THE HIGHLAND COUNCIL	Agenda Item	6.4
SOUTH PLANNING APPLICATIONS COMMITTEE 27 September 2016	Report No	PLS 059/16
16/02707/EUL - Ecotanto Unit Truct		

16/02797/FUL: Eastgate Unit Trust Eastgate Shopping Centre, 11 Eastgate, Inverness

Report by Area Planning Manager – South / Major Developments

SUMMARY

Description: Extend the Falcon Square façade of Eastgate Shopping Centre to provide 4 new restaurant units with outside seating areas

Recommendation: - GRANT

Ward: 15 – Inverness Central

Development category: Local

Pre-determination hearing: Not required

Reason referred to Committee: Manager's discretion

1. PROPOSED DEVELOPMENT

- 1.1 The development consists of a single storey extension to the façade of the existing shopping centre along with internal alterations to provide four new restaurants. The extension features a convex design inspired by the curvature of the markings in the pavement outside the shopping centre which establish the boundary of the extended façade. Part of the new extension wraps around the north corner of the shopping centre.
- 1.2 A secondary element to the proposal is the provision of a four metre wide external seating/dining area that runs parallel to the extended façade.
- 1.3 The development is part of a package of proposals submitted separately by the applicant which includes extending the Filling Station restaurant onto Falcon Square; the change of use of 1 Falconer Building (currently occupied by Laura Ashley) to a restaurant; and the provision of a rooftop restaurant/bar at the shopping centre.
- 1.4 The applicant has engaged in informal pre-application discussions with officers in relation to the proposals.
- 1.5 Access to the extended shopping centre will remain in the same general location,

albeit located further into Falcon Square with a reconfigured entrance. The applicant is proposing to install new private foul water and private surface water pipes to facilitate drainage which will then connect to the public drainage network.

- 1.6 A Design and Access Statement has been submitted in support of the application.
- 1.7 **Variations**: No variations have been made to the proposal since submission.

2. SITE DESCRIPTION

- 2.1 The site forms part of the existing civic open space of Falcon Square. The northeastern boundary is defined by the Eastgate Shopping Centre. To the north-west lies Inverness Railway Station. To the south-west is the two storey listed building currently occupied by Pizza Express and Laura Ashley. To the south of the site is the remainder of Falcon Square bounded by Academy Street and Millburn Road.
- 2.2 The existing shopping centre is a large multi-storey buff coloured stone clad building with a conical glazed entrance feature on the southern corner of the centre and extending the full height of the building.

3. PLANNING HISTORY

- 3.1 02.03.2015: Planning permission granted for extension to existing shopping centre outwards into Falcon Square at ground level and first floor to accommodate retail and restaurants, combined with redevelopment/expansion of second floor storage and plant to accommodate 8 screen cinema and change of use of two existing class 1 retail to class 3 restaurants (14/01463/FUL).
- 3.2 02.04.2015: Planning permission granted for change of use of 2 x existing retail units to restaurant use with external seating areas plus formation of new fire escape tower with external rooftop plant deck (15/00949/FUL).

4. PUBLIC PARTICIPATION

4.1 Advertised: Schedule 3 Development. Expired 22/07/16.

Representation deadline: 22/07/16

Timeous representations: None

Late representations: None

5. CONSULTATIONS

- 5.1 **Transport Planning:** No objection. A contribution towards streetscape improvements should be sought; improvements to bus shelter, seating areas and lay-by should be provided; additional cycle parking provision should be made.
- 5.2 **Environmental Health:** No objection. Recommend conditions relating to noise, ventilation and waste disposal.

- 5.3 **Contaminated Land:** No objection. Initially recommended a condition requiring a contaminated land survey. However following further discussions between the parties this issue has been fully resolved and a condition is no longer required.
- 5.4 **Historic Environment Team:** No objection.
- 5.6 **Crown and City Centre Community Council:** Supportive of the proposals. Access to the station should be clearly signposted and relocation of the cycle stance given further consideration.

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
- 40 Retail Development
- 51 Trees and Development
- 56 Travel
- 57 Natural, Built and Cultural Heritage
- 65 Waste Water Treatment
- 66 Surface Water Drainage
- 70 Waste Management Facilities
- 75 Open Space

6.2 Inner Moray Firth Local Development Plan

Promoting and Protecting City and Town Centres

7. OTHER MATERIAL CONSIDERATIONS

7.1 **Draft Development Plan**

Not applicable.

