

THE HIGHLAND COUNCIL

NORTH PLANNING APPLICATIONS COMMITTEE – 16
September 2014

Agenda Item	5.5
Report No	PLN/065/14

14/01464/PIP : Rubicon Land Ltd And Lochalsh And Skye Housing Association
Land 100M NW Of 10 Bealach Nan Ciobairean
Home Farm
Cearn An Leth-Uillt, Portree

Report by Area Planning Manager

SUMMARY

Description : Erection of a Class 1 foodstore and petrol filling station with associated car parking, landscaping and access.

Recommendation - GRANT

Ward : 11 - Eilean A' Cheò

Development category : Local Development

Pre-determination hearing : None required

Reason referred to Committee : Discretion of Area Planning Manager.

1. PROPOSED DEVELOPMENT

- 1.1 This application seeks planning permission in principle for the erection of a supermarket and petrol filling station with associated access, car parking and landscaping. The size of store shown on the indicative drawings submitted with the application is 3344 sq m gross floor area.
- 1.2 Informal pre-application discussions took place with the applicant over the course of several months prior to the lodging of the application.
- 1.3 The site would be accessed from an existing roundabout on Home Farm Road, on the northern outskirts of Portree.
- 1.4 Supporting documents comprising a Planning Statement, Retail Impact Assessment, Transport Assessment, Ecological Appraisal, Servicing Diagrams, Peat Management Strategy and a Drainage Strategy have been submitted in support of the application.
- 1.5 **Variations**: The indicative site layout plan was amended on 08.08.2014 to illustrate how a bus stop could be accommodated within the site boundaries (drawing ref. AL(0)010).

2. SITE DESCRIPTION

- 2.1 The site comprises an area of open land on the northern side of Home Farm Road, some 450m east of this road's junction with the A87 trunk road. The site slopes slightly uphill in a north easterly direction from the roundabout at its south western corner. An existing Biomass heating plant lies within the site, at the north eastern quadrant of the access roundabout. Modern housing lies on the opposite side of Home Farm Road, with various commercial uses - including a Co-op supermarket - to the west of the site. Open space lies to the north and east.

3. PLANNING HISTORY

- 3.1 04/00251/OUTSL. Erection of Residential Development and Construction of Distributor Road, Formation of Open Space and Other Community Development. Withdrawn 27.05.2009
- 05/00116/FULSL. Erection of 249 Houses & Construction of Distributor Road. Granted 13.10.2005
- 06/00261/FULSL. Installation of Communal Gas Tanks to serve housing development. Granted 27.09.2006
- 07/00270/FULSL. Erection of biomass heating plant building with associated service yard. Granted 27.08.2007
- 14/00444/FUL. Erection of new extension to existing boilerhouse and fuel store at The Energy Centre. Granted 09.04.2014
- 14/02244/FUL. Extension to boilerhouse & fuel store. Granted 09.08.2014
- 12/03822/PAN. Development of class 1 retail foodstore and petrol filling station (including associated access, parking and landscaping).

Related Site History

13/03976/PIP. Retail Supermarket, petrol filling station and associated parking and servicing areas. Access road from existing Home Farm Road roundabout with new bus stop, turning head and new pedestrian crossing. New link road and roundabout from Staffin Road to Home Farm Road. Pending consideration. This application is also before members for consideration at this Committee

07/00357/OUTSL. Erection of supermarket (outline) at land North of COOP currently occupied by Jewson and Macfarlane (Builders), Dunvegan Road, Portree. Granted 06.01.2009. This consent has now lapsed.11/03099/FUL. Application to vary Condition 1 (timescale) of Planning Permission Granted 15.12.2011. This consent has now lapsed.

12/03919/FUL. Extension to Co-op retail store and erection of three retail units, car parking and associated works. Granted 22.02.2013. This consent is still extant, and shall be discussed in relation to retail policy and retail impact in the policy assessment below.

07/00212/FULSL. Erection of foodstore, petrol filling station & kiosk & construction of car park. Withdrawn 31.03.2009. This application for a foodstore on the site of the existing Ewen Macrae Garage on Dunvegan Road was recommended for approval subject to the conclusion of a legal agreement. This recommendation was accepted by committee, but the legal agreement was never concluded, resulting in the withdrawal of the application.

4. PUBLIC PARTICIPATION

4.1 Advertised : Unknown Neighbour 14 Days

Representation deadline : 21.05.2014

Timeous representations : Two supportive comments, from two different households, and one objection.

Late representations : None

4.2 Material considerations raised are summarised as follows:

- The proposal would provide more competition and choice for local shoppers.
- The Housing Association would be able to invest in new affordable housing.
- The retail impact assessment fundamentally underestimates the impact on existing town centres of Portree, Broadford and Kyle of Lochalsh.
- A sequentially preferable site exists adjacent to the existing Co-op store on Dunvegan Road.
- The relevant development plan policies do not support the proposed development.

4.3 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. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 **Transport Planning** : No objection, subject to conditions requiring the submission of various matters of detail in respect of any future application for Matters Specified by Condition

5.2 **Historic Environment** : No objection

5.3 **Development Plans** : No objection, but note that the proposal does not accord with the Development Plan, on the basis that the site is allocated for housing and open space.

5.4 **Planning Gain** : No objection, suggest a Section 75 agreement to ensure the provision of various financial contributions towards future affordable housing, town centre improvements in Portree, enhanced public transport provision and public art.

5.5 **Access Panel** : No response

5.6 **Building Standards** : Verbal advice that the application raises no issues which cannot be dealt with during the Building Warrant process.

5.8 **Transport Scotland** : No objection, subject to a condition requiring the submission and agreement of a Green Travel Plan

5.9 **SNH** : No objection

5.10 **SEPA** : Initial objection, subsequently withdrawn following receipt of information on disposal of peat. SEPA now offer no objection, subject to conditions relating to disposal of peat, flood prevention and detailed drainage design.

