

Agenda Item	6.5
Report No	PLS/070/18

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 18 September 2018
Report Title: 18/00906/FUL: Forrest Developments Ltd
At Sainsbury Supermarket, Nairn.
Report By: Area Planning Manager – South/Major Developments

Purpose/Executive Summary

Description: Erection of a Class 1 retail unit & a restaurant with drive-thru lane (Sui Generis) with associated parking & other ancillary works.
Ward: 18 - Nairn and Cawdor
Development category: Local

Reason referred to Committee: Objection from Community Council.

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.

Recommendation

Members are asked to agree the recommendation to **Grant** planning permission as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is for two commercial units within the existing Sainsbury Retail Park in Nairn. The units comprise a large 1,858sqm (20,000sqft) retail / shop and a 379sqm (4,100sqft) restaurant and drive-thru. The applicant has advised that the former is likely to be used by 'Home Bargains' and the latter by McDonalds.
- 1.2 The proposed development would extend the existing car park to provide 314 car parking spaces in total. It would also utilise the existing common service yard for both offloading and turning and the 'Drive-Thru' unit will have an external delivery dock and an adjusted pull in bay.
- 1.3 Pre Application Consultation: - The Planning Authority provided a Pre Application response to proposals for a 20,000sqft non-food retail unit and options including two 1,500sqft retail pod units, or a retail unit and a drive-thru restaurant with associated car parking. To gain support any future application would need to clearly demonstrate that it would not result in an adverse impact on the town centre.
- 1.4 Supporting Information: The following has been submitted in support of the application: -
- Planning and Retail Statement.
 - Retail Impact Assessment.
 - Design Statement.
 - Transport Assessment.
 - Surface Water Management Plan
 - Scottish Water – Requirements.
- 1.5 Variations: - Minor amendments to site layout.

2. SITE DESCRIPTION

- 2.1 The site falls within an existing retail development (Sainsbury's) on the east side of the settlement of Nairn. The original retail site area extended to 7.61 acres, with approval for a petrol filling station, a supermarket with a gross floor area of 4,180sqm, three retail units with a combined gross floor area of 2,300sqm and a total of 375 car parking spaces. Currently the site contains the Sainsbury's supermarket store (25,000sqft sales), 4 pump petrol filling station and a car wash. Parking is available for 266 cars, motorcycle parking and cycles. Sainsbury's supermarket now incorporates a small Argos outlet following a business acquisition.
- 2.2 The current proposal occupies 2.72 acres of the original site granted planning permission. It faces Forres Road which also serves as the A96 trunk road linking Inverness and Aberdeen. Access is derived via a roundabout within the A96(T) road which also serves Balmakeith Industrial Estate. The site carries no specific designations of historic or ecological interest

3. PLANNING HISTORY

- 3.1 30.04.2010 Retail development (45,000sqft food retail, 40,000sqft non-food retail, petrol station), car park and new road access to A96 - (07/00099/OUTNA). PIP Granted
- 3.2 18.11.2010 Approval of Retail Units, vehicular access and ancillary works 10/02995/MSC Granted
- 3.3 03.12.2010 Approval of matters specified in 07/00099/OUTNA - (10/04197/MSC) Granted
- 3.4 29.03.2017 Section 42 application to vary condition 8 – (extend operating hours for petrol filling station) 07/00099/OUTNA – (17/00513/S42) Granted.
- 3.5 20.04.2017 20,000sqft non-food retail unit & either (i) two 1,500sqft retail pod units, or (ii) drive-thru restaurant with associated car parking (17/00817/PREAPP). PREAPP

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour.
Date Advertised: 20.03.2018
Representation deadline: 03.04.2018
Timeous representations: 23 representations including: -
4 objections and
19 in support.
- 4.2 Material considerations raised in objection are summarised as follows:
- a) Conflict with Development Plan and SPP both seek town centre first.
 - b) Conflict with earlier permissions which protect the town centre.
 - c) Any consent should only be for non food uses.
 - d) Lack of available services in Nairn – waste water.
 - e) Flood risk within Auldearn Burn.
 - f) Adverse traffic impacts on an already busy / overloaded road network.
 - g) Need to secure replacement / enlarge recycling services, litter services and contributions to assist town centre initiatives.
- 4.3 Material considerations raised in support are summarised as follows:
- a) Jobs / economic benefit.
 - b) Nairn needs a fast food outlet / fresh businesses.
 - c) Approval would add to the range of businesses in the town.
 - d) Strong support for development within the community – facebook survey.
 - e) Will help avoid travelling to other towns for similar services being offered.

- f) May help retaining passing traffic to stay in the town / area for longer.
- g) Retail units will be disabled friendly.

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.

5. CONSULTATIONS

5.1 **River Nairn Community Council** object to the application. Key points (summarised) from its substantive response highlight: -

- Conflict with the planning permission for this retail park, which restricted uses within retail units / floorspace.
- Conflicts with the Development Plan – Policy 1 Promoting and protecting City and Town centres’.
- Moving services from the town centre can only weaken the role of Nairn as a tourist / employment centre.
- Need for an “Infrastructure First Approach” and highlighting insufficient capacity in the sewerage, water, surface water and road services.
- Cumulative effect of this proposal and other applications currently being assessed on the above service limitations.
- No clarity on trading / opening times; waste management / littering.

5.2 **Development Plan Team** has no objections to the application.

5.3 **Flood Risk Management Team** has no objection to the application.

5.4 **Transport Planning Team** has no objections to the application. Request is made for planning conditions to be attached to any grant of planning permission.

5.5 **Transport Scotland** has no objections to this application. Request is made for planning conditions to be attached to any planning permission for road safety reasons.

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 & Place-making
- 30 - Physical Constraints
- 31 - Developer Contributions
- 34 - Settlement Development Areas
- 40 - Retail Development
- 56 - Travel
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage
- 70 - Waste Management Facilities
- 72 - Pollution

73 - Air Quality
77 - Public Access

6.2 Nairn Local Plan 2012 (as continued in force)

None.

6.3 Inner Moray Firth Local Development Plan 2015

Policy 1 - Promoting and protecting town centres.
Policy 2 - Delivering development
Policy NA 12 – Retail.

7. OTHER MATERIAL CONSIDERATIONS

Highland Council Supplementary Planning Policy Guidance

- 7.1
- Developer Contributions (March 2013)
 - Flood Risk & Drainage Impact Assessment (Jan 2013)
 - Sustainable Design Guide (Jan 2013)

Scottish Government Planning Policy and Guidance

- 7.2
- Sustainable development;
 - Place-making;
 - Promoting town centres;
 - Appendix A Town centre health checks and strategies.

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.

Determining Issues

- 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.

Planning Considerations

- 8.3 The key considerations in this case are:
- a) Development Plan;
 - b) Scottish Planning Policy;
 - c) Planning history;
 - d) Retail assessment;
 - e) Layout and design;
 - f) Access and traffic impact;
 - g) Water, waste water and surface water;
 - h) Environmental health / amenity.
 - i) Construction impacts

j) Other material considerations.

Development plan/other planning policy

- 8.4 The application falls within land allocated for retail development (NA12). The allocation highlights the need for compliance with planning permission 07/00099/OUTNA and particularly the capacity for the remainder of the land for non- food (comparison) retailing. Given the convenience food elements within the application, including the sale of hot food, the application is not consistent with the NA12 land allocation. That said it is acknowledged that the specific nature of the current proposal includes a drive-thru. Such an operation (Sui Generis Use) would not reasonably be expected to be provided within a town centre location.
- 8.5 Both the IMFLDP and HwLDP also advance a range of policies that are relevant to the application. These are as listed above.
- 8.6 A key provision of the Development Plan IMFLDP policy relative to the current application is Policy 1 – Promoting and Protecting City and Town Centres. Nairn is one such town centre which is highlighted within the policy. In this regard the Plan states “- *Developers of proposals that generate footfall (visits by the general public) should consider sites that are suitable, in terms of the scale and type of development proposed, within those centres listed below. Developers should also consider how appropriate the scale and type of their proposed development is to the hierarchical scale and function of the centre within which it is proposed. If the Council considers that a proposal may result in an adverse impact on the vitality and viability of any of these centres then the developer will be required to produce a retail impact assessment. If this demonstrates an adverse impact then the development proposal will not be supported.*”
- 8.7 Furthermore and in line with the above policy - Policy 40 Retail Development of the HwLDP also seeks “to promote town centre retail development and protect against development which may have an adverse effect on the vitality and viability of the main town centres.” However it also recognises favourable support for development proposals for 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 the city/town/village centre; and
 - iii. where good active travel and public transport accessibility exists or can be secured.
- 8.8 In considering this application it was considered that a Retail Impact Assessment required to be submitted to assist with the consideration of the application. The assessment is a material consideration. If the impact of the development (overall) is not adverse, the application can be supported in line with the policies of the Development Plan.