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7.2 Highland Council Supplementary Planning Policy Guidance

Inverness City Centre Development Brief Developer Contributions Sustainable Design Guide Managing Waste in New Developments Open Space Trees, Woodlands and Development Public Art Strategy

7.3 Scottish Government Planning Policy and Guidance

Scottish Planning Policy Creating Places PAN 59 Improving Town Centres PAN 65 Planning and Open Space

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 Furthermore, with respect to any buildings or other land in a conservation area, Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

8.4 **Development Plan Policy Assessment**

The proposal relates to development that will generate further footfall and add to the vibrancy and vitality of the city centre and is therefore an appropriate location in principle subject to assessment against key development criteria.

Class 3 uses (restaurants, cafes etc) are recognised as compatible city and town centre uses which compliment the core retail activity and as stated in Scottish Planning Policy contribute towards a mix of uses which support town centres in terms of their vibrancy, vitality and viability throughout the day and into the evening. The broad principle of development is therefore acceptable in terms of Policy 1 of the Inner Moray Firth Local Development Plan and Policy 40 of the Highland-wide Local Development Plan.

The key determining issues in assessing this application are therefore whether the proposals are acceptable in relation to the remaining development plan policies referred to in Section 6 and any other material considerations. In particular whether the design of the proposed extension is compatible with Policies 28 and 29 of the HwLDP; whether the proposal represents the acceptable loss of public open space provision; and the impact of the proposals in terms of natural and built heritage.

8.5 Material Considerations

8.5.1 <u>Design</u>

The existing shopfront features four glazed openings with stone cladding above. The extension will slightly enlarge the height of these glazed openings, as well as adding an additional opening where it wraps around the north corner of the existing building. The extension will feature a flat roof but angled slightly to enable surface water run-off to be directed to appropriate channels. The roof will not be visible from street level.

The external materials used for the walls of the extension will be predominately natural stone cladding to match the existing building. Light grey coloured metal cladding is proposed for the shopfront upstands.

The proposed extension has a footprint of approximately 425 sqm. The seating zone is approximately 117 sqm giving a total development area of 542 sqm. At its furthest point from the existing façade the extension will project 9 metres into Falcon Square. Coupled with the external seating area this increases to 13 metres. The overall footprint of the development encroaches onto Falcon Square by approximately 413 sqm. This is slightly less than the extant planning permission granted in 2015 for an extension to form 5 restaurants and an 8 screen cinema which had a development footprint of approximately 590 sqm, 457 sqm of which projected onto Falcon Square but did not include outdoor seating.

Overall the design in terms of scale and mass is considered acceptable and represents a modest addition to the existing centre with the curved projection adding a degree of visual interest to this extensive block elevation. It demonstrates appropriate siting and good quality design in keeping with local character, makes use of appropriate materials and will contribute positively to the visual quality of the area. It is therefore considered to comply with Policy 28 (Sustainable Development) and the design aspects of Policy 29 (Design-Quality and Place-Making) of the HwLDP.

8.5.2 Loss of Open Space

PAN 65 Planning and Open Space notes that open spaces are important for our quality of life and defining the character and identity of an area. Open space includes not only greenspaces but also civic space consisting of squares, market places and other paved or hard landscaped areas with a civic function. PAN 65 states that all spaces, regardless of ownership, contribute to the amenity and character of the area. In this case Falcon Square is a privately owned but publicly accessible area of civic space within the city centre.

PAN 65 advises that green and civic spaces must be fit for purpose and have a relationship with the surrounding buildings and uses and the movements through them. They should be designed for ease of access, particularly for groups such as the elderly, parents with pushchairs and disabled people.

Scottish Planning Policy states that 'the planning system should protect, enhance and promote green infrastructure, including open space and green networks as an integral component of successful placemaking. Improving the quality of our places and spaces also encourages investment and development.'