5.11 **Scottish Water** : No objection

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28	Sustainable Design
29	Design Quality and Place Making
31	Developer Contributions
34	Settlement Development Areas
36	Development in the Wider Countryside
40	Retail Development
55	Peat and Soils
56	Travel
58	Protected Species
59	Other Important Species
64	Flood Risk
66	Surface Water Drainage
75	Open Space

6.2 West Highlands & Islands Local Plan as continuing in force 2012

Policies 1 & 2 In respect of settlement development area boundaries and allocated sites

16 Commerce

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Not applicable

7.2 Highland Council Supplementary Planning Policy Guidance

Developer Contributions (Draft - March 2012)

Public Art Strategy (March 2013)

7.3 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy June 2014, paras. 58 to 73, sets out a “town centre first” policy for retail development which requires development plans to identify a network of centres which may be organised as a hierarchy, and to adopt a sequential approach to planning for new retail development which requires that locations are considered in the following order of preference:

- town centres (including city centres and local centres);
- edge of town centre;
- other commercial centres identified in the development plan; and
- out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes.

Out-of-centre locations should only be considered for uses which generate significant footfall where:

- all town centre, edge of town centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable;
- the scale of development proposed is appropriate, and it has been shown that the proposal cannot reasonably be altered or reduced in scale to allow it to be accommodated at a sequentially preferable location;
- the proposal will help to meet qualitative or quantitative deficiencies; and
- there will be no significant adverse effect on the vitality and viability of existing town centres.

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 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 **Development Plan Policy Assessment**

Virtually all of the site lies within the defined Settlement Development Area of Portree, so Policy 1 of the West Highlands & Islands Local Plan and Policy 34 of the Highland Wide Local Development Plan apply. These policies support development proposals within Settlement Development Areas if they meet the Design for Sustainability requirements of the Highland Wide Local Development Plan Policy 28. The West Highlands & Islands Local Plan Policy 1 also has a requirement to judge proposals in terms of how compatible they are with the existing pattern of development and landscape character, and how they conform with existing and approved adjacent land uses. Policy 28 of the Highland wide Local Development Plan requires sensitive siting and high quality design in keeping

with local character and historic and natural environments, and the use of appropriate materials. This Policy also requires proposed developments to be assessed on the extent to which they are compatible with service provision, as well as their impact on individual and community residential amenity.

Policy 29 of the Highland wide Local Development Plan states that new development should be designed to make a positive contribution to the architectural and visual quality of the place in which it is located, and should consider the incorporation of public art as a means of creating a distinct sense of place and identity.

The West Highlands & Islands Local Plan Policy 16 encourages retail development within a network of identified centres. Portree is identified along with Fort William as a sub-regional town centre within this hierarchy – which is one tier below the only regional centre of Inverness. This policy establishes that outwith the above centres, retail proposals will be judged against the following criteria:

- compliance with the sequential approach to site identification;
- accessibility by means of public transport, walking and cycling;
- impact, including any cumulative impact, on the vitality and viability of a centre defined in a Highland development plan;
- fit with the aim of creating a retail hierarchy in which travel is minimised;
- whether the type and scale of development proposed can reasonably be accommodated within a centre defined in the Plan;
- the extent to which the proposals meet with identified deficiencies; and
- whether any developer funded mitigation of the above is offered.

The very edge of the site's north western corner lies outside the SDA, within an area identified as wider countryside by the adopted Highland wide Local Development Plan, which contains the remaining relevant development plan policies. Policy 36 of this document requires proposals to be assessed on the extent to which they:

- are acceptable in terms of siting and design;
- are sympathetic to existing patterns of development in the area;
- are compatible with landscape character and capacity;
- avoid incremental expansion of one particular development type within a landscape whose distinct character relies on an intrinsic mix/distribution of a range of characteristics
- avoid, where possible, the loss of locally important croft land; and
- would address drainage constraints and can otherwise be adequately serviced.

Development proposals may be supported if they are judged to be not significantly detrimental under the terms of this policy.

Policy 31 relates to Developer Contributions, and states that where development proposals create a need for new or improved public services, facilities or

infrastructure, the Council will seek fair and reasonable contributions in cash or kind towards these additional costs or requirements.

Policy 40 of the HwLDP sets out a sequential approach to the assessment of retail development, with sites in town centres, then on the edge of centres, having to be considered before out-of-centre sites.

Policy 55 states that development proposals should demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils. Where development on peat is clearly shown to be unavoidable the Council may require a Peatland Management Plan which clearly demonstrates how impacts have been minimised and mitigated.

Policy 56 in relation to travel requires that development proposals that involve travel generation must include sufficient information with the application to enable the Council to consider any likely on and off site transport implications and should:

- be well served by the most sustainable modes of travel available;
- seek to ensure that opportunities for encouraging walking and cycling are maximised;
- be designed for the safety and convenience of all potential users;
- incorporate appropriate mitigation on site and/or off site; and
- incorporate an appropriate level of parking provision.

The Council will seek the implementation and monitoring of Green Travel Plans in support of significant travel generating development.

The River Leasgeary flows close to the western boundary of the site and has the potential to provide an otter habitat. Policy 58 states that where there is good reason to believe that a protected species may be present on site, or may be affected by a proposed development, a survey must be carried out to establish any such presence, with a mitigation plan prepared if necessary, before any planning application can be determined.

Policy 59 relates to other important species, and states that the Council will have regard to any adverse effects of development proposals on any species listed in Annexes II and IV of the EC Habitats Directive, priority species listed in the UK and Local Biodiversity Action Plans, and those included on the Scottish Biodiversity List.

Policy 64 states that a Flood Risk Assessment or other suitable information which demonstrates compliance with Scottish Planning Policy in respect of this issue is required.

Policy 66 states that all proposed development must be drained by Sustainable Drainage Systems (SuDS).

Finally, Policy 75 states that the Council's long term aim for open space provision is for the creation of sustainable high quality networks of open space which are accessible by foot and which improve the quality of life for residents and visitors.

8.4 **Material Considerations**

Development Plan Conformity

The consultation response from the Policy Team concludes that, given the West Highlands & Islands Local Plan identifies the site for a combination of housing and open space, the proposal represents a departure from the adopted Local Plan and therefore does not demonstrate overall conformity with the Development Plan. It is therefore necessary to consider whether the loss of land designated for housing and open space represent sufficient reasons to refuse the application.

Loss of Housing Land

Approximately half of the site forms part of the West Highlands & Islands Local Plan H3 allocation for 249 approved housing units, plus a further intended 30 units. This allocation relates to a planning consent (ref. 05/00116/FULSL) granted in 2005 for the erection of 249 houses and the construction of a distributor road on a 20 ha site at Home Farm.