Scottish Planning Policy

- 8.9 SPP advises that "for smaller retail proposals (<2,500m² gross floorspace) which may have a significant impact on the vitality and viability, a retail impact

assessment may be required.

- 8.10 Scottish Planning Policy (SPP) further states that where proposals in edge of town centre, commercial centre or out-of-town locations are contrary to the development plan, it is for applicants to demonstrate that options have been thoroughly assessed and the impact on the existing town centres is acceptable. For the purposes of assessment Para 73 of SPP specifically highlights: -

“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.”*

- 8.11 The Scottish Government has highlighted within SPP that planning needs to take a positive approach to enabling high quality development and making efficient use of land to deliver long term benefits for the public whilst protecting and enhancing natural and cultural resources. Its policy highlights the need to create high quality places by design and which demonstrate the six qualities of place making: - distinctive; safe and pleasant; welcoming; adaptable resource efficient and easy to move around. The determination of this application should draw upon these matters.

Planning History

- 8.12 In the determination of the initial retail park application, following a Public Local Inquiry, Scottish Ministers granted planning permission for the retail park with conditions that remain in place. This provided for two retail units and a petrol filling station, permitting: -

- 1 * 45,000 sqft (4,180sqm) gross food retail unit (convenience).
 - With a maximum net sales area 2,322sq.m.
 - Max floorspace for comparison goods shall not exceed 20% of net sales area.
- 1 * 40,000 sqft (3,716sqm) non food retail unit (comparison).
 - With a maximum net sales area 1,858sq.m.
 - No non food unit shall have a net sales area of less than 558sqm.

- 8.13 The permission restricts the range of acceptable uses at this location. These elements were highlighted in Condition 3 (d) which “prohibits the non-food retail unit(s) from selling clothing, footwear, watches, jewellery, fashion accessories or toys”; and Condition 4 that “no part of the development shall be used as a café, restaurant, post office or pharmacy.” The reason given for these conditions was to “protect the vitality and viability of Nairn town centre and the continued provision of local retail facilities elsewhere in Nairn.” Elements of these conditions and enforceability are difficult to interpret. Nevertheless the decision will assist form the

basis of any planning conditions should the application be supported.

Retail assessment

- 8.14 The applicant has submitted a Retail Impact Assessment (RIA) to support its application. This advises that its proposals for a large retail unit (1,858sqm / 20,000sqft) will have 1,486sqm net sales split 1,040sqm for non food and 446sqm food. It is this latter element upon which the larger retail unit conflicts with the earlier planning permission. There is also further conflict from the proposed restaurant.
- 8.15 The applicant's assessment presents the case that: -
- The site and the consequential nett sales floorspace has already been consented and identified in the Development Plan.
 - The intended client (Home Bargains) seeks "sites in close proximity to a large 'anchor' supermarket due to the nature of their product sales." Therefore the associated catchment impact is quite limited, and still offers potential additional trips to the town centre.
 - The population and household expenditure of the catchment area has grown over the years and is forecast to expand - creating available expenditure for additional retail sales floorspace in the locality.
 - There is a quantitative deficiency between the total expenditure within the catchment area, which is £77.5million in 2018, rising to £80.4million in 2021, and the turnover of the existing retailers in the catchment which stands at £46.8 million in 2018 and £47.1 million in 2021. This constitutes a shortfall of £33.3 million in 2021 and demonstrates a concerted leakage of expenditure to other towns and services outwith Nairn.
 - The proposed store would assist in clawing back expenditure which is currently being spent out with the area as the increased choice in retailing would encourage linked trips to Nairn town centre and shoppers to spend in the local area.
 - The development will address qualitative deficiencies currently, within Nairn Town Centre where there are two Co-operative shops and outwith the town centre there are a further two Co-operatives and a Sainsbury's adjacent to the site at Forres Road. The provision of a "value" retailer is lacking within Nairn.
- 8.16 The applicant also advises that: -
- The "drive through restaurant" (Sui Generis) is a particular type of development which is not considered appropriate for the town centre. Thereby it cannot be seen as a comparable development that needs consideration in respect of impact on the town centre. Indeed it requires to be located "adjacent to a main road with passing traffic".
 - It argues 50% of the drive through sales is made by passing road users.
- 8.17 In overall terms the applicant presents economic justification for the application highlighting a £5m investment in Nairn, creating valued construction jobs and the expectation of 95 FTE new direct jobs. In basic economic terms such investment is always welcomed however it is important to reflect upon the submitted Retail Impact Assessment (RIA) and draw some conclusions.

- 8.18 The assessment appears fairly accurate and is consistent with the Council's understanding. Nairn is a valued retail centre, but is under pressure from the larger range of services available in Inverness and alternative retail centres in Moray. That said the Council has no current information on town centre property vacancies (health check). There is known expenditure leakage from the local "retail" catchment area. The community is also growing in population / housing, thereby there is available additional retail expenditure. The two principle arguments here are that there are quantitative and qualitative deficiencies in Nairn. These are important factors when drawing conclusions on the application.
- 8.19 The submitted RIA has assessed that their proposals would expect a trade diversion arising from Nairn town centre of £0.3million, from other Co-ops outwith the town centre of £0.04million and £1.1million from Sainsbury's. It also anticipated a further £1.9million is expected to be clawed back from retail units outwith the local catchment area. Therefore, the impact on Nairn town centre in terms of convenience impact is 1.1% and 3% in terms of comparison. With regards to Sainsbury's, the expected impact is likely to be 2.6% in terms of convenience impact and 14.4% in terms of comparison based on the 2021 test year data. The conclusion reached within the retail impact assessment is that the proposal should be supported in that the retail unit would not have a significantly detrimental impact on the town centre.
- 8.20 In line with the retail policies of the Development Plan and SPP aimed at promoting and protecting the town centre this has to be balanced with the fact that the Development Plan also highlights retail development opportunity at the consented retail park on the east of Nairn. In that regard the application has consistency with the Development Plan. It also presents a potential candidate retailer (Home Bargains), which seeks by location to compete with one of the UK's largest retailers.
- 8.21 With regard to the drive through restaurant, and putting aside its particular sui generis characteristics and expected market draw (road travellers), its impact on Nairn has to be considered. The retail assessment highlights there are approximately 16 cafes, restaurants and takeaways within Nairn town centre. Thereby the town centre has a good supply of food and drink uses. However no assessment has been made of the amount of trade which these businesses draw from passing the A96(T) road.
- 8.22 Overall, the likely impact of the McDonald's drive through is less conclusive because the evidence submitted is limited. The sequential test, albeit for the proposal as a whole, highlights the difficulties with identifying suitably available sites either within Nairn town centre or edge of centre locations for such development. It is accepted that given the site is positioned close to the A96(T) road and that it is within an established retail area a high proportion of foot-fall would likely come from vehicle borne passing trade and that the particular nature of the business may not compete directly with town businesses. In saying this it is highly likely that the proposed brand will draw expenditure from the local catchment area.