The Scottish Government's policy document Creating Places states that "place' comprises the environment in which we live; the people that inhabit these spaces;

and the quality of life that comes from the interaction of people and their surroundings. Architecture, public space and landscape are central to this. The six qualities of successful places are set out as distinctive; safe and pleasant; easy to move around; welcoming; adaptable; and resource efficient."

Falcon Square is an important area of civic open space in the heart of the city centre. It provides direct access to the shopping centre as well as access to the Falcon Square entrance to the railway station which attracts the heaviest footfall of all three station entrances. As a civic space it does not function nearly as well as it could and would clearly benefit from enhancement. It functions largely as an area of land that people simply pass through. Improving the functionality of this civic space is a key component of the Council's City Centre Development Brief.

The proposed extension and outside seating/dining areas, whilst having the potential to add new life and vitality to the Square will, nevertheless, result in the loss of an area of this important public open space, including two established trees. It is therefore essential that appropriate consideration is given to the costs and opportunities presented by this proposal.

The seating area is shown extending across the frontages of all four restaurant units. Of particular concern is the impact this would have on the Falcon Square entrance to the station. An assessment of the proposed plans indicate that at its narrowest point this route would be reduced to approximately 5.3 metres between the proposed seating areas and the existing seating area associated with the adjacent Pizza Express building. Transport Planning has advised that in reality this pedestrian route would be further restricted due to the presence of street furniture to only 2.7 metres at its narrowest point. This is clearly not acceptable and in the event that Members are minded to grant planning permission for this proposal it is recommended that a condition is imposed requiring the final layout and location of the seating area, along with any measures to segregate this area from Falcon Square, are submitted for approval before any outdoor seating equipment is provided.

In addition to the above it is also recommended that a condition is imposed requiring the submission and approval of public realm improvements to the Square itself including; the provision of public art, hard and soft landscaping including replacement tree planting, the provision of seating and improved lighting, a wayfinding monolith sign and improvements to enhance the pedestrian link to the station entrance.

This proposal brings an opportunity to transform this area into a functional lively social space, injecting new vibrancy to this part of the city as well as providing better connectivity with both the shopping centre and the adjacent railway station. Coupled with securing a developer contribution towards streetscape improvements, in particular an enhanced pedestrian crossing point, it will further strengthen this connectivity with other areas of the city centre. The successful revitalisation of this civic space will contribute significantly to delivering a more coherent sense of place for Falcon Square. In doing so it will meet the objectives of Policy 29 (Design Quality and Place-Making) and Policy 75 (Open Space) of the HwLDP.

8.5.3 Built Heritage

The site is located within the Inverness (Riverside) Conservation Area although the shopping centre itself adjoins, but is outwith, this designation. Also of relevance is the location of the proposal adjacent to the listed Falconer Building occupied by Pizza Express and Laura Ashley.

As stated above, the extension is considered acceptable. Subject to appropriate conditions relating to the seating zone and improvements to Falcon Square it is considered that the proposal will also enhance the conservation area at this location in accordance with the Council's general duty under Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The Historic Environment team has advised that the proposal is sufficiently removed from 7-9 Falcon Square (the Falconer Building) as to not impact on its setting as a listed building.

As a result of the above the proposal is considered to accord with Policy 58 of the HwLDP.

8.6 **Other Considerations – not material**

Not applicable.

8.7 Matters to be secured by Section 75 Agreement

The Council will seek a financial contribution from the applicant towards streetscape improvement works associated with Academy Street and in particular the pedestrian crossing from Falcon Square. The applicant has agreed in principle to this.

9. CONCLUSION

- 9.1 Extending the shopping centre to enable the provision of four new restaurants will be of significant benefit to the city centre not only in terms of the local and regional economy but also in improving the vitality of the city. However it will also result in the loss of an area of open space from Falcon Square. It is therefore important that implementation of the proposal must result in a clear overall net gain for the city which is why it is considered essential that improvements to the civic space form a fundamental part of any subsequent planning permission.
- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal 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

Notification to Scottish Ministers	Ν	Not required
Notification to Historic Scotland	Ν	Not required
Conclusion of Section 75 Agreement	Y	Developer contribution towards streetscape improvements
Revocation of previous permission	Ν	Not required

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

1. No development shall commence until a construction noise assessment has been submitted to and approved in writing by the Planning Authority. The noise assessment shall be carried out in accordance with BS 5228-1:2009 "Code of practice for noise and vibration control on construction and open sites – Part 1: Noise". Details of mitigation measures shall be provided with the assessment, including proposed constructions hours. Thereafter the development shall proceed in accordance with the approved noise assessment.