This consent has been subject to a number of amending applications including relocation of the community Centre, the provision of a Dental Surgery, and increased housing density in parts of the scheme. As a result of these changes, the total number of housing units is now just short of 249, at 219 units. However, the number of affordable units in this new total is still very much in excess of the 25% level which is required by current policy, with only 10 of this total being houses for private sale on the open market. Consequently, the loss of 27 affordable units from the application site is not considered to be materially at odds with the affordable housing supply "vision" of the original permission. More importantly, because the proportion of affordable housing within the current total of units at Home Farm is well in excess of the policy requirement of 25%, the loss of these 27 units cannot be considered to represent a reason for refusal. It is also important to note that there is still land within the allocation which remains to be developed, as well as other housing opportunities within the Portree area.

Loss of Open Space

The original Home Farm consent (05/00116/FULSL) is subject to a legal agreement which requires the Lochalsh & Skye Housing Association to identify a local group to take forward the provision of a community woodland on land on the north western side of the distributor road, including that part of the application site which is designated as Open Space by the West Highlands & Islands Local Plan. This legal agreement takes effect upon completion of the last house of the 249 approved by planning consent 05/00116/FULSL.

The application proposals would result in the loss of some of the Open Space allocation within the site to car parking, part of the foodstore, and its service yard. A small strip of this allocation would be utilized for landscaping.

The area of community woodland identified in the legal agreement is in the control of the applicants, and it is suggested by them that an alternative means of securing this woodland would be through a suspensive condition which prevents initiation of the proposed supermarket until the woodland has been planted. This suggested mechanism is capable of delivering the woodland, and it is considered that this would be an improvement over the current situation where the legal agreement provides no guarantee of delivery. It is accepted that this woodland would be reduced in width along the north western edge of the application site, but this is not considered to represent sufficient reason to refuse the application. Some 80% of the original area of community woodland would remain, and while this is smaller

than originally intended, implementation of this proposal would guarantee its delivery – whereas no such guarantee exists with the original area under the current proposal. The land set aside for the woodland would only make a limited contribution to amenity, with a visual screening of the Home Farm development from the north being its primary role. This screening purpose would not be adversely affected by the application proposals.

Development in the Wider Countryside

Given that only a very small part of the application site lies outside the SDA, it is considered that the application meets the criteria set out in HwLDP Policy 36.

Retail Policy

The application site is an out of centre location in terms of retail policy. HwLDP Policy 40 Retail Development supports retail development in out of centre locations:

- (i) where there are no suitable sites within the city/town/village centres or within edge of town centre locations in line with the sequential approach;
- (ii) where there would be no detrimental impact on the vitality and viability of any affected centre(s); and
- (iii) where good active travel and public transport accessibility exists or can be secured.

In relation to **the sequential approach** the applicants' retail impact assessment states that there are no sequentially preferable sites. It is accepted that there are no suitable sites for this scale of retail development within or on the edge of the commerce centre boundary for Portree village centre, as defined within the West Highland and Islands Local Plan. There is an extant planning permission (ref. 12/03919/FUL) granted in 2013 for a 580 sq m extension to the existing Co-op store on Dunvegan Road, plus the erection of three separate retail units sharing the same car park as this store. The largest of these units, which extends to 990 sq m, would be for food retailing, with the other two to be used for non-food retailing. An objection has been lodged on behalf of the Co-op by GL Hearn which claims this consent provides a sequentially preferable opportunity on the basis that, while it is in an out-of-centre location, it has better public transport accessibility than the application site. The application site lies some 400m away from the nearest bus stop (which is adjacent to the Co-op store). However, buses currently pass the site in both directions on their way to and from the Dental Surgery which lies at the end of the distributor road some 200m to the north east. The applicant has indicated that they would provide a bus stop on the site's south eastern boundary (which can be controlled by condition), and the submitted Transport Assessment shows that the site is well related to the existing footpath network. Accordingly, the sequential status of the application site and the site of the Co-op consent cannot be differentiated, and it can be concluded that the application accords with the sequential approach.

In terms of **retail impact** the applicant provides the following figures, expressed in 2012 prices for the year 2017, when shopping patterns are expected to have settled following construction and initial trading of the store:

- Store convenience (food) turnover - £19.06m

- Total available convenience expenditure - £38.59m
- The turnover of existing stores and consented floorspace, and the effect of the proposed store on these turnover levels are set out in the following table which is drawn from the applicants' Retail Impact Assessment, and which is considered by the Case Officer and the Policy team to provide a credible analysis:

	2017 Turnover (£m)	2013 Average turnover (£m)	Diversion to Co-op consent and/or New Store (£m)	Residual 2017 Turnover (£m)	Impact on Average Turnover
Kyle Co-op	4.85	4.9	0.66	4.19	14%
Broadford Co-op	4.95	3.38	1.99	2.96	12%
Portree TC Co-op	1.55	1.7	0.08	1.47	14%
Portree Dunv Rd Co-op	9.92	8.04	3.31	6.61	18%
12/03919/FUL Co-op Consent	10.45	10.45	10.45*	0	100%
Other Floorspace	4.08	4.2	0.08		

*Diversion to New Store Only

The applicants have noted that GL Hearn on behalf of the Co-op criticised the retail impact assessment submitted in respect of the 13/03976/PIP application. The applicants' own RIA has sought to address these criticisms by applying the population, expenditure and turnover data presented by GL Hearn in their objection to the 13/03976/PIP application.

In assessing the levels of trade diversion from these outlets and from other town centre floorspace throughout the catchment area of Skye and western Lochalsh the applicants have adopted the generally accepted principle of "like competing with like". This means that a new store would compete most closely with established stores fulfilling the same function. Stores aimed primarily at catering for the weekly or less frequent car borne main food shopper will compete most directly with those existing stores performing the same function. Small food shops in established centres which are used predominantly for day to day purchases will not be likely to face significant competition from a store catering essentially for bulky, weekly food shopping. The applicants agree with the view that a reduction of 20% or more on a store's company average turnover figure is sufficient to threaten its continued operation.

It can be seen from the table above that the proposed new store would render convenience elements of the Co-op 12/03919/FUL consent unviable because all of their turnover would be diverted to the proposed new store. However, because this would be an out of centre facility, this would not be a planning policy or material

consideration on the basis that planning policy only protects town centres from retail impact arising from new out-of-centre proposals. There would also be an impact close to the 20% level on the Dunvegan Road Co-op, although, again, as this is an out of centre facility it does not enjoy any protection from the planning system. The applicants consider that the next highest impacts of 14%, 12% and 14% on the Co-op Kyle, Broadford and Portree town centre stores respectively would not threaten their viability.