Layout and design

- 8.23 The site forms the easternmost edge of the current settlement boundary of Nairn. It is therefore visually prominent particularly to road users travelling west on the A96(T) road. The existing supermarket building is located to the rear (southwest) corner of the retail site and the proposed 1,858sqm / 20,000sqft retail unit would be located immediately east of the supermarket building, with the drive through restaurant (379sqm) further to the east again. Both units are set back from the trunk road.
- 8.24 The proposed retail units sit in general alignment with the building line established by Sainsbury's supermarket (approximately 60mx32mx9m). The drive through restaurant is set forward (northward of the building line), with the principle elevations set at 90° to the main retail units as you might expect on the eastern boundary of the site. Additional car parking is provided between the larger retail unit and the drive through units, with a road encircling the drive through unit from the new car park area. The new retail unit would utilise the existing common service yard used by Sainsbury's, but with access and egress controlled using traffic lights.
- 8.24 The retail unit in form and materials compliments the existing Sainsbury's development in scale and expression. The main wall surfaces are clad in a combination of white smooth render and horizontal timber cladding with 'oak stain' finish to the public faces on a composite insulated panel behind. The exposed panels are white to the side and rear elevations consistent with the Sainsbury's unit. The building will have an entrance canopy of pre-formed PPC metal cladding in metallic grey (RAL 9007) aluminium, with a soffit in timber cladding (with 'oak stain' finish), with matching steel support columns also metallic grey aluminium to match and link to the Sainsbury's canopy.
- 8.26 The form and material palette of the drive-thru' unit is a proprietary system and the design is based on the tenant's branding model. The building is single storey (32mx12mx6m). The main wall surfaces are clad in a combination of materials including natural stone facing; wood decor cladding in Italian walnut; and dark grey engineering brick as a stall riser; and vertical aluminium 'timber effect' battens. Window frames and doors sets are all aluminium, finished in dark grey. The roof is formed in a louvered folded composite aluminium panels, colour walnut wood grain and solid folded grey panels and white signage panels.
- 8.27 In design terms both units are consistent with the existing retail park development and typical of such units across many settlements. An informative will be attached to any decision in support of the application to ensure further applications are made for all any proposed advertisements both on the proposed buildings and within the retail park itself.

Access and Traffic impact

- 8.28 The application seeks to use the existing access from the A96(T) road / Forres Road. There is public concern that the roads in Nairn carry traffic in excess of their design capacity. In this regard Transport Scotland has plans for the development of a by-pass of the settlement. Until these works are in place the settlement is

likely to experience congestion through Nairn. That said Transport Scotland has not advised against the granting of planning permission but has requested planning conditions to maintain road safety and the integrity of the existing trunk road / roadside drainage.

8.29 The applicant has worked with the Council's Transport Planning Team and amended its initial plans to ensure better conformity to roads / parking / servicing standards. Transport Planning has advised that it is generally content with the layout being proposed, access arrangements, circulation, etc. It has however highlighted a few issues that remain to be finally resolved, some of which can be addressed through planning conditions attached to any grant of planning permission. These are highlighted below.

- Waste Collection: - provide a Method Statement (MS) giving details of the servicing strategy for waste and recycling collection for the restaurant to ensure the safety of the public. The MS must show the route for wheeling bins, should the bin store be blocked by customer cars, and the location of all dropped crossings to ensure that operatives do not have to lift refuse containers up and down kerbs.
- Play Area Fencing: - That the fencing around the children's play area/seating area is moved / designed so that there are no obstructions within the visibility splay for motorists leaving the drive-thru in the interests of road safety.

8.30 The application will reduce the amount of car parking within the retail park overall. In considering this Transport Planning has reviewed the car parking accumulation results provided by the applicant together with its own data. The car park survey shows that currently, even at peak times less than 50% of the car park is in use. Therefore it is accepted that although the car parking within the site will be reduced, the additional traffic (based on the trip generation rates) can be accommodated within the existing car park. It is also accepted that a proportion of trips to the new developments will be linked trips from the existing supermarket and proposed developments and not new trips so the parking accumulation has an element of overestimation of trip generation. The proposal for car parking provision, based on 30% of the retail element being food and 70% of the retail element being non-food, is therefore acceptable to Transport Planning.

8.31 Transport Planning has also highlighted opportunities for Active Travel mitigation in line with existing and emerging policies to offset the increase in traffic to this site and through Nairn. Two initiatives have been highlighted including: -

- a) Off site – footpath / cycle path provision through Balmakeith Industrial estate linking via the proposed rail bridge to Lochloy housing.
- b) Off site– footpath / cycle path provision across the existing desire line route used by residents from Househill Terrace and River Park.

8.32 The applicant is not supportive of this requested mitigation. It highlights that these requirements have not arisen from any earlier planning decisions, nor highlighted within pre application discussions, nor costed with many unknowns. It does not believe, as required under Policy 31 Developer Contributions, that the requests are fair and reasonable, nor in its opinion does the request meet the tests of Planning Circular 4/1998 'The Use of Conditions in Planning Permissions', in particular, the proposed condition is considered to be unnecessary and not directly related to the

proposed development.

- 8.33 Whilst the Council is in the process of renewing its Development Contributions policy, the current adopted policy has been in force since 2012 (HwLDP) and 2013 (Supplementary Guidance). These provisions have certainly been highlighted to the applicant within the formal pre application response (17/00817/PREAPP). The request at that time was for a commuted sum. The policy and supplementary guidance post date the earlier planning decision by Scottish Ministers for this retail park, where no such requirement was requested.
- 8.34 Therefore there is limit on what the Council can now request. This should focus upon the additionality provided within the current application (i.e. the drive through restaurant, and additional convenience floorspace). In view of this, the focus of the Council's attention should be upon footpath provision to improve connectivity to the site from within Balmakeith Industrial Estate, and potentially Lochloy residential area via a rail bridge.
- 8.35 A sum of £60k is estimated to allow the Council to improve approximately 240m of footpath on Tom Semple Road, within Balmakeith industrial estate. For comparison purposes dwellings within Lochloy have been asked to contribute £2,000 plus inflation. The most recent calculation Qt4 2017 figure highlights this at £2,417. There is also the potential for contributions to arise from development within Balmakeith Industrial Estate. A sum of £30k is identified as a reasonable developer contribution / commuted sum relative to the current application as a contribution to active travel. Also to be recognised is that a developer contribution which was secured from the initial retail application for £250,000 to be used for the Nairn Town Centre Improvement Works.

Water, waste water and surface water

- 8.36 The development will utilise the existing water supply connection developed for this retail park. In a similar manner waste water services will context to the existing network.
- 8.37 The nearest watercourse to the site is the Auldearn Burn which flows south of the site and connects with the River Nairn. Downstream of the site the open water course and area beyond are at a medium to high risk of flooding from rivers. The Council's Flood team has advised that the site of the application, given its height, is not at significant risk of flooding. It is also content with the revised drainage designs and the submitted Surface Water Management Plan associated with the proposed development.

Environmental Health / Amenity.

- 8.38 The application presents a fast food restaurant where the vast majority of customers will leave the premises prior to opening and consuming the items purchased. Consumption may take place within the adjacent car park or further afield, with potential consequences of littering. There needs to be some consideration therefore of anti-litter measures that need to be implemented should the application be supported. These can target efforts towards public education, packaging, waste and litter and should be requested by condition.

- 8.39 The development is generally set apart from noise sensitive properties, with the nearest neighbours being the existing supermarket, petrol filling station and housing at Balmakeith Park beyond (west) together with the industrial estate to the north. Community council representations however highlighted concerns over the extent of operating hours. The applicant's drive-through project is looking for 24hour operation / seven days a week, although ultimately the degree of footfall will dictate its commercial hours of operation. The retail unit is expected to offer more standard opening hours including Monday- Saturday: 8am – 8pm and Sunday: 9am – 6pm.
- 8.40 Currently the petrol filling station operates extended hours, which are greater than the existing supermarket, as set by the original planning decision. The original consented hours were from 07.30 – 22.30. The petrol filling station hours have been extended to allow services from 06.00 and 22.30 seven days a week, but there will be a condition to limit the noise levels to no more than 5dB(A) above the background noise level to prevent loss of amenity to noise sensitive properties. The condition could only apply from 06.00 – 07.00hrs as the original permission set no such condition. As the applicant has not set out a case for 24hour operations, it is suggested the opening hours be set in a consistent manner with the petrol filling station.

Construction impact

- 8.41 Given the scale of the project and the ongoing activities around the site a Construction Environmental Management Document approach will be required. This is to ensure that potential sources of pollution (including fuel spills and surface water run-off) on site can be effectively managed throughout the construction period. It will also deal with matters such as construction noise, dust, waste management, working hours, construction deliveries hours, site management etc. The CEMD needs to be secured by planning condition.