Reason: In order to safeguard the amenity of neighbouring properties and occupants.

- 2. All plant, machinery and equipment associated with associated with ventilation, airconditioning, heating and refrigeration services or similar and including fans, ducting and external openings shall be so installed, maintained and operated such that either of the following standards are met: -
 - I. any associated operating noise must not exceed NR 25 when measured or calculated within the bedroom of any noise-sensitive premises with windows open for ventilation purposes.

OR

II. the operating noise Rating level must not exceed the Background noise level by more than 5dB(A) including any characteristics penalty. Terms and measurements to be in accordance with BS 4142: 2014 Methods for Rating Industrial & Commercial Sound.

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.

3. Full details of the proposed kitchen extraction ventilation system designed to

ensure the effective removal and dispersal of cooking odours from each individual Class 3 unit shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved ventilation system for each individual restaurant shall be installed and fully operational prior to each individual restaurant being first brought into use and shall be retained in use thereafter.

Reason: In order to safeguard the amenity of neighbouring properties and occupants.

4. No development shall commence until full details of a suitable and sufficient off street storage area for refuse containers associated with the Class 3 use of the units has been submitted to and approved in writing by the Planning Authority. Thereafter all refuse and recyclable materials associated with the Class 3 use shall be stored within the approved area. No refuse or recycling material shall be stored or placed for collection on the public highway or pavement, except on day of collection.

Reason: To ensure the adequate provision of refuse storage facilities in the interests of amenity.

5. A detailed specification for all proposed external materials and finishes (including trade names and samples where necessary) shall be submitted to, and approved in writing by, the Planning Authority prior to installation. Thereafter, development and work shall progress in accordance with these approved details.

Reason: To ensure that the development is sensitive to, and compatible with, its context and local architectural styles.

6. No development shall commence until full details of proposals for cycle parking has been submitted to and approved in writing by the Planning Authority. Thereafter, the proposed cycle parking provision shall be provided in full within 3 months of first occupation of any of the new units.

Reason: To ensure that adequate provision for cycle parking is provided timeously.

- 7. No development shall commence until a plan for the enhancement of the public realm within Falcon Square has been submitted to and approved in writing by the Planning Authority. Thereafter the approved scheme shall be implemented and completed before first occupation of any of the units. For the avoidance of doubt the scheme shall include, inter alia, the following elements:
 - A scheme for the provision of public art including the pedestrian link between Falcon Square and the railway station, in accordance with the Council's Public Art Strategy Supplementary Guidance;
 - Measures for the provision of seating within the Square;
 - A scheme of lighting;
 - Measures for the provision of soft landscaping, including replacement tree planting; and
 - A management strategy for continued and ongoing maintenance of

the space for the lifetime of the development hereby approved.

Reason: In order to enhance the public realm in compensation for the loss of public open space at Falcon Square.

8. The units hereby approved shall be used for Class 3 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended, revoked or reenacted; with or without modification).

Reason: In order to clarify the terms of this planning permission and safeguard the vitality and viability of the town centre.

9. Notwithstanding the details shown on the approved plans the external seating area shall not be provided until full details of the area to be set aside for the provision of tables and chairs, along with any measures to segregate the area from the remainder of Falcon Square, have been submitted to and approved in writing by the Planning Authority. In particular the details must ensure that there is a clear and unimpeded passage through Falcon Square to the train station entrance off Falcon Square of at least 6 metres. Thereafter the external seating area shall only be provided for in the approved area.

Reason: To ensure that sufficient space is retained to allow safe passage of members of the public.

10. No development shall commence until a revised plan showing the enlargement of the existing bus lay-bys and improved bus shelter provision has been submitted to and approved in writing by the Planning Authority. In particular the plan shall show provision of adequate space for the construction of a bus shelter of 11m in length. Thereafter the land shall be safeguarded from development to facilitate these improvements.

Reason: In order to secure the provision of adequate space to accommodate improvements to the public transport system without compromising the public realm improvements required by Condition 7 above.