The objection from GL Hearn on behalf of the Co-op disputes this assessment on the basis that they consider available convenience expenditure in the catchment would be lower because the assumed figure for tourist expenditure is too high, and because of online deliveries to the catchment from Tesco and Asda. As a result, they contend that the 2017 turnover figures for existing stores would be lower than the applicants' predictions. The GL Hearn objection also casts doubt on the applicants' trade diversion figures, which they claim to underestimate the impacts on the Co-op stores which act as convenience anchors in Portree, Broadford and Kyle town centres. GL Hearn claim that the residual turnover figures for these stores would be £1.35m, £2.14m and £3.16m respectively. This would result in impacts on the company average turnover of 21% on the Portree town centre store, 37% on Broadford and 36% on Kyle, which GL Hearn claim would threaten the viability of these town centre stores. In addition, they claim that there would be a very large trade diversion from their Dunvegan Road store in Portree which would result in the closure of this store.

It is considered unlikely in the view of the Case Officer and the Policy Team that the Kyle Co-op would contribute as much of the new store's turnover as GL Hearn allege, given the distance between Kyle and Portree. Similarly, the Broadford Co-op's core market is almost certainly the southern end of the Island, and the GL Hearn prediction that this store would contribute 28% of the proposed store's turnover is therefore considered unrealistically high. If GL Hearn are correct in their assumption that the proposed store would result in the closure of the Co-op Dunvegan Road store in Portree, then on their own figures this would release £6.61m of residual turnover into the catchment, some of which would be available to both the Portree town centre and Broadford Co-op stores. The Co-op town centre store in Portree primarily fulfils a top-up shopping role, and is therefore unlikely to suffer much competition from the proposed new store. From observations this store is very busy, particularly during the tourist season. Accordingly, it is considered that this small store is well placed to weather the effect of the proposed new store.

It is therefore considered unlikely that the application proposals would adversely affect the vitality and viability of any existing centre within the catchment area. However, because the applicants' retail impact assessment is predicated on the basis of a certain level of convenience floorspace, a condition is necessary which prevents this figure being exceeded.

There is another current food supermarket proposal on the northern outskirts of Portree which is also before members for consideration (ref. 13/03976/PIP, as listed above), some 200m north east of the application site. Neither applicant has considered the issue of **cumulative retail impact** in respect of these two proposals, but it is necessary for members to consider the retail impact implications of these two proposals trading simultaneously. The store proposed by application

13/03976/PIP is forecast by the applicant to have a convenience turnover of circa £18m in 2012 prices. If the two currently proposed foodstores were to trade simultaneously they would of course impact upon each other, and their forecast turnover levels would be suppressed. However, it is inevitable in this scenario that the existing convenience anchor stores in the town centres of Portree, Broadford and Kyle would experience additional trade diversion levels beyond those forecast in the table above. These additional levels of trade diversion would appear likely to adversely affect the viability of at least some of these anchor stores, with attendant impacts on the vitality and viability of their centres which are likely to be detrimental.

Accordingly, if members were minded to approve both this application and the other current supermarket proposal which is the subject of application 13/03976/PIP, then they are advised that there is not sufficient cumulative retail impact information to allow a decision to be made in this regard. Accordingly, it would be necessary to secure this information before a decision could be made to approve both applications, if the committee were so minded. A decision to approve both applications in the absence of this information would render both applications vulnerable to legal challenge as the decisions would not be based on an appropriate appraisal of their cumulative impact in policy terms. However, in the scenario of both current supermarket proposals trading, officers are of the opinion that the additional levels of trade diversion involved would appear likely to adversely affect the viability of at least some of these anchor stores, with attendant impacts on the vitality and viability of their centres which are likely to be detrimental. Accordingly, members must be advised it is considered that both applications cannot be recommended for approval on this basis.

The applicants state that there is a **qualitative deficiency** in terms of foodstore provision within the catchment attributable to the domination of the Co-op whose stores in Portree, Broadford and Kyle provide the only main food shopping function, but not through stores which are considered large enough to provide an appropriate range of goods to adequately fulfil this function. This claim appears to be supported by the large number of daily van deliveries to various collection points in the catchment from both Tesco and Asda. The two supportive comments made by third parties also state that the catchment area suffers from a lack of competition and choice.

Access

The Council's Transport Planning Team and Transport Scotland were both consulted on the application. Transport Scotland offer no objection, and ask for only one condition which prevents occupation of the development until a comprehensive Green Travel Plan has been submitted and approved in writing by the Planning Authority after consultation with Transport Scotland.

The response from the Council's Transport Planning Team also offers no objection, but states that various transportation matters require further consideration and should be specified by condition or included within a full planning application. These issues comprise pedestrian, public transport and cycle linkages, detailed layout of the access and car park, consideration as to whether local traffic calming is required, a Green Travel Plan, details of servicing arrangements, proposals for

traffic management during construction, and drainage details.

This response also refers to the objective of completing the link road between Dunvegan Road and the Staffin Road which is set out in the West Highlands & Islands Local Plan. It is accepted that completion of this link is not required for the development to function satisfactorily and that while it would appear preferable from a transport viewpoint that this windfall development should make a contribution as a significant generator of traffic, it is acknowledged that there are policy issues which prevent such a contribution being sought. The response concludes with a recommendation that any future review of the Development Plan should include measures which ensure proportionate developer contributions from any schemes which take access from the existing and proposed link road towards its completion.

Ecology

The applicants have submitted an Ecology Appraisal which found no evidence of any protected or other important species on or within the vicinity of the application site. Both SNH and SEPA have indicated that they are satisfied with this appraisal. SNH agree with the recommendation that any tree planting should be confined to the use of native species local to the area, and with the suggestion that any lighting should avoid light spillage to the river corridor.