Other material considerations

- 8.42 There are no other material considerations.

Non-material considerations

Matters to be secured by Section 75 Agreement

- 8.43 a) Active Travel Plan – Contribution £30k.
- 8.44 The applicant has four months from the date that the Council's solicitor writes to the Applicant/Applicant's solicitor indicating the terms of the legal agreement, to deliver to the Council a signed legal agreement. Should an agreement not be delivered within four months, the application shall be refused under delegated powers.

9. CONCLUSION

- 9.1 The application seeks to advance retail development within a site which is identified within the Inner Moray Firth Local Development Plan and carries an extant planning permission. However the application is not wholly in alignment with the Development Plan or planning permission and its' associated planning conditions.
- 9.2 The application has attracted a number of supporters (19) but also objections (4) including an objection from the River Nairn Community Council. The objections relate to not only the Development Plan town centre first policy but also the capacity of local services to accommodate further expansion of the settlement. The supporters highlight the benefits of widening the range of businesses and jobs in the settlement.
- 9.3 Consultations with statutory consultees, whilst recognising the current demands on local services, have largely advised that the proposals can be accommodated within the existing capacity of local networks. That said a number of planning conditions have been requested and in particular an Active Travel developer contribution for pedestrian improvements on Tom Semple Road / link to Lochloy. This could also address controls on opening hours and litter management.
- 9.4 The crux of the arguments surrounding this application would appear to focus upon the retail policies set out in the Development Plan and Scottish Government policy. The application is clearly not within the Town Centre but it falls within a site where retailing proposals have been consented / land allocated. The comparison goods (non-food) element of the proposal is consistent with earlier planning decisions and policy. The conflict is in relation to the 446sqm convenience goods (food) and the proposed hot food takeaway / restaurant.
- 9.5 Both the Development Plan and Scottish Planning Policy seek to be supportive of retail development / investment. That said considerations have to be driven to challenges facing town centres. It is the leakage of current expenditure away from the settlement and the anticipated growth in expenditure by local households that the application can address which is seen to be important. The size of the additional nett floorspace that the proposal highlights is not excessive. The anticipated impact on both convenience and comparison is not considered to be significantly detrimental to the town centre.
- 9.6 Whilst the restaurant element of the application has not been fully justified, the development of a brand outlet, recognised across the world, in Nairn should be supported in full. It does expect to draw trade from road travellers, which seem constantly to grow in number. Nairn too is an expanding community, which is attracting inward investment, and has expenditure capacity for local businesses.
- 9.7 All relevant matters have been taken into account when appraising this application. It is considered that the proposal overall accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	Y
Revocation of previous permission	N

Subject to the above, it is recommended that planning permission be **Granted**, subject to the following:

Conditions and Reasons

1. The amount of floorspace devoted to the Class 1 retail unit hereby approved shall be restricted as follows: -
 - a) The maximum gross floor area shall not exceed 1,858sqm.
 - b) The maximum net sales area shall not exceed 1,486sqm, with a maximum sales area of 446sqm for convenience goods.
 - c) The minimum net sales area shall not be less than 558sqm.
 - d) No part of the unit shall be used as a café, restaurant (other than staff café or restaurant).

Reason: To help to protect the vitality and viability of Nairn town centre and the continued provision of local retail facilities elsewhere in Nairn.

2. Prior to the occupation of any part of the development hereby approved, the means of access to the site shall be completed in accordance with approved plans and all car and cycle parking shall also be provided. Thereafter all car and cycle parking provisions shall remain available for these purposes at all times.

Reason: To ensure that adequate car and cycle parking is provided.

3. The Class 1 retail unit hereby approved shall only be open to the public between 0800 hours to 2200 hours Mondays to Sundays. The "Drive Through" restaurant

shall only be open to the public from 06.00 22.30 hours Mondays to Sundays.

Reason: To protect local residential amenity.

4. 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 existing 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: To protect local residential amenity.

5. Prior to commencement of the development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland TRBO.

Reason: - To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

6. Prior to commencement of the development, details of the barrier proposals along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland.

Reason: - To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

7. There shall be no drainage connections to the trunk road drainage system.

Reason: - To ensure that the efficiency of the existing trunk road drainage network is not affected.

8. No development shall commence on site until a Construction and Environmental Management Document (CEMD) is submitted for approval of the site. Thereafter all works shall make progress in full accordance with the approved CEMD unless otherwise agreed in writing with the Planning Authority. The CEMD shall as a minimum highlight: -

- a) Final proposed mitigation measures during construction;
- b) Areas to be deployed for construction purposes including material storage, offices, staff parking, vehicle turning, pollution prevention, etc.
- c) A scheme for recycling / disposing of waste resulting from construction works.
- d) Measures to control the emission of dust and dirt during construction.
- e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

Reason: In order to safeguard the amenity of neighbouring property and existing

infrastructural assets during all periods of construction.

9 No development shall commence on the drive through restaurant until a Litter Management Plan which sets out proposals for reducing the potential for litter to arise in the surrounding community, has been submitted to, and approved in writing by, the Planning Authority. The Litter Management Plan shall include:

- a) Measures for addressing litter locally through public education, packaging, waste and littering projects;
- b) Details for the management, monitoring, review and reporting of these measures; and
- c) Details of the duration of the Litter Plan.

The approved Litter Plan shall thereafter be implemented from the date of first occupation of any part of the development.

Reason: To assist with the protection of local amenity generally through reduced litter / littering.

REASON FOR DECISION

It is considered that the proposal overall accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

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

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 (paragraph 259), 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.

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.

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a

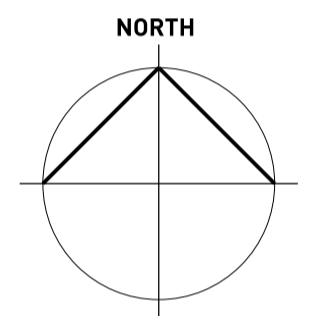
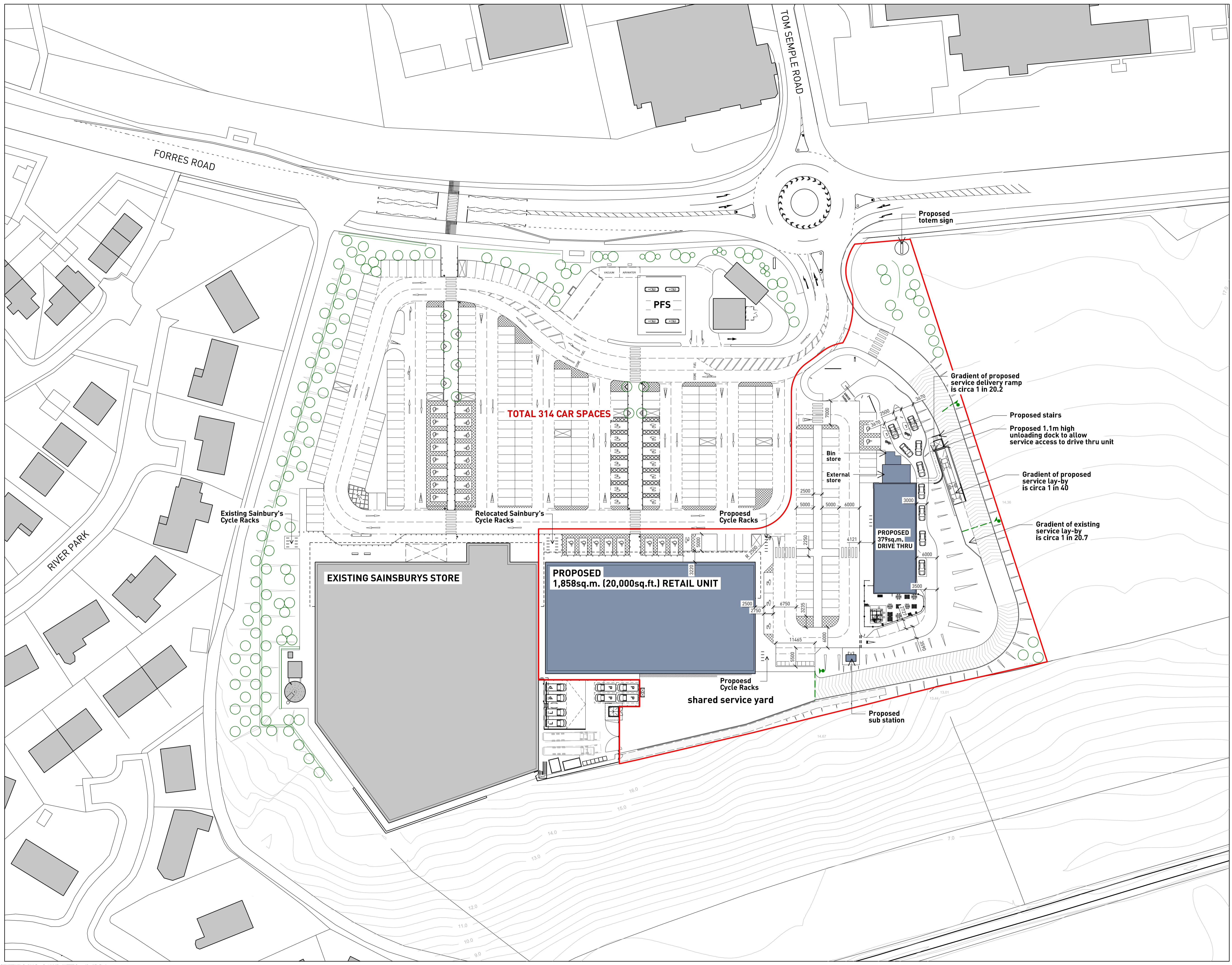
Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: Ken McCorquodale, Principal Planner
Background Papers: Documents referred to in report and in case file.
Relevant Plans: to be added.