11. No plant, machinery or equipment shall be installed on the roof of the extension.

Reason: In the interests of amenity and to protect the character and appearance of the conservation area.

REASON FOR DECISION

The proposals accord with 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 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates

must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

- 1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
- 2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

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: <u>http://www.highland.gov.uk/yourenvironment/roadsandtransport</u>

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

http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationfo rmsforroadoccupation.htm

Mud & Debris on Road

Please note that it 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:	Nicola Drummond
Designation:	Area Planning Manager – South/Major Developments
Author:	John Kelly
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 – Location Plan
	Plan 2 – Site Plan
	Plan 3 - Proposed Lower Mall Level Plan TPS02_040
	Plan 4 – Proposed Elevation A TPS02_050
	Plan 5 – Proposed Elevation B TPS02_051
	Plan 6 – Proposed Elevation C TPS02_052
	Plan 7 – Proposed Elevation D TPS02_053
	Proposed Visual 1
	Proposed Visual 2



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KEY			
	SITE BOUNDARY		

- OWNERSHIP BOUNDARY
- EXTENSION AREA

TOWN PLANNING FOR EASTGATE SHOPPING CENTRE FACADE EXTENSION

Sheet

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LOCATION PLAN

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EASTGATE SHOPPING CENTRE INVERNESS

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Note: Drawing based on Malcolm Hollis Survey Drawing: 50937-E-01-REVA

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Project



EASTGATE SHOPPING CENTRE INVERNESS IV2 3PP

Drawing Title

FACADE EXTENSION EXISTING ELEVATION A

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TOWN PLANNING FOR EASTGATE SHOPPING CENTRE FACADE EXTENSION

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KEY	
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Proposed building:	7. Opaque Glazed Panels
1. Natural stone cladding to match existing	8. Pressed metal roof par
2. Single glazed panels	9. Existing signage
3. Stick system glazing	10. Means of Escape Doo
4. Light Grey metal cladding to upstand	11. Grey composite cladd
	12. Grey louvre screen
Light grey metal cladding with mounting for signage.	13 Natural Stone Cladding
6.1 no. Automatic Sliding Door and 1 no. Manual Opening door. Single glazed with metal frame.	14. Reposition existing sig mount on brackets.



1. PROPOSED ELEVATION C



KEY	Existing buildings:
Proposed building:	7. Opaque Glazed Par
1. Natural stone cladding to match	8. Pressed metal roof
existing	9. Existing signage
2. Single glazed panels	10. Grey louvre screen
3. Stick system glazing	11 Natural Stone Clado
 Light Grey metal cladding to upstand 	
5. Light grey metal cladding with mounting for signage.	

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Note:

Drawing based on:

- Malcolm Hollis survey drawing: 50937-E-01-REVA

- Malcolm Hollis survey drawing: 50937-T-01-REVA

- Malcolm Hollis survey drawing: 50937-F-R-REVA

> 3rd Floor, 36 Spital Square London, E1 6DY



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EASTGATE SHOPPING CENTRE INVERNESS IV2 3PP

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FACADE EXTENSION PROPOSED ELEVATION D

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TOWN PLANNING FOR EASTGATE SHOPPING CENTRE, FACADE EXTENSION

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Project no.	Drawing no.		Revision	
122	TPS02_053		00	

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Scale N/A

Drawn E.O

PS

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Checked

Revision

Project

EASTGATE SHOPPING CENTRE INVERNESS IV2 3PP

Drawing Title

North

PROPOSED VISUAL 1

Sheet A3 Date

20/06/16

Drawing no.

TPS02_070



EASTGATE SHOPPING CENTRE INVERNESS IV2 3PP

Drawing Title

Project

PROPOSED VISUAL 2

Status

TOWN PLANNING FOR EASTGATE SHOPPING CENTRE FACADE EXTENSION

Pod Architects	Do not remove this panel from the drawing No dimensions to be scaled from this drawing Report all errors and omasions to the Architect Dimensions to be checked on site before fabrication			
North	Sheet	Scale	Drawn	
	A3	N/A	E.O	
	Date		Checked	
	20/06/16		PS	
Project no.	Drawing no.		Revision	
122	TPS02_071		00	