Developer Contributions

The Council's Planning Gain Negotiator makes the following observations:

i) Affordable Housing

The submitted Planning Statement indicates that the proceeds from the sale of the site accruing to the Lochalsh & Skye Housing Association would be reinvested into affordable housing within this body's operational area. Normal practice is that receipts from such sales are credited to the Scottish Government, off-setting grant investment. However, although no commitment can be given to a different approach in this case, following a meeting involving the Council's Housing and Planning Gain Officers, the Scottish Government and the Housing Association, the Scottish Government are investigating how these proceeds might be redirected towards the development of other land in the area.

ii) Town Centre

It is considered that a financial contribution towards improvements to Portree town centre is required to mitigate any impact the proposal would have on the vitality of the centre. It is suggested that this should be a fixed sum payable on or before the opening of the proposed store, with the contribution targeted on a town centre improvement scheme likely to include shop front improvements, street lighting, planting and other such measures.

iii) Public Transport

The capacity of the public bus which currently passes the site is considered unlikely to be sufficient to accommodate the additional demands from the proposed store. Accordingly, the cost of providing satisfactory public transport to the site would be determined in association with the Transport Planning Team, with a lump sum or consecutive payments over a period of time (usually three years) sought from the developer.

iv) Green Infrastructure/Outdoor Access

It is stated that the Access Officer may seek the provision of, or contributions towards, footpath/cycle links between the site and the town centre/nearby housing. However, no such request has been forthcoming.

v) Public Art

The provision of Public Art is required, either by on-site provision or by a financial contribution of up to 1% of the project's capital budget.

The Planning Gain Negotiator's response concludes with the observation that it is considered likely that contributions would be secured through a Section 75 obligation between the land owners and the Council.

The applicants have responded to the above points on the basis that it is not necessary for a Section 75 agreement in respect of reinvestment of the proceeds from the sale of the site accruing to the Lochalsh & Skye Housing Association into **affordable housing** within this body's operational area. This is conceded by the Planning Gain Negotiator, following discussions with the Scottish Government. In relation to **public transport**, the applicants would prefer this to the subject of a condition, but state that if this is not acceptable they would accept a Section 75 obligation requiring a contribution towards the extension of the existing bus service, with this figure to be agreed at the stage of a future detailed planning application, subject to a maximum figure of £100,000. The applicants state that they will consider a reasonable contribution to costed **town centre** improvements at the stage of any future detailed planning application. Finally, the applicants are agreeable to a scheme of **public art** within the scheme being the subject of a condition.

The advice from the Council's solicitor is that any financial contribution requires to be the subject of a legal agreement, rather than a condition. Accordingly, a Section 75 agreement is required in relation to the public transport and town centre contributions, whereas a condition would suffice in relation to the provision of public art.

Peat and Soils

The applicants have submitted a Peat Management Strategy, and further information which shows how the circa 20,000 cubic metres of peat which would require to be removed from the site could be accommodated in the restoration of the nearby Drummie Quarry. This quarry requires to be restored by the provisions of planning consent ref. 03/00061/FULSL. SEPA originally objected to the application on the basis that insufficient information had been supplied in relation to how the surplus peat was to be disposed of, but in the light of this further information, SEPA state that they are satisfied on this aspect of the proposal, and have now withdrawn their objection if a condition is applied which requires a finalised Peat Management Plan to be submitted and agreed by the Planning authority in consultation with SEPA before development commences.

Surface Water Drainage & Flood Risk

SEPA have no objection in relation to these issues, provided their requested conditions are applied which relate to flood prevention and detailed drainage

design.

8.5 **Other Considerations – not material**

It is not considered that any non-material matters have been raised by any consultee responses or third party comments.

8.6 **Matters to be secured by Section 75 Agreement**

It is considered that a Section 75 Agreement is required to cover the following matters:

- A financial contribution towards a Portree Town Centre Improvement Scheme.
- The cost of providing a satisfactory level of public transport to the site.

8.7 **Reasons for Approval as a Departure from the Development Plan**

The loss of affordable housing and open space provision result in the proposal being considered as a departure from the Development Plan, but for the reasons articulated in section 8.4 above, these factors do not constitute a barrier to the approval of the application.

9. **CONCLUSION**

9.1 All relevant matters have been taken into account when appraising this application. It is considered that, while the proposal represents a minor departure from the Development Plan, it nevertheless accords with the principles and policies contained within the Development Plan, and is acceptable in terms of all other applicable material considerations.

10. **RECOMMENDATION**

Action required before decision issued Y

Conclusion of Section 75 Agreement

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons / notes to applicant :

1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:
 - i. a detailed layout of the site of the proposed development (including site levels as existing and proposed);
 - ii. the design and external appearance of the proposed development;
 - iii. landscaping proposals for the site of the proposed development (including boundary treatments);
 - iv. details of site access and car parking, motorcycle and cycle parking arrangements;
 - v. details of servicing arrangements for the store, petrol filling station and

- biomass plant;
- vi. proposed opening hours for the store and petrol filling station;
- vii. details of traffic management during construction;
- viii. details of traffic impact on local road safety;
- ix. details regarding provision of a bus stop;
- x. details of public art within the development;
- xi. details of refuse storage and waste disposal arrangements;
- xii. details of external lighting arrangements.

Reason : Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

2. No development shall commence until details of a Peat Management Plan have been submitted to, and approved in writing by the Planning Authority in consultation with SEPA. Thereafter, the Peat Management Plan shall be implemented in accordance with these approved details, prior to the first use of the development

Reason : To ensure the satisfactory disposal of surplus peat from the site.

3. Any details pursuant to Condition 1 above shall include details of buffer strips to both the River Leasgeary and existing small drainage channels to be agreed with the Council's Flood Team. No boundary walls or fences should be placed within these buffer strips, and no increases to ground level should be made within these areas.

Reason : To ensure that the development does not exacerbate flood risk elsewhere.

4. Any details pursuant to Condition 1 above shall show surface water drainage provision within the application site which accords with the principles of Sustainable Urban Drainage Systems (SUDS) and is designed to the standards outlined in Sewers for Scotland Second Edition (or any superseding guidance prevailing at the time).

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

5. 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 approved details and timescales. For the avoidance of doubt, any private foul drainage system permitted is done so as a temporary measure only.

Reason : In order to protect people and the environment from the impact of waste water and ensure the development of the public sewerage network to which this development can be connected in due course.

6. The development shall not become operational until a Community Woodland, to be implemented in accordance with a scheme to be submitted to and agreed in writing by the Planning Authority, has been planted on land to the north east of the application site on the northern side of the Home Farm Road, as identified by an Open Space allocation on the West Highlands & Islands Local Plan (as continuing in force 2012) Proposals Map, to the satisfaction of the Planning Authority.

Reason : In the interests of visual amenity.

7. 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, in consultation with Transport Scotland. The Travel Plan shall include:

- i. Measures for maximising the degree of travel to the development by non-car modes;
- 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 travel to the development by non-car modes.

8. Any details pursuant to Condition 1 above shall include details of a scheme of public art provision within the development.