All dimensions are in millimetres unless otherwise stated.
 All dimensions to be verified on site before proceeding with the work.
 Any discrepancies to be notified in writing to Architect immediately.

NOTES
 APPLICATION BOUNDARY



Scale 1metre

REV.	DESCRIPTION	DATE	BY
A	General updates following Planner's comments	18.06.2018	pr
B	Various dimensions added	20.06.2018	pr
C	Updated to suit comments made by Highland Council Transport Consultants	22.08.2018	pr



PLANNING

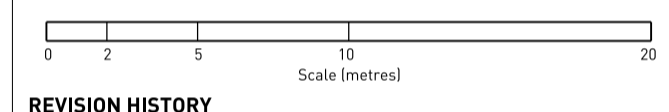
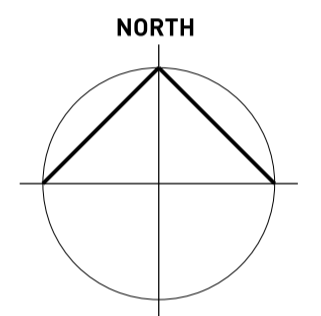
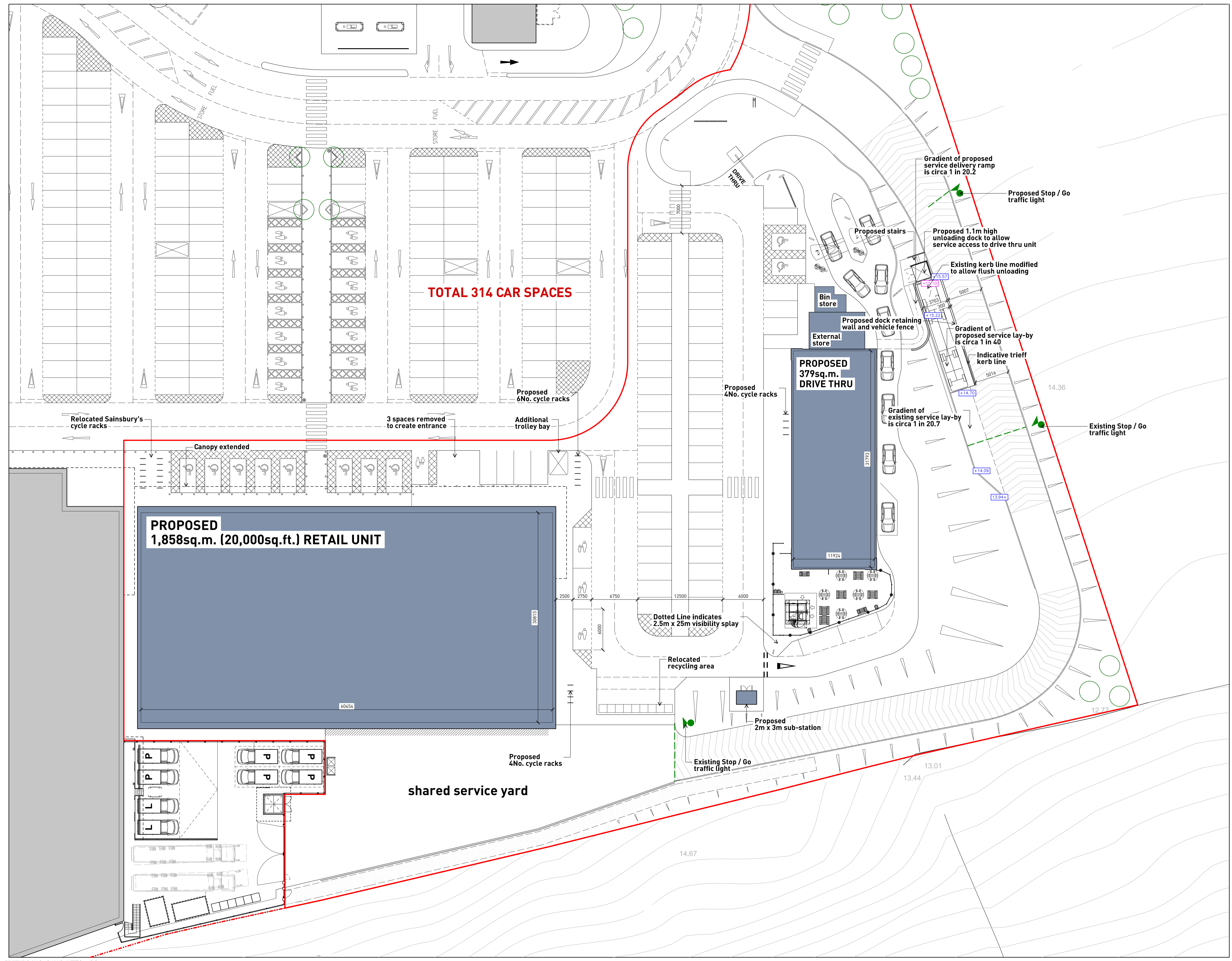
DRAWING
OVERALL SITE PLAN
 AS PROPOSED
 PROJECT
PROPOSED RETAIL UNITS
 FORRES ROAD, NAIRN
 CLIENT
FORREST DEVELOPMENTS
 7 SEAWARD STREET, PAISLEY ROAD, GLASGOW

DATE	DRAWN	SCALE	ORIGINAL
01.08.2017	pr	1:500	A1
PROJECT NO.	DRAWING NO.	REVISION	
G16106	AL[0]202		C

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- NOTES
- APPLICATION BOUNDARY
 - +15.57 EXISTING LEVELS
 - +15.10 PROPOSED LEVELS



REVISION HISTORY

REV.	DESCRIPTION	DATE	BY
A	General updates following Planner's comments	18.06.2018	pr
B	Updated to suit comments made by Highland Council Transport Consultants	22.08.2018	pr



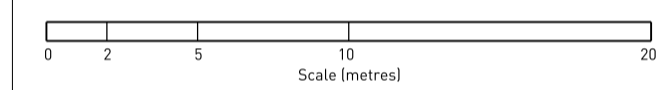
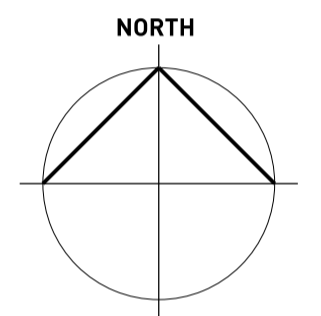
PLANNING			
DRAWING SITE PLAN AS PROPOSED			
PROJECT PROPOSED RETAIL UNITS FORRES ROAD, NAIRN			
CLIENT FORREST DEVELOPMENTS 7 SEAWARD STREET, PAISLEY ROAD, GLASGOW			
DATE 01.08.2017	DRAWN pr	SCALE 1:250	ORIGINAL A1
PROJECT NO. G16106	DRAWING NO. AL(0)203	REVISION	B

