINTENANCE WORKS TO BE CARRIED OUT TO ALL THE WORKS THEREAFTER AN OBLIGATION TO MAINTAIN THE WORKS TO GOOD STANDARDS THROUGHOUT

grass seeding
 British seed house A22 low maintenance mix or equal at 25gms/m²
 pre sowed fertilizer 50gms/m²
 min 100mm approved topsoil to BS3882

Areas of existing hardstanding to be broken out, hardcore subbase de-compacted. Sub soil added if required

SHRUB PLANTING (3per sqm)

1. Sorbus 'sunshine'
2. Potentilla 'red ace'
3. Potentilla fruticosa 'elizabeth'
4. Hebe rakonensis
5. Rosa 'Nochland Pink'

TALL ORNAMENTAL SHRUB MIX (2per sqm)

- A. Rosa rugosa
- B. Escallonia 'Donard Seeding'
- C. Ulex europaeus