Reason : In order to make a positive contribution to the architectural and visual quality of the development, in accordance with the Council's Public Art Strategy.

9. Any details pursuant to condition 1 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.

10. Any details pursuant to condition 1 above shall include full details of any external lighting to be used within the site and/or along its boundaries and/or access. 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.

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'.

11. 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.

12. Any details pursuant to condition 1 above shall include full details of a scheme for the storage and disposal of refuse and recycling within the application site.

Reason : To ensure that suitable provision is made for the storage, management and disposal of refuse and recycling material within and from the application site.

13. The total amount of convenience floorspace within the development shall not exceed 1,525 sq m, and the total amount of comparison floorspace does not exceed 650 sq m.

Reason : To ensure that the level of convenience floorspace on which the application has been assessed is not exceeded, and to prevent the development being operated primarily as a comparison store.

REASON FOR DECISION

The proposals are considered to represent a justified departure from the provisions of the Development Plan, and there are no material considerations which would warrant refusal of the application.

TIME LIMITS

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.

FOOTNOTE TO APPLICANT

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Signature: Dafydd Jones

Designation: Area Planning Manager North

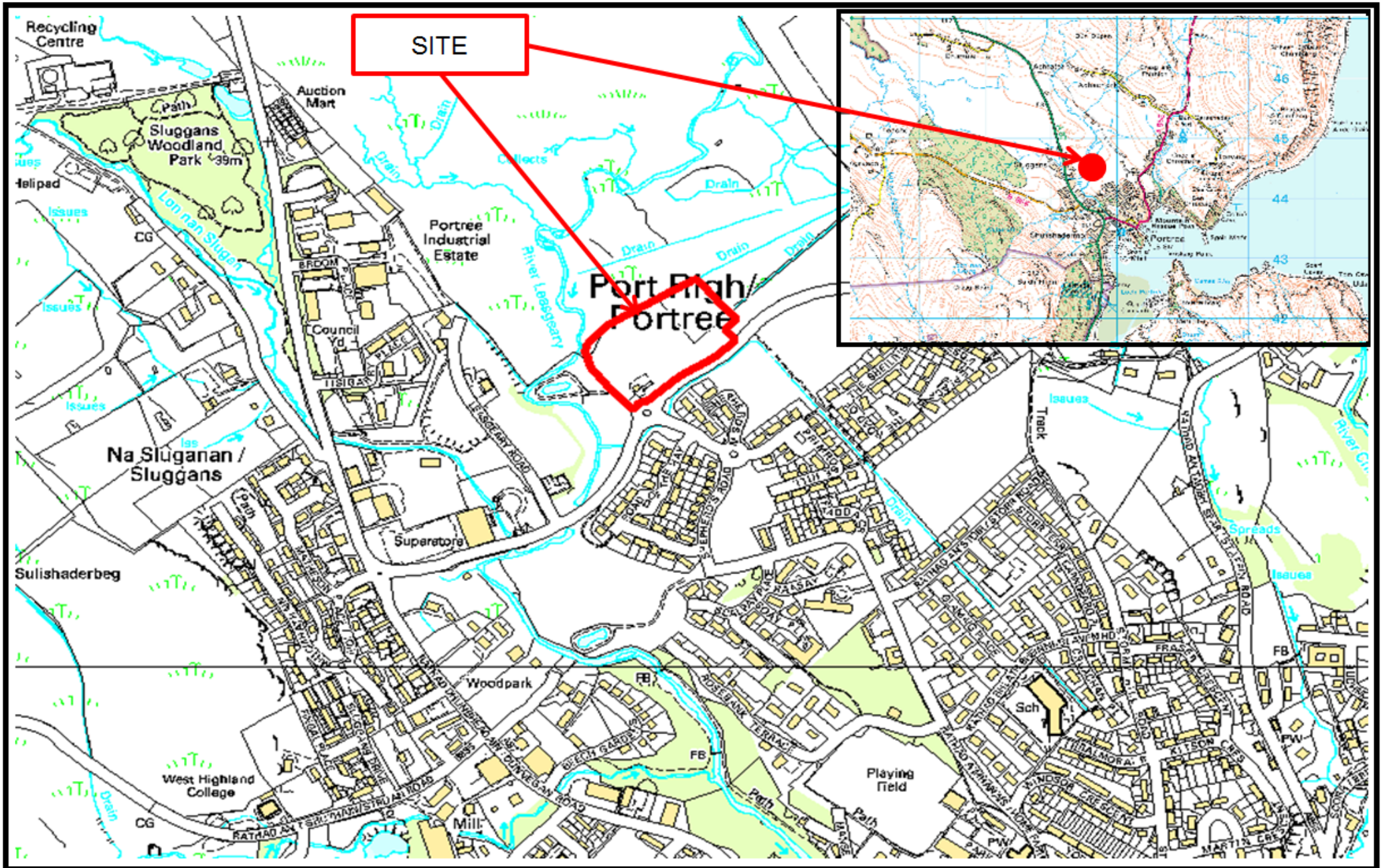
Author: Graham Sharp

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

Relevant Plans: Plan 1 – Existing site layout plan
Plan 2 – Proposed site layout plan
Plan 3 – Policy Plans
Plan 4- Planning History