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- NOTES**
- APPLICATION BOUNDARY
 - +15.57 EXISTING LEVELS
 - +15.10 PROPOSED LEVELS

- HARD LANDSCAPING KEY**
- Pedestrian footpath from Bitmac / Asphalt to match existing Sainsbury's
Colour: Black
 - Porous concrete paviors to match existing Sainsbury's car park
 - Tarmac finish to match existing Sainsbury's - build up to engineers specification
 - Brushed concrete finish to engineers specification
 - Concrete paving slabs
 - Keyblock paving (to patio) - Keyblock paving charcoal grey
 - Existing strengthened road surface
 - Proposed strengthened road surface
 - Imprinted concrete through colour - charcoal grey cobble stone pattern. Concrete to engineers specification
 - Terracotta rubber flooring to play area
 - Soft Landscaping
See Landscape Architects drawings for details and specifications



REVISION HISTORY

REV.	DESCRIPTION	DATE	BY
A	Hardlandscaping notes updated to suit McDonalds Requirements.	19.12.17	MC
B	General updates following Planner's comments	18.06.2018	pr
C	Updated to suit comments made by Highland Council Transport Consultants	22.08.2018	pr



PLANNING

DRAWING: **HARD LANDSCAPING PLAN**
 AS PROPOSED

PROJECT: **PROPOSED RETAIL UNITS**
 FORRES ROAD, NAIRN

CLIENT: **FORREST DEVELOPMENTS**
 7 SEAWARD STREET, PAISLEY ROAD, GLASGOW

DATE 03.02.2017	DRAWN pr	SCALE 1:250	ORIGINAL A1
PROJECT NO. G16106	DRAWING NO. AL(0)220	REVISION C	

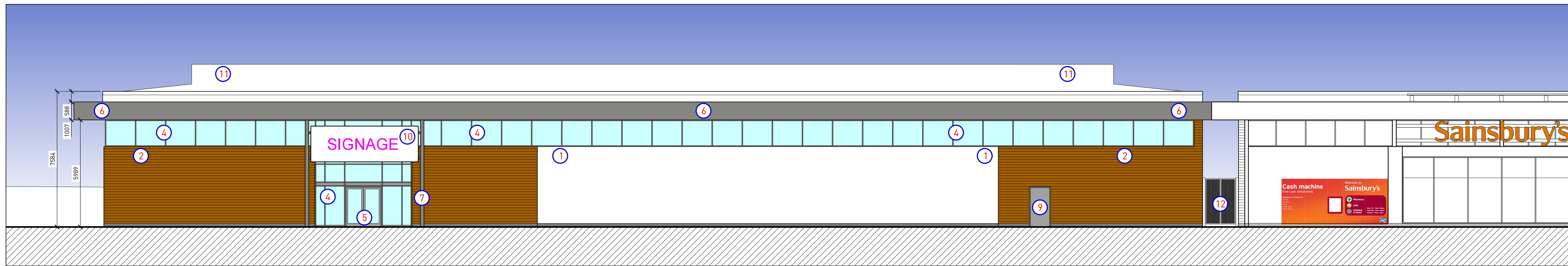
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NOTES

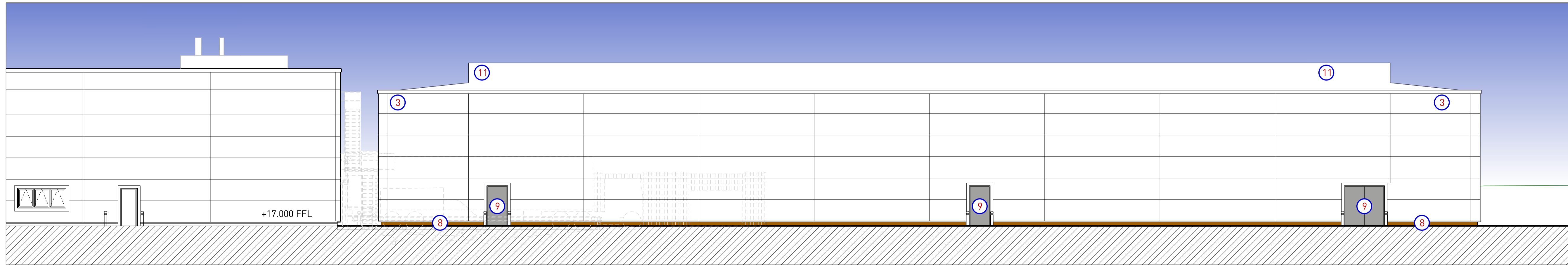
Materials Specification

1. Render (white)
2. Timber cladding with 'Oak Stain' finish
3. Composite wall cladding panel (Flat Finish), horizontally laid - Colour 'White'
4. Double glazed curtain walling. Frame colour RAL 9006 'metallic white aluminium' (Silver)
5. Double glazed pedestrian doorset. Frame colour RAL 9006 'metallic white aluminium' (Silver)
6. Projecting entrance canopy. Fascia / edge trim to projecting roof to be pre formed, PPC metal flashing - colour RAL 9007 'Metallic grey aluminium' (Dark Silver). Soffit of canopy be timber cladding with 'Oak Stain' finish
7. Steel columns to support projecting canopy. Colour RAL 9007 'Metallic grey aluminium' (Dark Silver)
8. Architectural masonry stall riser below cladding panels. Colour 'Buff'
9. Proprietary metal doorset, door leaf and frame colour. Colour RAL 9006 'Metallic white aluminium' (Silver)
10. Zone for tenants signage
11. Trapezoidal composite roof sheets - colour white - at 6 degree pitch
12. Decorative fence / gate



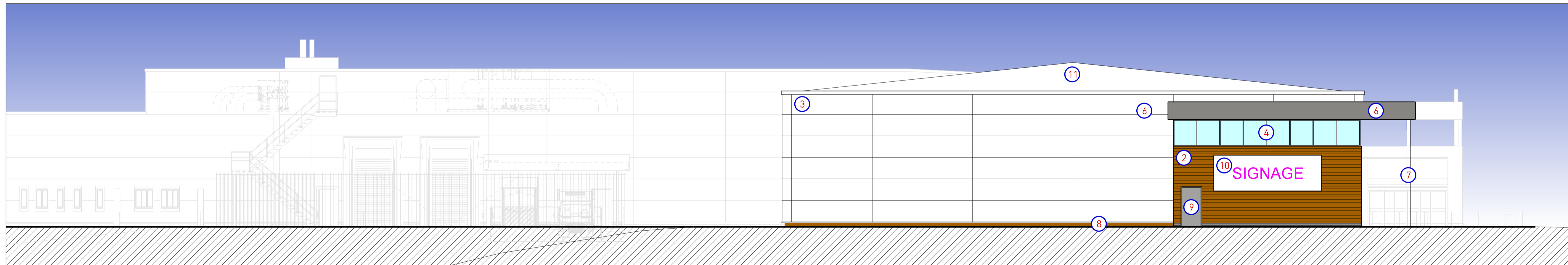
Proposed North Elevation

Scale 1:100 @ A1



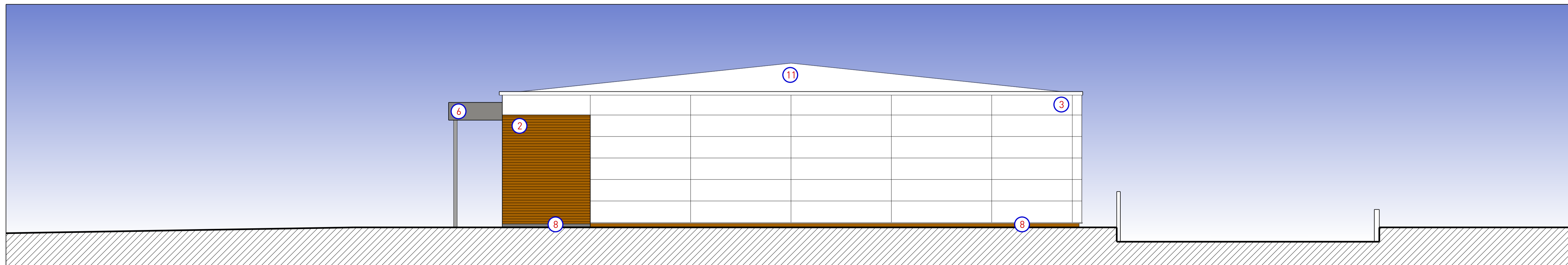
Proposed South Elevation

Scale 1:100 @ A1



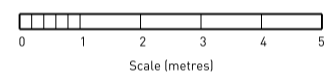
Proposed East Elevation

Scale 1:100 @ A1



Proposed West Elevation (facing Sainsbury's gable wall)

