

**THE HIGHLAND COUNCIL**  
**CAITHNESS, SUTHERLAND & EASTER ROSS**  
**PLANNING APPLICATIONS AND REVIEW**  
**COMMITTEE – 21 April 2009**

Agenda Item	
Report No	

**08/00453/REMSU – Erection of retail store with associated fuel filling station, car parking and access (Approval of Reserved Matters) at former Morrison's Site, Shore Road, Tain**

**Report by Assistant Chief Executive**

**SUMMARY**

This report seeks Committee approval to amend, by the deletion of one of the reasons for refusal, the reasons of refusal agreed by Committee in their determination of an application for approval of reserved matters by Santon Retail Ltd/Tesco Stores Ltd.

Ward No 8 – Tain and Easter Ross.

**1. INTRODUCTION**

1.1 At the meeting of the Committee on 3 March 2009, an application (08/00453/REMSU) by Santon Retail Ltd/Tesco Stores Ltd for the Erection of Retail Store with Associated Fuel Filling Station, Car Parking and Access (Approval of Reserved Matters) at Former Morrison's Site, Shore Road, Tain was reported for determination. Committee refused the application following a motion by Councillor Wilson. Three reasons were given in support of the motion to refuse the application. These were as follows:

1. Condition 9 of the Outline Consent requires the applicant to provide car parking compliant with the Council's standards, which they have failed to meet.
2. The off-site traffic management proposed will be to the detriment of existing road users and pedestrians and will curtail reasonable access and egress to the areas of Tain thus affected.
3. The proposed pedestrian links to the store do not allow all sectors of the public suitable or easy access due to the restraints and adverse levels of the site, thus contradicting National Planning Policies.

**2. CONSIDERATION OF THE REASONS FOR REFUSAL OF APPLICATION 08/00453/REMSU**

2.1 In preparing the minute of the meeting held on 3 March 2009, further

consideration was given to the competency of the reasons for refusal agreed by Committee. The outcome was that reason for refusal 2 was not considered to be competent given that the principle of off-site traffic improvements had already been agreed by the Committee at the earlier determination of the outline planning application 08/00038/OUTRC (see Committee 1 July 2008). As the application for approval of reserved matters was within the ambit of the outline planning permission in this regard, it was not competent to re-open the debate on whether the principle of off-site traffic improvements was acceptable.

- 2.2 If the decision notice is issued with an incompetent reason for refusal, this will be difficult to defend on appeal. The consequence of this could be an award of expenses against the Council. Therefore, it is considered appropriate to seek Committee's approval to release the decision notice refusing the application without reference to reason for refusal 2.
- 2.3 Release of the amended decision notice will allow the 6 month appeal period to commence.

### **3. SUBMISSION OF REVISED CAR PARK LAYOUT PLAN**

- 3.1 I am obliged to advise Committee that a revised car park layout plan has been lodged by the applicants. This would appear to meet the requirements of condition 9 of the outline planning permission 08/00038/OUTRC and addresses reason for refusal 1 referred to above. The petrol filling station has been removed to accommodate the additional spaces required.
- 3.2 As the decision notice has not yet been issued, legally the application remains undetermined. The Committee therefore has the opportunity to take account of this revised plan once notification of the revised plan and consultation thereon has taken place. In practice this would mean that the decision notice would not be issued until such time as notification and consultation had taken place and a report on the revised application was prepared for determination by Committee.

### **4. CONCLUSION**

- 4.1 In the interests of best practice, it is considered appropriate to (1) amend the reasons for refusal to reflect only those reasons competent and able to be defended in any future appeal and (2) consider the application for approval of reserved matters, incorporating the revised car park layout plan, at a future meeting of the Committee.

### **5. RECOMMENDATION**

- 5.1 It is recommended that:
  1. Committee amends, by the deletion of reason for refusal 2, the

reasons for refusal agreed by Committee in their determination of application 08/00453/REMSU and that the minute of the meeting held on 3 March is amended accordingly, and

2. Committee acknowledges the submission of the revised car park layout plan and either:
  - (a) agrees to defer consideration of the application for approval of reserved matters until the revised car park layout plan has been further publicised and referred to consultees for comment; or
  - (b) declines to defer consideration of the application for approval of reserved matters and issues the decision notice in accordance with recommendation 1.

Signature:

Michelle Morris

Designation:

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Background Papers:

Reports: PLC-06-09 & PLC-27-08

Date:

15 April 2009