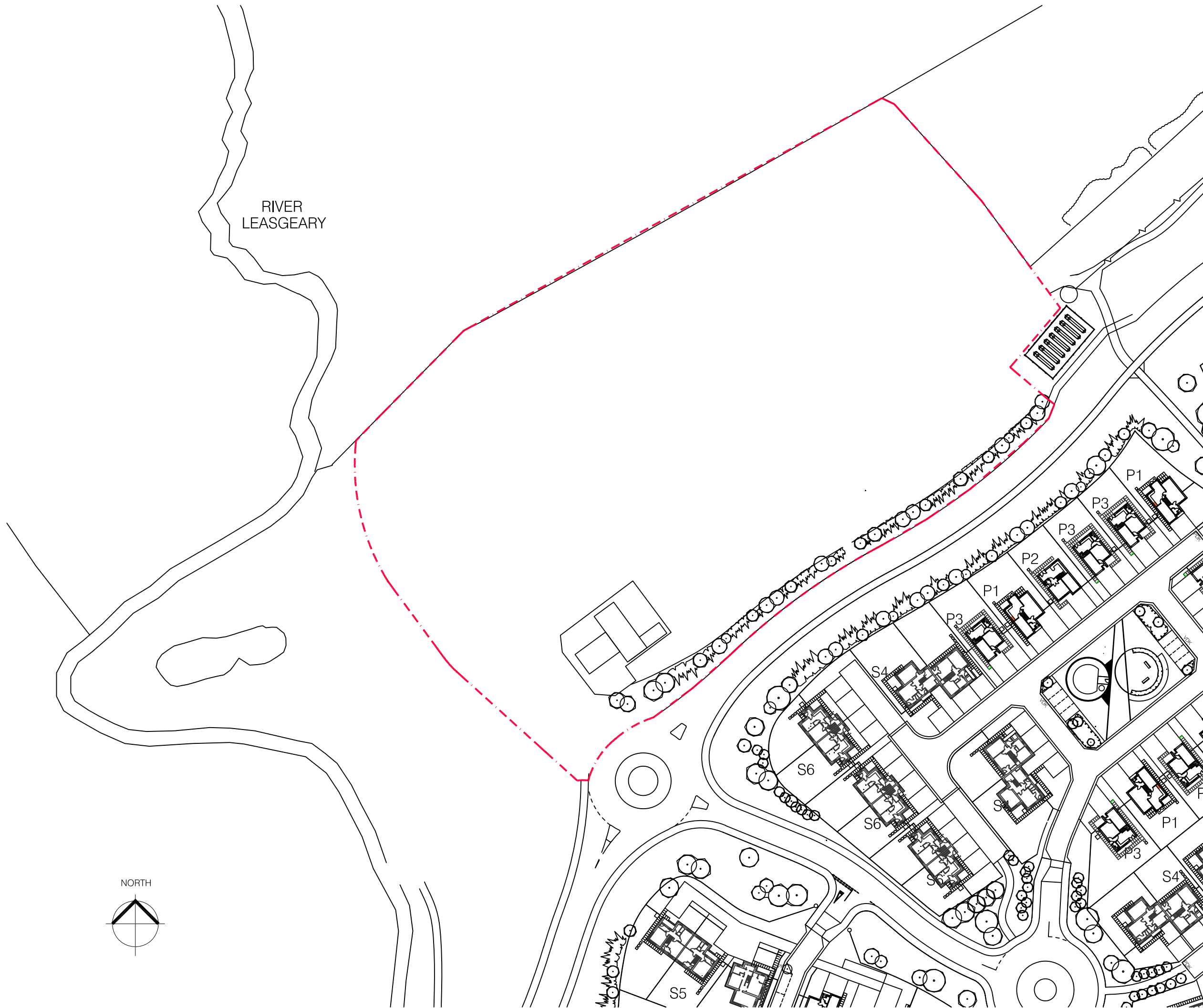
Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mr Iain MacLean	5 Achmore Road, Kyleakin	28.04.2014	For
M Mclvor	7 Glamaig Place, Portree	13.05.2014	For
G L Hearn on behalf of the Co-op	No address provided	20.05.2014	Against



Please do not scale from this drawing.
 All dimensions should be checked on site prior to
 commencing construction work.
 If in doubt please ask.

Total Site Area = 1.96 Ha / 4.84 Acres



RIVER
LEASGEARY

Rev No Description Date

REVISIONS

mosaic
 architecture + design

4th Floor
 100 West Regent Street
 Glasgow
 G2 2QD

t: 0141 554 6977
 e: office@mosaic-ad.com
 w: www.mosaic-ad.com

Client
 RUBICON LAND LTD
 LOCHALSH & SKYE HOUSING ASSOCIATION

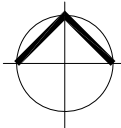
Job Title
 PROPOSED SUPERSTORE
 PORTREE, SYKE

Drawing Title
 SITE PLAN
 AS EXISTING

Scale	Date	Drawn By
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Job No	Drawing No	Checked
12128	AL(0)002	NH

PLANNING

NORTH



Please do not scale from this drawing.
 All dimensions should be checked on site prior to commencing construction work.
 If in doubt please ask.

Total Site Area = 1.95 Ha / 4.831 Acres



Rev No	Description	Date
REVISIONS		



4th Floor
 100 West Regent Street
 Glasgow
 G2 2QD

t: 0141 554 6977
 e: office@mosaic-ad.com
 w: www.mosaic-ad.com

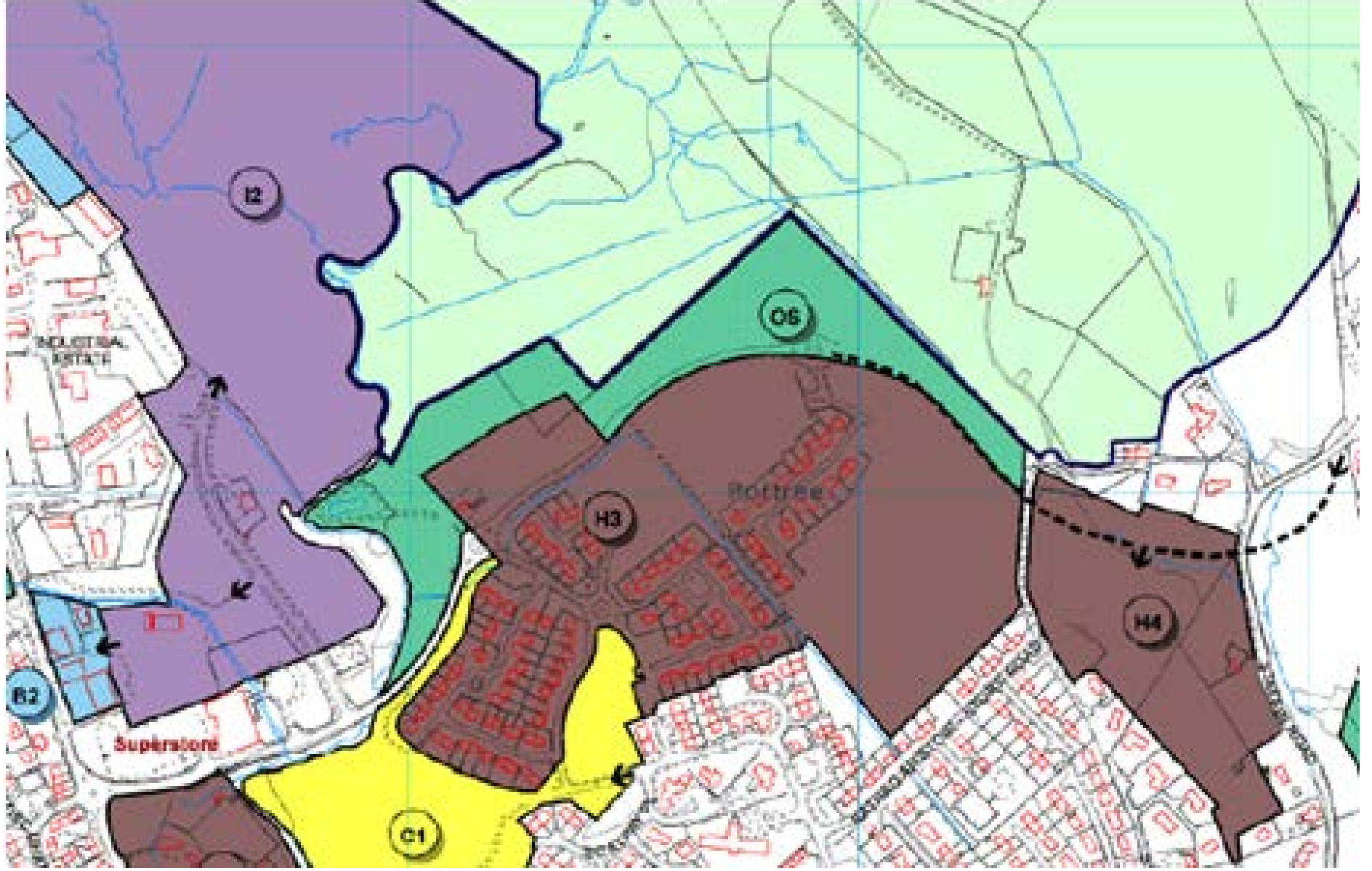
Client
 RUBICON LAND LTD
 LOCHALSH & SKYE HOUSING ASSOCIATION