Scale 1:100 @ A1



REVISION HISTORY

REV.	DESCRIPTION	DATE	BY
-	-	-	-



PLANNING

DRAWING
RETAIL UNIT ELEVATIONS
AS PROPOSED

PROJECT
PROPOSED RETAIL UNITS
FORRES ROAD, NAIRN

CLIENT
FORREST DEVELOPMENTS
7 SEAWARD STREET, PAISLEY ROAD, GLASGOW

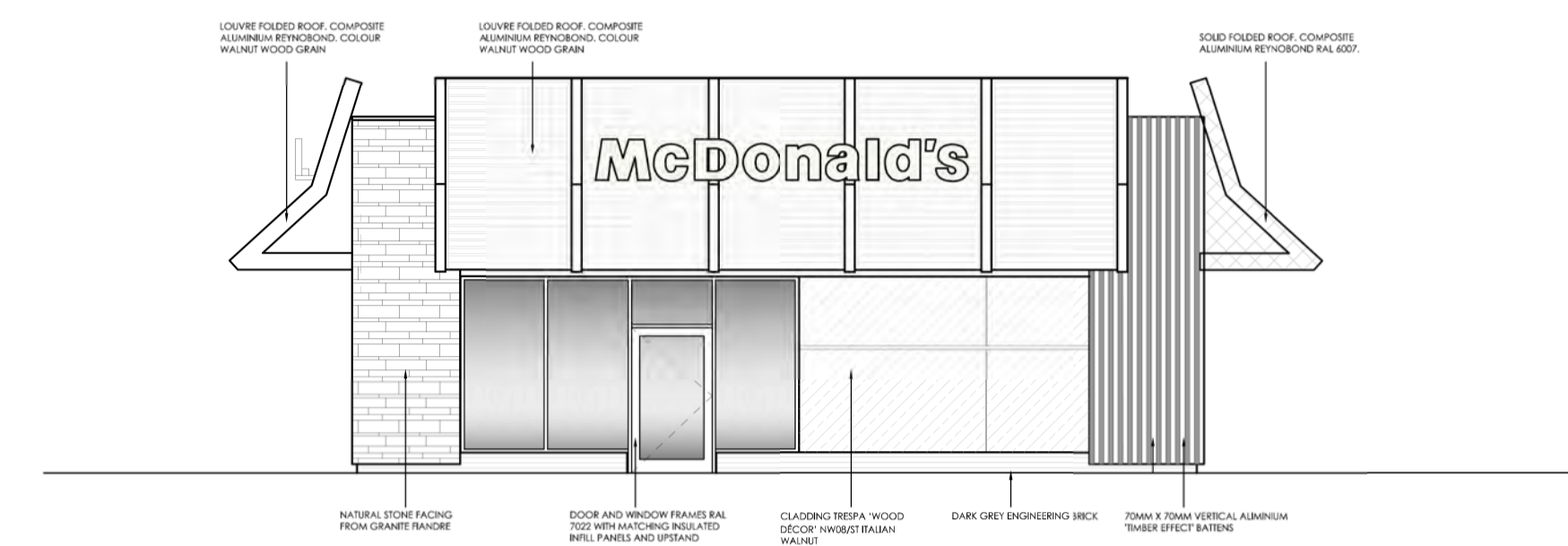
DATE	DRAWN	SCALE	ORIGINAL
01.08.2017	pr	1:125	A1
PROJECT NO.	DRAWING NO.	REVISION	
G16106	AL[0]206	-	