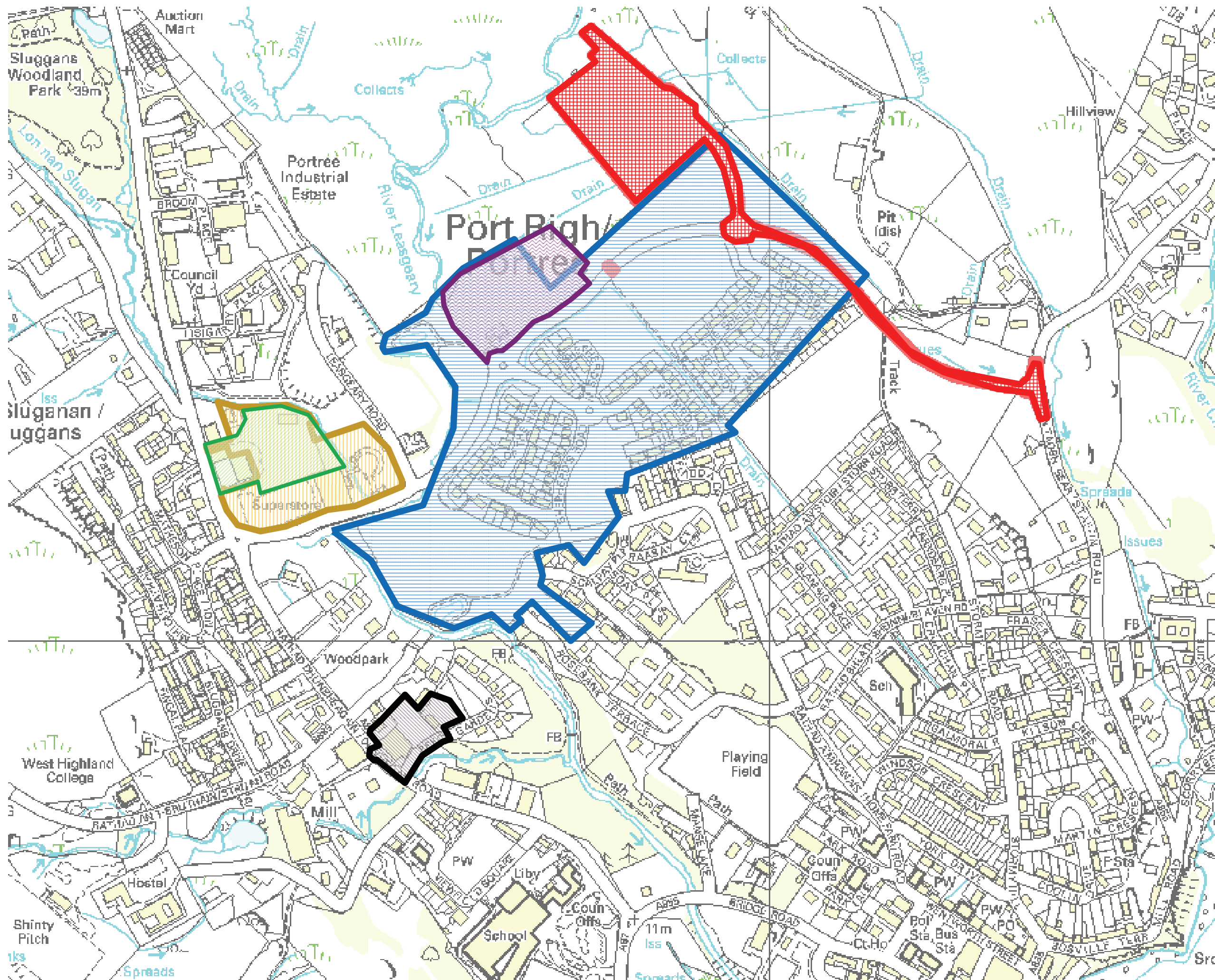
Job Title
 PROPOSED SUPERSTORE
 PORTREE, SYKE

Drawing Title
 SITE LAYOUT
 AS PROPOSED

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Job No	Drawing No	Checked
12128	AL(0)010	NH

INDICATIVE



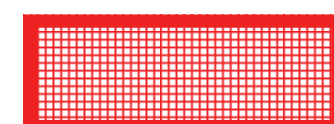


KEY

14/00464/PIP Rubicon Supermarket Proposal



13/03976/PIP Oatridge Supermarket Proposal



12/03919/FUL Extension to Co op Supermarket



07/00357/OUTSL Previous Oatridge Supermarket application



07/00212/FUL Lidl Supermarket



05/00116/FULSL Home Farm Housing Scheme