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NOTES



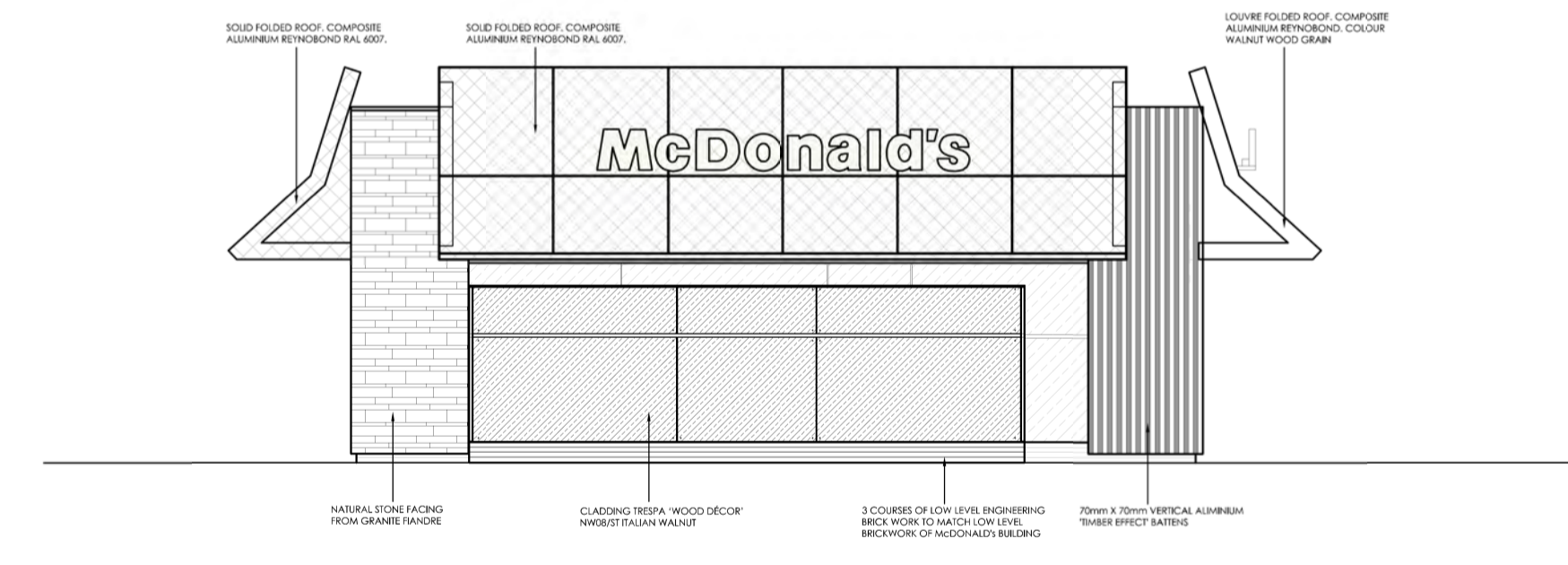
ELEVATION A



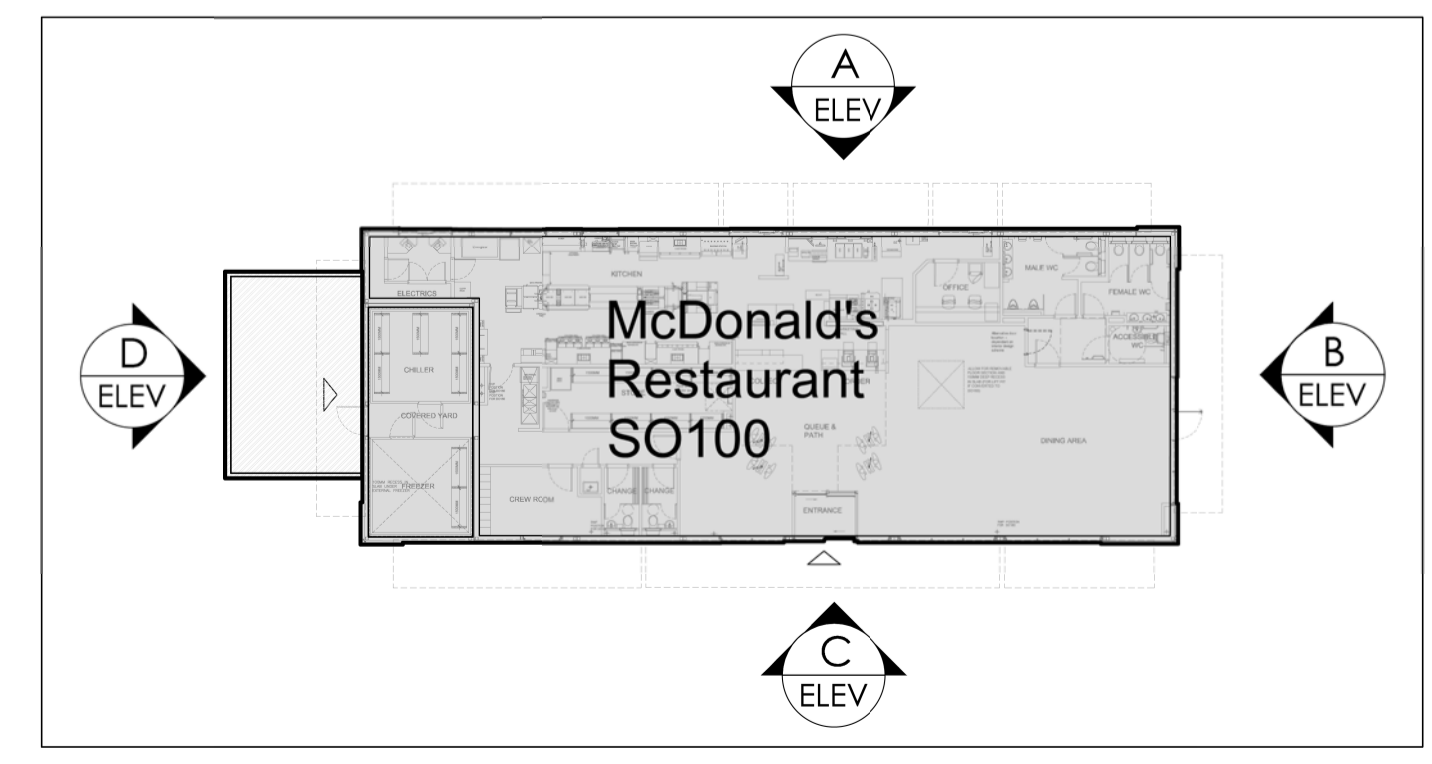
ELEVATION B



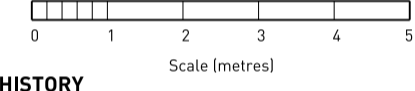
ELEVATION C



ELEVATION D

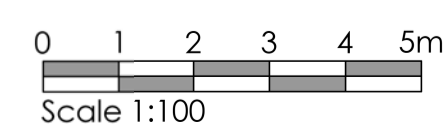


KEY REFERENCE PLAN - NTS



REV.	DESCRIPTION	DATE	BY

AEW PROPOSED ELEVATIONS
 Scale @ 1:100

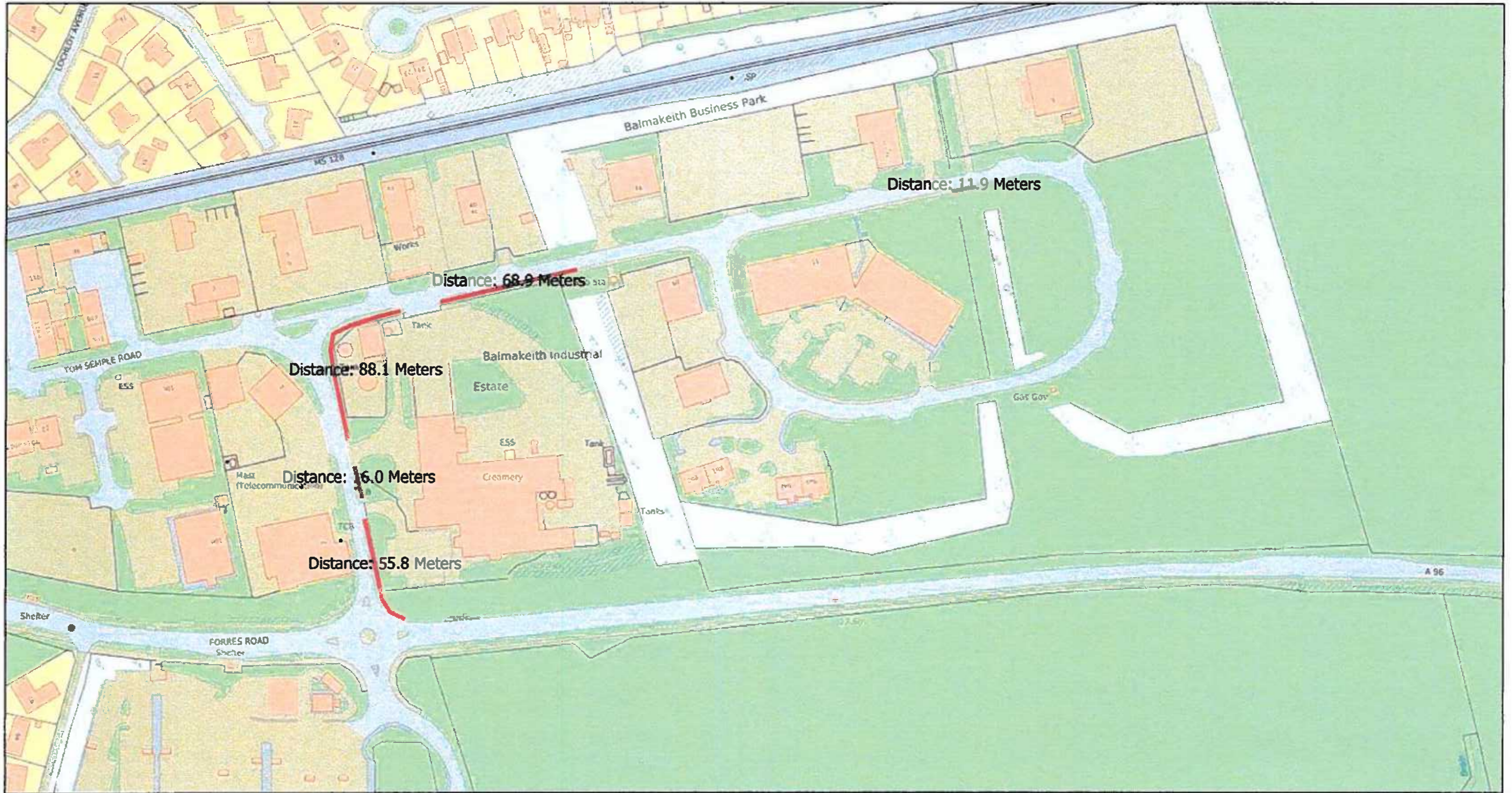


DF ARCHITECTS
 23 Blythwood Square, Glasgow, G2 4BG
 T. 0141 226 8010 F. 0141 226 8011 W. www.dfa.co.uk

PLANNING			
DRAWING DRIVE THRU UNIT ELEVATIONS AS PROPOSED			
PROJECT PROPOSED RETAIL UNITS FORREST ROAD, NAIRN			
CLIENT FORREST DEVELOPMENTS 7 SEAWARD STREET, PAISLEY ROAD, GLASGOW			
DATE 03.10.2017	DRAWN ???	SCALE 1:100	ORIGINAL A1
PROJECT NO. G16106	DRAWING NO. AL(0)208	REVISION	-

AEW ARCHITECTS - Retail Unit, Forres Road, Nairn-01412268010_Proposed Drive Thru Unit Elevation.dwg
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Nairn



07/08/2018 09:05:07

— Override 1

